

21 September 2018

Working Session 11: Fundamental freedoms I (continued), 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, and freedom of movement

No of statements: 50

Delegations: 8

Civil Society: 39

NHRI: 1

OSCE Institutions: 1

International Organizations:

Media: 1

Rights of reply: 18

Rapporteur: Ms. Narmin Ahangari, Second Secretary, Permanent Mission of Azerbaijan to the OSCE

First introducer Ms. Irina Dincu, Senior Programme Specialist at the Centre of Excellence for Civic Registration and Vital Statistics Systems in Canada, elaborated on the critical role of safe and secure civil registration and ID systems in the freedom of movement and gave an overview on the existing challenges of the lack of documents- especially for women and girls- which hampers their ability not only travel, but also to be protected as full citizens of their countries.

She emphasized that sophisticated border control and most importantly safe and secure travel documents issued on the base of safe and secure civil registration systems are paramount importance for fight against terrorism and building genuine security borders. Also she underlined that sophistication of design and standards of travel documents in itself does not mean the documents were given based on secure and safe civil registration system.

Birth registration is fundamental human right and important tool for human rights protection. She emphasized that the registration of a child immediately after birth is a prerequisite for enjoyments of rights put forth by The Convention on the Rights of Children, as well as for other important documents.

She also noted that legislation or custom which requires the father or male representative of the family to register the birth poses a serious barrier for women to register the births of their children, especially for unmarried women or women victims of violence. She recommended that birth certificate should be independent from marital status and identity of father.

She further touched upon on the issue that the lack of birth registration could result in risk of being stateless. She also noted with concern the emerging trend on obtaining secure documents based on false identity and provided that weak civil registration systems, and dysfunctional justice systems, along with poverty often make possible for people to get real fake documentation.

Second introducer Ms. Helen Darbishire, from NGO Access Info Europe, elaborated on the aspects of freedom of expression related to access to information. She emphasized that the access to information is an inherent part of freedom of expression. This has been defined through

international bodies, including the UN Human Rights Committee, the European Court of Human Rights, and the Inter-American Court of Human Rights. She positively noted that, the European Court of Human Rights specifically referred to OSCE standards in developing its jurisprudence.

She underlined that currently 53 countries in OSCE has access to information law and commended the role of OSCE, in particular RFOM contributing to the process of developing these laws in past twenty-five years. She recommended four participating States of OSCE who has no laws on access to information to review adopting such laws. She also argued that quality of laws in practice and paper differs, especially in less developed democratic countries. Based on the data, she put forth that the independent information commissioners make a significant difference with implementation of laws and encouraged countries which do not have commissioners to consider establishing them.

She provided examples to show the important role of RFOM in monitoring responses to request of this right and as well as in conducting legal analysis, including monitoring positive and negative changes with regard to laws on access to information in participating States. In order to advance the access to information, she suggested OSCE participating States to sign and ratify Council of Europe Convention on Access to Official Documents.

She further noted how obtaining information permits members of the public to be better informed and hence allowing them to participate actively in decision making and contributing to better democratic governance. The importance of the delivering information on timely manner has been underlined in this regard. The average timeframe for responding to requests in the laws of the OSCE region is 17 working days, which she expressed that in practice takes are often much longer.

She also mentioned the role of journalist and NGO in making use of the access to information to expose corruption and violations of human rights. She also raised a concern over the possible negative consequences for journalists who make requests for information as part of investigations and called for better protection of “whistleblowers”.

Participating States and civil society representatives discussed several aspects of freedom of expression, freedom of peaceful assembly and association, freedom of movement and the role of national human rights institutions and the civil society in the protection of human rights. Several participating States shared the positive developments with regard to the protection and ensuring the above mentioned rights in their countries.

Several participants touched upon on the issue of balance between hate speech and freedom of expression and highlighted the importance of ensuring that hate speech laws are not restricting the freedom of expression.

Concerns have been raised over the issues of targeting journalists as foreign agents, blocking websites, unduly and disproportionately restricting freedom of speech, including online. Some participants raised a concern with regard to the increasing radical state rhetoric, and promotion of xenophobic and neo-Nazi ideology.

Several civil society representatives highlighted that restrictions on the funding of NGO's and pressure put on journalists might result in self-censorship.

Defining and maintaining the balance between security and freedom of expression also was widely discussed during the session. Some concerns were raised with regard to the restrictions put on civil society by the false pretexts of protecting state security and preventing foreign interference in domestic affairs, fight against terrorism and extremism, protection of traditional values. Some participants noted that such restrictions must be prescribed by law.

Some civil society representatives expressed concern that there is incompatibility between the law of the State and that of a particular religious' doctrine. They called participating States to take actions against those who promote religious' doctrine and practices that are against democratic principles and values and human rights.

Freedom of expression during OSCE events was raised by some civil society representatives. They argued that the introduction the provisions on the "context based discriminations" to "Code of Conduct" by ODIHR might limit the freedom of expression during the human dimension events.

Some participants highlighted that the role of civil society does not limited only to the promotion but also strengthening the democracy and implementation of the rights provided by law. Especially the role of NHRI was highlighted in the protection of human rights, as well as raising public awareness.

Restrictions and challenges to the freedom of assembly across the OSCE region were discussed, 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. The right of minorities to freedom of assembly and associations was raised by several civil society representatives.

During the discussions on the freedom of movement, movement to and from conflict areas and laws governing such movements were also raised by some participating States and civil society representatives.

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

Recommendations to the OSCE participating States:

- promptly and effectively investigate all attacks against civil society activists and bring their perpetrators and masterminds to justice,
- recognize and support the role civil society plays in combating radicalisation and violent extremism by reaching out to include members from minority groups,
- urge governments to create a safe space for critical and constructive dialogue with civil society,
- continue monitoring the situation of human rights defenders and independent civil society organizations in the OSCE region and intensify efforts to empower and support them,
- consider advancing existing Human Dimension commitments, especially those with regards to the enabling and safe environment conducive for human rights work,

- review how the the OSCE Guidelines on the Protection of Human Rights Defenders are implemented and, if necessary, review the existing framework for implementation of the OSCE Guidelines to foster more effective implementation,

Recommendations to the OSCE institutions, executive structures and field operations:

- actively seek cooperation with NGOs that organize women with an independent voice,
- encourage the right of women to organize by allowing women's organizations to become natural partners in the OSCE's work in all three dimensions,
- consider mapping the situation of human rights defenders and the operating environment of civil society organizations in the OSCE region in order to identify best practices and positive examples with regards to an enabling environment,
- launch a report about legal and other obstacles which hinder the work of human rights defenders in the OSCE area and how these can be addressed.