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SUPPLEMENTARY HUMAN DIMENSION MEETING

**FREEDOMS OF PEACEFUL ASSEMBLY AND ASSOCIATION,
WITH EMPHASIS ON FREEDOM OF ASSOCIATION**

**16 - 17 April 2015
VIENNA**

FINAL REPORT

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I. EXECUTIVE SUMMARY

The first Supplementary Human Dimension Meeting (SHDM) in 2015 was dedicated to the freedoms of peaceful assembly and association, with an emphasis on freedom of association. It brought together 173 participants¹

The meeting was organized into three sessions:

- **SESSION I:** A human security approach to freedoms of peaceful assembly and association;
- **SESSION II:** Non-discrimination and the freedoms of peaceful assembly and association; and
- **SESSION III:** Enhancing the participation of associations in public decision-making processes.

II. SYNOPSIS OF THE SESSIONS AND RECOMMENDATIONS

This section summarizes the discussions which took place during the opening and closing sessions and the three thematic sessions and presents recommendations made by participants. The recommendations were directed towards a variety of actors, in particular: OSCE participating States, OSCE institutions and field operations, civil society actors and representatives of international organizations. These recommendations have no official status and are not based on consensus. The inclusion of a recommendation in this report does not suggest that it reflects the views or policies of the OSCE. Nevertheless, these recommendations serve as useful indicators for the OSCE to reflect on how participating States are meeting their freedom of peaceful assembly and association-related commitments and their views on OSCE/ODIHR freedom of peaceful assembly and association-related follow-up.

OPENING SESSION

Opening remarks:

Ambassador Vuk Žugić, Chairperson of the Permanent Council, Permanent Representative of Serbia to the OSCE

Ms. Beatriz Balbin, First Deputy Director, OSCE/ODIHR

Keynote Speech:

Ms. Hina Jilani, Advocate at the Supreme Court (Pakistan)

¹ Of the 173 participants 76 were women and 97 were men, including 99 delegates (45 women, 54 men) from 47 OSCE participating States, 65 representatives (26 women, 39 men) of 56 non-governmental organizations, 4 representatives (3 women, 1 man) of 4 OSCE Field Operations, 3 (all men) participants from 2 other OSCE institutions, and 2 representatives (all women) of 1 international organizations.

Opening remarks were delivered by Ambassador Vuk Žugić, Chairperson of the Permanent Council, Permanent Representative of Serbia to the OSCE and by Ms. Beatriz Balbin, First Deputy Director of the OSCE/ODIHR, followed by the keynote speech of Ms. Hina Jilani, Advocate at the Supreme Court of Pakistan and former United Nations Special Representative of the Secretary-General on Human Rights Defenders.²

Ambassador Vuk Žugić opened his statement by highlighting the importance of both the right to freedom of peaceful assembly and the right to freedom of association to securing a functioning democracy and to the realization of all other human rights. Referring back to the OSCE Copenhagen Document (1990) and to the Paris Document (1990), he underlined that these rights should be enjoyed without discrimination and that any restriction should be in line with international standards and proportional. Noting the importance of having clear and unambiguous legislation applicable to all individuals equally, he also highlighted the importance of developing legislation in a transparent, open, accountable and inclusive manner. Ambassador Vuk Žugić referred back to the Conference on the Protection of Human Rights Defenders organized in 2014 by the then Swiss Chairmanship as part of the joint consecutive Chairmanships priority and reiterated the need to bring more attention to the important contribution that human rights defenders bring to the democratic discourse. He welcomed the recent launch of the joint OSCE/ODIHR-Venice Commission Guidelines on Freedom of Association in early March 2015, encouraged OSCE participating States to use the document when legislating on freedom of association-related matters and to ask ODIHR for further assistance when needed. In conclusion, and as a follow-up to the 2014 Basel Ministerial Council meeting, Ambassador Vuk Žugić reiterated his support to the adoption of a Ministerial Council decision or declaration on freedoms of peaceful assembly and association to step up efforts to promote fundamental freedoms in the OSCE area.

Ms. Beatriz Balbin welcomed the organization of this SHDM addressing specific aspects of freedoms of peaceful assembly and association. She informed that prior to the SHDM, OSCE/ODIHR had facilitated the organization of a one-and-a-half day Civil Society Forum on “Enhancing the participation of associations in public decision-making processes” (15-16 April, Vienna) which gathered more than 30 civil society representatives from across the OSCE region and invited the SHDM participants to refer back to the recommendations adopted during the Forum as a useful reference for the discussions during Session III of the SHDM. Ms. Balbin noted the renewed trend in the OSCE region of curtailing freedoms of peaceful assembly and of association, by virtue of restrictive legislation and practices. She provided an overview of such restrictions, such as the ban or (at times violent) dissolution of peaceful demonstrations, the prohibition of certain associations or their dissolution under the pretext of public order or national security considerations, the adoption of legislation introducing new obligations, controls and/or limitations on NGOs receiving funding, particularly foreign funding, the criminalization of the activities of certain individuals, such as human rights defenders, or associations, for instance those expressing dissenting or critical voices. She also noted the need to ensure that laws must be clear and foreseeable enough to leave no space for

² The texts of the opening session remarks and keynote speech can be found in Annexes 2 and 3.

arbitrary interpretation and implementation. While noting how counterproductive restrictive laws and policies towards freedoms of peaceful assembly and association are to ensuring the security and safety of individuals and states, Ms. Balbin highlighted the main focus of the SHDM, namely to identify and discuss the mutual benefits for States and civil society, and the public at large, of ensuring that all persons within a State's jurisdiction can fully enjoy their rights to peaceful assembly and association. She stressed in particular that the free exercise of both rights would lead to a better understanding of public concerns, reduce the risk of conflicts escalating into violence, and create opportunities for dialogue and partnership, while capitalizing on the capacities, knowledge and skills of associations. Ms. Balbin also reiterated ODIHR's willingness to provide support to OSCE participating States by reviewing draft or existing legislation regulating assemblies and associations and highlighted several tools developed by ODIHR, including the recent publication of the Joint OSCE/ODIHR-Venice Commission Guidelines on Freedom of Association,³ the recent thematic report of the second monitoring cycle of public assemblies for 2013-2014⁴ and the Handbook on Monitoring Freedom of Peaceful Assembly⁵ published in 2011. She further informed about ongoing work on the 3rd updated version of the Joint ODIHR-Venice Commission Guidelines on Peaceful Assembly, and on a Handbook and a Human Rights Training Guide to Policing Assemblies.

The keynote speaker, Ms. Hina Jilani, opened her speech by highlighting the importance to any democratic society of protecting freedom of peaceful assembly and association. Referring to binding and non-binding international standards, particularly the 1998 UN Declaration on Human Rights Defenders, she also noted the key role of these rights for the promotion of human rights and the effective participation of people in public affairs. Ms. Jilani described a worrying trend over the last ten years whereby many countries adopt restrictive legislation, with stricter rules being legitimized by counter-terrorism and security considerations – which violate both international standards and the guarantees contained in domestic constitutions. Regarding freedom of association, she noted with concern the use of vague, imprecise, and overly broad definitions of legitimate grounds for restricting freedom of association; the criminalization of non-registered entities and the requirement to obtain authorization or registration before carrying out human rights activities. Regarding both rights, she also referred to numerous restrictions e.g., the existence of overlapping legislation and mandates of public authorities; overly complicated registration processes and burdensome reporting requirements; invasive monitoring by public authorities; intelligence gathering; intimidation, harassment, and arbitrary detentions, particularly of human rights defenders; violent dispersals of peaceful gatherings, limitations as to the communication and interaction between national and international human rights groups; and restrictions on access to resources. In conclusion, while noting the role to be played by ODIHR to promote and protect these freedoms, she also called on states to implement the recommendations formulated by human rights

³ Available at <http://www.osce.org/odihr/132371>.

⁴ Available at <http://www.osce.org/odihr/132281?download=true>.

⁵ Available at <http://www.osce.org/odihr/82979>.

experts who are constantly monitoring and analysing the respect for these rights in different countries.

SESSION I: A human security approach to freedoms of peaceful assembly and association

Introducers:

Ms. Ruth Montgomery, Policing Expert (Canada)

Ms. Natalia Bourjaily, Vice President - Eurasia of the International Center for Not-for-Profit Law (ICNL) (US/Belarus)

Moderator:

Ms. Nina Belyaeva, Member of the OSCE/ODIHR Panel of Experts on Freedom of Peaceful Assembly (Russian Federation)

The first session provided participants with the opportunity to discuss how to respect and protect the rights of persons wishing to assemble peacefully and to associate whilst ensuring that any measures interfering with these rights, based on grounds such as national security, are taken in a manner commensurate with the international principles of necessity and proportionality.

As stated by the Moderator, Ms. Nina Belyaeva, in her opening remarks, issues relating to freedoms of association and assembly are currently highlighted in the media and both freedoms constitute key tools of democratic governance. She also expressed her concerns regarding the worrying trend of more restrictive legislation being adopted around the OSCE region. Ms. Belyaeva emphasized that while national legislation can establish restrictions on those rights, any limitation should be provided by law, necessary in a democratic society and in line with international standards.

The first introducer to Session I, Ms. Ruth Montgomery, underlined that the State, and more specifically the police, hold significant responsibility in maintaining the safety and security of participants to peaceful assemblies, bystanders, and citizens at large as well as governmental and private property. She emphasized that careful balancing of the rights of persons to express their views and the interest of not imposing unnecessary burdens on non-participants is key to ensuring that assembly organizers and participants can achieve their legitimate objectives and that public safety and security is not compromised. While noting that each assembly is unique and should be considered in its overall historical, political, socio-economic and cultural context, she pointed out that different types of assemblies and/or disorders require different approaches and that appropriate legislation and direction for hosting and staging an assembly must be in place, and be adhered to. Ms. Montgomery also underlined how important it is for the police to be trusted and impartial, to be adequately trained and equipped, and to communicate and engage regularly with the people whom they serve, in order to ensure that assemblies can take

place in a safe and secure environment. Regarding restrictions to the right to freedom of peaceful assembly, Ms. Montgomery reiterated that they should be stated in a clear manner, explaining their purpose and the process to be followed, as well as the authority in charge of imposing them. She also highlighted that a solid understanding of police-crowd interaction and its implications for public order, communication and a cooperative setting of expectations and boundaries with organizers prior to the event, are critical to the success of an assembly. Additionally important are well trained staff, strategies to defuse problems that arise, and ongoing integrated communication between activists, State authorities and other service providers throughout the event.

