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OSCE/ODIHR AT 15 YEARS: SUCCESSES AND THE FUTURE

Hearing at the Commission on Security and Cooperation in Europe

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Introductory Remarks by Ambassador Christian Strohal

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Mr Chairman,
Distinguished Commissioners,
Ladies and Gentlemen,

At the outset, allow me to thank you most warmly for your invitation to speak about the work of the ODIHR: In the short time available, I hope to sketch some of our successes, as you have asked me to do, but also highlight some of the key challenges as we see them ahead of us. For both, support by the US government and by your unique Commission has been, and remains, essential.

ODIHR mandate

As you know, the OSCE Office for Democratic Institutions and Human Rights was originally established as the Office of Free Elections by the Charter of Paris for a New Europe in November 1990, and commenced its work in April 1991, exactly fifteen years ago last month. The CSCE Council of Ministers meeting in Prague in January 1992 expanded the Office of Free Elections into the Office for Democratic Institutions and Human Rights (OSCE/ODIHR).

Since its establishment as the OSCE's main institution for the Human Dimension, the ODIHR has become a significant partner for supporting democratic transition in post-Communist countries. Furthermore, it has effectively implemented its various mandates and taskings to promote OSCE Human Dimension commitments throughout the whole OSCE region, and to enable participating States to hold each other accountable to those commitments.

The rapid expansion of the ODIHR's role beyond its original election-exclusive role was a clear recognition that free elections alone cannot guarantee democracy. The office now implements a broad range of programmes that support democratic development, institution building, civil society support, rule of law work, and the protection of human rights. The most recently developed priority is being reflected in our Programme on Tolerance and Non-Discrimination; I thank you that two of my collaborators in this programme have been invited to brief you only last week on our work on Holocaust Education and on combating hate crimes. Overall, I appreciate that a number of our activities are regular topics for discussion here on Capitol Hill, whether it is questions of 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, electoral reform, gender equality, or our recent report on our trial monitoring activities following the Andijan killings in Uzbekistan last year.

Elections

Today, as suggested, I would like to concentrate on elections. It is clear that no sustainable progress can be achieved towards democratic governance without, first and foremost, the conduct of democratic elections in line with OSCE commitments.

Let me start my brief overview with a quote by the Secretary-General of the United Nations: "The spread of democracy around the world has been one of the signal

transformations of our times. Elections – observed by the international community, or assisted in other ways by it – are at the heart of this inspiring story.”

The ODIHR serves as the OSCE’s focal point for all election-related matters, including election observation, technical assistance and the review of electoral legislation. Each year, the ODIHR deploys thousands of observers to monitor elections throughout the OSCE region in order to assess participating States’ compliance with OSCE election-related commitments. I would like to take this opportunity to thank the United States for their continuing support of OSCE/ODIHR election observation, through the regular secondment of 10% of observers requested.

Election observation

The ODIHR has been bestowed by the OSCE participating States with a unique mandate for election observation. Building upon the landmark 1990 Copenhagen Document, which is the first and only intergovernmental agreement on providing a standing invitation for election observation, this mandate has been expanded by subsequent Ministerial and Summit Decisions, notably with regard to long-term observers and follow-up measures.

Through the development of a highly effective and renowned methodology, I believe the ODIHR has not only met its mandate, but has brought the OSCE to the forefront of international election observation efforts. Over the years, the ODIHR’s election observation methodology has permitted it to report accurately on the major trends of every election it has observed, far over 100 altogether.

The ODIHR election observation methodology is based on the premise that an election is much more than a one-day event, and has moved the OSCE well beyond the often impressionistic assessment of elections that characterized the early 1990’s. It provides a comprehensive insight into all elements of an electoral process: before, during, and after polling day. The effectiveness of the ODIHR methodology has not only served the OSCE well, but has been adopted and adapted by certain other organizations, including the European Union.

Let me recognize here the crucial contribution made by parliamentarians to the delivery of the ODIHR election observation mandate, through their regular participation in the overall election day observation and the presentation of preliminary findings. The ODIHR formulates these findings in close co-operation with the OSCE Parliamentary Assembly, from whose ranks the OSCE Chairman-in-Office regularly appoints a Special Coordinator for short-term observers, as well as the Parliamentary Assembly of the Council of Europe, and the European Parliament.

While ODIHR’s election observation findings may not always make for easy reading for all election stakeholders, it is the duty of the ODIHR to offer realistic assessments of participating State compliance with OSCE commitments. Those participating States who wish to focus attention away from the picture that emerges as a result of ODIHR’s independent observation, and onto the observer, do so at the risk of a continuing cycle of

flawed, and potentially fraudulent, elections. If this scenario becomes an entrenched reality, the possibilities to further advance democratic governance throughout the OSCE region would eventually risk being halted.

