



HUMAN DIMENSION IMPLEMENTATION MEETING
21 September to 2 October 2015
Warsaw, Poland

ANNOTATED AGENDA

BACKGROUND

The Human Dimension Implementation Meeting (HDIM) is Europe's largest annual human rights and democracy conference.

In 1992, the Helsinki Document mandated the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) – as the main institution for the OSCE's human dimension of security – to organize a meeting to review the implementation of human dimension commitments entered into by all OSCE participating States and to look at ways to enhance compliance with those commitments. Based on Permanent Council *Decision No. 476 of 23 May 2002*, on the modalities for OSCE Meetings on Human Dimension Issues, the objectives of the Human Dimension Implementation Meeting are to review human dimension commitments and to foster their implementation. Meeting participants may also evaluate the procedures and mechanisms for monitoring implementation of human dimension commitments. Apart from fostering implementation, some sessions of the HDIM are devoted to forward-looking discussions with a view to refining and further developing OSCE commitments.

Since 1998, the HDIM has taken place annually for a two-week period in Warsaw (except for 1999 and 2010, due to the Istanbul and Astana Summits, respectively). The HDIM brings together representatives from governments of OSCE participating States and Partners for Co-operation, civil society, OSCE institutions, OSCE field operations, other OSCE structures, and other international organizations. In 2014, a record number of 1,234 representatives were registered for the meeting. Participants made over 770 statements during the sessions, and they uploaded nearly 500 documents into the conference's document distribution system.

The agenda for these meetings, which is adopted by the Permanent Council, reflects three special subjects to be dealt with in greater depth. For the 2015 meeting, the Permanent Council adopted the dates, the special topics, as well as the agenda in *Decisions No. 1163, 1167 and 1168*. This annotated agenda is intended to provide participants with guidelines to prepare for active and constructive participation in the meeting's working sessions.

Information on the modalities for conducting discussions at the HDIM is provided in the meeting manual and online at http://www.osce.org/odihr/hdim_2015. Consolidated summaries of previous meetings, including recommendations from participants, are available at <http://www.osce.org/odihr/44078>. The HDIM factsheet can be accessed at <http://www.osce.org/odihr/20680>.

MONDAY, 21 SEPTEMBER 2015

OPENING PLENARY SESSION

10 a.m.–1 p.m.

In accordance with PC.DEC/476, “[t]he opening Plenary Session will, as a rule, be addressed by the Chairperson-in-Office, a high representative of the host country, the Director of the ODIHR, the HCNM and the RFOM. The President of the OSCE Parliamentary Assembly will be invited to address this Plenary Session. A prominent international personality in the field of [the] human dimension may also be invited to address the opening Plenary Session.”

WORKING SESSION 1

3–6 p.m.

Fundamental freedoms I, including:

- **Address by the OSCE Representative on Freedom of the Media**
- **Freedom of expression, free media and information**

Freedom of expression, freedom of information, and freedom of the media will be the focus of discussion at this session.

In accordance with her mandate, the OSCE Representative on Freedom of the Media will report to the meeting on the status of the implementation of OSCE principles and commitments in respect of freedom of expression and freedom of the media in OSCE participating States.

The session will focus on the current situation of media freedom across the OSCE, and on the main threats to freedom of expression and freedom of the media. It will also discuss ways to increase the safety of journalists through better and more efficient implementation of the OSCE commitments in the field of freedom of expression and freedom of the media that the participating States have adopted since the Helsinki Final Act 40 years ago.

This year, as in previous years, several OSCE events focused on the urgent need to improve freedom of expression and media freedom in several participating States. In March, Serbia’s OSCE Chairmanship organized a two-day conference in Belgrade, titled “Protection of safety and integrity of journalists in the OSCE region”, in co-operation with the Ministry of Culture and Information of the Republic of Serbia, and with the support of the Office of the OSCE Representative on Freedom of the Media. The event provided an opportunity to once again emphasize that violence against journalists is unacceptable and must be treated like violence against society as a whole. Participants continued with a discussion on ways to improve protection of journalists, including through legal means.

In June, the Office of the OSCE Representative on Freedom of the Media organized a two-day conference in Vienna, titled “Journalists’ Safety, Media Freedom and Pluralism in Times of Conflict”. The event brought together some 400 journalists, media experts, and

government and civil society representatives from OSCE participating States to discuss journalists' safety and journalism ethics, conflict reporting, measures to deal with propaganda, and media regulation.

In spite of these and other important events calling for improved safety for journalists, on the ground the circumstances under which journalists report have not improved, and in some instances they have continued to deteriorate.

2015 started with a terrible terrorist attack at the satirical magazine *Charlie Hebdo* in Paris, which left 12 people dead. The attack was followed by a shooting in Copenhagen at a public event on art, freedom of speech and blasphemy, killing one person. In addition to remembering these attacks, participants are invited to discuss ongoing violence against journalists elsewhere, including in the continued crisis in and around Ukraine. Such violence includes severe beatings, attacks, abduction, imprisonment, harsh interrogation, or illegal detention, as well as threats against, and blackmailing of, journalists and their families.

There were few improvements in the treatment of the media by the authorities of most participating States. Many governments still continue to regard the media as a dangerous instrument that needs to be controlled and sometimes even silenced, instead of considering the media to be what it is: an essential and unique tool of democracies that allows for every citizen to obtain and impart pluralistic information. Several participating States continue to fall short of fulfilling relevant international standards on freedom of expression, with the vast majority maintaining criminal defamation provisions that threaten the media's ability to report on matters in the public interest. Moreover, implementation of other restrictive laws, such as new anti-terrorism legislation or legal provisions on extremism, protection of national security, surveillance and several other areas continues taking place in OSCE participating States, particularly vis-à-vis online media.

In numerous participating States, existing OSCE commitments continue to lack the political will required for these commitments to turn into an organic part of national legislation and judicial practices. While significant differences continue to exist in the level of media freedom among participating States, there is no region in the OSCE area where the commitments have been fully implemented and freedom of the media cannot be further improved.

The Office of the Representative on Freedom of the Media is mandated to observe media developments in the participating States and to advocate and promote full compliance with related commitments. The Serbian Chairmanship and other OSCE structures – the OSCE Secretariat and field offices, as well as ODIHR and the High Commissioner on National Minorities – have been calling for more attention to be paid to this issue.

The session on freedom of the media this year will tackle the following topics: the current situation of freedom of expression, freedom of the media and media pluralism in the OSCE region; the potential danger that recent legislative and political efforts aimed at protecting national security can pose to these freedoms; ways to deal with propaganda for war and hatred during conflict reporting; access to information in the OSCE region; existing good practices to strengthen freedom of expression both offline and online; self-regulation as an instrument to enhance media freedom.

A special focus will be on the importance of efforts by participating States to better protect journalists and other media actors. The session will emphasize the importance of resolute and public condemnation by the authorities of violence against journalists, concerted efforts to put an end to the impunity of perpetrators. In particular, participants are encouraged to discuss the issue of the safety of female journalists in the face of online threats and harassment.

The session will also provide a forum to discuss the major obstacles to freedom of the media and freedom of expression with the equal involvement of governments, other international organizations, human rights and media experts and civil society, including media representatives from participating States.

Questions that could be addressed:

- How can OSCE participating States improve the implementation of existing OSCE media freedom commitments?
- What is the role of governments of participating States, intergovernmental organizations, non-governmental organizations, journalistic associations and media organizations in supporting pluralism and independence of the media, safety of journalists and access to information?
- How can participating States better ensure that the media can work freely and independently, and under safe working conditions?
- How can the authorities become more effective in ending impunity for the masterminds and perpetrators of attacks and other crimes committed against journalists, including when reporting about conflicts?
- How can OSCE participating States better implement their commitments on media freedom and freedom of expression while combating hate speech?
- What measures exist to deal with propaganda for war and hatred, especially during conflict coverage?
- How can the sharing of best practices in the protection of journalists lead to increased media freedom throughout the OSCE?
- What progress has been made regarding decriminalization of libel and defamation in the OSCE area?
- What is the current state of media freedom online in the OSCE?
- How can the OSCE help ensure that the same rights that people have offline are also protected online, in particular freedom of expression and freedom of information? What is the role of civil society in media freedom advocacy? How can it be strengthened?

TUESDAY, 22 SEPTEMBER 2015

WORKING SESSION 2

10 a.m.–1 p.m.

Specifically selected topic: Challenges to the enjoyment of fundamental freedoms and human rights in the age of new information and communication technologies, including the respect for privacy

New information and communications technologies (ICTs) have become part of the very fabric of our everyday life. IT innovations are widely used to acquire and share information in real time all over the globe. Free use of ICTs can facilitate both the exercise and the protection of human rights, as well as foster democratic participation and more transparent and accountable administration. By amplifying the voice of human rights defenders and helping to uncover, document and publicly expose certain human rights violations by “civilian witnesses”, these powerful technologies offer the promise of improved accountability.

However, despite the many advantages offered by ICTs, they are vulnerable to mass electronic surveillance and interception by governments, corporations, and criminals, among others, and can be used to monitor and profile citizens, thus threatening their human rights – including the right to privacy and the freedoms of expression and association – and inhibiting the free functioning of a vibrant civil society.

Often, excessive and non-transparent restrictions are imposed under the pretext of protecting national security. Surveillance equipment and technologies are increasingly being produced in countries with repressive regimes or sold to repressive regimes without effective controls or safeguards, and states are increasingly sharing personal data with other states’ secret services. Personal data is frequently sold by government agencies and corporations. Moreover, legitimate state functions that require or entail the collection of private data are often carried out by sub-contracted corporations without the effective oversight and data protection safeguards that states are obliged to adhere to. E-governance without effective data protection safeguards in place may also have a negative effect on the right to privacy.

Recognizing this negative trend, the UN General Assembly adopted, in December 2013, a resolution expressing its deep concern at the negative impact that surveillance and interception of communications may have on human rights. The General Assembly affirmed that the rights held by people offline must also be protected online, and it called upon all states to respect and protect the right to privacy in digital communication. The General Assembly resolution called on all states to review their procedures, practices and legislation related to communications surveillance, interception and collection of personal data. Moreover, the UN Human Rights Council adopted a resolution earlier this year that established a mandate on the right to privacy in the digital age and created a new Special Rapporteur on the Right to Privacy. Various international human rights instruments, such as the International Covenant on Civil and Political Rights, guarantee that no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, or to unlawful attacks on their honour and reputation and that everyone has the right to the protection of the law against such interference or attacks. While the

right to privacy under international human rights law is not absolute, any instance of interference must be subject to a careful and critical assessment of its necessity, legitimacy and proportionality and States have to ensure that interference with the right to privacy does not have a discriminatory purpose or effect. OSCE participating States have committed themselves to exchange information on the use of the Internet for terrorist purposes and to identify possible strategies to combat this threat, while ensuring respect for international human rights obligations and standards, including those concerning the rights to privacy and freedom of opinion and expression.¹

Questions that could be addressed:

- How can restrictions on the use of ICTs and certain surveillance practices negatively affect the exercise and enjoyment of various human rights?
- What good practices exist within the OSCE area to address contemporary challenges to privacy involving the use of ICTs, such as unlawful or arbitrary communications surveillance, interception and collection of personal data?
- What effective safeguards exist to ensure that state authorities and non-state actors collect and retain data only on the basis of the law, for necessary and sufficient reasons and in a transparent way?
- How can states ensure that legitimately collected data is sufficiently protected and that data is always based on the principles of necessity and proportionality?
- What role can privacy watchdogs, such as data protection commissioners and other independent oversight bodies, play in this process?

