

Working Session 12: Rule of law I, including:

- **Prevention of torture**
- **Exchange of views on the question of abolition of capital punishment**
- **Protection of human rights and fighting terrorism**

Rapporteur: Mr. Diogo Girão de Sousa, Counsellor, Permanent Representation of Portugal to the OSCE

No. of statements: 49

Delegations: 14

Civil Society: 31

OSCE Institutions: 1

International Organizations: 1

Media: 2

Rights of Reply: 13

Working session 12 was devoted to issues related to the prevention of torture, the abolition of the capital punishment and the protection of human rights while combating terrorism.

The session was introduced by Dr. Mykola Gnatovskyy, President of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and Mr. Nadim Houry, Director of Terrorism and Counterterrorism Program of Human Rights Watch.

Dr. Gnatovskyy provided an overview of the role and mandate of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. He highlighted the benefits of the periodic visits the Committee does to places of detention in Council of Europe Member States. He also underlined the importance of discussing this topic, pointing out some of the current challenges, in particular the limited access to areas of conflicts which are not covered by human rights monitoring mechanisms.

Mr. Houry focused his intervention on the protection of human rights while combating terrorism. He alerted to the fact that the traditional criminal justice response, based on the Rule of Law and the judicial system, is being undermined. He pointed out some significant negative trends: the banalization of the state of emergency; broad definitions of terrorism; the criminalization of certain forms of expression that fall short to being incitements to violence in order to silence legitimate forms of expression; the use of administrative control measures to restrict freedom of movement; and the expansion of indiscriminate mass surveillance.

Several delegations reminded the absolute prohibition of torture, and that no circumstance whatsoever may justify torture or cruel and degrading treatment. Several speakers pointed out that despite the commitments, torture and other cruel treatments, as well as enforced disappearances still persist in the OSCE region. Several delegations and representatives of civil society shared concrete cases related to the use of torture and enforced disappearances, including allegations of systemic use of these practices in

some participating States. Some speakers also mentioned the particular situation in areas of conflict.

Several interventions addressed the issue of the death penalty. One group of participating States called for a global moratorium as a step towards abolition of the death penalty, referring its cruel, inhuman and degrading nature even when backed by due process in a democratic system. Some speakers expressed concern with public appeals for the re-introduction of the death penalty.

Many delegations reminded the importance of respecting human rights while countering terrorism and preventing violent extremism and radicalization. Some participants referred to negative developments in this field in the OSCE area. Several speakers underlined that the protection of human rights and the fight against terrorism are complementary rather than contradictory, adding that measures to counter-terrorism that do not respect human rights and the rule of law are ineffective and counter-productive.

Recommendations made by participants during this session include (non-exhaustive list):

Recommendations to the OSCE participating States:

- Take necessary actions to end torture and other ill treatment, and prevent enforced disappearances;
- Ratify the Optional Protocol to the Convention against Torture (OPCAT), the International Convention for the Protection of All Persons from Enforced Disappearance, the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) concerning the abolition of the death penalty, and all other related international human rights instruments in this field;
- Introduce a moratorium on executions and death sentences with a view to the complete abolition of the death penalty;
- Support the UN General Assembly Resolution calling for a global moratorium on the death penalty;
- Establish National Preventive Mechanisms in accordance with OPCAT;
- Investigate allegations of torture and excessive use of force by law enforcement and bring those responsible to justice;
- Provide training to prison staff;
- Guarantee independent monitoring of places of detention by domestic and international bodies;
- Ensure that fighting terrorism is in line with human rights, the rule of law and OSCE commitments;

Recommendations to the OSCE institutions, executive structures and field operations:

- OSCE bodies should remain engaged in the field of preventing torture, including by providing assistance to the participating States, and continue to address existing shortcomings.