Civil Society Forum

FREEDOM OF ASSEMBLY AND ASSOCIATION

Vienna, 7 November 2012
Hofburg, Vienna

ANNOTATED AGENDA

The freedom of every person to assemble in a peaceful manner and the right to associate are intrinsic to democratic societies and expressly recognized in OSCE human dimension commitments[1] as well as all major international human rights instruments.[2] However, the implementation of such commitments remains a challenge throughout the OSCE region, often due to unduly restrictive legislation or practice. More recently, the rapid development of modern communication technologies has greatly changed the organization and functioning of both assemblies and associations.

The OSCE Chairmanship will hold a Supplementary Human Dimension Meeting (SHDM) on 8-9 November 2012 in Vienna which seeks to address how the full implementation of the rights to freedom of peaceful assembly and association can be advanced and protected to promote an inclusive and diverse democratic society. It will identify the main challenges faced by the OSCE participating States and discuss how they can be met, in order to ensure the full enjoyment of these freedoms. The SHDM will devote particular attention to how new technologies influence the enjoyment of the freedoms of peaceful assembly and association. The SHDM will also provide a forum for discussion of the limitations in the exercise of these rights and how they may be legitimately restricted in accordance with relevant international standards and commitments.

Ahead of the SHDM, on 7 November 2012, the OSCE/ODIHR, with the support of the Irish Chairmanship, is holding a one-day Civil Society Forum. The aim of this Forum is to provide an opportunity for civil society participants to identify common challenges,

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[1] A compilation of OSCE commitments relevant to the freedom of assembly and association can be found on the OSCE ODIHR website under: http://www.osce.org/odihr/43546

[2] See e.g. the Universal Declaration of Human Rights, Article 20 (freedom of peaceful assembly and association); International Covenant on Civil and Political Rights, Article 21 (freedom of assembly) and Article 22 (freedom of association); the European Convention on Human Rights and Fundamental Freedoms, Article 11 (freedom of assembly and association), the American Convention on Human Rights, Article 15 (right of assembly) and Article 16 (freedom of association), the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted unanimously by the United Nations General Assembly (A/RES/53/144), Article 5.

share good practices on the topics addressed by the SHDM, and formulate concrete recommendations to the OSCE participating States, and the OSCE at large, including its institutions and field operations.

The working sessions at the Forum will reflect the topical working sessions at the SHDM, and will be moderated by previously selected experts. The recommendations formulated at the working sessions will also be presented at the SHDM.

Date:	**7 November 2012**

9:00 – 9:30 **Opening Session**

Opening statements:

Ambassador Eoin O'Leary, Representative of the OSCE Chairperson-in-Office

Ms. Snježana Bokulić, Head of the Human Rights Department, OSCE/ODIHR

Key-note address:

Mr. Yuri Dzhibladze, President of the Center for the Development of Democracy and Human Rights, Russian Federation

9:30 – 10:45 <u>**SESSION I:**</u> **Freedom of Association in the OSCE region: challenges and opportunities' and the role of new technologies**

Moderator:

Mr. Almaz Esengeldiev, Deputy Director, Freedom House, Kyrgyz Republic

Introducer:

Ms. Diana-Olivia Hatneanu, Executive Director, Association for the Defence of Human Rights – Helsinki Committee, Romania

10:45 – 11:15 **Coffee Break**

11:15 – 12:45 <u>**CONTINUATION OF SESSION I:**</u> **Freedom of Association in the OSCE region: challenges and opportunities' and the role of new technologies**

Freedom of association includes the right to join with others to collectively express, promote, pursue and defend common interests and ideals, forming one of the basic guarantees for participation in a democratic society. Various associations, including non-

governmental organizations and political parties,[3] play an essential role in establishing a sustainable democratic environment, and ensuring active, independent and accountable public engagement in social and political affairs.

The OSCE participating States have the obligation to create an environment, including a legal framework, in which individuals can exercise their right to association, including the right to form, join and participate effectively in associations that seek to promote and protect human rights and fundamental freedoms. However, numerous challenges to the exercise of the fundamental right of freedom of association persist throughout the OSCE region.

