



OUTCOME DOCUMENTS
of the
OSCE PARALLEL CIVIL SOCIETY CONFERENCE

BELGRADE, 1-2 DECEMBER 2015

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CIVIL SOCIETY RECOMMENDATIONS TO THE PARTICIPANTS OF THE OSCE MINISTERIAL COUNCIL MEETING IN BELGRADE, 3-4 DECEMBER 2015

INTRODUCTION

The Civic Solidarity Platform, a network of more than 80 human rights NGOs from throughout the OSCE region,¹ convened the 2015 OSCE Parallel Civil Society Conference in Belgrade on 1-2 December, building upon the tradition of OSCE parallel civil society conferences in Astana in 2010, Vilnius in 2011, Dublin in 2012, Kiev in 2013, and Basel in 2014. At the conference, activists from Albania, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Georgia, Germany, Greece, Kazakhstan, Kosovo, Kyrgyzstan, Macedonia, Moldova, Montenegro, the Netherlands, Norway, Russia, Serbia, Sweden, Switzerland, Turkey, Turkmenistan, Ukraine, the United Kingdom, the USA, and Uzbekistan discussed and adopted the attached policy document, developed by the Civic Solidarity Platform and containing civil society analysis and recommendations on alarming human dimension developments across the OSCE region and on human dimensions issues in Serbia, in light of the country's OSCE Chairmanship. It also includes selected recommendations from OSCE civil society thematic events, held throughout 2015 in Berlin (workshop "Reviewing evaluation instruments of implementation of OSCE human dimension commitments"), Belgrade (conference "Freedom of expression, media freedoms and (self) censorship in the OSCE area"), and Warsaw (workshops "Developing OSCE approaches to the prevention of torture and enforced disappearances"). They were organised by the Civic Solidarity Platform with support from the Troika of OSCE Chairmanships and brought together representatives of civil society organisations from across the OSCE region, representatives of OSCE political bodies and institutions and participating States.

The recommendations are addressed to governments of the OSCE participating States that will be gathering in Belgrade for this year's meeting of the Ministerial Council, as well as all the OSCE political bodies and institutions, including the current and the incoming Chairmanships, the Permanent Council, the Human Dimension Committee, ODIHR, the OSCE High Commissioner on National Minorities, the OSCE Representative on Freedom of the Media, the OSCE Parliamentary Assembly, the OSCE Secretariat, and the OSCE field missions.

We hope that this analysis and the recommendations that flow from it will be studied carefully at the Ministerial Council meeting and in the work of OSCE. We look forward to reaction from all interested stakeholders. While some of our recommendations may be implemented immediately, others relate to systemic problems and will require consistent effort over a longer period of time. We express our commitment as civil society actors to continue to actively engage in the work of OSCE in the spirit of the Helsinki Principles and our determination to contribute to the full realization of respect for human rights and fundamental freedoms, democracy and the rule of law throughout the OSCE region.

¹ The Civic Solidarity Platform was established in December 2011 in Vilnius on the eve of the OSCE Parallel Civil Society Conference. Since then it has grown to more than 80 member organisations from across the OSCE region. For more information about the Civic Solidarity Platform please visit the Platform's web site civicsolidarity.org. The core group of the Platform founders had organised earlier the OSCE Parallel Civil Society Conference in Astana on the eve of the OSCE Summit in December 2010 and has been organising OSCE Parallel Civil Society Conferences since then. For outcome documents of the OSCE Parallel Conferences in Astana, Vilnius, Dublin, Kiev and Basel visit <http://civicsolidarity.org/page/osce-parallel-civil-society-conferences-outcome-documents>.

ALARMING DEVELOPMENTS IN THE HUMAN DIMENSION IN 2015

This chapter provides an overview of major human dimension developments in the OSCE region in 2015 that were sources of concern to civil society and require the attention of OSCE political bodies, institutions and participating States. It aims to outline the key trends and give illustrative examples rather than provide a comprehensive overview of major events and situations in all OSCE participating States. In order to keep the text concise and focused, we concentrate on areas where the most important changes have occurred and where new trends have emerged.

1. ENCROACHMENT ON DEMOCRATIC INSTITUTIONS AND PROCESSES

Amongst the most alarming trends in human rights in 2015 was the growth of authoritarian, anti-democratic tendencies. 2015 saw a marked clash between universal values enshrined in international human rights documents, including OSCE commitments, and “traditional” values increasingly espoused by authoritarian regimes. The past year was also marked by an increase in reprisals against those who spoke out against non-democratic and corrupt political elites or repressive systems, particularly in the former Soviet space, and, in the case of **Russia** and **Ukraine**, a marked return to the language of the “cold war” and propaganda.

Many states increasingly used security arguments to justify dismantling democratic institutions and cracking down on fundamental freedoms. During his visit to Central Asia in June 2015, UN Secretary General Ban Ki Moon spoke of “shrinking democratic space” across the region and warned against using security threats to limit fundamental rights such as the freedoms of expression, assembly and association since such an approach would only foster frustration and contribute to instability in the long term.

Indeed, in relation to many OSCE participating States it is impossible to speak of developing democracy given the lack of checks and balances in government, the absence of free and fair elections, the virtual absence or marginalized nature of political opposition, the systematic persecution of critics of the ruling elites, the lack of independent media and increasing pressure on and harassment of civil society. It is simply unrealistic to expect such authoritarian regimes to prioritize the fulfilment of OSCE commitments to develop democratic institutions and procedures.

2015 witnessed the diminution of individual rights to participate in government, including through free and fair elections. Ruling elites blatantly manipulated public opinion, increased state control over the media, and interfered in election processes through methods such as manipulating the appointment of members of election commissions, denying the registration of opposition candidates, and non-transparent tabulation of votes.

In **Azerbaijan**, electoral standards have deteriorated sharply under President Ilham Aliyev, with growing incidences of candidate and voter intimidation, multiple voting, ballot stuffing, non-registration of opposition parties and candidates, and restrictions on media freedom. OSCE ODIHR and OSCE PA cancelled their planned observation missions for the November 2015 parliamentary elections as restrictions imposed by the Azerbaijani authorities would have made it impossible to carry out credible election observation. The main opposition parties refused to participate in the elections in protest at the undemocratic process.

In **Russia**, the electoral process was compromised to such an extent that the democratic opposition was effectively prevented from participating in regional and local elections, which were held in several dozen regions and municipalities across the country in 2015. Independent observers reported indirect and covert

campaigning by public officials in support of pro-government candidates and parties, biased media coverage in the favour of ruling party candidates as well as negative campaigning against the opposition. As a consequence, the election results were predetermined by the very low level of political competition, and the elections merely served as the formal 'legitimation' of those results. The most common violations on election day included restrictions on the rights of observers, commission members and representatives of the media; violations related to early voting, voting by absentee ballot and voting outside polling stations; coercion to vote, and violation of vote secrecy. In those few cities where the democratic opposition was able to participate in the elections, several activists faced criminal prosecution and physical attacks.

The 2015 presidential elections in **Kazakhstan** and **Belarus** produced results reminiscent of Soviet times, which clearly threw into doubt their free and fair nature. President Nursultan Nazarbayev, already in power for over 25 years, was re-elected in Kazakhstan with over 97.75% of the votes and a turnout of over 95%. In Belarus, President Alexander Lukashenko, who has ruled for over 20 years, won 83.5% of votes with a turnout of over 87%. The leading media, political opposition, political analysts, civil society and most of the general public in these countries do not perceive these "elections" as part of a genuine and competitive democratic process through which changes in government are possible. In the recent past, both countries introduced constitutional amendments allowing heads of state to stand for election an unlimited number of times, a practice that not only undermines the foundations of democracy, by ensuring the ruling elite can remain in power indefinitely, but also shows total disregard for the rule of law.

Despite the commitments adopted by all States in the 1990 Copenhagen Document, the political systems of a number of OSCE participating States, mainly from the former Soviet Union (FSU) region, lack political pluralism. Leaders use politically motivated prosecutions to oppress opposition leaders, critics of the regime, and potential political competitors.

In **Kazakhstan** in September 2015, the Almaty Court of Appeal upheld a decision to disband the Communist Party for alleged violations of the law on political parties, as the authorities claimed that the party was not able to demonstrate it had the 40,000 members required for registration. Observers see this move as politically motivated and unsubstantiated.

In September 2015, the Supreme Court of **Tajikistan** banned the Islamic Renaissance Party (IRPT) in Tajikistan and declared it "extremist", a move that observers see as lacking legal grounds and destabilising. This followed a year-long campaign of pressure against the party, which international observers believe was a politically motivated attempt to eliminate the IRPT and undermine the fragile post-civil war political settlement. A number of IRPT leaders were forced to flee abroad, and more than 150 party officials and supporters were arrested.

A worrying syndrome of "learned helplessness" is observable in societies where people lose faith in the possibility of positive change and begin to fear any change at all, as it may lead to increased repression and "chaos". This phenomenon, coupled with systems of power based on patronage, oppression and pervasive high-level corruption, make the prospects for democratic change increasingly elusive.

2. SHRINKING SPACE FOR CIVIL SOCIETY AND FUNDAMENTAL FREEDOMS

The backlash against independent civil society accelerated in the FSU region and beyond. Increasing restrictions on the rights to three vital freedoms – of association, peaceful assembly, and expression – as well as growing threats to the security of human rights defenders and other civic activists had a hugely negative impact on the space for civil society to operate freely and without the fear of reprisals. This key negative development in the human dimension area stands in sharp contrast to the growing attention paid

to the phenomenon of shrinking space for civil society among OSCE actors and the recent adoption of OSCE/ODIHR guidelines on the security of human rights defenders and on freedom of association. Clearly, new ways of addressing the problem of shrinking space for civil society need to be found within the framework of the OSCE.

2.1 Restrictions on Freedom of Association

In several participating States attempts were made over the past year to further toughen legislation regarding NGOs and intensify repressive practices. A number of countries introduced limitations on access to foreign funding and blocked international cooperation among NGOs. These restrictions were motivated by a variety of factors, including rising nationalism, increased migration flows, counterterrorism policies and security concerns. Many governments use the argument of “impermissible political activity” of NGOs to hide the real issue: fear that their political and economic interests would be damaged as a result of independent activism on human rights, corruption, or environmental issues and global cooperation of civil society groups. The current debate around the necessity of limiting freedoms for security considerations is likely to last and significantly change the way civil society is able to operate.

In **Russia**, a new law “on undesirable organisations” was adopted and came into force in 2015. This law not only allows the government to forbid activity in Russia of foreign and international NGOs through an extra-judicial decision and on the basis of extremely arbitrary and vague “security” considerations but also criminalises continued “cooperation” with “undesirable organisations” by Russian citizens. The National Endowment for Democracy, a US grant-making foundation, has already been declared “undesirable”, and the Russian parliament recommended the government ban the work of over a dozen more NGOs from several countries and included them in a parliamentary “patriotic stop-list”. The list includes international donors, two Ukrainian diaspora organizations and the Crimea Human Rights Field Mission. Application of the infamous “foreign agents” law has also intensified, with 104 human rights, environmental, anti-corruption, social development, research, and other NGOs declared “foreign agents” at the time of writing of this report. Over 90% of them refused to apply for inclusion on this list voluntarily, as the law requires, and have been included there by the government against their will. Over thirty of them have chosen to close down rather than carry on working under this false and derogatory label. Most of NGOs labelled by the government as “foreign agents” have contested this decision in court and have lost all of their appeals. A number of complaints are pending in the ECHR in Strasbourg. In recent months, the government began to impose large fines on dozens of NGOs for disobeying the requirement of the law to mark all their publications, including those published online, with a statement that they have been produced by a “foreign agent”. In most cases, these fines threaten organisations with bankruptcy.

In addition, recent changes in the Russian legislation has established discriminatory treatment of NGOs included in the “foreign agent” list: lawmakers have forbidden them to observe elections or co-operate with political parties in any capacity and are now reviewing one draft law preventing them from monitoring detention and prison conditions, and a second which would prohibit them from establishing media outlets. A new and very worrying development occurred in November, when, for the first time, the Ministry of Justice accused an NGO – Human Rights Centre Memorial -- of “undermining the constitutional order”, calling “for the overthrow of the government” and “regime change”.

The Russian authorities’ restrictive and repressive approach towards freedom of association has been an unfortunate source of “inspiration” for many governments and lawmakers in the FSU region, who have been quick to share “worst practices” with each other, in spite of widespread criticism by the international community. In **Kyrgyzstan**, a Russia-inspired “foreign agents” bill that passed the first reading in the parliament this summer could be used to stigmatize and obstruct the work of basically any NGO that

receives foreign funding. Draft legislation adopted by the parliament in **Kazakhstan** and currently pending signature by President Nazarbaev, may result in a non-independent body being granted a monopoly over the allocation of grants to NGOs, including grants from foreign donors. In the opinion of civil society experts, if adopted, the bill would obstruct the functioning of NGOs by introducing vague notions subject to discretionary interpretation and by unnecessarily imposing additional control over CSOs by the Ministry of Culture and Sports in addition to the existing accountability mechanisms enforced by the Ministry of Justice and the relevant tax authorities. The UN Special Rapporteur on the rights to freedom of peaceful assembly and association, the UN Office of the High Commissioner for Human Rights as well as the OSCE Representative on Freedom of the Media expressed their concern that provisions of the bill severely violate the freedom of associations.

In **Tajikistan**, new legislation adopted in August 2015 requiring NGOs to report all funds received from foreign sources prior to using them, may be used to restrict NGOs' access to funding in violation of international standards. Government regulations in **Uzbekistan** set out onerous requirements with respect to obtaining and using foreign grants, which effectively bar access to such funding for NGOs. It is practically impossible for independent NGOs to obtain mandatory registration, as a result of which such groups are forced to work without legal status. Independent human rights groups from **Turkmenistan** can only operate underground or in exile due to repressive legislation and practice. No positive changes in legislation and practice on freedom of association in **Belarus** have been recorded, and all the repressive provisions adopted in recent years regarding tough registration requirements, criminal liability for activities of non-registered NGOs, and severe restriction on access to foreign funding remain in force.

A 2014 study by the Venice Commission of NGO-related legislation in **Azerbaijan** concluded that registration procedure for NGOs as amended in 2013, restrictions on receiving grants and donations, enhanced supervision by the government, penalties for minor offences as well as the possibility of dissolving NGOs for minor irregularities were incompatible with Azerbaijan's international human rights obligations. These restrictive provisions are actively used by the Azerbaijani authorities, often retroactively, to put pressure on independent NGOs, freeze their accounts, close them down. The government has also convicted and sentenced NGO leaders to long prison terms on trumped-up charges of tax evasion, abuse of authority, conduct of illegal business, etc. The severity of the continuing crackdown against civil society in Azerbaijan is unprecedented; more than 20 NGOs have been closed down, at least six internationally renowned human rights NGO leaders have been convicted and sentenced to long prison sentences, and many others have fled the country out of well-grounded fear of politically-motivated persecution.

In **Hungary** the situation for many NGOs deteriorated when the government cut the National Civil Fund to diminish and later eliminate funding for advocacy and human rights groups. Likewise, there is evidence that the Hungarian government has blocked EU funding to all organizations that are critical of its policies. The authorities have marginalized or ignored the appeals, petitions, and demonstrations of more liberal NGOs resulting in a civil society that is predominantly driven by illiberal and authoritarian values. Harassment of NGOs and individuals affiliated with liberal values continues. Although the audits by the Government Audit Agency (KEHI) launched against a large number of civil society groups as part of the Norway grants scandal did not produce any conclusive evidence, further audits were initiated against some NGOs by the Tax Authority (NAV). These are still pending in a number of cases, and in some cases the investigations have been expanded to individuals in service contracts with NGOs. Verbal attacks against NGOs continue, for example, in recent statements by government officials including Prime Minister Orban claiming that NGOs had fuelled the migration crisis by assisting migrants and refugees.

In **the United Kingdom**, NGOs criticized the introduction of the Transparency in Lobbying, Non-Party Campaigning and Trade Union Administration Act in 2014, which capped the amount of money civil society

groups can spend on advocacy prior to election campaigns. The United Nations special rapporteur on the rights to freedom of peaceful assembly and of association stated that the measure threatened “to tarnish the United Kingdom’s democracy.”

In **Spain**, the government limits civil society groups’ ability to secure funding by requiring them to check the identity of donors of 100 euros or more and keep financial records.

2.2 Limits on Freedom of Peaceful Assembly

The situation in relation to legislation and practice regarding the right to freedom of peaceful assembly has further deteriorated over the last year in several OSCE participating States.

In **Armenia**, the right to peaceful assembly was not respected, and even small-scale rallies and demonstrations were often dispersed with unacceptable force. Despite the law requiring organisers of assemblies to notify the authorities of their intent to hold a demonstration rather than obtain authorization, in many cases the authorities dispersed peaceful protests claiming they were “unauthorized”. The stringent technical requirements of the law, such as a 7-day advanced notice of a rally, were used by the authorities to increase restrictions on assemblies. The number of protestors detained increased disproportionately: while the number of demonstrations increased by 25-30%, detentions increased by 400%. This clearly illustrates police intolerance of protest and the increased use of arbitrary deprivation of liberty.

In **Tajikistan** in late 2014, a new law on assembly was passed, limiting the right to hold peaceful assemblies in ways incompatible with international human rights standards. The law obliges the organizer of an assembly to obtain prior permission from the authorities and contains broadly worded provisions on the grounds for prohibiting assemblies and venues. The law does not provide for spontaneous assemblies.

In **Russia**, amendments to the Criminal Code were adopted in 2015 introducing criminal liability for “repeated violations of the law on demonstrations and mass gatherings” in the course of one year. Those found guilty under this provision are punished twice for the same violation: first for an administrative offence and then for committing a crime, which directly contradicts international human rights norms. Several criminal cases have already been initiated under this law against participants of peaceful protests. Human rights groups consider these charges based on the arbitrary and politically motivated interpretation of the law on peaceful assemblies.

In **Kazakhstan**, **freedom of assembly is seriously violated in law and practice**. Prior authorization is needed to hold any protest; “illegal” assemblies are routinely dispersed and their organisers and participants are detained. Well-known civil society activists are often “preventively” detained ahead of planned protests. Following his mission to Kazakhstan earlier this year, the UN Special Rapporteur on freedom of peaceful assembly and of association concluded that the government’s approach to regulating assemblies “deprives the right of its meaning”. In **Turkmenistan** the first-ever Law on Assemblies entered into force in July. The law is supposedly intended to protect the right to hold assemblies, but in fact imposes a number of problematic restrictions on this right. There are concerns that the law **may be used to obstruct the organization of spontaneous, peaceful protests**, of which there has recently been a growing number. When examining the situation in **Uzbekistan** in July 2015, the **UN Human Rights Committee criticized** “arbitrary restrictions on the right to peaceful assembly”.

In **Turkey**, the Anti-Terror Law provides for a penalty of 1-5 years imprisonment for anyone who conceals or partially conceals his or her face during a demonstration or public assembly that “turns into propaganda for a terrorist organization”. Further amendments proposed by the government in December 2014 included

increased penalties for engaging in violent protest or protest deemed to be "propaganda for terrorist organisations."

2.3 Restrictions on Freedom of Expression. State harassment and persecution of human rights defenders, civic activists, and independent journalists

The realisation of fundamental rights in a number of OSCE participating States has become increasingly difficult in 2015. Restrictions were placed on independent media in a number of countries, with the authorities using "tools" such as lawsuits against journalists for defamation of officials, exorbitant fines imposed against media outlets for moral damages or charges of inciting hatred. New measures were also employed by authoritarian states to block independent websites and restrict access to the internet.

Politically-motivated lawsuits are being used in many states, most actively in Russia and Azerbaijan, against those who criticize the authorities. Such suits often involve trumped-up charges, harsh sentences and the impossibility of a meaningful legal defence or a fair trial.

In **Russia**, pressure on human rights defenders has increased. Human rights activists Tatyana Kotlyar and Liudmila Bogatenkova were sentenced on criminal charges in 2015. The authorities have intensified harassment of civic activists Liudmila Kuzmina and Mikhail Savva, bringing new criminal charges against them. A new case has been opened recently against civic activist Konstantin Golava. Anti-corruption and environmental activist Evgeny Vitishko, declared by Russian and international NGOs to be a prisoner of conscience, continues to serve a three-year term in a prison colony, after being found guilty of "destruction of property." While different charges are used by authorities to harass civic activists, including tax evasion, fraud, or "extremist activities", human rights groups consider their persecution politically motivated and in retaliation for their legitimate human rights activities.

In **Azerbaijan**, the ongoing crackdown on civil society led to dozens of human rights defenders, civil society activists and journalists being arrested, put on trial and convicted in what is widely seen as retaliation for their professional activities, including internationally renowned civil society leaders Intigam Aliyev, Leyla and Arif Yunus, Rasul Jafarov and Khadija Ismailova. Numerous human rights violations were committed against these activists, including ill-treatment in custody and denial of access to health care. Excessively harsh sentences handed down did not take into consideration the age, state of health of the accused nor the severity of the charges. In a by-now familiar scenario, fabricated charges were based on issues of NGO registration and access to foreign funding that were treated as tax evasion, abuse of authority and forging of documents. According to Nils Muižnieks, Council of Europe Commissioner for Human Rights, the detention of Leyla and Arif Yunus "illustrates the pattern of repression that has emerged in Azerbaijan in recent years whereby human rights defenders are harassed through restrictive NGO legislation and selectively targeted with criminal prosecutions on charges that defy credibility."

In Central Asian countries, NGOs and their leaders have increasingly been singled out for negative and discrediting statements by government representatives, public figures and public media who have accused them of promoting "foreign" interests and values and of undermining national security, stability and reputation. Cases of intimidation and harassment of human rights defenders, civic activists, lawyers and other critics of the government policies have been reported in all the five countries over the last year. Those harassed, arrested, charged and imprisoned in retaliation for exercising their rights to freedom of expression, association and assembly and other fundamental rights include civil society activists Ermek Narymbaev and Serikzhan Mambetalin in **Kazakhstan**, the lawyer Buzurgmehr Yorov in **Tajikistan**, the freelance journalist cooperating with Radio Free Europe/Radio Liberty Saparmamed Nepeskuliev in **Turkmenistan**, and human rights activist Natalya Shabunts, also in Turkmenistan. An internationally

renowned human rights lawyer Azimzhan Askarov in **Kyrgyzstan** remains in prison since June 2010, sentenced for life on trumped up charges despite evidence of torture and an unfair and politically motivated trial. When examining the situation in **Uzbekistan** in July 2015, the **UN Human Rights Committee** expressed its concern about "consistent reports of harassment, surveillance, arbitrary arrests and detentions, torture and ill-treatment by law enforcement officers and prosecutions on trumped-up charges of independent journalists, government critics and dissidents, human rights defenders and other activists, in retaliation to their work." Charges of fraud and bribery, brought on 18 November 2015 by authorities against Utkam Pardayev, one of the few human rights defenders still active in Uzbekistan, provide yet another example of the long-standing practice of repressions against human rights defenders in this country. If found guilty, Utkam Pardayev faces 10 years in prison.

3. EROSION OF THE RULE OF LAW

3.1 Politically motivated persecution

In several OSCE participating States, justice systems are compromised by the lack of any effective separation of powers among law-enforcement, the judiciary and the executive.

Politically-motivated trials clearly show the dependence of the judiciary on the executive. In many countries of the FSU region government influence over the courts is increasing. One method used by the authorities to maintain such influence is to encourage the public to suspect judges of corruption and to doubt the judiciary's ability to mete out justice and protect individual rights.

Increasingly the public is lead to understand it should disregard the rule of law and take justice into its own hands. This tendency has been observed in **Ukraine** in the post-Euromaidan period and has resulted in widespread mistrust of the judiciary, and in individuals taking aggressive extrajudicial action, for example the "lustration" ceremonies for Ukrainian officials thought to be corrupt where crowds throw them into rubbish bins.

According to assessments by human rights organisations, the number of political prisoners in **Russia** has grown steadily and is now estimated at 100-150. Politically-motivated prosecution and trials in Russia against Ukrainian citizens has been a new worrying trend. In some cases, those put on trial were kidnapped in Ukraine, including in the separatist-controlled territories in the East of the country and in the occupied Crimea, or else detained on Russian territory when they were visiting relatives. For the most part, the charges were far-fetched and clearly fabricated such as in the case of Nadezhda Savchenko. Evidence and confessions obtained under torture and ill-treatment were admitted in court. Access of defendants to their lawyers was complicated, with trials being postponed or transferred to different cities or courts at the last minute. Some of the sentences handed down were unduly harsh. For example, on 25 August Crimean activists Oleg Sentsov and Alexander Kolchenko were sentenced to 20 and 10 years respectively, despite the fact that the prosecution case was based on evidence from a third Ukrainian citizen, Gennadi Afanasyev, who told the court that his testimony was fake and had been obtained by torture.

In **Ukraine**, on the other hand, investigations into the shooting of participants in the Euromaidan protests in 2014 have been ineffective and unnecessarily drawn out. Legal questions have been raised about the detention and prosecution of participants in non-peaceful public actions during the year. There is a clear imbalance between patriotic feeling and the need to respect the rule of law. At the same time, courts of law often play a role in rubber-stamping and legitimizing decisions taken by the executive authorities. Over the last year, some Russian citizens have been detained in Ukraine for the purpose of using them in prisoner

exchanges, and numerous procedural violations have occurred during trials of persons accused of terrorist and separatist offences.

In **Azerbaijan**, the list of political prisoners drawn-up by human rights defenders includes almost a hundred names of independent journalists, civic activists, members of political opposition, and representatives of “non-traditional” religious groups.

It is worth noting that political prisoners in the region are periodically given presidential pardons or amnestied, as happened this year in **Belarus**. While it is positive that political prisoners are released, the fact that the charges against them are not annulled and they are not exonerated, clearly demonstrates how the executive authorities maintain arbitrary control over people’s fates and continues its repressive policies.

3.2. Pressure on defence lawyers

Human rights activists have recorded numerous cases in which the authorities put pressure on defence lawyers in the form of threats, removal of practice licenses or even the instigation of criminal cases in Azerbaijan, Belarus, Russia, and other OSCE participating States, including the countries of Central Asia. Countries in the FSU region increasingly restrict representation of defendants in court to members of the bar associations, rather than any lawyer or a lay person. Governments have also created unified bodies responsible for the self-regulation of defence lawyers that, in countries with fragile democratic institutions such as Belarus, Ukraine and Azerbaijan, are vulnerable to pressure from the authorities. There have been numerous cases in which defence lawyers were threatened with reprisals such as loss of licence should they represent critics of the government in court and oppose the position of the prosecution.

3.3. The failure to implement decisions of domestic and international courts

The failure to implement court decisions is a systemic problem in many OSCE participating States. **Ukraine**, for example, has not yet implemented the pilot judgment of the European Court of 2009 about the non-enforcement of domestic court decisions.

A worrying tendency is the failure to implement rulings by international judicial and quasi-judicial bodies. Human rights defenders from different countries note that at best, court decisions are implemented in individual cases, such as the payment of compensation while the domestic court decisions are not reviewed and general measures, including on amending legislation and changing policy, are not taken. Thus, international law is not fulfilling its function of legal and standard setting for legal systems in countries in the FSU region.

Particularly worrying is the new principled position of the Russian authorities on implementation of decisions of the European Court of Human Rights (ECtHR), which is reflected in the decision of the Constitutional Court of **Russia** in summer 2015 that authorises the non-implementation of certain ECtHR decisions when they “contradict provisions of the Constitution”. This boycott of ECtHR decisions has a negative effect not only on the rights of Russian citizens but also on the rights of people who live in the regions of other countries where Russia exercises jurisdiction, for example the Transnistrian region of Moldova or Crimea.

