



## **Human Dimension Implementation Meeting ODIHR activities**

### **Friday, 6 October 2006**

#### **Working session 8: Rule of Law I**

Including: Exchange of views on the question of the abolition of capital punishment

Including: Protection of human rights and fighting terrorism

1. OSCE participating States have committed themselves to abide by the rule of law and applicable international law, including human rights law, international humanitarian law, and refugee law while countering terrorism. In addition, the importance of human rights protection to any counter-terrorist strategy has been repeatedly underlined at the UN level (see e.g. UN Security Council Resolution 1566 of 8 October 2004 and more recently the UN General Assembly global strategy to combat terrorism of 8 September 2006). The right to liberty and security of persons may be threatened by measures taken to fight terrorism. It is enshrined in Article 9 of the International Covenant on Civil and Political Rights as well as in other regional human rights treaties and includes the prohibition on arbitrary detentions, the right to challenge the legality of detention, the right of detainees to communicate with counsel, and, last but not least, the freedom from torture and ill treatment. This entire range of issues is covered by the OSCE human dimension commitments, and participating States have committed themselves to fully protect the right to liberty (Moscow 1991, para. 23.1, i-xi).
2. The use of capital punishment in the OSCE area is steadily decreasing. Out of 56 OSCE participating States, nine States retain the death penalty in some form, and only three continue to carry out executions. OSCE participating States have committed themselves to keeping the question of capital punishment open and to exchanging information on abolition of the death penalty (Copenhagen Document of 1990). Some of the participating States that retain the death penalty continue to treat information on capital punishment as confidential and as a result the level of public discourse on the use of the death penalty is often limited. OSCE commitments and international human rights law provide a number of safeguards for the use of the death penalty, such as the requirement to ensure that trials leading to the imposition of the death penalty comply with national and international fair trial standards (Vienna Document of 1989). In some participating States, there are concerns about the imposition of the death penalty following trials that fail to comply with fair-trial standards.

## **ODIHR activities relating to this Working Session/issue**

### **Regarding the fight against terrorism and compliance with human rights standards**

Governments have a duty to protect their nationals against terrorist attacks and to bring the perpetrators of such acts to justice. At the same time it is imperative to ensure that measures taken to combat terrorism and violent extremism/radicalisation comply with obligations under international human rights law. Counter-terrorism measures that violate human rights standards may achieve undesirable effects. Perceived as unjust and discriminatory, they may in fact increase support for fanatic and militant elements in society and thus diminish rather than enhance security in the long term. Since 2002, the ODIHR anti-terrorism programme has assisted the development of counter-terrorism strategies that are both effective and compliant with international human rights standards.

One of the main activities of the programme has been organising training modules on human rights and counter-terrorism and developing a manual on human rights protection in the context of counter-terrorism. The three-day trainings target public officials directly involved in the fight against terrorism to acquaint them with the major issues concerning human rights and fundamental freedoms in the fight against terrorism. So far, trainings have been held in Austria, Kyrgyzstan, Serbia, and Kazakhstan. The programme also provides a forum for discussion of key issues in the OSCE region. The Supplementary Human Dimension Meeting on Human Rights and the Fight against Terrorism on 14–15 July 2005 in Vienna put human rights and counter-terrorism firmly on the OSCE agenda. The ODIHR anti-terrorism programme organised a side event on “International standards concerning the right of access to a lawyer in terrorism cases” during the Supplementary Human Dimension Meeting on “Role of Defence Lawyers in Guaranteeing a Fair Trial” held on 3-4 November 2005 in Tbilisi.

The importance of international legal co-operation in fighting terrorism is the primary motivation for the organisation of the follow-up to the expert level workshop on “Protection of Human Rights while Countering Terrorism” held in Copenhagen in 2004. To be held jointly with the UN Office of the High Commissioner on Human Rights, OHCHR, in November 2006 in Liechtenstein this event will bring together legal and security experts within relevant state ministries/agencies, judges and prosecutors working on counter-terrorism. Discussion will include the legislative as well as the practical aspects of international cooperation to prevent and combat terrorism and how it relates to human rights standards. Specific topics to be addressed will relate to international intelligence cooperation, extradition, “non-refoulement” and international mutual legal assistance.

The ODIHR’s Anti-terrorism Programme has been working in cooperation with other structures of the OSCE involved in counter-terrorism to ensure a multi-dimensional approach. These include the Representative on Freedom of the Media, the OSCE Action against Terrorism Unit (ATU) and the OSCE’s Economic Dimension. The ODIHR’s unique focus on human rights in the fight against terrorism is complementary to the work of other organisations and the

ODIHR has been invited to contribute to events organized by the UN OHCHR, UN Office on Drugs and Crime and Council of Europe.

Finally, and in accordance with the OSCE Bucharest Plan of Action for Combating Terrorism of 2001, the ODIHR can offer to all participating States technical assistance in reviewing draft legislation and policies on extremism and anti-terrorism measures in order to assess and ensure compliance with international human rights standards and OSCE commitments.

#### Regarding death penalty

The ODIHR's activities on the death penalty are aimed at facilitating the exchange of information on this issue, increasing transparency, and encouraging States' compliance with international safeguards. Since 1999, the ODIHR has produced an annual publication, *The Death Penalty in the OSCE Area*, which is released at the Human Dimension Implementation Meeting. This publication provides a comparative overview of the use of the death penalty throughout the OSCE region based primarily on information provided by the participating States. The review includes individual entries for OSCE states that retain the death penalty in whichever provision, setting out the legal framework, statistics on sentences and executions, and information about compliance with international standards. It is supplemented with information from OSCE field operations, other intergovernmental organizations, NGOs and media reports. The publication allows OSCE participating States to exchange information regarding the death penalty, in accordance with OSCE commitments.

The ODIHR conducted activities in Kazakhstan throughout 2002-2005 to promote public discussions on the death penalty. In 2002 the ODIHR co-funded a conference on the death penalty; in 2003 it supported a publication on legislation and statistics relating to the death penalty as well as a nationally televised debate. The ODIHR also helped organize a training session for NGOs and state officials on how to run information campaigns on the subject. In July 2004, the ODIHR supported the organization of a roundtable in Kazakhstan on the rights of people sentenced to capital punishment. *Kazakhstan introduced a moratorium on executions in December 2003.*

In 2004, the ODIHR began implementing a two-year programme in co-operation with the European Commission and OSCE field missions. A roundtable was conducted in Kazakhstan on the rights of people sentenced to capital punishment. In December 2004 a series of radio programmes were broadcast throughout Central Asia in both Uzbek and Kyrgyz languages. The programmes discussed the issue of capital punishment from political, legal, cultural, religious, and moral points of view. In November 2005, the ODIHR co-organized an international conference in Central Asia on alternatives to the death penalty, which brought together 85 governmental and non-governmental delegates from Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. In 2006, the ODIHR supported a local NGO in Uzbekistan to organize a series of awareness-raising activities. *In 1998 Kyrgyzstan introduced a moratorium on executions, and in Uzbekistan a decree was signed by the President which provides for the abolition of the death penalty with effect from 1 January 2008.*