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*Session II: Effective national and International Instruments to
Protect Human Rights and Prevent Human Rights Violations:
Best Practices, Current Challenges and Solutions*

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I represent Freedom House, which seeks to work in partnership with all in the OSCE region who are dedicated to advancing human rights and rule of law. I would like to thank the Chairman in Office for hosting this opportunity to share best practices and come together to identify solutions.

States must protect human rights in accordance with their international legal obligations. Any restrictions on human rights under domestic laws must be in conformity with obligations under international law. National legal frameworks and instruments should be geared to protecting human rights and fundamental freedoms, to protecting the individual from abuses by the state, and to providing remedies should abuses occur. Indispensable elements of a country governed by the rule of law are: an accountable system of government, including a democratic elections process, strong democratic institutions, an independent judiciary, respect for human rights, media freedom, and a robust civil society. Where these elements are absent or weak, we are likely to see serious, systemic human rights violations, because checks on the abuse of power are lacking, as are effective correctives to such abuses.

OSCE participating States have made a number of important commitments to the rule of law and specifically to the necessary elements that form the basis of a rule of law framework. But the record among OSCE participating States on meeting national challenges without undermining their OSCE commitments to uphold universal human rights and the rule of law is mixed. I will cite in this presentation some examples within the OSCE states of good practices and shortcomings. We must also note that distortions of the meaning of the rule of law by some participating States remain.

The series of troubling measures adopted in Russia, including increased penalties for unauthorized political demonstrations, new mechanisms for internet censorship, an expanded definition of treason, recriminalizing slander, and restricting the ability of NGOs to raise funds, open doors to infringements and violations of human rights. Corruption scandals notwithstanding, the judiciary in the Czech Republic displayed independence and strength through its increased anti-corruption efforts. Although in Hungary the Constitutional Court struck down several problematic laws, including a ban on political party advertisements in commercial media outlets, the government used its parliamentary supermajority to reinstate some of the laws directly into the Constitution, without extensive and deliberative consultation with a broad cross-section of Hungarian society.

Ukraine has recently undertaken important steps to reform its Criminal Procedure Code, but those reforms remain incomplete without effective measures to reduce the powers of the

Office of the Prosecutor General. And while the April decision in Ukraine to pardon former Interior Minister Yuri Lutsenko and former Environment Minister Heorhiy Filipchuk was a welcome step, politically-motivated prosecutions of opposition leaders, including former Prime Minister Tymoshenko, continue.

I would like to highlight a useful model for how government and civil society can work together to strengthen important human rights protections: Kyrgyzstan's domestic implementation of the Optional Protocol of the UN Convention against Torture. In Kyrgyzstan, The National Preventive Center against Torture (NPC) was established by law in July 2012, and is a civil society-government institution to monitor places of detention and provide recommendations for elimination of torture. This is a promising model because it relies on joint action between civil society groups and the government, and draws on civil society's significant experience with combating torture in Kyrgyzstan. A good deal of the NPC's independence comes from the fundamental role that civil society groups played in its creation and are playing in its current implementation. While it is still in the process of formation, we are encouraged by the progress. Freedom House has been working to help ensure that the institution is independent and effective.

Other elements that improve accountability by the government in Kyrgyzstan and elsewhere include adequate public review of draft laws by interested parties (including the general public), and civil society. The public review and consultation surrounding enactment of the law on public assemblies in Kyrgyzstan produced a good law, in line with OSCE guidelines on peaceful assembly. Also important in Kyrgyzstan, as well as in Kazakhstan and Russia and elsewhere, is the work of human rights defenders in monitoring trials. Such independent reporting can help bring transparency to the judicial process and can expose instances in which —the law is misused to suppress political opposition or dissent.

Let me note clearly that while Kyrgyzstan has taken some positive steps, it still must enhance the process of consolidating, reforming, and strengthening of the essential elements that make effective national and international human rights instruments. It is important that the government demonstrate the political will to abide by its international human rights commitments and the rule of law by actually implementing these reforms. Additionally, the government must continue to consult with civil society and be open to monitoring, to legal review, and even to dissent. Lastly, non-interference by political and other powerful influences into the judicial framework is imperative.

I would like to encourage all OSCE participating States to intensify their efforts to implement their OSCE commitments, including providing effective legal protection for human rights defenders, fostering independent and functioning rule of law institutions, and supporting an engaged civil society.