



Organization for Security and Co-operation in Europe Office for Democratic Institutions and Human Rights

ODIHR and Legislative Support

OSCE participating States “confirm that they will respect each other’s right freely to choose and develop, in accordance with international human rights standards, their political, social, economic and cultural systems. In exercising this right, they will ensure that their laws, regulations, practices and policies conform with their obligations under international law”.
(Copenhagen Document, 1990)

What is legislative support and why is ODIHR involved?

Laws must conform to international obligations and commitments. However, they must also be accessible, precise and coherent in order to be effective in bringing to life the exercise of fundamental rights and freedoms.

ODIHR supports legal reform in participating States by reviewing, upon request, individual pieces of draft and existing legislation to ensure clarity and coherence, as well as compliance with OSCE commitments and international human rights standards and established good practice.

Additionally, ODIHR analyzes lawmaking procedures, to ensure that they are inclusive and transparent, in line with key OSCE commitments requiring that “legislation will be formulated and adopted as the result of an open process reflecting the will of the people” (Moscow Document, 1991).

ODIHR provides legislative support as part of its wider mandate to assist OSCE participating States in implementing OSCE commitments.

How does ODIHR provide legislative support?

ODIHR accepts requests for legislative assistance (including reviews of legislation and assessments of the lawmaking process) from any state authority within the OSCE region. Upon receipt of a request to review a specific law or draft law, ODIHR accepts legislation to be reviewed, while taking into consideration the nature of the request, the likely impact of the legislation and the timeframe provided for the review.

Apart from requests from state authorities and other public bodies, OSCE field operations and other OSCE institutions may also solicit legislative reviews when there is a need to analyze a certain piece of legislation in connection with their activities and projects.

ODIHR does not consider requests for legislative reviews from individuals (when acting in their personal capacity) or non-governmental organizations.



What types of legislative reviews does ODIHR prepare?

ODIHR conducts the following types of legislative reviews:

- Reviews of draft legislation;
- Reviews of existing legislation to provide input into an ongoing legal reform process or to initiate such a process; and
- Reviews of thematic legal frameworks as a basis for ODIHR programmes and activities.

Which types of laws does ODIHR review?

ODIHR reviews laws and regulations that fall within the human dimension and the ODIHR mandate, on topics such as:

- administrative justice;
- combating domestic violence;
- constitutional law;
- counter terrorism and extremism;
- criminal and civil codes;
- democratic elections;
- freedom of assembly;
- freedom of association;
- freedom of information and data protection;
- freedom of movement and migration;
- freedom of religion or belief;
- gender equality and equal opportunities;
- hate crimes;
- judicial independence;
- national human rights institutions and ombudsperson offices;
- non-discrimination;
- political parties;
- the right to a fair trial;

- the right to liberty and security;
- the right to respect for private and family life;
- the lawmaking process; and
- trafficking in human beings.

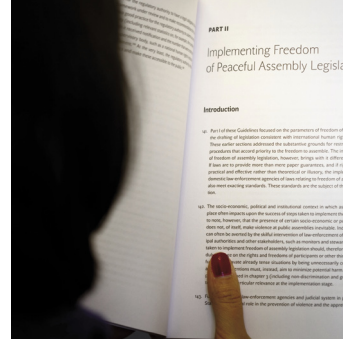
ODIHR does not deal with areas of law covered by other OSCE institutions, such as legislation on national minorities and the freedom of the media. However, in cases where a request is received relating to legislation where the focus falls within the mandates of several OSCE institutions, ODIHR will co-operate closely with those other OSCE institutions.

What is ODIHR's process for conducting a legislative review?

ODIHR provides assistance directly to lawmakers during the legislative process. If invited early on, ODIHR's legislative reviews can provide input into the process of drafting new legislation. The Office can then continue to engage in dialogue with lawmakers and stakeholders. In countries with an OSCE field presence, the respective field operations are often involved.