In a number of participating States associations are not considered legal if they are not registered, while administrative hurdles often prevent associations from being able to register. At the same time, unclear or restrictive legislation facilitates the suspension or dissolution of associations. It is essential that freedom of association is not interpreted restrictively as a freedom to found and join registered civic organizations. Unregistered NGOs and informal associations should be protected and allowed to operate freely, while registration procedures should be transparent, timely and non-bureaucratic.

Meanwhile, new information and communication technologies are having profound effects on numerous aspects of freedom of association. The Internet has reduced barriers for forming, joining and participating in all forms of associations, such as NGOs and political parties. The costs of outreach to new (potential) members have been lowered and geographical barriers have been reduced. Active participation in associations has been made easier through online activity, reducing travel and participation costs. Many traditional activities of political parties, NGOs and other associations are or will be exercised online in the future. These activities include registering, collecting signatures, fundraising, making and accepting donations, joining associations, and participating in policy discussions and decision-making processes. New technologies increase transparency and accessibility of all forms of associations, but also lead to an increased need for data protection and privacy rights. At the same time, authorities may use new information and communication technologies not only to facilitate, but also to monitor, impede or interfere with the exercise of the right to freedom of association.

At this session participants will debate the obstacles and challenges to the right to freedom of association in OSCE participating States and OSCE Partners for Co-operation, and their experiences in attempting to overcome these challenges. Emerging technological challenges to the full exercise of the freedom of association will be identified, as well as opportunities to ensure that such technologies will be used to promote, rather than to restrict, the right to associate.

Participants will be asked to formulate and recommendations on how to enhance the freedom of association, while taking into account the role played by new technologies. These recommendations will be presented at the SHDM, and will also, at a later date, be published.

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[3] In the field of political party regulation, ODIHR and the Council of Europe's Venice Commission issued Guidelines on Political Party Regulation in 2011.

Questions for discussion include:

- What are the particular challenges that individuals, groups and authorities face in participating States regarding the implementation of the right to freedom of association? What should the OSCE participating States do to further promote the effective exercise of the freedom of association?

- How do new technologies, including social media, change the structure and format of associations? What opportunities and challenges do the Internet and other new technologies pose to freedom of association? How can participating States respond to these opportunities and challenges?

- Are there any particular measures, including legislative measures that should be adopted to reflect the impact of new technologies on the enjoyment of human rights and, in light of this, to enable/facilitate their use for the exercise of the freedoms of peaceful assembly and association?

- What legislative and practical impediments do public associations face? What is the scope of proper national regulation of organizations which are multi-national or which have links abroad?

- How should the OSCE participating States address the issue of financing of associations, including the treatment of donations from foreign sources to a domestic association?

- How can the right to an effective remedy against undue State interference be ensured?

- How can the OSCE and other international organizations assist in promoting the exercise of this freedom?

12:45 – 14:00   **Lunch**

14:00 – 16:00   <u>SESSION II:</u> **Freedom of Assembly in the OSCE region: facing new challenges and examining options for dialogue and the role of new technologies**

Moderator:

Mr. Michael Hamilton, Secretary of ODIHR Panel of Experts on Freedom of Peaceful Assembly, Senior Lecturer, University of East Anglia, United Kingdom

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Introducer:

Ms. Sarah Knuckey, Adjunct Professor and Director of the Project on Extrajudicial Executions and the Initiative on Human Rights Fact-Finding at the Center for Human Rights and Global Justice, New York University, United States

16:00 – 16:30   **Coffee Break**

16:30 – 17:00   <u>**CONTINUATION OF SESSION II:**</u> **Freedom of Assembly in the OSCE region: facing new challenges and examining options for dialogue and the role of new technologies**

The OSCE participating States have committed themselves to guarantee the freedom of peaceful assembly, which is a cornerstone of any democratic society underpinning the exercise of a broad range of other civil and political rights. Individuals may assemble peacefully for a wide range of purposes, including to participate in the economic, social and cultural life of their societies as well as to express their views on domestic or international developments, policies, or political matters. Peaceful protests often play an important role in expressing public concerns, reducing the risk that conflicts escalate into violence, and providing an opportunity for dialogue with authorities. The approach authorities take in the regulation of peaceful assemblies is a litmus test of their overall respect of human rights.