WORKING SESSION 3

3–6 p.m.

Specifically selected topic: Challenges to the enjoyment of fundamental freedoms and human rights in the age of new information and communication technologies, including the respect for privacy (continued)

In some OSCE participating States, individuals or organizations engaged in promoting and defending human rights and fundamental freedoms or exposing human rights violations still face threats and harassment and suffer insecurity or unlawful or arbitrary interference with their right to privacy as a result of their activities. Whistle-blowers, investigative journalists or human rights defenders are often specially targeted by electronic surveillance and interception by governments, which undermines their ability to exercise their rights and engage in legitimate activities without fear of reprisal.

Many states have adopted legislation that forces journalists and other professionals to reveal private information or authorize the collection thereof by state agencies or private institutions, especially in the context of counter-terrorism measures, which also endangers the anonymity of their sources. Mass surveillance activities have a chilling effect on the ability of lawyers, writers, journalists and ordinary Internet users to express themselves freely, often forcing them to adopt elaborate steps to protect the privacy of their

¹ Decision No. 3/04 on Combating the Use of the Internet for Terrorist Purposes.

communication, which eventually can result in damaging people's right to information and the right to counsel.

At the same time, the use of encryption tools to retain anonymity and protect people's privacy in their electronic communications has often been regarded as suspicious, if not criminal; the main focus here appears to be such tools' potential use for criminal, including extremist or terrorist, purposes. The general desire of people to retain their privacy thereby appears to be the exception rather than the rule, and is interpreted as if they have something to hide, which turns the entire principle of the right to privacy on its head.

In this vein, the UN Special Rapporteur on freedom of opinion and expression recognizes encryption tools as important means for the protection of human rights in the digital age. In particular, these tools are critical for vulnerable groups, such as journalists, civil society organizations, and those persecuted because of their sexual orientation or gender identity, since, among other things, they empower them to exercise the right to freedom of expression.

Questions that could be addressed:

- In the digital age, how can we strengthen the capacity of individuals, acting alone or with others, to contribute to the promotion and protection of human rights and fundamental freedoms?
- How can ODIHR and other OSCE structures assist OSCE participating States in their efforts to fulfil their commitments to respect the exercise of human rights and fundamental freedoms, including through ICTs?
- What good practices exist for the protection of whistle-blowers, journalists or other actors who reveal information that has implications for national security?
- What good practices exist for regulating encryption and anonymity? How can states guarantee that legitimate national security concerns do not undermine the full exercise and freedom of expression, the right to information and the right to privacy?

WEDNESDAY, 23 SEPTEMBER 2015

WORKING SESSION 4

10 a.m.–1 p.m.

Fundamental freedoms I (continued), including:

- **Freedom of peaceful assembly and association**
- **National human rights institutions and the role of civil society in the protection of human rights**
- **Human rights education**

The freedoms of assembly and association have long been recognized as cornerstones of democracy and key guarantees of pluralism. They are protected by a range of international instruments, including the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms, and they have been reaffirmed in OSCE commitments (Copenhagen 1990). Likewise, the right of individuals to know and act upon their rights and duties and the need to protect human rights defenders have been reaffirmed by OSCE participating States (Helsinki Final Act, Budapest 1994). At the same time, states need to ensure that education is aimed at strengthening respect for human rights and fundamental freedoms (UDHR, UN Res. 66/137, OSCE Moscow 1991, Maastricht 2003, Ljubljana 2005). National human rights institutions (NHRIs) act as both human rights protectors and educators (UN Paris Principles, OSCE Copenhagen 1990).

The aim of this session is to highlight: the inherent connections between the freedom of peaceful assembly and association; the work of national human rights institutions and civil society – particularly human rights defenders; and the significance of human rights education. The debate will explore how the challenges that human rights defenders face are often – yet not exclusively – rooted in violations of the right to freedom of assembly and association, and how the presence of strong NHRIs and human rights education practices can contribute to overcoming these challenges.

In past years, ODIHR has seen worrying legislative trends that aim to curtail the right to freedoms of peaceful assembly and association. As a result, human rights defenders across the OSCE area continue to face risks and challenges particularly with regard to these freedoms. Legislative amendments introducing new restrictions on civil society organizations receiving foreign funding or having contacts with foreign or international non-governmental organizations, the seizure of documents and assets, the freezing of bank accounts, the invasion of privacy and the curbs put on assemblies are infringements that have been reported and documented by ODIHR in past years. In some participating States, human rights defenders face criminalization, arbitrary arrest and detention for freely exercising their rights to association and assembly.

Such human rights violations demand a renewed assessment of the role of NHRIs to protect and promote human rights. OSCE participating States have acknowledged that NHRIs are important building blocks of the human rights architecture and have pledged to “*facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law*” (Copenhagen 1990). Yet NHRIs face their own set of challenges in building trust within society and on the part of CSOs, as their effectiveness is often limited by political interference, weak mandates or lack of funding.

Similarly, a debate is critically needed to assess the effectiveness of states’ efforts to implement the objectives of the UN World Programme for Human Rights Education

(ongoing since 2005) and OSCE commitments related to human rights education (Moscow 1991, Maastricht 2003, Ljubljana 2005). Education is recognized as a powerful tool to enhance and strengthen respect for human rights and fundamental freedoms. However, the need to mainstream human rights in national public education curricula continues to elude the attention of policymakers in many participating States. This session will try to explore how systemic and effective human rights education for young people can lead to more democratic and pluralistic societies.

Questions that could be addressed:

- How can states overcome specific challenges confronting certain individuals or groups in the exercise of their rights to freedom of peaceful assembly and of association, such as disproportionate limits on assemblies and limitations on resources for associations, including foreign funding? What good practices exist, and how can a gender perspective be integrated into the efforts of OSCE participating States to protect and guarantee these rights?
- How can governments use new technologies to facilitate the exercise of the right to the freedoms of peaceful assembly and association in areas such as the registration of associations and notification of assemblies, fund-raising and other activities?
- What are the main reasons for the challenges that human rights defenders face in the OSCE region, in particular with regard to the freedoms of assembly and association? How can these challenges be addressed, and what effective remedies do human rights defenders have at their disposal?
- What good practices exist throughout the OSCE region in terms of protecting the rights of human rights defenders? What can OSCE institutions and field operations do to promote such good practices?
- How can NHRIs ensure the protection and promotion of the rights of human rights defenders, and facilitate the exercise of the freedoms of peaceful assembly and association? What good practices exist in this respect?
- What are the key challenges and bottlenecks with regard to human rights education in public schooling? How can human rights education contribute to promoting core freedoms such as the freedoms of peaceful assembly and association?

Tolerance and non-discrimination I, including:

- **Address by the OSCE Special Representative/Senior Adviser on Gender Issues**
- **Equal opportunity for women and men in all spheres of life, including through implementation of the OSCE Action Plan for the Promotion of Gender Equality**
- **Prevention of violence against women and children**

It has been 70 years since the adoption of the Universal Declaration of Human Rights, over 35 years since the Convention on the Elimination of All Forms of Discrimination against Women was developed, and 20 years since the Beijing Platform for Action was formulated. Despite these efforts, there is still no country in the OSCE region where gender equality has been achieved in all spheres of public life.

OSCE participating States have, on numerous occasions, confirmed their commitment to gender equality, including in the Moscow Document 1991, where they stressed that the “full development of society and the welfare of all its members require equal opportunity for full and equal participation of women and men”. The 2004 OSCE Action Plan for the Promotion of Gender Equality underlines that “equal rights of women and men and the protection of their human rights are essential to peace, sustainable democracy, economic development and therefore to security and stability in the OSCE region”. This message was later reinforced in a number of decisions adopted by the OSCE Ministerial Council.

However, such *de jure* declarations of equality have yet to be transformed into *de facto* reality across the OSCE region. Furthermore, promoting equality of opportunity among women and men is not necessarily always followed by equally successful results across the OSCE region or in all spheres of life. In the majority of OSCE participating States, women remain under-represented in public institutions in all areas of government. On average, women’s representation in parliaments in the OSCE region lies at roughly 25 per cent. Although efforts have been taken to promote equal opportunities for women in the economic sphere, a gender pay gap persists. While cutbacks in public services and social benefits due to economic crisis affect everyone, the impact is particularly felt by women, who use public services more than men and rely more on benefits.

Women are also more often victims of violence. According to UN Women, every third woman in the world, regardless of her geographic origin or financial and marital status, is a victim of physical and/or sexual violence at least once in her lifetime. A 2014 survey across 28 OSCE participating States revealed that only 14 per cent of women reported their most serious incident of intimate-partner violence to the police. Studies have shown that domestic violence in particular correlates to child abuse as children are inadvertently or accidentally hurt through incidents of violence. Much violence against children remains largely hidden since many children are afraid to report incidents of violence against them. An important development in this sphere has been the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), adopted by the Council of Europe Committee of Ministers in 2011, as the first legally binding instrument specifically devoted to domestic violence and violence against women. As of this date, 18 participating States have ratified it.

Achieving gender equality requires collaboration on multiple fronts by participating States, international organizations, civil society and academia. It is critical to identify

discriminatory practices and to respond with non-discriminatory laws and policies promoting gender equality in line with international standards. It is also important to build the capacities of national human rights mechanisms to effectively protect and promote women's rights and gender equality.

Furthermore, specific measures promoting gender equality in all government branches and entities should be taken, and programmes should be established for this purpose. This includes making institutions more inclusive and gender-responsive to ensure that all women, including national minorities and migrants, and particularly Roma and Sinti women, are given equal opportunities to participate in decision-making processes.

It is important to learn about and share good practices for women's empowerment across the OSCE region. On the occasion of the 20th anniversary of the Beijing Platform for Action, ODIHR is developing a Compendium of Good Practices for Advancing Women's Political Participation in the OSCE Region. Successfully piloted initiatives, such as the *gender audit* of political parties that ODIHR conducted in a number of OSCE participating States or the *mentoring* initiative led by the OSCE Secretariat for women mentors to provide support to improve the business or political skills of other women and to help them access new opportunities are only two examples of ODIHR's activities in this context. Furthermore, programmes and measures preventing and combating gender-based violence, and also providing victim support, remain critical areas of intervention. Engaging men in the promotion of non-violent masculinities has been identified as important in combating not only gender-based violence but also other forms of gender-based discrimination.

In 2014, OSCE participating States committed to developing an addendum to the 2004 Gender Action Plan to address new challenges related to the promotion of gender equality. While the Gender Action Plan presents a comprehensive strategy, containing goals and objectives, it needs to be regularly reviewed and adapted to changing circumstances taking into account emerging obstacles to achieving gender equality. This session will allow participating States and civil society organizations to review progress in implementing the 2004 OSCE Gender Action Plan and provide a road map for future efforts towards achieving gender equality.

