



DEMOCRACY AND HUMAN RIGHTS ASSISTANCE

**Programme on Democratic Law-making and Access to Law
(1300538)**

**FUNDED THROUGH
EXTRABUDGETARY CONTRIBUTIONS**

Warsaw, September 2012

Programme on Democratic Law-making and Access to Law (1300538)

Current budget: EUR 506,275¹

1. Background

Over recent years many OSCE participating States have been engaged in unprecedented lawmaking efforts, alongside an overhaul of their previous structures, systems and legal framework. Concerns about the quality and impact of legislation have become universal and the way in which legislation is prepared and enacted is now more closely scrutinized. In particular, there is a developing understanding that the process for adoption of laws is as important as the content of these laws and that both must be responsive to the context in which the law operates. In conducting reviews of individual laws, ODIHR has observed that many of the identified shortcomings reveal weaknesses in a country's law-making system. This led ODIHR to develop a specific methodology to address these weaknesses more directly.² To assist lawmakers in OSCE participating States in undertaking legal reform in areas addressed by OSCE human dimension commitments, ODIHR also created the online legislative database *Legislationline*.³

2. Approach

The programme's objectives are to foster reforms in OSCE participating States which improve the efficiency and transparency of their legislative process; to increase exposure among relevant stakeholders to good practices of other participating States; and to facilitate access to law and sharing of good practices and precedents from other jurisdictions.

2.1 Planned activities for 2012-2013 (funds permitting)

Promoting democratic lawmaking

Upon the request of public bodies in OSCE participating States, ODIHR carries out expert assessments of the legislative system and/or organizes seminars on democratic lawmaking issues for government and parliamentary officials. Based on the assessment, ODIHR identifies areas for progress in law and practice, and supports a 'home-grown' process for implementation of the recommendations.

Access to law

ODIHR will continue its efforts to restructure and update *Legislationline* (<http://legislationline.org/>), with a view to making it more accessible and user-friendly. This free-of-charge, online legislative database provides examples of human dimension-related legislation from OSCE participating States in English and Russian languages,⁴ and relevant international standards and commitments, and serves as a publicly-available repository for ODIHR's law reviews and thematic *Guidelines* for legislators.

¹ For the period 20 November 2009 to 31 December 2013.

² Since 2005, ODIHR has conducted legislative surveys in Georgia, Moldova, the former Yugoslav Republic of Macedonia, and Serbia.

³ (www.legislationline.org).

⁴ The Russian version has been available since 2007. *Legislationline* now includes more than 1,000 documents of domestic legislation and international instruments in the Russian language.

2.2 Indicators of achievement (examples)

- Requests for legislative assessments; requests for prior or follow-up consultations or workshops (in participating States where a legislative survey has been completed); official endorsement of the recommendations and/or evidence of policy steps towards their actual implementation (in participating States where the follow-up phase has been completed);
- Statistical information on the number of persons accessing *Legislationline*, and supporting data and documentation pointing to regular and sufficiently widespread use of the database.

2.3 Strategy/methodology

ODIHR has developed its own methodology for conducting legislative assessments. The methodology identifies underlying structural weaknesses in the legislative system⁵ and has been adapted to comprise two main phases: (1) a preliminary study of the relevant legislative framework; (2) a comprehensive assessment covering the whole process by which legislation is prepared, drafted, discussed, adopted, published and implemented, alongside recommendations for reform. Legislative assessments are usually accompanied by a plan for technical assistance which supports development of more detailed “home-grown” recommendations that are then officially submitted to the government and/or parliament. As part of this process ODIHR compiles a range of recommendations to make the legislative process more efficient, open, and transparent, consulting with experts and domestic stakeholders from state institutions and civil society to reach an implementation strategy. ODIHR gives expert advice or assistance in this field on request and also responds positively to requests for seminars on lawmaking issues, which can increase understanding of the benefits of an assessment. ODIHR uses expert consultants and co-operates with OSCE field operations and local partners in OSCE participating States to maintain and update *Legislationline*.

2.4. Assumptions and risks

As the legislative assessment is a rather lengthy process, political stability in a particular participating State is a precondition for carrying it through. Political commitment should remain constant throughout the assessment period if maximum benefit is to be gained. A primary requirement is that political will and a co-operative approach exist among key stakeholders in governments, parliaments and civil society to work with ODIHR to achieve compliance with OSCE commitments on “democratic lawmaking.” There is a risk that lack of funding or other assignments to responsible staff may make it difficult for ODIHR to respond in a timely manner.

2.5 Quality factors

The programme builds upon in-house expertise accumulated since 2004 in providing legal advice on draft legislation. This work has gradually established a wide network in the OSCE region of legal partners and experts, which is instrumental in conducting the assessments. By emphasizing the key issue of transparency in the lawmaking system, the programme can synergize with other legislative work done by ODIHR and OSCE field operations. This generates further opportunities for promoting public discussion of laws and greater involvement of civil society organizations in these discussions.

⁵ This draws on methods developed by the Organization for Economic Co-operation and Development in the early 1990s to assess the capacity of EU candidate countries to approximate their legislation with EU law.