A number of OSCE participating States that are not members of the Council of Europe and therefore do not fall under the jurisdiction of ECtHR, engage in systematic non-compliance with decisions of the UN Committee for Human Rights, the only place where their citizens can submit individual complaints regarding violations of their civic and political rights. For example, the **Belarusian** government does not recognise the

competence of the Committee to review individual complaints from Belarus despite the fact that it is part of the country's legal obligations under the International Covenant on Civil and Political Rights. **Turkmenistan** has not implemented a landmark decision issued in the end of 2014 on the case of the former Minister of Foreign Affairs Boris Shikmuradov who was recognised by the UN Committee as a victim of unfair trial, torture, and enforced disappearance, and the government of Turkmenistan did not even reply in time to the Committee's decision.

4. UNRECOGNIZED, OCCUPIED AND SEPARATIST-CONTROLLED TERRITORIES

Although the past year has not seen the appearance of new unrecognised, occupied or separatist-controlled territories, legal complications and conflicts in the existing ones have increased, making the protection of their inhabitants' human rights more difficult. For example, residents of occupied **Crimea** and parts of the **Donbas** region find it impossible to exercise their right to education, and often the right to work, or to register marriages and births, as the documents issued in these areas are not recognised under existing Ukrainian legislation.

A growing number of cases of enforced disappearances, torture, trafficking have been recorded in these territories, especially in the **East of Ukraine** and **Crimea**. Judicial or indeed any legal protection of rights is not available in practice.

Similar situations are found in several post-conflict areas of the FSU region. For example, on 17 April, in the Transnistrian region of Moldova, the separatist administration initiated criminal proceedings against civil society activists from "Promo LEX" NGO for defending the interests and rights of the residents of the region. The Transnistrian separatist authorities declared that this NGO was forbidden to enter the region.

4.1 Violations of humanitarian law and human rights in Eastern Ukraine

Since March 2014 the conflict in Eastern Ukraine has resulted in at least 7962 deaths (data from April 2015); countless injuries; widespread destruction and illegal appropriation of property; arbitrary arrest and illegal imprisonment; torture and ill-treatment; and the displacement of over 2.5 million civilians.

Field monitoring and research missions run by international human rights organisations in 2015 found evidence that there are reasonable grounds to conclude that war crimes and crimes against humanity have been perpetrated in the context of the conflict in Eastern Ukraine. These crimes include: intentional attacks against civilians and civilian objects; deliberate killing of civilians and non-active combatants; unlawful deprivation of liberty and denial of fair trial rights; torture and other cruel, inhuman and degrading treatment; pillage and appropriation and destruction of property; persecution on politically and religiously motivated grounds; and others. The documented crimes have mainly been perpetrated by Russia-backed separatist forces but also by Ukrainian government forces and pro-Ukrainian paramilitaries.

Over the last year, the conflict has undoubtedly attained the intensity of a non-international armed conflict, and there is mounting evidence to suggest that it may also qualify as an international armed conflict, based on evidence of direct involvement by members of the Russian armed and security forces, and evidence of the Russian Federation exercising control over the separatist forces.

Civilians who have been perceived as opponents of the separatists have been subjected to widespread and systematic attacks, including illegal imprisonment, torture, murder, other inhumane acts and severe violations of fundamental rights. Similarly, there is evidence to suggest that leaders and vocal followers of faiths other than the Russian Orthodox Church of the Moscow Patriarchate are subjected to persecution.

It is imperative to conduct full and thorough investigations into all allegations of war crimes and crimes against humanity perpetrated in Eastern Ukraine and to bring those responsible to justice before an independent and impartial tribunal. On 8 September, the Ukrainian government granted the International Criminal Court jurisdiction over all international crimes that have taken place on the territory of Ukraine.

5. MIGRATION, REFUGEE CRISIS, AND XENOPHOBIA

The year 2015 was marked by the so-called 'refugee crisis', an issue that has dominated the EU agenda like few others have before. It has led to fundamental rifts in the EU and is likely to cause further divisions in the EU, its member states and neighbouring countries over how to deal with the crisis.

Meanwhile, the implications of the influx of migrants² are felt in countries across the EU. Notably it has led to an increase of the support of anti-migrants and mostly far-right parties. It also led to incidents of intimidation, arson and violence against migrants and/or refugee centres. Incidents have been widely reported from countries like Sweden, the Netherlands and Germany. Arriving migrants have also experienced violence and ill-treatment by border guards, police, and other law enforcement personnel at borders and inside a number of countries.

This trend is likely to develop and spread, especially in the wake of the Paris attacks, which led to discussions about terrorists entering the EU as refugees thus feeding further negative sentiments against refugees, migrants and especially Muslims.

6. DEVELOPMENT OF PROTRACTED HUMAN DIMENSION CRISES IN SOME PARTICIPATING STATES

Civil society experts have observed a worrying trend of the emergence of situations of protracted human dimension crises in several participating States. These begin with an increase in individual instances of human rights violations without effective reaction of OSCE bodies and institutions. In the absence of clear procedures of responding to individual cases by OSCE bodies and institutions, governments of countries with high occurrence of cases of human rights violations develop a sense of immunity to expression of concern by other participating States and criticism from civil society and dismiss them as "politicised" and contradicting the OSCE concept of inter-state dialogue.

As authoritarian tendencies increase, democratic institutions and rule of law become weaker, and corruption stronger in some states. Certain social and political developments inside the country may trigger a crackdown on critics of the government, participants of peaceful protests, independent media and civil society, while legislation is amended to restrict a broad range of fundamental freedoms and repressive practices. The acute stage of a crackdown may be accompanied by closure of mass media and NGOs, mass arbitrary detentions, abduction and enforced disappearances, widespread torture in pre-trial detention centres and prisons, courts rubber stamping politically-motivated verdicts in unfair trials, the sentencing of political opponents to long prison terms, often under the pretext of combating extremism and terrorism, etc. Such crackdowns may be triggered by highly contested elections, massive social or political protests, exposure by the media or critics of the regime of cases of high-level corruption or illegal violence, ethnic tensions or other developments perceived by the ruling elites as threatening their rule. The OSCE has not developed appropriate procedures and effective tools to react to acute human dimension crises. When such crises develop, governments refuse, as a rule, to allow monitoring visits by OSCE institutions, dismiss statements of concern by other States or representatives of OSCE bodies and institutions, and increasingly often reduce the status of OSCE field operation in the country or shut it down completely. The only existing

² The term 'migrants' is an overarching one. It contains, among others, refugees, asylum seekers, economic migrants.

instrument for reacting to acute human dimension crisis in the OSCE system that does not require consent of the government in question is the OSCE Moscow Mechanism, which has been used very rarely in the last 15 years and has been criticised by a number of States as being “too confrontational” and by others for lacking a follow-up procedure after the release of the investigation report. “Dialogue” with states with acute human dimension crises in various OSCE fora has proved to be a frustrating and often meaningless exercise, leading to no results.

When the acute stage of a human dimension crisis produces no effective reaction by OSCE actors it often develops into a protracted crisis marked by the absence of respect for human dimension commitments for many years. Violations of human rights acquire a systemic and systematic character and continue unabated with total impunity for perpetrators. Such participating States continue their involvement in OSCE but tend to focus on the first and the second dimensions, occasionally choosing to cooperate with some programmes in the third dimension on issues that do not address key human rights problems in the country.

As a result, the key OSCE concept of comprehensive security encompassing all three dimensions is completely disregarded, and the reputation of the OSCE as the organisation protecting and promoting human rights and democratic institutions is increasingly undermined. Moreover, the lack of respect for human dimension commitments has recently lead to the emergence of a dangerous security crisis in and around Ukraine with long-lasting inter-dimensional implications, threatening the foundations of the Helsinki process and international order.

RECOMMENDATIONS

OSCE political bodies, institutions, and participating States should:

1. Take into consideration detailed recommendations on the implementation of a broad range of OSCE human dimension commitments put forward by Parallel Civil Society Conferences in previous years.
2. Pay particular attention to worrisome trends, including the undermining democratic institutions, the disappearance of political pluralism, and the slide towards authoritarian rule in a number of participating States. They should also address the problem of lack of implementation of recommendations in ODIHR election observation and trial observation reports as well as in the analysis of draft legislation by ODIHR.
3. Focus their attention on the phenomenon of shrinking space for civil society as manifested in severe restrictions on the fundamental freedoms of association, assembly, and expression, undermine the security of human rights defenders and prevent civil society from effectively protecting human rights and promoting OSCE human dimension commitments. Implementation of recently adopted OSCE/ODIHR guidelines on freedom of association and on the security of human rights defenders should be put high on the OSCE agenda. Attention to the growing backlash against civil society for its legitimate activity should not be sacrificed for the sake of the growing concerns over the “hard security” matters belonging to the first OSCE dimension. All OSCE dimensions are interconnected and inter-dependent and constitute a foundation of the OSCE comprehensive security concept.
4. Address without delay the problem of decreasing respect for rule of law in a number of participating States, including the lack of an independent judiciary, unfair trials, politically-motivated persecution, growing numbers of political prisoners, pressure on defence lawyers, and systematic non-implementation of judgements of domestic and international courts.

5. Focus attention on systematic human rights violations on unrecognised, occupied or separatist-controlled territories. In particular, demand from the de-facto authorities full implementation of human dimension commitments and access to these territories by OSCE, including both human rights assessment missions and the permanent presence of representatives of OSCE bodies and institutions. The practice of blocking human rights observation on such territories by missions of local and international human rights NGOs should be stopped. It is imperative to conduct full and thorough investigations into all allegations of war crimes and crimes against humanity perpetrated in Eastern Ukraine and to bring those responsible to justice before an independent and impartial tribunal.
6. To stop further rifts in societies caused by the refugee crisis, the governments of OSCE participating States, in particular the EU member states, should develop and implement local and regional integration policies. These policies should include the learning of language, culture, and laws of the host countries. OSCE political bodies and institutions as well as other participating States should encourage and support these efforts.
7. Ensure that all acts of violence and incitement to violence against migrants, be they perpetrated by private actors or agents of states, are promptly, effectively, and impartially investigated, and perpetrators brought to justice.
8. OSCE Police Training and capacity-building programs should analyse the implication of the current refugee crisis in Europe on the capacity of law enforcement bodies to perform their functions based on human rights standards, and develop additional tools and training programs in this respect, in cooperation with participating States.
9. Develop procedures of responding to individual cases by OSCE bodies and institutions, including elaborating criteria for selecting cases that require a response, distributing responsibility for reaction among political bodies and institutions, and establishing communications with civil society. Responses might include fact-finding, issuance of public statements, sending non-public communications to governments, raising cases with authorities during country visits, expressing solidarity with victims of abuse by visiting them at home or in prison, etc. The OSCE Chairmanship can do much more to address outstanding individual cases of violations; even when the Chairmanship requests OSCE institutions look into a case and react, it should follow up and “stay with the case” until it is resolved.
10. Enhance existing and develop new tools to rapid response to acute and protracted situations of human dimension crisis. In general, the OSCE already has most of the instruments that are needed. Some of them need modification, political will or creativity to be used effectively, such as the application of the Moscow Mechanism and the development of its follow-up procedure. Existing monitoring tools need to be developed further so they can be effectively used in crises to carry out such tasks as monitoring places of detention and rapid response to allegations of ill-treatment in the framework of the new torture prevention programme at ODIHR. Possibly, some new rapid response mechanisms should be established, including an emergency reaction procedure among OSCE political bodies and institutions and a coordination platform between them and civil society actors. 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, including relevant budget. In cases when the situation in human dimension is deteriorating while access to the country for monitoring is limited and a rapid response by institutions could not be used, a Chairmanship action should be taken, possibly in a form of Chairmanship-commissioned report and/or appointment of a Personal Representative.

Selected recommendations from the workshop “Reviewing evaluation instruments of implementation of OSCE human dimension commitments”

These are selected recommendations from the workshop “Evaluation instruments of implementation of OSCE human dimension commitments” which was organised by the Civic Solidarity Platform in Berlin on 16–17 July 2015 with support of the incoming German OSCE Chairmanship 2016 as well as the current Serbian and the past Swiss Chairmanships. The workshop brought together representatives of civil society, the OSCE political bodies and institutions, interested delegations of participating States, and external experts. A full report on the workshop in Berlin is included in the annex on page 51.

A wide range of human dimension commitments has been developed in the OSCE throughout the forty years of its existence. However, implementation of commitments by participating States remains inconsistent and in recent years has deteriorated, with protracted and systematic violations of human dimension commitments persisting in several participating States. A lack of regular and systematic mechanisms to evaluate implementation of human dimension commitments or to follow-up on recommendations from OSCE human dimension meetings and reports are major factors contributing to poor implementation of commitments.

There are certain elements of evaluation mechanisms in place in the OSCE system, which could be refined and expanded or serve as a basis for elaboration of new mechanisms. The OSCE’s existing patchwork of evaluation and assessment tools is not systematic and sufficient to ensure effective scrutiny of the implementation of human dimension commitments by participating States.

In the recent years, civil society organisations have frequently raised the need to consolidate and expand existing OSCE human dimension evaluation instruments and improve follow-up to adopted recommendations. The Civic Solidarity Platform has consistently made recommendations on this account, which were included in the outcome documents of the Parallel Civil Society Conferences in 2011-2014.

In order to stimulate thinking and discussions on consolidation and expansion of evaluation mechanisms of the OSCE human dimension commitments, the Civic Solidarity Platform initiated workshop in Berlin with the hope that discussions at the workshop would help develop concrete steps that could be considered for implementation over the next two years by the German and Austrian Chairmanships, OSCE institutions, and concerned participating States.

The organisers saw the Berlin workshop as a platform for a frank exchange of views and brainstorming about the strengths and weaknesses of current instruments, existing gaps, the experiences of other intergovernmental organisations, and possible ways forward in the OSCE. They did not aim at reaching an agreement on common approaches and adopting joint recommendations. Therefore, the recommendations presented here are not a consensus document but those that are found important by CSP. “Test and try” approach should be used in the course of developing new mechanisms and procedures. For many new steps, no consensus is needed.

INSTRUMENTS OF SYSTEMATIC (REGULAR) EVALUATION AT THE OSCE

Human Dimension Committee

Recommendations on voluntary reporting

- The HDC chair and the chair's team should work with the participating State planning to make a report to make sure their report addresses important and relevant OSCE human dimension commitments. Reporting countries should involve National Human Rights Institutions more actively. Voluntary reports should be linked closer to themes of HDIM sessions and individual cases raised at HDIM by participating States and civil society.
- Guidelines and recommendations for voluntary reporting are needed, including a standard set of questions to answer in a report. Reports should focus on OSCE commitments. An attempt to technically consolidate commitments should be made to make reporting and assessment easier.
- The chair should ask that the report be distributed in writing well in advance, including to relevant OSCE institutions. This would allow enough time for other States to study the report and prepare their questions and recommendations.
- The chair should encourage more delegations to prepare their comments and questions on reports by a participating State. Participating States should more actively react to voluntary reports by other States and make specific recommendations (not just comments and questions) to the reporting States.
- The chair should more systematically involve OSCE institutions in the peer review, including in discussions after presentations. In general, OSCE institutions should more actively assist in preparing and commenting on voluntary reports. Involvement of independent experts would be helpful since human dimension officers of delegations of participating States are not experts in specific subjects that are often addressed in States' reports. Expertise of OSCE institutions can be more actively used in this regard. Field missions should also be involved, as they have on the ground experience.
- For voluntary reporting to develop into a real and effective peer review process, more substantive contributions by other participating States is needed (such as acting as rapporteurs) as well as staff support (or establishment of an HDC staff) to prepare reviews of existing reports on the implementation of the commitment about which a State is reporting.
- More time is needed for this agenda item in regular meetings. It might be worth holding HDC meetings devoted exclusively to voluntary reports. This would give more time for quality discussions.
- Voluntary reporting should have a follow-up (a year later?) to see what has changed. Ideally, a cycle of periodic reporting by all participating states is needed.
- The HDC chair should invite civil society representatives to participate in the peer review process, 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.
- More transparency of the HDC work is needed. An HDC webpage is needed for access to voluntary reports, relevant materials, summary of discussions, and recommendations made.

Recommendations on other aspects of the HDC work:

- One way to make the HDC a forum for substantive dialogue on actual 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 in the HDC, with input from the institutions (and, ideally, civil society) where issues 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 the issues that are most important.

- Reinforced HDC meetings on certain topics should be held (for example, to discuss reports of institutions). Civil society should be invited to participate directly in such reinforced HDCs, or at least an NGO pre-session should be held, and recommendations from civil society should be considered during such HDC meetings.
- HDC meetings should follow-up on discussions at HDIM. For example, an advance study and a discussion of a particular topic such as persecution of human rights defenders, including individual cases, could be held.
- HDC could be used for follow-up on individual cases of violations of human dimension commitments.

ODIHR and human dimension events organised by ODIHR

Recommendations on ODIHR monitoring programmes:

1. While existing guidelines are a useful tool, it is necessary to elaborate additional guidelines on implementation of a broader range of human dimension commitments.
2. Programmes to assist States in implementing existing guidelines are necessary.
3. The guidelines 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 working groups on particular human dimension issues might help improve implementation of HD commitments where no guidelines exist.
4. ODIHR should discuss with OSCE institutions and field operations how to implement guidelines that are in the drafting process before they are adopted.
5. It would improve existing ODIHR monitoring activities if participating States extend standing invitations for the observation of assemblies and trials. Some states could lead by example in that.
6. ODIHR needs a better rapid response/ standby capacity in order to deal with a variety of developments, especially emergencies and crisis situations, such as for sending human dimension assessment missions. This includes a relevant budget for rapid response that could be used throughout the whole year.
7. ODIHR should extend its monitoring programmes to detention facilities (within the combating torture project), focusing first on the countries not covered by CoE monitoring such as the countries of Central Asia, the USA and Canada.
8. ODIHR reports should be more systematically used as a basis for discussions at the HDC and PC. This would strengthen ODIHR as an independent institution.
9. There should be more systematic follow-up to the ODIHR reports on HDIM.

Recommendations on reforming the human dimension events:

1. HDIM is the largest human dimension event and potentially could lead to increased accountability of participating States. Internet live-streaming of HDIM sessions with interpretation is one way to increase participating States' accountability as well as to maximise the audience.
2. HDIM should be used to review implementation of human dimension commitments rather than as a platform for making statements.
3. It is necessary to increase efficiency of preparations for HDIM, starting with the adoption of a standing agenda. Preparations for HDIM should not be blocked by the absence of a consensus.

4. As repeatedly argued by various actors, HDIM should be held earlier in the year to allow more time between HDIM and the Ministerial Council meeting. At present there is no time to react to ODIHR's 150-page report on HDIM or feed it into the process of drafting MC decisions.
5. A logical link between HDIM and the HDC is needed. Currently, the conduct of HDIM is often used as an excuse not to discuss human dimension issues elsewhere. ODIHR's report on HDIM should be presented and discussed at session of the HDC, with the emphasis on follow-up actions.
6. Presenters at HDIM sessions should be given a follow-up role. They could be the persons who present thematic HDIM outcomes at HDC meetings.

Self-assessment by the Chairmanship country

Recommendations

1. *Timeframe for the self-assessment:* The self-assessment process should start before the Chair takes office, to allow enough time for follow-up to implement recommendations in the self-assessment report. It would be more strategic to have the actual process of self-assessment started and the report finalized before the Chairmanship term begins. This would allow enough time for the Chairmanship country to begin addressing identified shortcomings during its Chairmanship term and make a follow-up report a year later. Engaging government agencies is a serious challenge. Ideally, each of the governmental agencies referred to in the report should provide substantial feedback. This takes additional time.
2. *Selection of topics for the self-assessment:* Selection must be based on objective criteria while also being sufficiently broad. Human rights issues to be assessed in this process should clearly fall under OSCE commitments. Topics should be chosen on the basis of relevance to the country and/or the situation in the OSCE region in general. They should allow the report to focus both on shortcomings and positive experiences to be shared with other states.
3. *Stakeholders familiarity with the OSCE:* Self-evaluation should be organised in consultation with civil society and government agencies. Enough time should be given for them to understand the framework set by these OSCE commitments, and to provide constructive feedback.
4. *Follow-up and implementation:* The self-assessment by the Chairmanship state should lead not only to conclusions / recommendations in the report but also to concrete follow-up steps to improve implementation of commitments based on the recommendations. After the release of the report, the Chairmanship should make pledges, organise follow-up implementation steps, and present a follow-up report a year later, at the end of its Chairmanship term or soon thereafter. Follow-up implementation steps will be easier to take if they are linked with existing OSCE instruments and if various stakeholders are engaged, both at the national level and in the OSCE framework.
5. *Continuity with incoming Chairmanships:* Continuity with incoming Chairmanships is key to establishing this new practice and promoting a culture of monitoring and reviewing the implementation of commitments.

REACTION TO HUMAN DIMENSION CRISES AND INDIVIDUAL CASES OF HUMAN RIGHTS VIOLATIONS

In the past five years there have been quite a few situations in the OSCE region which could be described as a human dimension (or a cross-dimensional) crisis. They called for a swift reaction from OSCE, and OSCE indeed engaged different instruments to deal with them. While results in each respective case are debatable, one should keep in mind limitations that are in-built in the OSCE structure and look for ways to fill in the caveats for a more efficient crisis response by the OSCE bodies and institutions.

In a number of cases systematic failure to comply with human dimension commitments and/or their direct and purposeful violation by participating States lead to acute or protracted human dimension crises or, in some instances, to the first dimension (“hard security”) crises. That is why it is important to always keep in mind the OSCE’s comprehensive security concept and swiftly react to individual cases of violations as well as to human dimension crises. Growing human rights violations as well as an acute crackdown on fundamental freedoms must be seen as early warning signs of inter-dimensional crises. A cross-dimensional approach is particularly important: the human dimension should not be isolated from other dimensions. OSCE already has most of the instruments that are needed for a rapid response to work.

Reaction to the crisis situations: Rapid response and follow-up actions

Reaction to unfolding crises

1. OSCE activities in human dimension should have in place a rapid response mechanism that could be used without consensus of all 57 participating states. This can be a new mechanism that could replace the OSCE Moscow Mechanism, or be added to the Moscow Mechanism, or it can be a modified Moscow Mechanism as such.
2. A notion of a “human dimension crisis” should be introduced and mainstreamed. Introduction of this notion should lead to the establishment of an emergency procedure and creation of a mechanism within the OSCE 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.
3. A stronger leadership role of the Chairmanship in developing a swift and effective response to crisis situations is needed. Not only current Chairmanship but also the whole Troika should be involved.
4. Better communication channels with civil society monitoring missions are needed; reports by civil society experts should be used better. Civil society has skills and capacity to carry out proper monitoring on the ground.

Early warning

1. Political turmoil as well as laws and policies limiting the rights of minorities should be seen as clear warning signs of a potential human dimension crisis not only by HCNM but also by the Chairmanship.
2. Warning signs of potential human dimension crisis in countries in transition or with non-democratic regimes should include upcoming elections, contested election results, and intention by the authorities to downgrade or close OSCE presence on the ground. Cases of gross and continued human rights violations, such as incarceration of political prisoners, widespread torture, enforced disappearances, and widespread unfair trials should also be treated as signs of an upcoming acute or protracted human dimension crisis and should lead to an appropriate response by OSCE bodies and institutions.
3. Violations of the rights of national minorities could lead not only to internal violence but also to external aggression. National minorities enclaves, even if a crisis is unfolding for different reasons, should be under close international attention with heavy international monitoring presence.
4. A human dimension crisis may develop into a security crisis. Internal repressions may lead to the government of the state taking aggressive steps towards other countries.

5. Better communication channels between OSCE actors and civil society monitoring missions on the ground are needed; reports by civil society experts should be used better. Civil society has skills and capacity to carry out proper monitoring on the ground.

ODIHR and crisis response

1. 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.
2. More regional expertise is needed for rapid response; at the moment ODIHR has only thematic departments.
3. It is important to include into the new torture prevention program at ODIHR an instrument of a rapid reaction to torture cases during human dimension crises since political prisoners are often tortured to extract confession, force them to plead guilty, break their spirit or simply as a way of punishment and intimidation.
4. Human rights defenders are one of the main targets in the course of a human dimension crisis. The Chairmanship and ODIHR should think beyond a mere promotion of the Guidelines on Security of HRDs in order to more effectively protect human rights defenders in the times of crises. CiO should consider appointing a special representative on human rights defenders.

The Moscow Mechanism

1. The Moscow Mechanism is an important tool of reaction to crises. A lack of a follow-up procedure to the submission of the Moscow Mechanism report to the Permanent Council, formalised in the rules of procedure, is the major caveat in the application of this important instrument. Lack of follow-up undermines the effectiveness of the Moscow Mechanism and gives ground for criticism by a number of OSCE actors. Civil society proposes several ways of dealing with this problem:
 - 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);
 - 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.
2. OSCE Moscow Mechanism regarding a human dimension situation in a participating States should not be considered completed until substantial progress has been made in the implementation of recommendations contained in the Moscow Mechanism report. The Moscow Mechanism should continue to be applied so long as there continue to be cases of such gross violations of human dimension commitments as continued incarceration of political prisoners, continued abductions and enforced disappearances, repeated and widespread use of force against participants of peaceful assemblies, and systematic use of torture.

General conclusions and recommendations on crisis response

1. In general, OSCE already has most of the instruments that are needed for a rapid reaction to acute crisis. Existing tools need to be enhanced and applied more effectively. Some of them need modification, political will or creativity to be used effectively, like the application of the Moscow Mechanism and the development of its follow-up procedure.
2. Existing monitoring tools need to be developed further in order to be effectively used in crises such as monitoring of detention places and rapid response to allegations of ill-treatment in the framework of

the new torture prevention programme at ODIHR.

3. In order to provide quick access to a country in crisis for monitoring of assemblies, trials, and prisons, a tradition of standing invitations should be introduced in “normal times” by different states to mainstream this practice.
4. Possibly, some new rapid response mechanisms should be established, including introduction of an emergency reaction procedure among OSCE political bodies and institutions and a coordination platform between them and civil society actors.
5. Programs or projects on security of journalists and HRDs (in the crisis situation) should be developed.
6. In cases when the situation in human dimension is deteriorating while access to the country for monitoring is limited and a rapid response by institutions could not be used, a Chairmanship action should be taken, possibly in a form of Chairmanship-commissioned report and/or appointment of a Personal Representative.
7. Coordination, communication and cooperation with civil society regarding early warning, monitoring and fact-finding should be enhanced, possibly through establishing a communications platform for each specific crisis.
8. The issue of the speed in which decisions are being made and the deployment of a mission or any other action is taken, remains the key challenge. In case of delays, swift communication and cooperation with civil society that is already present on the ground becomes crucial.
9. Budget is an important issue. A designated special extra-budgetary crises pocket for emergencies should be considered.

Reaction to individual cases of human rights violations

1. Response to instances of violations of human dimension commitments should be more immediate and direct.
2. ODIHR and OSCE Chairmanship do not address individual instances of violations actively enough. They should develop procedures of responding to individual cases by OSCE bodies and institutions, including elaborating criteria of selection of cases that require a response, distributing responsibility for reaction among political bodies and institutions, and establishing communication with civil society.
3. Responses might include fact-finding, issuance of public statements, sending non-public communications to governments, raising cases with authorities during country visits, expressing solidarity with victims of abuse by visiting them at home or in prison, etc.
4. OSCE Chairmanship can do much more to address outstanding individual cases of violations. Even when it requests OSCE institutions to look into a case and react, it should follow up and “stay with the case” until it is resolved.
5. Analysis of the impact of the analysis of draft legislation by ODIHR would be very useful. It would look into such questions as:
 - how much do participating states take ODIHR’s recommendations into account when drafting amendments/adopting legislation? Is there a follow-up assessment by ODIHR?
 - how states may be compelled to ask ODIHR to do legislative analysis more often?
6. Addressing individual instances of violations of human dimension commitments at HDIM and other human dimension events should be more effective. Possibly, inclusion of recommendations on individual cases in the HDIM report and introduction of a follow-up procedure, with roles played by CiO, ODIHR, Permanent Council, HDC, or other bodies and institutions could be considered.