Questions that could be addressed:

- Following the 10th anniversary of the adoption of the 2004 OSCE Action Plan for the Promotion of Gender Equality and the 2014 Review Conference, what is the OSCE's vision of gender equality, and to what degree have commitments in this area been implemented?
- What are the new challenges faced by OSCE participating States in achieving gender equality and ensuring effective protection of women's rights 20 years after the UN Beijing Platform for Action?
- What efforts have participating States undertaken to support national human rights institutions and national mechanisms for the advancement of women and to enhance their capacity to protect and promote women's rights and gender equality?
- What measures and good practices among OSCE participating States have been effective in promoting the equal and effective participation of women and men in all aspects of public life, including in decision-making at all levels, and particularly in the security sector and the judiciary?
- What effective measures have been taken to prevent and combat gender-based violence and violence against children in OSCE participating States, and what more can be done?

- How can the OSCE advance its engagement in protection of children from violence?
- How can the OSCE promote the engagement of men in initiatives to prevent and combat gender-based violence?
- What initiatives have OSCE participating States implemented to ensure the participation of women in peace negotiation, mediation and dialogue facilitation processes?
- How can OSCE structures, keeping in mind the specifics of their mandates set out in the 2004 OSCE Action Plan for the Promotion of Gender Equality, further assist OSCE participating States in fulfilling their commitment to achieving gender equality?

THURSDAY, 24 SEPTEMBER 2015

WORKING SESSION 6

10 a.m.–1 p.m.

Specifically selected topic: Independence of the judicial system, with a particular focus on accountability and integrity of judges and prosecutors

The principle of judicial independence has been firmly acknowledged in OSCE commitments (Copenhagen 1990 and Moscow 1991) and has been highlighted as a “prerequisite to the rule of law and [...] a fundamental guarantee of a fair trial” (Brussels 2006). The independence and impartiality of judges is an important cornerstone for any democratic society to ensure an effective separation of powers and to allow the judiciary to realize its role as an independent arbiter that ensures the application of the law, scrutinizes the acts of executive and legislative structures and guarantees the respect of individual rights and freedoms through independent decision-making in specific cases. Guarantees of independence include the principle of the irremovability of judges, a transparent appointment procedure and guaranteed length of tenure.

Equally important in any democratic system, the concepts of accountability and integrity of judges do not contradict this independence requirement but form an integral part of what judicial independence stands for. Public officials are accountable for their actions before the law, and this principle also applies to judges.

Building on OSCE commitments on judicial independence, ODIHR’s 2010 *Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia* place a strong emphasis on the accountability and integrity of judges, and provide guidance on how to achieve accountability without infringing upon judicial independence.

In the practical application of judicial independence principles, OSCE participating States have developed numerous mechanisms and instruments that aim to render judges accountable, such as judicial codes of ethics, requirements of public access to information, asset declarations by judges and legal standards as to what constitutes an incompatible affiliation or conduct for a judge. Similarly, clear and transparent rules and procedures for the selection, promotion, and performance evaluation of judges can strengthen the actual and perceived integrity and accountability of judges. Disciplinary proceedings as well as civil or even criminal procedures can be appropriate instruments to respond to allegations of wrongdoing by members of the judiciary if they are based on law and applied in a fair and transparent manner. Immunity given to judges to protect the performance of their judicial function should only be lifted in cases of alleged serious crimes.

When examining existing mechanisms of accountability for judges, it is crucial to assess whether these target aspects of judges’ performance related to the use of resources, their management of courts or communication with the public, or whether they aim to reduce the risk of judicial corruption, and to ensure that they do not unduly interfere with the independent decision-making powers of a judge.

One important consequence of the principle of judicial independence is the postulate of self-administration of the judiciary, which means that judges should primarily be the ones who look into the selection, promotion or disciplining of other judges, to exclude executive oversight over these important aspects of how the judiciary functions. Yet, the participation of non-judicial representatives in some areas of judicial administration may provide a certain balance and counter the risk of corporatism within the judiciary. In many OSCE participating States, judicial councils involved with the selection, promotion, evaluation or disciplining of judges have proven to be a good model to strengthen the transparency and independence of judiciaries.

Finally, the public trust that a judicial system enjoys is an important indicator of the level of independence of courts and individual judges. Thus, accountability mechanisms, if properly implemented, can have a positive impact on public confidence by making the process transparent in terms of criteria applied and results achieved.

Questions that could be addressed:

- Which existing mechanisms within the OSCE region aim to establish accountability for judges?
- Which type of conduct by judges should be subjected to disciplinary proceedings or trigger civil or criminal liability?
- How has the introduction of judicial codes of ethics in the OSCE region contributed to increased integrity and accountability among judges?
- How can the evaluation of judges' performance increase public trust in judiciaries without infringing upon the principle of judicial independence?
- What is the current practice in the OSCE region related to granting immunity to judges?
- How do OSCE participating States reconcile the principle of judicial self-administration with the need for democratic checks and balances on the work of the courts?

WORKING SESSION 7

3–6 p.m.

Specifically selected topic: Independence of the judicial system, with a particular focus on accountability and integrity of judges and prosecutors (continued)

In democratic societies, prosecutors, along with judges, play a central role in promoting the rule of law in contributing to the fair, impartial and efficient administration of criminal justice. While discharging their duties of prosecuting criminal offences on behalf of society and in the public interest, prosecutors have to reach a balance between the rights of victims and maintaining an effective criminal justice system based on proper fair-trial principles. In doing so, prosecutors must uphold human rights and maintain transparency in their decision-making to the maximum extent possible. They should act as “individuals of integrity and ability, with appropriate training and qualifications; [and] [...] at all times maintain the honour and dignity of their profession and respect the rule of law” (2006 Brussels Declaration on Criminal Justice Systems).

Overall, prosecutors are required to perform their functions impartially and independently from external influence of, for instance, the media or interest groups. Yet, prosecutorial independence and autonomy must be construed in light of existing legal systems and

traditions. In some OSCE participating States, the prosecution service is hierarchically placed under the executive branch of government, which may provide instructions to prosecutors. This particular feature makes prosecutorial independence or autonomy distinct from the concept of independence, which judges should enjoy. To fight perceived or actual undue influence, safeguards for prosecutorial independence and autonomy must be introduced by making sure that such instructions, when permissible under the law, are given in a transparent and accountable manner and subject to clear guidelines on their permitted scope. For instance, some countries allow the Ministry of Justice to provide general policy instructions to prosecutors but prohibit any instruction on individual cases. Regardless of the applicable legal system, institutional structures, mechanisms and regulations must be in place to ensure that prosecutors are free from undue external influence in the consideration of the specificities of a particular case.

Given their responsibilities in criminal procedure, prosecutors are expected to maintain the highest degree of integrity and professionalism in their work. Various measures can be adopted to identify prosecutorial vulnerabilities and prevent undue pressure and corruption. These include enacting a code of conduct laying out standards of professional conduct, establishing strong institutional values of ethics and rules on incompatibilities, training supervising prosecutors on effective supervision practices, developing appropriate mechanisms for the disclosure of financial assets and conflicts of interest, and setting up complaint systems or oversight mechanisms involving civil society actors or other legal professionals. Transparent and inclusive procedures for the appointment and promotion of prosecutors are also crucial for the actual and perceived autonomy of prosecutors in their decision-making.

Finally, the expectation that prosecutors must be able to perform their work independently must not rule out the requirement for them to bear responsibility for their decisions. States must set up rules and oversight mechanisms to ensure such accountability. These rules and mechanisms can lead to the initiation of disciplinary proceedings in the event of professional misconduct, or even criminal prosecution in the most serious cases. Prosecutors are accountable to various bodies, including the authority that appoints them (possibly the executive branch or the legislature) and the general public on whose behalf they conduct criminal prosecutions. Accountability can take different forms, including the requirement for the prosecution service to prepare regular reports on the results of its work or to answer questions before parliament on the conduct of its operations. Courts also exercise oversight over prosecutors' decisions in the larger context of criminal proceedings. In systems where prosecutors operate under the principle of opportunity, which gives discretion over which cases to prosecute, courts should ideally also have the possibility to review a prosecutor's discretionary decision not to prosecute a suspect or accused, either upon the complaint of a victim or on their own initiative.

Questions that could be addressed:

- Do OSCE participating States generally consider the independence or autonomy of the prosecution service as a standard? If so, which safeguards help ensure the independence of prosecutors in the respective legal frameworks, and how are they applied in practice?
- In systems where the prosecution is placed under an executive body, is this body permitted to instruct the prosecution service? If so, what is the scope of such instructions? Are instructions from the executive publicly accessible?

- How effective are existing measures to enhance the integrity of prosecutors in the OSCE region? What other measures are likely to further promote the integrity of the prosecution service?
- In systems where prosecutors may make use of their prosecutorial discretion, what are the main reasons why prosecutors decide not to prosecute or to drop charges? Are there mechanisms in place to review prosecutorial decisions not to prosecute or to drop charges?

FRIDAY, 25 SEPTEMBER 2015

WORKING SESSION 8

10 a.m.–1 p.m.

Rule of law, including:

- Prevention of torture
- Exchange of views on the question of abolition of capital punishment
- Protection of human rights and fighting terrorism

Prevention of torture

OSCE participating States have strongly condemned torture and other forms of cruel, inhuman or degrading treatment or punishment, repeatedly stressing that no exceptional circumstances whatsoever may be invoked as a justification of torture (Copenhagen 1990). They have pledged in their commitments to prohibit and eradicate torture and other forms of ill-treatment (Vienna 1989, Paris 1990, Moscow 1991, Budapest 1994, Istanbul 1999, Ljubljana 2005, Athens 2009), as well as to prevent impunity for acts of torture (Ljubljana 2005), to inquire into alleged cases of torture and to prosecute alleged offenders (Budapest 1994). OSCE commitments also call on participating States to give early consideration to signing and ratifying the Optional Protocol to the Convention against Torture (Ljubljana 2005, Athens 2009).

These unequivocal commitments reflect the absolute and non-derogable character of the prohibition of torture and other forms of cruel, inhuman or degrading treatment and punishment, which is a peremptory norm of international law.

Preventing and eliminating torture require the adoption of a comprehensive strategy that establishes a legal framework prohibiting torture and other forms of ill-treatment, allows for its effective implementation and introduces monitoring mechanisms. Challenges continue to arise throughout the OSCE region in this regard. National laws do not always comply with international standards, in particular the Convention against Torture. The implementation of torture-prevention measures is hindered by the lack of procedural safeguards, adequate training and continuous practices such as an over-reliance on confessions or the admission in court of information extracted under torture. Conditions of detention in criminal justice systems and also in other places of deprivation of liberty (detention centres for migrants, mental health institutions, children's institutions, etc.) continue to amount to torture or ill-treatment in a number of OSCE participating States. The weakness of internal monitoring mechanisms in some OSCE participating States is compounded by restrictions on human rights NGOs' and national preventive mechanisms' (NPMs) free access to detention facilities. Whereas positive steps have been taken to establish NPMs, they often have limited resources, capacity and independence to effectively perform their mandate. States' failure in the OSCE region to conduct impartial, effective, independent and thorough investigations into allegations of torture and ill-treatment, to hold perpetrators accountable and to provide redress to victims contribute to an environment of impunity in which such practices persist. The numerous alleged cases of torture and ill-treatment occurring in conjunction with the fight against terrorism and enforced disappearances represent a worrying trend in the OSCE region.

