



EUROPEAN UNION

**OSCE Human Dimension Implementation Meeting 2013
Warsaw, 2 October 2013**

**EU statement – Working Session 14
RULE OF LAW I; DEMOCRATIC LAWMAKING,
INDEPENDENCE OF JUDICIARY; RIGHT TO A FAIR TRIAL**

Ms Moderator,

I am honoured to speak on behalf of the European Union.

The European Union is a Union of values and a community of law. Primary among these are the universal values: democracy, rule of law and respect for human rights. Respect for the rule of law is an essential condition for peace and stability in the consolidation and support of democracy, and in the fight against impunity. It is inextricably linked to the protection of human rights and fundamental freedoms and needs to be pursued both at national and international level. This is a fundamental responsibility of every state towards everyone within their jurisdiction.

An effective and independent judiciary is of paramount importance for ensuring the rule of law and guaranteeing the right to a fair trial. Judiciaries must be free from any attempts to influence their findings. Individuals and institutions must be able

to rely on a predictable justice, free of any influence in the adjudication of their claims. Courts should be accessible and transparent, independent and impartial. The appointment procedure of judges, the decision making process, the publication of judgements and many other aspects should all be subject to public scrutiny. In this respect, the EU welcomes the efforts undertaken by ODIHR to strengthen the independence of the judiciary in the OSCE area through tools like the Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia.

In order to prevent any possible interference in the judicial decision making process, there must be an absolute respect for the separation of powers. Unfortunately, a culture of political subordination of judges to the Executive Power is still prevalent in some participating States, as reflected in the appointment system of judges or the lack of enforcement of rulings.

The right to a fair and public trial has been solemnly acknowledged by OSCE participating States as an essential element of justice. Further reforms are still needed in some participating States to meet international standards and OSCE commitments on the right to a fair trial and related guarantees.

Legislative transparency and efficiency is also a central element of genuine democratic governance. The EU stresses the need for inclusive law-making, involving broad layers of society, in particular those affected by the legislation, as well as the need of

strengthening efforts to increase the understanding of the implications of the adopted laws. In accordance with OSCE commitments, legislation should be formulated and adopted as a result of an open process and public procedure reflecting the will of the people, either directly or through their elected representatives. Such legislation should be published, which should be the condition for its applicability. The EU therefore encourages the participating States to improve access to the legislative process and to make all legislation accessible to its citizens.

The EU fully supports the technical assistance provided by ODIHR in the rule of law area, as a means of assisting states to comply with the numerous OSCE commitments regarding independence of the judiciary and legal practitioners, as well as the impartial operation of the public judicial service and trial monitoring activities. We also support ODIHR's work to promote democratic lawmaking. Their analysis of national legislation provides valuable assistance that can benefit all states including those in the EU.

The Candidate Countries Turkey, the former Yugoslav Republic of Macedonia*, Montenegro*, Iceland+ and Serbia*, the Countries of the Stabilisation and Association Process and potential candidates Albania and Bosnia and Herzegovina, and the EFTA countries Liechtenstein and Norway, members of the European Economic Area, as well as the Republic of Moldova, Armenia, Andorra and San Marino, align themselves with this statement.

** the former Yugoslav Republic of Macedonia, Montenegro and Serbia continue to be part of the Stabilisation and Association Process.*

+ Iceland continues to be a member of the EFTA and of the European Economic Area.