



Human Dimension Seminar

**Upholding the Rule of Law and Due Process
in Criminal Justice Systems**

Warsaw, 10-12 May 2006

Opening remarks by Frank Geerkens,
Head of the OSCE Chairmanship Task Force

Excellencies, Ladies and Gentlemen,

On behalf of the OSCE Chairman-in-Office, Minister Karel De Gucht, I would like to welcome you to the Human Dimension Seminar on 'Upholding the Rule of Law and Due Process in Criminal Justice Systems'.

I trust this seminar will be rewarding. We are in the good hands of our Polish hosts and Ambassador Strohal and his team, as well as the OSCE's Strategic Police Matters Unit. I warmly thank them all for the hospitality and their hard work in organizing and preparing this seminar.

Let us not forget that a Human Dimension Seminar of this kind reveals only the tip of the iceberg of the momentous day-by-day work on rule of law issues within the OSCE institutions and missions. The intellectual input required for this event relies on the long-standing expertise of dozens of individuals throughout the OSCE region. Our appreciation goes out to all of them. I hope this seminar can be 'the cherry on the cake' of their undoubtedly busy agenda in 2006.

We are not only in good hands, we are also in good company. It is an honor to welcome our two distinguished keynote speakers: Judge Fausto Pocal, President of the International Criminal Tribunal for the former Yugoslavia, and Mr. Leandro Despouy, UN Special Rapporteur on the Independence of Lawyers and Judges. I am also delighted by the presence today of such a broad and expert audience.

The importance of the theme 'Upholding the Rule of Law in Criminal Justice Systems' is hard to overestimate. The proper functioning of a criminal justice system is one of the foundations of democratic societies. First, the legitimacy of state institutions stands with the presence of rule of law, which begins with public safety and accountability. The foremost manifestation of public safety and accountability is a fair and effective response to crime.

Second, a criminal justice system is part of the institutional framework that translates rule of law from an abstract principle to reality. An effective criminal justice system is the vehicle through which rights and obligations of citizens are materialized. In this regard, spreading the rule of law - while enhancing respect for human rights in criminal justice systems - is not only the right thing to do, it is also central to a stable and peaceful national and international environment.

In his report to the Security Council on the rule of law and transitional justice, UN Secretary General Kofi Annan in 2004 said wisely and rightly that "justice, peace and democracy are not mutually exclusive objectives, but rather mutually reinforcing imperatives."

'Upholding the Rule of Law in Criminal Justice Systems' is a broad theme, which can be tackled from many different angles.

As a starting point, the organizers of this seminar opted for an institutional approach, in which different key institutions of the criminal justice chain are examined: police, prosecutors, defence lawyers, and the judiciary. From a practical and problem-solving perspective, rule of law is indeed best defined on the basis of institutional criteria. But we should also keep in mind that an institutional approach is only a means to an end. The effective functioning of justice institutions is essential to guarantee the rule of law. But it is of vital importance that a judicial system is also rooted in society. A complete definition of rule of law should therefore refer to the achievement of certain objectives, such as equality before the law and respect for human rights.

By bringing different actors together, the seminar organizers also opted for a comprehensive approach, in which all the links of the criminal justice chain are analyzed. While every justice institution has a critical and autonomous role to play to ensure a fair and effective process, they should also work interdependently. If one institution or actor fails, the whole system will be damaged.

Last year's Supplementary Human Dimension Meeting on the Role of Defense Lawyers in Guaranteeing a Fair Trial has already set the right course for this seminar by looking at one part of the justice chain.

Starting from an institutional and comprehensive approach, our seminar will discuss the functioning of criminal justice systems in our respective countries. The goal is to compare the reality on the ground to the existing body of OSCE and other international commitments. Discussing human rights concerns and systemic problems within the justice system, as well as positive practices, will hopefully generate guidance for targeting reform and resources as well as the political will to do so.

Ladies and Gentlemen,

We are here for the annual OSCE human dimension seminar. Not surprisingly, the agenda of this meeting reflects the dedication of the OSCE community to upholding human rights. The Belgian OSCE Chairmanship is a strong supporter of far-reaching human rights commitments in the field of rule of law and criminal justice systems. Hence our impetus for this seminar and our support for appropriate follow-up, possibly through a bolstered Ministerial Council decision on human rights standards in criminal justice systems.

At the same time, we invite you to consider the need for criminal justice systems that function in an effective manner, beyond the traditional 'human rights' approach. This call is inspired by one of the priorities of our Chairmanship: the fight against organized crime. Our rationale is twofold: the rule of law is the best remedy against organized crime, while organized crime undermines the rule of law and respect for human rights. In consequence, the human rights and 'effectiveness' approach are interdependent and mutually reinforcing.

This double concern might lead us to consider reinforcing the work of ODIHR, SPMU and the OSCE missions on rule of law issues. For instance, we could consider to elaborate the existing commitments on rule of law, and provide benchmarks for assessing criminal justice systems and implementing reforms on the basis of a common reference document. The side-event that the Chairmanship organizes on Friday will provide some inspiration and suggest options and avenues to this end.

Ladies and Gentlemen,

On behalf of the Belgian Chairmanship, it is my honor to open this seminar and it is my pleasure to wish all participants a meeting that will be successful both in substance and in spirit.

Thank you very much.