Questions that could be addressed:

- What are the main reasons for the persistence of torture in the OSCE region despite unequivocal commitments against torture? How can these be addressed?
- What are some good practices from OSCE participating States in establishing strong and effective internal and external monitoring mechanisms? What steps should be taken to allow NPMs to effectively carry out their work? How can co-operation with civil society organizations be strengthened?

- What challenges need to be overcome to ensure accountability for torture and ill-treatment and to provide victims with effective remedies?
- How can ODIHR assist OSCE participating States in fulfilling their anti-torture commitments?

Exchange of views on the question of the abolition of capital punishment

OSCE participating States have committed themselves to exchange information on the question of the abolition of the death penalty, to make available to the public information regarding the use of capital punishment and to keep this question under consideration (Copenhagen 1990). OSCE participating States that have not abolished capital punishment have pledged to impose a death sentence “only for the most serious crimes”, in accordance with the law in force at the time of the commission of the crime and in a manner that is not contrary to states’ international commitments (Vienna 1989). These commitments were reaffirmed in the Moscow (1991), Helsinki (1992) and Budapest (1994) documents, and the right to life of everyone was stressed by the OSCE participating States in the 2008 Helsinki Ministerial Declaration.

Fifty-one participating States have abolished the death penalty for all crimes, four participating States are *de facto* abolitionist and two participating States retain capital punishment. National developments in some OSCE participating States as to the imposition of death sentences and methods used for the execution of prisoners may, on the contrary, call into question the global trend towards the abolition of the death penalty observed in past years throughout the OSCE region.

Questions that could be addressed:

- What further measures can be taken to make information available to the public regarding the use of the death penalty and to keep this question under consideration, including through public debate and within relevant international forums?
- What measures are states that retain the death penalty taking towards its abolition and the implementation of humane alternatives?
- What steps are needed in law and practice to ensure that international legal obligations and commitments on the use of the death penalty are observed? What steps can be taken by participating States to ensure compliance with fair-trial standards in capital cases?

Protection of human rights and fighting terrorism

OSCE participating States have acknowledged the inextricable link between the guarantee of human rights and protection from terrorism in their long-standing commitments to fully respect international law and human rights standards in the fight against terrorism. They have repeatedly reaffirmed that the OSCE's cross-dimensional approach to preventing and countering terrorism is of utmost importance and provides them with a comparative advantage in tackling terrorist threats. Most recently, they pledged to counter the phenomena of foreign terrorist fighters and kidnapping for ransom in compliance with their human rights obligations (Basel 2014). The promotion and protection of human rights is a strategic focus area for OSCE counter-terrorism activities (OSCE Consolidated Framework for the Fight against Terrorism, 2012).

Complying with their obligations both to counter terrorism and to protect human rights remains a serious challenge for OSCE participating States. Some states continue to pit such obligations against each other, considering that human rights must be sacrificed to achieve security. However, combating terrorism is not only a security objective; states also have a human rights obligation to protect individuals within their jurisdiction. Human rights-compliant measures are also indispensable to effectively address conditions that are conducive

to terrorism and to ensure that counter-terrorism measures are successful and not counterproductive.

The threat that foreign terrorist fighters may pose has become a growing priority for OSCE participating States, and many of them have been adopting and implementing specific measures in this regard. Some of these reactive measures may, however, raise a number of human rights concerns, including the overly broad definition of terrorism-related offences in national laws to include elements such as recruitment, incitement to terrorism, training or travel for terrorism purposes, the use of discriminatory practices to detect and apprehend potential foreign terrorist fighters and the surveillance of suspected returnees. While efforts to address this new security challenge are legitimate, they should remain proportionate to the threat, based on a thorough assessment of the phenomenon of foreign terrorist fighters and its implications. Measures taken by states may interfere with the right to privacy, freedom of expression, freedom of religion or belief, freedom from discrimination, freedom of movement, the right to a nationality and fair-trial rights.

A stronger emphasis is being placed on soft measures throughout the OSCE region to prevent violent extremism and radicalization that lead to terrorism. This approach underscores the vital role that communities and civil society organizations, including victims, women and youth organizations, can play in the anti-terrorism context. In some participating States, this has, however, entailed limitations on human rights, in particular the principle of non-discrimination, freedom of expression, freedom of association, freedom of peaceful assembly and freedom of religion or belief.

Vague definitions of terrorism, extremism and terrorism-related offences remains highly problematic in a number of OSCE participating States that rely on anti-terrorism legislation to clamp down on dissenting voices. Efforts to counter terrorism financing have had an adverse impact on civil society organizations' ability to carry out their activities.

Torture and other forms of ill-treatment continue to be used throughout the OSCE region in the anti-terrorism context in violation of the absolute prohibition of such practices under international law. Too often, real or perceived terrorist threats serve as a pretext to justify arbitrary arrest and detention and unlawfully restrict fair-trial rights. Serious concerns have also arisen in connection with the right to life, as targeted killings have become a central component of some OSCE participating States' counter-terrorism operations, including outside the context of an armed conflict. The right to life may also be affected by measures to tackle the phenomenon of kidnapping for ransom.

Questions that could be addressed:

- What steps are being taken by OSCE participating States to ensure that counter-terrorism legislation and practices are targeted, proportionate and human rights-compliant?
- What efforts are under way in the OSCE region to address the phenomena of foreign terrorist fighters and kidnapping for ransom in line with international human rights obligations and OSCE commitments?
- How do OSCE participating States protect the right to life, the absolute prohibition of torture and other forms of ill-treatment, including the principle of *non-refoulement*, the right to liberty and security and fair-trial standards in the anti-terrorism context?
- What good practices are available with regard to efforts to prevent terrorism without unlawfully infringing on the right to privacy, freedom of expression, freedom from discrimination, freedom of association, freedom of peaceful assembly and freedom of religion or belief?
- How can all participating States comply with their duty to guarantee accountability for counter-terrorism measures and provide victims with redress?

- How can ODIHR further assist OSCE participating States in protecting human rights while countering terrorism?

WORKING SESSION 9

3–6 p.m.

Democratic institutions, including:

- **Democratic elections**
- **Democracy at the national, regional and local levels**
- **Democratic lawmaking**
- **Citizenship and political rights**

Democratic elections

Democratic elections form the basis of legitimate government and genuine democracy. The significance of democratic elections is acknowledged by OSCE participating States and enshrined in OSCE commitments. ODIHR has been mandated to conduct comprehensive election observation in order to assist participating States in meeting their election-related commitments and improve their electoral processes.

Through its observation, ODIHR has witnessed that electoral processes across the OSCE region demonstrate a range of good electoral practices. In particular, this has centred on improving legal frameworks in line with international obligations and standards. Simultaneously, a number of obstacles continue to inhibit the full realization of electoral rights and challenge election-related commitments. Particular concern has been raised recently in relation to restrictions on suffrage rights, media partiality during election campaigns, insufficient frameworks for campaign finance, and limitations on domestic and international observation.

Election observation is not an end in itself, but is a recognized part of a process to provide support to participating States in the implementation of their election-related commitments. This recognition is reflected in a number of OSCE commitments. In the 1999 Charter for European Security (Istanbul), participating States committed “to follow up promptly the ODIHR’s election assessment and recommendations”. This pledge has since been reiterated in several OSCE Ministerial Council Decisions, including at the 2002 Meeting in Porto and more recently at the 2010 Astana Summit. Collectively, these commitments provide a mandate for participating States to follow up on ODIHR election recommendations through various forms of engagement, including expert consultations, legal reviews of election-related legislation and exchanges of good electoral practice.

The HDIM will offer an opportunity to review electoral practice in OSCE participating States in compliance with OSCE commitments and international obligations and standards and the implementation of ODIHR’s recommendations as part of the follow-up process with participating States.

Questions that could be addressed:

- How are OSCE participating States meeting their commitments to conduct democratic elections?
- What are some examples of established and evolving good electoral practice concerning the regulation and implementation of campaign finance?

- What particular challenges have participating States encountered in meeting their commitments related to the media during an election campaign? How can they be overcome?
- What are the challenges to ensuring full compliance with OSCE commitments concerning domestic and international election observation?
- What can be done to further enhance the effectiveness of follow-up by OSCE participating States to ODIHR's recommendations?

Democracy at the national, regional and local levels

In the 1990 Charter of Paris, OSCE participating States committed “*to build, consolidate and strengthen democracy as the only system of government of our nations*”. OSCE institutions and field operations have been assisting participating States in various ways to strengthen democracy at all levels of government. In particular, they have supported local self-government bodies and parliaments to ensure that they function in compliance with the principles of transparency and accountability. In this context, professional and ethical standards play a principal role in strengthening parliaments and increasing the public integrity of elected representatives, as also stressed in ODIHR's *Background Study: Professional and Ethical Standards for Parliamentarians*.

OSCE participating States recognize that democracy at all levels of government is predicated on political pluralism and a multi-party system. The 1990 Copenhagen Document also stressed the importance of a separation between the state and political parties, as well as “*the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities*”.

One of the OSCE's objectives is to support participating States in creating a regulatory environment in which political parties can effectively perform their essential democratic functions. To this aim, ODIHR, together with the European Commission for Democracy through Law (Venice Commission) of the Council of Europe, developed *Guidelines on Political Party Regulation*.

Overall, democracy in its true essence rests on meaningful and inclusive democratic participation. Increased political participation of under-represented groups (women, youth, and minorities) in political life leads to a more inclusive and secure society. Yet, in many OSCE participating States, youth are still increasingly disengaged from politics; the average percentage of young people in Europe who are members of a political party is currently less than 2 per cent. Thus, one of the key challenges for participating States is to ensure that under-represented groups are politically engaged and feel empowered within the framework of existing democratic institutions, as well as within new forms of online political participation.

This session will provide an opportunity for participating States to take stock of progress in the implementation of OSCE commitments on democratic governance, political participation and political pluralism.

Questions that could be addressed:

- How can democracy be strengthened at the national, regional and local levels?

- How can legislation and regulations on political parties enhance political pluralism and participation?
- How can legislation, regulations and codes of conduct contribute to increased transparency and accountability of parliaments?
- How can participating States foster and strengthen youth participation in public affairs? How can a link be created between youth who are active in civil society organizations and political parties and parliaments?
- To what extent do stereotypes contribute to preventing the participation of women and youth in politics?
- How can think tanks and civil society support democratic processes and lend a voice to under-represented constituencies?

Democratic lawmaking

One important, cross-cutting aspect of a functioning democracy is the aspect of lawmaking. Since laws are made for, and need to be implemented by, the people of a given state, it is essential that legislative processes be transparent and open.

This is recognized in key OSCE commitments on democratic lawmaking, notably the 1990 Copenhagen and the 1991 Moscow documents, which state that legislation shall be adopted “at the end of a public procedure” and “as the result of an open process reflecting the will of the people”, respectively.

It is precisely the openness and transparency of legislative proceedings that are often compromised in lawmaking processes today across the OSCE region. While, theoretically, participating States continue to see the value of open and inclusive legislative processes, political considerations, tight internal and external deadlines, and mistrust in public opinion and in civil society often prevent these principles from being exercised in practice. Laws are drafted with limited consultation with outside stakeholders and insufficient impact assessments concerning the results of the planned legislation; in cases where stakeholders are consulted, their input is not taken into account. Consultations tend to be seen more as a nuisance, while their actual purpose, to assess whether solutions proposed by government and other state institutions are indeed workable in practice, and whether they would be accepted by large parts of the population, is either not recognized or is ignored.