The second introducer to Session I, Ms. Natalia Bourjaily, opened her introductory remarks by stressing that "the suspicion of terrorism" is the ground that is most often invoked by state authorities for restricting NGO activities and that it thus constitutes a major threat to the right to freedom of association. She further noted that a number of governments of OSCE participating States deeply mistrust their own civil society, and consider civil society organizations as a source of insecurity and instability that has fuelled the re-emergence of terrorism. Ms. Bourjaily reiterated that whatever the reason for such mistrust, all restrictions on associations should be in compliance with international human rights and rule of law standards, i.e. no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. Referring back to international standards, she underlined that the recently adopted joint OSCE/ODIHR-Venice Commission Guidelines on Freedom of Association provide an excellent analysis of limited situations where restrictions on associations may be permissible and of situations where they are not. She further stressed that the mere mention of "threats to national security" is not sufficient to impose restrictions on registration, activities, or access to resources of associations. Ms. Bourjaily also expressed concerns about ongoing trends where a number of OSCE participating States impose heavy restrictions on civil society actors in the name of national security.

During the discussion that followed, many of the participants welcomed the recent adoption of the joint OSCE/ODIHR-Venice Commission Guidelines on Freedom of Association and called on OSCE participating States to implement the Guidelines in good faith, to protect civic space and stop the practice of arbitrary persecution of civil society organizations and human rights defenders at the domestic level. They also encouraged OSCE participating States to use the joint OSCE/ODIHR-Venice Commission Guidelines on Freedom of Peaceful assembly and to facilitate the monitoring of assemblies by OSCE/ODIHR. Some participants called on OSCE/ODIHR to monitor more generally state practices regarding their compliance with international standards pertaining to the rights to freedom of peaceful assembly and of association.

The subsequent discussions also showed that numerous serious barriers currently exist in a number of OSCE participating States that prevent the realization of the rights to freedoms of peaceful assembly and of association. Many participants noted that States

tend to target certain minorities or human rights defenders, including through intimidation, arbitrary detention and the criminalization of their activities. In these and similar cases, state authorities denied the registration of NGOs or the organization of a peaceful assembly due to the name, activities or purpose of the organizers or of the assembly. Some interlocutors also referred to unclear legislation regarding police powers and to situations where excessive force was used by the police to disperse assemblies, and stressed the importance of training the police on how to police assemblies in compliance with human rights standards. Several participants also mentioned the existence of burdensome registration requirements for associations and the existence of a system of permits instead of simple notification of registration in relation to assemblies. Particular emphasis was also placed on the need to guarantee access by NGOs to foreign and international funding. A number of speakers also noted the challenges faced by countries in crisis to ensure the full realization of human rights and fundamental freedoms.

The following specific recommendations were made in Session I:

Recommendations to OSCE participating States:

- OSCE participating States should make use of the joint OSCE/ODIHR-Venice Commission Guidelines on Freedom of Association (2015), the joint Guidelines on Freedom of Peaceful Assembly (2nd ed. 2010)⁶ and the OSCE/ODIHR Guidelines on Human Rights Defenders (2014)⁷ and seek further assistance from ODIHR to review existing and draft legislation to ensure their compliance with international human rights standards and OSCE commitments;
- OSCE participating States should learn from the lessons learned and good practices developed by other OSCE participating States;
- In relation to the freedom of association, OSCE participating States should permit organisations and individuals associated with them to seek, receive and administer financial support from domestic, foreign and international entities without undue restrictions;
- In relation to the freedom of peaceful assembly, OSCE participating States should extend invitations to ODIHR to come and monitor assemblies as part of their monitoring cycle, especially where minority and critical views are being put forward;
- OSCE participating States should involve civil society representatives as independent assembly monitors;
- OSCE participating States should work on or develop more effective and binding monitoring mechanisms on implementation by OSCE participating States of international human rights standards and OSCE human dimension commitments, including of the rights to freedom of peaceful assembly and of association;

⁶ Available at <http://www.osce.org/odihr/73405>.

⁷ Available at <http://www.osce.org/odihr/119633>.

- OSCE participating States should encourage regular dialogue with civil society, both at national and international levels.

Recommendations to OSCE institutions and field operations:

- Current and future OSCE Chairpersons-in-Office should embark on a self-evaluation of the status of their implementation of OSCE human dimension commitments;
- OSCE/ODIHR should expand its practice of monitoring assemblies and associations, organize public discussions on their results and create more fora for sharing good practices;
- OSCE/ODIHR should request OSCE participating States subject to assembly monitoring to provide reports about their follow-up activities to implement the recommendations made by the monitors, with special attention to police activities, and to engage in discussions about such follow-up;
- OSCE/ODIHR should extend its monitoring activities to the implementation of the right to freedom of association and provide recommendations on this, in the same manner as it currently monitors the right to freedom of peaceful assembly;
- OSCE/ODIHR should adopt a more systemic, co-operative approach when dealing with issues relating to the rights to freedom of peaceful assembly and of association, and should in particular collaborate more closely with the Venice Commission and other international organizations and human rights institutions, such as the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Community of Democracies;
- The OSCE should strengthen its institutional framework in this field by establishing the mandate of a Special Representative on Freedoms of Peaceful Assembly and of Association, similar to the one existing at the UN level, who could focus specifically on the OSCE region.

Recommendations to civil society:

- Civil society organizations should continue their voluntary monitoring of freedoms of association and of peaceful assembly, making full use of the new tools developed by ODIHR, such as the Joint Guidelines on Freedom of Association and on Freedom of Peaceful Assembly, and publicize the results of such monitoring as widely as possible;
- Civil society should undertake all possible efforts to engage in dialogue with representatives of relevant national government organs and bodies, which are responsible for regulating and securing the implementation of the rights to freedom of peaceful assembly and of association;
- Civil society organizations should study the reports from ODIHR monitoring missions and provide feedback on the level of follow-up to recommendations in a given country;

- Civil society organizations should collect and publicize good practices that already exist regarding the collection of feedback from civil society to governments, and in relation to productive dialogue with responsible government organizations, including education and training of the police and other learning activities organized jointly for civil society and representatives from the government.

SESSION II: Non-discrimination and the freedoms of peaceful assembly and association

Introducers:

Ms. Maria Dahle, Executive Director, Human Rights House Network (Norway)

Mr. Yuri Dzhibladze, President of the Center for the Development of Democracy and Human Rights (Russian Federation)

Moderator:

Ms. Alice Thomas, Chief of the Legislative Support Unit, OSCE/ODIHR

The second session allowed the participants to focus their discussions on the principle of non-discrimination in relation to the rights to freedoms of peaceful assembly and of association, and thereby attempt to develop insights into permissible and non-permissible differences in the treatment of assemblies, their organizers and participants, and associations by OSCE participating States.

The first introducer, Ms. Maria Dahle, opened the session by noting the current increasing trend of strategic discrimination by authoritarian States towards a selective part of society when it comes to enjoying the rights to freedom of association and assembly, which resulted in a downward spiral of the protection of these important and fundamental freedoms. She first stressed the existing discrimination against the not-for-profit sector as opposed to the for-profit sector. Ms. Dahle also highlighted the growing tendency in certain OSCE participating States to allow discrimination against organizations working on issues that authorities consider to be controversial – for instance gender issues, women’s rights and sexual minority rights, and monitoring and reporting on corruption, free and fair elections – as well as against organizations regularly interacting with the media or with international organizations. She expressed concerns regarding the criminalization of activities of civil society organizations carrying out legitimate human rights work. Ms. Dahle also called on OSCE participating States to hold other states accountable for such discrimination via organisations such as the OSCE. She mentioned the specific cases of “governmentally owned and run non-governmental organizations” (or GONGOs) which are favored legally, financially and operationally by public authorities and called on OSCE participating States to monitor and report on the creation and development of such GONGOs in the OSCE region. While noting the importance of pluralism and of welcoming dissenting views and opinions as prerequisites

for building and maintaining democracies, she noted the increase of slander and smear campaigns by political leaders and other reprisal mechanisms against independent structures and individuals working on human rights issues. Ms. Dahle also pointed out the recent adoption of amendments to legislation that limit registration, the scope of activities and access to funding, particularly if it is of foreign or international origin, for certain organizations, and/or criminalize their activities and allow the imprisonment of their representatives or members. In conclusion, she called on the OSCE to undertake a study of discriminatory legislation against the not-for-profit sector, in order to bring legislation in line with international standards; she also encouraged the OSCE to strengthen its institutional framework and establish a mandate for a Representative on the Freedoms of Association and of Peaceful Assembly to safeguard the fundamental rights and keep the issue high on the political agenda.

Referring back to international human rights standards and OSCE commitments, the second introducer to Session II, Mr. Yuri Dzhiblادze, reiterated that though every person was different, freedoms of association and of peaceful assembly should be enjoyed equally by everyone. He further stressed that the principle of non-discrimination prohibits both direct and indirect discrimination, requiring that all persons receive equal protection by the law and should not be discriminated against as a result of the practical application of any measure or act. While noting that limitations of these rights are possible, Mr. Dzhiblادze underlined that any limitations imposed should be subject to strict conditions and reiterated that they should be prescribed by law, serve a legitimate purpose and be necessary in a democratic society. He also recommended to refer back to the relevant sections of the joint OSCE/ODIHR-Venice Commission Guidelines on Freedom of Association which address in detail the issue of non-discrimination and equal treatment. Mr. Dzhiblادze further stressed that equal treatment of associations and organizers and of participants of peaceful assemblies means that these people and groups should not be treated differently on account of their views, objectives or of the messages that they convey. He also highlighted that general guarantees concerning equality and non-discrimination also require that positive measures be taken to secure the equal enjoyment/exercise of all rights. Mr. Dzhiblادze then focused on concrete examples from different OSCE participating States and noted with concern certain discriminatory practices by public authorities based on the fact that individuals belong to certain minority groups, or due to alleged violations of “public morals”. He also informed about cases where founders/members of associations, or the associations themselves were discriminated due to their views, political opinion, or the objectives of the association, and disadvantages suffered by the organizers/participants in peaceful assemblies, for instance in cases where they were, or were thought to be critical of public policies or of the government. Regarding the freedom of association, discriminatory practices lead to the denial of registration, undue and excessive inspections, limited access to public funding, higher administrative penalties for alleged wrongdoing, or even the dissolution of such associations; regarding freedom of peaceful assembly, this means the refusal to come to an agreement regarding the time, location, route, or format of assemblies, the outright refutation of attempts to hold assemblies, the detention of participants and harsher penalties imposed on them. Mr. Dzhiblادze also found that discrimination was

often facilitated by unclear or vague formulations in legislation, which allowed for the arbitrary interpretation of such legislation in practice.

