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Swedish Presidency of the European Union

**Human Dimension Implementation Meeting
Warsaw, 30 September 2009**

EU Statement, Working Session 4: Rule of Law II

Mr/Ms Moderator,

I am honoured to speak on behalf of the European Union. In the Copenhagen Document the participating states almost 20 years ago confirmed their determination to support and advance those principles of justice which form the basis of the rule of law. They considered that the rule of law does not mean merely formal legality, which assures regularity and consistency in the achievement and enforcement of democratic order, but also justice based on the recognition and full acceptance of the supreme value of the human personality, guaranteed by institutions which provide a framework for its fullest expression. The EU takes it that this is still the basis of OSCE's engagement in the rule of law.

We also said we would take up individual torture cases for consideration and appropriate action. There would seem to be room for improvement in this respect. Torture in all its forms is a vile attack on human integrity and human dignity. Under no circumstances can it be defended, excused or tolerated. It must not

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happen. Yet it does, but torture takes place in secret and despite assurances to the contrary, which makes it all the more difficult to combat.

The EU suggests that ODIHR looks into ways and means to improve implementation of para 16.6 of the Copenhagen Document concerning action in individual torture cases.

The Rule of law – and the fight against torture – involves not only legislators, the legal and judicial professions and law enforcement personnel, but also other groups, such as health personnel. They were the subject of the resolution on the role and responsibility of health personnel in relation to torture adopted at the spring session of the UN Human Rights Council. Medical skills developed for healing may be perverted for the use of torture. On the other hand medical and other health personnel often play a crucial role in preventing, detecting and reporting or denouncing acts of torture and CIDT and rehabilitate torture victims.

Participating states should fully implement in good faith Human Rights Council resolution 10/24 on “Torture and Cruel, Inhuman and Degrading Treatment and Punishment: The Role and Responsibility of Medical and other Health Personnel” as well as all the other United Nations resolutions on torture and CIDT.

On the 10th of December this year we celebrate the 25th anniversary of the adoption of the United Nations Convention against Torture. We are pleased that participating states have adhered to this important instrument.

Its optional protocol has been in force for more than 3 years, and we urge all participating states to adhere to this important instrument as well.

But it is not just a question of adhering to international instruments. Local and national authorities often seem to shy away from proper action in the face of allegations of torture or CIDT.

Participating states should

- **establish independent and effective systems of investigation of complaints and prevention of torture, preferably within the framework of OPCAT;**
- **adhere to international individual complaints mechanisms**

Mr./Ms Moderator,

Without wishing to interfere with the democratic process of other countries, the EU is firmly convinced that the death penalty is an inhuman and degrading punishment that undermines human dignity.

The EU welcomes the resolution on a moratorium on the death penalty and towards its abolition adopted by the Parliamentary Assembly this summer and urges the two OSCE participating states, where executions still take place, to abolish capital punishment and to adopt a moratorium on capital punishment in the meantime.

The EU also urges all participating states, which still maintain the possibility to apply capital punishment, to abolish it.

Mr./Ms Moderator,

The Commitments of OSCE recognize that **counter-terrorism measures are to be conducted in accordance with international law, in particular human rights law, refugee law and humanitarian law.** One of a government's primary duties is to ensure the security of its citizens. Nevertheless, security should not undermine the protection of human rights. There is no contradiction between, on the one hand, upholding human rights and the rule of law and, on the other, ensuring people's safety by countering terrorism.

Efforts to combat terrorism have put respect for human rights under pressure. The answer to this serious challenge is not an "either/or approach". We must counter terrorism while respecting human rights. The challenge is to design practical solutions that ensure this dual purpose.

Finally, Mr/Ms Moderator,

The European Union commends the persistent efforts by ODIHR to assist participating states in living up to their rule of law obligations.

Awareness of the need to combat any culture of impunity for those who are responsible for human rights violations is increasing. That is important. Human rights violators must be held responsible. But it is

also important to oppose the development of a “culture of indifference”. Indifference to the sufferings of others could very well be the most important factor contributing to the very suffering. A culture of indifference must not prevail.

Thank you Mr./Ms. Moderator

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

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

ANNEX

EU recommendations under Rule of Law II:

Torture:

The EU suggests that ODIHR looks into ways and means to improve implementation of para 16.6 of the Copenhagen Document concerning action in individual torture cases.

Participating states should fully implement in good faith Human Rights Council resolution 10/24 on “Torture and Cruel, Inhuman and Degrading Treatment and Punishment: The Role and Responsibility of Medical and other Health Personnel” as well as all other United Nations resolutions on torture and CIDT.

Participating states should

- establish independent and effective systems of investigation of complaints and prevention of torture, preferably within the framework of OPCAT;
- adhere to international individual complaints mechanisms.

Capital punishment:

The EU welcomes the resolution on a moratorium on the death penalty and towards its abolition adopted by the Parliamentary Assembly this summer and urges the two OSCE participating states, where executions still take place, to abolish capital punishment and to adopt a moratorium on capital punishment in the meantime.

The EU also urges all participating states, which still maintain the possibility to apply capital punishment, to abolish it.

Human rights and terrorism:

The EU stresses that counter-terrorism measures are to be conducted in accordance with international law, in particular human rights law, refugee law and humanitarian law.

Thank you for your kind attention.