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**Office for Democratic Institutions and Human Rights**

**Information Submitted to the**

**Office of the United Nations High Commissioner for Human Rights for the “Civil Society Space Report” as requested by HRC Resolution 27/31**

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**Warsaw, 25 June 2015**

HRC resolution 27/31 on civil society space requested the High Commissioner to “prepare a compilation of practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned, and in this regard to continue to engage with and seek the views of States, the special procedures of the Human Rights Council, the treaty bodies, relevant United Nations bodies and agencies, regional human rights mechanisms, national human rights institutions, civil society and other stakeholders, and to submit the compilation to the Human Rights Council at its thirty-second session”.

With 57 participating States in North America, Europe and Asia, the Organization for Security and Cooperation in Europe (OSCE) is the largest regional security organization working to ensure peace, democracy and stability for more than a billion people. The Office for Democratic Institutions and Human Rights (ODIHR) is the human rights institution of the OSCE. It promotes democratic elections, respect for human rights, tolerance and non-discrimination and the rule of law. The Office works closely with the OSCE’s other institutions and field operations, as well as a large number of partners among governments, international organizations and civil society.

OSCE/ODIHR submits the following contribution to the “Civil Society Space Report” reflecting good practices and lessons learnt identified during its work with civil society organization in the OSCE area and organized according to some of the different areas of work of ODIHR.

**Human Rights Defenders**

Civil society organizations and actors in numerous OSCE participating States are presently facing increased restrictions, threats, harassment and attacks, from State and non-State actors alike. In this regard, the “creation and maintenance of a safe and enabling environment for civil society” (HRC Res. 27/31, para. 15) is of paramount importance. States are obliged to align and harmonize their national legal frameworks with their international human rights obligations. However, there has been a wave of vague – and, in some cases, highly restrictive – legislative initiatives with either the intention or effect of constricting civil society space, limiting or terminating the operations of CSOs, and ultimately stifling dissent and excluding certain groups or voices from democratic decision-making processes. ODIHR drafted, published, and continues to disseminate *Guidelines on the Protection of Human Rights Defenders[[1]](#footnote-1)*, which outline and develop a range of good practices based on lessons learned across the OSCE region. They provide important standards to improve the implementation of OSCE human dimension commitments and the international human rights obligations to which they pertain. The *Guidelines on the Protection of Human Rights Defenders* include, among other practical recommendations, the following:

*Supportive regulatory framework*

* Adopt national legislation recognizing the motivation for crimes against human rights defenders on account of their human rights work as an aggravating factor in relation to sentencing, and ensure that hate crime laws apply to crimes committed against human rights defenders “by association”.
* States should review, amend and/or repeal any legal provisions that directly or indirectly lead to the criminalization of activities that are protected by international standards, or which have vague and ambiguous definitions that are or could be abused to prosecute human rights defenders for their work.
* In relation to legislation regulating freedoms of opinion, expression, association or assembly, States should not impose undue restrictions for reasons of national security, public order and public health or morals beyond what is permissible under international standards. Any such restrictions must fully meet the strict requirements of necessity and proportionality, or else be amended or repealed.

*Conducive political and public environment*

* Laws, administrative procedures and regulations must not be used to intimidate, harass, persecute or retaliate against human rights defenders, or subject them to politically-motivated investigations and prosecutions either directly or indirectly related to their human rights work. States should also eliminate any vaguely-worded provisions in legislation that may be open to arbitrary application in order to threaten, silence or imprison human rights defenders.