The subsequent discussions focused on legislative developments and state practices in that respect. Many participants voiced their concerns regarding discriminatory legislation and/or practices by public authorities based on the content or aim of an association or of an assembly, the identity of their founders/members or organizers/participants, or the sources of funding (whether public, domestic, foreign or international). Corruption was also mentioned as a problem that in many States leads to a lack of equal treatment among individuals and associations.

Participants provided numerous examples of such discriminatory treatment, such as intimidation and judicial harassment, banning certain demonstrations or arresting their participants even if the assembly is peaceful. Other cases mentioned included the refusal of registration of certain associations representing minority groups, the imposition of stringent registration requirements for certain associations, for instance those receiving foreign or international funding, the practice of hindering their participation in election observation, prohibiting such associations from appointing members to certain oversight bodies or other working groups, or denying them access to public funding. The criminalization of activities of individuals or associations defending human rights, sometimes leading to their imprisonment, and limitations imposed on individuals or associations expressing dissenting or critical voices against the government or being affiliated with minority or other groups were also highlighted as worrying trends. One participant also referred to certain cases where the police, dressed as civilians and without identification, carried out violent attacks against participants in a peaceful assembly. Another participant mentioned cases where public authorities hindered the activities of religious associations. The issue of legislation that obliges organizers to cover the costs for adequate security and safety measures during assemblies, as well as for cleaning public spaces afterwards was also raised as an example where States go beyond what is permissible by international law.

Several participants also referred to the need to take positive measures to overcome specific challenges confronting certain persons or groups, such as women or human rights defenders, in their efforts to organize and participate in peaceful assemblies or to form associations. Some also mentioned the need to ensure a real and genuine dialogue between governments and civil society.

The following specific recommendations were made in Session II:

Recommendations to OSCE participating States:

- OSCE participating States should ensure that the rights to freedom of peaceful assembly and association are enjoyed by every segment of the society, either individually or as a group, without discrimination on the basis of ethnic or social origin, minority status, gender or other grounds;

- OSCE participating States should fully respect the principles of equality and non-discrimination in implementing OSCE commitments and not impose undue restrictions;
- OSCE participating States should promote gender equality and pluralism and repeal any discriminatory legal provision restricting the rights to freedom of peaceful assembly and association;
- In relation to the freedom of association, OSCE participating States should permit associations and their founders and members to seek, receive and administer financial support from domestic, foreign and international entities without undue restrictions;
- In relation to the freedom of peaceful assembly, OSCE participating States should ask ODIHR to be included in its cycle of monitoring in selected participating States, and invite ODIHR to monitor assemblies, especially where minority and critical views are being put forward;
- The police in OSCE participating States should facilitate the peaceful organization of counter-demonstrations – even where such assemblies convey controversial or unpopular opinions;
- OSCE participating States should set up mechanisms and legal remedies to combat discrimination and provide for the allocation of the necessary resources to support such mechanisms;
- OSCE participating States should ensure that a real and genuine dialogue takes place with civil society.

Recommendations to OSCE institutions and field operations:

- OSCE institutions should review legislation and practices in OSCE participating States pertaining to discrimination regarding access to funding;
- OSCE/ODIHR should undertake a study of discriminatory legislation against the not-for-profit sector, in order to bring legislation in line with international standards in this regard and ensure that any legal entity, whether for-profit or not-for-profit, is treated the same way regarding registration and other administrative requirements.
- The OSCE should strengthen its institutional framework and establish a mandate for a Representative on the Freedoms of Association and of Peaceful Assembly to safeguard these fundamental rights and keep the issue high on the political agenda.
- OSCE/ODIHR should co-operate with governments of OSCE participating States to review draft legislation regulating freedoms of peaceful assembly and of association to ensure compliance with international human rights standards and OSCE commitments;

- OSCE/ODIHR should monitor the situation of human rights defenders in the OSCE region, particularly of those who are imprisoned after having reported on human rights violations;
- The OSCE should more systematically organize international monitoring missions regarding the implementation of the rights to freedoms of peaceful assembly and of association.

SESSION III: Enhancing the participation of associations in public decision-making processes

Introducers:

Ms. Jutta Gützkow, Head of the Civil Society Division, Directorate General of Democracy, Council of Europe (Germany)

Ms. Cholpon Djakupova, Director, Public Foundation Legal Clinic Adilet (Kyrgyz Republic)

Moderator:

Mr. Arsen Stepanyan, Country Director, Save the Children International (Armenia)

The objective of Session III was to increase OSCE participating States' awareness of how important and mutually beneficial it is for states and civil society to create an enabling environment for associations that allows them to participate in public affairs, including policy and law-making. Discussions provided an opportunity for participants to exchange experiences from several OSCE participating States and highlighted principles, tools, mechanisms and procedures, as well as good practices which exist, to enhance the participation of associations in public decision-making processes, in an effective, transparent, impartial and non-discriminatory manner.

The first introducer of Session III, Ms. Jutta Gützkow, started by highlighting the important role played by civil society in democratic processes and stressing that in this manner different views and a variety of interests could be reflected in public decision-making processes outside of the usual political processes and actors. She stressed that the question of participation is also a question of facilitating human rights and further underlined the need for an enabling political, social and cultural environment in states, along with effective and sustainable mechanisms for dialogue, consultation and co-operation between civil society and authorities. Ms. Gützkow referred to the OSCE/ODIHR-Venice Commission Guidelines on Freedom of Association which contain a special section dedicated to the participation of associations in public decision-making processes. She reiterated that the participation of all individuals and societal groups in democratic processes is one of the prerequisites for achieving democracy and human security. Finally, Ms. Gützkow provided several recommendations on how States

could contribute to enhancing associations' participation in public decision-making processes, including by (i) implementing existing standards and guidelines (e.g. the European Convention on Human Rights, the Council of Europe Recommendation CM/Rec(2007)14 on the legal status of NGOs, and the OSCE/ODIHR-Venice Commission Guidelines on Freedom of Association); (ii) sharing good practices and learning from the experience of others when establishing legal and institutional frameworks for civil participation (with particular reference to the 2009 Council of Europe Code of Good Practice for Civil Participation in the Decision-making Process⁸ which defines a set of general principles, conditions, guidelines, tools and mechanisms for civil participation and provides examples of good practices); and (iii) making this issue a political priority.

The second introducer of Session III, Ms. Cholpon Djakupova, started her introductory remarks by highlighting some of the basic conditions for creating a conducive environment for public participation at the national and local levels, which include respect for the rule of law, a positive attitude of public authorities towards NGOs and engaging with civil society, a culture of participation and the political will to facilitate the participation of associations in public decision-making processes. She mentioned the example of the Kyrgyz Republic where reference to public participation is included in the Constitution. Ms. Djakupova also addressed some of the challenges faced by civil society actors, including legislative initiatives to limit civic space or the lack of feedback mechanisms by which public authorities could reflect adoption or rejection of input and proposals made by civil society actors during public decision-making processes. Finally, she mentioned certain challenges in the law making process, such as the exclusion of associations from the consultation process as soon as draft legislation is before the Parliament.

During the discussions that followed, participants presented some main discussion points and recommendations from a Civil Society Forum which took place on 15-16 April 2015 in Vienna.⁹ The participants of this Forum highlighted, among others, basic conditions for ensuring participation of associations in public decision-making processes, and agreed that in this context, a true enabling environment, free from corruption, allowing civil society to operate and participate freely and actively in public decision-making processes should exist as a starting point. Such environment should also guarantee the fulfilment of other human rights and fundamental rights, and should be supported by political will, a culture of dialogue and participation, and the capacity of both the state administration/government and of associations to engage in meaningful debate. In terms of principles that should guide the participation of associations in decision-making processes, the participants to the Civil Society Forum provided recommendations to ensure the transparency, openness and accessibility, accountability and efficiency as well as the non-discrimination, equal treatment and inclusiveness of public decision-making

⁸ English version available at http://www.coe.int/t/ngo/Source/Code_English_final.pdf and Russian version available at http://www.coe.int/t/ngo/Source/Code_brochure_ru.pdf.

⁹ The draft "Recommendations from the Participants to the Civil Society Forum on Enhancing the Participation of Associations in Public-Decision Making Processes" (15-16 April 2015) are available at <http://www.osce.org/pc/151631>.

processes – while ensuring that the independence of associations is not affected. In that respect, the importance to diversify the structures, methods, mechanisms, tools and types of public participation and access to information were noted as important means to ensure the inclusiveness, effectiveness and transparency of public decision-making processes. The participants to the Civil Society Forum further provided recommendations on the development of a supportive regulatory framework providing for binding standards on effective public participation/consultation, which would ensure in particular timely access to information and timeliness of the overall public participation process as well as the existence of meaningful feedback mechanisms. Participants to the Civil Society Forum further informed that the final set of “*Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes*” would be presented during the OSCE/ODIHR Human Dimension Implementation Meeting in September-October 2015 in Warsaw, Poland.

In further debate, many participants highlighted the benefits of enhanced public participation and of having an empowered civil society, in terms of strengthening democracy (and ultimately economic performance), ensuring greater stability and ownership by citizens of public policies, as well as adopting better quality and more legitimate public decisions, policies and legislation. Discussions also focused on examples of good practices, such as ensuring maximum transparency by making all documents at all levels (local, regional and national) public or available upon request, regularly inviting civil society to take part in public hearings, involving civil society representatives in working groups and oversight bodies, and using technology as one of the means to facilitate public input and participation. One participant referred to practical recommendations developed at the national level to specifically support the work of human rights defenders (HRDs) in the country. Such support included the use of local co-operation funds, participating in events organized by HRDs, and monitoring trials of HRDs, amongst others.

Some participants also noted some negative state trends such as reprisals against NGOs taking part in multilateral fora or discussions, as evidenced by the latest report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, which deals with these rights in the context of multilateral institutions.¹⁰ It was also noted that only a few countries implement systems to ensure the participation of certain groups or communities, such as national minorities, in public decision-making processes – which ultimately impedes the full enjoyment of all rights. Other challenges mentioned included the absence of supportive regulatory frameworks and lack of effective procedures/mechanisms, limited access to information, limited resources available to civil society, and the monopolization of public space by GONGOs.

Regarding specifically the participation of civil society organizations in the work of the OSCE, some participants noted the lack of a proper system for effective co-operation with civil society organizations while highlighting the importance to involve such entities to enrich and inform debates. Participants also discussed the modalities by which the

¹⁰ Available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N14/523/22/PDF/N1452322.pdf?OpenElement>.

