



STRENGTHENING OSCE INSTRUMENTS IN THE HUMAN DIMENSION

REFLECTIONS AND RECOMMENDATIONS

Report on the Civic Solidarity Platform expert roundtables in 2017-2018

About the Civic Solidarity Platform

The Civic Solidarity Platform is a network of independent civic groups from across the OSCE region, bringing together NGOs, activists and experts committed to improving the situation with human rights, rule of law, democratic institutions, and conflict resolution in Europe, Eurasia and North America. Its aim is to serve as a conduit through which civic activists can build alliances, strengthen solidarity, and increase their influence on national and international human rights policy. The Platform has established a number of working groups including on Reform of International Organizations. For more information, visit <http://civicsolidarity.org>.

About the Netherlands Helsinki Committee

The Netherlands Helsinki Committee is a non-governmental organisation that promotes human rights and strengthens the rule of law and democracy in all countries of Europe, including the Central Asian countries participating in the OSCE. Its work lies primarily in executing projects to strengthen legal protection and improve public policies that affect vulnerable or disadvantaged groups. The NHC supports the development of civil society activity to promote and defend human rights. Additionally, it works to improve the implementation of OSCE human dimension commitments and other international human rights agreements.

This report was prepared by the Netherlands Helsinki Committee and the working group on Reform of International Organisations of the Civic Solidarity Platform based on a series of expert roundtables organised by the Platform in 2017-2018 in the framework of the Organisation for Security and Cooperation in Europe (OSCE). Ideas contained in the report cannot be attributed to individual participants of the roundtables, organisations or states they represent.

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Introduction

Since the turn of the century, and in especially since 2014, the OSCE's ability to ensure effective implementation by participating States of their human dimension commitments and to respond to crisis situations and new challenges in this field has diminished for a number of reasons, including:

- political divisions among participating States, leading to their inability to reach consensus on a number of key issues and the actions necessary to address them;
- diminishing respect by a number of States and political forces for the international rules-based order, decreasing commitment to multilateralism in international affairs and growing preference to unilateral actions;
- unproductive focus in the OSCE on efforts to “restore trust and develop dialogue” among participating States as a solution to the problems referred to above without addressing the underlying issues, often leading to a “dialogue for the sake of dialogue” and the watering down of the founding principles of the OSCE;
- government policies and interactions in the framework of the OSCE remain focused primarily on the first, military-political dimension of security at the expense of two other dimensions, thus undermining the comprehensive security concept;
- security strategies in OSCE are still largely based on outdated understanding of threats as being of military nature, failing to take into account new types of threats which encompass all three dimensions such as radicalization/violent extremism, the undermining of democratic institutions and the rule of law by authoritarian and nationalist forces, and propaganda and disinformation strategies;
- issues of fundamental rights and freedoms being pushed aside in the OSCE human dimension work, with the focus shifting to other issues perceived as less divisive for dialogue between participating States;
- lack in the OSCE of systematic assessment of the implementation of human dimension commitments and follow-up actions required to address identified gaps;
- lack of institutional and rapid response capacity and political will in OSCE to effectively respond to crisis situations in the human dimension and across dimensions;
- inefficient use of existing OSCE instruments in the human dimension and a lack of resolve and ingenuity to test new approaches;
- attacks by some States on independence and the mandate of autonomous OSCE institutions, leading to a lack of political support for their work and to budgetary and staffing problems;
- systematic attempts by some participating States to limit the critically important role of civil society in the OSCE activities;
- abuse of the consensus principle in the OSCE decision-making by some participating States, leading to the blocking of key decisions in the human dimension, including decisions of the Ministerial Council, adoption of HDIM agenda and a calendar of human dimension events, and approval of the budget of the organisation.

In 2014-2016, the CSP undertook several initiatives to advocate for more effective OSCE work in the human dimension. The CSP supported active dialogue among OSCE actors on strengthening the use of the OSCE toolbox and developed a range of concrete proposals in this regard. A July 2015 expert workshop in Berlin was the first in the CSP-organised series of meetings. It was supported by the Swiss outgoing and the German incoming Chairmanships and played an important role in this consultative process. It was followed by several more workshops in Vienna and Warsaw in 2015-2016. A number of proposals based on the outcomes of these broad consultations have been taken on board by various OSCE actors in this way or another. However, promoting other proposals required additional research, more dialogue among relevant actors, and advocacy.

In order to take this work forward, in 2017-2018 the CSP organised another series of expert roundtable discussions in Vienna and Warsaw aimed at strengthening willingness and ability of key OSCE actors to increase the effectiveness of existing OSCE instruments in the human dimension, to test out new instruments, and empower those actors that saw the need for reform.¹ Participants in the discussions included representatives of OSCE institutions, delegations of interested participating States, and civil society. They examined the application of existing instruments, recent reform efforts, current challenges, and provided concrete recommendations for the future.

This report summarises content of the discussions and the key conclusions and recommendations made by the participants. Chatham House rules were applied during the meetings, and ideas contained in the report are not attributed to individual participants of the roundtables, organisations or states they represent.

It must be noted that in comparison with the discussions in 2015-2016, participants of these roundtables were more preoccupied with reflecting on the current challenges in the OSCE work and international relations and less able or willing to generate forward-looking ideas. The notion of “we should try to prevent things from deteriorating further rather than aim at reforms and innovations” seemed to dominate the discourse. Additional efforts are needed to bring back the spirit of open dialogue and creativity and empower the reformers.

In particular, new ways of taking the work of OSCE forward should be explored that do not necessarily require consensus. A lot more can be done without consensus by OSCE Chairmanship and institutions within their existing mandates, with support from like-minded States who themselves should lead by example.

The CSP hopes that analysis and recommendations in the report will contribute to policies, decisions and actions by concerned OSCE actors.

¹ Three expert roundtables were held in the framework of a project entitled “Strengthening of OSCE instruments in the Human Dimension”. It was implemented by the Civic Solidarity Platform under the coordination of the Netherlands Helsinki Committee with support of the Ministry of Foreign Affairs of the Netherlands, the Taskforce of the Austrian OSCE Chairmanship 2017 and the Delegations of France and Sweden to the OSCE. A roundtable on self-evaluation of OSCE Chairmanship was held by the CSP with support of the Delegation of Switzerland to OSCE and the Department for Human Security of the Swiss MFA.

Strengthening of implementation of human dimension commitments through stronger follow-up to OSCE reports, recommendations, and events

This discussion focused on the problem of a lack of effective follow-up to various reports, recommendations, and events in the human dimension of OSCE. There is plenty of good reports and recommendations on various subjects produced by OSCE institutions, including ODIHR monitoring reports, reports summarising the proceedings of human dimension events (several of which are held annually), reports on relevant Chairmanship events, reports on RFoM and HCNM events, reports of OSCE field missions, voluntary reports by participating States to the Human Dimension Committee, voluntary self-evaluation reports by States holding Chairmanship, resolutions of the OSCE Parliamentary Assembly, and, finally, relevant decisions of the Ministerial Council (the latter is increasingly rare in the human dimension, though). In addition, academic institutions and civil society organisations produce their own reports relevant for the OSCE work, and while they do not have an official status, they are being studied and taken into consideration. It can be argued that there are too many reports in the OSCE work, with little time to study them and insufficient follow-up to put them to good use.

However, often nothing happens after the reports are published and recommendations are made. Unlike in the UN and the Council of Europe with their established systems of monitoring, periodic reports and a mandatory follow-up to conclusions and recommendations by various bodies, OSCE lacks such a system and consistency. This institutional deficit undermines implementation of OSCE commitments by participating States which is the core of the OSCE *raison d'être*. While it is unlikely that such a system could be introduced in the OSCE in the foreseeable future, a number of concrete steps could be taken in various settings to improve prospects for a more effective follow-up to reports, recommendations, and events.

Voluntary reporting to the Human Dimension Committee: further improvement of the process and ensuring a meaningful follow-up

Presentation by participating States of their thematic voluntary reports to the Human Dimension Committee (HDC) of the OSCE Permanent Council emerged in 2011 under the Swiss HDC Chairmanship and has taken off in the last several years, becoming an institutionalised tradition.

Since reporting at the HDC is totally voluntary, it is up to participating States whether to engage in this process or not. Thus, reporting at HDC does not cover all participating States. The HDC Chairmanship (rotating among participating States every 2-3 years) has made consistent efforts to convince more States to present their reports. Thanks to these efforts and to the leadership by example demonstrated by some States, it has become increasingly difficult for States to completely avoid voluntary reporting. However, there is the concern that if there is too much pressure, many States will simply not report. One possible approach is to try to institutionalize voluntary reports as the standard way of dealing with already existing reports by ODIHR.