At the same time, a number of OSCE participating States lack a proper legislative planning system – the legislative process is often largely reactive, not proactive. Laws are quickly drawn up to deal with problems as they arise, but there is a serious lack of forward-looking planning. Due to this lack of planning and of proper policy discussions and impact assessments beforehand, amendments to laws are often not comprehensive, and thus the same laws end up being amended several times within a relatively short time period. This then leads to legal uncertainty, inconsistent legislation, and makes it difficult for the public to access the latest versions of laws.

The HDIM will offer an opportunity to discuss the above issues, and to see how, in practice, internal processes and concepts can be changed to ensure that lawmaking processes indeed become open and transparent, and result in good and implementable legislation.

Questions that could be addressed:

- Are legislative processes in OSCE participating States indeed transparent and open, as required by OSCE commitments?
- What are some examples of good practice in the area of democratic lawmaking, including, in particular, examples of proper legislative planning, impact assessment and consultation processes?
- What else can be done to ensure that laws are implemented properly once adopted? What mechanisms exist to monitor implementation?
- How can lawmakers ensure that all those who are interested in, and relevant for, the process of preparing individual laws are identified and consulted in an open and meaningful way?

Citizenship and political rights

The right of citizens to exercise their political rights is outlined in the Copenhagen Document of 1990, which explicitly refers to “citizens” taking “part in the governing of their country”. This link between citizenship and political rights is particularly strong with respect to the rights to political participation, including the right to vote and to stand for office. That said, the need to create opportunities for political participation for non-citizen residents (migrants) forms a core element of OSCE commitments. Thus, non-citizens should also enjoy fundamental human rights such as the right to freedom of association, assembly and expression, and the right to non-discrimination. Migrants should also have the opportunity to participate, as much as possible, in decision-making processes. States’ respect for these rights and the ability of non-citizen residents to engage in advocacy activities as members of civil society and the media can galvanize their integration into host societies.

Any restrictions on the enjoyment of the above freedoms by citizens and non-citizen residents must be prescribed by law and must be applied in a non-discriminatory manner. Such restrictions are only permissible if they follow a legitimate aim, such as the protection of national security or of the rights and freedoms of others, and are proportionate to this aim.

Policies to promote non-citizens’ participation in conventional public life are currently quite underdeveloped, though a few participating States have ratified the 1992 Council of Europe (CoE) Convention on the Participation of Foreigners in Public Life at Local Level. Some OSCE participating States also enfranchise selected groups of non-citizens on the basis of bilateral or multilateral agreements. The potential for non-citizens to become active members of their societies by means of various forms and methods of political participation can thus be further explored.

OSCE commitments note the need to adopt appropriate measures to enable migrant workers to participate in participating States’ public life (Moscow 1991 and Helsinki 1992). Accordingly, non-citizen residents should not be denied opportunities to engage in various forms of political participation in their host states.

This session will provide an opportunity to discuss the link between citizenship and political rights, as well as remaining obstacles to the exercise of these rights by non-citizens lawfully

residing in OSCE participating States and good practices in facilitating political participation by both citizens and resident non-citizens.

Questions that could be addressed:

- What is the relationship between the citizenship of an individual and the extent and/or criteria for his/her enjoyment of specific political rights?
- What information policies and outreach strategies have been used by participating States to make resident non-citizens aware of their political rights and to engage them in public life in those states?
- What are some examples of good practices for the participation of resident non-citizens in political life (in particular at the local or regional level), and how could these practices be effectively shared with and implemented in other OSCE participating States?

MONDAY, 28 SEPTEMBER 2015

WORKING SESSION 10

10 a.m.–1 p.m.

Fundamental freedoms II, including:

- **Freedom of movement**
- **Treatment of citizens of other States**
- **Migrant workers, the integration of legal migrants**

Freedom of movement

OSCE participating States committed in Vienna in 1989 to guarantee the right to freedom of movement and residence to all people lawfully on their territory, as well as to provide that everyone have the right to leave any state, including their own, and to return to their home country. The term “freedom of movement” is used by the participating States to describe not only the right to free movement of residents within the borders of their own state, but it also often refers to the entry onto the territory of a participating State by foreigners, as well as the free movement of foreigners within state borders.

Many OSCE participating States use obligatory residency registration for their citizens as a means to collect information in order to deliver basic services to their citizens and enable their access to civil and political rights. Authorities in charge of residency registration should try to identify and eliminate administrative obstacles to residency registration, which could result in undue limitations to the free choice of residence.

OSCE commitments on human contacts are important in the context of advancing freedom of movement in the OSCE region. These commitments have been affirmed in numerous OSCE documents (Helsinki 1975, Madrid 1983, Vienna 1989, Copenhagen 1990, Paris 1990, Moscow 1991, Budapest 1994, and Ljubljana 2005). Cross-national movement, both short-term and long-term, has increased dramatically in recent decades as a result of revolutionary new means of communication and transportation, which have facilitated an unprecedented mass movement of people across borders. While participating States continue to make progress in facilitating cross-border mobility through bilateral and multilateral agreements, facilitating entry for *bona fide* travellers still remains a challenge in instances where cross-border travel depends on fulfilling visa requirements.

This session will provide an opportunity to review progress in the implementation of freedom of movement commitments and to assess the current situation and challenges within the OSCE region.

Questions that could be addressed:

- What progress have OSCE participating States achieved so far in implementing their commitment to “facilitate wider travel by their citizens for personal or professional reasons” (Helsinki 1975)? Have they gradually simplified and flexibly administered the procedures for entry onto and exit from their territory?
- Do existing residency registration frameworks in OSCE participating States provide sufficient safeguards for the protection of freedom of movement and choice of place of residence?

- How can a proper balance be found between national security concerns, risks related to irregular immigration and the promotion of liberalized cross-border travel? What types of mechanisms can participating States use to facilitate legitimate cross-border travel?
- How can participating States ensure unhindered movement across borders and within their territory of individuals representing OSCE structures and other intergovernmental bodies? What more could be done to enhance cross-border movement and co-operation between national or international non-governmental organizations, as well as individuals engaged in monitoring and/or supporting the implementation of human dimension commitments?

Treatment of citizens of other States

OSCE participating States have agreed that free movement and contacts between their citizens are crucial for the maintenance and development of free societies and flourishing cultures (Paris 1991). They have also undertaken to ensure the dignified treatment of these citizens during their travel to, entry and residence in other participating States in line with key OSCE commitments and relevant international and national legal frameworks pertaining to the human dimension.

To that end, OSCE participating States agreed to simplify the free movement of citizens of other participating States by removing all legal and other restrictions with respect to travel within their territories for their own citizens and for foreigners, and with respect to residence for those entitled to permanent residence. Participating States also agreed that the only acceptable restrictions are those that may be necessary and officially declared for state interests in accordance with national laws and that are consistent with OSCE commitments and international human rights obligations. Such restrictions should be kept to a minimum (Moscow 1991).

Questions that could be addressed:

- How have OSCE commitments on the treatment of citizens of other OSCE participating States been translated into national policy and legal frameworks in participating States?
- What are the most common restrictions imposed by OSCE participating States on travel and residence of citizens of other participating States within their territories? Do such restrictions allow citizens of other OSCE participating States who stay or reside lawfully in another OSCE participating State to move freely and establish residence in line with OSCE commitments?

Migrant workers, the integration of legal migrants

At present, the worldwide migrant population has reached approximately 232 million (according to IOM data from 2013), 105 million of whom, or 45.2 per cent, are migrant workers. The majority of these international migrants reside in OSCE participating States (approximately 134 million, almost 50 per cent of whom are women). The number of international migrants compared to the total population in individual participating States varies widely across the OSCE region but is, on average, still relatively low. In five OSCE participating States, however, the migrant population now makes up around 10-12 per cent of the country's entire population, and in one OSCE participating State, migrants make up

16 per cent of the total population. Finally, 21 per cent of the population of one OSCE participating State consists of migrants.

Since the adoption of the Helsinki Final Act in 1975, OSCE participating States have acknowledged the importance of developing effective and gender-sensitive labour migration policies, while protecting the human rights and fundamental freedoms of migrants and ensuring migrant integration in host societies. The participating States have reaffirmed that the protection and promotion of the rights of migrant workers human dimension and have agreed that the protection and promotion of the rights of migrant workers are the concern of all participating States and that, as such, they should be addressed within the OSCE process (Copenhagen 1990). States have agreed on numerous commitments on migrant integration, including to adopt appropriate measures that would enable migrant workers to participate in public life in participating States (Moscow 1991); to promote the integration of migrants in host participating States and to elaborate or strengthen national strategies and programmes for this purpose (Madrid 2007); and to incorporate gender aspects into national migration policies in line with the recommendations of the OSCE-produced *Guide on Gender-Sensitive Labour Migration Policies* (Athens 2009).

Working session participants may wish to consider their current national migration management strategies and how to improve practical implementation of relevant OSCE commitments.

Questions that could be addressed:

- What are some examples of current good practices and innovative approaches in the area of migrant integration that have been developed by OSCE participating States? How can awareness be increased among competent national authorities and relevant civil society actors across the OSCE region of such practices and approaches, and how can the practical application of these practices be facilitated?
- How can OSCE institutions and field operations better assist OSCE participating States in developing and implementing comprehensive and effective national migration policies and strategies?
- How do OSCE participating States address gender aspects of migration in their national migration policy planning process and relevant strategic documents?

WORKING SESSION 11

3–6 p.m.

Humanitarian issues and other commitments, including:

- **Address by the OSCE Special Representative/Co-ordinator for**
- **Combating Trafficking in Human Beings**
- **Combating trafficking in human beings**
- **Refugees and displaced persons**

Combating trafficking in human beings

Since 1999, combating trafficking of children has been one of the OSCE's priorities. This year marks the 10th anniversary of the adoption of the Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special Needs of Child Victims of

Trafficking for Protection and Assistance, as well as the 15th anniversary of the adoption of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.

In 2004, OSCE participating States committed to enhancing OSCE efforts to prevent child trafficking, to addressing the special needs of child victims of trafficking, and to prosecuting those who traffic in children (MC.DEC/13/04 of 7 December 2004). A decade later, the participating States expressed serious concern in recognizing an increase in the trafficking of children (PC.DEC/1107/Corr.1).

Practice shows that it is extremely challenging for the majority of countries to respond to the special needs of all children regardless of their status and their age. While children are always at the greatest risk of being exploited, the lack of protection and respect for their rights in countries of origin, transit and destination increases their vulnerability to human trafficking. Moreover, the lack of identification, proper referral and assistance to children put them at risk of further harm and revictimization. Therefore, it is critical to integrate child trafficking into all child protection policies.

As discussed at the 2015 high-level Alliance Against Trafficking in Persons conference (6-7 July), the number of children leaving home, accompanied or alone, escaping poverty, violence, conflict areas or disaster is growing every year. Unaccompanied minors and children internally displaced in-country are one of the groups at risk of human trafficking. During the migration process, children are exposed to various forms of abuse and forms of trafficking, including sexual exploitation, in whatever form it takes; labour exploitation in many economic sectors, such as agriculture or domestic work; in forced criminality, such as cannabis harvesting, selling drugs or stolen items, pick-pocketing, and others; and in organized begging.

