



# HELSINKI COMMISSION REPORT

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## IN BRIEF

### Non-Governmental Participation in the OSCE

Non-governmental organizations (NGOs) are welcomed at many, though not all, meetings of the Organization for Security and Cooperation in Europe (OSCE).

OSCE rules for NGO participation are much simpler and more inclusive than at the United Nations (UN) or other international organizations, particularly as concerns human dimension events. One of the advantages of the OSCE is that it is the only international organization in which NGOs are allowed to participate in human dimension meetings on an equal basis with participating States. NGOs—no matter how small—can raise their concerns directly with governments. (Governments have a right of reply.) In addition, NGOs can hold side events during human dimension meetings in which they can focus on specific subjects or countries in greater depth than in the regular sessions of the event.

The rules governing which meetings are open are found both in the OSCE Rules of Procedure and various consensus decisions concerning specific events (see appendix). In general, most OSCE human dimension events are open to civil society participation. Summits are also open, as is the Economic Forum, while Ministerial Councils are open only for the opening and closing plenary sessions. NGOs rarely participate in events related to political-military security.

Under OSCE rules agreed by consensus, the only grounds for excluding an NGO from a meeting where civil society is welcome is found in the Helsinki 1992 Document which, after listing provisions for how and where NGOs can participate, reads, “The above provisions will not be applied to persons or organizations which resort to the use of violence or publicly condone terrorism or the use of violence.” There are no other grounds for exclusion.

There is no specific procedure for implementing this rule, but it traditionally has fallen to the Chairman-in-Office to make a determination in cases when a participating State has raised an objection to a specific NGO which it claims falls afoul of the rule. However, for some human dimension events, the decision has fallen to the Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR). Participating States generally become aware of which NGOs intend to participate in a specific event through the circulation of a provisional list of participants in advance of the meeting.

#### **Efforts to Curtail NGO Participation**

However, NGO participation in OSCE events is not always perceived as positive. Over the years, various participating States have objected to what they perceive as negative aspects of NGO participation in meetings, including criticisms of their governments levied by NGOs; the presence of persons connected to their political op-

position or whom the government has accused (sometimes seemingly for political reasons) of some type of criminal activity; the optics of their official delegation being physically in the same room as an NGO to which a government objects; or “NGOs” that seem to advocate on behalf of a government, also known as GONGOs.

Over the years, various participating States have proposed several types of vetting mechanisms, which in practice could allow NGOs to be blackballed. For example, Russia has argued that anyone convicted of a crime should not be allowed to participate in OSCE events. However, as some OSCE states lack an independent judiciary and have apparently used politically motivated criminal cases to attempt to silence against NGO representatives and journalists, such a rule could allow any state to block an NGO from participating in an OSCE event by bringing a spurious case against it.

Russia has also argued that only NGOs legally registered in their home countries should be allowed to participate. Since several OSCE states—including Russia—have established restrictive NGO registration requirements and denied registration to NGOs critical of their regimes, this could constitute a back-door method for them to restrict access to OSCE meetings.

In addition, some representatives from Western countries have increasingly expressed impatience with presentations by some small, inexperienced, or outside the mainstream NGOs. At the 2017 Human Dimension Implementation Meeting (HDIM), many Western states questioned whether several NGOs that made statements that were widely perceived to be offensive or intolerant could be prevented from participating in the future.

Some countries have been swayed over the years by the argument that the United Nations has a system for screening NGO applicants. For example, in 2007, the Spanish Chairmanship-in-Office of the OSCE circulated a non-paper pro-

### What is a GONGO?

Recently there has been an increase in the number of government-sponsored NGOs – often called GONGOs – at human dimension events. These organizations are funded (and sometimes created) by governments to participate in the meetings, praise the regime, and take up time in order to minimize the length and impact of real NGOs statements.

In the run-up to and during Kazakhstan’s 2010 Chairmanship, many organizations that appeared to be Kazakhstani GONGOs participated in the Human Dimension Implementation Meeting and other events. More recently, apparent Russian and Azerbaijani GONGOs have been active at human dimension events.

posing UN-like procedures for the OSCE, but it did not garner widespread support. Nevertheless, the UN and the OSCE have very different relationships and interactions with NGOs.

The UN Charter provides for consultation with NGOs, but requires that the UN first consult with the state concerned before engaging with an NGO. The UN Economic and Social Council (ECOSOC) is the only UN body with a formal framework for NGO participation, and is the main entry point for NGOs into the UN system. Different UN bodies have different modalities for NGO participation, but only NGOs that are accredited to and in good standing with ECOSOC are allowed to participate in their sessions.<sup>1</sup>

To be accredited by the UN, NGOs must meet stringent conditions on their structure, length of existence, and funding sources, and apply for consultative status in what can be lengthy application process. In addition, decisions on registering—or deregistering—a group can depend on the composition of the ECOSOC Council, which changes depending on which countries are serving on it at the time an NGO’s status is put to a vote.