Over the years, a growing number of States presenting reports, a more diverse thematic programme of the HDC work, involvement of strong external experts (including civil society

experts), and more openness in the HDC activities have become an achievement of several successive Chairmanships. Informal guidelines for voluntary reporting by the HDC Chairmanship have become a useful assisting and standard-setting tool. All of these progressive changes have been advocated for by the CSP and supported by a number of States. The HDC is definitely making an important contribution to the human dimension work. There is a need to keep working on increasing its efficiency and relevance.

Choice of a theme and the content of reports are at a full discretion of participating States. Some States tend to choose easier, “self-congratulatory” topics and avoid the more challenging ones. Also, States tend to focus on their best practices and often do not address serious challenges in their reports. As a result, some ask a question: “how meaningful are the voluntary reports?”

Similarly, taking into consideration (or not) recommendations made by other States and undertaking any follow-up steps after the report is presented, including coming back to the HDC a year or two later with information on the follow-up and possible changes on the ground, is totally up for the States.

Voluntary reports by States are oral testimonies with the help of visual aids. They are usually prepared and presented by a representative of a relevant government office coming from the capital. Often reports are not officially approved by the governments, not distributed in a written form and are not made available outside the HDC. This is done to ensure a more informal exchange of opinions at the HDC meetings, avoid bureaucratic red tape needed for official approval, and protect States from scrutiny by the media and civil society. Distribution of reports in advance and making them available outside of the HDC is dependent on the good will of the reporting State.

Lack of capacity, short preparation time and lack of specific expertise among members of Vienna-based delegations to prepare for the presentation of voluntary reports by other States are all serious challenges for participants of the HDC meetings, hindering the meaningful discussion of the reports presented. It is difficult for delegations to get advice from experts in their capitals if no written materials are available in advance. There is, therefore, usually a rather limited discussion of reports with very few concrete recommendations.

Contribution of invited external experts to the discussion is beneficial for interaction and the verification of reports. Delegations of reporting States and/or the HDC Chairmanship should invite external experts from inter-governmental organisations, NHRIs, academia or civil society to contribute to discussion of voluntary reports at HDC meetings more often.

Some States fear criticism from external experts. The HDC Chair and concerned States should work with their peers to overcome the negative connotations around “criticism” and understand that the purpose of frank peer-to-peer discussions is to provide assistance and improve situations on the ground. The question is, how do we create space for a frank and open discussion in what is quite a formal meeting with a tight agenda?

ODIHR assistance and expertise would be beneficial for the preparation of reports, as it has a cross-cutting compendium on the situation in many participating States and relevant

thematic publications issued by its different departments. Participation of representatives of ODIHR in the HDC meetings would also help the process of discussion and follow-up.

The HDC chair could more systematically engage civil society representatives in the state peer review process at HDC, including through submission of materials and participation in HDC meetings. For example, civil society representatives could submit (and present) parallel reports on implementation of commitments by the reporting country. They can participate as experts on the subject or be brought by the delegation of the reporting country.

To ensure that discussions are more meaningful, a tradition of submitting written reports in advance of meetings (or unofficial “non-reports”, “materials for report”) should be introduced on a systematic basis, in order to ensure that other meeting participants are well prepared for a discussion and comments from relevant experts in capitals, ODIHR and civil society are received in time. This would also set precedents for standards and expectations regarding the quality of reports. More specific suggestions on the format and content of reports could be included in the informal HDC guidelines for voluntary reporting, for example, a paragraph on “How can the OSCE assist?” which would also help with subsequent follow-up. Some States have already been leading by example and have published their reports on the web.

More transparency of the HDC work is possible. Reports of those States that agreed to make them public have been published on the HDC Chairmanship's page on the website of the delegation of the country currently chairing the Committee, which is a temporary solution and does not ensure continuity. Creating a permanent HDC webpage could be a solution to ensure access to voluntary reports, relevant materials, summary of discussions, and recommendations made. This would allow all relevant materials to be accessible at a permanent location and ease the follow-up on previous reports.

Voluntary live-streaming of reports should be encouraged. Some States are ready to live-stream their voluntary reports.

Representatives of delegations of States should strive to prepare and make concrete recommendations to the reporting State during discussion, going beyond praises or questions. This would help the reporting States to develop follow-up steps to address the identified problems and ultimately to better implement the OSCE commitments.

In general, more time is needed for the agenda item on voluntary reports in regular HDC meetings. It might be worth holding HDC meetings devoted exclusively to voluntary reports. This would give more time for quality discussions.

Not all HDC time or all HDC sessions have to be devoted to planned, voluntary reports. One way to make the HDC a more effective forum for substantive dialogue on current issues would be to link it more closely to discussions at the Permanent Council, and concretely to the issues raised by participating States there as “current issues” in human dimension. Ideally, there should be a direct link, where a discussion takes place at the PC and then is followed up at the HDC, with input from the institutions (and, ideally, civil society) where issues of concern could be looked at in greater depth. This would create a forum for better

dialogue that would be more expert and less politicised and confrontational in nature than at the PC, but still revolve around issues that probably are urgent and important.

Effective follow-up in the countries to voluntary reports to the HDC could be ensured by:

- bringing the process to the national level and getting approval by the government to develop and undertake follow-up action;
- encouraging civil society participation in the preparation and discussion of voluntary reports; civil society could then push for follow-up action at the national level;
- developing more openness and transparency in the HDC work without undermining the atmosphere of a frank peer-to-peer dialogue among participating States;
- providing concrete recommendations by other participating States and external experts on addressing the identified problems after the presentation of the report;
- holding discussion of the reports and possible steps to address the identified problems in relevant national parliaments, with assistance of the OSCE Parliamentary Assembly whenever possible;
- publishing reports or summaries to make them accessible to stakeholders to facilitate effective follow-up. Publishing should not be forced but encouraged. Reports could be distributed at HDIM to make them accessible to a wider audience;
- publishing a summary of the discussions and recommendations from other participating States and external experts (including civil society), along with the reports;
- involving ODIHR, RFoM and HCNM, in relevant parts of their respective mandates, as well as OSCE field missions, to assist States in developing and implementing follow-up actions;
- establishing a tradition of delivering short follow-up reports by States a year or two after its voluntary report was presented at the HDC, to inform other States about follow-up actions taken and their impact on the ground.

OSCE Office for Democratic Institutions and Human Rights (OSCE ODIHR)

In fulfilling its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) assists OSCE participating States in meeting their human dimension commitments in the area of human rights. The Office's activities serve three core functions: human rights monitoring, providing expert advice and capacity building.²

Expert advice delivered by ODIHR aims to align the implementation of OSCE human dimension commitments and international human rights standards across all OSCE participating States. It includes the development of thematic guidelines; contributions to legislative reviews; commenting on policies, strategies and other such state documents; the establishment of and work with expert panels; the organization of and contribution to thematic conferences, roundtables and workshops; and the production of position papers and background documents. Each year, ODIHR departments produce a number of

² For more details, see a brochure "ODIHR and Human Rights", OSCE Office for Democratic Institutions and Human Rights, Warsaw. <https://www.osce.org/odihr/297046?download=true>

documents presenting the results of its human rights monitoring and their analysis, guidelines, training manuals and handbooks, reports on various human dimension events, and opinions on draft legislation.

Legal opinions

Production of legal opinions on draft laws are an important example of ODIHR's reports. Since 2004, ODIHR has produced dozens of commentaries on draft laws. They are published online at Legislationline.org. ODIHR presents the results and discusses them with national parliaments, NHRIs, and Ombudspersons. ODIHR has a good experience of cooperation on legislative analysis with the Venice Commission of the Council of Europe.

ODIHR can only issue legal opinions at the request of States. This remains the biggest challenge: too few States request the opinions, both East and West. It would help if ODIHR's legal opinion could be requested with assistance of delegations of States in Vienna, OSCE field missions, as well as the OSCE PA. It is important that States request ODIHR's opinion more often, persuade their peers to do so, and, most importantly, follow the suggestions of ODIHR and do not reduce these requests for opinions to a mere tick-box exercise. Those issuing requests should also allow reasonable time for the production of a legal opinion.

Leading by example in requesting ODIHR assistance in drafting legislation should demonstrate that no one is perfect. However, the real difference is in how States treat their imperfections. You cannot correct problems if you do not see them or speak about them. Another issue is unwillingness to correct problems when they are inherently and purposefully built in the system.

This important and highly professional work could have more impact if States and ODIHR itself engaged more actively in follow-up actions to pursue recommendations contained in ODIHR's legal opinions. More active collaboration with other inter-governmental organisations on this subject would be most welcome as well.