In 1990, the participating States “undertook to build, consolidate and strengthen democracy as the only system of government for our nations” (Charter of Paris for a New Europe) and expressed their conviction “that full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for ... setting up the lasting order of peace, security, justice and cooperation...” (Copenhagen).

The CSCE States took a historic step when they adopted this Copenhagen Document, underscoring fundamental civil and political rights, as well as providing a set of criteria for democratic elections more advanced than any undertaken by any other intergovernmental agreement to date. There were no critics of democracy evident at the table in Copenhagen in 1990. To the contrary, all participating States unanimously endorsed a document which contained a set of criteria for democratic elections. For those states emerging from an authoritarian or totalitarian past, this was a commitment to immediately move toward established political norms for democratic governance.

The original *raison d’être* for the establishment of the ODIHR was to ensure that these commitments were attainable in the foreseeable future, and to help in speeding democratic transition in instances where non-democratic rule professed to be a stepping stone to full democracy. Since then, major gains have been made in the conduct of elections in South-East Europe, Central Europe and the Baltic States. However, as we look further to the East, despite some significant cases of democratic breakthrough, there is a growing concern that some OSCE participating States risk growing more accustomed to the language of democracy rather than its actual realization.

Criticism of ODIHR observation

In this context, although the OSCE/ODIHR election observation methodology has enjoyed broad support for almost a decade, a few participating States have started to question our approach. This criticism is not substantive criticism whereby the findings of our election observation reports have been proven to be incorrect. This would rather appear to be an attempt to shift the debate away from unfulfilled commitments. Thus, the successful and credible OSCE formula, whereby a professional institution has been mandated by the participating States, and granted the commensurate level of autonomy necessary to carry out a politically sensitive activity in an objective and consistent manner, has come under pressure from a small number of participating States.

This criticism comes at the same time when, after a decade and a half of election observation efforts in many parts of the world, the true value of election observation as a means to support universal civil and political rights is being fully recognized. In an effort to distill the global experience of election observation, the OSCE/ODIHR recently contributed to the UN-sponsored Declaration of Principles and a Code of Conduct for International Election Observers. In the drafting of these documents, the ODIHR

experience has been extensively drawn upon, and they have been supported by practically all international governmental and non-governmental organizations which are seriously involved in this activity.

While the target of the criticism is OSCE/ODIHR election observation, all organizations that undertake election observation will feel the repercussions of any attempts to limit the OSCE/ODIHR in the conduct of its election observation activities. Let me therefore say that while the ODIHR stands ready to engage in discussions to further enhance operational modalities, the OSCE should not allow itself to accept that the integrity of its election observation activities through the ODIHR be compromised. Professional and independent election observation efforts, international or domestic, must not become the scapegoat for unfulfilled election commitments, or, in some cases, for deliberate and pre-meditated attempts to manipulate election results.

As for the improvement of operational modalities, work is ongoing, and will be presented as part of a report requested by the Ministerial Council in Ljubljana, to the Ministers in Brussels in December.

I would like to recognize the major contribution to the field of election observation by domestic non-partisan election observer groups. This is a distinct but complementary activity to international election observation, supported by the Copenhagen commitments. The OSCE/ODIHR strongly supports domestic observer efforts in principle, and is equally concerned at constraints placed on this activity by some OSCE participating States, as it is about challenges to our own work. I would also like to take this opportunity to recognize the major contribution to domestic non-partisan election observer efforts that the National Democratic Institute for International Affairs has made over the years.

Continuing election challenges

Allow me to shift the attention to the real electoral crisis in the OSCE region today, by reviewing some of the trends regularly identified in some OSCE participating States during the course of ODIHR election observation missions. These trends most often attempt to limit competition and marginalize voter choices, including:

- refusal of registration and/or de-registration of candidates in unclear proceedings with the potential to impose disproportional sanctions for minor violations;
- misuse of state administrative resources by the incumbent;
- pressure on groups of the electorate to vote in a specific manner;
- media bias, particularly with regard to state-controlled media, in favor of the incumbents;
- election administrations whose composition is not sufficiently inclusive;
- lack of sufficient voter registration guidelines and safeguards to prevent abuse;
- complaints and appeals procedures that do not always permit a timely and effective redress of complaints;
- lack of sufficient will to rectify identified shortcomings.

More generally, trends to limit competition result in lessened voter confidence due to insufficient transparency and accountability, including during the vote count, the tabulation of the vote and the announcement of results.

