

Working Session 10: Fundamental freedoms I, including:

- Freedom of expression
- Freedom of peaceful assembly and association
- National human rights institutions and the role of civil society in the protection of human rights
- Freedom of movement

Rapporteur: Mr. Jürgen Heissel, Deputy Head of Mission for the Human Dimension, Permanent Representation of Austria to the OSCE

No. of statements: 50

Delegations: 11

Civil Society: 38

OSCE Institutions: -

NHRI: 1

International Organizations: -

Media: -

Rights of reply: 10

The first introducer, Ms. Ena Bavcic, Programme Officer and Country Representative of Civil rights Defenders in Bosnia and Herzegovina, presented independent monitoring of assemblies as a tool to promote respect for and protection of human rights and underlined the crucial watchdog role played by civil society organisations (CSOs), international organisations and National Human Rights Institutions (NHRIs). They must be permitted to freely observe public assemblies in line with the OSCE/ODIHR and Venice Commission Guidelines on Peaceful Assembly while observing the ‘do no harm’ principle. CSOs also play an active role in the implementation of positive and negative obligations of the state as they monitor all aspects of peaceful assemblies in relation to the legal framework and law enforcement as well as potential court procedures. While policing of assemblies is at the core of monitoring work, monitors need to follow whether state authorities are being held accountable. OSCE pS should recognise and support monitoring by supporting relevant actors active in monitoring of peaceful assemblies. States can also support these efforts by facilitating the sharing of information and by providing support to watchdogs and independent bodies in their investigation efforts of alleged violations of human rights compliant policing.

The second introducer, Mr. Arman Tatoyan, Human Rights Defender of the Republic of Armenia, stressed the importance of full respect for and the interdependence of fundamental freedoms for a peaceful society and elaborated on the complementarity of the role of NHRIs, civil society and international organisations. Mr. Tatoyan reported that the democratic developments in his country were accompanied by a task force comprising of ten subgroups covering the whole country, which allowed for the Armenian Human Rights Defender to cover all relevant human rights monitoring issues and the entire range of responsibilities of an NHRI. These responsibilities include inter alia human rights monitoring, receiving complaints, monitoring of detention facilities and assemblies, monitoring of rights of journalists and transferring complaints to the responsible law enforcement bodies. He particularly underlined the necessity for the NHRI to have the trust of all stakeholders and to be perceived impartial and de-politicised. Specific challenges relate to hate speech and intolerance generated through social media, which were successfully balanced by appeals to keep the process peaceful and cooperation with the press. Finally, he underlined the need for

close cooperation with international partners at regional or wider level, such as the European Network of National Human Rights Institutions (ENNHRI) and the OSCE.

Many delegations from pS and representatives of CSOs expressed concern about the increasing restrictions on the freedoms of assembly and association, as well as expression and movement in the OSCE region, limiting the space for civil society, as well as the increasing attacks on human rights defenders. These restrictions and attacks, they said, are in violation of the OSCE principles and commitments.

Many different undue restrictions and challenges to the freedom of assembly across the OSCE region were highlighted, including the arrests and detention of peaceful participants to assemblies, the prohibition of peaceful assemblies, the intimidation of participants to assemblies or of their family members and the challenge to protect peaceful participants against attacks from counter-protesters.

With regards to the freedom of association, many concerns were raised pertaining to restrictive laws and administrative measures affecting the work of NGOs or forcing them to close down. The restrictions on the freedom of association of the Crimean Tatars were also addressed in various interventions.

Many delegations reaffirmed the important role of mass media and journalists in informing the public, while some participants cautioned against the negative impact of vaguely framed anti-extremism laws on the freedom of expression for journalists or human rights defenders. Two participating states delegations reminded of the necessity to protect freedom of expression online and offline and raised the concern of increasing restrictions to the digital space. Some participants called for respect for the right to free speech without any limitations.

In relation to limits to the freedom of movement some interventions referred to the use of exit visa or travel bans negatively impacting on the activities of human rights defenders, including on the participation in multilateral meetings.

A number of interventions focused on the precarious situation of human rights defenders and journalists in various countries in the OSCE region, where they are subject to arbitrary detention, politically motivated trials, intimidation and threats online (with a disproportionate burden on female human rights defenders). Concerns were also raised about actions against lawyers who are defending human rights activists.

Recommendations made by participants during this session include (non-exhaustive list):

Recommendations to the OSCE participating States:

- Recognize and support monitoring in their own and developing states by supporting NHRI (Ombudsman and other independent institutions), local observers/CSOs and international bodies such as OSCE/ODIHR;
- Encourage communication and information-sharing, as well as access to media and observers that enables them to monitor all aspects of an assembly consistently before, during and after the assembly
- Refrain from imposing undue limitations on monitoring activities, but ensure that monitors can operate effectively in the context of assemblies;

- Engage with monitors and follow their assessment of the facilitation of assemblies by the state authorities in order to learn of good practices and improve bad ones (lessons learned);
- Provide a special status for assembly monitors that would include support and protection of monitors in the context of their work and prevent abuses and hindrances. These commitments should acknowledge and formalize the role of monitors in order to effectively address the challenges faced by monitors and constitute a basis for co-operation between them and OSCE member state authorities;
- Ensure that access is provided to the greatest extent possible to assembly monitors and journalists (both traditional and citizen journalists) to all locations where they may carry out their activities, as well as to situations, including actions of law-enforcement authorities;
- Ensure that assembly participants, observers, media representatives or bystanders are able to photograph or otherwise record actions and activities at public assemblies, including law-enforcement operations or individual law-enforcement officials, and that such recordings can be accepted as evidence in related disciplinary, administrative or criminal proceedings;
- Ensure that law-enforcement officers are easily and clearly identifiable at all times while policing assemblies;
- Respect and facilitate the work of independent bodies and watchdogs to receive and investigate allegations of human rights violations and abuses in the context of assemblies and to monitor the implementation of the right to freedom of peaceful assembly;
- Do their own monitoring, by enhancing monitoring and peer review of the policing of assemblies by law-enforcement personnel, and explore possibilities for international co-operation and the exchange of good practices in this regard;
- Regularly educate law enforcement agencies on human rights principles for assembly policing and the role of monitoring in enhancing the democratic policing of assemblies;
- Refrain from harassing journalists and restricting the dissemination of information in the media.
- Refrain from excessive limitations on the freedom of assembly and association by applying anti-extremism legislation;
- Refrain from harassing journalists and restricting the dissemination of information in the media.
- OSCE pS to remove all restriction and barriers to the free flow of information online and offline;

Recommendations to the OSCE/ODIHR:

- Address the lack of respect for OSCE commitments on freedom of assembly and association, expression and movement including by employing an early warning approach in line with its mandate.