

Address by Ambassador Christian Strohal
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*'Fundamental Rights Agency:
Cooperation between the Council of Europe and the OSCE'*

Conference on Fundamental Rights Agency, Polish Senate

Mr. Chairman,
Excellencies,
Ladies and Gentlemen,

First of all, I would like to thank the Human Rights Committee of the Polish Senate and the Center for International Relations for organising this event and for this invitation. I am delighted to be here with so many friends in order to discuss the EU Fundamental Rights Agency prior to its inauguration on 1 March in Vienna.

I was asked to speak about the relationship between the Agency and the OSCE, and the expectations from the wider OSCE world. In fact, as you have just heard, this relationship exists already, that is, we are cooperating very well with the EUMC, as we do with other international institutions in the field of human rights and democratization.

I want to illustrate this cooperation with three key tools we share:

- Data management
- policy development
- Best practice networking.

These tools, of course, are tools for a key shared objective: the effective protection of human rights and fundamental freedoms, through the translation of international standards and commitments into reality.

Before going into this in more detail, let me briefly introduce the OSCE's work in this field, what the OSCE calls the 'human dimension'. This describes norms and activities related to human rights, the rule of law, and democratic institutions and processes – areas that the OSCE regards as an indispensable part of security, together with the politico-military and the economic and environmental dimensions.

OSCE participating States have undertaken a large number of politically binding commitments in this area and this approach has ensured the versatility and agility of the organization's work. The OSCE Permanent Council, made up of the delegations of all 56 participating States, meets every Thursday in Vienna and raises issues of concern to the OSCE. Any State can raise issues of human rights violations in another country; this is not considered interference in internal affairs – rather, as States agreed at a conference in Moscow in 1991, an immediate and legitimate concern to all states. The OSCE Chairman-in-Office, a Foreign Minister of an OSCE State, raises human rights issues with governments at the highest level. In addition, the OSCE Institutions and the 19 OSCE field presences on the ground are translating the OSCE political promises into action through monitoring how these commitments are being implemented and through concrete assistance programmes.

The institution which I am heading, the OSCE Office for Democratic Institutions and Human Rights, or ODIHR, is the main OSCE institution dealing with human rights and democracy. It has been created 16 years ago, at the end of the Cold War and is, appropriately, based here in Warsaw. From a modest start, we have grown to some 140 staff.

The rapid expansion of the ODIHR's role beyond its original election observation role has been a clear recognition that elections alone, even if held in accordance with international standards, cannot guarantee democracy. They are however the basis of the legitimacy of all government (Copenhagen, 1990). My Office now implements a broad range of programmes that support democratic development, institution building, civil society support, rule of law work, the promotion of tolerance and non-discrimination, and, overall, the protection of human rights. We also work on issues such as freedom of religion, the fight against trafficking in human beings, the situation of Roma and Sinti, the preservation and protection of human rights in the fight against terrorism, and gender equality.

Let me give you just a few examples of relevant current activities: In our common fight against discrimination, we have been developing a web-based data collection: The Tolerance and Non-discrimination Information System, which was launched in October last year. This is based on information received from the participating States, civil society and intergovernmental organizations. Not only does it build on the activities of the EUMC, ECRI, and others, but also leads to concrete programmes. One of them, the Law Enforcement Officer Programme on Combating Hate crime has been implemented in four countries and is being further developed in co-operation with Polish authorities.

Or legislative review: in addition to support for legislative processes in individual countries, often done jointly with other institutions such as the Venice Commission, we also work on overall issues: On freedom of assembly, for instance, the ODIHR will soon publish Guidelines to provide lawmakers and law-enforcement personnel with a practical toolkit for ensuring that any regulation of assemblies and public meetings is consistent with relevant international standards.

Another example: in the fight against human trafficking, the ODIHR is assisting an increasing number of States to establish National Mechanisms to better protect and assist the victims. These are multi-agency anti-trafficking structures, including civil society, to ensure a human rights-based policy and practice in anti-trafficking. We also work to establish national plans of action and provide training to governments and civil society on their roles in the identification of, and protection and assistance to, trafficked persons.

