

HDIM 2012

Working session 2: Fundamental freedoms II, including:

- Freedom of assembly and association;
- Freedom of movement;
- National human rights institutions (NHRIs) and the role of civil society in the protection of human rights;
- Human rights education.

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Working session 2 focused on the fundamental freedoms of assembly, association, and movement, on National Human Rights Institutions and the role of civil society in the protection of human rights, and on human rights education. Introducing the session, ODIHR Deputy Director Douglas Wake reminded that participating States have an obligation to ensure freedom of assembly and association, which are in many States restricted by laws, regulations, and practices. He reminded that freedom of movement is a prerequisite to exercising other fundamental rights; reiterated ODIHR's support for NHRIs; stressed that a vibrant civil society is vital; and said that in many participating States, human rights defenders continue to be targeted. He reminded that the Moscow Document affirms the right of human rights education, adding that the Office had presented the day before, new guidelines on human rights education for law enforcement officials and for secondary school systems.

Session introducer Yevgeniy Zhovtis focused on FAA (freedom of association and assembly). He stressed the importance of proper legislation in ensuring respect for FAA and identified two problems in terms of legislation: the licensing procedure for peaceful assembly and the mandatory registration of citizens' associations. Peaceful assembly, which might even mean picketing by one person, is in some States essentially denied through extensive limitations on locations where it is allowed. In a number of participating States, any association of persons must register; otherwise they are illegal and their participants subject to prosecution. Often the registration process is not technical but complex, discriminatory, with a high threshold of membership required for registration, and is perceived as a means of exercising control over these associations.

More than 40 speakers took the floor during the session. They highlighted the following: fundamental character of FAA in any democracy; rising restrictions against FAA, including denial of authorization for public assemblies; importance of professional policing in public assembly events, including in dealing with disturbances from outside groups; harassment and imprisonment of, and violence against, demonstrators; steep fines and criminal liability for participation in unsanctioned rallies; rights of LGBT people to demonstrate in public; increasingly restrictive measures against public gatherings, including prohibition of protests and of many locations where public assembly is allowed; problematic laws on FAA that are incompatible with OSCE and CoE standards; and lack of transparency in the registration of citizens' associations, using unknown

criteria. One delegation pointed to the responsibility of States to manage rallies so as to avoid riots and to permissible restrictions in international law on the implementation of the right to peaceful assembly. The same delegation mentioned deliberate disturbances of public order by activists seeking attention.

Speakers also stressed the following: importance of a vigorous and independent civil society; obstacles placed on civil society functioning; harassment, threats, defamation campaigns, and intimidation of human rights defenders; arbitrary detention and prosecution of human rights defenders, including on the basis of fabricated charges; mass investigations, long pre-trial detentions, and imprisonment of human rights defenders; lack of protection of human rights defenders by State institutions; restrictive amendments to laws regarding human rights defenders; prohibition of NGOs from keeping funds abroad. One delegation opined that there must be a clear distinction between the social and political activities of human rights defenders and that the second should be done through political parties. The same delegation expressed concern about the foreign funding of civil society organizations.

Speakers also drew attention to human rights education as a powerful tool in promoting human rights and fighting human rights abuses, and pointed to an alarmingly weak will on the part of agencies to facilitate human rights education. Some speakers lamented that the work of NHRIs is obstructed in some cases.

Lastly, speakers stressed the importance of the freedom of movement, within and between States, and spoke about their visa policies. One delegation lamented the lack of freedom of movement to and from areas that are not under the control of governments and criticized the detention of persons crossing into such territories.

Recommendations to participating States and to OSCE Institutions:

On freedom of assembly and association:

- Participating States should ensure that OSCE Guidelines on Freedom of Peaceful Assembly and other international standards pertaining to freedom of association and peaceful assembly are implemented;
- Restrictions on freedom of assembly, in law or in practice, that are incompatible with international standards, must be abolished;
- Peaceful assembly registration requirements should be abolished and replaced by a technical notification procedure;
- Limitations on locations for public assembly should be minimal;
- Participating States must ensure that peaceful protests can take place without undue interference or harassment of organizers and participants;
- When human rights violations occur in the context of peaceful protests, participating States must ensure that perpetrators are brought to justice and that victims receive reparations;
- Participating States must allow peaceful protests to take place without participants facing dispersals, detentions, administrative sanctions or other forms of interference and punishment by authorities;

- Registration of non-governmental organizations and associations should be of a technical nature and have a low threshold of required membership;
- Participating States should simplify the registration procedure for those NGOs that wish to obtain a legal personality;
- OSCE should compile a guidebook on the freedom of assembly for use by the police and other practitioners.

On freedom of movement:

- Participating States should facilitate the freedom of movement across borders by liberalizing visa regimes and gradually abolishing visas;
- Freedom of movement should be respected within participating States, including to and from territories not under the control of the government of the participating State;
- The ODIHR should compile a report on the implementation by participating States of OSCE commitments on the freedom of movement.

On human rights education:

- Participating States should encourage systematic human rights education and training programmes designed to promote respect for human dignity, human rights and fundamental freedoms of all;
- Participating States should implement the obligations contained in the United Nations Declaration on Human Rights Education and Training;
- There should be better use of the media to administer human rights education;
- Journalists and law enforcement professionals should receive human rights education training;
- ODIHR guidelines on human rights education for law enforcement officials and for secondary school systems should be distributed to all participating States;
- Human dimension commitments must guide ODIHR initiatives and publications in the area of human rights education.

On human rights defenders:

- Participating States should ensure that all those seeking to uphold human rights are able to do so in a safe environment;
- Harassment and imprisonment of human rights defenders must end and human rights defenders in detention must be released;
- Participating States should review national legislation on human rights defenders and comply with the United Nations Declaration on human rights defenders.

On National Human Rights Institutions:

- All participating States must ensure that their national human rights institutions are established and function in line with the Paris Principles, and that they are allowed to function without obstacles.