

**Prohlášení**  
Statement  
Déclaration

Warsaw 14 May 2009

**Human Dimension Seminar**  
**Strengthening the rule of law in the OSCE area**  
**EU Closing Statement**

*Mr. Chairman, Excellencies, Ladies and Gentlemen,*

At the end of our interesting and valuable two and half days of discussions the EU would like to reiterate its gratitude to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) for organizing this important event, as well as its appreciation to the Greek OSCE Chairmanship-in-Office for making the rule of law one of its priorities in 2009. Our thanks go also to all those who prepared and actively participated in this seminar, especially to the representatives of civil society, who have enriched our discussions. The EU believes that such discourse is a key element of democracy and encourages its further development.

This seminar has highlighted the key principles related to the effective administration of justice, which is a fundamental part of the rule of law in our countries. The promotion of the rule of law is a priority for the EU and the objective of this seminar is consistent with one of the goals of our European Instrument for Democracy and Human Rights (EIDHR) Strategy for the period 2007-2010. This strategy aims to support and strengthen

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the international and regional framework for the protection of human rights, justice, the rule of law and the promotion of democracy.

In any democratic society, individuals and legal persons need effective legal remedies, including judicial review, of administrative decisions and acts to protect their rights in their relations with administrative agencies. Public authorities should be accountable for their decisions, actions and their failures to act. Strengthening the rule of law in public administration is an important element to achieve this aim.

Providing public access to trials is a crucial guarantee for fair trial which contributes to building public confidence in the administration of justice. The EU regards trial monitoring as a powerful tool to support the process of judicial reform and stresses the importance of independent observation initiatives and their contribution to the improvement of justice administration. Trial monitoring forms an integral part of the EU Guidelines On Human Rights Defenders and is an efficient instrument for the promotion and protection of human rights defenders in third countries within the context of our Common Foreign and Security Policy. The EU believes that transparency and enforcement of judicial decisions is essential for the effective administration of justice.

Accountability of all public authorities is an indispensable precondition for strengthening the rule of law. The EU is convinced that while preventing torture is primarily the responsibility of the state, equally each and everyone must be involved. That is why the EU intends in the near future to approach some participating States to discuss adherence to the Optional Protocol to the Convention against Torture and other Cruel,

Inhuman or Degrading Treatment or Punishment (OPCAT) and the establishment of National Preventive Mechanisms in more detail.

The EU notes with satisfaction that awareness of the need to fight all forms of impunity is increasing. Human rights violators must be held responsible and the “culture of indifference” defeated.

Despite our different judicial systems, all the participating States are bound by our common OSCE commitments. Let me express our conviction that through the OSCE, together with the EU and other international organizations and institutions, both at the governmental and non-governmental level, we will further pursue the promotion of stability and security on the basis of democracy, the rule of law and respect for human rights.

The EU would like to recall once again the outstanding work done by the ODIHR and the OSCE field missions through various projects to support the participating States in promoting the rule of law.

*Mr. Chairman,*

The European Union has formulated several recommendations to support and encourage further strengthening of the rule of law in the OSCE area. The EU invites participating States and ODIHR to study the recommendations closely and would welcome further discussion of their implementation at this year’s Human Dimension Implementation Meeting in Warsaw and in the Human Dimension Committee.

*Recommendations:*

1. The participating States should acknowledge the key role of the judiciary in a democratic society. Judicial independence is a pre-requisite for the rule of law and the fundamental guarantee to a fair trial.
2. Judicial independence presupposes total impartiality on the part of judges in criminal, civil and administrative proceedings. Every decision related to the appointment and promotion of judges should be based on objective criteria and taken in an independent and transparent manner.
3. Judicial review of administrative acts, including other means of seeking redress in administrative justice, is essential to ensure adherence to and enjoyment of the principles of the rule of law.
3. In order to ensure the transparency of judicial proceedings special attention should be paid to relations between the courts and the public and media. Accessibility and clarity of the language used by the courts in proceedings and decisions are of utmost importance. The Supreme Courts and/or other important courts decisions should be publicly available.
4. A legal aid system should be established by each state to enable access to justice for everyone.
5. Although the funding of courts is part of a state budget, decisions on allocation of funds to the courts must be taken with the strictest respect for judicial independence. The state should allocate sufficient resources

to the courts to enable them to function in accordance with internationally recognised standards.

6. The participating States should in principle allow access to trials to all independent trial-monitoring individuals or bodies in order to ensure trial compliance with international standards, including human rights and fair trials standards, and to freely report on matters of concern.

7. The EU encourages ODIHR to pursue its trial-monitoring activities, in particular attending and observing, where appropriate, trials of human rights defenders.

8. The participating States should comply with the unconditional prohibition of torture and cruel, inhuman or degrading treatment or punishment and take all necessary and effective legal, administrative, judicial, social and other measures to prevent torture. The use of evidence obtained through torture should at all times be prohibited.

9. The absolute prohibition of torture should be stressed in the training of legal and law enforcement personnel.

10. The participating States should establish truly independent and effective national preventive mechanisms, in particular States parties to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, who have an obligation under the Protocol to do so.

11. The participating States should adhere to OPCAT and other relevant international instruments such as the International Convention for the

Protection of all Persons from Enforced Disappearance and make the declarations provided for in UNCAT articles 21 and 22. They should ensure compliance with all UN General Assembly and Human Rights Council resolutions on torture and other cruel, inhuman or degrading treatment or punishment.

11. The participating States should not transfer any person to a country, where there are substantial grounds to believe that he or she would be subjected to torture or ill treatment.

12. The participating States should issue standing invitations to all relevant independent preventive and monitoring mechanisms, including the OSCE, UN, ICRC, Council of Europe, and national bodies, as well as civil society, to visit and monitor the situation in their countries and to meet their demands concerning visit modalities, provide requested information, and to grant them unhindered access to places of detention and unrestricted possibility to interview any person in private.

Mr. Chairman,

The candidate country Croatia, the countries of the Stabilisation and Association Process and potential candidate countries Albania, Montenegro, Bosnia and Herzegovina and Serbia, as well as the Republic of Moldova align themselves with this statement.

Thank you Mr. Chairman