

## **Opening Remarks of Amb. Christian Strohal**

### **Presentation of the ODIHR Manual “Countering Terrorism, Protecting Human Rights”**

*Vienna (Hofburg, Segmentgalerie), 21 February 2008*

- Thank you all for joining us here today at one of our informal briefings which we regularly organise to familiarise OSCE delegations, OSCE parliamentarians, international partners and the wider public about our priorities and current activities.
  - I would like to frame this informal briefing by pointing out some fundamental principles. The first is that all states have a duty to protect their citizens and their institutions. At the same time, the random nature of terrorist acts itself aims at undermining the realisation of human rights. An effective counter-terrorism strategy is therefore part of a state's human rights obligations; equally, human rights obligations have to form constituting part of any anti-terrorism strategy.
  - So, there cannot be a false trade-off between security and human rights. The protection of human rights and security concerns do not pull in opposite directions. The argument that “there is a need to give up some freedoms in order to have more security” is a fallacy.
  - Quite the opposite is true. A state's failure to respect human rights and the rule of law in the fight against terrorism adds to the sense of injustice and persecution felt by some sectors of society; this, in turn, may exacerbate conditions conducive to the recruitment of terrorists.
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- The OSCE has always stressed the need to protect human rights and to ensure the rule of law while combating terrorism: As early as 1983 (Madrid), the OSCE participating States

expressed “their determination to take effective measures for the prevention and suppression of acts of terrorism” and agreed “to do so in conformity with the Helsinki Final Act”.

- Two decades later, in the aftermath of 9/11, the Bucharest OSCE Ministerial Council of 2001 re-affirmed that “the OSCE participating States will not yield to terrorist threats, but will combat them by all means in accordance with their international commitments. They will defend freedom and protect their citizens against acts of terrorism, fully respecting international law and human rights.”
- In addition, the OSCE Permanent Council, in decision 618 (2004), recognised the need to strengthen solidarity with victims of terrorism and tasked the ODIHR to assist national governments and civil society in their efforts to design and implement protection and compensation mechanisms for victims.
- At the same time, the UN Global Counter-terrorism strategy as well as several UN Security Council resolutions have made it abundantly clear that the promotion and protection of human rights and the rule of law are essential components of any effective counter-terrorism policy.
- However, OSCE participating States have, at times, struggled with the full implementation of those commitments in the context of counter-terrorism. In our report submitted to the OSCE Ministerial Council in Brussels in late 2006 - “*Common Responsibility*” – we recommended that the issue of *non-refoulement* be addressed in a new OSCE human dimension commitment. This should be done to strengthen OSCE commitments on the absolute prohibition of torture and further clarify the international standards that apply. ODIHR further recommended an additional OSCE commitment specifying that “commitments relating to effective remedies and arbitrary detention apply equally to international co-operation in the fight against terrorism”.

- A number of further challenges in the area of human rights and international co-operation in counter-terrorism were identified during an expert workshop the ODIHR organised jointly with the UN OHCHR in Liechtenstein in November 2006

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- This is the background to OSCE's activities in this area. More specifically, let me turn to some of ODIHR's work: we have been conducting trainings for policy-makers and senior practitioners – judges, prosecutors, law enforcement and security personnel. In this context, we have been working with Mr. Cooper to produce the manual which we are presenting today. The manual is an innovative tool. One of its main strengths is that it provides a comprehensive and up to date review of international standards and jurisprudence. It is meant to support policy makers and practitioners in shaping and implementing human rights compliant policies and practices.
- In putting together this manual, we have enjoyed excellent cooperation with the UN (*UNODC and OHCHR*), the CoE, the EU and OSCE structures. Particularly the OSCE's Anti-Terrorism Unit was involved in both the revision of the drafts and the delivery of ODIHR trainings.

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- I would like to welcome our distinguished speakers today who all bring different perspectives on the issue of human rights protection in the context of combating terrorism to the table.

It is a particular pleasure to welcome a friend and a former colleague of mine, Walter Gehr who is the Senior Terrorism Prevention Officer of the UNODC's Terrorism Prevention Branch here in Vienna.

