



# ODIHR Assessment Mission on Human Rights Defenders

13-24 March 2023

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*Purpose of the visit: The visit to Malta will be part of a cycle of field visits that ODIHR is conducting throughout the OSCE participating States to assess and promote good practices related to the protection of human rights defenders. Following the visit, a country report with recommendations will be issued within 5-6 months following the visit, which will be shared with Maltese authorities for any comments prior to publication.*

## **1. OSCE and Human Rights Defenders**

Background: The recognition to protect human rights defenders was first coined in the Budapest Summit Declaration in 1994, whereby participating States committed to the need for protection of human rights defenders.

In its work, OSCE, primarily through ODIHR, follows the situation of human rights defenders across the OSCE region, particularly those in detention. ODIHR regularly raises their cases with national authorities, as well as makes visits to the detention facilities.

ODIHR also provides capacity building to human rights defenders in order for them to be able to continue monitoring and reporting in a safe and secure manner, as well as facilitates a direct dialogue between participating States and civil society on issues related to human rights defenders.

## **2. ODIHR Guidelines on the Protection of Human Rights Defenders**

Background: The ODIHR Guidelines on the Protection of Human Rights Defenders was published in 2014 and aim to support participating States in the implementation of their human dimension commitments related to the protection of human rights defenders.

The guidelines focus on three pillars:

- General Principles underpinning the protection of human rights defenders
- Physical integrity, liberty and security and dignity of human rights defenders.
- A safe and enabling environment conducive to human rights work

The areas covered by the guidelines include: protection from threats, attacks and other abuses; protection from judicial harassment, criminalisation, arbitrary arrest and detention; confronting stigmatisation and marginalisation; freedom of opinion, expression and information; freedom of peaceful assembly; freedom of association and the right to form, join and participate effectively in NGOs; right to participate in public affairs; freedom of movement and human rights work within and across borders; right to private life; and right to access and communicate with international bodies.



The guidelines offer a framework for the implementation of the guidelines, which is divided into three categories: 1) National Implementation; 2) Protection of human rights defenders in other OSCE participating States and third countries; 3) International co-operation and human rights mechanisms.

a) National Implementation:

- a. Encourage participating States to carry out – in consultation with civil society – a baseline review of laws and practices affecting human rights defenders.
- b. Participating States should repeal or amend any laws and regulations that impede or hinder the work of human rights defenders.
- c. Participating States should strengthen the role of independent National Human Rights Institutions (NHRI) and their mandate, and should allow independent NHRIs to be able to do systematic, impartial and regular monitoring on the situation of human rights defenders.
- d. States should consider the setting up of inter-institutional co-ordinating bodies, with the participation of human rights defenders, to develop and implement strategies to enhance the protection of human rights defenders.
- e. Participating States are encouraged to translate the Guidelines in local languages and disseminate them widely among law enforcement agencies, judiciary, military, faith leaders, teachers and educators, health workers, journalists and other professional groups, civil society and other relevant actors.

b) Protection of human rights defenders in other OSCE participating States and third countries

- a. Participating States should consider setting up mechanisms and draw up national guidelines to assist human rights defenders in other participating States, including rapid response mechanisms for human rights defenders at imminent risk.
- b. Through their diplomatic missions, participating States should take action in the state concerned to support human rights defenders, in particular those at immediate risk of or subject to attacks, harassment, persecution and arbitrary detention. They should promote action by members of the diplomatic corps, for example, to meeting with human rights defenders, visit those in detention, attend their trials and issue public statements or intervention letters to the authorities of the host state when required.
- c. States should also raise concern through appropriate channels, including high level meetings between governments, international forums or by calling, when required, the accredited diplomatic representative of the state concerned to a meeting.



