



**United States Mission to the OSCE**

**Working Session 7:  
Specifically Selected Topic:  
Independence of the judicial system, with a particular focus  
on accountability and integrity of judges and prosecutors  
(continued)**

As prepared for delivery by David J. Kramer, U.S. Head of Delegation  
OSCE Human Dimension Implementation Meeting,  
Warsaw, September 24, 2015

The United States supports discussion among OSCE participating States on the implementation of commitments regarding independence of the judicial system. Strong constitutional and legislative protections are tools participating States can utilize to ensure the integrity of their respective judicial systems.

Moderator, last year, the United States called for the Kosovo Government and Assembly, in conjunction with the EU, to take necessary steps to establish a special, independent court to address specific crimes perpetrated after the war in Kosovo ended in June 1999. In August, the Kosovo Assembly adopted the constitutional amendment and law needed to establish the Specialist Chambers and the Specialist Prosecutor's Office, in a climate of high political sensitivity to this matter. This was an important step on Kosovo's Euro-Atlantic path, reaffirming its commitment to justice and the rule of law. Kosovo still has much reform work ahead to strengthen its legal institutions, and the United States encourages Kosovo authorities to show further progress on this agenda. As Kosovo reaffirms its commitment to rule of law, accountability, and other core values of the OSCE, it is all the more regrettable that Kosovo continues to be denied a seat at this table as an OSCE participating State. The isolation of Kosovo runs contrary to the OSCE's shared interests in promoting security, stability, and rule of law in the country and region, to the benefit of all citizens regardless of ethnicity.

In July 1999, Serbian authorities apprehended three brothers – Ylli, Agron and Mehmet Bytyqi – after they crossed a then-unmarked border into Serbian government-controlled territory while escorting Romani neighbors from Kosovo to safety. Two weeks later, they were delivered to Serbian Interior Ministry forces, transported to a camp in eastern Serbia, executed, and their bodies thrown into a mass grave. Serbian authorities have repeatedly assured the United States and the surviving Bytyqi family that action will be taken to resolve this case. Those who gave the execution orders, those who oversaw the killings, and those who ordered the subsequent cover-up must be brought to justice without further delay. We urge once more that progress be made.

Establishing confidence in the judicial system for all Macedonians, regardless of their political party affiliation or their ethnicity, is essential. The release of taped conversations in an apparent massive surveillance effort raises serious concern that significant political pressure was wrongfully applied on the country's judicial system, and the surveillance itself appears to have been undertaken without sanction from the courts or legislation. Therefore, we welcome and congratulate Macedonia's political parties on the agreement reached September 15 to establish a Public Prosecutor to investigate possible crimes suggested by the content of these intercepts. This

appointment represents a significant step toward establishing accountability. We remain committed to helping Macedonia implement the Przino agreement and move forward on its path to full integration into Euro-Atlantic institutions as a vibrant, prosperous, and multi-ethnic democracy.

We welcome Romania's efforts to protect prosecutorial discretion through an independent National Anti-Corruption Directorate and through the Directorate's role in rooting out systemic corruption. We encourage all institutions and individuals in Romania, especially elected officials and public servants, to support efforts to strengthen rule of law and to respect the judiciary's independence.

The lack of an independent judiciary and abuses in the Prosecutor General's Office remain problems in Ukraine. The Venice Commission has positively assessed proposed constitutional changes in the judiciary, but we urge Ukraine to address the Venice Commission's concerns about certain shortcomings in the proposed changes. Other laws passed by the Ukrainian parliament, the Rada, include the creation of an anti-corruption bureau for improved enforcement of anti-corruption laws.

We commend Slovakia for efforts to reform and strengthen the independence of the judiciary. The government has committed to taking further steps to improve the independence of and public confidence in the judiciary.

The United States commends ODIHR for its work to develop guidelines and best practices to support participating States' implementation of these commitments.