Election monitoring

OSCE is probably known best globally for its election observation missions. Reports released by the observation missions contain not only results of the observation before the elections and on the election day but also specific recommendations on necessary changes in legislation and practice to conform to OSCE commitments.

Problems in holding free and fair elections are growing across the OSCE region. Despite of the high expertise of its Election Observation Department, ODIHR faces a challenge to cope with these mounting problems due to the lack of resources and insufficient cooperation by some participating States. In addition, early elections are happening increasingly often. It makes it difficult to do a follow-up work when ODIHR is preoccupied with observation of more elections throughout the year, including the early ones.

In 2016, ODIHR Election Observation Department published a Handbook on the Follow-up of Electoral Recommendations, which is available online³. It is the most comprehensive document on follow-up, produced by OSCE.

ODIHR engages in a number of regional follow-up activities on election observation. States should not only invite ODIHR election observation missions well in advance and agree on the necessary number of observers, but also undertake to engage in meaningful improvements of election-related issues in legislation and practice in between elections, following up to ODIHR's recommendations, asking for assistance from ODIHR and other OSCE institutions.

ODIHR cooperates with the Council of Europe in the conduct of election observation and is engaged in a dialogue with the EU regarding elections matters. Developing closer cooperation with the Council of Europe and the EU, in particular regarding a follow up to election observation, may bring important benefits.

Human rights monitoring and assessment reports

ODIHR reports on human rights monitoring (freedom of peaceful assembly and trial observation in various participating States) and country-focused human rights assessment missions⁴ include recommendations on interpretation of commitments and remedial recommendations, which ODIHR makes not only to authorities but to other stakeholders as well. While the primary goal of the reports is to assist States, they also inform ODIHR's own programmes, the work of field operations and actions by civil society, and are often used by other inter-governmental bodies as reference.

In order to facilitate human rights monitoring by ODIHR, participating States should more actively invite ODIHR missions and ideally extend standing invitations to ODIHR similar to those extended by many states to UN special procedures, lending similar weight to monitoring by ODIHR. Moreover, States should provide assistance to ODIHR missions and request ODIHR assistance in developing and implementing follow up actions.

Existing ODIHR guidelines are an effective tool for implementation of human dimension commitments and developing follow up actions to monitoring and assessment reports. It would be helpful to elaborate additional guidelines on implementation of a broader range of human dimension commitments. Moreover, programmes to assist States in implementing existing guidelines are necessary. Putting guidelines to effective use would work better if permanent expert panels were established, similar to existing panels at ODIHR, to look into implementation of existing guidelines and update them, collect best practices, and do educational work. In addition, appointment of ad hoc expert groups on particular human dimension issues might help improve implementation of human dimension commitments where no guidelines exist.

³ Handbook on the Follow-up of Electoral Recommendations. OSCE/ODIHR, 2016. Warsaw. <https://www.osce.org/odihr/elections/244941?download=true>

⁴ Recent examples of assessment reports include those resulting from the 2014 and 2015 human rights assessment missions to Ukraine and on Crimea, respectively, jointly carried out with the OSCE High Commissioner on National Minorities, and the 2015 "Report on the Human Rights Situation of Detainees at Guantanamo".

ODIHR reports should be more systematically used as a basis for discussions at HDC and PC. This would strengthen ODIHR as an independent institution.

OSCE Chairmanship should more fully utilise ODIHR's expertise and the wealth of information it has from the ground and encourage and support States to follow up on its reports. The 1994 Budapest Document of the CSCE Summit⁵ mandates ODIHR to give support to Chairmanship on current situations where serious human rights violations occur, which are plenty these days. This could become particularly useful at Permanent Council meetings when discussions concern urgent matters.

ODIHR needs to have a better rapid response/ standby capacity in order to deal with emergencies and crisis situations, such as for sending human dimension assessment missions. This includes relevant budget for rapid response that could be used throughout the whole year.

ODIHR should more systemically cooperate with the UN and the CoE mechanisms and instruments in its human rights monitoring and assessment missions.

Human Dimension Implementation Meeting

Human Dimension Implementation Meeting (HDIM) is the largest human dimension event and potentially could lead to increased accountability of participating States. It should be used better as a body reviewing implementation of human dimension commitments rather than a place for making statements.

The HDIM is currently in crisis as each year its agenda is held hostage to politics. The decisions on the agenda often do not reflect the opinion of the majority but merely a "lowest common denominator" compromise.

The calendar of the human dimension cycle needs reform. HDIM currently competes with sessions of the UN Human Rights Council, stretching the capacity of participating States thin. Moreover, its dates in the second half of September allow little time for reacting to ODIHR's 150-page report on HDIM and feeding it into the process of drafting decisions of the Ministerial Council meeting in early December. As has been argued by various actors for a number of years, moving the HDIM to April or May would be preferable. However, this move should not be undertaken at the expense of sacrificing the content. No "bargaining" on HDIM substance should be allowed.

Currently, having HDIM is often used as an excuse not to discuss human dimension issues elsewhere. A logical link between HDIM and HDC is needed. To make this link stronger, ODIHR report on HDIM should be presented and discussed at HDC, with emphasis put on follow-up actions, possibly several times, covering different thematic outcomes.

To make HDIM more relevant, its procedures require modification. The chairs of sessions could allocate the first half an hour to a panel discussion, with questions to panellists and no statements. The questions should be short, and not provide an opportunity to make

⁵ CSCE Budapest Document 1994: Towards a Genuine Partnership in a New Era.
<https://www.osce.org/mc/39554?download=true>. See Chapter VIII, The Human Dimension, p. 29, par. 8.

statements. Delegations could be invited to prepare questions to speakers in advance. Currently, the moderator often gives quite a lengthy introduction which could be shortened, and official speaking time could be reduced. Some HDIM sessions could be organized in parallel break-out sessions with narrower focus requiring expert participation which could allow for more informed discussion on country situations. Some participants of the roundtable meetings suggested that some HDIM sessions could possibly be modelled on the UN UPR process to ensure an open peer discussion between States, a better format than critical statements and replies to them, and certain regularity of public reporting by States. Others are critical of this idea, seeing it as adding more politicised debate and confrontation.

Presenters at HDIM sessions should be given a follow-up role. They could be the persons who present thematic HDIM outcomes at HDC meetings.

The HDIM report is currently not used to the maximum effect as minutes of the sessions' are taken unevenly by the note-takers. ODIHR and/or the Chairmanship should think of producing a separate perception/ summary paper based on HDIM outcomes, outlining the most important issues and challenges. The main conclusions of such papers could then be discussed at HDC and used for other ways of follow-up, including by States and civil society.

Representative on Freedom of the Media

Insufficient follow-up is taken by States on country statements, regular reports, thematic reports and specific cases raised by the Representative on Freedom of the Media (RFoM). In addition to regular reports to PC, at HDIM and HDC, RFoM does not do country reports as such but rather sends confidential letters to governments of participating States or issues public statements/press releases on country situations after a country visit. Only 10 per cent of States reply, and few reply meaningfully.

Recommendations contained in legal reviews by RFoM are rarely followed up and implemented by States.

The RFoM usually raises individual cases and sends reminders requesting more information, but does not receive many replies. In serious cases, the RFoM follows up publicly, e.g. on the anniversary of murders of journalists, particular cases of impunity, etc.

While confidentiality of correspondence with governments should remain at the discretion of RFoM, participants of the roundtable recommended that the very fact that a letter has been sent and whether an answer has been received or not should be made public.

Issuing standing invitations for RFoM visits by States would be very important. Sometimes it takes several years for a RFoM visit to be granted by States.

It would be extremely helpful if the Chairmanship and States were to provide more support to the RFoM efforts, encouraging other States to react and to follow up on the RFoM's recommendations.

In the last several years, the OSCE Parliamentary Assembly (OSCE PA) has enhanced its cooperation with ODIHR, including in carrying out and on the follow-up on election observation. The OSCE PA and ODIHR present a joint final report on election observation to States, and this is a starting point for follow-up work regarding improvements to the election process and related legislation such as on freedoms of assembly, association, and expression which are necessary pre-conditions for free and fair elections.

The OSCE PA occasionally engages in dialogue with States on election matters. Follow-up by States to election observation reports is important, but equally important is its evaluation; the objectives need to be clear and measurable.

Broader public discussions on country situations could be held at OSCE PA in the form of hearings, similar to hearings in the Parliamentary Assembly of the Council of Europe. Such hearings would not necessarily concern only the electoral process but could cover related issues of fundamental freedoms.

Presentations and hearings in the national parliaments on OSCE PA work and its resolutions could be an additional way to ensure follow-up at the national level.

More efforts need to be made to follow up on OSCE PA resolutions, both thematic (OSCE-wide) or country focused (a rare occasion lately). In addition to the leadership of the three Committees, there are several ad hoc working groups in OSCE PA which could take on the follow-up task and ensure continuity and consistency.