In adopting the 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later (PC.DEC/1107/Corr.1), which adds new categories of vulnerable potential victims, such as children in institutions/orphanages, children in alternative care, runaways, unaccompanied and separated children, children with disabilities, OSCE participating States recognized the importance of combating child trafficking in a more effective manner and reaffirmed the need to strengthen the care and protection of migrant, undocumented, unaccompanied, and asylum-seeking children to better prevent child trafficking.

This session will enable participating States to review 10 years of implementation of the 2005 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special Needs of Child Victims of Trafficking for Protection and Assistance (PC.DEC/685/05). Since the OSCE approach of paying special attention to children is reflected in all commitments on trafficking in human beings, the session will allow participating States to take stock of the implementation of all commitments and developments in relation to child trafficking.

Moreover, participating States will have the opportunity to further discuss the recommendations from last year's HDIM working session on human trafficking from a child's perspective and share their experience in implementing them. Key recommendations were the promotion of a more victim-focused approach, providing compensation for

victims of trafficking, implementing the guiding principles on human rights in the return process, and upholding the principle of non-punishment of trafficked people.

Questions that could be addressed:

- What specific and practical measures could be recommended to prevent trafficking among vulnerable children (including unaccompanied or separated minors, children without citizenship or birth registration, children from minorities, asylum-seeking children, children left behind, disabled children, street children etc.)?
- What forms of child trafficking have participating States experienced and actually prosecuted?
- What best practices have been applied to identify the various forms of child trafficking? How can states ensure that all professionals (including social workers, law-enforcement officials, border police, labour inspectors) and NGOs that might be in contact with children, especially those working with at-risk children, are aware of all forms of trafficking in order to better identify potential victims among them?
- How can the OSCE assist participating States in supporting training for professionals in contact or potentially in contact with child victims of trafficking?
- To what extent are legal guardians appointed for unaccompanied minors and/or child victims of trafficking in the OSCE region? What challenges do they face?
- How do participating States ensure that all children, regardless of their status or willingness to cooperate with the authorities, have equal access to safe and separate accommodations and to comprehensive and appropriate assistance services according to their specific needs?
- What specific measures are taken to protect the rights and to ensure that the best interests of the child are considered at all stages of criminal and civil proceedings, in particular to develop child-friendly procedures to protect the privacy of child victims or witnesses?
- How can states ensure that an individual risk assessment is carried out for each child before any possible return of the child to his/her country of origin or family reunification?
- How can participating States pay special attention to children in institutions, orphanages, and alternative care to ensure social protection and to prevent this at-risk group from being trafficked?
- How can the OSCE, its institutions and field missions further assist OSCE participating States in fulfilling their commitments to combat and prevent child trafficking.

Refugees and displaced persons

The question of refugees and internal displacement remains one of the most serious humanitarian and human rights challenges worldwide and in the OSCE region in particular. Fleeing violence and conflict in their countries of origin, a significant number of people from outside the OSCE region continue to undertake dangerous trips, by land or by sea, to reach some OSCE participating States. The number of people undertaking such hazardous journeys is steadily on the rise, and, frequently, people end up being badly injured or even killed. In such circumstances, it is important to underline that participating States have agreed to promote the dignified treatment of all individuals wanting to cross borders in conformity with relevant national legal frameworks, OSCE commitments (Ljubljana 2005), and international law, in particular in the area of human rights, refugee protection, and humanitarian law.

Today, the OSCE region hosts approximately 3.5 million refugees.² By early 2015, OSCE participating States had received a total of approximately 2.57 million applications for asylum. In 2013-2015, the sheer number of people in need of protection has placed the migration and asylum reception systems of a number of OSCE participating States under serious pressure.

The numbers of internally displaced persons (IDPs) has grown due to recent conflicts within the OSCE region. As of May 2015, the OSCE region was hosting more than 2.5 million IDPs and people in IDP-like situations.

OSCE participating States have undertaken to respect the right to seek asylum and to ensure the international protection of refugees as set out in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, as well as to facilitate the voluntary return of refugees and internally displaced persons in dignity and safety (Istanbul 1999). They have agreed to support efforts to ensure the protection of, and assistance to, refugees and displaced persons with the aim of finding durable solutions (Helsinki 1992).

Thus, the primary responsibility for addressing issues of internal displacement lies with the OSCE participating State in question. The OSCE, and in particular its field operations, assists national authorities in the development of necessary strategies to deal with IDPs and the refugee situation. In particular, this assistance may be provided during conflicts or environmental disasters, as well as with post-conflict measures to address issues such as voluntary return or resettlement, property restitution, and the reintegration of refugees and displaced persons in their places of origin.

The UN Guiding Principles on Internal Displacement remain a useful framework for the work of the OSCE and the endeavours of participating States in the area of internal displacement (Maastricht 2003). The OSCE/UNHCR's "Protection Checklist: Addressing Displacement and Protection of Displaced Populations and Affected Communities along the Conflict Cycle: a Collaborative Approach" provides practical guidance for OSCE field staff, as well as other OSCE actors providing support in response to internal displacement.

Questions that could be addressed:

- How are participating States implementing existing OSCE commitments concerning refugees and IDPs?
- How do participating States ensure that vulnerable groups of asylum seekers (such as women, children, including unaccompanied children, elderly people, disabled persons and others) are properly taken into account by state authorities under their respective national asylum procedures?
- How can OSCE institutions, field operations and other executive structures better assist participating States in addressing the current challenges posed by an ever-increasing number of refugees and IDPs?
- What kind of bilateral and multilateral forms of co-operation between OSCE participating States could provide better protection for, and assistance to, asylum seekers, refugees and displaced persons with the aim of finding durable solutions?
- What should be the role of civil society actors in assisting national authorities in providing the necessary care for, and support to, asylum seekers, refugees and IDPs?

² Based on an ODIHR estimate that was made on the basis of the UNHCR country statistics in "Global Trends: Forced Displacement in 2014", UNHCR, 2015, available at <http://unhcr.org/556725e69.html>.

TUESDAY, 29 SEPTEMBER 2015

WORKING SESSION 12

10 a.m. – 1 p.m.

Specifically selected topic: Combating hate crimes and ensuring effective protection against discrimination

2015 has seen a number of racism and xenophobia issues come to the fore; hate crimes and hate incidents are regularly reported across a variety of media formats. Immigration issues are becoming a core issue in many OSCE participating States. Potential migrants are being exploited by unscrupulous human traffickers as they desperately attempt to enter more secure and prosperous countries within the OSCE region. In addition, the unresolved migrant crisis is becoming a financial liability for many states whose economies are unable to absorb the costs of patrolling, rescuing and processing thousands of asylum seekers in the region.

Recently, incidents of racism, institutional and other types of discrimination and racial profiling have been reported to ODIHR, and most notably by several people of African descent (PAD) and those that represent them across the OSCE region. These incidents are manifold and affect virtually every aspect of life for PAD communities in the OSCE region. Equal access to education, employment, healthcare, racial abuse and violence in public places such as busses and trams, restrictions on movement by overzealous law enforcement, and cases of hate crimes are all relevant issues. Perhaps the most worrying issue in this litany is the current practice of profiling based upon racial, ethnic and religious stereotypes and prejudices. All relevant stakeholders should invest efforts and develop broad plans addressing major concerns regarding racism, xenophobia, discrimination and intolerance in the OSCE region. Collaborative efforts and development of specific initiatives aimed at involving women and youth of African descent and other communities with policy makers remains should also be initiated.

The aim of this session is to review the implementation of OSCE commitments related to the prevention of, and response to, discrimination and hate crimes by examining challenges, good practices and lessons learned in this area. Efforts to build robust and expeditious policies and programmes, including legislative reviews, comprehensive data-collection systems, capacity building for state authorities (law enforcement, prosecutors, judges, public officials), outreach initiatives that encourage victims to report incidents and for state authorities and institutions to pursue deeper, sustainable co-operation with civil society organizations and groups, as well as other steps undertaken, will be assessed.

Questions that could be addressed:

- How are participating States ensuring implementation of OSCE Ministerial Decisions related to ending discrimination and intolerance? What challenges do participating States face in preventing discrimination and responding to violent manifestations of prejudice and intolerance?
- What progress has been made by participating States in strengthening and implementing anti-discrimination legislation to address hate crime and discrimination, as well as in identifying and implementing good practices? What are the barriers participating States face in this area? How can these be overcome?

- How can authorities encourage victims to report hate crimes? How have they engaged with civil society organizations to help end hate crimes and other manifestations of intolerance, while recognizing the independent role played by the latter?
- What capacity-building activities have been implemented for law-enforcement, prosecution and judicial officials dealing with hate crimes and discrimination?
- How can ODIHR and other OSCE institutions better support OSCE participating States in meeting their commitments against hate crimes and discrimination?

WORKING SESSION 13

3 p.m.–6 p.m.

Specifically selected topic: Combating hate crimes and ensuring effective protection against discrimination (continued)

OSCE participating States have acknowledged that manifestations of intolerance threaten social cohesion. Each of its forms strengthens others, and, collectively, they can escalate into a wide-scale conflict. Intolerant discourse, discrimination and hate crimes are links in this chain. Acting promptly and decisively against hate speech and discrimination can help prevent violence and hate crimes. OSCE states have therefore agreed upon a broad range of commitments to act against discrimination and crimes motivated by bias, prejudice, hostility or hatred. Ministerial Council Decision No. 9/09 includes a comprehensive set of commitments to prevent and respond to hate crimes, including on, inter alia, strengthening legislation, collecting reliable data, building the capacity of actors in criminal justice systems, assisting civil society, and considering drawing on resources developed by ODIHR in relevant areas.

ODIHR has been reporting on hate crimes and responses to this phenomenon since 2008. Its reporting website, <http://hatecrime.osce.org/>, reveals that gaps in reported official data remain substantial. The reporting also underlines systematic under-recording and under-reporting of hate crimes across the region. Most OSCE participating States have adopted laws addressing hate crimes and have taken other steps in line with OSCE commitments. An integrated and comprehensive response, envisaged by MC Decision No. 9/09 and informed by specifically collected reliable data about the phenomenon, has, however, been lacking.

The aim of this session is to review the implementation of OSCE commitments related to prevention of, and response to, discrimination and hate crimes by examining challenges, good practices and lessons learned in this area. Efforts to build robust data-collection systems, train law-enforcement officials and prosecutors, encourage victims to report and deepen co-operation with civil society organizations and groups, as well as other steps undertaken, will be assessed.

Questions that could be addressed:

- How are participating States ensuring implementation of OSCE Ministerial Decision No. 9/09 on Hate Crime, as well as other related commitments established by Ministerial Council decisions between 2003 and 2007?
- What challenges do participating States face in responding to violent manifestations of prejudice and intolerance?

- What progress has been made by participating States in strengthening and implementing legislation and data-collection mechanisms to address hate crime and in identifying and implementing good practices? What are the barriers participating States face in this area? How can these be overcome?
- How can authorities encourage victims to report hate crimes? How have they engaged with civil society organizations to combat hate crimes and other manifestations of intolerance, while recognizing the independent role played by the latter?
- What capacity-building activities have been implemented for law-enforcement, prosecution and judicial officials dealing with hate crimes? What educational policies, strategies and programmes have been developed and implemented by participating States to counter intolerance and discrimination?
- How can ODIHR and other OSCE institutions better support OSCE participating States in meeting their commitments against hate crimes and discrimination?