Second on our list of speakers is the distinguished author of the manual we are presenting here today, Jonathan Cooper. He is a prolific contributor to the academic debate on human rights issues and has been instrumental in training public

authorities and lawyers in the UK on the implementation of the 1998 Human Rights Act.

The final two speakers today will be adding a practitioner's perspective: Vladimir Davidovic is the Head of the Department for International Cooperation in the Ministry of Justice in Belgrade where he is in charge of harmonizing Serbian legislation with international standards, especially in the field of terrorism, corruption, money laundering and organised crime. Second will be Denis Grey who is with the UK's Home Office, and more specifically with the Border and Immigration Agency where he deals, among other things, with deportations on national security grounds.

## **Human rights and counter-terrorism**

The OSCE participating States, firmly committed to the joint fight against terrorism [...] Undertake to implement effective and resolute measures against terrorism and to conduct all counter-terrorism measures and co-operation in accordance with the rule of law, the United Nations Charter and the relevant provisions of international law, international standards of human rights and, where applicable, international humanitarian law;

*OSCE Charter on Preventing and Combating Terrorism, Porto 2002*

The threat of terrorism is a serious concern for all OSCE participating States. In order to ensure that counter-terrorism measures and strategies are developed and implemented in accordance with OSCE commitments and international human rights obligations, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) has developed a training course and manual for senior public officials.

### **Manual**

The manual *Countering Terrorism, Protecting Human Rights* is designed as both a stand-alone tool and as a complement to the training programme. A reference book for counter-terrorism policy makers, it explains how human rights standards and counter-terrorism techniques work hand in hand. The human rights standards referred to in this manual provide a useful guide to the current and developing framework of human rights applicable to counter-terrorism in the OSCE region.

The human rights principles and standards found in the manual are those that apply in the OSCE region. These standards are largely reflected in the OSCE human dimension commitments, which drew their initial inspiration from the UN human rights framework. These politically binding commitments represent the essential values of the OSCE, which is not only a community of values, but also a community of responsibility. OSCE participating States have recognized that pluralistic democracy based on the rule of law is the only system of government suitable to guarantee human rights effectively. In addition, the manual relies on Council of Europe human rights obligations and mechanisms, as the great majority of OSCE participating States are also members of the Council of Europe.

The manual is available online at <http://www.osce.org/odihr/13456.html> or hard copies can be ordered free of charge at [publications@odihr.pl](mailto:publications@odihr.pl).

18. ODIHR: Will, on formal request by interested participating States and where appropriate, offer technical assistance/advice on the implementation of international anti-terrorism conventions and protocols as well as on the compliance of this legislation with international standards [...]. Will consider facilitating contacts between national experts to promote exchange of information and best practices on counter-terrorism legislation.

*The Bucharest Plan of Action for Combating Terrorism* (Bucharest 2001)

### **Training Course**

The training course is a key element of the ODIHR's mandate to provide technical assistance and support to participating States in the development and implementation of effective counter-terrorism strategies. It is aimed at senior public officials and counter-terrorism practitioners. Previous course participants have included representatives from ministries of the interior, justice, defence, foreign affairs, and the law-enforcement agencies. Courses have already been organized in Austria, Azerbaijan, Kazakhstan, Kyrgyzstan, Serbia, Turkmenistan, and the United Kingdom. The course can be tailored to address country-specific requirements of participating States.

The course is designed to be interactive, practical and relevant for officials and, as a result, the number of participants ideally should not exceed 20. It provides an introduction to the international and European frameworks to counter terrorism and protect human rights. Course participants are then presented with real-life scenarios, which often stem from cases brought before the Human Rights Committee, the European Court of Human Rights and other relevant international tribunals. The format of the course provides ample opportunity for discussion of the key issues and challenges involved, while tying the theory to the practice.

#### *Key themes include:*

- legality
- non-discrimination
- proportionality
- positive obligations
- the right to an effective remedy
- states of emergency

*The following rights are covered in the context of counter-terrorism:*

- the right to life
- the absolute prohibition on torture and ill-treatment
- the right to liberty
- the right to a fair trial
- the right to private life
- freedom of expression
- freedom of association and peaceful assembly
- freedom of religion or belief

The ODIHR stands ready to organize the training on human rights and counter-terrorism upon request and encourages interested participating States to contact the ODIHR for further information.