- d. Whenever required, participating States should- through diplomatic missions in state concerned – facilitate the issuance of emergency visas and relocation support for individual human rights defenders to allow them to promptly leave the country where they are at risk.
- c) International co-operation and human rights mechanisms
- a. Participating States should cooperate within the OSCE and other international forums to develop and strengthen international and regional standards and mechanisms for the protection of human rights defenders, including by providing relevant international institutions and mechanisms with sufficient resources and other political support.
  - b. Participating States should engage in peer review at the international level with a view to identifying protection gaps, shortcomings in national law and practices, as well as possible improvements that can be made to strengthen the protection of human rights defenders.
  - c. Participating states should cooperate with OSCE institutions and other institutions by providing in good faith, all information requested by such institutions and mechanisms and by responding to their communications without undue delay, as well as fully comply with judgements of international and regional courts.
  - d. Participating States are encouraged to supply information to ODIHR about the steps taken to implement the OSCE/ODIHR guidelines on the protection of human rights defenders.

### **3. Report of the first cycle of evaluations by ODIHR**

**Background:** The first cycle of evaluations by ODIHR took place between 2017 and 2019, and focused on five countries: Italy, Montenegro, Georgia, Mongolia and Czech Republic.

In the findings, ODIHR identified a number of good practices, including measures aimed at ensuring better accountability for abuses targeting human rights defenders, as well as policies, programmes and mechanisms seeking to offer them targeted protection. For example, in some OSCE participating States, the system of physical protection by police of at-risk defenders, including journalists, was identified as a positive practice. Furthermore, it was also noted that advanced measures are also being taken in the chosen participating States to protect human rights defenders at risk from third countries, including in the framework of the Shelter City Initiative<sup>1</sup>; protection of whistleblowers; and the decriminalisation of defamation.

At the same time, ODIHR identified a number of challenges that remain to be addressed. Most of challenges identified were common for all the five selected countries. Cases of human

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<sup>1</sup> The Shelter City Initiative is a global movement of cities, organisations and people who offer a safe space for human rights defenders. Within the OSCE region, there are three countries which form part of this initiative: Georgia, the Netherlands and UK. <https://sheltercity.org/shelter-cities/>



rights defenders facing threats, attacks and intimidation by both state and non-state actors because of their work, were reported. Smear campaigns against activists and NGOs were also reported, often involving discrediting of their work or their overall role in society. This also includes negative portrayals and stigmatisation of particular groups of human rights defenders, including women defenders, LGBTI, defenders of migrants' rights, environmental activists, defenders working on anti-corruption issues and journalists. Challenges related to the protection of defenders from administrative and judicial harassment, criminalisation and other forms of pressure as a consequence of their human rights work were also brought to ODIHR's attention.

Furthermore, the lack of access to adequate and sustainable fundings is one of the key gaps identified which is also being faced by human rights defenders.

#### **4. Legislations on Human Rights Defenders in the OSCE region**

Within the OSCE participating States, legislations vary from issuance of guidelines to acts in their legislation specific on human rights defenders.

The most commonly used instrument is the issuance of guidelines. In fact, EU member states (including Malta) are guided by the EU Guidelines on Human Rights Defenders which was adopted in 2008. Some countries, such as Norway<sup>2</sup>, Ireland<sup>3</sup>, Finland<sup>4</sup> and USA<sup>5</sup> have guidelines on the protection of human rights defenders which target diplomatic missions, while UK<sup>6</sup>, Switzerland<sup>7</sup> and Canada<sup>8</sup> have generic guidelines which apply to government and public at large.

Mongolia is one of the few countries globally which have introduced a specific legislation on human rights defenders. This was adopted by Parliament in April 2021 and entered into force in July 2021. Kazakhstan is also in the process of drafting a legislation on the protection of human rights defenders.<sup>9</sup>

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<sup>2</sup> "Norway's efforts to support human rights defenders – guide for the foreign service" adopted in 2010

<sup>3</sup> "Guidelines for Irish Embassies and Missions on Human Rights Defenders" adopted in 2010

<sup>4</sup> "Public Guidelines of the Foreign Ministry of Finland on the Implementation of the EU guidelines on Human Rights Defenders" adopted in 2014

<sup>5</sup> "Guidelines for US Diplomatic Mission Support to Civil Society and Human Rights Defenders" adopted in 2021

<sup>6</sup> UK – "Support for Human Rights Defenders" adopted in 2019

<sup>7</sup> "The Swiss Guidelines on human rights defenders" adopted in 2013 and revised in 2019

<sup>8</sup> "Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders" adopted 2017 and revised in 2019

<sup>9</sup> <https://ishr.ch/defenders-toolbox/national-protection/>