While the ODIHR is committed to assisting participating States in realizing their election-related commitments, in order for real progress to be achieved, a commensurate level of political will by the respective participating States must be evident. Modifying the legislative and administrative framework for elections is not sufficient to guarantee elections in line with OSCE commitments. The conduct of democratic elections can only be established and maintained through a genuine political commitment. The ultimate responsibility in this regard lies on the shoulders of the participating States. In this context, the ODIHR is ready to begin introducing reports on how participating States are implementing ODIHR recommendations, following a suggestion by the Group of Eminent Persons in their report on OSCE reform.

At the same time, I urge the OSCE community, as a community of shared values and shared commitments, not to become mired in an artificial debate on election observation. Instead, I see a need to dedicate our energies to building upon the foundations of the Copenhagen Document. For the last decade and a half, the OSCE has been at the cutting edge of international efforts to ensure that the will of the people, expressed regularly through free and fair elections, remains steadfast as the basis of governance. Let us not debase the Copenhagen Document through a false assertion that there are no election criteria in the OSCE region. The Copenhagen Document is the most advanced intergovernmental agreement on elections in existence today and a solid base to build upon.

Participating States have an immediate opportunity through advancing the discussion on additional commitments to supplement the existing ones. At the request of the Permanent Council, the ODIHR has already provided participating States with its concrete views on how commitments could be strengthened with regard to principles of accountability, transparency and public confidence.

These principles were further amplified at the 2005 summer session of the OSCE Parliamentary Assembly held here in Washington, in the resolution on Improving the Implementation of OSCE Electoral Standards and Commitments and the Effectiveness of OSCE Election Observation Activities. This was a welcome resolution that also underlined the need for a genuine political commitment on the part of OSCE participating States to meet their agreed upon election commitments, and urging participating States to fully meet these criteria for democratic elections.

The ODIHR, for its part, has also attempted to meet new challenges as they emerge. For example, the ODIHR introduced a Fund for Diversification of Observers in 2001, in an attempt to diversify the composition of its election observation missions, by funding some observers for each mission, primarily from participating States that are not in the regular practice of seconding observers. I am pleased to say that the ODIHR has seen a

record number of 43 participating States represented in the OSCE/ODIHR election observation mission to the presidential election in Kazakhstan last December.

The ODIHR is aware of the challenges that can emerge for election observation through the introduction of new voting technologies that would benefit from more transparency. The ODIHR is building up its experience in this area, and intends to introduce guidelines for observation of new technologies in due course.

The ODIHR has also adapted its methodology in order to focus specific attention on electoral challenges that arise in the context of longer-standing and post-transition democracies. In addition to having this opportunity to address you, I am also in Washington this week introducing an OSCE/ODIHR Needs Assessment Mission with a view to ODIHR's role in observing the mid-term Congressional elections later in the year.

Leading by example

Before closing, allow me to reiterate, once more, my appreciation for the strong support the ODIHR has been receiving from all sides in this regard from US partners, already at the occasion of our limited observation missions to the mid-term congressional elections in 2002 and the presidential elections in 2004. It is precisely such an approach of leading by example that we value, and that we also want to see preserved in other areas of our substantive work.

The USA, like governments in other parts of the world, face considerable challenges in further developing democratic institutions and process, and in developing effective safeguards for the protection of human rights and fundamental freedoms under all circumstances, including, in particular, in the fight against terrorism. We must ensure international cooperation not only in the practical aspects of this work, but also on maintaining and, where necessary, further developing international standards. Otherwise, the risk of double standards or even the perception of it, would contribute to opening a credibility gap.

Shared responsibility to implement commitments

International agreements, of legal or political nature, must be binding to all, not only to preserve the credibility of international cooperation, but also of international institutions created to facilitate the developing of such standards as well as their implementation.

This is particularly important with regard to our efforts to spread best practice and create and strengthen international networks in this regard. What is crucial on elections – conducting them in full accordance with international standards and commitments, and following up on recommendations of institutions such as the ODIHR's – is equally relevant in all other areas of the human dimension. The legislature, the executive, and the judiciary, they all have their responsibility in this regard, at the national level, as well as in their contributions to the international order. Security, at the national as well as at the international level, can only be guaranteed with strong democratic institutions and full protection of human rights.

In closing, I would like to recall the 1996 Lisbon Summit Declaration, which stated that “among the acute problems within the Human Dimension, the continuing violations of human rights, such as ... electoral fraud ...continue to endanger stability in the OSCE region.” The OSCE participating States further stated that they “are committed to continuing to address these problems.” I must therefore reiterate that there is no time like the present to address shortcomings in the implementation of OSCE election-related commitments, where they exist. Likewise, there is no time like the present for a genuine discussion among OSCE participating States on electoral issues. I hope the OSCE/ODIHR has the opportunity to serve the OSCE participating States as effectively in the next fifteen years as it has in the past fifteen years.

Thank you for your attention.

N.B. Election reports and other documents related to ODIHR election observation are public and can be found on the ODIHR website at www.osce.org/odihr.