WEDNESDAY, 30 SEPTEMBER 2015

WORKING SESSION 14

10 a.m.–1 p.m.

Tolerance and non-discrimination II, including:

- **Combating racism, xenophobia and discrimination, also focusing on intolerance and discrimination against Christians and members of other religions**
- **Combating anti-Semitism**
- **Combating intolerance and discrimination against Muslims**

Addressing intolerance and discrimination and promoting mutual respect and understanding has formed part of the OSCE's work in the human dimension ever since the 2003 Vienna Conferences on Anti-Semitism and on Racism, Xenophobia and Discrimination. Through Ministerial Council declarations and commitments, OSCE participating States have repeatedly acknowledged that racism, xenophobia, anti-Semitism, intolerance and discrimination against Muslims, Christians and members of other religions pose a threat to security and stability in the OSCE region. These manifestations of intolerance undermine the principle of equality and give rise to feelings of exclusion and insecurity among the communities targeted and societies at large. OSCE participating States have acknowledged that such manifestations of intolerance may, if not addressed effectively, give rise to violence and conflict on a larger scale.

Racism, xenophobia, anti-Semitism and intolerance against Muslims, Christians and members of other religions, as well as challenges related to discriminatory practices, continue to be a concern across the OSCE region. Jews have been the targets of violent and lethal attacks motivated by anti-Semitism, and Jewish schools, places of worship and community centres are in need of protection in many OSCE participating States. Abusing the opportunities offered by the Internet, anti-Semitic expressions, insults and threats, often drawing on imagery of or denying the Holocaust, are circulated online, leaving Jews with the feeling that they cannot openly practise their religion or express their identity for fear of being attacked. Muslim communities still experience significant rates of hate crime and discrimination. Mosques and cemeteries are the main institutional targets of intolerance against Muslims, while data from some participating States shows that Muslim women are still disproportionately affected by hate crimes. Physical and verbal assaults targeting Christians and the desecration of Christian sites and monuments are often not reported to the police or other relevant authorities. In some instances, perceived discrimination against them in state registration procedures compounds already fraught relations between Christian communities and state regulatory agencies.

The principle of equality and non-discrimination and the need to guarantee legal protection to everyone against any discrimination on any ground, as stipulated in the Copenhagen Document of 1990, is also being challenged by attacks and exclusionary measures targeting people of African descent, as well as lesbian, gay, bisexual and transgender individuals all across the OSCE region. In both violent and non-violent attacks, biases against particular religious or ethnic groups often intersect with stereotypical assumptions about men and women, thus reinforcing existing gender inequalities. This is why ODIHR has organized activities specifically focusing on target groups of intolerance, such as Muslim women, in order to capture their experiences and better understand the sort of incidents they encounter.

To address these challenges, OSCE participating States have pledged to develop and implement a comprehensive set of measures designed to address manifestations of intolerance through a common approach that also acknowledges the “uniqueness of the manifestations and historical background of each form”. At the Brussels and the Kyiv Ministerial Councils, participating States acknowledged the need to establish strong channels of communication, consultation and co-operation between governments and civil society, as well as between government and religious communities. The significance of co-operating closely with civil society and building trust with vulnerable groups in addressing challenges related to intolerance was also highlighted by the participants at the High-Level Commemorative Event and Civil Society Forum designed to mark the 10th anniversary of the OSCE’s Berlin Declaration on Combating Anti-Semitism, which took place in Berlin on 12-13 November 2014, as well as by the participants of the Conference on Enhancing Efforts to Prevent and Combat Intolerance and Discrimination against Christians, Focusing on Hate Crimes, Exclusion, Marginalization and Denial of Rights, which took place in Vienna on 18 May.

At the Brussels Ministerial Council, participating States also committed to “encouraging the development of comprehensive domestic education policies and strategies as well as through increased awareness-raising measures that (...) aim to prevent intolerance and discrimination” and “promote remembrance and education about the tragedy of the Holocaust”. In 2005, participating States agreed to develop methods and curricula to address racism, anti-Semitism, prejudice against Muslims, Christians and members of other religions. This was reinforced by the Athens Ministerial Council, which called on participating States to draw on “resources developed by ODIHR in the area of education, training and awareness-raising to ensure a comprehensive approach to the tackling of hate crimes”.

The aim of this session is to review the implementation of OSCE commitments related to combating intolerance and discrimination against Christians and members of other religions, combating anti-Semitism, and combating intolerance and discrimination against Muslims all while being mindful of issues of racism, xenophobia and discrimination. The session will review progress, as well as challenges, good practices and lessons learned made in addressing different manifestations of intolerance.

Questions that could be addressed:

- How are participating States ensuring the implementation of OSCE Ministerial Decision No. 10/2007, No. 13/2006 and No. 10/2005 on Tolerance and Non-Discrimination, as well as other related commitments established by Ministerial and Permanent Council decisions between 2003 and 2007? How have OSCE participating States followed up on OSCE Ministerial Council Decision No. 8/2014 on Enhancing Efforts to Combat Anti-Semitism?
- What measures have been undertaken by participating States to implement OSCE Ministerial Council Decision No. 3/2013 on Freedom of Thought, Conscience, Religion or Belief, which, *inter alia*, calls on governments to “endeavour to prevent and protect against attacks directed at persons or groups based on thought, conscience, religion or belief”?
- Have participating States developed effective strategies to address discrimination and promote the principle of equality?
- Have governments and political representatives developed effective responses to bias-motivated attacks targeting minorities?

- What measures have been undertaken to counter biased expressions that scapegoat and stigmatize minorities in public discourse, including on the Internet?
- To what extent have participating States established specialized bodies and implemented national strategies and action plans designed to address challenges related to intolerance and discrimination?
- How do participating States support teachers, educators and civil society in developing effective tools and comprehensive strategies that promote mutual respect and understanding and help address different manifestations of bias? What can be done to further build the capacity of educators to prevent and address manifestations of intolerance?
- Have OSCE participating States implemented their commitment to promote Holocaust remembrance and education? Have OSCE participating States developed effective strategies to counter Holocaust denial?
- What can be done to raise awareness about how manifestations of intolerance and discriminatory practices affect men and women differently? What can be done to learn more about how gender stereotypes intersect with other forms of bias?
- How can governments support civil society and religious communities in fostering dialogue and building strong coalitions against discrimination and intolerance?
- How can ODIHR and other OSCE institutions, including the three Personal Representatives of the Chairperson-in-Office on tolerance and non-discrimination issues and the OSCE Parliamentary Assembly's Special Representative on Anti-Semitism, Racism and Intolerance, better support OSCE participating States in implementing their commitments on tolerance and non-discrimination?

WORKING SESSION 15

3–6 p.m.

Fundamental freedoms II (continued), including:

- **Freedom of thought, conscience, religion or belief**

**Freedom of thought, conscience, religion or belief:
Ensuring the collective dimension of freedom of religion or belief**

OSCE commitments underline the collective dimension of the right to freedom of religion or belief for religious or belief communities. The 1989 Concluding Document of the Vienna Meeting states that participating States “will take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, and to ensure the effective equality between believers and non-believers”. OSCE commitments, such as the Vienna Document, the 1990 Document of the Copenhagen Meeting, and Kyiv Ministerial Decision No. 3/13, require that participating States facilitate a broad range of collective manifestations of the right to freedom of religion or belief for these communities, including the right to establish and maintain freely accessible places of worship or assembly, organize themselves according to their own hierarchical and institutional structure, and to solicit and receive voluntary financial and other contributions. It also encompasses the right to produce, import and disseminate religious publications and materials and to establish and

maintain communications with individuals and communities in their own and other countries.

In a Decision adopted in Kyiv (MC.DEC/3/13), the OSCE Ministerial Council called on participating States to “fully implement their commitments to ensure the right of all individuals to profess and practise religion or belief, either alone or in community with others, and in public or private, and to manifest their religion or belief through teaching, practice, worship and observance, including through transparent and non-discriminatory laws, regulations, practices and policies” and to “refrain from imposing restrictions inconsistent with OSCE commitments and international obligations on the practice of religion or belief by individuals and religious communities”.

Despite these and other guarantees, challenges in this regard continue to exist in the OSCE area. In particular, restrictions on the collective exercise of the right to freedom of religion or belief frequently involve limiting the ability of religious or belief communities – whether or not they have obtained formal legal status – to publicly or privately associate and assemble and to organize themselves according to their own beliefs. Other challenges, such as those related to the legal status of religious or belief communities, funding of religious or belief groups and organizations, and access to public places of worship, holy sites and burial sites, as well as their establishment and maintenance, still remain prevalent.

This session will provide an opportunity to discuss existing challenges to the free and full exercise of the collective aspects of the right to freedom of religion or belief in the OSCE area and the means by which participating States, international organizations, civil society, and religious or belief communities can work together to ensure their realization in line with international standards and OSCE commitments. It will explore, in particular, the duty of participating States to ensure that their use of permissible restrictions on the collective exercise of the right to freedom of religion or belief is in line with international standards. The session will also explore recognition and legal-personality issues, drawing on examples of good practices in the national context.

Questions that could be addressed:

- What are the key challenges encountered by participating States in the implementation of the commitments to ensure and promote the collective dimension of freedom of thought, conscience, religion or belief? What good practices are available in this regard?
- What measures can be undertaken to further support participating States in implementing their commitments to facilitate the collective dimension of freedom of religion or belief? How can ODIHR, the OSCE’s other institutions and its field missions assist participating States in this regard?
- What conditions are necessary for participating States, international organizations, civil society and religious or belief communities to be able to effectively work together to ensure the realization of the collective aspects of the right to freedom of religion or belief in line with international standards and OSCE commitments? What means can be employed by civil society and religious or belief communities to assist the implementation by participating States of their commitments?
- What specific legislative action can be undertaken by participating States to ensure access to legal personality on the part of religious and belief communities? How can ODIHR and the OSCE’s other institutions better assist participating States in fulfilling their commitments in this regard?

THURSDAY, 1 OCTOBER 2015

WORKING SESSION 16

10 a.m.–1 p.m.

Tolerance and non-discrimination I (continued), including:

- **Roma and Sinti issues, including: Implementation of the OSCE Action Plan on Improving the Situation of Roma and Sinti**

The OSCE participating States recognize the meaningful participation of Roma and Sinti as a key principle for all policies that affect them. In addition, they have underlined that Roma women should be able to participate on an equal basis with men. The 2003 Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area³ (OSCE Action Plan) pays further ample attention to enhancing the participation of Roma and Sinti in public and political life. The participating States have committed to proactively ensuring the participation of Roma and Sinti in public and political life by resolving issues related to their lack of personal documents and by accounting to the principles of early involvement of Roma and Sinti in all relevant processes, inclusiveness, transparency, meaningful participation at all levels of government and ownership. These commitments were reinforced by Ministerial Council Decision No. 6/08, which urges states to make increased efforts aimed at the active engagement of Roma and Sinti in relevant policy-making and their effective participation in public and political life.

