

## **Background information on Legislative Technical Assistance in the Implementation of UN Security Council Resolution 1373**

United Nations Security Council Resolution (UNSCR 1373) calls upon States to become parties, as soon as possible, to the relevant international conventions and protocols relating to terrorism and to increase co-operation and implement the relevant conventions and protocols and UNSCRs 1269 (1999) and 1368 (2001). UNSCR 1373 also called upon the UN to create a Counter-Terrorism Committee (CTC) to monitor the implementation of the resolution and to co-ordinate assistance programmes. The CTC encourages assistance programmes to be conducted through regional organizations. In the Bucharest Plan of Action (2001) and the OSCE Charter on Preventing and Combating Terrorism (2002), participating States reaffirmed their commitment to fully implement obligations under UNSCR 1373 and called upon institutions, in particular the ODIHR, to provide technical assistance in legislative drafting upon request.

The ODIHR's programme on legislative technical assistance focuses on supporting participating States' work to ratify and implement the 12 UN conventions and protocols relating to terrorism. OSCE participating States' reaffirmed their commitment in this regard in the Bucharest Plan of Action (2001) and the Charter on Preventing and Combating Terrorism (2002). From the outset, it was recognised that other specialised bodies had developed relevant assistance materials, most notably the UN Office on Drugs and Crime's (ODC) Legislative Guide and the Commonwealth Secretariats' Implementation Kits. These organizations' particular geographical areas of focus, however, do not extend into the South Caucasus, Central Asia, or South-Eastern Europe, where many of the OSCE Participating States have reduced capacity to focus on the ratification process as a priority.

The ODIHR encourages, and uses as part of its approach, the participation of relevant experts from participating States who share their governments' experience of the ratification and implementation process. This exchange and discussion of best practice, highlighted during the special meeting of the CTC in March 2003, is a considerable comparative advantage of the OSCE as a regional organization. The current technical assistance Seminars provided by ODIHR have been carried out in co-operation with the ODC's Global Programme Against Terrorism, in co-ordination with the OSCE's Action against Terrorism Unit (ATU). The OSCE recognizes that anti-terrorism measures should be addressed within the overall framework of the United Nations, with the Counter-Terrorism Committee as the lead body within that organization for monitoring implementation of UNSCR 1373. It also encourages participating States to recognize the three stages as defined by the CTC, i.e. creating the legislative framework (Stage A), creating executive machinery for implementation (Stage B) and international co-operation (Stage C). The ODIHR's approach is also to assist participating State in their commitment to take measures to prevent and combat terrorism that fully comply with international law, including international human rights law.

Activities began in February 2003 with a seminar for Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan focusing on the implementation of UNSCR 1373. This was supported by the UK Foreign and Commonwealth Office, the ODC, and the CTC with a view to holding follow-up workshops in the capitals of the four countries. In April 2003, similar workshops were held in Azerbaijan and Georgia, funded by the Government of Canada and using Canadian expertise, that outlined the main elements of UNSCR 1373 and, in particular, the conventions and protocols. As a direct response to the London seminar earlier in the year, the Government of Kyrgyzstan requested additional assistance in its implementation of the conventions and

protocols, which resulted in a two-day seminar in June 2003 with experts from the ODIHR and the ODC and the Canadian Department of Foreign Affairs and International Trade. The overall methodology of anti-terrorism technical assistance provided by the OSCE corresponds to the guidelines issued by the UN Counter-Terrorism Committee.

Preceded by a review and analysis of the participating State's current domestic legislation carried out by national and international experts, the basic methodology of the workshops is as follows:

- Overview of international legal obligations under UNSCR 1373, international and regional institutional framework of fighting terrorism; international human rights instruments, and OSCE commitments within the concept of the rule of law as a general framework;
- System for ratification and implementation of the international treaties by an expert of the participating States in order to clarify how international law becomes a part of the legal system;
- Example of ratification and implementation given by experts of other Participating States to promote shared experience;
- Introduction of legislative assistance materials that are available, including the UN Legislative Guide and the Commonwealth Secretariat's Implementation Kits, stressing the importance of the legal framework as a basis for investigating and prosecuting serious and terrorist crimes, covering such important issues as offence elements, jurisdiction, dual criminality for the purpose of extradition, the principle of "no safe haven," penalisation of convention offences, the crime of financing terrorist, etc., and providing examples from other participating States;
- Compliance of national legislation with international human rights standards; and
- Support in drafting an action plan for follow-up activities by the participating States and the OSCE/ODIHR and relevant outside bodies.

In addition to the work already planned, the ODIHR stands ready to provide technical assistance to any participating State, on request, in the field of drafting anti-terrorism legislation and the legislative implementation of UNSCR 1373.