Strengthening the mechanisms of reaction to acute human dimension situations in OSCE

The OSCE has many instruments of reaction to acute human dimension situations at its disposal; they should complement one another. Better coordination between OSCE institutions, States, and civil society is needed, and they should make sure that their messages complement one another. Important messages should be repeated by different OSCE actors in various settings so that people understand that certain issue remains in focus and attention will not go away.

The notion of a “human dimension crisis” should be introduced and mainstreamed. While in the nearest future this notion would never be adopted by consensus, it could be introduced at least informally for the time being. The notion of a human dimension crisis should include the establishment of a certain emergency procedure and creation of a coordination mechanism within the OSCE to coordinate among and mutually inform various actors concerned, including civil society, to keep in pace with other international structures, like the UN or the COE, and to take concrete decisions on relevant steps.

Coordination by OSCE bodies and institutions with other intergovernmental organisations has proven to be effective when it comes to human dimensions crises. In some cases, it has included follow-up reports, resolutions, decisions and other actions by the UN bodies, the Council of Europe, European Parliament, EEAS, the ICC, etc. which followed OSCE/ODIHR human rights assessment mission reports or the OSCE Moscow Mechanism reports. This kind of complementary and mutually reinforcing actions should be practiced more regularly.

Actions by States at the Permanent Council and HDIM

Participating States regularly voice important human dimension issues, especially when they develop into a crisis situation, at meetings of the Permanent Council and HDIM. The problem is in keeping attention, being consistent, and avoiding mere ad hoc reactions. It is important that focus is kept by following up at the next meetings and in other actions.

Statements by States at the Permanent Council are important. Examples include reactions to extraordinary situations like the killing of journalists, arrest of activists, adoption of undemocratic constitutional amendments. They should be followed up by asking for specific information and insisting on answers.

Repeated statements by different participating States on protracted crisis situations are essential. This requires better coordination among like-minded States.

The Permanent Council agenda should be published/ shared with others within OSCE institutions, units and field presences, to enable them to prepare contributions.

Sometimes there is a complete disconnect between positions and actions of States’ embassies on the ground and their delegations in Vienna. This is counter-productive. Statements and joint declarations should be communicated to the embassies on the ground so that they use them and follow-up on them.

Statements made by States at the Permanent Council should be made more accessible. It is often difficult to find them on sites of the MFAs of States that made statements. This undermines prospects for a follow up by various actors, including civil society.

Joint declarations adopted by like-minded participating States at the Ministerial Council meetings, Permanent Council meetings and elsewhere on various occasions, such as on IDAHO (43 countries signed)⁶, fundamental rights and freedoms (45 states signed)⁷, torture prevention (48 states signed), etc. demonstrate the high level of support of concerned States around difficult human dimension issues, even when a consensus decision by all 57 States is blocked by a small number of other States or just one State, as in the case of a Permanent Council Declaration on torture in 2016⁸.

Likewise, joint statements on crisis situations made by States at HDIM plenaries and side events at HDM organised with their support are important. States could benefit from better cooperation between their delegations and civil society at HDIM, giving preference to advanced planning on concrete matters of mutual concern and avoiding ad hoc meetings of a ceremonial nature. In these interactions, States should avoid instrumentalizing civil society groups in their foreign policy and treat NGOs as partners.

The Permanent Council could be used more effectively to invite ODIHR to report more regularly, where its views and recommendations could receive vocal support from States.

In general, States should coordinate their actions better and closer with civil society and lead by example, in particular in reacting to human dimension crises. Beyond formal meetings, participating States could look for unconventional ways of reaction to human dimension crises. For example, they could commission a research report on a problem or a country situation, establish an informal ad hoc group, cooperate with OSCE PA to encourage it to establish ad hoc investigation commissions as it did in respect of the events in Osh in 2010, etc.

OSCE Chairmanship

The OSCE Chairmanship has an important role to play in helping to address human rights crises. Statements on human rights crises by the OSCE Chairmanship could potentially have a strong impact. They are extremely rare and should be used more often. Such statements should reflect the gravity of the situation in question. Quiet diplomacy and dialogue with delegations of States where a crisis has been developing is an important role played by Chairmanship but it has to have a clear plan when it is time to move to making public statements in situations when “dialogue for the sake of dialogue” leads to a deadlock and further escalation of a crisis.

⁶ Joint Statement on the International Day against Homophobia, Transphobia and Biphobia. 19 May 2017. <https://osce.usmission.gov/joint-statement-international-day-homophobia-transphobia-biphobia/>

⁷ Joint OSCE Statement on Human Rights and Fundamental Freedoms. Published on 8 January 2019. <https://www.gov.uk/government/speeches/joint-osce-statement-on-human-rights-and-fundamental-freedoms>, and Twenty-Fifth Meeting of the Ministerial Council 6 and 7 December 2018. OSCE, Milan, 2018. <https://www.osce.org/chairmanship/411878?download=true>. See pp. 63-64.

⁸ For discussion, see, for example, EU Statement on the occasion of the International Day in Support of Victims of Torture, OSCE Permanent Council No 1155 Vienna, 20 July 2017. <https://www.osce.org/permanent-council/332976?download=true>

Chairmanship should appoint special envoys or representatives to visit countries with a human dimension crisis situation. Special Representatives' reports are useful for assessing the situation on the ground and can help prevent further negative developments. Unfortunately, the reports of Special Representatives can only be published with the approval of the host countries. The Special Representatives' presence at the Human Dimension Committee meetings at least once a year would be important, depending on what they are allowed to disclose.

Short-term ad hoc Special Representatives of the Chairmanship could be also useful to both keep focus on the situation and take pressure off other entities and institutions.

Chairmanship is responsible for safeguarding independence of OSCE institutions and their reporting which is ever more important in the crisis situations.

OSCE Institutions

Human Rights Assessment Missions (HRAMs) are a powerful tool. They are often implemented by ODIHR jointly with the RFoM and HCNM and provide objective information and specific recommendations. Participating States experiencing emerging or existing crises should more actively invite HRAMs, accept their findings and follow their recommendations.

ODIHR has been carrying out regular monitoring of peaceful assemblies in a range of OSCE participating States and has issued annual reports with detailed recommendations⁹. Occasionally, ODIHR has engaged in trial observation¹⁰, which is especially important in crisis situations, and issued important reports with recommendations¹¹. Importance of monitoring by ODIHR could be increased by explicit follow-up and public reporting by States on implementation of ODIHR recommendations.

ODIHR Director's statements are also important but they could be more regular and focused on outstanding situations in the human dimension. For this reason, the selection of issues is important.

The RFoM has been playing the most active role in reacting to crisis situations. RFoM's statements have been used by civil society and the media in various countries to hold their governments accountable and mitigate the crises.

⁹ See, for example, Report: Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (April 2015 – July 2016). OSCE Office for Democratic Institutions and Human Rights. Warsaw, 16 December 2016. <https://www.osce.org/odihr/289721?download=true>

¹⁰ ODIHR Trial Monitoring, <https://www.osce.org/odihr/123550?download=true>

¹¹ See, for example, Report from the Trial Monitoring Project in Azerbaijan 2003-2004, <https://www.osce.org/odihr/14120?download=true>; Report from the OSCE/ODIHR Trial Monitoring in Uzbekistan, September-October 2005, <https://www.osce.org/odihr/18840?download=true>; Final Report Trial Monitoring Project in Armenia (April 2008 – July 2009), <https://www.osce.org/odihr/41695?download=true>; Report: Trial Monitoring in Belarus (March – July 2011), <https://www.osce.org/odihr/84873?download=true>; Trial Monitoring Report Georgia 2014, <https://www.osce.org/odihr/130676?download=true>.

The Vienna and the Moscow Mechanisms

The Vienna and the Moscow Mechanisms (MM)¹² are important tools of reaction to human dimension crises. While some consider MM to be too confrontational, it is indispensable since it allows immediate actions without approval by consensus. Since there are no other tools which do not require consensus, there is currently no substitute for the MM.

The original idea behind introduction of MM in 1991 was to take pressure off the institutions and hand over reporting in complicated cases to independent non-biased experts. MM is an enlargement of the Vienna mechanism that was created in 1989 and allowed any States, even small ones, to raise issues with large states in the situation of human dimension crisis. Once replies to questions asked under the Vienna Mechanism are deemed insufficient, a request for fact-finding mission by independent experts under the Moscow Mechanism is a logical step.

Only five States are needed to invoke the MM if the Vienna Mechanism has been applied prior to this. If the Vienna Mechanism was not used, ten States are enough to launch the MM. States invoking the MM are commissioning a public report, and then the Chairmanship and others are in charge of follow-up.