Civil society representatives participate actively in annual Human Dimension Implementation Meetings  
Credit: OSCE/Maria Kuchma

### **The Rules in Practice**

While the existing rules may seem clear, applying them can be difficult and divisive. One of the most challenging issues has been the designation of a terrorist individual or organization.

For example, one participating State may choose to describe an individual or group as “terrorist.” However, broad extremism laws and lack of an independent judiciary or record of due process in that nation could make such unilateral declarations meaningless to other states, especially in the absence of any evidence of such dubious designations.

OSCE Chairmanships occasionally have found themselves in difficult situations in which one participating State is pressing to have an NGO banned from OSCE events as “terrorist,” while other participating States disagree.

In a very few cases over the years, Chairmanships have decided to deny registration to a particular person or organization. Unfortunately, some Chairmanships also have taken into ac-

count issues not mentioned directly in the Helsinki 1992 summit document, including whether the NGO seeking registration exists “legally” in its home country, or whether the country in which the OSCE meeting takes place would deny entry to the organization’s members. Some Chairmanships have balked at the responsibility, possibly fearing retaliation in other areas of the OSCE’s consensus-based work if they allowed a controversial NGO to participate over a country’s objection.

Some notable examples of instances when NGOs were excluded or consensus on other issues was held up as a result of disputes over NGO registration include:

- In the 1990s, a few individuals with alleged ties to the PKK were denied registration.
- A Chechen NGO legally registered in Poland was denied registration for some meetings for several years following Russian protests. Allegations of ties to terrorism or use of vio-

lence were never proven, and the NGO remains legally registered in Poland.

- In 2006, the Belgian Chairmanship denied registration for the HDIM for the London-based branch of Hizb-ut-Tahrir, although it was legally registered and operating in the UK. At the time, the only ban on Hizb-ut-Tahrir was in Germany, and that was for promoting anti-Semitism, not terrorism.
- In 2007, the Spanish Chairmanship gave in to Russian demands and denied registration for the Russian-Chechen Friendship Society, known for its criticism of the Russian Government on human rights abuses in Chechnya, to attend a conference on “Partnership of State Authorities, Civil Society and the Business Community in Combating Terrorism.” The U.S. Delegation walked out of that meeting in protest of the decision. Later in the year Spain reversed its decision, and the same NGO was allowed to register for and participate in the 2007 HDIM, prompting a Russian walk-out of that meeting when the NGO took the floor.
- In 2008, Turkmenistan held up adoption of the agenda for the HDIM for months, demanding new modalities for NGO participation.
- In 2010, following complaints from Turkmenistan and Russia, the Kazakhstani Chairmanship refused to allow several NGOs to participate in the human dimension portion of the Review Conference. The Chairmanship argued that the decision should be made by the OSCE Secretary General since the logistics for the Review Conference were the responsibility of the Secretariat. Then-Secretary General Marc Perrin de Brichambaut took so much time to respond that the meeting was over before the issue was settled. Moreover, the U.S. and EU protested the exclusion at the beginning of each session, followed by a lengthy Kazakhstani response; this took time away from substantive discussions. In the end, the Secretary General allowed the NGOs in question to participate in the economic portion of the Review Conference, held the following month.
- In 2016, Tajikistan and Kyrgyzstan walked out of the HDIM to protest the presence of particular NGOs from those countries. Both countries used their displeasure with NGO participation to justify downgrading the mandates of the OSCE missions they hosted—although both had already been pressing for mandate changes long before the HDIM. Tajikistan suspended activities of its OSCE mission for months, while Kyrgyzstan blocked the adoption of the entire OSCE budget until a new mandate was agreed for its mission.
- In 2017, Tajikistan boycotted the HDIM, and Turkey walked out in protest of the registration of an NGO it claimed was a “terrorist” organization due to alleged connections to Fethullah Gülen. Turkey continued to protest the NGO’s participation in subsequent human dimension events, which it also boycotted, and insisted on renegotiating the rules for NGO participation in the OSCE.

## Appendix: Excerpts from OSCE Decisions on NGO Participation

### 1994 General Provisions

#### **Excerpt: Helsinki Document 1992**

Chapter IV: Relations with International Organizations, Relations with Non-participating-States, Role of Non-governmental Organizations (NGOs)

(1) The new tasks before the CSCE require clearer relations and closer contacts with international organizations, in particular with the United Nations, and non-participating States. The CSCE remains at the same time a process whose activities go far beyond formal relations among governments to involve citizens and societies of the participating States. Successful efforts to build a lasting peaceful and democratic order and to manage the process of change require more structured and substantive input from groups, individuals, States and organizations outside the CSCE process. To this end, the participating States have decided as follows:

Increasing openness of CSCE activities, promoting understanding of the CSCE, expanding the role of NGOs

(14) The participating States will provide opportunities for the increased involvement of non-governmental organizations in CSCE activities.