Selected recommendations from the conference “Freedom of expression, media freedoms and (self) censorship in the OSCE area”

These are selected recommendations from the conference “Freedom of expression, media freedoms and (self) censorship in the OSCE area” which was organised by the Helsinki Committee for Human Rights in Serbia and the Civic Solidarity Platform in Belgrade on 20-21 July 2015 with support of the Embassy of the Netherlands. The conference gathered representatives of civil society and media organisations from across the OSCE region, including the Western Balkans, and representatives of the OSCE Representative on Freedom of the Media. A full report on the conference is included in the Annex on page 83.

Selected recommendations are focused on three major areas: access to information, media pluralism, and countering hate speech and propaganda. This choice reflects the main concerns of civil society. The media face numerous challenges to adjust to changing market, technological and social trends in a manner that would preserve freedom of expression and media plurality. Drastic laws limiting freedom of expression have been adopted recently in some OSCE participating States. Journalists, bloggers, and human rights defenders are increasingly persecuted for saying things political elites do not want to hear. Across the OSCE region, participating States attempt to limit access to public interest information, both on current developments and on crimes committed in the past, and limit freedom of expression.

Since the emergence of the Russia-Ukraine conflict, participating States increasingly engage in propaganda and hate speech through controlled media. Unfortunately, participating States standing for freedom of expression have not yet found an adequate answer to propaganda and hate speech flowing across borders. Adequate legislation concerning hate speech exists in many countries, but it does not influence its existence in practice. Propaganda encourages hatred, divisions and clashes of peoples, and its consequences are deep and long-lasting.

Particularly pressing are problems related to media financing and ethical standards of journalism. In a number of countries in the OSCE area, ownership is not sufficiently diverse to guarantee pluralism of content in the media. Media that practice responsible and high quality journalism can easily be punished and cut off from financial flows.

Civil society groups believe that it is necessary for OSCE participating States to reaffirm human dimension commitments on freedom of expression and media freedoms. Unfortunately, participating States have failed to adopt a relevant decision at the last several Ministerial Conferences, abusing the consensus rule.

Civil society organisations consider preservation and strengthening of the most efficient OSCE independent institution, the Representative on Freedom of the Media, to be of the outmost importance.

Recommendations

Access to information

1. The right of access to information is closely linked to the notion of “public interest”. Most often, a need to adopt legislative guarantees for the access to information depends on whether certain categories of information are defined as “public interest information” in law. Many OSCE participating States do not have a definition of “public interest” in the national legislation; categories of “public interest

information” are not defined either. **OSCE institutions** should elaborate and adopt guidelines setting out the criteria for defining certain categories of information as “public interest information” (e.g. environmental issues, human rights issues, budget spending, government tenders and purchases, etc.), access to which should be legally guaranteed and cannot not be restricted. **OSCE participating states** should adjust their legislation accordingly. National legislation should guarantee the public’s and journalists’ right to unhindered access to and distribution of public interest information.

2. Most violations of the right of access to information happen when members of the public send written inquiries for information to government agencies. Such requests are very often ignored, turned down, or responded to incompletely and late. At the same time, a number of OSCE participating States have introduced the positive practice of maintaining websites where members of the public can get information without sending inquiries. Therefore, **OSCE guidelines**, should they be elaborated, should define the necessary minimum of information that should be published on government websites, including their contact details, structure, statistics, decisions they have adopted, a description of complaints procedures, etc.
3. **OSCE participating States** should provide a safe environment for all information seekers. It is unacceptable to threaten journalists and citizens with legal persecution for asking questions and making requests for information about issues governments consider sensitive, first and foremost in cases related to corruption.
4. **OSCE participating States** should harmonize Right to Information Laws with other legislation setting out precise criteria for which documents can be classified as confidential, in order to avoid arbitrary interpretations and retroactive inclusion of documents in the “classified” category.
5. Documents on human rights violations, particularly regarding excessive use of force by representatives of the state against citizens, should never be classified as confidential. **OSCE participating States** should provide access to their archives containing documents about crimes from the past and mass human rights violations.
6. Whistleblowers should be protected upon sharing information of public importance with the public. **OSCE participating States** that do not have whistleblower protection legislation should adopt it as soon as possible. Strict implementation of such laws is a key prerequisite for freedom of expression, media freedom and protection of public interests.
7. Access to information should be ensured not only in law but also in practice. In most OSCE participating States members of the general public have little or no knowledge about their right of access to information. Therefore, **OSCE institutions** should develop public education programs regarding the right of access to public interest information. These programs and projects should go beyond a traditional circle of journalists and activists and reach out to a broader audience.

Media pluralism

1. State support for media covering public interest issues should be increased. This should not take the form of support to help them survive, but instead should address audiences’ needs for high quality content.
2. State media policy should aim at strengthening non-profit media. Quality print media should be given tax relief, and media with substantial news, documentary and educational programs should be given discounts on license fees.
3. All public media support funds must be transparent so that they are not used by governments in an arbitrary way.
4. **OSCE participating States** should provide independent media with financial and technical assistance, in particular the analytical media, in order to narrow the gap between journalists and “microphone holders” i.e. media outlets’ employees who only transmit statements without critically engaging with the content of messages, especially when related to politically sensitive issues, socially marginalized groups, or discriminatory speech.

5. Laws on advertising should specifically regulate state advertising. It is imperative to harmonize national legislation with international norms in this field as soon as possible.
6. **OSCE participating States** should develop initiatives to reduce the growing social insecurity of media professionals who are often denied common social benefits due to the nature of their contracts or their free-lancing. This has a drastic, negative impact on media pluralism and freedoms. This is not only the case in transition countries, but also in the EU member states. Open dialogue with journalists and media employees is needed, which should lead to the adoption of relevant legislation.
7. An independent mechanism should be established to monitor media legislation and practice at the national and sub-regional levels. In addition to monitoring developments and producing reports, such a mechanism would also provide recommendations for improving media pluralism and monitor their implementation. In this respect, the experience of the EU's Media Pluralism Monitor (MPM) is worth studying. The MPM is designed to identify potential risks to media pluralism in the member states. Testing of indicators for detecting risks to media pluralism is in progress in six EU member states.
8. **Office of the OSCE Representative on Freedom of the Media** should produce guidelines on the principles of editorial independence. It should also assist OSCE participating States to implement OSCE, EU and Council of Europe media standards. **RFoM, ODIHR and the OSCE High Commissioner on National Minorities** should also organize related trainings for journalists and citizens and develop strategic programs to develop tolerance for different opinions.

Countering hate speech and propaganda

Countering hate speech

1. **OSCE participating States** should apply/implement the Rabat Plan of Action, adopted by the Office of the UN High Commissioner for Human Rights in 2012, and give particular attention to the following aspects of the Plan:
 - states should be guided by references to Article 20(2) of the ICCPR in their domestic legislation; this legislation should include precise definitions of key terms like hatred, discrimination, violence and hostility in order to show that the law only targets incitement.
 - an independent judiciary should ensure consistent interpretation of hate incitement, assessing it through a comprehensive threshold test. The Rabat Plan of Action refers to a six-part incitement test and provides a clear blueprint for what incitement laws should look like and how they should be interpreted.
 - the Rabat Plan of Action should not be interpreted in a restrictive way as it covers only religious, ethnic and racial grounds for hate speech; it should be interpreted in an inclusive way and be applied to other protected grounds such as gender, sexual orientation, and gender identity.
 - criminal sanctions should be applied only in the most severe cases, and States should apply a broad set of non-criminal measures to sanction and prevent incitement to hatred. These include policies that promote intercultural dialogue; pluralism and diversity; and positive measures for the protection of minorities and vulnerable groups.
2. **States** should repeal blasphemy and defamation of religion laws; these laws are incompatible with the rights to freedom of expression and belief.
3. One of the key mechanisms in countering hate speech in the media is self-regulation. It is necessary to improve media codes of conduct given that existing ones have not produced adequate effect. Ethical standards should be more vigorously implemented in order to regain the dignity of the profession. Civil society organizations should be engaged in the creation of such codes, as their expertise and experience can greatly enhance such documents.

Countering propaganda

1. Propaganda is not a part of freedom of expression and is not protected by relevant international norms. It abuses both journalistic standards and freedom of expression, negatively affects the right to life and other important rights and freedoms, and should be treated accordingly.
2. All cases specific when media outlets replace journalism with propaganda inciting to war and hatred should be handled through court proceedings, according to national and international legal frameworks. Governments of OSCE participating States should not shut down media and persecute or expel media workers on the basis of arbitrary accusations of propaganda. An independent judiciary is a necessary precondition for effectively countering propaganda.
3. Relevant international bodies, for example, the OSCE RFoM, CoE CHR and UN SR on FoE, should start a discussion aimed at elaborating a definition of propaganda. Specifically, they should look at whether all propaganda cases are covered by definitions of war incitement and incitement to hatred or if additional criteria for a definition are needed. Once adopted, this definition could and should be used in legal proceedings. Elaborating a definition and adopting additional early warning mechanisms would significantly contribute to the prevention of propaganda's influence and any resultant loss of human lives.
4. The existence of independent and pluralist national and international media is still the main tool for combatting propaganda. Therefore, media independence and diversity should be actively promoted. In cases when independent national media has to operate from exile, host countries and the international community should provide all possible support, as this media has the best expertise in dealing with the realities of their native countries.
5. Propaganda coming from a certain country is often intended for both internal and external consumption. Its impact on all targeted audiences should be considered, when planning measures to combat propaganda.
6. It is necessary to improve media literacy through national and international programs because only informed, media-literate citizens can make informed choices.
7. Upon the end of a violent conflict, it is important to open dialogue in the involved societies about its causes and the role of the media in the conflict. In so doing, long-term consequences of propaganda can be prevented.
8. Negative stereotypes contribute to the development of propaganda that incites violence against the people described by these stereotypes and dehumanizes them. It is therefore important to develop educational programs whose purpose is to deconstruct such stereotypes and combat hate speech.
9. Vigorous implementation of ethical standards is necessary after a conflict to sideline journalists and media that contributed to the conflict. In the most severe cases, criminal prosecution and even lustration is necessary, according to the model which was used after the genocide in Rwanda.

Selected recommendations from the workshop “Developing OSCE approaches to the prevention of torture and enforced disappearances”

These are selected recommendations from the workshop “Developing OSCE approaches to the prevention of torture and enforced disappearances” which was organised by the Civic Solidarity Platform in Warsaw on 17–18 September 2015 with support of the Chairmanship Troika. The workshop brought together specialised NGOs, representatives of the Troika, OSCE/ODIHR, the OSCE Secretariat and other relevant OSCE bodies. The full report on the workshop in Warsaw is included in the Annex on page 31.

Torture continues to be among the most serious problem in many OSCE participating States. In some countries and regions, torture is widespread and systematic and is practiced with impunity. Prosecution rates against perpetrators are shamefully low. Even where there are bona fide attempts at prosecution, these are often undermined by the lack of adequate safeguards and by corrupt, obstructive and non-transparent investigative mechanisms. Civil society actors believe that OSCE participating States and institutions should do much more to address this major problem. Civil society actors also believe that special attention should be paid to identifying ways to include the issue of enforced disappearances in OSCE work. The failure of OSCE and other international organisations to address numerous past cases of enforced disappearances in the region has created an atmosphere of impunity and a breeding ground for the commission of new crimes.

Driven by these concerns, participants of the OSCE Parallel Civil Society Conference in 2013 in Kiev adopted a document entitled “The Kiev Declaration: The OSCE Should Make Combatting Torture a Priority”, calling for more resolute OSCE action to address the problem of torture, and recommending several concrete steps. This appeal resonated with the position of the incoming Swiss Chairmanship, which included combatting torture among its thematic priorities for 2014. As a result, OSCE began to work more actively on torture in 2014. It was most unfortunate that the participants of the Ministerial Council Meeting in Basel in 2014 failed to adopt a decision on combatting torture, though it gained the support of an overwhelming majority of participating States.

Participants of the workshop in Warsaw discussed earlier civil society recommendations and draft Ministerial Council meeting decisions, choosing the most important and feasible recommendations and identifying ways of implementing them, focusing on those that can be implemented in the next 2-3 years.

General recommendations

To the OSCE Chairmanship-in-Office

- Incoming Chairmanships-in-office should ensure that the fight against torture is a priority for the organisation.
- The OSCE Chairmanship should oversee the preparation of updated OSCE commitments on eradicating torture that would include enforced disappearance as a form of grave human rights violation and torture.
- The OSCE Chairmanship should task OSCE ODIHR to produce a baseline study on the situation with torture in participating States and the necessary steps for its eradication, including its prevention, prosecution and redress, including rehabilitation. The baseline study should identify shortfalls and gaps as well as best practices.
- The OSCE Chairmanship should develop an OSCE strategy outlining measures to eradicate torture in participating States, including monitoring of places of deprivation of liberty, prevention, investigation

and documentation, prosecution, and ensuring redress, including reparations and the right to rehabilitation.

To OSCE political bodies and institutions:

- The OSCE Secretary General should improve coordination among all OSCE bodies with the goal of streamlining torture prevention in activities in all dimensions and ensuring transparency of all activities conducted by OSCE institutions and field presences.
- OSCE ODIHR should aim at making the newly established Focal Point on Torture Prevention a permanent programme and seek support from participating States towards this goal.
- To support the work of the newly established Focal Point on Torture Prevention, OSCE ODIHR should establish an expert panel on combating torture, similar to the expert panel on freedom of peaceful assembly. The panel should meet at least twice a year to assess relevant laws and practices in participating States, monitor progress and give advice on implementation by participating State of their commitments on eradication of torture.
- OSCE/ODIHR should conduct a baseline study on the situation with torture in OSCE participating States, including its occurrence, prevention, prosecution, and redress. The baseline study should identify shortfalls and gaps as well as best practices.
- OSCE/ODIHR should collect and disseminate best practices on prevention of torture and enforced disappearances across the OSCE region.

To the OSCE participating States:

- Provide support to the newly established Focal Point on Torture Prevention at OSCE ODIHR including through political endorsements, extra-budgetary funding, seconding personnel, and practical cooperation.

Safeguards

To the OSCE participating States:

- Ensure that any deprivation of liberty is properly documented in accordance with procedures prescribed by law.
- Guarantee that alleged victims of torture and inhuman and degrading treatment have unhindered access to quality legal assistance, which should, where relevant, be offered free of charge.
- Ensure that adequate medical services are available to all detainees at all times and that medical personnel working inside detention facilities are trained on application of the provisions of the Istanbul Protocol.
- Guarantee access to alternative forensic examination to any alleged victim of torture and ill-treatment and ensure that the findings of such examination carry equal weight under domestic procedural legislation.

To OSCE/ODIHR:

- Identify and promote best practices for the effective use of safeguards in the participating States.

Transparency of detention places

To the OSCE participating States:

- Guarantee the effectiveness of their National Preventive Mechanisms and ensure they enjoy full functional, institutional and personal independence and benefit from adequate human and financial resources.

- Ensure that other oversight mechanisms, such as Public Monitoring Commissions, enjoy the functional and personal independence necessary for effective implementation of their mandates.

To OSCE/ODIHR:

- Strengthen the capacity and effectiveness of detention monitoring mechanisms by:
 - a. collecting baseline data on models and methodologies of monitoring, including reprisals mitigation measures, follow-up to recommendations, and the impact of monitoring;
 - b. supporting the codification of best practices;
 - c. facilitating the dissemination of best practices, including through training;
 - d. facilitating annual peer-to-peer exchanges between National Preventive Mechanisms from the OSCE region and regular meetings between all detention monitoring bodies including National Preventive Mechanisms. Consideration should be given to the establishment of a platform for this purpose;
 - e. facilitating regular exchanges between all stakeholders involved in preventive monitoring.

Torture and law enforcement

To the OSCE participating States:

- Take legislative and practical steps to ensure the prevention of torture and ill-treatment during the policing of demonstrations, including by introduction of a requirement that officers policing demonstrations wear name tags and of mandatory human rights training programmes for police and personnel working in places of detention.

To OSCE/ODIHR:

- Conduct follow-up assessment to assess how police at the national level follow recommendations made during OSCE police training programmes.
- Include work on professional standards of law enforcement performance (analysing best practices, elaborating standards and assisting in their introduction in participating states) as one of the tasks of the Focal Point on Torture Prevention and an expert panel on combating torture, should it be created.

Investigation

To the OSCE participating States:

- Establish effective procedures to provide alleged victims of torture and inhuman and degrading treatment with unhindered access to legal procedures that will lead to the identification and punishment of perpetrators.
- Guarantee full independence of bodies responsible for investigating alleged cases of torture and inhuman and degrading treatment.
- Ensure that relevant investigative authorities are properly staffed and have necessary material and financial means to properly carry out their mandate.

To OSCE/ODIHR:

- Facilitate identification and promotion of advanced and outcome-oriented practices of investigation of torture and inhuman and degrading treatment.
- Systematically examine and evaluate relevant provisions of existing and draft laws that deal with the investigation of torture.

Medico-legal investigation and documentation of torture and ill-treatment

To OSCE/ODIHR:

- Include in its baseline study on the situation of torture in participating States an assessment of the mechanisms existing in participating States to investigate and document torture.
- Promote the standards and principles of the Istanbul Protocol and apply them throughout its existing human rights, fair trial, and justice reform work, including by focusing on the need to involve medical and psychological professionals in the prompt, effective, and impartial investigation of torture cases.

Redress and rehabilitation of victims of torture

To OSCE/ODIHR:

- Include in its baseline study on the situation of torture in participating States an assessment of the steps taken by each State to ensure full implementation of torture victims' right to rehabilitation.
- Promote torture victims' rights to holistic rehabilitation as an essential component of the rights and needs of torture victims and apply these standards throughout its existing human rights, fair trial, and justice reform work. This should include providing adequate funding to provide all torture victims with accessible and appropriate rehabilitation services, including medical and psychological support, social and economic reintegration and legal and judicial remedies.

Enforced disappearances

To OSCE political bodies and institutions:

- OSCE political bodies, institutions and participating States should start working without delay on drafting an explicit OSCE commitment on enforced disappearances with the aim of adopting such a commitment in the nearest future. The OSCE Chairmanship should take the lead in this process.
- Even before an explicit OSCE commitment on enforced disappearances is adopted, OSCE political bodies, institutions and participating States should review and update the existing OSCE commitments related to torture, and in the process recognise enforced disappearance as a crime and a form of torture.

To the OSCE participating States:

- All OSCE participating States should ratify without any further delay the International Convention for the Protection of All Persons from Enforced Disappearance and recognise the competence of the UN Committee on Enforced Disappearances.
- Enact domestic legislation criminalising enforced disappearances based on the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance;
- Take all necessary steps in law and practice to combat enforced disappearances, effectively investigate allegations of enforced disappearance, bring perpetrators to justice and provide proper compensation to the victims and their families.

Self-Evaluation of Implementation of Human Dimension Commitments in Serbia: Perspective of Serbian NGOs

This chapter has been produced by the CSO Coalition for monitoring Serbia's OSCE Chairmanship. It provides a perspective of Serbian NGOs on lessons learned in the course of self-evaluation of implementation of human dimension commitments in Serbia in 2015, their recommendations on making the self-evaluation process more effective, and summaries of the reports made by Serbian NGOs in the framework of self-evaluation, including recommendations on improvement of implementation of human dimensions commitments in this country.

During the Swiss OSCE Chairmanship a new mechanism of self-evaluation of the implementation of the OSCE human dimension commitments by the country holding the OSCE Chairmanship was introduced. Initially, the idea of self-evaluation was proposed by the Civic Solidarity Platform in 2013 and offered to the incoming Swiss Chairmanship along with civil society proposals on possible goals and formats of self-evaluation. The Swiss Chairmanship accepted the proposal and took the new mechanism on board. The methodology was developed by the Swiss Centre of Expertise in Human Rights (SCHR), an analogue of the National Human Rights Institution in Switzerland, which was given authority to carry out this process in Switzerland.

According to the methodology applied by Switzerland in 2014 and followed by Serbia in 2015, the process of self-evaluation consists of three parts: a report by independent institutions, comments by civil society organisations, and responses by the relevant ministries and government offices. The process is carried out with the aim of improving the implementation of OSCE human dimension commitments in the country, holding the OSCE Chairmanship, thus serving as a model to other participating States.

The CSO Coalition for monitoring Serbia's OSCE Chairmanship welcomes the decision of the Serbian Government to apply a new mechanism for self-evaluation of the implementation of the OSCE human dimension commitments during its OSCE Chairmanship in 2015. The Serbian Government assigned the Institute of Social Sciences and the Commissioner for Gender Equality the task of making the report and accepted the comments made by the CSO Coalition. The Coalition expects that the Serbian Government will publish a complete report with comments of the relevant ministries and institutions of the Serbian Government to the two reports produced by the independent institutions and CSOs and will organise a special event to present it.

The CSO Coalition for monitoring in Serbia is comprised of the Helsinki Committee for Human Rights in Serbia (coordinator), Lawyers' Committee for Human Rights – Yucom, Forum for Ethnic Relations, Public Policy Research Centre and the Humanitarian Law Centre. Some parts of the report were prepared by other non-governmental organisations, including the Autonomous Women's Centre in consultation with ASTRA – Action against Human Trafficking, Women Space, and Dea Dia Association.

The experience of the Swiss NGO Working Group OSCE which produced the non-governmental part of the Swiss self-evaluation report in 2014 was very valuable for civil society organisations in Serbia. During the self-evaluation process in Serbia, several challenges have emerged:

1. Selection of topics

Selection of topics for the report posed one of the greatest challenges. Serbia adopted the Swiss methodology of self-evaluation, which had certain limits in terms of topic selection. Namely, according to the methodology, the topics selected for reporting should have already been covered in the reports produced by the OSCE institutions over the past five years. This allows using the already available data for analysis as opposed to engaging in a new research, which would require time and resources. This approach also ensures that the chosen topics and relevant data correspond to the OSCE commitments. However, key human dimension-related problems in any OSCE participating State are not always covered in the reports produced by OSCE institutions. This depends in large measure on the local context. In addition, some reports, produced several years ago, do not adequately reflect the current situation.

Recommendation: In our opinion, the methodology used in the process of self-evaluation regarding selection of topics should be improved. In the case of Serbia this has not been done: Serbia followed the methodology used by Switzerland in 2015. Some topics chosen as priorities by Serbian NGOs did not coincide with the topics chosen by the Serbian independent institutions in consultations with the Taskforce of the Serbian OSCE Chairmanship. Therefore, as a compromise, reports of Serbian NGOs on these additional topics were included as an Annex to the report of independent institutions and made available for comments by the relevant ministries.

2. Timeframe

Recommendation: We share the opinion of the Swiss NGO Working Group OSCE that the report should be prepared shortly before the start of the OSCE Chairmanship term, so that the year of the mandate can be used to start implementing recommendations and to monitor the implementation.

3. Monitoring the implementation of the recommendations given in the reports of independent institutions and civil society organisations

Recommendations: Should the full report be published at the beginning of the Chairmanship term, the year of the Chairmanship could be used for the implementation of recommendations and the related NGO advocacy. After the completion of the Chairmanship, it would still be necessary to continue monitoring the implementation, since one year is not sufficient for the implementation of recommendations and for the monitoring, especially if the report is submitted at the end of Chairmanship.

We propose that the self-evaluation process becomes a permanent practice of the OSCE Chairmanship.

The first part of the NGO self-evaluation report contains the comments made by the Serbian CSO Coalition on the four topics defined by the State using the Swiss methodology: the right to peaceful assembly, elections, gender equality, and the status of Roma. The comments were made on the basis of the reports prepared by a research institution – the Institute of Social Sciences, and an independent body – the Commissioner for Gender Equality.

The CSO Coalition holds that analysis of the implementation of the OSCE commitments in these particular areas as well as the formulation of recommendations are of utmost significance. However, the CSO Coalition insisted on three additional topics: freedom of expression, situation of ethnic minorities, and security of human rights defenders. During the CSO consultations in 2014 these topics were chosen as priority ones and relevant for Serbia in the human dimension. Over the past few years, one could observe the trend towards violation of international norms, especially the OSCE commitments, as well as the insufficient

implementation of relevant legislation. The Ministry of Foreign Affairs did not entrust independent institutions with the preparation of reports on these additional topics. However, as stated above, it included the NGO reports as the Annex on which the Serbian Government should give its comments.

The following text presents the summaries of the reports made by civil society organisations. The full text of the civil society reports will be published soon.

Gender Equality

The unemployment rate for women (24.6%) is higher than that for men (21.7%), and continues to rise. There is a higher unemployment rate for women coming from marginalised social groups compared to the general population. Families with women breadwinners, particularly those less educated, run a higher risk of poverty. Elderly, unemployed women and single mothers having finished elementary schools only, women in underdeveloped areas, Roma women, women with disabilities, and countrywomen are the biggest losers in the process of economic transition, since they are least likely to get jobs.

Women are still underrepresented in decision-making positions, especially at local level: only 29% women are deputies and only 5% are presidents of municipalities/mayors. Local gender equality mechanisms do not have continued activity, clear programmes of work, allocated funds or publically available progress reports that would indicate their results.

Serbia has formally demonstrated an interest in addressing the problem of violence against women, but the operational implementation of the measures adopted to that end is full of weaknesses. National Strategy for Prevention and Elimination of Domestic Violence against Women and by Intimate Partners was adopted in 2011 but an action plan for its implementation has never been developed. Punishments for domestic violence have become more severe, but there is an apparently high disparity between the number of police interventions, reported crimes and sentenced persons. CSO note a continuing escalation of the number of women killed, which has not been addressed adequately. The number of measures by law enforcement bodies requiring the eviction of the domestic abuser from the family's residence is quite low. Although domestic violence cases call for urgent action, court hearings are frequently delayed. The General protocol on cooperation between institutions in the violence against women area and special protocols for health, social services, police and legislation have been adopted; in many communities, local services have signed agreements on cooperation, but this has not had a positive impact on the situation.

Sexual violence against women and girls continues to be a taboo topic: in 2014, only 60 persons (all men) were convicted of rape and a total of 167 persons (including 9 women) were sentenced for all other acts violating sexual freedom. There are neither general nor specialised protocols concerning the treatment of victims of violence. There are also no specialised free services for victims of rape and other sex crimes.

The latest version of the Strategy on Combating Trafficking in Human Beings was published in 2011, whereas a new strategic document has not been adopted. In 2014, there were 125 identified victims of trafficking in human beings, out of which 19 victims were underage, indicating an increase of 26% as compared to the previous year. Experts believe that official figures do not reflect the actual situation, particularly regarding sexual exploitation and trafficking of women. The present laws do not incorporate provisions against the prosecution and penalisation of victims of trafficking.

NGOs have made numerous **recommendations**, including on the need to ensure efficient investigations and judicial proceedings, full protection of victims, application of sanctions commensurate with the severity of the crimes committed, and effective implementation of measures of protection against domestic violence.

They also recommend the government to incorporate the concept of multiple discrimination into relevant laws and by-laws; coordinate measures and activities envisaged by various national strategies, allocate relevant budgets for their implementation; establish a system of monitoring and assessing impacts, and ensure that reports on their implementation are available to the public; ensure full and equal participation of women in political and public life, including in executive branches at all levels; envisage sanctions against political parties not complying with the Law on Gender Equality; increase responsibility of government officials at all levels for the implementation of anti-discriminatory laws and policies, including international treaties ratified by Serbia.

Elections

Early elections for parliament and several municipalities held over the past two years show a number of inconsistencies in the implementation of OSCE recommendations on free and fair elections. During the past two years, in several municipalities where the political party in power was not the same as the one at the national level, local assemblies were dissolved and early elections were held. In the CSO Coalition's view, the decisions on the dissolution of assemblies were mostly arbitrarily made for political reasons.

During 2014-2015, the early elections were accompanied by reports of incidents and irregularities.

The procedure relating to the protection of voting rights is characterized by formalism, coupled with short deadlines for submission of inquiries for legal remedies. For this reason, certain legal remedies are rejected as being impermissible or untimely, while evident violations are not eliminated.

During the last campaign in early parliamentary elections (2014), the media reports were dominated by promotional discourse with the elements of propaganda in favour of the ruling parties that eventually won the elections once again.