MM allows to document human rights abuses in much detail, suggest ways to address the crisis, and keep the situation in the spotlight in the OSCE and beyond. In the case of gross human rights violations, it allows the OSCE to attract high-level attention to them of the heads of States and at the UN level. The mechanism also allows the OSCE community to show the highest degree of concern.

There are many ways an MM rapporteur can gather information, even if the State in question refuses to cooperate and allow to visit the country.

Any MM should not be considered completed until substantial progress has been made in the implementation of recommendations contained in the report. One major caveat here is the lack of a formalised follow-up procedure after the presentation of the MM report at the Permanent Council. No consensus is required for a follow up.

OSCE Chairmanship, ODIHR and the States that have invoked the MM have a particular responsibility for a follow-up: they should repeatedly and regularly review the situation in the country, study reports by other inter-governmental organisations and civil society, cooperate with OSCE PA, make joint statements at HDIM and Permanent Council meetings, until the crisis is over. Civil society can play an instrumental role in a follow up both as a pushing force to make a follow up happen and as a provider of valuable information.

There are several possible ways of following-up to the MM reports:

- a follow-up initiated and facilitated by a group of participating States (the invokers of the Moscow Mechanism and/or those who share their concerns);

¹² For the OSCE documents establishing the human dimension mechanisms, see the “Vienna Mechanism 1989”, <https://www.osce.org/odihr/20064> and the “Moscow Mechanism 1991”, <https://www.osce.org/odihr/20066>

- a follow-up initiated and facilitated by the Chairmanship: incoming CiO should look into instances of gross and continued human rights violations from the past Moscow Mechanism cases it has “inherited” from the previous Chairmanships;
- a follow-up initiated and facilitated by relevant OSCE institutions, acting on their own initiative or being tasked by the CiO;
- a combination of the above.

In case the situation in the country in question remains unsatisfactory and the crisis acquires a protracted character, a new MM should be invoked.

With a roster of experts at ODIHR full for at least until the end of 2020, participating States should not shy away from using MM more actively in situations of acute or protracted human dimension crises.

Inter-dimensional aspects: Reactions to human dimension crises in the context of violent conflicts

There is a need for better coordination between different OSCE bodies and institutions to react to violent conflicts, as well as for a stronger leadership role of the Chairmanship in the situations when a crisis has a multi-dimensional character.

The role of ODIHR in conflict situations should be enhanced and supported. Participants of the roundtables reiterated that ODIHR needs to have a better rapid response/ standby capacity in order to deal with emergencies and crisis situations, such as for sending human rights assessment missions. This includes relevant budget for rapid response that could be used throughout the whole year.

Reports by civil society groups working on conflicts, especially on the ground, should be utilised more actively by the OSCE. Relevant and professional civil society reports should be used for early warning procedures, situation assessment, and as a basis for action. The need for better communication with civil society missions is obvious, as professional reports by civil society experts are currently underused.

A human dimension crisis may swiftly develop into an inter-dimensional security crisis. Therefore, a human dimension crisis should be seen as warning sign for a possible “hard security” crisis.

Violations of national minorities’ rights could lead not only to internal clashes but also to external aggression. Minorities’ enclaves, even if a crisis is unfolding for different reasons, should be under close international attention with heavy international monitoring presence.

Even if the requirement for consensus amongst States forces OSCE to agree with the compartmentalisation of geographic areas for monitoring, as in the case of the mainland Ukraine and Crimea, a way to monitor and focus on such “closed” areas must be found.

In principle, the OSCE already has most of the instruments that are needed for a rapid response to crises. Some of them require modification, political will or creativity in order to be properly and effectively utilised – like the Moscow Mechanism and follow-up actions

after the MM report. Some tools require further development and testing in a routine mode in order to prepare for their use in crises.

Coordination, communication and cooperation of OSCE actors with civil society groups regarding early warning, monitoring and fact-finding should be enhanced, possibly through establishing a communications platform for each specific crisis. The key issue remains the speed in which decisions are being made and the deployment of a mission or any other action taken. In this case, swift communication and cooperation with civil society that is already present on the ground becomes crucial.

Some participants of the roundtable meetings suggested that a new emergency procedure should be established as a mechanism of rapid response to human dimension crises that could involve various OSCE actors, possibly under the coordination of Chairmanship, and be used without consensus of all 57 participating States. It would serve to coordinate and exchange information among the key actors involved, including civil society, and to take concrete decisions on relevant steps. In the situation that could be defined as an unfolding human dimension crisis, such an emergency procedure should already be in place. This new mechanism could compliment the Moscow Mechanism which is invoked by States and rarely used.

While not having direct relation to the third dimension, the instrument of the OSCE Vienna Document (2011)¹³ which is used in the first, military-political dimension, has proved to be a fast and flexible monitoring and prevention tool when a conflict develops. It does not need consensus of all 57 States and at the same time directly involves participating States. Deployment of international monitors in eastern Ukraine at the early stage of the conflict in spring 2014, based on the Vienna Document mechanism, helped preventing further massive escalation of hostilities and paved a way to the decision on the deployment of the OSCE Special Monitoring Mission there which required consensus and time for organisation and accumulating resources.¹⁴

In order to guarantee swift access to a country in crisis for monitoring of assemblies, trials, and hopefully prisons, a tradition of standing invitations should be introduced in “normal times” by different States to mainstream this approach. HRAMs also should be accepted by the countries in question.

Programmes or projects on the security of journalists and HRDs in conflict situations should be developed jointly by ODIHR and RFoM with support of concerned States and put into practice.

In cases when the human dimension situation is deteriorating while the monitoring access to the country is limited and a rapid response mechanism cannot be used, a Chairmanship action should be taken.

¹³ Vienna Document 2011 on Confidence- and Security-Building Measures, <https://www.osce.org/fsc/86597?download=true>

¹⁴ See Factsheet on OSCE engagement with Ukraine. OSCE, 23 December 2014, updated on 1 June 2015. <https://www.osce.org/home/125575?download=true>

Introduction of more systematic and diverse ways of interaction with civil society in OSCE

OSCE documents refer to civil society groups as important actors in the implementation of OSCE commitments and call on OSCE institutions and participating States to cooperate with NGOs.¹⁵ In the opinion of the participants of the roundtables, civil society has been a strong driving force across the OSCE region and has played a vital role in collecting and disseminating information from the ground, ensuring accountability and advocating for greater efforts by participating States to implement their OSCE commitments and initiate reform across all three dimensions, as well as in early warning, crisis prevention and conflict transformation.

Nevertheless, much civil society potential remains untapped by the OSCE. This is particularly important in light of the emergence of new human dimension challenges, anti-democratic backsliding and human rights crises. OSCE participating States, political bodies and autonomous institutions should seek and utilise civil society contributions in their various activities and in different settings. NGOs should be involved in all stages of OSCE's human dimension activities and not be limited to human dimension events.

However, simply preserving the status quo is not enough. In order for the OSCE to become more effective, it is important to enhance civil society participation in the organisation's work. To make this possible, a more systematic approach to NGO involvement needs to be developed. This should include not only the human dimension where civil society has been historically more active but also the first and the second OSCE dimensions.

The OSCE could benefit by looking at best practices of other inter-governmental organisations, including a number of UN bodies, the Council of Europe, and international financial institutions. In these organisations, systematic engagement with NGOs, requesting their input at the preparatory stage of meetings and in drafting documents, and holding consultations at all stages of work have become a standard practice. At the same time, OSCE should avoid copying worst practices in some inter-governmental organisations such as restrictive procedure of NGO accreditation.

All OSCE institutions, structures, units, and field presences should designate liaison officers / focal points for civil society. These should not only disseminate information about their work to civil society, but also collect information, network and consult with civil society in a regular and consistent manner. Meetings with independent civil society groups should be a standard part of country visits by heads of OSCE institutions and bodies and their staff, including during investigation and fact-finding missions.

Civil society representatives reiterate their proposals of the following general principles for civil society involvement in the work of OSCE:

- involvement of NGOs in all stages of human dimension activities and with all OSCE institutions;

¹⁵ See, for example, CSCE Helsinki Document 1992. The Challenges of Change. <https://www.osce.org/mc/39530?download=true>, p. 18; and Twenty-Fifth Meeting of the Ministerial Council 6 and 7 December 2018. OSCE, Milan, 2018. <https://www.osce.org/chairmanship/411878?download=true>. See pp. 63-64.

- inclusiveness and non-discrimination (excluding only those who are engaged in or support violence and terrorism);
- security for NGOs and activists engaged with the OSCE, their protection from retaliation;
- recognition of the pluralistic and non-hierarchical nature of civil society;
- equality of NGO and non-NGO experts; and
- openness and responsiveness by OSCE institutions to civil society's proposals.

