



2016 OSCE HUMAN DIMENSION SEMINAR

Promoting effective and integral justice systems: how to ensure the independence and quality of the judiciary

Warsaw, 21-23 November 2016

ANNOTATED AGENDA

I. Introduction and Aims of the Seminar

Human Dimension Seminars are organized by the OSCE/ODIHR in accordance with the decisions of the Conference on Security and Co-operation in Europe (CSCE) Summits in Helsinki (1992) and Budapest (1994). The 2016 Human Dimension Seminar is devoted to “*Promoting Effective and Integral Justice Systems: How to Ensure the Independence and Quality of the Judiciary*”; in accordance with PC Decisions No.1222 and No. 1223.

Finding and maintaining a balance between judicial independence and accountability of judges is an ongoing challenge for all OSCE participating States (pS), regardless of their history or the type of justice system in place. In the absence of such a balance, a judiciary may be subject to complaints of corporatism, elitism or lack of accountability. This can undermine its credibility and position within a democratic system of checks and balances. On the other hand, measures which are too intrusive risk exposing a judiciary to undue influence by external actors and an overall lack of internal and/or external independence. This potentially curtails the ability of judges to adjudicate independently, which raises concerns for access to justice and fair trial rights.

States across the OSCE region continue to work towards addressing these challenges. In particular, many states are striving to implement procedures for the evaluation, promotion, and discipline of judges and to raise the integrity, competence, and reputation of judges and the judiciary as a whole. They also undertake efforts to find ways and means to remove judges found to be guilty of corrupt behavior or who do not fulfill minimum standards of competence, and to implement measures that make the delivery of justice and judicial administration more efficient. Strengthening impartiality and ensuring that judges perform their duties without bias or political agenda has also been a focus of recent reforms, aiming to ensure the respect for judicial independence in a democratic society.

Against the background of these ongoing challenges, this year’s Human Dimension Seminar (HDS) will explore and discuss current issues and trends regarding judicial independence, integrity, quality and accountability and serve as a platform to exchange good practices from across the OSCE region. Judicial accountability and independence remains one of the key thematic areas of work for ODIHR, within its broader engagement on rule of law issues. This topic builds upon numerous OSCE rule of law commitments as outlined in ODIHR’s Kyiv

Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia of 2010 (“Kyiv Recommendations”), which identified core concepts and elements of judicial independence and made recommendations for improving judicial administration, judicial selection and training, accountability of judges, judicial independence in adjudication and the role and composition of judicial councils.

As the main OSCE institution concerned with the human dimension of security, ODIHR is tasked, *inter alia*, with assisting pS in the implementation of their human dimension commitments (Helsinki 1992). Respect for the principle of judicial independence is a key OSCE human dimension commitment. In the Charter for European Security, pS agreed to promote the development of independent judicial systems (Istanbul 1999), a commitment reiterated and reflected in previous human dimension meetings such as the 2010 Human Dimension Seminar on Strengthening Judicial Independence and Public Access to Justice. This principle is further stressed in other OSCE commitments that call upon participating States to respect judges’ freedom of expression and association, guaranteed tenure and appropriate conditions of service, and discipline, suspension, and removal of judges according to law (Moscow 1991). Other key commitments include the recognition of the importance of impartiality, integrity, and propriety for the proper discharge of the duties of a judge (Brussels 2006) as well as the prohibition against improper influence on judges and non-discrimination in the selection of judges (Moscow 1991).

On the other hand, reference to judicial accountability is less explicit in the OSCE commitments. However, on a more general note, participating States have agreed to strengthen the accountability of state institutions and officials (Helsinki 2008) while ensuring transparency in government and public affairs, prioritize the elimination of all forms of corruption, implement effective anti-corruption strategies, and effectively manage public resources (Maastricht 2003). The Kyiv Recommendations explicitly link the accountability of judges with judicial independence in adjudication, noting the need for transparency in disciplinary proceedings, professional evaluations of judges, and public court hearings and decisions.