OSCE and other international organizations selected NGOs to take part in their work. In that respect, the introducer of Session III, Ms. Jutta Gützkow, presented the various institutionalized and informal modalities in place within the Council of Europe structures for co-operating with civil society, including NGOs. Some examples mentioned were the granting of participatory status, the establishment of certain structures such as the Conference of INGOs of the Council of Europe in charge of soft standard-setting, and their involvement as implementing partners for the Council of Europe projects/programmes in country – while noting as a pending issue the lack of involvement in the political bodies of the Council of Europe. Ms. Gützkow also highlighted that such NGO involvement in Council of Europe structures is very much appreciated as it brings expertise and provide information on controversial issues in civil society and thus constitutes an additional link with citizens.

The following specific recommendations were made in Session III:

Recommendations to OSCE participating States:

- OSCE participating States should fully implement their OSCE commitments, particularly those contained in the 1990 Copenhagen Document, 1991 Moscow Document and 1999 Istanbul Document, and should engage both civil society and the private sector in the implementation of the OSCE commitments;
- OSCE participating States should implement the recommendations contained in the “*Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes*” prepared by the participants to the Civil Society Forum held on 15-16 April 2015 in Vienna;¹¹
- OSCE participating States should introduce transparent mechanisms that provide for effective public participation in decision making processes;
- OSCE participating States should actively encourage civil society participation in the work of the OSCE;
- OSCE participating States should ensure that associations are provided with opportunities to participate in public decision-making processes at all levels (local, national, regional and international) and at all stages, from the planning and policy stage until the time when decisions are implemented, monitored and evaluated;
- OSCE participating States should ensure maximum transparency of public decision-making processes, in particular access to information, by making all documents at all levels (local, regional and national levels) public or available upon request and should regularly invite civil society to take part in public hearings;
- OSCE participating States should put in place some form of feedback mechanism on the results of public consultations;

¹¹ Available at <http://www.osce.org/pc/151631>.

- OSCE participating States should create mechanisms at regional, national and local levels to facilitate dialogue between state authorities and civil society, which would ensure an institutionalised, open, sincere and continuous dialogue based on mutual respect and tolerance, including with representatives of minorities on issues which are of interest to them;
- OSCE participating States should be responsible for ensuring the participation of associations in public decision-making processes;
- OSCE participating States should ensure that a real and genuine dialogue takes place with civil society.

Recommendations to OSCE institutions and field operations:

- The OSCE should assess and provide an overview of consultation processes in OSCE participating States, including the legal basis/soft laws and legislation on freedom of association and participation in public-decision making processes;
- The OSCE/ODIHR or another international organization should develop guidelines to enhance the participation of associations in public decision-making processes that would highlight what is generally acceptable as good practices in selected OSCE participating States;
- The OSCE/ODIHR and the Council of Europe should support OSCE participating States to enhance the participation of associations in public decision-making processes;
- The OSCE should develop a public participation index and put in place a respective monitoring system;
- International organizations, including the OSCE, should ensure continuity and consistency in the manner in which they provide support to and place pressure on countries in transition in order to reach sustainable results in the area of public participation in decision-making processes;
- The OSCE should encourage the participation of civil society in the work of the OSCE;
- In countries where there are OSCE field offices or where the OSCE implements certain project/programmes, the involvement of civil society actors should be a guiding principle and the OSCE should involve such actors at all stages of project/programme implementation, from planning and implementation to monitoring and evaluation.

To the Chairperson of the Human Dimension Committee:

- The Chairperson of the Human Dimension Committee should extend the practice of civil society participation in Human Dimension Committee meetings.

CLOSING SESSION

Reports by the Moderators of the Working Sessions (see the summarized reports in previous sections)

Closing remarks:

Ambassador Sanja Milinković, Chairperson of the Preparatory Committee, Deputy Permanent Representative of Serbia to the OSCE

Mr. Michael Georg Link, Director, OSCE/ODIHR

Following the reports made by the Moderators of the Working Sessions as summarized above, closing remarks were delivered by Mr. Michael Georg Link, Director of the OSCE/ODIHR,¹² and by Ambassador Sanja Milinković, Chairperson of the Preparatory Committee, Deputy Permanent Representative of Serbia to the OSCE.

Mr. Michael Georg Link started his closing remarks by thanking the Keynote Speaker, Ms. Hina Jilani and all introducers and moderators during the SHDM – and the Serbian Chairmanship for the excellent co-operation in organizing the SHDM. He pointed to the recommendations that were made during the meeting and stressed that he trusted that they will contribute to furthering the implementation of the rights to freedom of peaceful assembly and association in the OSCE region. Mr. Link also referred to the practical recommendations developed by the participants of the Civil Society Forum on Enhancing the Participation of Associations in Public Decision-Making Processes and called on OSCE participating States to disseminate these recommendations as widely as possible and to use them, as they offered concrete principles and tools to facilitate inclusive and open dialogue by OSCE participating States with civil society in a transparent, impartial and non-discriminatory manner. While noting that many interventions highlighted the challenges that still persisted in the OSCE region, he also highlighted that the meeting had provided interesting insights into good practices which facilitate the exercise of these rights. Reiterating that the full and free exercise of these rights is essential for a democratic society, Mr. Link stressed the importance and benefits of taking civil society seriously and seeing it as a partner rather than an adversary to build a stable and safe environment, where decisions taken by the state are consulted with non-state actors, and are thus made transparent and understandable to the wider public. He reiterated ODIHR's willingness to support OSCE participating States in their efforts to reform legislation and policy so as to create an enabling legal environment for the exercise of the rights to freedom of peaceful assembly and of association. Mr. Link also called on OSCE participating States and others to use the tools developed by ODIHR for that purpose, namely the two sets of joint OSCE/ODIHR-Venice Commission legislative guidelines, on Freedom of Association and on Freedom of Peaceful Assembly, as well as the upcoming Human Rights Handbook and Training Guide to Policing Assemblies. Finally,

¹² The texts of the closing remarks by Mr. Michael Georg Link can be found in Annex 5.

Mr. Link encouraged all OSCE participating States to follow up on conclusions and recommendations made during the SHDM and thanked again the Keynote Speaker, introducers, moderators, participants, the Chairman in Office, the OSCE Secretariat and staff from the OSCE/ODIHR.

Ambassador Sanja Milinković thanked the introducers, moderators and all participants for their active discussions and thought-provoking ideas and recommendations. She further stated that these recommendations could serve as a basis for further work of OSCE delegations, particularly those recommendations regarding how to improve the work of the OSCE. Finally, Ms. Milinković referred to the upcoming Human Dimension Experts' Retreat where the draft Ministerial Council decision on the Freedoms of Assembly and Association will be addressed, among other topics.

III. ANNEXES

ANNEX 1: Agenda



SUPPLEMENTARY HUMAN DIMENSION MEETING

FREEDOMS OF PEACEFUL ASSEMBLY AND ASSOCIATION, WITH EMPHASIS ON FREEDOM OF ASSOCIATION

16-17 April 2015
Hofburg, Vienna

AGENDA

Day 1: Thursday 16 April 2015

15.00 – 16.00: **OPENING SESSION**

Opening remarks:

Ambassador Vuk Žugić, Chairperson of the Permanent Council, Permanent Representative of Serbia to the OSCE

Ms. Beatriz Balbin, First Deputy Director, OSCE/ODIHR

Keynote Speech:

Ms. Hina Jilani, Advocate at the Supreme Court (Pakistan)

16.00 – 18.00: **SESSION I: A human security approach to freedoms of peaceful assembly and association**

Introducers:

Ms. Ruth Montgomery, Policing Expert (Canada)

Ms. Natalia Bourjaily, Vice President - Eurasia of the International Center for Not-for-Profit Law (ICNL) (US/Belarus)

Moderator:

Ms. Nina Belyaeva, Member of the OSCE/ODIHR Panel of Experts on Freedom of Peaceful Assembly (Russian Federation)

18.00 – 19.00: **Reception hosted by the Serbian Chairmanship**

Day 2: Friday 17 April 2015

10.00 – 12.00: **SESSION II: Non-discrimination and the freedoms of peaceful assembly and association**

Introducers:

Ms. Maria Dahle, Executive Director, Human Rights House Network (Norway)

Mr. Yuri Dzhibladsze, President of the Center for the Development of Democracy and Human Rights (Russian Federation)

Moderator:

Ms. Alice Thomas, Chief of the Legislative Support Unit, OSCE/ODIHR

12.00 – 14.00: Lunch

14.00 – 16.00: **SESSION III: Enhancing the participation of associations in public decision-making processes**

Introducers:

Ms. Cholpon Djakupova, Director, Public Foundation Legal Clinic Adilet (Kyrgyz Republic)

Ms. Jutta Gützkow, Head of the Civil Society Division, Directorate General of Democracy, Council of Europe (Germany)

Moderator:

Mr. Arsen Stepanyan, Country Director, Save the Children International (Armenia)

16.00 – 16.30: Break

16.30 – 17.30: **CLOSING SESSION**

Reports by the Moderators of the Working Sessions

Comments from the floor

Closing remarks:

Ambassador Sanja Milinković, Deputy Permanent Representative of Serbia to the OSCE

Mr. Michael Georg Link, Director, OSCE/ODIHR

17.30

Closing of the meeting

ANNEX 2: Opening Remarks



OPENING STATEMENT BY THE CHAIRPERSON OF THE PERMANENT COUNCIL AMBASSADOR VUK ŽUGIĆ AT THE SUPPLEMENTARY HUMAN DIMENSION MEETING

FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION, WITH THE EMPHASIS ON FREEDOM OF ASSOCIATION

16-17 April 2015, Vienna

Excellencies
Colleagues
Ladies and Gentlemen

On behalf of the Serbian Chairmanship of the OSCE, I would like to welcome all participants, participating States and civil society organizations alike, to this first Supplementary Human Dimension Implementation Meeting of 2015.

We have gathered to talk about what can rightfully be said to be the core of our human dimension commitments. The right of people to assemble and associate is essential to securing a functioning democracy and to the realization of all other human rights. We, as participating States to the OSCE, have repeatedly committed ourselves to guarantee these rights and, in fact, acknowledged that without them we cannot call our societies democratic. We did so as early as 1990 in Copenhagen and have in fact gone beyond simply assuring that freedom of assembly and association matter by more elaborately defining why they matter and in which situations these rights may be more likely to be disrespected and therefore need our special attention:

First, the right to associate and assemble peacefully has a direct impact on the security of our societies. Too often, however, these rights may be curtailed in the very name of security. In light of the many challenges all participating States are facing when it comes to regulating associations and assemblies, the discussion on ways to keep limitations commensurate with international principles and proportional are highly timely.