Interaction of OSCE institutions and bodies with civil society

The work of OSCE institutions and bodies could benefit from broader and more intense cooperation. ODIHR and RFoM do a significant part of their work in close contact with civil society and have developed systematic cooperation with NGOs and activists. In particular, ODIHR engages civil society in the development of guidelines, for the work of expert panels and the organisation of human dimension events.

ODIHR provides training for civil society on monitoring of elections, assemblies and trials according to ODIHR's standards. ODIHR should further increase the level of awareness of OSCE standards and OSCE documents (guidelines, legal opinions, handbooks) by increasing its outreach to civil society across the OSCE region, including by arranging regular meetings with civil society across the OSCE region by officials from the OSCE institutions and ODIHR departments that developed these products. Likewise, ODIHR should expand existing and develop new educational programs for civil society organizations on how to use OSCE instruments more effectively.

ODIHR sees a need to expand and reach out to organisations that are not within the traditional scope of the OSCE, to use instruments that will enhance the effect of OSCE in civil society and have a spill-over effect on communities, helping to overcome societal distrust towards international organisations and raise awareness about OSCE's role. Public trust to OSCE should be built through civil society, which can play a central role in offering solutions to address human dimension problems.

The OSCE work on agenda setting and reaction to human dimension problems should better utilise results of monitoring by civil society on the ground and respond to issues raised by them.

Should participating States not consent to host an official observation mission, OSCE actors should use NGO monitoring reports more actively. NGOs are able to conduct observation missions according to the established methodology of OSCE institutions. Their materials and conclusions should be studied and taken into account by the Chairmanship, institutions, and the Human Dimension Committee. The results of election observations, trials and peaceful assemblies by NGOs should receive proper consideration and follow-up, especially when ODIHR or other OSCE institutions' observation missions are not allowed into the country.

Currently there is no OSCE mechanism for collecting information from NGOs on early warning on crises and conflicts. There is a lack of mechanisms in OSCE which are able to fully utilise what civil society has to offer. In crises situations, there is a need for designated entry

points to whom civil society can submit their information and proposals. Coordination, communication and cooperation with civil society regarding early warning, monitoring and fact-finding should be enhanced through establishing permanent communications channels.

Civil society contacts with the OSCE Secretariat and the Conflict Prevention Centre (CPC) have been established, but they need to become systematic and require specific mechanisms for interaction. This could include, in particular, an NGO contact point for human dimension emergencies, conflicts and crisis situations. Communications should be held both on problems with implementation of commitments and the country situations.

As a part of greater civil society involvement in conflict prevention and resolution, as well as in other emergency situations, the OSCE Secretariat, CPC, HCNM and other OSCE actors should ensure that civil society continues playing an active role in early warning, crisis prevention and conflict transformation; regularly involve local civil society actors, human rights experts in joint analyses and the development of policies and country strategies; develop early warning and human dimension crisis prevention indicators and actions jointly with civil society.

OSCE actors concerned should enhance their support of civil society groups, representatives of minorities and women activists in their conflict transformation and peacebuilding efforts. OSCE actors involved in conflict management in conflict regions and separatist-controlled territories should recognise the key role of civil society in monitoring the situation, collecting and analysing information and providing assistance to victims.

Much of HCNM's work is non-public. Guidelines and other public documents issued by HCNM are drawn up in cooperation with academic and civil society experts. Usually these experts come not from human rights or peace/conflict resolution NGOs but groups working on inter-community relations. Possibilities for expanding the circle of HCNM cooperation to include non-academic, human rights, or broad expertise NGOs are worth exploring.

The OSCE Parliamentary Assembly should officially establish NGO engagement in its activities, moving from the de-facto NGO participation as observers at its meetings (marked as "public") to making NGO representatives a separate registered category and including NGO participation in its Rules of Procedure. OSCE PA should establish a process of seeking and reviewing recommendations from civil society while preparing its draft resolutions. Moreover, OSCE PA would benefit from providing assistance to NGOs in organising parallel civil society forums on the eve of its meetings and actively engage with NGOs there, taking into account lessons of the Parallel Civil Society Forum in Minsk of the eve of the OSCE PA summer session in 2017.

Each OSCE field operation should have an NGO liaison person. This is especially important for emergency situations related to gross human rights violations and persecution of human rights defenders. Field operations should more actively cooperate with and support civil society in their countries of presence, regularly hold meetings with civil society organisations and activists to discuss possibilities for their engagement in the activities of the field operations and the OSCE in general, accept and use their information and recommendations. Field operations' interaction with civil society representatives should be inclusive: they should make an effort to meet with independent groups and avoid limiting

their contacts only to NGOs selectivity imposed by the host government. Field operations should react to instances of restrictive legislation and policies, persecution of and attacks against civil society groups and individual activists. Performance evaluation of the field operations' work should be based, among other tools, on feedback from civil society.

OSCE Chairmanship, participating States, and the Ministerial Council meetings

For several years in a row, starting with the Swiss OSCE Chairmanship 2014, cooperation with civil society has been a priority for successive Chairmanships. This experience should be reviewed and analysed and cooperation with civil society developed further on the basis of lessons learned.

In particular, an incoming Chairmanship should begin consultations with civil society on its thematic priorities early on, both in-country and OSCE-wide. Selection of the Chairmanship's priorities should be based on an analysis of HDIM and SHDMs summary reports and consultations with NGOs across the OSCE region.

An incoming Chairmanship should appoint an NGO liaison within its Task Force. Among other duties, this person should serve as contact point in case of emergencies, receiving NGO communications on human rights violations and reporting them to the Chairperson-in-Office. Alternatively, a Chairmanship could appoint a temporary Special Representative for interaction with human rights defenders and NGOs.

Chairperson-in Office and Special Representatives of the Chairperson should publicly meet civil society representatives while on official country visits to participating States.

Civil society expertise and insights could play a useful role in the process of drafting and discussing decisions of the Ministerial Council related to the human dimension. This could be done by the Chairmanship and interested State delegations, either informally or through a new more formalized procedure.

Since 2014, expert seminars and roundtable discussions in the OSCE framework have been regularly organised by civil society groups throughout the year, and the results fed into outcome documents of the annual Civil Society Parallel Conferences. This experience has been successful and should be built upon in the coming years and supported by incoming Chairmanships, OSCE institutions and States.

More regular informal group meetings between representatives of participating States and civil society during the year would also help to enhance communication and make it more systematic, be it in thematic areas or country-focused.

Communication between civil society and delegations of States could be also improved by the production and dissemination among State delegations of regular civil society newsletters with a list of upcoming OSCE-relevant civil society events and links to recent NGO documents. Similarly, regular information from OSCE institutions, political bodies and delegations of States distributed among civil society groups would improve cooperation.

Annual Parallel Civil Society Conferences where recommendations to all OSCE actors are

adopted and handed over to the OSCE leadership have informally emerged as a regular element of the cycle of human dimension activities. Continued support from the Chairmanship and OSCE institutions for the Parallel Conference would be most welcome, including but not limited to their participation in the concluding session of the Conference where the outcome documents are presented and handed over to them. Civil society recommendations adopted at the Parallel Conference should be officially distributed among all State delegations and other participants of Ministerial Council Meetings. This is a standard practice in many international organisations, including, for example, the Community of Democracies and the EBRD.

A meeting of NGO representatives with the Troika should always be held during Ministerial Council meetings to discuss in greater detail recommendations of the Parallel Conference, the results of human dimension activities during the year and prospects for the coming year. Meetings with the heads of delegations of States should be continued and expanded.

It is important that civil society recommendations delivered to the Chairmanship/Troika and heads of institutions at the end of the Parallel Civil Society Conferences are followed up. A creative way should be found to allow civil society to present a summary of the recommendations directly to the participants of the Ministerial Council meeting. Further, the recommendations should be presented and discussed in detail at a meeting of the Human Dimension Committee at the start of the year to give an impetus to possible actions.

Dangers and retaliation

Civil society is perceived by some states not as a solution to problems but rather as a part of the problem, a dangerous troublemaker, demanding the impossible. Backlash against civil society has accelerated lately in many OSCE participating States. Increasing restrictions on freedoms of association, peaceful assembly and expression, as well as growing threats to the security of civil society activists, their freedom of movement and the right to fair trial, have a hugely negative impact on the ability of civil society to operate freely and without the fear of reprisals, including in the OSCE framework.