After the last elections, the legal framework regulating the financing of political parties and electoral campaigns was changed. The percentage of the state budget earmarked for political parties was reduced. However, the opportunity to act upon all OSCE recommendations on elections was missed. In particular, this concerns the separation of financing of electoral campaigns from financing of regular political activities.

The Law on the Election of Members of Parliament limits the right of ethnic minority parties to participate in parliamentary elections because it stipulates the same number of signatures needed for the registration of candidate lists of minority political parties and those of all other political parties. In the legal system of Serbia, there are no adequate measures to enable members of ethnic minorities to represent their interests in the work of representative bodies. It is necessary to change the Law on the Election of Members of Parliament with respect to the number of signatures needed for the registration of the lists of ethnic minority parties.

Freedom of Assembly

The Republic of Serbia has demonstrated inconsistency in observing the priorities of Serbia's OSCE Chairmanship in the field of human dimension insofar as the freedom of assembly is concerned. The Law on the Assembly of Citizens ceased to be in effect on 23 October 2014, pursuant to the decision of the Constitutional Law of Serbia declaring it unconstitutional. The Ministry of Internal Affairs failed to prepare a new draft law on freedom of assembly in an inclusive and transparent process within a reasonable time. The Ombudsman of the Republic of Serbia has stated that the non-existence of legal framework for freedom of assembly represents the oversight of the Ministry of Internal Affairs.

A draft Law on Public Assembly was only made public in October 2015. Its provisions are not in accordance with the OSCE/ODIHR Guidelines on the Right for Peaceful Assembly, since it requires a permit to hold an assembly and imposes too onerous obligations on organisers of public assemblies. In addition, penalties for violations are disproportionately high.

We propose the elaboration of a new draft law on freedom of assembly, which would be in conformity with the OSCE/ODIHR Guidelines. It is also necessary to identify, analyse and amend, where necessary, other regulations leaving a room for restrictions on freedom of assembly. This refers specifically to the regulations governing the establishment of municipal order, which falls within the competence of local government units, as well as the Law on Public Peace and Order and the Law on Road Traffic Safety. Transparency in the work of the Ministry of Internal Affairs and local government units should be increased.

The status of the new law on assemblies should be clearly defined as a primary one in relation to other laws touching upon this field. A new draft law should be elaborated in consultations with civil society. Government should request assistance from the ODIHR Legislative Unit for analysis of the draft.

The Status of Roma

The international commitments assumed by Serbia, political context of the Decade of Roma Inclusion, development of anti-discrimination legislation and independent institutions in Serbia, and the adoption of the Strategy for Improving the Status of Roma 2009-2015 have contributed to the development of inclusion measures and improvement of the overall status of the Roma community in Serbia.

However, Roma people are still among the most vulnerable groups, while the number of them living in abject poverty has actually increased. According to the Roma Inclusion Index (2015), about 40% of members of this community in Serbia experienced discrimination; the Roma population often faces hate speech and threats that have not been investigated and sanctioned due to, among other reasons, the insufficient identification of hate speech by the police. Among the Roma population there is a widespread perception of institutional discrimination, which is especially reflected in a more difficult access to social protection, racist speech on the part of public officials, and the failure of school staff to act when Roma children are endangered. Discriminatory treatment of Roma includes segregation, which was demonstrated during the provision of temporary accommodation after the floods in Serbia in 2014, as well as a threat that persons whose asylum applications were rejected in EU member countries in 2015 will permanently lose social assistance. This community is especially exposed to labour exploitation, begging, forced marriages and other manifestations of human trafficking. Existing measures for combating domestic violence, the empowerment and participation of Roma women, as well as support for children are insufficient. Over the past years, forced evictions have often been accompanied by a failure to provide adequate alternative accommodation, compensation or legal remedies, which constitutes non-compliance with relevant international standards.

It is necessary to pay special attention to security of the Roma population (especially when they come to a new environment and face resentment by local residents there) and to migratory trends, in particular, to potential problems associated with the return of a large number of Serbian citizens currently having no legal status in the EU member states, according to the readmission agreements between Serbia and these countries.

Recommendations: It is necessary to prevent discrimination and combat hate speech by resolute action on the part of the competent judicial, security and other law enforcement and political structures. It is also

necessary to further develop and improve the mechanisms of social inclusion of Roma, using the effective health mediation mechanism as a model, and ensure continuity in the operation of such mechanisms.

The design and implementation of affirmative action measures concerning inclusion of Roma requires a precise formulation, detailed planning and allocation of resources, as well as the capacity development of public administration for the implementation of inclusive public policies and clear division of responsibility. It is especially important to adjust affirmative action measures for application at the local level as well as to work further on education and sensibilisation of employees in the public administration and local government bodies for the problems of Roma. Future measures and activities should especially take into account the need for empowering and improving the status of Roma women and girls as a multiply vulnerable social group, and should encourage Roma inclusion in the elaboration and implementation of the Roma-related policies.

Ethnic Minorities

Despite numerous legislative acts regulating the status of minorities, Serbia lacks a comprehensive strategy of minority integration policy. Formulating such a policy calls for an active approach on the part of the government, civil society and OSCE to achieving a political compromise on a vision and an effective strategy, including short- and medium-term development action plans as well as criteria for progress assessment and monitoring the effects of the undertaken measures.

The legal framework for minority protection in Serbia is primarily oriented towards the preservation of the specificities of minority communities; it is not sufficiently concerned with the strengthening of links among different communities, and is almost not concerned with majority-minority relations. Therefore, minority policy in Serbia has segregating effects, which is evident by the fact that the majority community and minority communities most often lead parallel lives.

The contents in the educational system of the majority population are ethnocentric. There is very little or no knowledge about the culture of other ethnic groups (which they should include according to the letter of the law), while the language of the minority community is not part of the teaching programme in Serbia any more. In essence, the educational process (both in Serbian and in minority languages) still does not contain the instruments for the deconstruction of ethnic prejudice and stereotypes, as well as for the overcoming of inter-ethnic divisions.

The state does not take necessary measures to increase the presence of ethnic minority members in public administration bodies.

Recommendations: For the purpose of minority integration, it is necessary to initiate a public debate on the models of bilingual teaching, promote the learning of the language of the minority community among the majority population, and improve the learning of Serbian language as a non-mother tongue by members of ethnic minorities.

It is also necessary to establish the Ministry for Human Rights, Minority Policy and Integration, which would assume the leading role in formulating and implementing minority policy and monitoring of its implementation, and will develop the instruments that facilitate the integration of minorities into society.

The role and status of ethnic minority councils should be more clearly defined in Serbia's legal system.

Media Freedoms

Despite progress in a formal legal sense, since three media laws were adopted in September 2014, the media scene is practically burdened by direct and indirect pressures on media owners and/or editors and journalists. The consequences include insufficient supply of diverse information to the public, suffocation of media pluralism and (self-) censorship.

Censorship is forbidden by the Constitution and the Law on Public Information, but sophisticated mechanisms of control over the media and pressure on journalists exist in the country. Their detailed description is given in several publications, including two Anti-Corruption Council reports.³ The latest report, published in March 2015, showed that more than half of the media outlets have no clearly visible owner. It stated that the media owned by ministers, politicians or their family members are funded with taxpayers' money. There is also no credible advertising law, which is indispensable because the greatest influence on the media is exercised through advertising agencies being under the influence of political parties.

The media and journalists that criticise the government and government officials, like the weekly magazine *Vreme* and web portals BIRN, KRIK and CINS, are especially exposed to pressure. They are subjected to brutal campaigns in the pro-government media and accusations that they work for foreign governments and plot to depose the Serbian Prime Minister. The pro-government media have regularly published the amounts of donations made to the independent media and listed the media receiving international assistance in order to discredit them.

Physical attacks still pose a threat to the safety of journalists. Editor of the "Insider" TV show Brankica Stankovic, who blew a whistle on some of the most important social issues, has been under a 24-hour police protection for six years already. The broadcaster B92 suspended her latest "Insider" show after its first episode in March 2015 exposed corruption in sports clubs. Correspondent for *Fonet* News Agency Davor Pasalic was beaten up on 3 July 2014 and his assailants have not been identified.

In Serbia three journalists, Dada Vujasinovic (1994), Slavko Curuvija (1999) and Milan Pantic (2001) were murdered. The trail is underway only in the case of Curuvija. According to the indictment, Curuvija was murdered "to keep political power in the country, endangered by his contacts with opposition leaders and foreign organisations"⁴. However, those who ordered his killing are still listed in the indictment as unknown persons. As long as those who ordered crimes are not prosecuted, these cases cannot be considered solved⁵. In the case of journalist Dada Vujasinovic, it was decided to carry out another forensic investigation because of serious doubts about the official version, which claimed that the journalist had committed suicide. Murderers of Milan Pantic have still not been identified and the investigation is still ongoing.

Serbia has not made any norm-setting steps in promoting and protecting human rights in the digital age, and the problems with freedom of expression online faced by the media and members of the public are multiplying. In its monitoring report (January - April 2015), the Share Foundation stated that there was a large number of technical attacks against online media without an adequate response by the competent authorities.⁶ OSCE participating states should commit to working more seriously on identifying the perpetrators of technical attacks against online media, in order to send a clear message that they cannot get away with impunity.

³ Of 2011 and 2015, respectively.

⁴ Indictment for organised crime, *Danas*, 1 April 2015.

⁵ This approach is in line with the presentation by the OSCE Representative on Freedom of the Media at the conference "Protecting the safety and integrity of journalists in the OSCE region" in Belgrade, 26-27 March 2015.

⁶ See at http://www.shareconference.net/sites/default/files/u742/monitoring_izvestaj_jan-apr_2015_komplet_final2.pdf.

Security of Human Rights Defenders

Human rights defenders in Serbia run high security risks because of dealing with sensitive issues, the context in which they operate, because they belong to marginalised groups, or because they defend the rights of marginalised groups. Human rights defenders are exposed to brutal media campaigns in which they are stigmatised as the enemies of the state, national traitors, foreign lobbyists and hirelings, spies and extremists.

The persons being especially threatened are those who investigate war crimes, call for bringing those responsible for war crimes to trial, as well as those who investigate corruption among the ruling elite. Campaigns specifically target women – human rights defenders. The defenders of LGBT rights are also affected. Smear campaigns are also staged against professionals such as the representatives of independent institutions and the Ombudsman. High government officials, deputies and pro-government media have participated in vicious campaigns against the Ombudsman. Socially engaged artists are also increasingly targeted due to their critical attitude towards the government.

Non-governmental organisations still hold their events in the atmosphere of high tensions, serious threats by right-wing groups and in the presence of strong police force, the role of which is to protect the defenders.

Extreme right-wing organisations are only mouthpieces and the most visible proponents of attacks because a much wider range of actors participate in the creation of a hostile atmosphere – the media, public figures, intellectuals, the Serbian Orthodox Church, state officials (who remain silent about the attacks), etc.

The prosecution often does not react promptly to threats made against human rights defenders, and impunity of perpetrators of physical attacks against defenders is one of the most serious problems in the protection of human rights defenders. There is a noticeable lack of reaction by the Government of Serbia and its officials in relation to these attacks and in some cases officials and representatives of the ruling coalition directly participate in the campaigns against human rights defenders.

After the publication of the Humanitarian Law Centre's dossier in January 2015 on the alleged war crimes committed in Rudnica (Kosovo), a private lawsuit against the director of the Humanitarian Law Centre was filed. Among other issues, this dossier speaks about responsibility of the Chief of the General Staff of the Serbian Armed Forces. The relevant authorities missed the opportunity to investigate the allegations contained in the Rudnica dossier. Bringing indictments against human rights defenders for having expressed their views or issued reports violates the OSCE principles.

Recommendations: The government should undertake energetic proactive and preventive measures aimed at creating a secure and favourable environment in which human rights defenders can act without fear of reprisals. These measures should include conducting prompt, impartial and effective investigation of attacks against human rights defenders and bringing their perpetrators to justice and ending smear campaigns against human rights defenders and the Ombudsman in government-controlled media. The government should cooperate closely with OSCE/ODIHR to ensure implementation of OSCE/ODIHR Guidelines on Security of Human Rights Defenders.

Civic Solidarity Platform's Human Dimension Priorities for 2015

I. Themes for workshops and advocacy

1. Shrinking space for civil society and security of human rights defenders

Focus: Implementation of OSCE ODIHR Guidelines on security of human rights defenders and on freedom of association. Other relevant human rights commitments affecting ability of HRDs and CSOs to work will also be addressed (freedoms of expression, assembly, and movement; privacy/data protection; rights for fair trial, etc.).

Regional focus: Russia and Azerbaijan, countries of Central Asia, Belarus, Hungary, Turkey.

Advocacy: Work with German and Austrian OSCE Chairmanships, ODIHR and delegations of participating States to more actively and effectively address country situations and individual cases, including provision of up-to-date reports and information on specific cases to these interlocutors, raising these issues systematically at OSCE human dimension events, and following up on recommendations of the CSP workshop in Berlin in 2015 on improving mechanisms of implementation of OSCE human dimension commitments.

2. Migration

Focus: Implementation of human rights standards in the context of border regimes, asylum procedures (including prevention of torture and inhuman treatment), and protection against intolerance, xenophobia, hate crime and hate speech. Issues are relevant for all OSCE participating States; suitable moment for a comprehensive OSCE approach, including dialogue/ capacity building with participating States beyond EU member states involved in the refugee crisis.

Advocacy: Work with all OSCE institutions (including the first dimension) to focus on the human dimension and using the inter-dimensional approach, involving civil society in all phases and on all levels of programmes, monitoring projects and policies.

3. Freedom of expression

Focus: Follow-up to the 2015 Belgrade Declaration and the July 2015 CSP conference in Belgrade on freedom of expression. Focus could be on freedom of expression online, artistic freedoms, academic freedoms, as well as attempts to use "traditional values" as justification for restricting freedom of expression.

Advocacy: Work with RFoM, ODIHR, Chairmanships, and participating States. Support strengthening RFoM and its mandate in the year of change of leadership. Cooperation with German Chairmanship; the theme coincides with its priority.

4. "Military security"/peace and human rights as an inter-dimensional issue

Focus: Interconnectedness between human rights and conflict resolution in situations of conflict / war. Regional focus on Ukraine and maybe Western Balkans and emphasis on issues like fight against impunity for violations of human rights and international humanitarian law during armed conflicts, fight against torture/forced disappearances, reconciliation/ dealing with the past, role of the civil society; exploration of inter-dimensional perspectives as a new civil society approach.

General aspects for all workshops:

- Strong involvement of the OSCE institutions related to the issue
- Strong involvement of the Troika Chairmanships as well as Switzerland (as Chairman 2014 and sponsor of the first workshop series)
- Precise and impact-oriented objectives for the workshops.
- Formats with a maximum of interactivity and engagement of the participants.
- Intense preparation and follow-up work; funding for this should be included in the budget.
- Workshops in 2016 could combine thematic and regional focus.
- Gender equality is included/mainstreamed in all issues.

II. Themes for advocacy (no workshops)

5. Country-focused work

Format: Country-focused solidarity actions, monitoring missions and reports in response to human dimension crises and crackdowns on civil society.

6. Reforms of the human dimension mechanisms

Focus: Follow-up to the Berlin CSP workshop in July 2015. OSCE reaction to crises; expansion of monitoring by ODIHR; further development of voluntary reporting at the Human Dimension Committee; further development of self-evaluation of the Chairmanship countries; reform of human dimension events cycle, etc.

Format: Consultation meetings, papers.

7. Torture and enforced disappearances

Focus: Follow-up to the 2013 Kiev Declaration, 2014 regional workshops and 2015 Warsaw workshop.

Advocacy: Promotion of recommendations from the CSP documents of 2013-2015 in consultations with Chairmanships, ODIHR, participating States. Cooperation with the new ODIHR focal point on torture prevention.

8. Combating discrimination and xenophobia

Focus: Follow-up to the CSP workshop in 2015 and the 2014 Basel Declaration. Focus on LGBTI and migrants.



BELGRADE DECLARATION

FREEDOM OF EXPRESSION UNDER THREAT: A STRONG RESPONSE FROM THE OSCE AND ITS PARTICIPATING STATES IS VITAL

Adopted by the participants of the OSCE Parallel Civil Society Conference
Belgrade, 1-2 December 2015

The OSCE Parallel Civil Society Conference-2015,

MARKING the 40th anniversary of the Helsinki Final Act of 1975, in which OSCE participating States recognise the importance of the dissemination of information from the other participating States and with a better acquaintance with such information (...) Make it their aim to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries (...)"

RECALLING that Participating States have reiterated the right to freedom of expression multiple times, including in the concluding document of the Copenhagen Meeting of the Conference on the Human Dimension in June 1990, in which Participating States reaffirmed that "everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards."

EMPHASISING the importance of freedom of expression, both as a fundamental human right in itself, and as an enabling tool for the realisation of all other human rights and for democratic development,

EXPRESSES concerns about new challenges and increasingly complex threats to freedom of expression across the OSCE region, in particular about increasing use of aggressive propaganda, hateful and intolerant speech, and incitement to discrimination and violence as well as proliferation and abuse of anti-terrorism and anti-extremism laws, which unduly restrict freedom of expression and access to information and stifle independent voices. Protection of human rights in relation to digital technologies and artistic expression are being undermined, while media pluralism is in decline, as independent, professional media face growing legal restrictions, exacerbated by a concentration of media ownership or its control by ruling elites, and violent attacks on, and criminal prosecution of, journalists and bloggers.

NOTING that in the course of the past two decades, the digital technologies have fundamentally changed the way in which we share and access information across the OSCE region, from Cape Wrangell in the west to the Big Diomed Island in the east, providing a powerful tool for promoting and exercising the right to freedom of expression and information;

EXPRESSING concerns about efforts by some governments to restrict the right to freedom of expression in relation to digital technologies (such as through blocking, filtering and removal of content expressing dissenting or unpopular views), as well as the failure to recognise the unique nature of this medium, and emphasising the need to respect freedom of expression and other human rights in any efforts to apply legal rules to it. Harassment and prosecution of those expressing themselves online, mass surveillance and targeted surveillance of non-criminal online activity, including that of journalists and human rights defenders, exerts a chilling effect on freedom of expression. It has been used to identify and silence critical voices and threatens the vitally important guarantee of protection of journalistic sources. Attempts by States to ban or intercept anonymous communication significantly interferes with freedom of expression, undermining the ability of individuals to express themselves without fear of reprisal.

REITERATING the affirmation of the UN Human Rights Council and other international and regional bodies that the same rights people enjoy offline must also be protected online, particularly freedom of expression, regardless of frontiers.

FINDS that in times of violent confrontation and in its aftermath, States enter into a war of words, actively stimulating the production and supporting the massive distribution of highly biased or even falsified information and hateful discussion, often referred to as “propaganda.” This inhibits freedom of expression and hinders citizens’ access to impartial information. It creates divisions among OSCE States and populations, dehumanises opponents, and spreads messages designed to encourage conflict and justify violence, leading to destruction and loss of lives;

NOTING that well established international standards of restricting expression in the areas of public order and national security are being eroded in favour of vague and potentially very overbroad law which are then used to sanction expression on controversial issues and to persecute journalists expressing viewpoints contrary to those held by governments;

STRESSING the importance of the role of free and diverse media in informing societies about all matters of public concern, as well as the right of the public to be informed. Instead of seeking to control the flow of information, engaging in a game of propaganda and counter-propaganda, states should create an enabling environment for diverse and pluralistic media as the most effective antidote to propaganda and incitement to hatred and violence. They must recognise the importance and mutually reinforcing role in a democracy of such media and an independent, effective judiciary to protect freedom of expression;

CONDEMNING the instances of advocacy of incitement to violence, discrimination or hostility on various grounds present throughout the OSCE, both on and offline, and invoked by representatives of all layers of society, including prominent public figures such as politicians;

ACKNOWLEDGING at the same time that limiting debate about contentious issues will not address the underlying social roots of the prejudice that undermines equality and that open debate about the diverse cultures, values, traditions, beliefs and practices present across OSCE region is necessary to combat negative stereotypes of individuals and groups and exposing the harm created by prejudice, to promote inter-societal understanding and to combat hatred, discrimination and violence;

BELIEVING that the best manner in which to address hate speech and the prejudice of which it is symptomatic, is to ensure a narrow definition of what constitutes incitement to hatred, as proposed in the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence adopted by UN experts in 2012, while promoting positive counter expression, societal debate and strengthening policy measures that protect minority groups;

CONDEMNING the multitude of threats faced by journalists, bloggers and other communicators for exercising their right to freedom of expression – including legal, administrative and financial harassment, killings, death threats, arbitrary arrest and imprisonment, torture, physical abuse, legal and financial harassment and intimidation. Such harassment and persecution represents not just a crime against the individual involved but also against freedom of expression in general;

EXPRESSING grave concern that States are not taking adequate measures to prevent, investigate, prosecute and punish the threats and abuses outlined above, and in too many incidences are themselves complicit in violence, censorship and persecution perpetrated against those who exercise their right to freedom of expression;

RECALLS the Document of the Cracow Symposium on the Cultural Heritage of the CSCE Participating States (1991), in which participating States affirmed their respect for freedom of expression in the artistic and cultural fields;

EMPHASING the importance of artistic expression in shaping culture, heritage and identity, and its transformative effect and ability to challenge and change the way we view the world;

EXPRESSING CONCERN at attempts by States to suppress artistic expression through censorship and harassment of artists, musicians and writers. Under the guise of protecting ‘traditional values’, religious feelings, or traditional culture, such violations very often target minorities, human rights activists or political dissidents, whose expression is feared as it has the power to challenge the status quo;

GRIEVING the deaths of twelve innocent people at the offices of satirical magazine Charlie Hebdo in Paris on 7 January 2015, while expressing hope that, in the spirit of the magazine itself, this tragedy shall never prove the cause of restrictions on freedom of expression, including artistic freedoms, neither in the name of religion, nor in the name of national security;

NOTING the unique position of the OSCE to promote freedom of expression, given the fundamental importance of this right for ensuring respect for human rights and functioning democratic institutions, which form the cornerstone of the “human dimension” of comprehensive OSCE security concept;

WELCOMING AND HIGHLY APPRECIATING the work of the Representative on the Freedom of the Media in promoting this right and seeking to continue full cooperation with the office;

CALLING UPON the OSCE bodies and institutions and participating States to implement the following recommendations, developed by civil society from across the OSCE region, in order to ensure the right to freedom of expression and respond to the new challenges to the effective exercise of this fundamental freedom:

RECOMMENDATIONS

On strengthening the OSCE’s capacity to protect and promote freedom of expression:

- Participating States should reiterate and explicitly state their unwavering commitment to protecting, promoting and respecting the right to freedom of expression, by adopting a strong declaration on the promotion and protection of this right at the Ministerial Council. This declaration must include guarantees of the right to seek, receive and impart information and ideas of all kinds and across all mediums, and commitments to undertake all necessary reforms to bring legislation and practice in line with existing OSCE commitments and international standards on promoting and protecting this right.

- The office of the OSCE Representative on Freedom of the Media (RFoM) should be provided with full political backing of OSCE Chairmanships and enjoy effective cooperation by other OSCE bodies and institutions. The mandate of RFoM should be strengthened and protected from any attempts to weaken it. Sufficient financial resources should be provided to the office of the RFoM to allow it to effectively implement its mandate. Participating States should cooperate fully with the RFoM, in particular by extending standing invitations for country visits, responding to communications from RFoM in time and on substance, and effectively implementing recommendations contained in RFoM reports.

On online freedoms:

- Participating States should protect the internet as a space for open and public debate, by respecting that the established international standards regarding freedom of expression offline apply equally to online activity; and any legislation limiting online expression strictly conforms to international freedom of expression standards.
- Participating States must refrain from widespread, untargeted surveillance and data collection and adopt, comply with, and implement legislation that ensures any communications surveillance conforms to strict tests of legality, pursuing a legitimate aim, necessity and proportionality; is subject to strict judicial review by an impartial and independent judicial authority and strong independent oversight mechanisms to ensure transparency and accountability of communications surveillance.

On freedom of expression and countering propaganda

- Participating States must strengthen conditions for independent national and international media and ensure media pluralism, recognising that professional, free and diverse media is the most effective tool in countering propaganda. In cases when independent national media is operating in exile, host countries and the international community must ensure support to such media.
- Participating States must ensure that criminalisation of speech amounting to incitement to discrimination, hostility or violence, including cases of alleged propaganda, should fully comply with existing international freedom of expressing standards.
- Governments of OSCE participating States should refrain from introducing legislation which makes it an offence simply to exacerbate social tensions. They should not shut down the media and persecute or expel media workers on the basis of arbitrary accusations in incitement or propaganda. Any sanctions against the media and individuals should be applied only after a fair and public hearing by a competent, independent and impartial tribunal; the practice of summary justice in cases against the media should be abolished.
- The OSCE RFoM, in cooperation with other international mandate holders, such as the UN Special Rapporteur on Freedom of Expression, should start a discussion on how to counter State policies which restrict or prohibit independent media, in favour of supporting and actively stimulating the production and/or the mass distribution of highly biased or even falsified information and hateful discussion, often referred to as “propaganda”. They should consider whether an elaboration of a definition of propaganda would be useful for countering it on the basis of rule of law, rather than on arbitrary executive decisions or by engaging in counter-propaganda. Specifically, they should look at whether all propaganda cases are sufficiently covered by existing definitions of propaganda of war and incitement to hatred articulated in international law, or whether additional criteria for a definition of “propaganda” are needed. Elaborating a definition and adopting additional early warning mechanisms would significantly contribute to the prevention of propaganda’s destructive influence and loss of human lives.
- OSCE bodies, institutions and participating States should support initiatives targeting popular media literacy through national and international programmes. Negative stereotypes contribute to the

intolerance in the society and can lead to violence or discrimination. It is therefore important to adopt a broad range of comprehensive policy responses to tackle the root causes of prejudices and intolerance. They should develop and implement educational programs whose purpose would be to deconstruct negative stereotypes with a goal of countering intolerance, propaganda and hate speech.

- Participating states should recognise that professional and self-regulatory bodies have played an important role in promoting equality and intercultural dialogue. They should create an enabling environment to facilitate the voluntary development of self-regulatory mechanisms such as press councils, professional ethical associations and media ombudspersons.

On addressing the problem of hate speech and combating incitement:

- Participating States should ensure that all legislation on incitement fully complies with international standards on freedom of expression. In particular, such legislation should include precise definitions of key terms like hatred, discrimination, violence and hostility.
- An independent judiciary should ensure consistent interpretation of incitement, assessing messages through a comprehensive threshold test. The Rabat Plan of Action refers to six part incitement test as a way of achieving this and provides clear blue print for what incitement laws should look like and how should be interpreted.
- Criminal sanctions should be applied only in the most severe cases of incitement and States should apply a broad set of measures to sanction and prevent incitement. These include policies that promote intercultural dialogue, pluralism and diversity, and positive measures for the protection of minorities and vulnerable groups. States should involve civil society actors in development and implementation of such policies, and include a focus on strengthening access to alternative opinions and sources of information.

On media pluralism and preventing persecution of and violence against journalists and other communicators:

- Participating States should recommit to the human dimension standards related to the freedom of expression and media freedoms in the OSCE area. In particular, they should ensure full respect for editorial independence and refrain from any pressure – legal or otherwise – on media outlets and those who are exercising their right to freedom of expression.
- Participating States should ensure safe conditions for journalists, bloggers, whistle-blowers and others exercising the right to freedom of expression, by observing and implementing existing international commitments, legal decisions and frameworks, including those of the OSCE, related to the protection of journalists and human rights defenders.
- Participating States should publicly and unequivocally condemn all killings, attacks and disappearances of journalists, media workers and others exercising the right to freedom of expression online and offline, and create safe and enabling conditions for the exercise of journalistic activities. The OSCE bodies should support States to develop specialised protection programmes, in full consultations with journalists, media workers and bloggers.
- Participating States should ensure accountability for all attacks on journalists and others through the conduct of effective, prompt, thorough, independent, and transparent investigations, by bringing perpetrators as well as those who conspire to commit, aid and abet or cover up such crimes to justice, and by ensuring that victims have access to appropriate remedies.
- An independent mechanism for the monitoring of media legislation and its implementation at the national and sub-regional levels should be established. In addition to producing monitoring reports, such mechanism would provide recommendations for the improvement of media pluralism and monitor their implementation. In this respect, experience of the EU in developing the Media Pluralism Monitor should be considered.