In line with OSCE human dimension commitments regarding the rule of law and independence of the judiciary as noted above, the HDS aims to serve as a platform for exchanging good practices among the pS on issues with regards to judicial quality, integrity and independence. It will also include a focus on related gender aspects and the role of civil society. In addition, challenges related to judicial corruption will be dealt with in a cross-cutting manner. The seminar will provide an opportunity for pS to discuss the most pressing challenges that they face in advancing the accountability of judges while maintaining respect for the independence of the judiciary. This HDS will facilitate an exchange of experience and ideas on how best to address these challenges. Such discussions will also inform the development of recommendations for the OSCE’s continued work in this area, including through assistance activities by OSCE institutions in support of judicial reform efforts in pS.

The conduct of this year’s HDS seems timely considering current trends across the OSCE region to put a stronger emphasis on judicial reform, be it in the context of political transition, EU accession processes or increased public scrutiny of the work of the judiciary, coupled with stronger demands for accountability of public institutions in general in many pS.

II. Participation

Representatives of OSCE pS and structures, relevant regional and international organizations, as well as representatives of civil society and development agencies are invited to participate in the Seminar.

The OSCE's Partners for Co-operation are invited to attend and share their views and ideas on the effectiveness of co-operation between the OSCE and other regional and international organizations.

OSCE participating States are requested to publicize the Seminar widely within their networks of co-operation, with a particular focus on including experts and delegation representatives from the judiciary, ministries of justice, the legal professions or relevant parliamentary committees.

Participants are also encouraged to make brief oral interventions during the Seminar. While prepared interventions are welcomed during the plenary sessions, free-flowing discussion and exchanges are encouraged during the Working Group Sessions. All participants are encouraged to submit in advance written interventions outlining proposals regarding the topic of the Seminar, which will be distributed to the delegates.

III. Organization

The Seminar venue is Sofitel Victoria Hotel, Ul. Krolewska 11, Warsaw.

The Seminar will open on Monday, 21 November 2016, at 15:00. It will close on Wednesday, 23 November 2016, at 13:00.

All plenary sessions and working group sessions will be open to all participants. The delegations of the participating States will be able to exercise their right of reply throughout the Seminar. All participants will have equal access to the list of speakers during the working group sessions of the Seminar. The plenary and working group sessions will take place according to the work programme below. More details about modalities are available in the general information document (available on HDS website https://www.osce.org/odihr/hds_2016) as well as in the Seminar's manual.

Two working group sessions will be held consecutively. They will focus on the following topics:

Working group I: **Selection, promotion and training of judges: impact on judicial accountability and the integrity of the justice system.**

Working group II: **The role of civil society in observing judicial independence and accountability.**

The opening session will present welcoming remarks and provide for a brief discussion on current trends in *Judicial Reform in Light of Judicial Independence, Integrity and Quality Principles*.

The closing plenary session will focus on practical suggestions and recommendations for addressing the issues discussed during the opening and working group sessions.

Decision No. 1223 on agenda, timetable and other organizational modalities of the 2016 Human Dimension Seminar as well as the Rules of Procedure of the OSCE and the modalities for OSCE meetings on human dimension issues (Permanent Council Decision No. 476) will be followed, *mutatis mutandis*, at the Seminar. Also, the guidelines for organizing OSCE meetings (Permanent Council Decision No. 762) will be taken into account.

Discussions during the plenary and working group sessions will be interpreted from and into the six working languages of the OSCE.

Registration will be possible during the Seminar days from:

11:00 until 18:00 on 21 November

8:00 until 18:00 on 22 November

8:00 until 13:00 on 23 November.

Facilities are made available for participants to hold side events at the Seminar venue.

A table for display/distribution of publications by participating organizations and institutions will also be available outside the plenary hall.