Given the alarming trends of shrinking civil society space, the following recommendations to OSCE actors have been developed by NGOs from across the OSCE region:

- OSCE Chairmanships should consider appointing a Special Representative on civil society;
- OSCE Chairmanships should consistently and publicly express support for the protection of civil society space across the OSCE region and in the OSCE's work;
- future OSCE Chairmanships should include in their priorities a focus on the protection of space for civil society and the security of human rights defenders, similar to 2014 Swiss Chairmanship;
- OSCE political bodies and institutions should mainstream protection of space for civil society in all OSCE activities and recognise the role of civil society in their programs;
- OSCE political bodies and institutions, including OSCE Chairmanships and ODIHR, should develop a system of prompt and effective reaction to cases of persecution of NGOs and civil society activists and violence against them, in particular, to each and

every case of reprisals against NGOs and civil society activists for their participation in OSCE activities and events;

- OSCE Chairmanships and ODIHR should pay special attention to the protection and safety of NGOs and activists that face retaliation for their engagement in observing elections, trials and peaceful assemblies.

Alarming initiatives are increasingly proposed by some participating States, aimed at limiting civil society's role in OSCE activities. Participants of the roundtable consider it of paramount importance for the OSCE to firmly adhere to the principle of inclusive NGO participation spelled out in the OSCE documents, in particular, the Helsinki Document of 1992 and the Budapest Document of 1994, and ensure the safety of those NGOs and activists who experience pressure for their engagement with the OSCE.¹⁶

¹⁶ For a more detailed position of civil society on this important subject, please see a statement by the Civic Solidarity Platform "Safeguarding NGO participation in OSCE events" which is a part of the *Civil Society Recommendations*, adopted by the participants of the OSCE Parallel Civil Society Conference 2018 in Milano, http://www.civicsolidarity.org/sites/default/files/milano_civil_society_recommendations_osce_parallel_cs_conference_december_2018.pdf, pp. 5-7.

The instrument of self-evaluation of OSCE Chairmanship country¹⁷

History of the instrument

Switzerland during its OSCE Chairmanship in 2014 introduced a new instrument: It carried out for the first time an evaluation of how the OSCE commitments in the area of the human dimension are being implemented in the Chairmanship State. The idea itself was born in civil society and proposed by the Civic Solidarity Platform (CSP) before the start of the Swiss Chairmanship.

The CSP was coming from a notion that a country holding OSCE Chairmanship should be a role model for other participating States and lead by example, including by submitting itself to more scrutiny as regards its implementation of its human dimension commitments and taking action to address the identified problems. This is particularly important in the absence of a mechanism of systematic assessment of implementation of human dimension commitments in the OSCE framework.

The CSP proposed several stages of the process of self-evaluation:

- identification of an independent institution that would be responsible for producing the self-evaluation report, usually an independent National Human Rights Institution;
- selection by the institution of several, usually around five, human dimension commitments whose implementation the report will cover, through a consultative process involving the Chairmanship Taskforce and civil society;
- assessment by the institution based mostly on available recent reports by OSCE institutions, UN bodies, national reports, and production of the report with data, conclusions, and recommendations (“the first chapter”);
- production of commentaries (and a parallel report whenever possible) by national civil society organisations (“the second chapter”);
- production of commentaries by relevant government ministries (“the third chapter”);
- presentation of the report at an HDC meeting, HDIM, Ministerial Council meeting, and at the national level;
- adoption of pledges by the government of the country holding Chairmanship to take follow-up actions to implement recommendations, and appointment of a body responsible for coordinating follow-up at the national level;
- a follow-up process of implementation of recommendations during the year after the Chairmanship when the country is still part of the OSCE Troika.

¹⁷ A roundtable on self-evaluation of OSCE Chairmanship was held by the Civic Solidarity Platform in Warsaw in September 2018 with support of the Delegation of Switzerland to OSCE and the Department for Human Security of the Swiss MFA. This chapter is based on the report on the key conclusions of this roundtable, edited by Matthias Hui: “The instrument of self-evaluation of OSCE Chairmanships: Holding OSCE states accountable for implementing human dimension commitments”. Civic Solidarity Platform, 2018.

Serbia in 2015, Germany in 2016, Austria in 2017, and Italy in 2018 have all followed the suit and further developed various elements of this model. The instrument quickly grew into a customary mechanism of a good practice on a voluntary basis. After five years of implementation of self-evaluation, an informal tradition has been firmly established in the OSCE.

The proposed model has been more or less followed, except the two last stages. Follow-up remains the most problematic element since after the end of the Chairmanship year there is usually no resources to continue this work and people involved in this process in the Taskforce are not there anymore. Therefore, the potential remains untapped. A lot needs to be done to make the process more meaningful and institutionalised at the OSCE and national levels since currently success depends on committed human dimension officers in a Taskforce while NHRI and NGOs usually have limited power to push their government to take a follow-up action after the end of Chairmanship year.

The CSP has held several reflection events regarding the self-evaluation process throughout these five years. Publications with analysis of lessons learned have been produced over the five years by the CSP, Switzerland and Germany.

Lessons of self-evaluation by Italy

St Anna Institute at the University of Pisa was selected by the Italian OSCE Chairmanship for production of the report. In the absence of an NHRI in the country, an academic institution with best international standing in human rights research was a clear choice. Relations of the Institute with the MFA were very effective: the MFA gave it the task and did not interfere in the work.

Production of the report included the following main phases:

1. Identification by the institution of five themes chosen from among a long list of 15 different themes; an online survey was conducted among more than 200 stakeholders – NGOs, academia, government agencies. About 25-30% of those whom the questionnaire had been sent participated later in commenting the draft. Topics chosen for the evaluation included: a) migration, refugees; b) women, peace and security; c) trafficking in human beings; d) violence against women; and e) racism, xenophobia, and anti-Semitism.
2. Drafting chapters: Five leading experts were identified, both inside and outside the academia. They had little time, just three months. The team was led by St Anna Institute. Experts analysed existing national reports by Italy to international bodies, OSCE reports, EU reports, etc.
3. identified which agencies were in charge (sometimes not national but regional level), assessed gaps in implementation, and made recommendations. Draft was ready in mid-May.
4. Comments, suggestions and recommendations to the first draft from NGOs and other stakeholders (three weeks) through an open and transparent online process.
5. Preparation of the final text – three weeks to researchers to integrate, and then final editing.

6. Reaction by the ministries were still expected at the time the Warsaw workshop took place.

Key findings of the assessment were as follows:

- Satisfactory conformity of legislation;
- Room of improvement on full implementation of the laws at the local and national level.

The report will be presented not only at OSCE but in Italy as well, as this is key for having impact in the country and ensuring follow-up. All stakeholders have been informed that it is published on the website of the Institute. The Institute made recommendations to the MFA to send it to all ministries, parliament, regional councils and municipalities, and possibly make a summary of what is relevant to them, have a major meeting with stakeholders to present and discuss, and discuss how a more sophisticated system of monitoring of OSCE HD commitments on the ongoing basis can be introduced, maybe using periodic reports to the UN but focusing on specific commitments that are not covered by other mechanisms.

The importance of raising awareness at the regional and municipal level is well understood by Italian OSCE Chairmanship as many NGOs and public officials inside the country are not familiar with OSCE commitments. Many usually say in OSCE, “we don’t have the tools to implement commitments”. At the same time, local governments and agencies usually do not have resources to implement commitments. It would be useful to have a discussion in OSCE about making commitments work at the local level, thus “bringing OSCE to the ground”.

Overall, Italy faced a challenge of time vs engagement and co-ownership of civil society. Enabling environment for NGOs to participate meaningfully should be created. Ideally, an NGO coalition should self-organise to act as an interlocutor and carry out civil society part of the report. NGOs usually have no resources to carry out their part of the work. In the past, funding for NGOs came either from the government (Switzerland, Austria, Germany) or international donors (Serbia). Establishing a modest dedicated fund for supporting NGO work from previous Chairmanships and international donors could be a very good idea. It could also cover the cost of translation of the report from native language into English.

Lessons of self-evaluation by Germany

German Institute for Human Rights was entrusted to do the report by the German government. The fact that it is an NHRI with a standing mandate helped it not to “close the book” after the evaluation report was done but continue using the results in its work.

Key lessons:

1. Working with the report at home is as important as presenting it at OSCE. National process is very important because it allows developing a dialogue with civil society and other stakeholders. The Institute not only presented the report at HDIM-2016 but held a presentation and discussion in Berlin.
2. It is pivotal that evaluation is really independent. It must be clear that decisions at all stages are not made by the government. This is quite different from reporting to

treaty bodies where there is a government report and shadow reports by NGOs. Here, we have a report by an independent institution, not by state.