Moreover, the right to peaceful assembly and association may be at risk of being granted or denied in a discriminatory manner with regard to different communities in a society. As we agreed in 1990 in the Paris Document, however, it is “without discrimination” that “every individual has the right to freedom of association and assembly”. We ought to try to make this promise a reality as we strive to make our legislation clear and unambiguous

in its application to all of our citizens equally, and to prevent discrimination on all grounds.

Associations play an indispensable role in aggregating the public interest and public will. It is important for any robust and stable democratic society that their voices are heard by the government when proposing legislation. Any state institution will be more respected, less questioned, and any legislation will be more easily implemented if it takes into account the interests and grievances of those affected by it. In the name of security, of stability and accountability, we have an obligation to be inclusive and responsive rather than unduly restrictive.

Often the right to freedom of association and assembly are promoted along with the freedom of speech as indispensable for promoting all other human rights. This bears repeating, as it is very right: Without the freedom to associate, for instance, the organized efforts of trade unions towards the implementation of economic and social rights would not have been possible. I would like to encourage participants to reflect on interactions of the freedom of association and assembly with economic and social rights as well.

Colleagues, ladies and gentlemen,

The three issues that this meeting will focus on are inter-related. Nothing makes this link clearer, than the myriad challenges that human rights defenders are still facing in the OSCE region. Their freedom to assemble and associate is a precondition to promoting the human rights of all those on whose behalf they advocate, and too often, they are discriminated against because of the community or group they belong to. A year ago in Berne, the Conference on the Protection of Human Rights Defenders was organized by the then Swiss Chairmanship as part of our joint consecutive Chairmanships' priority and in an effort to bring more attention to the important work the civil society does and the stumbling stones they face.

This Conference gave us an opportunity to reflect on the invaluable contribution that human rights defenders bring to the democratic discourse and, on the other hand, of the many ways in which they are at risk due to their very activity of assembling and associating in order to promote change and the respect for the human rights of all.

We shall also take this meeting as an opportunity to reflect on what came out of last year's discussion- where are we in our efforts to make the OSCE a safe environment for human rights defenders and what can be further done towards implementing our commitments to that end?

Before the floor is turned over to the Deputy Director of ODIHR, I would like to express the Chairmanship's appreciation for the important work that ODIHR has been doing on these issues. Most recently, ODIHR produced the Guidelines on Freedom of Association which were launched in early March. We encourage participating States to make good use of this document in managing associations and to refer to ODIHR for further assistance whenever needed.

At the Ministerial Council last year in Basel, we heard from over 40 participating States a call to step up efforts to promote fundamental freedoms in the OSCE area. The Chairmanship welcomes this initiative and is ready to engage in it in 2015, including by advancing the adoption of a ministerial council decision or declaration. Let us exchange ideas in these coming two days on ways to make further moves in that regard.

With this, I would like to wish you a fruitful and forward-looking discussion!

Thank you.

OPENING ADDRESS BY BEATRIZ BALBIN

**FIRST DEPUTY DIRECTOR OF THE OSCE OFFICE FOR DEMOCRATIC
INSTITUTIONS AND HUMAN RIGHTS (ODIHR)**

**SUPPLEMENTARY HUMAN DIMENSION MEETING
ON FREEDOMS OF PEACEFUL ASSEMBLY AND ASSOCIATION
VIENNA, 16 APRIL 2015**

Excellencies, Distinguished Colleagues, Ladies and Gentlemen,

It is an honour to welcome you to this Supplementary Human Dimension Meeting (SHDM) on Freedoms of Peaceful Assembly and Association, which is part of the framework of human dimension meetings organized every year, and follows up on the 2012 SHDM on similar topics. I wish to commend the efforts of the Serbian OSCE Chairmanship that have led to convening this meeting. I would also like to give a special welcome to our keynote speaker today, Ms. Hina Jilani, the former Special Representative of the UN Secretary General on Human Rights Defenders, an advocate of the Supreme Court and a human-rights activist.

This Supplementary Human Dimension Meeting addresses specific aspects of freedom of peaceful assembly and association. While Session I debates a human security approach to freedoms of peaceful assembly and association, Session II deals with the principle of non-discrimination and the freedoms of peaceful assembly and association. Finally, Session III focuses on enhancing the participation of associations in public decision-making processes.

Prior to this SHDM, ODIHR facilitated the organization, yesterday and this morning, of a Civil Society Forum, that was focused on the third topic of the Supplementary Human Dimension Meeting: “Enhancing the participation of associations in public decision-making processes”. I am pleased to say that more than 30 civil society representatives from across the OSCE region attended this event. I understand that it was marked by lively and fruitful discussions and led to a number of concrete recommendations to increase the transparency of decision-making processes, ensure public oversight, as well as enhance the participation of associations in these processes in an effective, transparent,

impartial and non-discriminatory manner. I believe these recommendations will provide added value to the discussions tomorrow afternoon during Session III of the SHDM.

The OSCE was created based on the idea of a comprehensive security concept, with the respective States believing that aspects such as a stable economy and firm human rights guarantees are just as important for security as law enforcement and the military. In this day and age, democracies throughout the OSCE area are beset by a multitude of challenges ranging from civil strife and conflict to economic hardships, to terrorist attacks. In these times, the voices calling for human rights protection are often not heard, or are silenced by calls for enhanced security and safety.

However, as already recognized in the Helsinki Final Act nearly thirty years ago, security and safety of the individual on the one hand, and protection of human rights on the other, are not mutually exclusive concepts. Indeed, our organization, and the ensuing OSCE commitments are based on the very premise that both are sides of the same coin. And this belief goes beyond the OSCE - to phrase it in the words of Kofi Annan, former UN Secretary-General: "The world must advance the causes of security, development and human rights together, otherwise none will succeed. Humanity will not enjoy security without development, it will not enjoy development without security, and it will not enjoy either without respect for human rights."

This principle applies very much also to the rights to freedom of association and to freedom of peaceful assembly; the protection of both rights by OSCE states, and the manner in which they are facilitated can be seen as litmus tests of how seriously OSCE states take their own statements related to democracy, and the protection of individual freedoms and human rights. In truly democratic systems, it is inconceivable that governments, which exist only by the grace of the people who elected them, significantly restrict the formation of associations or the holding of peaceful assemblies, through which the public can express its views and further the rights and interests of individuals.

And yet, today there seems to be a renewed trend in the OSCE region of curtailing freedoms of peaceful assembly and of association, including in so-called "established democracies". Reasons adduced for such restrictions include States' fight against terrorism and extremism or the necessity to protect the morals of the population, by virtue of restrictive legislation and practices. We have heard about situations where demonstrations are banned or dissolved (at times violently), or where public areas are declared off-limits to peaceful protesters in the name of security; where selected associations and NGOs are prohibited, subjected to onerous administrative procedures and requirements, or dissolved under the pretext of public order or national security considerations; or where legislative amendments introduce new obligations, controls and/or limitations on NGOs receiving funding, particularly foreign funding. Associations and their members, but also participants in peaceful assemblies, face threats, attacks, judicial harassment and sometimes even criminalization of their actions despite having engaged in objectively legitimate activities; and legislation initially intended to counter terrorism and extremism is used to target dissenting and critical voices.

Moreover, in a number of States, laws and practices tend to discriminate against and exclude certain groups when exercising or seeking to exercise their rights to freedom of peaceful assembly and association. Certain individuals, such as human rights defenders,

continue to face legal and administrative impediments to the full realization of their rights. Very often, vague or no legislation regulating assemblies or associations has negative and unforeseen consequences or leaves space for arbitrary interpretation and implementation by state authorities.

This SHDM will discuss the above mentioned challenges, and will provide a forum to discuss those narrowly tailored circumstances in which the exercise of the rights to freedom of association and assembly may be legitimately restricted in accordance with relevant international standards and commitments. The common thread running through all three sessions is to highlight and discuss how counterproductive restrictive laws and policies towards freedoms of peaceful assembly and association are to ensuring the security and safety that states, and their citizens need and seek, and to encourage States to take a more open, inclusive approach towards civil society. Discussions will focus on the mutual benefits for States and civil society, and the public at large, of ensuring that all persons within a State's jurisdiction can fully enjoy their rights to peaceful assembly and association. The free exercise of both rights will lead to a better understanding of public concerns, reduce the risk of conflicts escalating into violence, and create opportunities for dialogue and partnership, while capitalizing on the capacities, knowledge and skills of associations. This will help enhance the openness, inclusiveness and transparency of public decision-making processes and ultimately foster relationships built on mutual trust.

OSCE participating States' laws must also be clear and foreseeable enough to leave no space for arbitrary interpretation and implementation. In addition to proper legislation, State officials responsible for implementing legislation need to be educated to understand basic human rights principles, and trained so that they see the exercise of the freedoms of peaceful assembly and association not as a threat, but as entitlements of the people, which the State and its officials are obliged to protect and facilitate, even where these people express diverse, unpopular or minority opinions. In relation to assemblies, police units need to be specially trained to engage in negotiations with demonstrators, decrease tensions, and where possible, remove violent elements from an otherwise peaceful assembly, to ensure that the assembly may continue. Police officers need to be trained in crowd management, and should resort to violence only in cases where the crowd itself has turned violent and poses a threat to life and limb, and once all other means have been exhausted. Even in this case, police actions need to be proportionate, and preference must be given to using non-lethal equipment.

Likewise, public officials should keep interference with the right to freedom of association to a minimum. The registration of associations should merely be a means of keeping public administration informed, not a means of restricting the fundamental freedom to associate. Associations that have not registered should not be subjected to excessive sanctions such as dissolution, disproportionate fines, and should certainly not be criminalized.

ODIHR, as part of its human rights and democratization mandate, stands ready to assist OSCE participating States in their efforts to change their laws and policies accordingly. One possibility would be for ODIHR to review draft and existing legislation of individual participating States regulating assemblies and different types of associations, including NGOs and political parties. I would also like to highlight a tool created for this purpose

that ODIHR prepared in co-operation with the Council of Europe's Venice Commission, namely the recently published Joint ODIHR-Venice Commission Guidelines on Freedom of Association. These guidelines draw on examples of good practices from national legislation in OSCE participating States and international standards and commitments to illustrate existing legislative options for lawmakers, and to raise awareness on these issues among a wide range of stakeholders, including lawmakers, but also government officials, civil society, and the wider public.

In this context, let me add that, together with its Advisory Panel of Experts on Freedom of Peaceful Assembly, and the Venice Commission, ODIHR is currently also in the process of preparing a third updated version of the Joint ODIHR-Venice Commission Guidelines on Peaceful Assembly.