Understanding that the quality of a new law is directly connected to the national legal system and domestic context in which it is applied, ODIHR often co-operates not only with international experts, but also experienced domestic legal experts.

A legislative review will result in an analysis of a law's compliance with international standards and OSCE commitments and established good practice, as well as in concrete recommendations for improvement.



After preparing a review of a law and sharing it with state authorities or an OSCE field operation, ODIHR experts are often invited to present and discuss the recommendations made in the review at follow-up events organized in the respective OSCE participating State.

When reviewing legislation, ODIHR co-operates closely with other organizations, primarily the Council of Europe's European Commission for Democracy through Law (the Venice Commission). ODIHR and the Venice Commission regularly combine efforts on law reviews and issue joint opinions and common legislative guidelines.

How does ODIHR assess lawmaking processes?

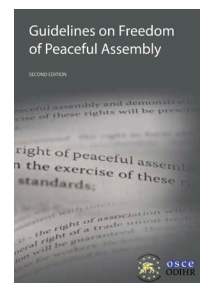
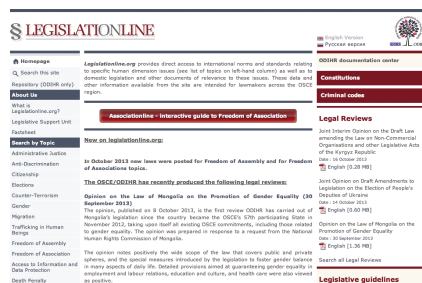
In addition to reviews of particular laws, ODIHR also provides, upon request, comprehensive assessments of the legislative and regulatory processes within individual participating States. These assessments look at a country's procedures and mechanisms for preparing, drafting and adopting legislation, as well as for monitoring implementation. Both the legislative framework and the actual practice are examined and analyzed, through a combination of desk research and other methods, such as country visits, interviews and surveys. ODIHR's assessments can form an important first step in efforts to reform lawmaking systems and, ideally, are accompanied by discussions and roundtables on different aspects of the lawmaking process.

Specialized expert groups and panels

In certain key areas, ODIHR has established expert groups made up of independent leading academics and practitioners, selected on the basis of their expertise, experience, integrity and objectivity. These groups and panels assist ODIHR in providing high-quality expertise to legislators from OSCE participating States on legislation pertaining to their respective fields. They have also assisted ODIHR in developing legislative guidelines pertaining to and providing good practice examples in their respective areas of specialization. ODIHR's expert groups and panels include:

- **Advisory Panel of Experts on Freedom of Religion or Belief**

Established in 1997, the Advisory Panel of Experts on Freedom of Religion or Belief is a consultative body set up by ODIHR to promote the freedom of religion or belief of individuals and religious groups. Under the auspices of ODIHR, the members of the Advisory Panel, in co-operation with the Venice Commission, published the *Guidelines for Review of Legislation Pertaining to Religion or Belief* in 2004.



- **Panel of Experts on the Freedom of Peaceful Assembly**
 The Panel of Experts on the Freedom of Peaceful Assembly was officially established as an advisory body in 2006 to promote freedom of peaceful assembly in the OSCE area. The Panel assisted ODIHR in developing the *Guidelines on Freedom of Peaceful Assembly* as a joint publication with the Venice Commission, first published in 2007 and followed by a second edition in 2010.

- **Core Group of Experts on Political Parties**
 The Core Group of Experts on Political Parties, which serves to promote best practices in the area of political party legislation, was established in 2010 as part of the broad and consultative process of assisting ODIHR in developing the *Guidelines on Political Party Regulation*, which were published jointly with Venice Commission in the same year.

Legislationline

ODIHR maintains Legislationline (www.legislation-line.org), an open, free-of-charge online legislative database created in 2002 that provides access to examples of human dimension legislation from OSCE participating States, as well as international instruments and ODIHR legislative reviews and assessments.

Legislationline is available in both English and Russian. Questions regarding the website may be sent to: legislationline@odhr.pl

More information

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