On protection of freedom of artistic expression:

- Participating States should stop suppressing artistic expression through censorship and harassment of artists, musicians and writers. They should refrain from justifying such restrictions by the protection of 'traditional values', religious feelings, or traditional culture.
- Participating States should refrain from targeting minorities, civic activists or political dissidents for using artistic means to criticise authorities or challenge the status quo.



ANNEXES

Reviewing evaluation instruments of implementation of OSCE human dimension commitments

Report on the thematic workshop

**Organised by the Civic Solidarity Platform
with support of the outgoing Swiss, Serbian and the incoming German OSCE Chairmanships**

16–17 July 2015

Berlin, German Federal Foreign Office

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Introduction

This report summarises discussions among the participants of a thematic workshop “Reviewing evaluation instruments of implementation of OSCE human dimension commitments” organised by the Civic Solidarity Platform in Berlin on 16–17 July 2015 with support of the incoming German OSCE Chairmanship 2016 as well as the current Serbian and the past Swiss Chairmanships.

Organisers of the workshops and editors of the report hope that it will be useful to all interested parties, including representatives of OSCE political bodies, institutions, and field operations, missions of OSCE participating States in Vienna, diplomats and other government officials in the capitals, academic experts, and civil society activists.

A wide range of human dimension commitments has been developed in the OSCE throughout forty years of its existence. However, implementation of commitments by participating States remains inconsistent and in recent years has deteriorated further. Protracted and systematic violations of human dimension commitments have persisted in several participating States. A number of crisis situations negatively affecting the human dimension and sometimes having inter-dimensional implications has increased.

A lack of regular and systematic mechanism(s) of evaluation of implementation of human dimension commitments in the OSCE system and a lack of a mechanism of taking concrete follow-up steps to implement recommendations contained in the reports of the OSCE human dimension meetings and reports produced by the OSCE institutions are perceived by many actors as the major factors contributing to poor implementation of commitments.

There are certain elements of evaluation mechanisms in place in the OSCE system, which could be refined and developed further or serve as a basis for elaboration of new mechanisms. The Office for Democratic Institutions and Human Rights publishes reports of its monitoring of elections, peaceful assemblies, and trials and collects information on hate crime. OSCE institutions such as the Representative on Freedom of the Media and the High Commissioner on National Minorities produce public or confidential reports and communications based on their country visits or on OSCE-wide issues falling under their mandate and regularly brief the Permanent Council, the OSCE Chairmanship and other OSCE institutions.

Other elements of assessment include presentations and discussions at the annual Human Dimension Implementation Meeting and Supplementary HDMs, reports by the OSCE field offices, and a relatively recent tradition of voluntary reports by participating States at the Human Dimension Committee in the format of a peer review. An important step was taken by the Swiss OSCE Chairmanship in 2014 by pioneering a process of self-evaluation, currently followed by the Serbian Chairmanship.

Reactions to individual instances of violations of commitments and to human rights crises include peer review discussions at the meetings of the Permanent Council, public statements and confidential communications by the heads of OSCE political bodies and institutions, a rare application of the Moscow Mechanism, and special human rights assessment missions.

However, this patchwork of evaluation and assessment tools existing in the OSCE has apparently been not systematic enough and insufficient to ensure effective scrutiny of implementation of human dimension commitments by participating States, as evidenced by increasingly poor record of implementation.

In the recent years, civil society organisations have frequently raised the need to consolidate and expand existing OSCE human dimension evaluation instruments and improve a follow-up to adopted recommendations. The Civic Solidarity Platform has consistently made recommendations on this account, which were included in the outcome documents of the Parallel Civil Society Conferences in 2011-2014. This issue was also addressed by a number of OSCE actors in the last decade, including by the ODIHR in its report “Common Responsibility: Commitments and Implementation” in 2006, the Irish OSCE Chairmanship in its Perception Paper on the Human Dimension Review Process in 2012, the Swiss Chairmanship in 2014 (study “Improving implementation and monitoring of human dimension commitments” by Ximpusle, Wilton park discussion “Addressing implementation gaps: improving cooperation between global and regional human rights mechanisms”, and the Human Dimension Seminar “Implementing the OSCE commitments: effectiveness of OSCE mechanisms and cooperation with relevant regional and international organisations”). The issue was further discussed in the framework of the Helsinki+40 Working Group in 2014.

In order to stimulate thinking and discussions on the issue of consolidation and expansion of evaluation mechanisms of the OSCE human dimension commitments, the Civic Solidarity Platform initiated this workshop in Berlin with a hope that discussions at the workshop will help developing concrete steps in this area which could be considered for implementation by the German and Austrian Chairmanships, OSCE institutions, and concerned participating States in the next two years.

The workshop brought together representatives of civil society, the OSCE political bodies and institutions, interested delegations of participating States, and external experts. The German Chairmanship hosted the workshop in Berlin.

In 2014 the Swiss OSCE Chairmanship in co-operation with the Civic Solidarity Platform carried out four regional civil society workshops in Belgrade, Dushanbe, Tbilisi and Vienna. The CSP followed up on this positive experience and has organised four thematic workshops in 2015 where issues of particular concern to civil society have been discussed in depth with relevant OSCE actors with the goal to develop concrete recommendations for implementation in the next two years. The workshop in Berlin was the first meeting in this series in 2015. Other workshops address the issues of freedom of expression (July, Belgrade), combating torture and enforced disappearances (September, Warsaw) and implementation of Bolzano/Bozen Recommendations by OSCE High Commissioner on National Minorities (November, Belgrade). The Swiss, Serbian and German OSCE Chairmanships and several OSCE participating states have provided support for these workshops.

Importantly, the Berlin workshop organisers did not aim at agreeing on common approaches and adopting joint recommendations. Instead, the meeting in Berlin provided a platform for a frank exchange of views and brainstorming about strengths and weaknesses of the current instruments, reflecting on existing gaps, looking at the experiences of application of reporting and evaluation tools in other intergovernmental organisations, and discussing possible ways forward in OSCE. Recommendations included in this report do not represent joint views of all the workshop participants or positions of the organisations, institutions and countries they represented. Rather, they reflect individual opinions expressed by the participants.

What all the participants agreed on, was that it is high time to take concrete steps, test and try new approaches, consolidate and expand existing tools of evaluation, reporting and follow-up action, and try some new ones. Which exactly steps will be taken depends on further consultations, readiness of different actors to test and try, experiment and take leadership.

The report follows the Chatham House rules: while providing accurate account of the discussions as much as possible, it does not refer to particular individuals who spoke.

Introductory discussion

In the introductory discussion, the participants underlined the importance of the OSCE comprehensive security concept, stating that human rights violations must be seen as early warning signs of inter-dimensional crises. Therefore, human dimension should not be isolated from the other dimensions. A cross-dimensional approach was found particularly important as in 2014 all elements of the OSCE Decalogue were violated, which led to the outbreak of war in the OSCE region.

Particular attention was paid to the deterioration of respect to the human dimension commitments and a long-time erosion of implementation of the human dimension commitments.

Participants stressed the importance of a more effective control over implementation of commitments and follow-up to reporting and evaluation. Leading by example, including self-assessment and voluntary reporting, could be effective tools to improve implementation of commitments by participating states. Building traditions is necessary to mainstream certain procedures, actions and issues. "Test and try" approach should be used in the course of developing new mechanisms and procedures. For many new steps, no consensus is needed.

Papers regarding "the human dimension reform" produced in the recent years by both the OSCE actors and civil society should be used more actively.

Civil society should be given a larger role in the OSCE work and should be let out of the "ghetto" of the human dimension events.

OSCE should find more effective ways of coordination with other international organisations, rather than duplicating their work, in both crisis response and the everyday work on monitoring implementation of human dimension commitments.

Some initial thoughts on possible next steps included:

1. Monitoring and reporting: we have an overload, not an underload. We do not make good enough use of the existing OSCE monitoring and reporting. We need to identify shortcomings and successes in using the existing monitoring and reporting tools.
2. Permanent Council: Engage Permanent Council more and make it more relevant. More inclusive debates at the PC are needed. Civil society confined in a ghetto and not permitted to attend the PC meetings is a concept from a different era. PC does not do anything secret.
3. Response to instances of violations of human dimension commitments should be more immediate and direct. Can field missions do more in this respect?
4. More systematic control of implementation of commitments is needed. A reform of the human dimensions cycle is needed, responding on the ground and then feeding back to institutions and political bodies (as a conceptual framework).
5. New internal procedures of reacting to emergency situations in human dimension should be developed to effectively respond to crises.

Participants agreed to organise the discussions along the four main topics:

1. Take stock of instruments of systematic (regular) evaluation at the OSCE.
2. Look at lessons learned from application of the instruments of systematic evaluation of implementation of human rights obligations in the UN and the Council of Europe.
3. Discuss response to the crisis situations in the human dimension.
4. Look at reactions to individual instances of violation of human dimension commitments.

INSTRUMENTS OF SYSTEMATIC (REGULAR) EVALUATION AT THE OSCE

Taking stock: Strengths and weaknesses of current instruments of systematic evaluation of implementation of the OSCE Human Dimension commitments. Ways of improving their effectiveness and their expansion. Approaches to stimulating progress in implementation of recommendations based on evaluations.

The participants took stock of the existing OSCE tools of systematic (regular) evaluation of implementation of human dimension commitments, including peer review based on voluntary reports by participating states at the Human Dimension Committee, monitoring and reports by OSCE institutions, including ODIHR, RFoM and HCNM. Further, participants looked at the new experience of self-evaluation of the Chairmanship country and monitoring and reporting by the OSCE field missions. Participants looked into practical experience of the work of these institutions and bodies and application of different instruments, explored their strengths and weaknesses, discussed ways of improving their effectiveness and possible expansion, and brainstormed on approaches to stimulate progress in implementation of recommendations contained in reports of institutions and expressed during discussions at meetings of OSCE bodies and during human dimension events. Each presentation was followed by a discussion and elaboration of recommendations.

Human Dimension Committee

The following questions were used as a framework of the discussion:

- How the relatively recent practice of volunteer reporting by participating states at the Human Dimension Committee has contributed to improvement of implementation of human dimension commitments?
- What are the strengths and weaknesses of this mechanism?
- What are possible ways of making this instrument more effective? Some ideas that have been discussed include elaboration of guidelines on reporting by participating states, developing a cycle of periodic reporting by all participating states, appointment of an independent rapporteur to contribute to discussions along with a reporting state, introducing parallel contributions by civil society, developing specific recommendations by other participating states, and a introducing a mechanism of follow-up reporting. What are the main obstacles to expansion and developing volunteer reporting at HDC?

Background information

The Human Dimension Committee (HDC) was established by the Ministerial Council in Brussels in December 2006 as an informal subsidiary body. The Brussels decision spells out the purpose of the HDC in four points. The first of them is “Discuss human dimension issues, including implementation of the commitments of the participating States”.

A standing, or standard, agenda of the HDC meetings was introduced in 2011. This standing agenda consists of four substantive agenda items:

1. Main topic
2. Preparation of and follow-up to human dimension events
3. Voluntary reports by participating States on implementation of commitments and follow-up to recommendations,
4. Briefings by OSCE executive structures.

An effort was made by the HDC chairs to ensure thematic coherence between different agenda items in the meetings.

Among other things, the HDC serves as a platform to participating States to voluntarily report on the implementation of commitments. This has been an innovative attempt to introduce a soft “peer review” mechanism that allows for the exchange of best practices following up the recommendations from OSCE institutions. 5 years later, this mechanism is still in place, and States do report and other States ask questions. However, it remains very criticised by some States, and it will take more efforts to introduce it as a real peer review mechanism. Discussions in the HDC are less politicised than in the Permanent Council. Individual cases are not raised in the HDC.

A wide variety of topics have been covered by voluntary reports. The most frequently chosen topic is follow-up to recommendations after election observation. Another popular theme is related to tolerance and non-discrimination, including Roma and Sinti. Several reports have been made on the implementation of commitments related to fundamental rights. Several reports have addressed cross-dimensional issues, for example on gender and gender equality, on trafficking in human beings and on the UN Security Council Resolution 1325 on Women, Peace and Security.

Lessons learned:

1. Reporting is voluntary. Those who do not want to be an object of a peer review in the HDC can simply refrain from making reports. In practice, some States do not report. Thus, reporting at HDC does not cover all participating States.
2. Participating States choose the subject of the report. Most States prefer to avoid topics where their implementation record is weak. However, some delegations may see a point in itself to make a report about an area where they face particular problems.
3. Some delegations are tempted to make reports to illustrate how democratic they are.
4. Most delegations have neither time nor capacity to prepare questions and comments related to a voluntary report by another State. There is, therefore, usually a rather limited discussion after a voluntary report has been made, with very few concrete recommendations.
5. Ideally one would want to have a system such as the UN Universal Periodic Review, but it is not realistic, as it would need consensus of 57.

Recommendations on voluntary reporting

1. The HDC chair and the chair’s team should work with the participating State planning to make a report to make sure their report addresses important and relevant OSCE human dimension commitments. Reporting countries should involve National Human Rights Institutions more actively. Voluntary reports should be linked closer to themes of HDIM sessions and individual cases raised at HDIM by participating States and civil society.
2. Guidelines and recommendations for voluntary reporting are needed, including a standard set of questions to answer in a report. Reports should focus on OSCE commitments. An attempt to technically consolidate commitments should be made to make reporting and assessment easier.
3. The chair should ask that the report be distributed in writing well in advance, including to relevant OSCE institutions. This would allow enough time for other States to study the report and prepare their questions and recommendations.
4. The chair should encourage more delegations to prepare their comments and questions on reports by a participating State. Participating States should more actively react to voluntary reports by other States and make specific recommendations (not just comments and questions) to the reporting States.
5. The chair should more systematically involve OSCE institutions in the peer review, including in discussions after presentations. In general, OSCE institutions should more actively assist in preparing

and commenting on voluntary reports. Involvement of independent experts would be helpful since human dimension officers of delegations of participating States are not experts in specific subjects that are often addressed in States' reports. Expertise of OSCE institutions can be more actively used in this regard. Field missions should also be involved, as they have on the ground experience.

6. For voluntary reporting to develop into a real and effective peer review process, more substantive contributions by other participating States is needed (such as acting as rapporteurs) as well as staff support (or establishment of an HDC staff) to prepare reviews of existing reports on the implementation of the commitment about which a State is reporting.
7. More time is needed for this agenda item in regular meetings. It might be worth holding HDC meetings devoted exclusively to voluntary reports. This would give more time for quality discussions.
8. Voluntary reporting should have a follow-up (a year later?) to see what has changed. Ideally, a cycle of periodic reporting by all participating states is needed.
9. The HDC chair should invite civil society representatives to participate in the peer review process, 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.
10. More transparency of the HDC work is needed. An HDC webpage is needed for access to voluntary reports, relevant materials, summary of discussions, and recommendations made.

Recommendations on other aspects of the HDC work:

1. One way to make the HDC a forum for substantive dialogue on actual 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 in the HDC, with input from the institutions (and, ideally, civil society) where issues 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 the issues that are most important.
2. Reinforced HDC meetings on certain topics should be held (for example, to discuss reports of institutions). Civil society should be invited to participate directly in such reinforced HDCs, or at least an NGO pre-session should be held, and recommendations from civil society should be considered during such HDC meetings.
3. HDC meetings should follow-up on discussions at HDIM. For example, an advance study and a discussion of a particular topic such as persecution of human rights defenders, including individual cases, could be held.
4. HDC could be used for follow-up on individual cases of violations of human dimension commitments.

Obstacles:

1. Some delegations may find that voluntary reporting to the HDC with such measures would be too demanding. Agenda of the HDC is already quite packed, and HDC meetings tend to last several hours. Adding more time for voluntary reports and discussions of human dimension issues would mean increased workload. A dilemma is to find a proper balance between better preparation of and follow-up to reporting, on the one hand, and not making it more difficult to participating States.
2. Website is not in the HDC mandate.
3. Ensuring meaningful participation of civil society in the HDC work and its presence at HDC meetings might require some ingenuity because civil society is considered a "public" in the HDC rules of procedures.

ODIHR and human dimension events organised by ODIHR

The following questions were used as a framework of the discussion:

- What are the main lessons learned from monitoring and reporting by ODIHR? What are the strengths and weaknesses of monitoring and reporting by ODIHR? How the work of ODIHR can be strengthened and supported better?
- What are possible ways to ensure better cooperation by participating States with monitoring programmes of ODIHR?
- What are possible ways to ensure better implementation by participating States of recommendations contained in monitoring reports by ODIHR?
- What are possible ways to consolidate and improve effectiveness of existing monitoring programmes by ODIHR, in addition to addressing obvious budget and staffing issues?
- Implementation of which other human dimension commitments could become a subject of possible new monitoring programmes by ODIHR, in addition to existing monitoring and reporting on elections, peaceful assemblies, trials, and hate crime? Ideas discussed so far have included monitoring of places of detention focusing on torture and inhuman treatment.
- What are the main lessons learned from the many years of experience of holding annual Human Dimension Implementation Meetings and Supplementary HDMs as concerns their contribution to assessment of implementation of human dimension commitments?
- What changes in the modalities and calendar of the human dimension events cycle could be made to make them a more effective tool for improved implementation of human dimension commitments?
- What are possible ways to ensure stronger and unhindered contribution by civil society and independent experts in the human dimension events?
- How better and more systematic follow-up by participating States to reports on the human dimension events and their conclusions on implementation of human dimension commitments can be ensured?

Proposals made by the participants included:

On ODIHR monitoring programmes:

1. While existing guidelines are a useful tool, it is necessary to elaborate additional guidelines on implementation of a broader range of human dimension commitments.
2. Programmes to assist States in implementing existing guidelines are necessary.
3. The guidelines 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 working groups on particular human dimension issues might help improve implementation of HD commitments where no guidelines exist.
4. ODIHR should discuss with OSCE institutions and field operations how to implement guidelines that are in the drafting process before they are adopted.
5. ODIHR should do more joint reports with RFoM and HCNM.
6. ODIHR should more systemically cooperate with the UN and CoE mechanisms and instruments.
7. ODIHR should even more closely cooperate with civil society and take on board its recommendations.
8. Situation with existing monitoring activities of ODIHR would improve if participating States extend standing invitation for observation of assemblies and trials. Some states could lead by example in that.
9. ODIHR capacity to monitor would improve from having an expert pool with two-year open visas for all participating States.

10. ODIHR needs to have a better rapid response/ standby capacity in order to deal with variety of developments, especially 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.
11. ODIHR should extend its monitoring programmes to detention facilities (within the combating torture project), focusing first on the countries not covered by the CoE monitoring such as countries in Central Asia, USA and Canada.
12. ODIHR reports should be more systematically used as a basis for discussions at HDC and PC. This would strengthen ODIHR as an independent institution.
13. There should be a more systematic follow-up to the ODIHR reports on HDIM.

On reforming the human dimension events:

1. HDIM is the largest human dimension event and potentially could lead to increased accountability of participating States. Internet live-streaming of HDIM sessions with interpretation is one way to increase participating States' accountability as well as to maximise the audience.
2. HDIM should better be used as a body reviewing implementation of human dimension commitments rather than for making statements.
3. It is necessary to increase efficiency of preparations for HDIM, starting with the adoption of a standing agenda. Preparations for HDIM should not be blocked by the absence of a consensus.
4. As repeatedly argued by various actors, HDIM should be held earlier in the year to allow more time between HDIM and the Ministerial Council meeting. At present there is no time to react to ODIHR's 150-page report on HDIM or feed it into the process of drafting MC decisions. This means moving HDIM to spring.
5. A logical link between HDIM and HDC is needed. Currently, having HDIM is often used as an excuse not to discuss human dimension issues elsewhere. To make a stronger link between HDIM and HDC, ODIHR report should be presented and discussed at HDC, with emphasis put on follow-up actions, possibly several times, covering different thematic outcomes.
6. Presenters at HDIM sessions should be given a follow-up role. They could be the persons who present thematic HDIM outcomes at HDC meetings.
7. Proposals that NGOs could possibly submit materials in advance to HDIM was found controversial, as it could lead to manipulation in favour of GONGOs.

Some ideas for a new reporting mechanism discussed within ODIHR

1. Possibly a new instrument of review of implementation of commitments could be envisioned outside of HDC. A possibility of reviewing implementation by participating States in the framework of HDIM could be something to look at.
2. Such a new mechanism should use best practices from other inter-governmental organisations.
3. The issues of structure, procedures, modalities, and geographical balance need to be discussed, among others.
4. Regarding structure: lessons learned from the UPR should be taken into account. Reporting should be done in a regular cycle, in a systematic way, maybe 15 states at a meeting.
5. Ways to use contribution from civil society should be discussed.
6. Uniqueness of OSCE should be kept in mind such as the concept of comprehensive security and linkage of the human dimension with the 1st and 2nd dimensions.

Self-assessment by the Chairmanship country

The following questions were used as a framework of the discussion:

- What are the lessons learned from the new experience of self-evaluation by the Swiss and Serbian Chairmanships?
- What are the strengths and weaknesses of this new instrument?
- What are possible ways of making this new instrument more effective? What changes can be made in the methodology of self-evaluation? How the choice of topics for self-assessment can be made more transparent and effective? How the role of civil society can be made clearer and stronger? What are the ways to ensure strong contribution by government agencies (other than the MFA) to production of the report? Would changing the calendar, in particular starting the process before the beginning of the Chairmanship year, making pledges based on findings in the process of self-evaluation before the end of the Chairmanship, and including an implementation report a year after be a possible way?
- What are possible ways to ensure effective follow-up to the self-evaluation report, in particular, implementation by the Chairmanship state of conclusions and recommendations contained in the report? Would making pledges based on findings in the process of self-evaluation be a possible approach?
- What are possible ways of making this new instrument better known among the OSCE actors and increasing its impact on other participating states, using the model of “leading by example”? Would presenting the report and a follow-up implementation report at the Ministerial Council meetings be a good way to do it?
- What are possible ways to embed this instrument in the OSCE mechanisms and ensure that all consecutive Chairmanships commit to conducting self-evaluation?

Self-assessment has been introduced in order to put the incoming (and at a later stage – current) Chairmanship in a “leading-by example” position in terms of voluntary self-assessment of implementation of its human dimension commitments. The idea was originally proposed by the Civic Solidarity Platform and taken on board by the Swiss Chairmanship in 2013-14, followed by the Serbian Chairmanship in 2014-15 as part of Swiss and Serbian joint workplan. Incoming German Chairmanship 2016 is also currently preparing an assessment of implementation of human dimension commitments by Germany. Self-assessment is seen by members of the Troika as an instrument which will strengthen OSCE monitoring mechanisms. They are voluntary embarking on this new process, developing and fine-tuning this new concept as they go.

Self-assessment process conducted by Switzerland and Serbia has included three phases, after the choice of topics for assessment is made by the independent human rights institution in consultations with the Taskforce of the Chairmanship and civil society:

1. An assessment report done by independent human rights institution(s), containing recommendations on improvement;
2. A contribution by civil society, including their own assessment of implementation of the same commitments and commentary to the report by the NHRI, containing recommendations on improvement.
3. A reply (replies) by government agencies in charge of implementing policies in respective areas.

The same three-stage model will likely be used by Germany.

Once the three-part report is produced, it is presented in the OSCE framework. The Swiss Chairmanship presented its report at the Human Dimension Committee and at HDIM.

Lessons learned: challenges

Timeframe of self-assessment

- Ideally, self-assessment process should start before the Chair takes office, to allow enough time for discussion and follow-up to implement recommendations in the self-assessment report.
- It would be more strategic to have the actual process of self-assessment started and the report finalised before the Chairmanship term begins. This would allow enough time for the Chairmanship country to start addressing the identified shortcomings during its Chairmanship term and make a follow-up report a year later.
- This was not possible in the Swiss case, because the pilot project itself involved developing the concept and methodology. This was also not possible in the Serbian case, because of difficulties in identifying implementers of the first stage (several independent institutions have been involved) and in agreeing on the topics/commitments to evaluate (civil society had different views on the choice of topics, and it took time to find a compromise).
- Engaging the government agencies is a serious challenge. Ideally, each of the governmental agencies referred to in the report should comment on it and provide substantial feedback. This takes additional time.

Selection of topics for self-assessment

- This is another conceptual challenge. Selection must be based on objective criteria while also being sufficiently broad. This is a balancing act between the objectivity of selection, capacities and resources available, the relevance of the topics and OSCE commitments, and the monitoring tools that are available.
- Human rights issues to be assessed in this process should clearly fall under OSCE commitments. However, there are many commitments. There are different opinions on whether a new data collection should be conducted or available data from existing reports can be used. The problem is that certain monitoring and reporting fatigue exists in participating States. The fact that States report regularly to various Council of Europe and UN bodies does not make it any easier to introduce yet another process. Therefore, there is temptation to choose topics already covered by existing reports by OSCE institutions, like election monitoring, rather than doing a new data collection. However, as it has been pointed out several times in earlier discussions, reports by OSCE institutions and field operations are uneven, they do not take place regularly (the most recent report in a particular area in a particular participating States may be done many years ago or even never done), and do not necessarily reflect topics that are most relevant for the country at the moment of its Chairmanship. Ideally, topics should be chosen on the basis of relevance to the country and/or the situation in the OSCE region in general. They should allow the report to focus both on shortcomings and positive experiences to be shared with other states.

Stakeholders familiarity with the OSCE

- Self- evaluation should be organised in consultation with civil society and government agencies. However, the main stakeholders in most participating States – both NGOs and state authorities – are often not familiar with OSCE commitments and processes. Enough time should be given for them to understand the framework set by these OSCE commitments, and to provide constructive feedback.

Follow-up and implementation

- As with all reporting in OSCE and other inter-governmental organisations, follow-up steps after a report is released is the most challenging issue. Ideally, self-assessment by the Chairmanship state should lead not only to conclusions / recommendations in the report but also to concrete follow-up

steps to improve implementation of commitments based on the recommendations. Civic Solidarity Platform recommends that after the release of the report the Chairmanship should make pledges, organise follow-up implementation steps, and present a follow-up report a year later, at the end of its Chairmanship term or soon thereafter. Follow-up implementation steps will be easier to take if they are linked with existing OSCE instruments and if various stakeholders are engaged, both at the national level and in the OSCE framework. However, this additional step will require additional resources, a higher level of coordination with and engagement of other government agencies, and political will.

Lessons learned: opportunities

Development of dialogue with civil society and raising awareness of the general public

- Self-assessment has been an excellent opportunity that allowed the Swiss and the Serbian Chairmanships to engage in an open dialogue with civil society inside and outside of the country.
- It also provided an opportunity to raise awareness about OSCE commitments among the general public inside the country.

Follow-up with OSCE institutions

- Self-assessment has also contributed to strengthen Switzerland's and Serbia's regular, systematic engagement with OSCE institutions, as a follow-up to their recommendations or country visits.

Improvement of OSCE monitoring in a creative way

- Switzerland firmly believes that the launch of this new practice which remains technical, constructive and not consensus-based – will not only help to improve implementation of OSCE commitments in Switzerland and beyond but is also a creative step to improve monitoring mechanisms in the OSCE.
- Self-assessment allows testing and trying creative approaches to monitoring and assessment, aiming at developing a model that would work for any participating State willing to follow the suit. In case the new practice establishes itself as a continued tradition.

Continuity with the incoming Chairmanships

- Continuity with incoming Chairmanships is key to establish this new practice and promote the “culture of review of implementation and monitoring” further.

High Commissioner on National Minorities

The following questions were used as a framework of the discussion:

- What are the main lessons learned from country visits and confidential briefings of the Permanent Council and Chairperson-in-Office by HCNM? What are the strengths and weaknesses of application of these instruments?
- What are possible ways to ensure better cooperation by participating states with HCNM, including issuing standing and ad hoc invitations?
- What are possible ways to ensure better implementation by participating states of recommendations by HCNM and its guidelines?
- How can cooperation and coordination between different OSCE institutions and political bodies be improved?