Alongside its legislative work, ODIHR is also involved in monitoring the respect of freedom of peaceful assembly. Notably, we have been monitoring public assemblies across the OSCE space since 2011. The thematic report of the second monitoring cycle for 2013-2014 highlighting emerging trends, good practices and challenges in facilitating and policing public events throughout the OSCE area, was released in December 2014, and a new cycle of monitoring exercises has begun this year. Recognizing the need to build capacity with non-governmental organizations and human rights defenders to systematically monitor assemblies and their policing, ODIHR published the Handbook on Monitoring Freedom of Peaceful Assembly in 2011, which is a practical tool to help NGOs collect reliable first-hand information through the monitoring of public gatherings and report on them. Moreover, ODIHR, in collaboration with the OSCE Strategic Police Matters Unit, is developing a Handbook, and a Human Rights Training Guide to Policing Assemblies, to help build capacity within police forces.

Similarly to our capacity-building activities and publications, the purpose of human dimension events is to take stock of challenges and existing practices in the human dimension. Bearing this in mind, I hope that this SHDM will contribute to our continuous efforts to ensure that the rights to freedom of peaceful assembly and association are adequately protected and that their observance is ensured throughout the OSCE region. The discussions at this meeting can provide real momentum to implement concrete steps to guarantee and maintain lively, inclusive and strong democratic systems that OSCE participating States have committed to create, maintain, and protect.

Thank you for your attention.

ANNEX 3: Keynote Speech by Ms. Hina Jilani

Supplementary Human Dimension Meeting Freedoms of Peaceful Assembly and Association, with Emphasis on Freedom of Association 16 – 17 April 2015 Hofburg, Vienna

Keynote Presentation

The right to freedoms of association and assembly is recognized in several international and regional instruments of binding and non-binding nature. The protection of the right to these freedoms is fundamental to any democratic society, as they have a direct nexus to democracy and pluralism. At the same time both freedoms are indispensable for the promotion and protection of human rights and for any effective interventions for the defence of human rights. It is for this reason that Article 5 of the 1998 UN Declaration on Human Rights Defenders reaffirms the right of everyone, individually and in association with others, whether at national or international level, to meet or assemble peacefully, form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.

Although this Declaration is a resolution of the General Assembly rather than a convention or treaty, it provides a sound basis for gauging the consensus of considered opinion on the meaning of the rights conferred under applicable multilateral treaties, such as ICCPR and the regional conventions. It is evident from the formulation of the Declaration that freedom of association and freedom of assembly are closely related. In the context of human rights, the ability to promote human rights through collective action is the core purpose of both these rights. It is also important to note that effective participation of people in public affairs, which is the essence of a democratic dispensation, would not be possible if the right to freedom of association and assembly were not available or respected.

Freedom of association is at the heart of an active civil society and a functioning democracy. It involves the right of individuals to interact and organize among themselves to collectively express, promote, pursue and defend common interests. Articles 22 of the International Covenant on Civil and Political Rights, 8 of the International Covenant on Economic Social and Cultural Rights, 11 of the European Convention on Human Rights, 10 of the African Charter on Human and Peoples' Rights and 5 of the Declaration on human rights defenders all guarantee this right.

While in most countries, the right to freedom of association is constitutionally guaranteed, more recent trends have emerged that indicate a notable increase in the number and the range of infringements of the exercise of this right, resulting in serious obstacles to the work of human rights defenders. Within the last 10 years, many countries have adopted or drafted new national legislation to regulate the creation and operation of

NGOs and other associations. In a majority of countries, these new laws were adopted after 2001 and stricter rules were legitimized by counter-terrorism and security considerations. In practice, they have limited defenders' freedom of association and increased the regulatory powers of the State. In many cases, these new laws have provided the State with the means to crack down on anyone critical of governmental action. In a few cases, they have been used by Governments to put an end to human rights activities through legal action.

Typically, these measures are contained in domestic legislative instruments despite constitutional guarantees. Restrictions placed on the freedom of association by law have been examined by experts working on the protection of this freedom in various contexts. There is a general concern that these restrictions by far exceed the permissible limits allowed for placing restrictions on fundamental freedoms. This is not only in contravention of international law and standards, but also contravenes the guarantees contained in the very constitutions to which all national legislation must adhere under the system followed by these states.

Article 22, paragraph 2, of the International Covenant on Civil and Political Rights stipulates that "no restrictions may be placed on the exercise of the right [to freedom of association] other than those which are prescribed by law and which are necessary in a democratic society in the interest of national security or public safety, public order, the protection of the public health or morals or the protection of the rights and freedoms of others". Article 17 of the Declaration has narrowed the scope of limitations on the exercise of rights and fundamental freedoms for defending or promoting human rights. It emphasizes that the restrictions must be "in accordance with applicable international obligations and are determined by law *solely for the purpose of securing due recognition and respect for the rights and freedoms of others* and of meeting the *just requirements* of morality, public order and the general welfare in a democratic society." (Emphasis added). It is even more worrying that many times governments have acted without any legal sanction to curtail the freedom of association and adopted policies and practices that hamper the ability of civil society to organize and to act collectively to strengthen democracy or promote human rights. Such measures have defeated the very objective of the right and made constitutional guarantees, where they exist, meaningless. Attempts by governments to invoke any of the legitimate aims, as grounds for curtailing these freedoms, have been unconvincing and lack credibility.

A key problem for defenders with the application of NGO laws is the use of vague, imprecise, and at times overly broad definitions of legitimate grounds for restricting freedom of association, which allows for varying interpretations based far more on government policy than on strictly legal considerations. In many States, "reasonable" restrictions have been used to limit the freedom of association of defenders, to deny registration to human rights organizations or to justify their closure. In particular, NGOs that publicize human rights abuses by authorities have been accused of undermining the "integrity of the State" or "tarnishing the image of the State". In one case, an NGO working on minority rights was accused of threatening the integrity of the State for having used a minority language on a poster. In another case, an NGO working on gay

and lesbian rights was denied registration because its aims were deemed unethical and “immoral”.

It is true that we have made progress in terms of making problems visible. I am also aware that civil society organizations have, increasingly, taken on responsibilities both to monitor and advance the role of the state to assure rights and human development, and to be a counterweight to the state as a strong socio-political force. At the same time I note with concern that a number of States fail to recognize this as a positive potential for human security and development. They perceive civil society in general and human rights organizations in particular as hostile a force and as groups whose only objective should be to help the Government achieve its goals.

Laws policies and practices that are either intended to negatively impact civil society capacities, or have no role in facilitating civil society action in defense of human rights, take various shapes and have a range of consequences for human security. A common feature of many laws that restrict freedom of associations is the criminalization of non-registered entities and the requirement to obtain authorizations or registration before carrying out human rights activities. In recent years, many countries have introduced registration requirements where none formerly existed and have used the new legislation to outlaw organizations that had existed for many years.

Criteria for registration included in national laws, where they exist, are frequently ambiguous enough to allow authorities broad discretion in their interpretation, resulting in arbitrary denial of registration for human rights organizations. There are numerous examples from a number of countries to show that multiple laws and mechanisms are established in connection with NGO registration, with overlapping mandates and spheres of application. These have led to confusion and a general lack of clarity concerning the steps to be taken for registration as well as a lack of access to adequate information at the local level to complete the process. A common complaint of human rights defenders from different countries is that of receiving contradictory and ever-changing instructions from different State organs on how to register. Some organizations that considered themselves registered were later informed that they had not fulfilled the necessary requirements, or have registered under the wrong law. In such case human rights organizations suffered serious consequences in the shape of legal penalties and administrative sanctions.

Regulatory processes have also been used by states for intelligence gathering on NGO activities. Such probes have caused intimidation and harassment and created a general environment of fear and insecurity amongst human rights organizations and their members in countries where such tactics have been adopted. Registration is becoming increasingly politicized by Governments, to the detriment of human rights defenders. In a large number of cases, registration applications are reviewed by the Ministry of Interior and even security units with strong ties to military or civilian intelligence. The operations of human rights NGOs have also greatly suffered from burdensome legal requirements to constantly inform authorities about their activities. Requirements that associations submit to the Government annual reports, copies of management decisions and prior notification

of any events they organize have been used to interfere in the running of the human rights programmes.

Where State authorities are given the right to monitor and interfere in the management of NGOs, defenders have seen their independence and work threatened. There are laws that grant the authorities the right to monitor the election of an organization's board members, to object to certain candidates and to request that an internal decision be withdrawn when it is deemed to be in conflict with national regulations.

In many countries, NGO laws impose restrictions on the types of activities in which human rights organizations can engage. In particular, certain laws establish a restrictive list of authorized activities while others prohibit NGOs from engaging in any "political" or "trade union" activities, without defining either term. Such language puts human rights NGOs working to provide legal aid, advocating for the reform of the judicial system, working on election monitoring or defending the rights of political prisoners at risk of having their activities labeled as illegal. In one case, the law tasks the registration body with "providing policy guidelines to NGOs for harmonizing their activities in light of the national development plan". In a later article, the same law grants this body the right to "investigate and inquire into any matter" to ensure that NGOs adhere to their own statute. States have used these provisions against human rights organizations to circumscribe their activities to fit within the policies of the State and adopted laws that see human rights organizations as mere implementing partners of government policies.

It has also been noted that in many countries there are restrictions on existing legal entities, including human rights organizations, from forming groups and establishing networks, coalitions or federations. This is a serious impediment for human rights defenders both in terms of their activities and their security. Coalitions and networks have now been acknowledged as essential for support and protection of human rights defenders and organizations that are at risk.

It is now becoming more and more difficult for foreign NGOs to operate in several countries. Often they are subjected to a separate and more restrictive registration regime, and are also subjected to constant and highly intrusive surveillance. In my capacity as the SRSG on Human Rights Defenders, I received information on several highly unpleasant incidents of harassment, arbitrary detention and even forced deportation of members of international and regional human rights organizations. In the context of the Declaration, communication and interaction amongst human rights groups, national and international, is a part of the freedom of association as expressed in Article 5.

A common feature of many newly adopted NGO laws of concern to human rights defenders is restrictive provisions regarding funding. An increasing number of domestic laws place restrictions on the origin of the funds that NGOs receive and require prior authorization for NGOs to access international funds from nationals abroad or from foreign donors. The bank accounts of human rights NGOs have been blocked and their assets frozen to prevent them from accessing international funding. In this context I would like to remind that acquiring resources for human rights work is part of

international assistance and cooperation for the promotion and protection of human rights, encouraged in Article 2 of the International Covenant on Economic, Social and Cultural Rights. Governments go much beyond the just requirements of due diligence for assuring that funding is coming from legitimate sources. Their assessment is not only subjective, but is largely motivated by their desire to limit the capacity of civil society to expose misgovernance, corruption and violation of human rights.