3. It should be clear from the very start what is the division of roles between all actors involved – the MFA, the NHRI, civil society, ministries. The Institute made sure to have three separate and distinct chapters – NHRI’s report, comments by NGOs, comments by ministries.
4. There should be a strong role of civil society allowing it to comment on equal footing with ministries.
5. The process should be open – the Institute published the report on the web site, not sent to a closed list of NGOs.
6. Reaction from ministries was “yet another report”; there is reporting fatigue. But in the process the attitude changed. For example, a representative of the Ministry of the Interior said during the presentation that this kind of in-depth assessment is more helpful to them than state periodic reports to the UN bodies.
7. Still, when it comes to follow-up, the problem of having too many recommendations from various reports related to other international monitoring procedures is raised by ministries. We need to look at a way to consolidate the process with implementation of recommendations from other reviews.
8. The mandate of the Institute allows doing a follow-up work as an NHRI, unlike in the case of academic institutions in other countries when their contract ends. There was no extra budget for the follow-up work but the government reacted positively to the Institute’s request for additional funding.
9. After the OSCE Chairmanship year is over, there is no one in the MFA who remembers the self-evaluation process since no one is left from the Taskforce; it is not in the MFA’s institutional memory. The Institute remains in contact with people in other ministries who commented and worked on their chapters.
10. The key problem is implementation by the government at a follow-up stage.

Key conclusions after five years of application of the instrument

1. The instrument of self-evaluation is meaningful. Problems in its application need to be addressed now to make the instrument more effective.

Based on the analysis of the five year experience, a number of challenges and deficits of the mechanism have become obvious and need to be addressed quickly, in order to strengthen the tool and make it more effective. Representatives of stakeholders on all levels – participating States in their role as the CiO or the chair of HDC, NHRIs or other institutions entrusted with production of the report, ODIHR as well as civil society – all basically agree on this.

Challenges include, inter alia, the timing of the process along the calendar of the Chairmanship, the selection of an implementing institution, the choice of relevant human dimension commitments for evaluation, methodology of the evaluation to ensure non-duplication and synergy with other reporting processes, participatory and meaningful involvement of national civil society, the response of relevant government agencies to the

report, and organising the process of implementation of recommendations contained in the report at the follow up stage.

2. After five years, the process needs to be institutionalized

The need for institutionalisation of the self-evaluation process is evident in order to make the process sustainable and for the all stakeholders to be able to seriously apply conclusions from the lessons learned from the first five evaluations. The sustainability of the process should not rely on individuals, on the CSP, or on the spontaneous willingness of certain stakeholders for a handover to the incoming CiO state.

3. ODIHR is best placed to fulfil the task of advisor, monitor and institutional memory

ODIHR is obviously best placed to guarantee and to accompany the process with regard to content, procedure and schedule, to train, support, and advise the CiO states at all phases, and to link the process to presentations and discussions at OSCE fora. It is strongly requested by government actors, independent institutions, and civil society that ODIHR serves as a professional custodian and institutional memory of the process, on a low level of formal agreements.

A central task should be the production of a manual for the CiOs and all stakeholders involved to make the whole process more effective and impactful.

Coordination with and a role for the OSCE Secretariat in Vienna needs to be reflected. The Secretariat, including the Secretary General, showed interest in this process.

To be able to take up this role, ODIHR has to be invited or “tasked” by participating State(s). ODIHR could be invited or “tasked” by one or more of the following actors:

- the HDC Chairmanship, in connection with the presentation and discussion of evaluation report(s);
- a current CiO or an incoming CiO;
- Switzerland as the pioneer and observer of this process;
- or a combination of options.

4. Timing is crucial

The process has to begin early, ideally with the beginning of the Troika commitment of the incoming Chairmanship, one year before the Chairmanship year starts. In the very beginning of the process, full transparency and a plan of action with a calendar (including the follow-up process) should be agreed upon by all stakeholders. Ideally, the self-evaluation report should be ready at an early stage of the year of the Chairmanship year so that the findings can be presented and discussed at the OSCE as well as on the national level throughout the Chairmanship year and be used for advocacy and a follow-up to allow progress in implementation of the human dimension commitments based on findings of the report.

5. Selection of issues is essential

The issues must not be chosen by the government. If an independent institution entrusted with the self-evaluation is doing the selection, national NGOs and ODIHR must be carefully

consulted. The selection should include the most sensitive issues in the human dimension (human rights, democracy, rule of law) of the State. Other criteria for the selection include relevance with regard to OSCE commitments, topicality in the Chairmanship year, gender perspective, and added value to other human rights state reporting processes.

6. The evaluation must be carried out by an independent institution with human rights expertise

The evaluation should be independent and human-rights-based. To ensure this, it should be carried by an independent institution with expertise in human rights. Where an UN-accredited National Human Rights Institution exists, it should be entrusted with the evaluation process. If there are more than one UN-accredited NHRIs in the country, preference should be given to the one with a higher status in the UN accreditation system. If there are no UN-accredited NHRIs in the country, preference should be given to an academic institution with a strong expertise in human rights research, international exposure, and broad contacts with other academic institutions and civil society. Experience shows that different practical models are applicable, with or without holding a tender, with one or several institutions involved, etc.

The ENNHRI, the European Network of National Human Rights Institutions, can serve as a hub and support body for NHRI tasked with the self-evaluation.

7. Civil society needs to be strongly involved from the very beginning in an open and participatory process

National civil society organisations need to be involved at various stages of the process, especially in the choice of issues, in the production of a “second chapter” (a shadow NGO report or an NGO commentary to the evaluation report), and in the follow-up stage. The CSP is well-placed to provide assistance and advice.

Establishing a part-time position of a coordinator for civil society activities in the CiO country, based at an existing national NGO, is most helpful. This position and the overall CSO involvement in the self-evaluation process might require financial support of the CiO Taskforce. Establishing a modest dedicated fund for supporting NGO work on self-evaluation supported by previous Chairmanships and international donors could be a good option for the future. Each CiO Task Force should appoint a civil society liaison person within the Taskforce from the very beginning.

8. The production of the evaluation needs to draw from existing sources

The evaluation report needs to be systematically linked to other human rights state reporting procedures such as UPR and UN treaty bodies processes as well as the Agenda 2030 framework. Findings of both government periodic reports and NGO alternative reports should be utilised. Reports by OSCE/ODIHR and its various programmes, where available, should be used as much as possible. Duplication must be avoided, synergies must be created, integration / complementary dimensions / synoptic views with other state reporting procedures need to be reflected and developed systematically.

Specialists for the issues chosen, at the institutions / NHRIs doing the evaluation or outside, need to be involved in the editing in order to draw from existing know-how and to build-up additional know-how.

9. The process for the implementation of the recommendations is essential

Essential for the success of the evaluation instrument is the implementation of the recommendations contained in the report. A comprehensive, transparent and binding follow-up strategy needs to be presented and put into practice by each CiO at the very beginning of the Chairmanship year (this in turn depends on an early start of the evaluation (see point 4) . It needs to include the presentation and discussion of the evaluation at the domestic as well as at the OSCE level.

Governments / ministries should always be obliged to issue a written report / answer to the self-evaluation report (the "third chapter"). They need to make pledges for concrete steps to implement recommendations.

A follow-up work to begin the implementation recommendations should start during the Chairmanship year while the leading role of the state in the OSCE is still high on the agenda of the government and the Taskforce still has sufficient human resources and weight. Ideally, a government agency responsible for coordination of the implementation of recommendations should be identified before the end of the Chairmanship term to ensure sustainability of the process. Civil society should be consulted and remain engaged in the process at the follow-up stage.

A body responsible for monitoring of implementation of recommendations should be identified. It could be the Taskforce, the human rights institution that has done the evaluation report, or another body. Ideally, the Chairmanship country should prepare a report on implementation of recommendations and present it at OSCE fora before the end of the Chairmanship year or before the end of the next year the latest, while it is still part of the Troika.

10. Relevant OSCE fora for the discussion of the self-evaluation need to be identified

To ensure accountability and to make impact on implementation of commitments by other participating states (realising the principle of "leading by example"), the self-evaluation report needs to be presented and discussed at various OSCE fora.

The most detailed presentation and discussion at the working level should take place in the Human Dimension Committee. Presentation and discussion should involve ODIHR and civil society organisations. The HDC should also be a place to discuss a follow-up report on the implementation of the recommendations by the state one year later.

The HDIM as well as the Ministerial Council at the end of each CiO offer important opportunities for a presentation and a discussion to provide more publicity and impact.

The role of the Permanent Council needs clarification.

The involvement of the OSCE PA and national parliaments to make the CiO state more accountable and involve parliamentarians in monitoring and controlling implementation of recommendations needs to be further reflected. The report could be sent to or presented in the relevant committees of the national parliament to involve MPs in the implementation and/or oversight of implementation of recommendations.