Mandate

Mandate of the OSCE High Commissioner on National Minorities (Helsinki Summit, 1992):

“The High Commissioner will provide ‘early warning’ and, as appropriate, ‘early action’, at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but in the judgment of the High Commissioner, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Council or the CSO [Committee of Senior Officials]”

Essentially, HCNM is a first dimension institution, using the third dimension tools. It is aimed at early warning, early action and conflict prevention.

Key aspects of the mandate of HCNM:

- Independence: HCNM can get involved without consent of the host state, at his/her own discretion.
- Impartiality: High Commissioner ON, not FOR national minorities.
- Confidentiality: Silent diplomacy to broker agreements.
- Long-term perspective: both structural and operational conflict prevention.
- Definition: “I know a national minority when I see one.” (Max Van der Stoep). Subjective + objective approach.
- Limits: not dealing with groups using violence/terrorism; no individual cases.

Toolbox of HCNM reporting

- Reports to Chairman-in-Office: after every HCNM visit, or whenever necessary
 - 5-10 pages, conveying HCNM findings and recommendations. Confidential.
 - Briefings and key messages prior to Chairman-in-Office visits to OSCE participating States where HCNM is involved.
- Reports to the Permanent Council: twice a year.
 - Up to one page on each country visited with main findings; OSCE-wide trends. Public.
- Letters: after every visit, or whenever necessary.
 - Key tool of communication with participating States or international organizations to convey HCNM main messages and recommendations. Confidential.
- Formal early warning: used only twice in history of the institution
 - CiO to convene extraordinary Permanent Council meeting to discuss HCNM early warning; only when all other options exhausted. Public.
- News item: after every visit or speech
 - Brief summary of locations visited and main topics discussed. Public.
- Speeches
 - Tool to convey policy messages of HCNM. Public.
- Country-specific reports and recommendations
 - Usually upon request of Government. Sometimes made public, not always.
Examples of public reports: Crimea FDP assessment; Latin-script schools in Transdniestria.
- Thematic recommendations
 - Based on HCNM experience throughout OSCE region. Public.
Examples of thematic recommendations (‘soft norm setting’): HCNM Bolzano recommendations, Ljubljana Guidelines.
- Project activities
 - Both to help HCNM implement her mandate and participating States to implement her recommendations.

HCNM's co-operation with other OSCE bodies

- Chairman-in-Office
 - HCNM or her advisers joining CiO Special Representative's delegations in crisis situations (fYRoM, Ukraine)
- ODIHR
 - HCNM seconding minority analysts to Election Observation Mission core teams
 - Joint Human Rights Assessment Missions (HRAM)
 - Thematic co-operation (production of Handbooks, etc.)
 - Legislative support
 - Roma and Sinti
 - HDIM
- Representative on Freedom of the Media
 - Minority-language media; media guidelines
- Field presences
 - Level of co-operation varies depending on field mission mandates.

Responses and lessons

- Response varies greatly between participating States, ranging from support and acknowledgement to silence, denial, or counteroffensive.
- Visits and direct dialogue are more effective than letters. There is no 'sticks' to make participating States reply but only power of persuasion.
- Public reports and thematic recommendations have most impact, but are very time consuming and sensitive.
- HCNM indirect leverage exceeds direct leverage. Recommendations are most effective if they are reinforced by CiO and other OSCE bodies, other participating States, or other intergovernmental organizations (example: EU Copenhagen Principles; EU includes HCNM recommendations in its own reports).

Challenges

- Confidentiality of HCNM's work was actively discussed at the workshop in related both to "routine" developments and early warning. Currently early warning is delivered only to CiO. In the past, it at least once has led to a delayed action on an arising conflict. It was recommended by the participants that HCNM delivers early warning to the OSCE Troika, which would ensure a swifter reaction and better coordination. However, ultimately a decision on action is made at the Permanent Council.
- Acknowledging principles of confidentiality and quiet diplomacy, it was recommended by the participants of the workshop that HCNM finds a way to be more visible and public, for example, through internet, monthly newsletter and visuals.
- The level of knowledge of HCNM thematic recommendations is quite low among participating States and civil society. The Civic Solidarity Platform has undertaken to take efforts to educate civil society about Bolzano recommendations and Ljubljana Guidelines.

Representative on Freedom of the Media

The following questions were used as a framework of the discussion:

- What are the main lessons learned from monitoring and reporting by RFoM? What are the strengths and weaknesses of monitoring and reporting by RFoM?

- What are possible ways to ensure better cooperation by participating States with monitoring programmes of RFoM, including issuing standing and ad hoc invitations?
- What are possible ways to ensure better implementation by participating States of recommendations by RFoM?

RFoM reporting work

- RFoM reports to the Permanent Council and speaks at HDIM and meetings of the Human Dimension Committee.
- RFoM does less country reports but more confidential letters to governments of participating States or public statements on the country situations. RFoM engages with delegations of the participating States in advance before it issues statement on the situation in a participating State.
- Many country visits happen because the RFoM has previously publicly intervened on a situation in the country.
- When RFoM makes country visits, she issues not so much country reports but rather press releases immediately after the visit, describing what the visit has consisted of and which main trends have been observed.
- As regards individual cases of violations, the principle is that RFoM defends not individual, but rather his/her freedom of expression. Participants of the workshop suggested that this systemic approach should also be used by other OSCE institutions when important cases of violations of human dimension commitments take place.

Lessons learned and recommendations

1. Proper assessment and verification of findings by RFoM is crucial, both from substantive and legal points of view.
2. Immediate reaction to instances of violations is of key importance; participating States must know that they are being watched.
3. While confidentiality of correspondence with governments of participating States should remain at the discretion of RFoM, participants of the workshop recommended that the fact that letter has been sent and whether an answer has been received or not should be made public.
4. While RFoM cooperates very actively and successfully with the UN and the Council of Europe on freedom of expression issues, a need for better more active cooperation and better coordination with other OSCE institutions was seen by the participants as priority.
5. Consolidation and dissemination of best practices has been done successfully by RFoM and should be continued.
6. When RFoM comes to brief the Permanent Council or HDC, usually informal discussions take place a day before. Participants suggested that these discussions could last longer and be more intensive. The same applies to other OSCE institutions; they all need to take full advantage of their mandates, including their reporting to the Permanent Council and interaction with HDC.

Field operations

The following questions were used as a framework of the discussion:

- What are the main lessons learned from monitoring and reporting on country situations by the OSCE field missions, implementation of cooperation programmes and their overall operations?
- What are the main strengths and weaknesses of monitoring and reporting on country situations by the OSCE field missions?

- What are possible ways to ensure better cooperation by the hosting states with the field missions, including on the subject of their mandate, allowing unhindered conduct of activities and access to various institutions and civil society groups, and cooperation by government agencies with the field missions?
- What are possible ways to ensure better implementation by participating States of recommendations contained in reports by the field missions?
- What are possible ways to prevent unilateral downgrading of the OSCE field missions by the hosting state or their complete shutdown?

Field operations are “heart and soul of OSCE”. Their ability to act depends on mandate and on how cooperative and open the host country government is. Experience is very diverse in different participating States. Mandate of the field operations may be quite broad, including interaction with embassies and other international organisations, and may be as narrow as being downgraded to a project coordination office.

Experience of the OSCE field mission in Serbia and Serbia's approach to cooperating with the Mission was analysed and recommended by the workshop participants as a model to other field operations.

Experience of the OSCE Field Mission in Serbia

Unlike other institutions participating at the workshop, the OSCE Mission to Serbia does not have a specific role with regard to reporting in general. Like other field operations, its activities and the organisation of the Mission are directed toward fulfillment of the mandate. The mandate requires the Mission to provide “assistance and expertise in the fields of democratization and the protection of human rights, including the rights of persons belonging to national minorities. In this context, and in order to promote democratization, tolerance, the rule of law and conformity with OSCE principles, standards and commitments, the Mission will also assist and advise on the full implementation of legislation in areas covered by the mandate, and monitor the proper functioning and development of democratic institutions, processes and mechanisms. In particular, the Mission will assist in the restructuring and training of law enforcement agencies and the judiciary. In addition, the Mission will provide assistance and advice in the field of the media.”

The mandate therefore implicitly requires the Mission to carry out two activities relevant to the workshop. First, the Mission provides its input to assessments by OSCE institutions and other international organizations, which have a specified monitoring and evaluation role. Second, in order to determine its programming priorities, the Mission provides an assessment in internal budget documents and in the Head of Mission’s annual report to the OSCE participating States. In this way, the Mission contributes to providing a clearer picture of the implementation of human dimension commitments at the national level.

One prominent example in the Mission’s cooperation with other international players in this area is its contribution to the European Commission’s compilation of its Annual Progress Reports. This is a Mission-wide exercise in which its observations from the field and daily collaboration with Serbia’s state institutions and civil society tie into a larger process of assessment of the country’s implementation of its human dimension commitments.

Another example is the input the Mission provides for the Universal Periodic Review (UPR) of the United Nations Human Rights Council, as well as to the evaluations of the Council of Europe Commission for the Prevention of Torture (CPT). The Mission actively supports Serbia’s institutions to develop a well-functioning internal UPR data input and processing system with participation of all relevant stakeholders, including civil society. The Mission provides information informally to the CPT prior to the Committee’s inspections of detention facilities so as to streamline the efficacy of its evaluation.

The Mission also works closely with OSCE institutions, such as the Office for Democratic Institutions and Human Rights, the High Commissioner on National Minorities, and the OSCE Representative for Freedom of Media. The Mission holds joint events with RFoM to promote media freedom and journalistic professionalism, and has joined with HCNM and the EU Delegation to support the establishment of a Faculty of Economics in South Serbia. The Mission cooperated with ODIHR to conduct a training and capacity building of Serbian human rights defenders in international standards on freedom of peaceful assembly and in assembly monitoring techniques in 2011.

The Mission's strategic and budgeting documents, such as the Program Budget Performance Report, the Program Outline, and the Budget Proposal, provide significant opportunity for the Mission to evaluate the overall situation in Serbia so that the Mission can determine its programming priorities. It makes the assessment in order to determine where to focus its efforts in order to close existing gaps in relation to its mandate.

The Head of Mission's annual report to the Permanent Council also contains a general assessment. The 2015 Report pointed to a number of important developments in the implementation of human dimension commitments in Serbia. It noted that the government's strong parliamentary support allowed the government to continue the reform agenda and introduce a number of legislative and possible constitutional changes. Serbia would continue to promote regional cooperation in the Western Balkans as an instrument of stability and as part of its process of European Union accession. The report concluded that the OSCE Mission, through the implementation of its programs, would remain committed to assisting the state institutions to implement a reform agenda as a close partner.

The Mission also plays a role in the area of early warning, which further contributes to defining the situation of human dimension commitments' implementation. Even if the political situation in Serbia is currently stable, in spite of uncertain economic prospects and sporadic social unrest, the overall regional setting in region remains fragile. That is why the Early Warning mechanisms are a very important tool for the OSCE, which from its very inception has been a key instrument for conflict prevention and resolution.

The OSCE Mission to Serbia, like every OSCE field operation, has an Early Warning focal point. The focal points from the entire OSCE region meet every year in Vienna. Additionally, in the region of South Eastern Europe, focal points hold meetings and exchange information on a regular basis regarding overall developments in the region from an early warning perspective. Two recent concrete examples of the importance of this regional exchange of information through the Early Warning network are the incident at the October 2014 soccer game between Serbia and Albania, and the clashes in Kumanovo, former Yugoslav Republic of Macedonia last May, in which the Mission in Skopje fulfilled its broad monitoring role to participating States with a dedicated spot report in addition to regular reporting activities.

Within the boundaries of its mandate, the Mission does conduct a formal monitoring process in its extra-budgetary war crimes monitoring project. Domestic war crimes trial monitoring was a continuous activity of the Mission, launched in 2003 as a part of its mandate in the rule of law area, and concluded in April 2012. The Mission resumed its War Crimes Trial Monitoring activities in December 2013 within the framework of the EU-funded project "Support to Monitoring of National War Crimes Trial." Strengthening capacities of civil society organizations in Serbia to assume the monitoring role is a part of this project.

In addition, the Mission provides briefings to embassies of other participating States, advise on the development of Serbia's independent human rights institutions, and support to civil society in Serbia in its reconciliation work in the region.

INSTRUMENTS OF SYSTEMATIC EVALUATION OF IMPLEMENTATION OF HUMAN RIGHTS OBLIGATIONS AT THE UNITED NATIONS: LESSONS LEARNED

Participants looked into experience of the United Nations in applying instruments of systematic (regular) evaluation of implementation of human rights obligations. In particular, they looked into the experience of application of the Universal Periodic Review as well as other instruments of systematic evaluation at the UN such as the High Commissioner on Human Rights, treaty bodies, and special procedures of the UN Human Rights Council. Presentations were followed by a discussion. Participants looked into practical experience of application of these instruments, explored their strengths and weaknesses, and brainstormed on how the lessons learned from the UN could be used for a review of the assessment instruments in the OSCE. In particular, a dilemma of non-duplication of the UN and CoE instruments and non-use of the data of the UN and CoE bodies in the OSCE was discussed.

The following questions were used as a framework of the discussion:

- What are the lessons learned from the experience of application of the Universal Periodic Review (peer review) at the UN?
- What are the strengths and weaknesses of this instrument?
- What are the lessons learned from the experience of application of other instruments of systematic (regular) evaluation at the UN such as the High Commissioner on Human Rights, treaty bodies, and special procedures of the UN Human Rights Council?
- What are their strengths and weaknesses?

Universal Periodic Review

Goals of the UPR

The Universal Periodic Review (UPR) is a mechanism of the UN Human Rights Council. It is a peer review of implementation of human rights obligations by the UN member states. The objective of the UPR is to review and promote follow-up to all UN Member States' obligations concerning the respect, promotion and effective fulfilment of all human rights on the ground. The degree of implementation of these obligations is reviewed with reference to the Universal Declaration of Human Rights (UDHR), international conventions to which the State under review is a party, as well as voluntary pledges made by the State, including those undertaken when presenting its candidature for election to the Human Rights Council, and applicable international humanitarian law. All states and all obligations are reviewed, hence the word "universal". "Periodic" means that the process takes place regularly, in cycles, when all states come back to Geneva to report about implementation of the recommendations received during the previous cycle.

The UPR was created by the UN GA in March 2006 which established the mandate of the Human Rights Council (HRC). The principles, objectives and modalities for the UPR were later developed by the HRC.

Modalities of the UPR

The UPR is carried out through the Human Rights Council UPR Working Group. This Working Group consists of the 47 member States of the Council. However, any UN Member State can ask questions, make comments and/or recommendations to the State under review.

The first UPR session was held in April 2008. The first cycle, where all UN member states were reviewed, ended in 2012. We are now in the second cycle, to be finished in 2017. Under UPR, the human rights

situation of all UN Member States is reviewed every 4.5 years. 42 States are reviewed each year during three meetings of the Working Group (14 per session).

The result of each review is reflected in an “outcome report” listing all the recommendations to the State under review (SuR) by other states and its reactions to them.

The UPR is a full-circle process comprised of three key stages:

- 1) Review of the human rights situation in the SuR;
- 2) Implementation between two reviews (4.5 years) by the SuR of the recommendations received and the voluntary pledges made;
- 3) Reporting at the next review on the implementation of those recommendations and pledges and on the human rights situation in the country since the previous review.

The review takes place in the UPR Working Group in Geneva and lasts 3.5 hours. The SuR can send a delegation of governmental officials from different ministries to respond to the questions. OHCHR has set up a Voluntary Fund for participation for States under Review with limited budget to help their delegation come to Geneva. The State under Review (SuR) is given 70 minutes and other States - 140 minutes. The Working Group is composed of all UN member-States and chaired by the HRC President. Other relevant stakeholders, such as NGOs, NHRs and UN agencies, can attend the Working Group but they cannot take the floor.

Each review starts with the presentation by the State under Review of its National Report and of its responses to the advance questions, submitted by other States in writing ten days before the review.

Following this presentation, an interactive dialogue takes place during which States take the floor to ask questions and make recommendations on the human rights situation in the country under review. During this interactive dialogue, the State under Review takes the floor regularly to answer the questions and to comment on the recommendations. At the end, SuR presents its concluding remarks.

Three main documents are used to conduct the review of the State:

- A National Report prepared by SuR on the human rights situation in the country, to be used as a basis for the review. This report is limited to 20 pages and should follow specific guidelines.
- A compilation of ten pages prepared by the Office of the High Commissioner on Human Rights (OHCHR) containing information from UN treaty bodies, UN special procedures and UN agencies such as UNDP and UNICEF;
- A summary of ten pages prepared by the OHCHR containing information from the civil society.

These documents are available on the OHCHR website six weeks before the start of the session.

Recommendations are suggestions made to SuR by other States to improve the human rights situation in the country. They can be of different nature and cover many issues. They are the key element of the review. During the first cycle, approximately 21 000 recommendations were made to 193 States. States can accept (make pledge) or “note” recommendations but they cannot reject them. In practice, it still means accepting or rejecting. Responses to each recommendation must be clearly explained in writing in a specific document called “addendum”. This addendum is submitted to the Human Rights Council in advance of the final adoption of the report at the Human Rights Council.

The troika consisting of three countries' delegates assists the review. The troika members are selected by the drawing of lots among members of the Human Rights Council and from different regional groups. Every

SuR has a different troika. The troika prepares the report of the Working Group, which contains a full account of the proceedings, with the involvement of SuR and the assistance of the Secretariat. The report contains the summary of the interactive dialogue, a paragraph for each oral statement by WG participants, the responses by the SuR to the questions and recommendations, and the full list of recommendations made by States. The report is adopted a first time during the Working Group session a few days after the review. The adoption lasts for 30 minutes and is mainly procedural. Once the report has been adopted during the Working Group session, a few months later it is adopted by consensus at a HRC plenary session.

Implementation

The period between two reviews is called the "follow-up". After the adoption of the report at the HRC which concludes the "Geneva stage", begins the follow-up stage. The SuR has 4.5 years between two reviews for follow-up and implementation of UPR recommendations and pledges. States are encouraged to present a mid-term report and periodic reports on the status of implementation of recommendations and pledges made during the preceding review. They can do so during general debate held under agenda item 6 (on UPR) during HRC ordinary sessions. The follow-up is the most critical and important phase of the whole UPR process as it is the one leading to the concrete realisation of the UPR goal, that is, the "improvement of the human rights situation on the ground".

Best practices at the national level include setting up mechanisms to coordinate follow-up and implementation, and development and adoption of an implementation plan with specific, measurable, appropriate, realistic, and time-bound criteria and the list of implementing actors and concerned stakeholders. The OHCHR has set up a Voluntary Fund for Financial and Technical Assistance to help States implement the recommendations.

Role of a recommending state

The success of the UPR relies not only on the States under Review, but also on the "recommending States". A full and active participation of the highest number of States is crucial to the effectiveness of the mechanism. In order to prepare the statement on a country under review, States can meet with national and international civil society organisations to collect information about the human rights situation in the country and about the level of implementation of the previous recommendations. States can also attend "[pre-sessions](#)" in Geneva, organized by a specialised NGO, called *UPR Info*. One month before the review, UPR Info organises a one-hour meeting on the SuR and give the floor to national and international NGOs to brief Permanent Missions about the human rights situation in the country. This allows States to receive first-hand and comprehensive information on countries and meet several NGOs at once.

States can, before the review, submit advance questions to the SuR. These written questions have to be transmitted to the SuR through the troika ten working days before the day of the review. Written questions can be an opportunity to ask about the level of implementation of the recommendations made at the previous review.

During the interactive dialogue each recommending State is responsible for enquiring about the implementation status of the recommendations it previously made. However, an analysis of the 70 first reviews of the second UPR cycle shows that recommending States are not performing well in making recommendations related to the first cycle recommendations: only 18.8% of 1st cycle recommendations were linked to recommendations made at the 2nd cycle. Some factors can explain this low percentage: lack of comprehension of the cyclic nature of the UPR and the importance to refer back to previous recommendations; lack of knowledge of the previous recommendations made; lack of political will to

confront the SuR for a second time on the same issue; the emergence of new priorities in the SuR or in the foreign policy of the recommending State. Through their embassies, development agencies and local partners, States should monitor the implementation of the recommendations they made. When needed and possible, they should provide support, financial or technical, to the government and other actors such as civil society in this regard.

NGOs and NHRIs participation in the UPR process

- HRC Resolution 5/1 provides for an active role of NGOs in the UPR. It is supposed to “ensure the participation of all relevant stakeholders, including nongovernmental organisations and national human rights institutions”.
- The UPR is a state-driven exercise. However, despite their limited role during the actual review session, NGOs have many opportunities to take part and influence the UPR process.
- NGO participation can take six main forms:
 - Participate in the national consultations held by the State under Review;
 - Send information on the human rights situation in the country to the UN OHCHR;
 - Lobby members of the Working Group and give them advice on which recommendations to make and which advance questions to submit;
 - Play a role during the review:
 - attend the review (civil society organisations are not allowed to take the floor during the review but they can be present in the room);
 - provide online coverage of the review via social networks;
 - hold a side event at the margins of the session;
 - organise a screening of the webcast in the country;
 - hold a press conference/ issue statements;
 - During the adoption of the report at the subsequent HRC session, take the floor (make an oral and/or written statement);
 - Monitor and participate in the implementation by the State under Review of the UPR recommendations:
 - make recommendations and pledges public;
 - monitor their implementation;
 - engage in dialogue with the State reviewed to assist in implementation of the recommendations;
 - report to the Human Rights Council on the progress by publishing a mid-term report or by making a statement at the HRC sessions at “general debate” under item 6.

Difference of the UPR from the review of periodic reports of states at the UN Treaty Bodies

- First, it is an inter-state (peer review) process, without the involvement of independent experts.
- Secondly, the recommendations are made and ascribed in the report individually to the State making them, without any attempt to produce agreed recommendations and without any ‘quality control’ on wording or substance, including compatibility with international human rights standards.
- The SuR can choose which recommendations to accept and which to reject.
- Only two or three minutes are permitted for questions and recommendations by each State.
- In contrast to the Treaty Bodies, all the UPR proceedings are webcast (both in the WG and the subsequent HRC plenary). This not only means that they can be watched by people outside Geneva

(including in the SuR) but that the archived footage can be accessed subsequently and used, for example, as a basis for awareness-raising and other activities in country.

- The broad scope of the review – in essence covering all human rights rather than being limited to those in one treaty – and the number of (potential) participants combined with the strict three hour time allocation for the process in the WG and one hour in HRC plenary, are other differences, and have potential contradictory implications – superficiality, but also sometimes, a particular focus on a few areas of special concern.

Lessons learned: strengths of the UPR

1. States appear to care about the UPR process and how their performance is reflected through it. State participation has been excellent, with almost universal participation of states in submitting written national reports, and 80 per cent of states having been represented at the Ministerial level at the interactive dialogue stage of the review process. It is the first ever human rights mechanism to achieve 100% of participation by UN member States.
2. In many cases, the UPR resulted in heightened communication and dialogue between governments and non-state actors. Due to its very nature, the UPR permits civil society to advocate and to take part in implementation of human rights obligations. In order to write a National Report to be submitted to the HRC for the review, the SuR is “encouraged” to hold a “broad consultation process at the national level with all relevant stakeholders”. These consultations should take place at least a year before the review in different cities and parts of the country and include a broad range of civil society organisations and the national human rights institutions. However, many states did not hold consultations, or held them very late when serious input could not be made, or involved only loyal NGOs or GONGOs.
3. The first cycle of the UPR also created a baseline set of documentation.
4. In some cases the prospect of an upcoming review has served as an incentive for states to ratify more human rights treaties or to extend an invitation to the special procedures of the HRC.
5. The UPR also triggered self-evaluations by states, with the prospect of the UPR ahead of them, leading many states to engage in a process of internal review and inter-ministerial discussion.
6. UPR is an evolving process. UNGA Resolution 60/251, which founded the HRC, also decided that the HRC would review its work and functioning five years after its establishment. Therefore, following the process of its review, the HRC adopted resolution 16/21 on the outcome of the review and functioning of the HRC, in March 2011. This resolution contained the new modalities for the second and subsequent cycles. One of the prime objectives of the 2nd cycle of the UPR is to look into the level of implementation of the 1st cycle recommendations.

Lessons learned: weaknesses of the UPR

1. Political considerations. While this peer review is aimed at constructive dialogue and assisting member states in implementing their obligations, once States are judges, foreign policy is never far from their thoughts when they take the floor. It is not the experts who assess a State but peers. The UPR value therefore depends on the commitment of the individual State being reviewed to the process, as well as of the other, recommending States.
2. Non-objective reports by States under review. Reports of some countries presented a problem: a lack of objectivity. Indeed, on several occasions there was a clear contradiction between the image portrayed of a country at the conclusion of its review before the Working Group and the issues raised by special procedures, treaty bodies and NGOs.
3. Quality of recommendations. The quality of recommendations varies enormously. Some are vague, for example, “continue fulfilling your obligations under international treaties to which you are a party.” Some recommendations are clear, specific and in line with human rights standards, for example,

“ensure that the law adopted to define torture is in accordance with article 1 of the Convention against Torture”. A related problem is that of the block and alliance mentality: The lack of impartiality was blatant during the reviews of countries known for systematically violating human rights. They were repeatedly praised by friendly states from the same region or alliance, without being properly criticised or questioned. Certain States use their speaking time to praise their “friends” and paint a positive picture of human rights in that country.

4. Selective acceptance of recommendations. Indeed, States can decide to accept or reject recommendations. Although this principle guarantees the respect of a State’s sovereignty, it also highlights the limits of the review. A State’s acceptance of the recommendations is a precondition for their implementation on the ground. In reality, some countries reject a large number of the recommendations. Certain States accept all the recommendations at once; others comment at the review stage on all the recommendations; some accept and/or reject some of the recommendations and reflect on others; still others make no comment whatsoever on the recommendations but reserve the right to comment later. Some countries choose to give very detailed responses about the reasons for which they accept or reject the recommendations, while others respond summarily. A number of States have rejected recommendations explicitly citing their domestic law as the reason, while according to Article 27 of the Vienna Convention on the Law of Treaties, States cannot invoke provisions of domestic law as justification for failure to comply with international obligations.
5. In view of the wide power of States to choose the recommendations they accept, the UPR is perhaps not the most efficient single mechanism to improve the human rights situation in countries where these rights are extensively violated. It underlines the importance of maintaining the treaty bodies system and the geographical mandates of the Council that allow for a continual and systematic review undertaken by independent experts.
6. Weak implementation. Out of the 3294 recommendations made by stakeholders in a research by UPR Info in 2013, only 391 recommendations have been fully implemented (12.16 percent of the total), 859 have been partially implemented (28 percent) and 1884 have not been implemented at all. This means that while States triggered actions to comply with concerns raised at the Human Rights Council at mid-term for 40 percent of the recommendations, no action at all was undertaken for 55 percent of recommendations.
7. UPR is quite an expensive exercise. Critics say that it is killing UN treaty bodies because it uses up the budget.

Recommendations on increasing effectiveness and efficiency of the UPR made by civil society

1. Increase engagement of non-governmental organizations;
2. Strengthen the role of National Human Rights Institutions;
3. provide more action-oriented recommendations; limit recommendations making either generic appeals to the international community to provide assistance or simply calls for an action or policy to be continued;
4. make meaningful mid-term reporting the norm.

Summary of the discussion on the UPR and recommendations for the OSCE by the workshop participants

1. UPR does not address current developments and ad hoc violations; reporting is only once every 4.5 years.
2. Implementation is indeed rather weak. How to force countries to implement them? Are sanctions an option?
3. UPR as such is just a tip of an iceberg. The essence is what happens before and after the UPR in the capitals.
4. Additional thinking is needed on how the OSCE can use UPR data.