*Right to information*

* States should adopt and implement freedom of information legislation that provides for effective and equal access, including by human rights defenders, to diverse ideas, as well as official data, documents and decisions.
* States should not impose undue limitations (including under the auspices of State secrecy laws) on the dissemination of information that in practice prevent human rights defenders from carrying out their work or providing services to their beneficiaries.
* States adopt legislation and practices that afford “whistle-blowers” legal protection when disclosing information in the public interest, and provide a safe alternative to silence – particularly when uncovering information about the responsibility of State or non-State actors for serious human rights abuses.
* The right to freedom of opinion and expression applies online. Freedom of expression is a fundamental right also in the sense that it is quite literally a foundation for the enjoyment of numerous other rights, including participation in public affairs, peaceful assemblies, media freedom, and access to effective remedies. Any State regulation of Internet communication must fully comply with the strict requirements that international standards set for limitations to the right to freedom of opinion and expression – including by allowing information that is critical of the government or discusses issues that are controversial in society.
* States must likewise ensure that civil society actors enjoy the right to unhindered access to and communication with international bodies, including international and regional bodies with the competence to receive and consider information concerning allegations of human rights abuses.

*Inclusion in public decision making*

* States should establish mechanisms and procedures for the regular and ongoing participation of both domestic and international civil society organizations, in order to facilitate effective participation in public decision-making, including in the drafting of laws and policies.
* States should consult with civil society in particular when discussing amendments to laws regulating their activities or impacting their areas of expertise, and are encouraged to seek international assistance in carrying out such legislative reviews.

**Freedom of association**

When drafting legislation on freedom of association-related matters or other topics potentially affecting the exercise of the right to freedom of association (e.g., taxation, surveillance, etc.), the OSCE/ODIHR recommends the use by the legislators/lawmakers of the newly published *Joint OSCE/ODIHR-Venice Commission Guidelines on Freedom of Association* (2015).[[2]](#footnote-2) These Guidelines constitute a practical toolkit offering advice and expertise on how to legislate on freedom of association-related matters, in a manner that is compliant with international human rights standards and OSCE commitments; they also provide concrete examples of legislative good practices to facilitate the exercise of the right to freedom of association and hence create an enabling legal framework for freedom of association. In this sense, the Guidelines advocate against unnecessarily burdensome and restrictive legislation pertaining to, among others, the registration process, access to resources (including public, international and foreign funding), and unequal treatment of associations. They also raise, in particular, the need to facilitate activities of both registered and unregistered associations.

A set of practical *“Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes”* were developed by the participants in a Civil Society Forum organized by ODIHR at the margins of the OSCE Supplementary Human Dimension Meeting on 15-16 April 2015.[[3]](#footnote-3) These recommendations offer concrete principles and tools to facilitate inclusive and open dialogue by authorities of OSCE participating States with civil society in a transparent, impartial and non-discriminatory manner, and also cover proposals on how to develop a supportive policy and regulatory framework and build a culture of participation.

**Elections**

Democratic elections are recognized globally as the cornerstone of democracy and regarded as one of the key elements of long-term stability and security. OSCE participating States have recognized that citizen election observation can play an important role in promoting transparency and accountability, as well as enhancing public confidence in the electoral process. Citizen election observation is enshrined in paragraph 8 of the 1990 OSCE Copenhagen Document, which asserts “that the presence of observers, both foreign and domestic, can enhance the electoral process”. Existing good electoral practice also recognizes the valuable role played by citizen observers in the electoral process, which is noted in the 2002 *Code of Good Practice in Electoral Matters of the European Commission for Democracy through Law (Venice Commission).*

A number of OSCE participating States have adopted legislative measures providing for the participation of international and citizen observers in their elections, in compliance with OSCE commitments. While some States have not yet brought their legislation fully in line with OSCE commitments, most of these identified other legal means to provide for international and/or citizen election observation and in practice provided unimpeded access of observers to all stages of the electoral process. However, in a large number of OSCE participating States, there are no specific provision in domestic legislation for international and/or citizen election observers[[4]](#footnote-4)

ODIHR has engaged with and supported citizen observers in the OSCE region for more than two decades. ODIHR supports the rights of citizen observer groups to observe all aspects of the election process, as recognized in the 1990 OSCE Copenhagen Document and the 2005 Declaration of Principles for International Election Observation. In 2003, ODIHR published a Handbook for Domestic Election Observers to assist citizen observer groups establish professional and transparent working methods. In addition, ODIHR regularly facilitates election observation training for long-term and short-term observers, which include the explicit participation of representatives of civil society organizations from OSCE participating States.