(15) They will, accordingly:

- apply to all CSCE meetings the guidelines previously agreed for NGO access to certain CSCE meetings;
- make open to NGOs all plenary meetings of review conferences, ODIHR seminars, workshops and meetings, the CSO when meeting as the Economic Forum, and human rights implementation meetings, as well as other expert meetings. In addition each meeting may decide to open some other sessions to attendance by NGOs;
- instruct Directors of CSCE institutions and Executive Secretaries of CSCE meetings to designate an "NGO liaison person" from among their staff;
- designate, as appropriate, one member of their Foreign Ministries and a member of their delegations to CSCE meetings to be responsible for NGO liaison;
- promote contacts and exchanges of views between NGOs and relevant national authorities and governmental institutions between CSCE meetings;
- facilitate during CSCE meetings informal discussion meetings between representatives of participating States and of NGOs;
- encourage written presentations by NGOs to CSCE institutions and meetings, titles of which may be kept and provided to the participating States upon request;
- provide encouragement to NGOs organizing seminars on CSCE-related issues;
- notify NGOs through the CSCE institutions of the dates of future CSCE meetings, together with an indication, when possible, of the subjects to be addressed, as well as, upon request, the activations of CSCE mechanisms which have been made known to all participating States.

(16) The above provisions will not be applied to persons or organizations which resort to the use of violence or publicly condone terrorism or the use of violence.

## **Specific Provisions**

### **OSCE Rules of Procedure (2006)**

#### **For Ministerials and Summits**

##### **IV.2. Specific Rules**

###### **(A) Meetings of Heads of State or Government**

5. The Meetings of Heads of State or Government shall be open to the press and the public, and the proceedings shall be broadcast live in all the working languages to the media centre and NGO centre by closed-circuit television, unless otherwise decided by the participating States.

###### **(B) Meetings of the Ministerial Council**

6. Only the opening and closing sessions shall be open to the press and the public, unless the meeting decides to make other sessions open. Unless otherwise decided, all sessions, except for those taking up agenda items which are subject to discussion and possible decision, shall be broadcast live in all the working languages to the media centre and NGO centre by closed-circuit television.

#### **V. Rules of procedure for decision-making bodies**

##### **IV.1 General rules**

5. Representatives of other international organizations, institutions and initiatives, as well as non-governmental organizations (NGOs), academia and business may be invited by the participating States, on a case-by-case basis, to attend certain meetings of decision-making bodies and make oral and/or written contributions.

6. The participating States may decide to make certain meetings or sessions during meetings of decision-making bodies open to NGOs, the press and the public.

###### **(C) Meetings of the PC and FSC**

4. The Chairperson may invite high-level officials from the participating States and other international organizations, institutions and initiatives to address a meeting as a guest speaker.

5. Unless otherwise decided by the participating States, the meetings shall be closed to the press and the public. The Chairperson may allow the presence of the press during presentations of guest speakers. He/she may allow the presence of a limited number of visitors upon request of a participating State or the Secretariat.

#### **V. Rules of procedure for informal bodies**

##### **(A) Informal subsidiary bodies of the decision-making bodies**

9. The meetings of ISBs shall be closed to the press and the public. The Chairperson of an ISB may invite representatives of relevant international organizations and guest speakers to certain meetings of that ISB on a case-by-case basis and without the right to participate in the drafting of documents.

### **(B) Informal working groups**

5. The Chairperson of an IWG may invite Partners for Co-operation, representatives of relevant international organizations and guest speakers to certain meetings of that IWG on a case-by-case basis. The meetings of IWGs shall be closed to the press and the public.

### **For Human Dimension Meetings**

**PC.DEC/428, 19 July 2001**

#### **I. Human Dimension Implementation Meetings**

Participation of the NGO community

Strong participation and involvement of the NGO community will continue to be ensured and encouraged.

The provisions of the Helsinki Document 1992, Chapter IV and of Decision No. 24I of the Permanent Council, in relation to the participation of the NGOs, will be maintained.

Given expansive contacts between the NGO community and participating States, the sessions devoted to an exchange between them are no longer necessary.

**PC.DEC/476, 23 May 2002**

#### **Modalities for OSCE Meetings on Human Dimension Issues**

#### **III. General issues**

3. All non-governmental organizations having relevant experience in the field of the human dimension will be invited to participate, subject to the provisions contained in Chapter IV, paragraph (16), of the Helsinki Document 1992, following registration with the ODIHR.

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## **About the Helsinki Commission**

The Commission on Security and Cooperation in Europe, also known as the U.S. Helsinki Commission, is an independent agency of the Federal Government charged with monitoring compliance with the Helsinki Accords and advancing comprehensive security through promotion of human rights, democracy, and economic, environmental and military cooperation in 57 countries. The Commission consists of nine members from the U.S. Senate, nine from the House of Representatives, and one member each from the Departments of State, Defense, and Commerce.

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<sup>1</sup> United Nations, Working with ECOSAC and NGO's Guide to Consultative Status, 2011, <http://csonet.org/content/documents/Brochure.pdf> (accessed November 24, 2017)