5. Transparency: what is the best way? Is livestream the best approach?
6. Standing invitations to special procedures (OSCE institutions) is very important.
7. OSCE should not duplicate UPR and other UN mechanisms; there is a reporting fatigue; and OSCE participating States would not be able to reach consensus.
8. Failure with implementation can be explained to the fact that many states simply do not have political will.
9. Difference of the UPR system and the OSCE is that OSCE has political, not legally binding commitments. However, OSCE human dimension commitments are part of the OSCE comprehensive security concept which gives OSCE advantage.
10. OSCE added value compared to the UPR is in its ability to rapid reaction to current issues.
11. OSCE is different in the sense that inter-governmental dialogue is central.
12. Dilemma of non-duplication of the UPR process in the OSCE and opposition of some OSCE participating States to using in the OSCE the data from the UPR and the UN treaty bodies and special procedures needs to be further discussed and solved.
13. Strengths of the UPR which could be used in OSCE are as follows:
 - detailed written procedures;
 - established follow-up process, including mid-term reporting obligations, national action plans, establishment of coordinating mechanism;
 - openness and publicity;
 - strong and clear role of civil society, including submissions to OHCHR, shadow reports, mandatory engagement with civil society by the state under review, presence of civil society at sessions.

UN treaty bodies

- 10 treaty bodies (committees) for monitoring implementation of treaties.
- Composed of independent experts, mostly academics.
- Review periodic reports by state parties, cycle is 5 years.
- A rapporteur or a group of rapporteurs from among members of the committee, produce a compilation of concluding observations and recommendations.
- Extensive NGO participation: submit shadow reports, observe sessions (cannot take floor), hold briefings for the treaty body members, provide mid-term reports on implementation, engage with the government at home to assist in implementation.

UN Human Rights Council special procedures (special rapporteurs and working groups)

- Independent experts;
- Established by resolutions of the UN Human Rights Council;
- 39 thematic (5-year terms);
- 14 country specific (1-year terms to be renewed);
- Staff support provided by the OHCHR (insufficient);
- Make several country visits a year, requiring consent of the state;
- The list of standing invitations is quite short (around 24)
- Issue country reports and general reports;
- Engage in confidential communication with states, including on individual cases;
- Report annually to the Human Rights Council (and the General Assembly);
- Annual coordination meetings of special procedures;
- General code of conduct;
- Actively engage with civil society;
- Social media/ visibility events.

Comments and recommendations by the workshop participants on the application in the OSCE of lessons learned from the UN and the Council of Europe evaluation mechanisms

1. There is a growing density of evaluation mechanisms, which can complement each other.
2. Engagement of states with monitoring bodies is increasing.
3. Governmental representatives are monitoring the monitoring instruments. “Monitoring of monitoring”.
4. Growing connection between headquarters of intergovernmental organisations and capitals.
5. Instruments and procedures for follow-up in the OSCE should be developed. Special follow-up rapporteurs (that exist in Council of Europe) might be an interesting tool for OSCE to establish.
6. Independent experts are needed, especially in preparation/ follow-up on voluntary reporting at HDC. For this, expertise of OSCE institutions should be used better.
7. Standing invitations by participating States for OSCE institutions, especially Troika as “leading by example,” should be introduced. If 20 states issue standing invitations, then others will follow.
8. Monitoring: focus/ prioritize and systematize processes to avoid general fatigue.
9. Utilize NGO reports better, put them on OSCE website (like in the UN).
10. Non-use of data of other inter-governmental organisations is an excuse by the same participating States that are in principle opposed to voluntary reporting and more scrutiny.
11. Further develop expertise in OSCE. For example, establish more expert panels within ODIHR, appoint new Special Representatives of the Chair.
12. Request to the German Chairmanship to appoint Special Representative on civil society/ HRDs, given rapidly shrinking space for civil society in many participating States.

RESPONSE TO THE CRISIS SITUATIONS IN THE HUMAN DIMENSION (RAPID RESPONSE AND FOLLOW-UP ACTIONS)

Participants moved from discussing the tools of regular (systematic) monitoring and evaluation to looking at the tools of response to the human dimension crises. They looked into this experience in the OSCE, including the Moscow Mechanism, reactions by OSCE institutions, human rights assessment missions, lessons learned from the Special Monitoring Mission to Ukraine, links with the first dimension, cooperation with the Secretariat, experience of monitoring missions to crisis areas by civil society, etc. Participants looked into practical experience of application of these instruments, explored their strengths and weaknesses, and brainstormed on how responses to human dimension crises by OSCE.

The following questions were used as a framework of the discussion:

- What are the lessons learned from the experience of response to the human dimension crises in the OSCE?
- What are strengths and weaknesses of the current tools, including application of the Moscow Mechanism, reactions by OSCE institutions, sending human rights assessment missions, cooperation with the Secretariat, etc.?
- What should the early warning signs be, based on the experience of the recent human dimension crises?
- What are the lessons learned from the response to the conflict in and around Ukraine, in particular regarding the links of the first and the third dimension?
- How could the experience of monitoring missions to crisis areas by civil society be better used in the OSCE?
- Overall, how responses to human dimension crises by OSCE can be made more effective?

In the past five years there have been quite a few situations in the OSCE region which could be described as a human dimension (or a cross-dimensional) crisis. They called for a swift reaction from OSCE, and OSCE indeed engaged different instruments to deal with them. While results in each respective case are debatable, one should keep in mind limitations that are in-built in the OSCE structure and look for ways to fill in the caveats for a more efficient crisis response by the OSCE bodies and institutions.

Among such cases were ethnic clashes in Osh (Kyrgyzstan) in 2010, post-elections crackdown in Belarus in 2010-2011, social protests and their violent dispersal in Zhanaozen (Kazakhstan) in 2011, protests in Russia in 2011-12 and the following attack on fundamental freedoms and civil society there in 2012-2015, crackdown on civil society in Azerbaijan in 2014-2015, and a cross-dimensional crisis in Ukraine in its different phases in 2013-2015.

It is worth noticing that in all these countries except Russia there were, at the time of the events, OSCE field missions present on the ground. However, their ability to act swiftly in most countries was limited by their mandates.

Among different ways to improve rapid response, better utilisation of monitoring reports and activities of civil society is one important opportunity. Local and international NGOs have been actively involved in monitoring, fact-finding and reporting in the majority of these crisis situations.

In a number of cases systematic failure to comply with human dimension commitments and/or their direct and purposeful violation by participating States lead to acute or protracted human dimension crises or, in some instances, to the first dimension ("hard security") crises. That is why it is important to always keep in

mind the OSCE's comprehensive security concept and swiftly react to individual cases of violations as well as to human dimension crises. Growing human rights violations as well as an acute crackdown on fundamental freedoms must be seen as early warning signs of inter-dimensional crises. A cross-dimensional approach is particularly important: the human dimension should not be isolated from other dimensions. OSCE already has most of the instruments that are needed for a rapid response to work.

Crisis response: lessons and recommendations

Reaction to unfolding crises

1. OSCE activities in human dimension should have in place a rapid response mechanism that could be used without consensus of all 57 participating states. This can be a new mechanism that could replace the OSCE Moscow Mechanism, or be added to the Moscow Mechanism, or it can be a modified Moscow Mechanism as such.
2. A notion of a "human dimension crisis" should be introduced and mainstreamed. Introduction of this notion should lead to the establishment of an emergency procedure and creation of a mechanism within the OSCE 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.
3. A stronger leadership role of the Chairmanship in developing a swift and effective response to crisis situations is needed. Not only current Chairmanship but also the whole Troika should be involved.
4. Better communication channels with civil society monitoring missions are needed; reports by civil society experts should be used better. Civil society has skills and capacity to carry out proper monitoring on the ground.

Early warning

1. Political turmoil as well as laws and policies limiting the rights of minorities should be seen as clear warning signs of a potential human dimension crisis not only by HCNM but also by the Chairmanship.
2. Warning signs of potential human dimension crisis in countries in transition or with non-democratic regimes should include upcoming elections, contested election results, and intention by the authorities to downgrade or close OSCE presence on the ground. Cases of gross and continued human rights violations, such as incarceration of political prisoners, widespread torture, enforced disappearances, and widespread unfair trials should also be treated as signs of an upcoming acute or protracted human dimension crisis and should lead to an appropriate response by OSCE bodies and institutions.
3. Violations of the rights of national minorities could lead not only to internal violence but also to external aggression. National minorities enclaves, even if a crisis is unfolding for different reasons, should be under close international attention with heavy international monitoring presence.
4. A human dimension crisis may develop into a security crisis. Internal repressions may lead to the government of the state taking aggressive steps towards other countries.
5. Better communication channels between OSCE actors and civil society monitoring missions on the ground are needed; reports by civil society experts should be used better. Civil society has skills and capacity to carry out proper monitoring on the ground.

ODIHR and crisis response

- When the Ukraine crisis emerged, the EU and Russia were already very engaged in the resolution of the crisis. ODIHR was essentially the first on the ground with an observation mission but later human rights monitoring was taken over by the UN, as it was wished by Ukraine. There is no need to duplicate the UN work.
- Crimea: HCNM has been repeatedly asking Russia for access but has been denied.

- Major obstacle for monitoring on the ground is non-cooperation of a participating State, like in the case of Crimea. In this case one has to engage in distant monitoring, instead of monitoring on the ground. There will be a joint report on Crimea in September 2015 by ODIHR, HCNM, and RFoM.
- More political will from participating States is needed; they should issue standing invitations for observation and monitoring missions.

Recommendations

1. 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.
2. More regional expertise is needed for rapid response; at the moment ODIHR has only thematic departments.
3. It is important to include into the new torture prevention program at ODIHR an instrument of a rapid reaction to torture cases during human dimension crises since political prisoners are often tortured to extract confession, force them to plead guilty, break their spirit or simply as a way of punishment and intimidation.
4. Human rights defenders are one of the main targets in the course of a human dimension crisis. The Chairmanship and ODIHR should think beyond a mere promotion of the Guidelines on Security of HRDs in order to more effectively protect human rights defenders in the times of crises. CiO should consider appointing a special representative on human rights defenders.

Chairmanship and crisis response

1. In the case of the first warning signs of an unfolding human dimension crisis, there is need of a stronger leadership role of the Chairmanship.
2. In cases of crackdown on civil society, when the Moscow Mechanism might be inapplicable for any reasons, Chairmanship could make a use of documentation gathered and task either ODIHR or an independent rapporteur with producing a report on the civil society situation in the country. It could be used then under the concept of Dialogue introduced by the German Chairmanship to initiate a dialogue on civil society with the participating State in question, aimed, in the end, at halting internal repressions against civil society.

The Moscow Mechanism

1. The Moscow Mechanism is an important tool of reaction to crises. A lack of a follow-up procedure to the submission of the Moscow Mechanism report to the Permanent Council, formalised in the rules of procedure, is the major caveat in the application of this important instrument. Lack of follow-up undermines the effectiveness of the Moscow Mechanism and gives ground for criticism by a number of OSCE actors. Civil society proposes several ways of dealing with this problem:
 - 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);
 - 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.
2. OSCE Moscow Mechanism regarding a human dimension situation in a participating States should not be considered completed until substantial progress has been made in the implementation of recommendations contained in the Moscow Mechanism report. The Moscow Mechanism should

continue to be applied so long as there continue to be cases of such gross violations of human dimension commitments as continued incarceration of political prisoners, continued abductions and enforced disappearances, repeated and widespread use of force against participants of peaceful assemblies, and systematic use of torture.

Discussion

- Ad hoc reactions is a strength of OSCE, which needs to be further developed.
- Some believe that the Moscow mechanism is a tool from a different era. There was no other institution/ means at this time. It is a “nuclear option” for participating States to put other States in the spotlight. What other means do we have to start investigations, other than the Moscow Mechanism? We should look at the experience of the OSCE institutions and systematize it.
- Others believe that the weight of the Moscow Mechanism in the time of crisis is larger than reports of OSCE institutions. It allows immediate actions without consensus. Since there no other tools which do not require consensus, there is no substitute for the Moscow Mechanism. Its application should be improved by introducing a clear follow-up procedure.

General conclusions and recommendations on crisis response

1. In general, OSCE already has most of the instruments that are needed for a rapid reaction to acute crisis. Existing tools need to be enhanced and applied more effectively. Some of them need modification, political will or creativity to be used effectively, like the application of the Moscow Mechanism and the development of its follow-up procedure.
2. Existing monitoring tools need to be developed further in order to be effectively used in crises such as monitoring of detention places and rapid response to allegations of ill-treatment in the framework of the new torture prevention programme at ODIHR.
3. In order to provide quick access to a country in crisis for monitoring of assemblies, trials, and prisons, a tradition of standing invitations should be introduced in “normal times” by different states to mainstream this practice.
4. Possibly, some new rapid response mechanisms should be established, including introduction of an emergency reaction procedure among OSCE political bodies and institutions and a coordination platform between them and civil society actors.
5. Programs or projects on security of journalists and HRDs (in the crisis situation) should be developed.
6. In cases when the situation in human dimension is deteriorating while access to the country for monitoring is limited and a rapid response by institutions could not be used, a Chairmanship action should be taken, possibly in a form of Chairmanship-commissioned report and/or appointment of a Personal Representative.
7. Coordination, communication and cooperation with civil society regarding early warning, monitoring and fact-finding should be enhanced, possibly through establishing a communications platform for each specific crisis.
8. The issue of the speed in which decisions are being made and the deployment of a mission or any other action is taken, remains the key challenge. In case of delays, swift communication and cooperation with civil society that is already present on the ground becomes crucial.
9. Budget is an important issue. A designated special extra-budgetary crises pocket for emergencies should be considered.

REACTION TO INDIVIDUAL INSTANCES OF VIOLATION OF HUMAN DIMENSION COMMITMENTS

Participants moved to discussing the tools of reaction to instances of violations of the human dimension commitments, including individual cases, legislative initiatives, policy decisions, etc. They looked into this experience in the OSCE, including reactions by participating States at the Permanent Council, the OSCE Chair-in-Office, and OSCE institutions, analysis of legislative drafts by ODIHR, etc.

The following questions were used as a framework of the discussion:

- What are the lessons learned from the experience of reaction to individual instances of violations of the human dimension commitments at the OSCE, including individual cases, legislative initiatives, and policy decisions?
- What are strengths and weaknesses of the current tools, including reactions by States at the Permanent Council, reactions by the OSCE Chair-in-Office, reactions by OSCE institutions, analysis of legislative drafts by ODIHR, etc.?
- Overall, how reaction to individual instances of violations of the human dimension

Tools available in cases of human rights violations

Political instruments

1. The OSCE is steered by a variety of bodies and processes: OSCE summit, Ministerial Council, Permanent Council. Issues relating to the human dimension commitments are discussed at all these levels.
2. The Permanent Council allows an ongoing dialogue where any State may raise general concerns and specific cases, and it happens every Thursday. Many States take this opportunity to address specific cases, and the State concerned will reply to those statements. The PC is very politicised. Although not supposed to be public, the issues raised at PC are on twitter in the next hours. As some actors believe, PC is increasingly becoming a platform for public advocacy.
3. The Chairmanship-in-Office has a particular role to play in informing the Permanent Council on cases of alleged non-compliance with commitments. It can intervene directly, make public appeals or diplomatic demarches as well as press and public statements. It puts human rights violations on the political agenda of participating States and the Permanent Council. The CiOs also nominates representatives who can contribute to keeping particular human rights issues high on the political agenda (PRs on Anti-Semitism, Christians and Members of Other Religions, Muslims, Special Representatives on gender issues and human trafficking).
4. Experience of the Swiss Chairmanship in 2014:
 - no press statements or public diplomacy on individual cases but
 - extensive discussions at the bilateral level about human rights situations or specific cases in most of the meetings of the CiO with the ministers or Presidents of participating States, including during travels of the CiO to participating States (non-public diplomacy);
 - moreover, a lot of conferences and initiatives on essential human dimension issues (such as the conference on security of human rights defenders) with presence of the Minister and high level OSCE/UN/CoE officials;
 - organisation of special meetings on human rights in Ukraine with representatives of UN, CoE and all OSCE institutions;
 - extensive dialogue with civil society in Switzerland and during the travel of the CiO;
 - a lot of support to the special representatives (they visited Russia, Turkmenistan, USA, Belgium, Tajikistan, Albania).

OSCE institutions and bodies

1. OSCE institutions with particular relevance to the human dimension include the Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner for National Minorities (HCNM), the Representative on Freedom of the Media (RFoM), and the Special Representative on Combating Trafficking in Human Beings (SRCTHB). All of them also monitor the situation in the participating States and assist them in respecting/implementing their commitments in the thematic field of their mandate by providing technical assistance.
2. ODIHR is obviously the main institution for human dimension. It is mandated to assist OSCE participating States to “ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and ... to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society” (Helsinki Document, 1992). ODIHR has become the leading institution in its thematic field in the OSCE region not only for monitoring commitments but also for providing technical assistance to participating States and for policy development. ODIHR can intervene in specific cases through press release, direct non-public contact with the relevant authorities, during visits of ODIHR director to participating States, and monitoring missions.
3. Representative on Freedom of the Media is the only intergovernmental body in the world, which has a watchdog mandate to observe, protect and promote media freedom in the participating States. The RFoM has a broad mandate to respond rapidly to issues of serious non-compliance by participating States and has the authority to send confidential communications to governments of participating States, engage in dialogue with them during country visits, issue press-releases and public statements in cases of violation of commitments regarding media freedom and free expression, for example in favour of journalists in cases of harassment, incarceration and physical attacks. Through the years, RFoM has achieved acceptance and credibility by governments and civil society actors as an impartial actor monitoring the media situation and intervening in cases of violations.
4. The Parliamentary Assembly also has a role to play in monitoring the human rights situation in the 57 participating States. The toolbox for reaction to instances of violations of human dimension commitments includes press releases by the Chair of the Assembly, country visits, public statements and confidential communications to participating States by the Chair of the 3rd general Committee on Democracy, Human Rights and Humanitarian Questions. The Assembly occasionally adopts resolutions on particular problematic human rights violations in individual participating States at its annual sessions and invite victims of violations/their relatives to speak at its sessions.
5. Experience of Switzerland as CiO 2015: it referred specific situations and cases to the OSCE institutions and discussed with them who can do what (publicly and confidentially) to advance a specific situation.

Meetings and events

1. The Helsinki Final Act provided for regular follow-up conferences reflecting the understanding that constant dialogue is needed to make the agreement effective. Over time a number of conferences were institutionalized and serve today as a monitoring and accountability tool.
2. The Human Dimension Implementation Meeting is known as the largest annual human rights gathering in Europe, bringing together hundreds of government representatives, experts and human rights activists to review progress made by the OSCE participating States in implementing their commitments in the human dimension. It results in a non-negotiated outcome in the form of a long list of individual recommendations. ODIHR takes a role of compiling all recommendations made on behalf of participating States but does not see itself in a position to prioritise recommendations or make an analytical report of the HDIMs. In fact, the Permanent Council is not in a position to decide or take follow-up action on the long list of general, issue-specific and country-specific recommendations made. Individual cases are usually not included in the HDIM reports.

3. Active and large participation of civil society representatives in the human dimension events (a specific elements in OSCE vs. UN) fosters dialogue between civil society actors and participating States and contributes to the review of the implementation of OSCE commitments. Individual cases are regularly brought to the attention of HDIM participants by civil society representatives.
4. Several consecutive Chairmanships, including the Irish, the Swiss, and the Serbian, have encouraged review of human dimension events to make them more meaningful, efficient, and contributing effectively to their main purpose: reeving the implementation of commitment.

Recommendations

1. Response to instances of violations of human dimension commitments should be more immediate and direct.
2. ODIHR and OSCE Chairmanship do not address individual instances of violations actively enough. They should develop procedures of responding to individual cases by OSCE bodies and institutions, including elaborating criteria of selection of cases that require a response, distributing responsibility for reaction among political bodies and institutions, and establishing communication with civil society.
3. Responses might include fact-finding, issuance of public statements, sending non-public communications to governments, raising cases with authorities during country visits, expressing solidarity with victims of abuse by visiting them at home or in prison, etc.
4. OSCE Chairmanship can do much more to address outstanding individual cases of violations. Even when it requests OSCE institutions to look into a case and react, it should follow up and “stay with the case” until it is resolved.
5. Analysis of the impact of the analysis of draft legislation by ODIHR would be very useful. It would look into such questions as:
 - how much do participating states take ODIHR’s recommendations into account when drafting amendments/adopting legislation? Is there a follow-up assessment by ODIHR?
 - how states may be compelled to ask ODIHR to do legislative analysis more often?
6. Addressing individual instances of violations of human dimension commitments at HDIM and other human dimension events should be more effective. Possibly, inclusion of recommendations on individual cases in the HDIM report and introduction of a follow-up procedure, with roles played by CiO, ODIHR, Permanent Council, HDC, or other bodies and institutions could be considered.



Report on the civil society conference

Freedom of expression, media freedoms and (self) censorship in the OSCE area

Belgrade, 20-21 July 2015

This report summarises discussions among the participants of the conference “Freedom of Expression, Media Freedoms and (Self)Censorship in the OSCE Area”, organised by the Helsinki Committee for Human Rights in Serbia and the Civic Solidarity Platform in Belgrade on 20-21 July 2015 with the support of the Embassy of the Kingdom of the Netherlands. The opinions and recommendations presented in this report do not necessarily reflect the opinions of the Kingdom of the Netherlands. The conference gathered more than fifty representatives of civil society and media organisations from across the OSCE region, including the Western Balkans, and representatives of the OSCE Representative on Freedom of the Media.

The conference was one of a series of four thematic events organised by the Civic Solidarity Platform (CSP) in 2015 where issues of particular concern to civil society were discussed in depth with relevant OSCE actors with the goal of developing concrete recommendations for implementation in the next two years. Other events included workshops on reviewing instruments for evaluation the implementation of OSCE human dimension commitments (July, Berlin), combating torture and enforced disappearances (September, Warsaw) and implementation of Bolzano/Bozen Recommendations and Ljubljana Guidelines of the OSCE High Commissioner on National Minorities (November, Belgrade). The Swiss, Serbian and German OSCE Chairmanships and several OSCE participating states provided support for these events.

The goal of the conference in Belgrade was to raise awareness on how to best promote and bolster freedom of expression and media freedoms across the OSCE region and specifically in the Western Balkans. Participants discussed concrete steps towards this goal and explored the questions on which media legislation, policies and practices best contribute to open, informed societies and accountable governments.

The media face numerous challenges to adjust to changing market, technological and social trends in a manner that would preserve freedom of expression and media plurality. Particularly pressing are problems related to media financing and ethical standards of journalism. Drastic laws limiting freedom of expression have been adopted recently in some OSCE participating States, including Belarus, Russia, Hungary and Azerbaijan. Journalists, bloggers, and human rights defenders are increasingly persecuted for saying things political elites do not want to hear. Across the OSCE region, participating States attempt to limit access to

public interest information, both on current developments and on crimes committed in the past. In regions such as the Western Balkans, media freedom is increasingly restricted in spite of the recent adoption of progressive media legislation.

Since the emergence of the Russia-Ukraine conflict, participating States increasingly engage in propaganda and hate speech through controlled media. Unfortunately, participating States standing for freedom of expression have not yet found an adequate answer to propaganda and hate speech flowing across borders. Adequate legislation concerning hate speech exists in many countries, but it does not influence its existence in practice. Propaganda encourages hatred, divisions and clashes of peoples and its consequences are deep and long-lasting.

In a number of countries in the OSCE area, ownership is not sufficiently diverse to guarantee pluralism of content in the media. Media that practice responsible and high quality journalism can easily be punished and cut off from financial flows.

Recommendations elaborated by conference participants relate to offline and online media and represent the framework for a strategic improvement of media freedoms and freedom of expression. They focus on three major areas – access to information, media pluralism and countering hate speech and propaganda. In addition, participants proposed specific recommendations for the countries of the Western Balkans.

Civil society groups believe that it is necessary for OSCE participating States to reaffirm human dimension commitments on freedom of expression and media freedoms. Unfortunately, participating States have failed to adopt a relevant decision at the last several Ministerial Conferences, abusing the consensus rule.

Conference participants consider preservation and strengthening of the most efficient OSCE independent institution, the Representative on Freedom of the Media, to be of the outmost importance.

Organisers of the conference hope that this report will be useful to all interested parties, including representatives of OSCE political bodies, institutions, and field operations, missions of OSCE participating States in Vienna, diplomats and other government officials in the capitals, academic experts, and civil society activists.

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Right to the access to information

Summary of discussions

The speakers discussed a broad range of topics including: the lack of transparency of EU institutions; developments in adoption of legislation on access to information in OSCE participating States; obstacles to implementing the 'open government' concept; the contradiction between the ideal of 'transparency of the state' and increasing state influence over and even ownership of media outlets; the importance of international/global platforms and forums; the agenda for change in the area of access to information; the importance of tackling the problem of media literacy, etc.

The speakers discussed progress and various problems in implementing legislation on access to information in the OSCE region, ranging from the proliferation of public activity in some countries (two million requests for government information in Turkey) to lack of citizen activity in others, such as in Georgia and Armenia, to formal but meaningless replies and even cynicism of officials responding to inquiries. Several country situations were presented in detail, including those of Russia and Turkey.

Comments from conference participants and their interaction with the speakers covered various aspects of policy and practice concerning access to information, including: classified state secrets, state monopoly on information, access to archives, alternative ways of obtaining information and the use of international channels; the Open Data concept; governments blocking trans-border flows of information; general regression in legislation concerning the protection of whistleblowers; laws on the 'right to be forgotten' that shift responsibility to publishers and internet providers, etc. There were also critical comments regarding international actors in the Western Balkans, including Bosnia-Herzegovina and Macedonia, where journalists claimed they were denied access to locally significant information possessed by international institutions.

The debate also covered the status and efficiency of the independent body (commissioner) in charge of access to information in various countries. Slovenia and Serbia were deemed to have the best in the Western Balkans.

Recommendations

1. The right of access to information is closely linked to the notion of "public interest". Most often, a need to adopt legislative guarantees for the access to information depends on whether certain categories of information are defined as "public interest information" in law. Many OSCE participating States do not have a definition of "public interest" in the national legislation; categories of "public interest information" are not defined either. **OSCE institutions** should elaborate and adopt guidelines setting out the criteria for defining certain categories of information as "public interest information" (e.g. environmental issues, human rights issues, budget spending, government tenders and purchases, etc.), access to which should be legally guaranteed and cannot not be restricted. **OSCE participating states** should adjust their legislation accordingly. National legislation should guarantee the public's and journalists' right to unhindered access to and distribution of public interest information.
2. Most violations of the right of access to information happen when members of the public send written inquiries for information to government agencies. Such requests are very often ignored, turned down, or responded to incompletely and late. At the same time, a number of OSCE participating States have introduced the positive practice of maintaining websites where members of the public can get information without sending inquiries. Therefore, **OSCE guidelines**, should they be elaborated, should

define the necessary minimum of information that should be published on government websites, including their contact details, structure, statistics, decisions they have adopted, a description of complaints procedures, etc.