IV. Work programme

	Monday 21 November 2016	Tuesday 22 November 2016	Wednesday 23 November 2016
Morning 10:00-13:00		Working group I	Closing plenary session
Afternoon 15:00-18:00	Opening plenary session	Working group II	

Day 1

Monday, 21 November 2016

Afternoon

15:00 -18:00 Opening plenary session

Keynote addresses

Opening debate

Statements of participating States

Technical information

Day 2

Tuesday, 22 November 2016

Morning

10:00-13:00 Working group I: Selection, promotion and training of judges: impact on judicial accountability and the integrity of the justice system

Implementing transparent mechanisms with objective criteria for the selection, promotion and training of judges is essential for a competent, independent and accountable judiciary. Where selection and appointment procedures are transparent and welcoming to candidates from diverse backgrounds, including women and minorities, the judiciary will be more representative of society as a whole and viewed as more credible. Continuing legal education and training is critical for judges to hone skills, keep abreast of developments in the law (including international human rights principles and gender justice issues) and to ensure adherence to the highest of ethical standards. These qualities are required of judges so that they may preside over fair trials and provide effective access to justice for male and female users of the judicial system. When conducted in a non-discriminatory manner that does not undermine judicial independence, performance evaluation systems linked to professional development and promotion can serve to increase the number of women in the upper echelons of the judiciary, and aid in improving the quality of justice delivered to both men and women. Ensuring a diverse, competent, and ethical judiciary that understands the impact of the law on men and women contributes to a positive public perception that the judiciary is in fact independent and accountable.

Questions to consider:

- What are some of the challenges faced by participating States in selecting, promoting, and training qualified men and women to become members of the judiciary?
- What are some of the best practices from OSCE participating States that have helped address these challenges?
- How do women and men experience judicial careers across the OSCE region?
- How can OSCE and ODIHR assist participating States in meeting their commitments and other international obligations in this regard?
- What is the role of a judicial council or judicial association in advocating for strengthened procedures to ensure diversity among members of the judiciary?
- How might civil society or judicial academies be effective in providing training to members of the judiciary to ensure they have the requisite skills and knowledge for being a judge?
- Are judiciaries in OSCE participating States perceived to reflect the diversity of societies in which they work?
- What is the role of a rigorous and fair selection process in ensuring the integrity and competence of the judiciary?
- To what extent can continued and/or ad hoc training contribute to addressing challenges judiciaries face in the areas of integrity and competence, and what are the limits of a training-based approach?
- How can governments, and within that judiciaries, put in place active measures to ensure that men and women are equally represented not just at the lower level of the judiciary, but also in appellate courts and courts of final instance and/or constitutional courts?
- How do current procedures for the selection, promotion, and training of judges across the OSCE region support integrity of the justice system?

Afternoon

15:00-18:00 Working group II: The role of civil society in observing judicial independence and accountability

Public scrutiny of the work of courts can be a powerful tool allowing for the identification of shortcomings and creating a momentum for important reforms in the judiciary. It is also vital that public opinion and trust in the courts is informed by quality analyses of the functioning of judiciaries. In order to act as an effective watchdog of the judiciary on behalf of the public, civil society actors and media representatives must be well versed in the complex challenges surrounding judicial independence and accountability and be able to present these issues in an unbiased manner to a diverse audience. In broadening their work beyond monitoring and advocacy related to fair trial rights, civil society actors and media representatives can play a critical role in fostering understanding and dialogue between the judicial system and society as a whole, including government institutions. Effective access to information on the work of courts and the publicity of court proceedings and judicial decisions, as well as the transparency of judicial administration are important preconditions for such public scrutiny and dialogue.

Questions to consider:

- What is the role of civil society in helping participating States to meet their OSCE commitments concerning independence of the judiciary?
- What are the key challenges faced by civil society and the media in advocating for judicial independence and accountability?
- What are some examples of good practices from States where civil society has been successful in educating the public and advocating for judicial independence and accountability?
- Which mechanisms exist in participating States to enable citizens to freely access courts and public information about the work of the judiciary?
- How might OSCE ODIHR assist civil society to enhance their advocacy efforts?
- How can the judiciary engage with civil society and the media to ensure that public scrutiny is balanced and informed?
- How can civil society shape its role as a watchdog to ensure judicial accountability? What are the most effective strategies to encourage improvements in the functioning of the judiciary?
- How can the involvement of civil society in judicial reform and accountability processes be ensured whilst recognizing the importance of internal and external judicial independence?

Day 3

Wednesday, 23 November 2016

Morning

10:00-13:00 Closing plenary session

Rapporteurs' summaries from the working group sessions

Practical suggestions and recommendations for addressing the issues discussed during the working group sessions

Comments from the floor

Closing Remarks