Given the limited resources available for human rights organizations at the local level, complicated legal requirements for prior authorization for international funding have seriously affected the ability of human rights defenders to carry out their activities. In some cases, they have seriously endangered the very existence of human rights organizations. The ability of human rights defenders to carry out their activities rests on their ability to receive funds and utilize them without undue restrictions, in conformity with article 13 of the Declaration.

In terms of defenders' activities, the right to freedom of assembly relates to numerous forms of assembly ranging from a meeting inside a private residence to meetings and conferences in public places, demonstrations, vigils, marches, picket lines and other kinds of assemblies, indoors or outdoors, with the aim of promoting and protecting human rights. The assemblies can be organized by an NGO, a trade union, an ad hoc group, a social movement, or by individual defenders seeking to raise an issue for debate or protesting against human rights violations of different kinds.

While most national constitutions formally guarantee the right to freedom of assembly, in many cases this right has subsequently been restricted through secondary legislation. Most national laws require official written permission for holding assemblies, rallies and demonstrations. Restrictions imposed on freedom of assembly have been broadly applied to prohibit or disrupt peaceful human rights assemblies, frequently on the pretext of the need to maintain public order, and are increasingly relying on counter-terrorism legislation, arguments and mechanisms.

Farmers have been prosecuted in anti-terrorist courts for peacefully protesting attempts by State security forces to evict them from land; peace activists and anti-war protesters have been maligned and threatened with prosecution for defying travel restrictions imposed to prevent their participation in peaceful protest; and defenders participating in peaceful demonstrations have been charged with various offences including disrupting traffic and disturbing public order.

Broadly, the violations can be divided into six groups: arrests, violence against defenders during assemblies including defenders who have been killed, threats against defenders, travel restrictions for defenders wishing to participate in assemblies to promote and protect human rights, assemblies that are interrupted or that are not allowed to be held, and restrictions imposed on this right through legislation.

Arrests of defenders are in most cases accompanied by violence against defenders, and a large number of those arrested report having been ill-treated and even tortured or raped in

connection with their arrest and detention. In many of the cases, defenders are never brought to trial, but merely released on bail after a certain amount of time, or detained without having their case brought before a judge. I know of instances of arrested defenders being released on the condition that they do not return to the area where they were participating in peaceful assembly.

A significant amount of information is now available indicating that the authorities often prevent human rights defenders from holding rallies, demonstrations or other assemblies in central areas of cities and towns. Sometimes the assembly is given permission to convene only in “pre-authorized” locations, or in locations on the outskirts of the city. Some States also have regulations stating that assemblies cannot be held within a certain radius of buildings of the legislative, executive or judicial authorities. Such measures would also be contrary to the spirit of the Declaration (art. 6 (c)) if measures limiting the freedom of assembly are motivated by drawing public attention to the issues they are raising.

I am worried by the recent trend that legislation has become more restrictive, the policing of demonstrations has become more violent, and that security considerations are used as the explicit pretext for adopting new legislation or harsher measures against defenders in many countries around the world. The worst affected by these new laws or regulations seem to be pro-democracy activists and those organizing or taking part in peaceful public action asserting their right to independence or self-determination. Also defenders working specifically on the rights of lesbian, gay, bisexual and transgender (LGBT) persons are amongst the foremost whose right to peaceful assembly is frequently violated.

Women defenders often face more risks when participating in collective public action because of perceptions of the traditional role of women in some societies, and they become targets of non-State actors. Retaliation against them takes such forms as rape and sexual assault which can have adverse social consequences in addition to causing physical harm.

Human rights defenders fulfill a fundamental role in the preservation and restoration of peace and security. They contribute to ending ongoing conflict, to preventing conflict from breaking out, and to peace-building in post-conflict situations. They do this through several means, including demonstrations and vigils, meetings and conferences, dialogues and other forms of assemblies addressing human rights issues.

Human rights violations become more severe in situations of military governance or a resort to military means by the authorities as a response to security concerns. Freedom of assembly is one of the basic rights that will be particularly affected in such situations, as defenders who seek to assert the legitimacy of peaceful protest and the lawful exercise of the right to freedom of assembly are branded as subversive, threats to national security, or propagators of public disorder.

In the preamble to the Declaration it is stressed that “the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State”. States have a positive duty to actively protect assemblies that are lawful and peaceful, including protecting the participants against persons or groups that attempt to disrupt an assembly or carry out violent acts against the participants. This does not mean that, for instance, counter-demonstrations should not be allowed, but rather that it is the responsibility of the State to ensure that public order is maintained, and that participants are protected from violent attacks.

Article 12 (3) of the Declaration states that “everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms”. The right to protest is an essential element of the right to participation in any democratic dispensation and restrictions imposed on this right must be closely scrutinized with respect to their necessity and reasonableness. National laws in several countries that restrict the right to freedom of assembly allow for action against defenders for activities that are protected by the Declaration, thus rendering interventions for the protection of defenders ineffective. Governments’ reliance on national security laws when reacting to exposure or criticism of their human rights practices is one of the major factors threatening the safety of defenders and hampering their contribution to the promotion and protection of human rights nationally and internationally.

While the right to the freedom of assembly is not absolute, restrictions, if imposed, have to pass the test of international laws and standards, particularly Article 4 of the ICCPR. At the same time due consideration should also be paid to the preamble to the Declaration which states that “the absence of international peace and security does not excuse non-compliance” with human rights standards.

In its general comment No. 29 (2001), the Human Rights Committee gives its general comments on article 4 of ICCPR on derogations during a state of emergency. Two fundamental conditions must be met before a State moves to invoke article 4: the situation must amount to a public emergency which threatens the life of the nation, and the State party must have officially proclaimed a state of emergency.

Finally, I would like to mention that initiatives have been taken to improve respect for the freedoms of association and assembly. ODHIR itself has created mechanisms, started processes and launched awareness initiatives to promote and protect these freedoms. However, far more has to be done to ensure that these fundamental freedoms are adequately protected, and also, that their direct relation to the environment for the work of human rights defenders is better understood. In this connection reference can be made to the recommendations that come from human rights experts who are constantly monitoring and analyzing the respect for these rights in different countries. Implementation of these recommendations must become a goal and a serious

commitment for international, regional and national bodies dedicated to the protection and promotion of human rights.

ANNEX 4: Biographical Information on Introducers and Moderators

Day 1: Thursday 16 April 2015

15.00 – 16.00: OPENING SESSION

Keynote speaker:

Ms. Hina Jilani, Advocate at the Supreme Court (Pakistan)

Ms. Hina Jilani served for eight years as the United Nations Special Representative of the Secretary-General on Human Rights Defenders. During her tenure, she identified common themes in the treatment of human rights defenders, including the culture of impunity; intimidation and lack of security, and restrictions on freedom of assembly, expression, and association. Ms. Jilani is a founder of the first all-female legal practice and the first free legal aid center in Pakistan, the Human Rights Commission of Pakistan and the Women's Action Forum respectively, as well as a member of the Eminent Jurists Panel on Terrorism, Counter-terrorism, and Human Rights. In July 2013, she was elected to join the International Commission of Jurists. Ms. Jilani has received a number of honours and awards, including the 2001 Millennium Peace Prize for Women, in recognition of her life-long contribution to peace-building and human rights.

16.00 – 18.00: SESSION I: A HUMAN SECURITY APPROACH TO FREEDOMS OF PEACEFUL ASSEMBLY AND ASSOCIATION

Introducers:

Ms. Ruth Montgomery, Policing Expert (Canada)

Ms. Ruth Montgomery has more than 30 years of experience leading police, justice, and public safety-related development and education nationally and internationally. She served for 27 years with the Edmonton Police Service in Canada, rising to the rank of Superintendent. Ms. Montgomery then worked as the Director of Program Development at the University of British Columbia, Faculty of Commerce, and then established her own consulting firm. She has conducted applied research, directed policing and public safety policy and process development initiatives, many focused on human rights and on improving services and supports for police organizations and their staff and has designed, developed, and facilitated numerous educational initiatives. Ms. Montgomery is a senior advisor to the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR) and to the International Association of Women Police (IAWP). She is a member of the Canadian Association of Chiefs of

Police (CACP), the International Association of Chiefs of Police (IACP), the International Society for the Reform of Criminal Law (ISRCL), and the National Association of Women Law Enforcement Executives (NAWLEE). Ms. Montgomery holds a Bachelor of Commerce (BComm) and a Masters of Criminal Justice (MA).

Ms. Natalia Bourjaily, Vice President - Eurasia of the International Center for Not-for-Profit Law (ICNL) (US/Belarus)

Ms. Natalia I. Bourjaily is the Vice President - Eurasia of the International Center for Not-for-Profit Law (ICNL) in Washington D.C., and has been working with ICNL since 1997. She has provided technical assistance in drafting laws, and provided educational and legal assistance in all former Soviet states. Ms. Bourjaily assisted with the preparation of more than 30 laws, which have been adopted in the region, including NGO laws in Uzbekistan and in Kyrgyzstan, and tax laws providing benefits to NGOs in Russia and Ukraine. She also contributed to many public advocacy campaigns, including in Kyrgyzstan (against changes to the foreign agents legislation in 2014-2015), in Kazakhstan (to improve the draft law on public financing of NGOs) and in Azerbaijan (against changes to the laws on grants and on NGOs in 2013-2015). Recently, Ms. Bourjaily was an OSCE/ODIHR expert on a joint OSCE/ODIHR-Venice Commission working group that prepared Joint Guidelines on Freedom of Association, published in February 2015.

Moderator:

Ms. Nina Belyaeva, Member of the OSCE/ODIHR Panel of Experts on Freedom of Peaceful Assembly (Russian Federation)

Ms. Nina Y. Belayeva is a Professor and the Head of the Public Policy Department that she established in 2000, at the National Research University - Higher School of Economics in Russia; she is also the Academic Director of the International Master Program "Political Analysis and Public Policy". Prof. Belyaeva founded the International Foundation for Political and Legal Research in 1989 and is the President of this foundation, which enjoys participatory status with the Council of Europe since 2006. She is also a permanent member of the OSCE/ODIHR Panel of Experts on Freedom of Peaceful Assembly, which helped draft joint OSCE/ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly in 2006 (a 2nd edition was prepared in 2010). Prof. Belyaeva's major areas of research include comparative citizen participation in different political regimes, competing actors in creating regulatory regimes, think tanks and knowledge governance and interaction between "knowledge communities", as well as self-organized publics and their influence on global governance. Her most recent publication addresses emerging phenomena of "public protests" as new social actors and her current research involves the study of "public protests" in Russia, Ukraine, Brazil and Turkey, as compared to Arab Spring movements. Prof. Belyaeva holds an LL.M. from Moscow State University Law School, a PhD in Legal and Policy studies from the Institute of State and Law and a number of research fellowships.

