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Action by Christians for the Abolition of Torture (ACAT)

Statement

Torture : Promotion of universal jurisdiction in OSCE participating States

Working session 8

Rule of Law

I am Nordine Drici from the French-based NGO ACAT (Action by Christians for the Abolition of Torture). ACAT has been working for more than 40 years on the prevention and repression of torture, by supporting victims, their families, lawyers and human rights defenders, by documenting the practice of torture worldwide, producing reports and analysis, litigating torture cases and strongly advocating against this practice.

OSCE comprises 57 Participating States, all parties to the UN Convention against Torture, thus committing themselves to prohibit the practice of torture. 62 States have designated National Prevention Mechanisms (NPMs), among them 39 are located in OSCE countries.

NPMs are an essential tool to fight against torture. But this is not the only avenue to work on the prevention of torture, and against impunity of torturers. In that perspective, universal jurisdiction is a fundamental tool to prevent for impunity for acts of torture. A real deterrent against impunity.

While is it preferable to prosecute those responsible for these crimes in the country where the crimes occurred, justice is not always possible there. National courts may be unable to provide justice, and States may also show unwillingness to prosecute perpetrators, and use their legal system to shield the accused from justice.

Universal jurisdiction allows national courts to try those who have committed torture in other countries. Since Augusto Pinochet's arrest in the United Kingdom in 1998, universal jurisdiction has further developed, and is used by a number of OSCE countries, such as Belgium, Canada, Denmark, Finland, France, Germany, Norway, the Netherlands, Spain, Switzerland, United Kingdom, United States, and others. Universal jurisdiction could be under restrictions in national legislations, thus undermining the usefulness of this essential tool, like in Belgium, Spain, United Kingdom and France. For instance, we are astonished by the French International Human Rights policy of honoring a presumed Moroccan perpetrator of torture instead of prosecuting him.

Torturers must not find a safe haven anywhere they go or when they flee their own country. Strong political commitment, as well as appropriate laws, are key elements to create in all OSCE countries an environment conducive to fight impunity.

***Recommendation for OSCE***

ACAT urges all OSCE Participating States to commit to the fight against impunity, by setting up and implementing universal jurisdiction law and mechanism, and providing adequate resources. ACAT

recommends OSCE, and ODHIR in particular, to advocate and promote universal jurisdiction to fight against torture.