3. **OSCE participating States** should provide a safe environment for all information seekers. It is unacceptable to threaten journalists and citizens with legal persecution for asking questions and making requests for information about issues governments consider sensitive, first and foremost in cases related to corruption.
4. **OSCE participating States** should harmonize Right to Information Laws with other legislation setting out precise criteria for which documents can be classified as confidential, in order to avoid arbitrary interpretations and retroactive inclusion of documents in the “classified” category.
5. Documents on human rights violations, particularly regarding excessive use of force by representatives of the state against citizens, should never be classified as confidential. **OSCE participating States** should provide access to their archives containing documents about crimes from the past and mass human rights violations.
6. Governments of **OSCE participating States** should maintain accurate statistics about requests processed under Right to Information Laws, including information about rejected applications and the basis for their rejection. Statistics should not be limited to the number of applications that were processed. Statistics should also reflect whether replies to the applicants’ requests were provided within the deadline established by law.
7. Whistleblowers should be protected upon sharing information of public importance with the public. **OSCE participating States** that do not have whistleblower protection legislation should adopt it as soon as possible. Strict implementation of such laws is a key prerequisite for freedom of expression, media freedom and protection of public interests.
8. The **OSCE**, the UN, the European Commission and other inter-governmental organisations and institutions, multilateral and bilateral stakeholders active in supporting political development and providing financial assistance to OSCE participating States should provide information of local public interest. This is particularly relevant in countries where the presence of the international community is strong, such as Kosovo and Bosnia and Herzegovina.
9. Media, civil society organizations and citizens should resist the refusal of public institutions to provide public interest information. One way is to file lawsuits against institutions that do not implement laws on free access to information of public importance. It is thus necessary to introduce or enhance free legal aid provided by CSOs, which would contribute to further improvement of the rule of law.
10. Access to information should be ensured not only in law but also in practice. In most OSCE participating States members of the general public have little or no knowledge about their right of access to information. Therefore, **OSCE institutions** should develop public education programs regarding the right of access to public interest information. These programs and projects should go beyond a traditional circle of journalists and activists and reach out to a broader audience.

2. Media pluralism

Summary of discussions

Media pluralism is an essential component of media freedom and freedom of expression. Conference participants pointed out that pluralism of the media content has been neglected in existing media development strategies and policies. Most participants emphasized that diversity of ownership is not a sufficient guarantee of content pluralism. This is particularly relevant to transition countries that were under the authoritarian rule for a long time and do not have a tradition of pluralism in media content. It is thus necessary to constantly monitor the media, develop programs for support of media pluralism financed from the public funds, and provide support to the non-profit media.

Market dynamics can lead to over-commercialization of media production, copy-paste journalism, the selling of PR as journalistic work, trivialization of content and tabloidization of quality media. In such economic circumstances, public interest content does not sell well; it is not profitable. The media that are willing to practice responsible and high-quality journalism can easily face retaliation and cut off from financial flows. They are forced to enter clientelistic relations with ruling political parties and economic elites, which have detrimental effects on content diversity.

Hence, establishing a functional media market is essential. In order to dismantle mechanisms that endanger pluralism, legislative and political steps are needed to provide for transparent and functional media markets and mechanisms of independence of journalists and editors.

Recommendations

1. **OSCE participating States** should establish comprehensive mechanisms, such as consultations with civil society organizations, for defining public interest issues that should be covered by media supported with public funds, including at the local level. In addition to journalistic and media organizations, it is also necessary to include civil society organizations, different social groups and others who represent different views and ideas in the process of defining the public interest.
2. State support for media covering public interest issues should be increased. This should not take the form of support to help them survive, but instead should address audiences' needs for high quality content.
3. All public media support funds must be transparent so that they are not used by governments in an arbitrary way.
4. State media policy should aim at strengthening non-profit media. Quality print media should be given tax relief, and media with substantial news, documentary and educational programs should be given discounts on license fees.
5. To prevent influence on the media through funding, financial operations of the media should be more transparent than those of other businesses protected by the norms of commercial secrecy.
6. Laws on advertising should specifically regulate state advertising. It is imperative to harmonize national legislation with international norms in this field as soon as possible.

7. Systems of licensing of broadcasters have to be based on economic calculation rather than on technological possibilities. These decisions should be based on the notion that media should be given a chance to be profitable in the market and thus gain financial independence from politically controlled funding.
8. Media pluralism is violated by the fact that cable providers can at the same time be content producers. Laws that allow this to happen should be amended.
9. Small non-profit and independent media that function in poor technological conditions may not be competitive in the process of media digitalization. They require special support to ensure media pluralism.
10. An independent mechanism should be established to monitor media legislation and practice at the national and sub-regional levels. In addition to monitoring developments and producing reports, such a mechanism would also provide recommendations for improving media pluralism and monitor their implementation. In this respect, the experience of the EU's Media Pluralism Monitor (MPM) is worth studying. The MPM is designed to identify potential risks to media pluralism in the member states. Testing of indicators for detecting risks to media pluralism is in progress in six EU member states.
11. **OSCE participating States** should not interfere with distribution to a wide audience of publications and audio-visual content from other states. This is in accordance with OSCE standards and principles included in the Helsinki Final Act and later reiterated in the Madrid Document. Arbitrary blocking of TV and radio broadcasts and print media distribution from other countries is widespread in many OSCE countries, demonstrating the importance of the implementation of these OSCE commitments.
12. **Office of the OSCE Representative on Freedom of the Media** should produce guidelines on the principles of editorial independence. It should also assist OSCE participating States to implement OSCE, EU and Council of Europe media standards. **RFoM, ODIHR and the OSCE High Commissioner on National Minorities** should also organize related trainings for journalists and citizens and develop strategic programs to develop tolerance for different opinions.
13. **OSCE participating States** should provide independent media with financial and technical assistance, in particular the analytical media, in order to narrow the gap between journalists and "microphone holders" i.e. media outlets' employees who only transmit statements without critically engaging with the content of messages, especially when related to politically sensitive issues, socially marginalized groups, or discriminatory speech.
14. **OSCE participating States** should develop initiatives to reduce the growing social insecurity of media professionals who are often denied common social benefits due to the nature of their contracts or their free-lancing. This has a drastic, negative impact on media pluralism and freedoms. This is not only the case in transition countries, but also in the EU member states. Open dialogue with journalists and media employees is needed, which should lead to the adoption of relevant legislation.
15. **OSCE participating States** should reaffirm their OSCE commitments on freedom of expression and exercise stronger peer pressure on those member States, including some EU member states, that have introduced restrictive media legislation that seriously violates media freedoms.

3. Countering hate speech and propaganda

Summary of discussions

Speakers expressed their concern regarding the deterioration of ethical standards in the media and the increase of hate speech, aggressive nationalism, racism, misogyny, and homophobia. In Western Balkan countries such as Macedonia, Serbia, and Montenegro, vulnerable groups – primarily women, LGBT and human rights defenders – are subject to hate speech and violence while relevant institutions do not address these violations. Adequate legislation concerning hate speech exists in many countries, but it does not effectively influence its existence in practice.

The issue of propaganda was again put in focus in the context of the Russia-Ukraine conflict. This is a very important issue, since propaganda encourages hatred, divisions and clashes of peoples, and its consequences are deep and long-lasting.

Negative stereotypes, deeply embedded in many cultures and related to neighboring ethnic groups or neighboring states, are often used in propaganda to dehumanize target groups. For example, Ukrainians are often depicted as ultra-nationalists and even “fascists” in the Russian media. Furthermore, negative stereotypes in Azerbaijan are often used in attacks against human rights defenders and journalists. Anyone criticizing the authorities is accused of being a part of the “Armenian conspiracy”.

Participants from the Western Balkans concluded that the region is still facing consequences of the war propaganda from the 1990s. Dealing with this heritage burdens each Western Balkans country individually, as well as inter-state relations within the region. The media have an important role in this process, because they often maintain an atmosphere that prevents open dialogue. Ethno-centric discourse is still present in the media and marginalizes the views of minorities. Serbian media are in the forefront in this sense because they dilute and deny Serbia’s responsibility for war crimes. The marking of twenty years since the genocide in Srebrenica again showed the strength of media manipulation.

Because internal capacities for dealing with the past are weak in many countries, the international community will need to encourage change in the situation. It is important that OSCE bodies and institutions as well as governments of participating States support media whose focus is on the deconstruction of war propaganda. European perspective for the Western Balkans region might be helpful, but the EU has to be clear about not tolerating the continuation of this practice and the deepening of hatred in the region.

Reaffirming ethical and professional standards in the media is an essential pre-condition for attaining a balance between countering hate speech and preservation of freedom of expression.

Recommendations

Countering hate speech:

1. **OSCE participating States** should apply/implement the Rabat Plan of Action, adopted by the Office of the UN High Commissioner for Human Rights in 2012, and give particular attention to the following aspects of the Plan:
 - states should be guided by references to Article 20(2) of the ICCPR in their domestic legislation; this legislation should include precise definitions of key terms like hatred, discrimination, violence and hostility in order to show that the law only targets incitement.

- an independent judiciary should ensure consistent interpretation of hate incitement, assessing it through a comprehensive threshold test. The Rabat Plan of Action refers to a six-part incitement test and provides a clear blueprint for what incitement laws should look like and how they should be interpreted.
 - the Rabat Plan of Action should not be interpreted in a restrictive way as it covers only religious, ethnic and racial grounds for hate speech; it should be interpreted in an inclusive way and be applied to other protected grounds such as gender, sexual orientation, and gender identity.
 - criminal sanctions should be applied only in the most severe cases, and States should apply a broad set of non-criminal measures to sanction and prevent incitement to hatred. These include policies that promote intercultural dialogue; pluralism and diversity; and positive measures for the protection of minorities and vulnerable groups.
2. States should repeal blasphemy and defamation of religion laws; these laws are incompatible with the rights to freedom of expression and belief.
 3. One of the key mechanisms in countering hate speech in the media is self-regulation. It is necessary to improve media codes of conduct given that existing ones have not produced adequate effect. Ethical standards should be more vigorously implemented in order to regain the dignity of the profession. Civil society organizations should be engaged in the creation of such codes, as their expertise and experience can greatly enhance such documents.
 4. CSOs should create and support mechanisms to foster intercultural and inter-religious understanding and learning through grassroots initiatives and projects.
 5. It is very important to strengthen cooperation between CSOs and media, which are natural allies. Media and CSO have to co-operate more frequently and more naturally. This is particularly necessary as journalists and human rights defenders are often targets of verbal and physical attacks.

Countering propaganda:

1. Propaganda is not a part of freedom of expression and is not protected by relevant international norms. It abuses both journalistic standards and freedom of expression, negatively affects the right to life and other important rights and freedoms, and should be treated accordingly.
2. All cases specific when media outlets replace journalism with propaganda inciting to war and hatred should be handled through court proceedings, according to national and international legal frameworks. Governments of OSCE participating States should not shut down media and persecute or expel media workers on the basis of arbitrary accusations of propaganda. An independent judiciary is a necessary precondition for effectively countering propaganda.
3. Relevant international bodies, for example, the OSCE RFoM, CoE CHR and UN SR on FoE, should start a discussion aimed at elaborating a definition of propaganda. Specifically, they should look at whether all propaganda cases are covered by definitions of war incitement and incitement to hatred or if additional criteria for a definition are needed. Once adopted, this definition could and should be used in legal proceedings. Elaborating a definition and adopting additional early warning mechanisms would significantly contribute to the prevention of propaganda's influence and any resultant loss of human lives.

4. The existence of independent and pluralist national and international media is still the main tool for combatting propaganda. Therefore, media independence and diversity should be actively promoted. In cases when independent national media has to operate from exile, host countries and the international community should provide all possible support, as this media has the best expertise in dealing with the realities of their native countries.
5. Propaganda coming from a certain country is often intended for both internal and external consumption. Its impact on all targeted audiences should be considered, when planning measures to combat propaganda.
6. It is necessary to improve media literacy through national and international programs because only informed, media-literate citizens can make informed choices.
7. Upon the end of a violent conflict, it is important to open dialogue in the involved societies about its causes and the role of the media in the conflict. In so doing, long-term consequences of propaganda can be prevented.
8. Negative stereotypes contribute to the development of propaganda that incites violence against the people described by these stereotypes and dehumanizes them. It is therefore important to develop educational programs whose purpose is to deconstruct such stereotypes and combat hate speech.
9. Vigorous implementation of ethical standards is necessary after a conflict to sideline journalists and media that contributed to the conflict. In the most severe cases, criminal prosecution and even lustration is necessary, according to the model which was used after the genocide in Rwanda.

4. Specific recommendations for the Western Balkan countries

Summary of discussions

The Western model of liberal journalism was adopted in the countries of the Western Balkans. However, harmonization with EU media standards has been quite simplistic, without considering the specifics of the region such as a culture of non-transparency, undeveloped markets, poor economic conditions, ethno-nationalism, incomplete transition processes, and party and economic monopolies.

Conference participants concluded that many laws have been adopted without strategic consideration of the specifics of the region. Implementation of progressive legislation has been full of contradictions. This resulted in a paradox: in parallel with the process of harmonization of national legislation with EU, OSCE and Council of Europe standards, the journalistic profession has been increasingly losing integrity and media freedom has become increasingly restricted. Adoption of freedom of expression laws has not lead to a weakening of the influence of political and economic elites on the media and journalists.

Journalists from the Western Balkans countries are constantly under economic pressure. Professional journalists are regularly fired and independent professional media are disappearing or becoming tabloidized. This leads to the disappearance of analytical and professional journalism. The media are being used in political campaigns by tycoons and the ruling parties, and in a majority of countries only one political party is in power.

Given the above, it is imperative to protect freedom of expression and journalists in the private sector in accordance with professional and ethical standards. It is necessary to develop a strategy to promote a

culture of rule of law and freedom of expression in the countries of the Western Balkans. In addition to recommendations relevant to the OSCE region as a whole, it is necessary to implement recommendations specific to the Western Balkans listed below.

Recommendations

1. National legislation, and in particular the Criminal Code, should be supplemented by a provision that qualifies attacks on journalists in the same way as attacks on public officials. This provision already exists in some countries like Croatia, where its implementation should be strengthened.
2. Since analytical journalism is less and less present within the mainstream media, initiatives to support it are needed.
3. In addition to adopting and implementing legislation that guarantees media freedoms, governments of OSCE participating States in the Western Balkans should contribute to the development and improvement of a culture of freedom of expression and the promotion of public debates about topics relevant for democratic societies.
4. Governments of the countries of the Western Balkans should create media programs that promote human rights, tolerance, multiculturalism and trust between nations. States should fulfill their international commitments to encourage education programs for children and youth countering prejudice and negative stereotypes in the media, including the internet.



DEVELOPING OSCE APPROACHES TO THE PREVENTION OF TORTURE AND ENFORCED DISAPPEARANCES

CIVIL SOCIETY RECOMMENDATIONS FROM THE WORKSHOP IN WARSAW, 17-18 SEPTEMBER 2015

Torture continues to be among the most serious problem in many OSCE participating States. In some countries and regions, torture is widespread and systematic and is practiced with impunity. Prosecution rates against perpetrators are shamefully low. Even where there are bona fide attempts at prosecution, these are often undermined by the lack of adequate safeguards and by corrupt, obstructive and non-transparent investigative mechanisms. Civil society actors believe that OSCE participating States and institutions should do much more to address this major problem. Civil society actors also believe that special attention should be paid to identifying ways to include the issue of enforced disappearances in OSCE work. The failure of OSCE and other international organisations to address numerous past cases of enforced disappearances in the region has created an atmosphere of impunity and a breeding ground for the commission of new crimes.

Driven by these concerns, participants of the OSCE Parallel Civil Society Conference in 2013 in Kiev adopted a document entitled “The Kiev Declaration: The OSCE Should Make Combatting Torture a Priority”, calling for more resolute OSCE action to address the problem of torture, and recommending several concrete steps. This appeal resonated with the position of the incoming Swiss Chairmanship, which included combatting torture among its thematic priorities for 2014. As a result, OSCE began to work more actively on torture in 2014. The Swiss Chairmanship supported four regional civil society workshops, organised by the Civic Solidarity Platform, all of which produced recommendations on torture that served as a basis for the chapter on prevention of torture in the Basel Recommendations adopted at the OSCE Parallel Civil Society Conference at year’s end. It was most unfortunate that the participants of the Ministerial Council Meeting in Basel in 2014 failed to adopt a decision on combatting torture, though it gained the support of an overwhelming majority of participating States.

To build on the momentum developed in 2014, the Civic Solidarity Platform organized a workshop on “Developing OSCE approaches to prevention of torture and enforced disappearances” on 17-18 September 2015 in Warsaw with support of the Chairmanship Troika. The workshop brought together specialised NGOs, representatives of the Troika, OSCE/ODIHR, the OSCE Secretariat and other relevant OSCE bodies to discuss earlier civil society recommendations and draft Ministerial Council meeting decisions, choosing the most important and feasible recommendations and identifying ways of implementing them, focusing on those that can be implemented in the next 2-3 years. Following is a list of recommendations, elaborated during the workshop.

GENERAL RECOMMENDATIONS

To the OSCE Chairmanship-in-Office

- Incoming Chairmanships-in-office should ensure that the fight against torture is a priority for the organisation.
- The OSCE Chairmanship should oversee the preparation of updated OSCE commitments on eradicating torture that would include enforced disappearance as a form of grave human rights violation and torture.
- The OSCE Chairmanship should task OSCE ODIHR to produce a baseline study on the situation with torture in participating States and the necessary steps for its eradication, including its prevention, prosecution and redress, including rehabilitation. The baseline study should identify shortfalls and gaps as well as best practices.
- The OSCE Chairmanship should develop an OSCE strategy outlining measures to eradicate torture in participating States, including monitoring of places of deprivation of liberty, prevention, investigation and documentation, prosecution, and ensuring redress, including reparations and the right to rehabilitation.

To OSCE political bodies and institutions:

- The OSCE Secretary General should improve coordination among all OSCE bodies with the goal of streamlining torture prevention in activities in all dimensions and ensuring transparency of all activities conducted by OSCE institutions and field presences.
- OSCE ODIHR should aim at making the newly established Focal Point on Torture Prevention a permanent programme and seek support from participating States towards this goal.
- To support the work of the newly established Focal Point on Torture Prevention, OSCE ODIHR should establish an expert panel on combating torture, similar to the expert panel on freedom of peaceful assembly. The panel should meet at least twice a year to assess relevant laws and practices in participating States, monitor progress and give advice on implementation by participating State of their commitments on eradication of torture.
- OSCE ODIHR should conduct a baseline study on the situation with torture in OSCE participating States, including its occurrence, prevention, prosecution, and redress. The baseline study should identify shortfalls and gaps as well as best practices.

To the OSCE participating States:

- Provide support to the newly established Focal Point on Torture Prevention at OSCE ODIHR including through political endorsements, extra-budgetary funding, seconding personnel, and practical cooperation.

SAFEGUARDS

To the OSCE participating States:

- Ensure that any deprivation of liberty is properly documented in accordance with procedures prescribed by law.
- Guarantee that alleged victims of torture and inhuman and degrading treatment have unhindered access to quality legal assistance, which should, where relevant, be offered free of charge.
- Guarantee access to alternative forensic examination to any alleged victim of torture and ill-treatment and ensure that the findings of such examination carry equal weight under domestic procedural legislation.
- Ensure that the work of doctors and other medical personnel in detention facilities is truly independent. Participating States should not subordinate medical services in detention facilities to the Ministry of the Interior or the administration of the penitentiary system.
- Ensure that adequate medical services are available to all detainees at all times and that medical personnel working inside detention facilities are trained on application of the provisions of the Istanbul Protocol.
- Take steps to ensure appropriate recording of events in places where torture and ill-treatment are most prevalent (for example, audio and video monitoring of police stations).
- Increase citizens' awareness of their rights and existing legal and procedural safeguards while in police detention.
- Ensure that no person is expelled, returned or extradited to countries where he or she is at risk of being subjected to torture or ill-treatment, and create effective domestic mechanisms, including judicial review, to prevent the transfer of people to such countries.

To OSCE/ODIHR:

- Identify and promote best practices for the effective use of safeguards in the participating States.
- Encourage inclusion of the Istanbul protocol in the curricula of higher education establishments in the participating States;

TRANSPARENCY OF DETENTION PLACES

To the OSCE participating States:

- States that have not already, should consider ratification of OPCAT, while those that have should provide for its effective implementation.
- Guarantee the effectiveness of their National Preventive Mechanisms and ensure they enjoy full

functional, institutional and personal independence and benefit from adequate human and financial resources.

- Ensure that other oversight mechanisms, such as Public Monitoring Commissions, enjoy the functional and personal independence necessary for effective implementation of their mandates.
- Ensure, in law and practice, unimpeded access of National Preventive Mechanisms and any other preventive monitoring bodies to all places of deprivation of liberty, persons and information.
- Enter into genuine dialogue with National Preventive Mechanisms and any other preventive monitoring bodies on the implementation of their recommendations.

To OSCE/ODIHR:

- Support the effectiveness of National Preventive Mechanisms by following up on the related commitments of OSCE participating States to ensure they are fully independent, benefit from adequate human and financial resources, and have unimpeded access to all places of deprivation of liberty, persons and information, in compliance with OPCAT.
- Contribute to the effectiveness of other detention monitoring mechanisms and bodies, including civil society mechanisms and Public Monitoring Commissions, by supporting full independence of their members from any undue governmental influence.
- Facilitate the monitoring of the work and effectiveness of National Preventive Mechanisms and any other preventive monitoring bodies, including by civil society organisations.
- Contribute to the follow-up of recommendations of international and national torture prevention bodies such as the SPT, the CPT and National Preventive Mechanisms.
- Strengthen the capacity and effectiveness of detention monitoring mechanisms by:
 - f. collecting baseline data on models and methodologies of monitoring, including reprisals mitigation measures, follow-up to recommendations, and the impact of monitoring;
 - g. supporting the codification of best practices;
 - h. facilitating the dissemination of best practices, including through training;
 - i. facilitating annual peer-to-peer exchanges between National Preventive Mechanisms from the OSCE region and regular meetings between all detention monitoring bodies including National Preventive Mechanisms. Consideration should be given to the establishment of a platform for this purpose;
 - j. facilitating regular exchanges between all stakeholders involved in preventive monitoring.

TORTURE AND LAW ENFORCEMENT

To the OSCE participating States:

- Take legislative and practical steps to ensure the prevention of torture and ill-treatment during the policing of demonstrations, including by introduction of a requirement that officers policing

demonstrations wear name tags and of mandatory human rights training programmes for police and personnel working in places of detention.

- Ensure that use of force by law enforcement officials and detaining authorities is regulated in accordance with law and respects the principle of necessity and proportionality.

To OSCE/ODIHR:

- Conduct follow-up assessment to assess how police at the national level follow recommendations made during OSCE police training programmes.
- Consult with local civil society organisations early in the planning stage of OSCE police training programmes.
- Include work on professional standards of law enforcement performance (analysing best practices, elaborating standards and assisting in their introduction in participating states) as one of the tasks of the Focal Point on Torture Prevention and an expert panel on combating torture, should it be created.
- OSCE Police Training and capacity building programs should analyse the implication of the current refugee crisis in Europe on the capacity of law enforcement bodies to perform their functions based on human rights standards, and develop additional tools and training programs in this respect.

INVESTIGATION

To the OSCE participating States:

- Establish effective procedures to provide alleged victims of torture and inhuman and degrading treatment with unhindered access to legal procedures that will lead to the identification and punishment of perpetrators.
- Ensure that penalties in national criminal codes correspond to the gravity of the crimes in question;
- Guarantee full independence of bodies responsible for investigating alleged cases of torture and inhuman and degrading treatment.
- Ensure that relevant investigative authorities are properly staffed and have necessary material and financial means to properly carry out their mandate.
- Do not create obstacles to civil society organizations that conduct alternative investigations into cases of torture and ill-treatment.

To OSCE/ODIHR:

- Facilitate identification and promotion of advanced and outcome-oriented practices of investigation of torture and inhuman and degrading treatment.

- Systematically examine and evaluate relevant provisions of existing and draft laws that deal with the investigation of torture.
- Consult regularly with local civil society groups working on impunity issues in relation to allegations of torture and ill treatment.

MEDICO-LEGAL INVESTIGATION AND DOCUMENTATION OF TORTURE AND ILL-TREATMENT

To OSCE/ODIHR:

- Include in its baseline study on the situation of torture in participating States an assessment of the mechanisms existing in participating States to investigate and document torture.
- Promote the standards and principles of the Istanbul Protocol and apply them throughout its existing human rights, fair trial, and justice reform work, including by focusing on the need to involve medical and psychological professionals in the prompt, effective, and impartial investigation of torture cases.
- Promote full implementation of the Istanbul Protocol in participating States, including:
 - a. recognition and implementation of the Istanbul Protocol standards;
 - b. legal, administrative and judicial reforms, including appropriate complaints mechanisms;
 - c. compulsory training and continuing education for target groups;
 - d. creation of independent forensic institute;
 - e. establishment and enforcement of forensic rules and regulations;
 - f. development and effective use of standardised Istanbul Protocol medical evaluation forms;
 - g. monitoring and accountability of implementation of the Istanbul Protocol.

REDRESS AND REHABILITATION OF VICTIMS OF TORTURE

To OSCE/ODIHR:

- Include in its baseline study on the situation of torture in participating States an assessment of the steps taken by each State to ensure full implementation of torture victims' right to rehabilitation.
- Promote torture victims' rights to holistic rehabilitation as an essential component of the rights and needs of torture victims and apply these standards throughout its existing human rights, fair trial, and justice reform work. This should include providing adequate funding to provide all torture victims with accessible and appropriate rehabilitation services, including medical and psychological support, social and economic reintegration and legal and judicial remedies.
- Promote full implementation of torture victims' rights to holistic rehabilitation in participating States in accordance with General Comment 3 on Article 14 of the UN Convention against Torture, including:
 - a. early identification of victims;
 - b. early access to services;
 - c. no requirement of prior application for judicial remedies;

- d. free choice of service provider;
- e. safety and personal integrity for victims and service providers;
- f. monitoring and evaluation, including data collection on the implementation of rehabilitation programmes.

ENFORCED DISAPPEARANCES

To the OSCE participating States:

- All OSCE participating States should ratify without any further delay the International Convention for the Protection of All Persons from Enforced Disappearance and recognise the competence of the UN Committee on Enforced Disappearances.
- State parties to the International Convention for the Protection of All Persons from Enforced Disappearance should apply the mechanism of universal jurisdiction to apprehend individuals from other countries suspected in or responsible for committing the crime of enforced disappearance, effectively investigate allegations brought against them, and bring perpetrators to justice.
- Effectively cooperate with and fully implement relevant decisions and judgments of existing international human rights mechanisms, including the UN Committee on Human Rights, the UN Working Group on Enforced and Involuntary Disappearances, and the European Court of Human Rights as concerns both individual cases and general measures;
- Enact domestic legislation criminalising enforced disappearances based on the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance;
- Take all necessary practical steps to combat enforced disappearances, effectively investigate allegations of enforced disappearance, bring perpetrators to justice and provide proper compensation to the victims and their families.

To the OSCE political bodies and institutions:

- OSCE political bodies, institutions and participating States should start working without delay on drafting an explicit OSCE commitment on enforced disappearances with the aim of adopting such a commitment in the nearest future. The OSCE Chairmanship should take the lead in this process.
- Even before an explicit OSCE commitment on enforced disappearances is adopted, OSCE political bodies, institutions and participating States should review and update the existing OSCE commitments related to torture, and in the process recognise enforced disappearance as a crime and a form of torture.
- The newly established Focal Point on Prevention of Torture at OSCE/ODIHR should include enforced disappearances in its mandate, including in its monitoring of places of deprivation of liberty.
- The OSCE Chairmanship should take a leading role in raising the cases of enforced disappearances with participating States.

- The OSCE Moscow Mechanism should be used more often as a tool for the investigation of allegations of enforced disappearances as a part of human dimension crises.
- Continued application of the OSCE Moscow Mechanism regarding a human dimension situation in a participating State (or a similar human dimension mechanism, should it be established) should not be considered completed until substantial progress has been made in the implementation of recommendations contained in the Moscow Mechanism report. The Moscow Mechanism should continue to be applied so long as there continue to be cases of such gross violations of human dimension commitments as continued abductions and enforced disappearances, lack of effective investigation of past cases of abductions and enforced disappearances, continued incarceration of political prisoners, repeated and widespread use of force against participants of peaceful assemblies, and systematic use of torture against political prisoners, victims of abductions and participants of peaceful assemblies. Each incoming OSCE Chairmanship should look into such “open Moscow Mechanism cases”, examine the current situation in the countries in question and organise a follow-up process if needed. Progress in implementing recommendations in previous report(s) should be documented in subsequent reports by a working group or a rapporteur established by the OSCE Chairmanship, the Human Dimension Committee Chair or a group of concerned participating States.
- OSCE field missions should play a more active role in addressing the crime of enforced disappearances in the countries of their presence.