In these and other areas, the ODIHR obviously cannot do it alone. So in addition to governments and NGOs, we already work closely with intergovernmental organisations. We cooperate and consult with both the UN Office of the High Commissioner for Human Rights and with the Council of Europe, and in particular with its Commissioner for Human Rights, and our activities are complementary to one another. Concerns about possible "duplication" among our activities are largely unfounded: we all benefit from consciously re-enforcing each other.

As my colleague and good friend Beate Winkler will confirm, we have created an excellent pattern of collaboration with the European Union Monitoring Centre on Racism and Xenophobia. Naturally, we foresee a great potential for expanding this cooperation with the Fundamental Rights Agency, which the EUMC is transitioning into.

Needless to say, the creation of the Agency promises to enhance the EU's role in human rights in several regards: First, as a key element in a multi-level network of institutions and policy-making bodies. One of the Agency's important tasks will be to screen planned EU legislation *ex ante* for their human rights compliance; furthermore, it will advise EU member states on the implementation of the *acquis*. These tasks should, in turn, contribute to the harmonization of national assessment procedures and create a unique pool of expertise relevant for the democratic development beyond Europe's borders.

A stronger emphasis on human rights within the EU, therefore, will not diminish other institutions' impact on human rights protection in Europe. On the contrary, the competition and cooperation of all institutions when applying the same fundamental rights in Europe ensure an enhanced protection of these rights. Clearly, this also means that this mainstreaming of fundamental rights within the EU must take other instruments and mechanisms into account.

In any case, human rights can not be seen as 'sufficiently protected' by existing regional and global regimes and institutions. There is, in fact, growing concern over the effectiveness of human rights institutions *vis-à-vis* new actors and in new multi-layered settings, as exemplified by the European Court of Human Rights' extraordinarily long backlog. This, to me, explains the renewed interest in the EU's unique and complementary institutional specificities as human rights agent.

The OSCE and particularly the ODIHR stand to benefit if the coherence and consistency of the EU's human rights policy is improved. The Agency will provide real added value to the EU architecture, not only within, but also if best practices and educational materials serve to strengthen the capacity of international human rights organizations to assist countries outside the EU. A consolidated collection of EU best practices will certainly assist the transfer of such assistance.

Vice versa, the Agency will be in a position to benefit from the ODIHR's collection of best practices that obviously includes EU countries as well as countries East and West of the EU. Areas that immediately spring to mind: our data collection in the field of tolerance and non-discrimination which is already shared with the EUMC; or our *legislationline* project which holds a detailed collection of legal texts from OSCE states, including all EU member states; or, indeed, our activities in geographic areas covered by the Union's Neighbourhood Policy.

The OSCE has always been keen to assist in transferring expertise and know-how from one region to another and promoting innovative policies to address a wide variety of human rights challenges. One reality we face is the lack of precedents and practices within domestic jurisdictions in a number of countries where the OSCE is active. There is a great deal of interest in "EU standards". Those have served and will be serving as reference for countries not only in the Western Balkans, but increasingly so in the Caucasus and Central Asia. The most recent example is the European Neighbourhood Policy Action Plan for Azerbaijan which includes a specific reference to ODIHR's recommendations and other human dimension issues.

From an OSCE perspective, we also see a great potential for cooperation when promote national human rights institutions and human rights NGOs. Here again, the Agency could prove to become a catalyst to foster closer links between these institutions and organizations and thereby encouraging transfer of experience and expertise. This is an important part of our current activities, and the EU agency could be instrumental in strengthening our work in this field.

Today, our cooperation with the EU and the Council of Europe stands on solid ground. Together with the activities in the UN context, we all pursue the same objective: help making international human rights standards a reality, in all countries. The EU is politically and substantially supportive of our activities in the human dimension. In this context, a Fundamental Rights Agency can only be seen as a window for new opportunities of cooperation; this, in turn, may provide more coherent ways of transferring the EU's expertise and that of its member states beyond Europe.

At one of the many stages on the long way to the EU FRA, the need for it was argued on the basis of the principle of "leading by example". I expect the Agency to making an important contribution to this goal. We are looking forward to our partnership in this regard.

Thank you for your attention.