In numerous OSCE participating States, restrictions to the right to assemble exist in the form of obstructive, lengthy and non-transparent notification or authorization procedures, bans on spontaneous assemblies and on assembling in certain locations, restrictive policing practices, as well as disproportionate administrative or criminal liabilities for organizers or participants of assemblies.

Yet the main principles underpinning this right are explicit: there should be a presumption in favour of holding assemblies, and the State has a positive obligation to protect peaceful assemblies. These, as well as the principles of legality, proportionality, non-discrimination and good administration should clearly be articulated in national legislation.[4] While the freedom to assemble may be subject to reasonable restrictions, these may not interfere with the message communicated by the assembly, and may only be imposed for legitimate reasons based on the principle of proportionality. This has been reiterated on numerous occasions by ODIHR and its Panel of Experts on the Freedom of Peaceful Assembly in reviews of draft and existing legislation of OSCE participating States pertaining to this right.

Recently, the events of the so-called "Arab Spring" or "Occupy movements" clearly displayed the powerful impact new technologies can have on the organization of protests. Social network tools were used extensively by these movements to exchange information, organize demonstrators, document events, and broadcast these to the world. As in the case of associations, new technologies have also had a dramatic impact on the organisation and management of assemblies, reducing financial and geographical barriers, and providing tools for direct global communication, affecting international public opinion and decision making. New technologies also facilitate the organization of alternative forms of assemblies (such as clapping or silent protests).

The same information and communication technologies may also be used by authorities, both to facilitate but also to monitor, impede, or interfere with the exercise of the right to

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[4] OSCE/ODHIR-Venice Commission Guidelines on Freedom of Peaceful Assembly, pars 2.1-2.6.

freedom of peaceful assembly. While many States continue to impose disproportionate sanctions on organizers of public assemblies for their failure to comply with legal requirements for assemblies, new social network tools greatly facilitate the organization of assemblies, making it more difficult to identify organizers.

At this session, participants will discuss the difficulties faced in various OSCE participating States and OSCE Partners for Co-operation when organizing and holding assemblies, and will exchange their experiences in reacting to and overcoming such obstacles. In particular, the opportunities posed by new technologies will be identified, as well as the challenges that these new means of communicating may pose to guaranteeing the freedom of assembly.

Participants will be asked to formulate recommendations on how to enhance and guarantee the freedom of peaceful assembly, while taking into account the role played by new technologies. These recommendations will be presented at the SHDM, and will also, at a later date, be published.

Questions for discussion include:

- What challenges do assembly organizers face in the OSCE region and how can they be tackled? How do new technologies, including social media, change the organization and format of assemblies?

- What impact do legal and regulatory frameworks have on the enjoyment of this freedom, and are they in line with OSCE commitments and relevant international standards? In particular, do penalties for violation of public assembly laws follow the principle of proportionality?

- What opportunities and challenges do new technologies, including social media, pose in relation to the exercise of freedom of assembly? What impact does the increasing use of the Internet have on this right?

- How can participating States respond to the challenges and opportunities offered by new technologies to promote the full implementation of freedom of assembly in line with OSCE commitments?

- How do State responses to peaceful protest, including by the police, either facilitate further dialogue or trigger potential tension? How can dialogue between groups seeking to exercise the right to freedom of assembly and the authorities be promoted? How can such dialogue reduce the risk of violence and help to facilitate the exercise of the right to peaceful assembly?

- To what extent should OSCE participating States facilitate peaceful protests involving the establishment of camps, tents or other semi-permanent structures?

- How can independent monitoring contribute to the effective enjoyment of freedom of assembly and how can participating States facilitate such monitoring?

- How can the right to an effective remedy for undue State interference with the exercise of the right to peaceful assembly be ensured?

- How can the OSCE and other international organizations assist in promoting the exercise of this freedom?

17:00 – 17:30   **Closing Session**
Reports from the Working Sessions

Closing remarks:

Mr. Thomas Vennen, Head of the Democratization Department, OSCE/ODIHR

17:30   **Closing**