**Roma and Sinti**

The Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, stipulates that “(t)he guiding principle in the efforts of participating States and relevant OSCE institutions should be that each policy and implementation strategy should be elaborated and implemented with the active participation of Roma and Sinti communities. It is essential to ensure real participation by Roma and Sinti people in all the decisions that affect their lives. Roma and Sinti people should work alongside local, national and international authorities in the development of these strategies. Equally, Roma communities should be equal partners and should share the responsibility for the betterment of their welfare.”[[5]](#footnote-5)

The Action Plan mandated ODIHR to promote better relations between Roma and Sinti non-governmental organizations (NGOs) and the participating States and pointed out that ODIHR should support capacity building for Roma and Sinti NGOs, develop relations with Roma and Sinti organizations, help them co-ordinate their efforts and resources, and facilitate and stimulate dialogue between national governments and international organizations and Roma NGOs.

The Action Plan recommended that OSCE participating States work in partnership with Roma and Sinti civil organizations in resolving problems related to the lack of basic documents, assessing the gap between international standards on police and currently existing national practices and elaborating policy statements, codes of conduct, practical guidance manuals and training programmes for the police.

In addition to the Action Plan, Ministerial Council Decision 8/09 encourages OSCE institutions to enhance co-operation and co-ordination with civil society actors focusing on Roma and Sinti issues;[[6]](#footnote-6) and Ministerial Council Decision 4/13, particularly focusing on Roma and Sinti women, youth and children, encourages “the relevant OSCE executive structures to enhance their activities meant to build the capacities of Roma and Sinti women and youth organizations.”[[7]](#footnote-7)

ODIHR actively supports the participation of Roma and Sinti civil society organizations at its annual Human Dimension Meetings. In 2010, 2011 and 2012 ODIHR also organized consultation meetings with over 30 civil society organizations just prior to the special session on Roma and Sinti of the Human Dimension Implementation Meeting (HDIM). These consultation meetings served as platform for discussion and consultation with civil society representatives on the main issues Roma and Sinti face in the OSCE area and resulted in individual and joint statements of the Roma and Sinti civil society in these sessions. ODIHR also supports the participation of Roma and Sinti civil society in other human dimension events, such as the 2014 OSCE Gender Equality Review Conference.

Roma and Sinti CSOs are also regularly consulted and invited to participate in other ODIHR activities. For instance, in 2014, Roma and Sinti civil society activists participated in the ODIHR expert meeting *“Police and Roma and Sinti – Current Challenges and Good Practices in Building Trust and Understanding,”[[8]](#footnote-8)* and the expert meeting on the public and political participation of Roma and Sinti on the local level.[[9]](#footnote-9) ODIHR also specifically consults Roma and Sinti women’s organizations; most recently, in 2014 and 2015, ODIHR organized specific consultation meetings with Roma and Sinti women activists.[[10]](#footnote-10) In line with the mandate given by the Ministerial Council Decision 4/13, ODIHR is now working actively with Roma and Sinti youth CSOs, and in December 2014 ODIHR organized an international conference for Roma and Sinti youth organizations, gathering representatives from 17 OSCE participating states.[[11]](#footnote-11)

ODIHR also provides support and resources to Roma and Sinti CSOs through their engagement via Implementing Partner Agreements. For instance, most recently, ODIHR supported the Roma Women’s Fund Chiricli from Ukraine, in their research on the situation of Roma in the country, in the light of the current crisis.[[12]](#footnote-12)

**Tolerance and non-discrimination**

Through capacity building activities for civil society on how to recognize and monitor hate crimes, ODIHR introduces civil society organizations to the legislative framework and international human rights mechanisms in the area of combating hate crimes. This includes an overview of OSCE commitments, UN treaties and other relvant documents.