Day 2: Friday 17 April 2015

10.00 – 12.00: SESSION II: NON-DISCRIMINATION AND THE FREEDOMS OF PEACEFUL ASSEMBLY AND ASSOCIATION

Introducers:

Ms. Maria Dahle, Executive Director, Human Rights House Network (Norway)

Ms. Maria Dahle has been the Executive Director of the Human Rights House Foundation (HRHF) since 1994. Ms. Dahle has been instrumental in establishing and developing the international Human Rights House Network, which consists of 90 independent human rights organisations in 18 Human Rights Houses in 13 countries today. Ms. Dahle's expertise on protection, advocacy, networking and building sustainable institutions has made her a sought-after board member for several organisations and institutions, such as the newly established Prague Centre for Civil Society, the radio station "Voice of Tibet" broadcasting daily to China/Tibet (1994-2015), the Norwegian human rights campaign "Dugnad'98" (1994-1998); and the annual film festival in Oslo "Human Rights Human Wrongs" (2008-2013). Prior to taking the helm at HRHF, Ms. Dahle worked as a journalist at Finansavisen (1992) and a theatre instructor at Nordland Fylkeskommune (1993). Ms. Dahle has an MSc Degree from the Norwegian School of Economics and Business Administration in Bergen.

Mr. Yuri Dzhibladze, President of the Center for the Development of Democracy and Human Rights (Russian Federation)

Mr. Yuri Dzhibladze is a founder and president of the Center for the Development of Democracy and Human Rights, based in Moscow, Russia. The Center focuses on freedom of association and assembly, government-NGO relationships, the protection of human rights defenders, and Russia's implementation of its international human rights obligations, among other issues. Mr. Dzhibladze plays an active role in a number of international coalitions, including the OSCE-wide NGO coalition "Civic Solidarity Platform", the EU-Russia Civil Society Forum, the World Movement for Democracy, and the Community of Democracies. He is a member of the Expert Council of the Ombudsman of the Russia and was a member of the Council on Civil Society and Human Rights with the President of Russia in 2009-2012. Mr. Dzhibladze is an author and editor of books, research papers and articles on human rights and democracy, and regularly speaks at conferences. Recently, Mr. Dzhibladze was an OSCE/ODIHR expert on a joint OSCE/ODIHR-Venice Commission working group that prepared Joint Guidelines on Freedom of Association, published in February 2015.

Moderator:

Ms. Alice Thomas, Chief of the Legislative Support Unit, OSCE/ODIHR

Ms. Alice Thomas is an international lawyer specialized in the field of human rights with more than 13 years of experience. After having completed her law studies and legal practice exam in Germany, Ms. Thomas worked at the Registry of the European Court of Human Rights in Strasbourg. She then worked as an international legal adviser to the Ombudsperson Institution in Kosovo. Since 2009, Ms. Thomas has been working for the Legislative Support Unit of the ODIHR/OSCE, based in Warsaw; she became the chief of the unit in early 2013. The Legislative Support Unit produces legal opinions on draft and existing legislation pertaining to the human dimension, analyzing their compliance with international standards and commitments relating to human rights.

14.00 – 16.00: SESSION III: ENHANCING THE PARTICIPATION OF ASSOCIATIONS IN PUBLIC DECISION-MAKING PROCESSES

Introducers:

Ms. Cholpon Djakupova, Director, Public Foundation Legal Clinic Adilet (Kyrgyz Republic)

Ms. Cholpon Djakupova is the Director of the Public Foundation Legal Clinic Adilet in the Kyrgyz Republic, which has been operating since 2002. This legal clinic has extensive experience in implementing projects aimed at the protection of human rights and freedoms, and has been involved in numerous initiatives aiming at forming a structured and constructive dialogue between civil society and government bodies on key human rights issues. Ms. Djakupova is a well-known legal expert in this field.

Ms. Jutta Gützkow, Head of the Civil Society Division, Directorate General of Democracy, Council of Europe (Germany)

Ms. Jutta Gützkow heads the Civil Society Division within the Directorate General of Democracy of the Council of Europe. Her Division provides secretarial services to the Conference of INGOs of the Council of Europe and oversees the implementation of civil society assistance programmes in Council of Europe member States. Her work focuses on the participation of NGOs in political decision making processes – both in the member states and at the headquarters. For further information please refer to http://www.coe.int/T/NGO/default_en.asp

Moderator:

Mr. Arsen Stepanyan, Country Director, Save the Children International (Armenia)

Mr. Arsen Stepanyan is a non-profit management professional and currently the Country Director of Save the Children International in Armenia. Formerly, he was managing the Civil Society Department of Counterpart International in Armenia. He also served as a Constituency Relations Expert for the Armenian Legislative Strengthening Program for four years and has also been teaching Management and Organisational Development at the Judicial School since 2006. His areas of interest include managing innovations in the non-profit sector, capacity-building, value-based management, policy advocacy and legislative institutions. Mr. Stepanyan has led several national campaigns on enabling a CSO environment in Armenia since 2005. His decade-long experience covers the Caucasus, Central Asia, Middle East and the North Africa. He has managed USAID funded programs, worked as a consultant for UNDP, a European Union funded project, and the World Bank. Mr. Stepanyan holds an MPA from the State University of New York at Binghamton, an MA in Political Science from the American University of Armenia and a BA in Economics from the Yerevan State Institute of Economics.

ANNEX 5: Closing Remarks

CLOSING REMARKS BY MICHAEL GEORG LINK

DIRECTOR OF THE OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS (ODIHR)

SUPPLEMENTARY HUMAN DIMENSION MEETING ON FREEDOMS OF PEACEFUL ASSEMBLY AND ASSOCIATION VIENNA, 17 APRIL 2015

Excellencies, Distinguished Colleagues, Ladies and Gentlemen,

The Supplementary Human Dimension Meeting is now coming to an end and I would like to take this opportunity to thank our Keynote Speaker, Ms. Hina Jilani and our introducers for their insightful and enlightening contributions. I would further like to express my sincere thanks to the moderators of all three sessions for their excellent work in streamlining debates, as well as all participants for the rich and active discussions and exchanges that have taken place over the last one and a half days. Also, my gratitude goes to the Serbian Chairmanship, for the excellent co-operation in organizing this event. Finally, I would also like to thank the OSCE Secretariat in Vienna, which provided valuable support to us in the organization of this event, and to all ODIHR staff who worked so hard to make it happen. And let me not forget our interpreters, without whom we would not have had the interesting discussions mentioned before.

I am very pleased to note the high-level of interest in this meeting, which is indicative of the importance attached to the fundamental rights of freedom of association and assembly by OSCE participating States and civil society. To the participants of this Meeting, I

would like to express my deep appreciation for the practical recommendations that you have made during this meeting as to how participating States and OSCE institutions can contribute to the full implementation of the rights to freedom of peaceful assembly and association.

I would also like to thank the participants of the Civil Society Forum preceding this Supplementary Human Dimension Meeting. The discussions during this Forum led to focused and detailed recommendations which can contribute to taking further steps towards enhancing the participation of associations in public decision-making processes. I would thus like to call on OSCE participating States as well as all other SHDM participants to disseminate these recommendations, as widely as possible as they offer concrete principles and tools to facilitate inclusive and open dialogue by OSCE participating States with civil society in a transparent, impartial and non-discriminatory manner. We may also wish to return to them during the upcoming HDIM this year.

More generally, we at ODIHR will do our best to assist OSCE participating States in following up on all the conclusions and recommendations made during this SHDM, and will take those pertaining to the OSCE and its institutions into account in our programmatic activities.

I would also like to make a few observations about the meeting that hopefully will do justice to the quality and richness of the debate.

As ODIHR's First Deputy Director mentioned when opening the SHDM, the main objective of this meeting was to demonstrate how the establishment of a culture of dialogue and trust between states and individuals can serve to achieve democracy and human security through the full implementation of the rights to freedom of peaceful assembly and association. I believe that while we have heard many interventions highlighting the challenges that still persist in the OSCE region, we were also provided with interesting insights into good practices which facilitate the exercise of these rights. Examples on ways to facilitate and protect peaceful gatherings were provided, for instance where police or local administration co-operate with assembly organizers to ensure that assemblies remain peaceful. We also discussed those narrowly tailored circumstances in which the exercise of the rights to peaceful assembly and association may be legitimately restricted in accordance with relevant international standards and commitments.

I wish to highlight that it is of paramount importance that participating States ensure that peaceful assemblies can take place without undue State interference or harassment of organizers and participants. Let us remember that assemblies are one of the channels whereby voices of people, their views, expectations and opinions can reach the State. The police and other relevant authorities are there to facilitate and protect all forms of peaceful assembly, regardless of their particular content or aim, or of their participants. Likewise, the freedom of association should not be subjected to excessive regulation; registration of associations, including non-governmental organizations, should only be of a technical nature and the general operation of civil society organizations should be

facilitated by the authorities in a transparent and non-discriminatory manner. This also includes creating an enabling environment in which formal and informal associations can be established and operate and where the state provides access to resources and permits associations to seek, receive and use a variety of state and non-state resources.

The full and free exercise of these rights thus contributes to the exchange of a diversity of ideas and opinions, which is essential for a democratic society. Taking civil society seriously, and seeing it as a partner rather than an adversary can only be beneficial towards building a stable and safe environment, where decisions taken by the state are consulted with non-state actors, and are thus made transparent and understandable to the wider public.

ODIHR stands ready to support OSCE participating States in their efforts to reform legislation and policy to create an enabling legal environment for the exercise of the rights to freedom of peaceful assembly and of association. This support also includes the continuation of ODIHR's work in monitoring assemblies and in cooperating with NGOs active in the area of freedoms of peaceful assembly and of association. The tools that ODIHR has developed for this purpose, namely the two sets of legislative Guidelines, on Freedom of Association and on Freedom of Peaceful Assembly, drafted together with the Council of Europe's Venice Commission, as well as the upcoming Human Rights Handbook and Training Guide to Policing Assemblies contain good examples of standards and good practices across the OSCE region.

This Supplementary Human Dimension Meeting has provided OSCE participating States with food for thought and recommendations on how they can better implement their commitments pertaining to freedoms of association and peaceful assembly in line with international standards. We strongly encourage all participating States to take the conclusions and recommendations resulting from this meeting seriously, and to follow up on them, with the assistance of the respective OSCE institutions.

With these final words, I would like to express my gratitude to all of you for your participation, your ideas and your constructive approach. You have pointed out the way forward – what is needed next is political will and action.

Thank you for your kind attention.