Effective public and political participation of Roma and Sinti, including Roma women and youth, has received significantly less attention than other challenges facing these communities. ODIHR's Status Report on the Implementation of the OSCE Action Plan from 2013 finds that, within the last decade, progress has been made with setting up administrative structures for Roma representation at the local and national level; overall, however, Roma and Sinti remain under-represented in elected bodies.

In follow-up to the 2013 review of progress and shortfalls in implementing OSCE commitments relating to Roma and Sinti, the OSCE participating States recommitted to enhancing their efforts to implement the OSCE Action Plan with Ministerial Council Decision No. 4/2013 by putting particular emphasis on Roma and Sinti women, youth and children. Among other things, participating States committed to enhancing the participation of Roma and Sinti in the elaboration, implementation and evaluation of the policies that affect them, including by fostering Roma and Sinti political participation and by supporting voter education among Roma and Sinti, and by promoting the public and political participation of Roma and Sinti women.

This session will review progress made by participating States with regard to enhancing the participation of Roma and Sinti, including women and youth, in all areas of concern and ensuring their right to effective public and political participation. Moreover, the session will particularly address what steps participating States have taken to implement Ministerial Council Decision No. 4/2013 to provide Roma and Sinti, including women and youth, with opportunities to contribute to the policies that affect them and to share responsibility for implementing those policies designed to promote integration.

³ OSCE Ministerial Council, Decision No. 3/03, "Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area", Maastricht, 1 and 2 December 2003, available at: <<http://www.osce.org/odihhr/17554>>.

Questions that could be addressed:

- What specific steps have been undertaken by OSCE participating States in follow-up to MC Decision No. 4/2013 with a particular focus on Roma and Sinti women, youth and children?
- How do participating States ensure meaningful participation of Roma and Sinti, including women and youth, in decision-making, policy design, policy implementation and evaluation of issues concerning them?
- How do participating States ensure that national and local integration policies are addressing the situation and needs of Roma and Sinti women and youth?
- How do participating States ensure equality between Roma and Sinti men and women?
- How is the active involvement of Roma and Sinti women promoted by state policies and institutions?
- What progress has been made in ensuring that Roma and Sinti obtain personal documents and thus have access to rights and services, including their civic and political rights?
- What mechanisms, affirmative actions or other tools are in place to enhance public and political participation by Roma and Sinti, including women and youth?

WORKING SESSION 17

3–6 p.m.

Tolerance and non-discrimination II (continued), including:

- **Address by the OSCE High Commissioner on National Minorities**
- **Rights of persons belonging to national minorities**
- **Preventing aggressive nationalism, racism and chauvinism**

Rights of persons belonging to national minorities

2015 marks the 25th anniversary of the OSCE Copenhagen Document (1990), a key reference document for OSCE human dimension commitments and a significant milestone in the establishment of minority protection throughout the OSCE region. Indeed, with the Copenhagen Document, the OSCE set a new threshold for the protection of human rights, and many of the principles that it established as political commitments were later institutionalized in the treaty-based instruments of other regional and universal organizations.

With the Copenhagen Document, participating States reaffirmed that “respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy”. Participating States also recognized that persons belonging to national minorities have the right to fully and effectively exercise their human rights and fundamental freedoms, without any discrimination and in full equality before the law. Moreover, it was recognized that states should adopt, where necessary, “special measures for the purpose of ensuring to persons belonging to national minorities full equality with other citizens in the exercise and enjoyment of human rights and fundamental freedoms”.

Following the adoption of the Copenhagen Document, the participating States decided in 1992 to establish a High Commissioner on National Minorities (HCNM), an institution that was mandated to provide early warning and take early action to prevent ethnic tensions from developing into conflict. The protection and promotion of the rights of individuals belonging to national minorities, as an integral part of the protection of human rights, is key to addressing such issues and thereby preventing conflict.

Many aspects of OSCE and international standards related to minority protection have subsequently been addressed by successive High Commissioners in the institution's recommendations and guidelines. These thematic tools, which draw upon the accumulated experience of the institution, aim to clarify relevant international standards and provide practical guidance for participating States for their implementation. To date, seven sets of thematic recommendations or guidelines have been issued, covering topics such as the education and linguistic rights of minorities and the participation of minorities in public life. The most recent sets address national minorities in inter-state relations (*The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations*, 2008) and the integration of diverse societies (*The Ljubljana Guidelines on Integration of Diverse Societies*, 2012).

Access to justice is both a fundamental human right in and of itself and also a prerequisite for the protection of all other rights and freedoms. Inadequate access to justice can reinforce feelings of exclusion from, or distance within, society, particularly for individuals belonging to national minorities. Conversely, inclusion (and visible inclusion) within justice mechanisms, as well as a fair consideration of the needs of individuals belonging to national minorities within justice systems, can strengthen the integration of society, enhancing its cohesion and stability.

Equal access to effective and impartial justice is essential for the integration of society. The *Ljubljana Guidelines* provide guidance that states should, as a matter of priority, assess the situation with regard to access to justice and develop a comprehensive strategy and policies aimed at guaranteeing effective access to justice for all, including for individuals belonging to national minorities.

In this session, participants are asked to note both positive practices and challenges that they have faced in designing and implementing integration strategies that ensure protection and promotion of the rights of persons belonging to national minorities, including ensuring effective access to justice. The office of the High Commissioner on National Minorities aims to draw upon the contributions made by participating States today as a departure point for the examination of such issues during 2016 in those participating States where she has identified the need for engagement, in line with her mandate.

Questions that could be addressed:

- Which participating States have developed strategies for the integration of society and what is their experience in the design and implementation of these strategies?
- For those participating States with integration strategies, how have they included the important policy area of access to justice, as referred to in the *Ljubljana Guidelines*?
- How do participating States ensure adequate representation of individuals belonging to national minorities in their law-enforcement and judicial systems, taking into account the selection, training and promotion of members of national minorities as prosecutors, judges or other officials in the justice system?

- Which participating States make special provision for the particular financial, linguistic or social barriers to justice faced by individuals belonging to national minorities?
- What is the experience of participating States in establishing or co-operating with accountability or reconciliation mechanisms, such as war crimes tribunals, truth and reconciliation mechanisms, lustration or informal justice mechanisms?
- What are the challenges that participating States have faced, and what strategies have been devised, to maintain or restore confidence in the judiciary during or following a period of political instability or conflict that have specific significance for national minorities?
- What are the main challenges in OSCE participating States' implementation of their commitments to ensure the protection of the rights of individuals belonging to national minorities?

Preventing aggressive nationalism, racism and chauvinism

Aware of the importance of addressing intolerance and discrimination, as well as manifestations of aggressive nationalism, racism and chauvinism to prevent the eruption of conflicts, participating States have agreed on a comprehensive set of commitments to address these issues. In 1990, OSCE participating States recognized that manifestations of intolerance and discrimination targeting individuals and communities represent a threat to social cohesion and can lead to broader conflicts. In 1993, they noted with concern growing manifestations of aggressive nationalism, as well as racism and chauvinism. Subsequent OSCE Ministerial Council decisions adopted in 2003 and 2007 reiterated this concern and reaffirmed their commitment to promote tolerance and combat discrimination. Calls for continued efforts by political representatives, including parliamentarians, to strongly reject and condemn manifestations of racism, xenophobia, anti-Semitism, discrimination and intolerance, including against Christians, Jews, Muslims and members of other religions, as well as violent manifestations of extremism associated with aggressive nationalism and neo-Nazism, while continuing to respect freedom of expression, were also highlighted in 2007.

The aim of this session is to review the implementation of OSCE commitments related to achieving a comprehensive approach to addressing the rights of national minorities in the OSCE area, and preventing aggressive nationalism, racism and chauvinism. Challenges, good practices and lessons learned will be shared.

Questions that could be addressed:

- How are participating States ensuring implementation of OSCE commitments on the rights of individuals belonging to national minorities, including those on preventing aggressive nationalism, racism and chauvinism?
- How can political representatives and other leaders counter racist, xenophobic and discriminatory public discourse? Are there good practices to share in addressing intolerance and discrimination by speaking out against hate crimes and intolerance?

FRIDAY, 2 OCTOBER 2015

WORKING SESSION 18

Discussion of human dimension activities (with special emphasis on project work)

Presentation of activities of the ODIHR and other OSCE institutions and field operations to implement priorities and tasks contained in the relevant OSCE decisions and other document

10 a.m.–1 p.m.

CLOSING REINFORCED PLENARY SESSION

Closing reinforced plenary session (reinforced by the participation of human rights directors, OSCE ambassadors and heads of OSCE institutions)

Any other business

The OSCE has played an active role in strengthening democracy and human rights practices, as well as in promoting reinforced compliance with human dimension commitments by OSCE participating States. An important element in this accomplishment has been the development and implementation of targeted activities and projects, which are part of a longer-term, cross-cutting strategy. These human dimension activities have grown in scope and duration to include specific assistance efforts, programmes, and projects (e.g., legislative and technical assistance, training, and workshops for both government officials and members of civil society, human rights education). The OSCE also plays an important role by drawing attention to a specific issue and creating a space and a forum for focused dialogue, which can be followed up by concrete assistance.

The OSCE and its institutions and field operations have been able to identify areas in which they are well placed to facilitate change and reform. The OSCE works with individual states and in sub-regional groupings, as well as in consultation and co-ordination with other international organizations. ODIHR's mandate covers all participating States. It can therefore provide a channel for exchange of experience and best practices from one region of the OSCE to another, and be effective in supporting and complementing the work of OSCE field operations.

This short session will explore the role of OSCE executive structures as facilitators and their offer of targeted programmes of assistance and expertise across the OSCE region. Field operations in particular will be encouraged to present lessons learned from their activities and how they can be used as a catalyst for discussion and co-operation between and within participating States, including civil society. Participating States, international organizations and civil society, including NGOs, are invited to comment on the presentations and to present their own project priorities for reciprocal comment. The aim is to identify how participating States can derive the most benefit from the OSCE's assistance in implementing the priorities and tasks contained in OSCE decisions and other documents.

Questions that should drive the presentations and interventions:

- What are successful examples of OSCE interventions, programmes, and projects from the past year? Why were they successful?
- In which areas are OSCE institutions and field operations best placed to facilitate change by creating a forum for dialogue?
- How can the interplay between OSCE institutions' and field operations' mandates and programming be used most effectively?
- How can the OSCE be most effective in assisting participating States in implementing their human dimension commitments?

Closing plenary session reinforced by the participation of human rights directors, OSCE ambassadors and heads of OSCE institutions

Based on Permanent Council Decision No. 476 on the Modalities for OSCE Meetings on Human Dimension Issues, the HDIM will be concluded by a plenary session that is reinforced by the participation of human rights directors or similar senior officials responsible for human dimension matters in the foreign ministries of the participating States, as well as OSCE ambassadors and the heads of OSCE institutions.

This session is aimed at reviewing the results of the HDIM on the basis of the reports from the working sessions on human dimension activities, as well as on the specifically selected topics.

The Reinforced Closing Plenary Session will look at how direction can be given with regard to effective follow-up to the discussions in the different working sessions and the recommendations that came out of these discussions in light of further discussions in the Permanent Council on the results of the HDIM, as well as with regard to the preparations of the next OSCE Ministerial Council Meeting in Belgrade in December 2015.

Any other business

Closing of the meeting