ODIHR shares information on hate crimes for its annual reporting with civil society and public information through the website [http://hatecrime.osce.org](http://hatecrime.osce.org/). The website contains information received from participating states, international organizations and civil society organizations. ODIHR has published the guide *Preventing and responding to hate crimes: A resource guide for NGOs in the OSCE region*  for civil society organizations in order to support their efforts in combating hate crimes. The purpose of this resource guide is to provide civil society with clear information about hate crime characteristics and the impact of hate crimes on the stability and security of the community. The prevention and monitoring role of civil society is illustrated with concrete examples. This publication available at <http://www.osce.org/odihr/39821> also indicates how civil society can support victims and co-operate with the police in raising awareness of the importance of reporting hate crimes.

ODIHR trains civil society organizations to build their capacity to recognize and monitor hate crimes. Since 2012, ODIHR has trained more than 600 representatives. Since 2012, ODIHR has been implementing a project to build the capacity of people of African descent in the OSCE region. In 2014, ODIHR organized special events for Muslim women and women of African descent to empower them and build their capacity to make a distinction between discrimination and hate crimes. ODIHR also began working specifically on disability hate crime, with annual training activities beginning in 2012. ODIHR also encourages civil society organizations to submit information for the hate crime reporting website. The factsheet for civil society organizations is available in ten languages at <http://hatecrime.osce.org/civilsociety>.

ODIHR's annual Human Dimension Meeting and all high-level conferences encourage participation from civil society orgnization. Additionally, the *“10th Anniversary of the OSCE’s Berlin Conference on Anti-Semitism: High-Level Commemorative Event and Civil Society Forum”* organized in Berlin in 2014 was preceeded by a civil society meeting, which resulted in recommendations to participating States and international organizations <http://www.osce.org/odihr/126836>. More than 155 organizations from 38 participating States took part in this event.

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1. <http://www.osce.org/odihr/119633> . [↑](#footnote-ref-1)
2. English and Russian versions of the Guidelines on Freedom of Association are available at <http://www.osce.org/odihr/132371>; Arabic, French and Ukrainian versions will be available in the coming months. [↑](#footnote-ref-2)
3. A first set of draft recommendations (available at <http://www.osce.org/pc/151631>) – non-exhaustive – was presented during the Supplementary Human Dimension Meeting (SHDM) on Freedoms of Peaceful Assembly and Association (16-17 April 2015) and is currently being further refined and supplemented in order to be presented at the Human Dimension Implementation Meeting in September-October 2015 in Warsaw, Poland. [↑](#footnote-ref-3)
4. For an overview of existing provisions in specific OSCE participating States go to the OSCE/ODIHR 2013 Review of Electoral Legislation and Practice in OSCE participating States <http://www.osce.org/odihr/elections/107073> [↑](#footnote-ref-4)
5. The Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area (Ministerial Council Decision No. 3/03), paragraph 5, available at <http://www.osce.org/odihr/17554> [↑](#footnote-ref-5)
6. Ministerial Council Decision No. 8/09, Enhancing OSCE Efforts to Ensure Roma and Sinti Sustainable Integration, paragraph 9, available at <http://www.osce.org/cio/40707> [↑](#footnote-ref-6)
7. Ministerial Council Decision No. 4/13, Enhancing OSCE Efforts to Implement the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, with a Particular Focus on Roma and Sinti Women, Youth and Children, paragraph 5, available at <http://www.osce.org/mc/109340> [↑](#footnote-ref-7)
8. Report available at <http://www.osce.org/odihr/119653> [↑](#footnote-ref-8)
9. Press release available at <http://www.osce.org/odihr/128111> [↑](#footnote-ref-9)
10. Press release available at <http://www.osce.org/odihr/158801> [↑](#footnote-ref-10)
11. Press release available at <http://www.osce.org/odihr/130531> [↑](#footnote-ref-11)
12. Report available at <http://www.chirikli.com.ua/index.php/en/library/item/93-monitoring-the-human-rights-situation-of-roma-in-ukraine> [↑](#footnote-ref-12)