



HUMAN DIMENSION  
S E M I N A R

ENGLISH only

## 2009 HUMAN DIMENSION SEMINAR

**Strengthening the rule of law in the OSCE area, with a special focus on the  
effective administration of justice**

Warsaw, 12 – 14 May 2009

### ANNOTATED AGENDA

#### I. Introduction

Human Dimension Seminars are organized by the OSCE/ODIHR pursuant to the CSCE Summit decisions in Helsinki (1992) and Budapest (1994). The 2009 Human Dimension Seminar is devoted to *Strengthening the rule of law in the OSCE area, with a special focus on the effective administration of justice* in accordance with PC Decisions No. 887 of 6 March 2009 (PC.DEC/887) and No. 892 of 2 April 2009 (PC.DEC/892).

The participating States most recently reaffirmed their commitment to the rule of law in the Helsinki Ministerial Council Decision No. 7/08 on *Further strengthening the rule of law in the OSCE area* (MC.DEC/7/08).

Current economic and political challenges in the participating States highlight the demand for the rule of law as a core value of the OSCE. The rule of law is rightfully seen as a basis for political, economic, social and environmental development in the participating States. Decision No. 7/08 underlined importance of the rule of law for human rights and democracy, security and stability, good governance, mutual economic and trade relations, investment security and a favorable business climate, as well as the fight against corruption and all kinds of illegal trafficking.

Decision No. 7/08 encourages the participating States to strengthen the rule of law, *inter alia*, in the following areas: independence of the judiciary, effective administration of justice, right to a fair trial, access to a court, accountability of state institutions and officials, respect for the rule of law in public administration, the right to legal assistance and respect for the human rights of persons in detention; prevention of torture and other cruel, inhuman or degrading treatment or punishment; awareness-raising and education on the rule of law for the legal professions and the public; provision of effective legal remedies and access to them; observation of the rule of law standards and practices in the criminal justice system; and the fight against corruption.

The 2009 Human Dimension Seminar will address some of the key issues related to the rule of law in the human dimension, including independence and integrity of the judiciary, judicial review of administrative decisions, transparency and accountability in the administration of justice, the latter with a specific focus on the prevention of torture at the pre-trial stage. All these elements form part of the foundation for building stronger rule of law in the OSCE area.

## **II. Aims**

Decision No. 7/08 encourages the OSCE executive structures in co-operation with relevant international organizations to further identify and use synergies in assisting participating States in strengthening the rule of law. Similarly, it encourages the participating States to enhance their efforts to share information and best practices in this area. In line with these goals, the Human Dimension Seminar aims to serve as a platform for exchanging best practices between the participating States on the issues related to the rule of law.

The discussions will be structured in four Working Groups as outlined in the Work Plan below.

## **III. Participation**

Representatives of the OSCE participating States, OSCE institutions and field operations, inter-governmental and non-governmental organizations will take part in the Seminar.

Participation of experts on the rule of law and administration of justice will be particularly encouraged. In this regard, participating States are requested to publicise the Seminar within their rule of law and justice expert community and in academic circles and to include in their delegations, wherever possible, experts on related issues.

The Mediterranean Partners for Co-operation and the Partners for Co-operation are invited to attend and share their views and ideas on the rule of law and administration of justice.

All participants are encouraged to submit in advance written interventions outlining proposals regarding the subject of the Seminar, which will be distributed to the delegates. Participants are also encouraged to make brief oral interventions during the Seminar. While prepared interventions are welcomed during the Plenary sessions, free-flowing discussions and exchanges are encouraged during the Working Group sessions.

## **IV. Organization**

The Seminar venue is the “Novotel Warszawa Centrum” Hotel in Warsaw, ul. Marszałkowska 94/98.

The Seminar will open on Tuesday, 12 May 2009, at 9:00. It will close on Thursday, 14 May 2009, at 16:30.

All Plenary sessions and Working Group sessions will be open to all participants. The Plenary and Working Group sessions will take place according to the Work Programme below.

Four Working Group sessions will be held consecutively. They will focus on the following topics:

1. Independence of the judiciary;
2. Administrative justice: Judicial review of administrative decisions, administrative offences and due process of law;
3. Administration of justice: Transparency and enforcement;
4. Administration of justice: Accountability.

The closing Plenary session, scheduled for the afternoon of 14 May, shall focus on practical suggestions and recommendations for addressing the issues discussed during the Working Group sessions.

An OSCE/ODIHR representative will chair the Plenary sessions.

The Rules of Procedure of the OSCE and the modalities for OSCE meetings on human dimension issues (Permanent Council Decision No. 476) will be followed, *mutatis mutandis*, at the Seminar. Also, the guidelines for organizing OSCE meetings (Permanent Council Decision No. 762) will be taken into account.

Discussions during the Plenary and Working Group sessions will be interpreted from and into the six working languages of the OSCE.

Registration will be possible during the Seminar days from 8:00 until 16:30.

By prior arrangement with the OSCE/ODIHR, facilities may be made available for participants to hold side events at the Seminar venue. A table for display/distribution of publications by participating organizations and institutions will also be available.

## **WORK PROGRAMME**

Lunch break: 12:00 – 13:30

	<b>Tuesday 12 May 2009</b>	<b>Wednesday 13 May 2009</b>	<b>Thursday 14 May 2009</b>
9:00 – 12:00	Opening plenary session	WG II	WG IV
13:30 – 16:30	WG I	WG III	Closing plenary Session

## V. WORK PLAN

*12 May 2009, Tuesday*

**9:00 – 12:00 Opening Plenary Session**

**Welcome and introduction from the Seminar Chair**

**Amb. Janez Lenarčič**

Director of the OSCE/ODIHR

**Welcoming Remarks**

**Mr. Jan Borkowski,**

Secretary of State, Ministry of Foreign Affairs of Poland

**Amb. Louis Abatis,**

Director of the OSCE and Council of Europe  
department of the Ministry Foreign Affairs of Greece

**Keynote Speaker**

**H.E. Judge Patrick Lipton Robinson**

President of the International Criminal Tribunal for the former Yugoslavia

**13:30 – 16:30 Working Group I:**

**Independence of the judiciary**

*Moderator:* **The Right Honourable Lord McCluskey, QC LL.D**

*Introducer:* **Ms Teresa ROMER**

Justice of the Supreme Court of Poland (retired)

An independent judiciary should consist of professional judges who perform their duties with integrity and fairness. This requires *inter alia* adequate education and training, merit-based selection and appointment procedures, and effective disciplinary mechanisms. This Working Group is invited to address contemporary challenges to judicial independence in the participating States.

In many countries judicial councils are heavily involved in the selection and appointment processes. In some countries the executive and legislature play an important role. How does the involvement of these actors affect the selection and appointment of judges? When does this involvement become an obstacle to maintaining an independent judiciary?

Case assignment procedures are vital for good court administration and also have an impact on judicial independence. What practices foster greater judicial independence and public confidence in the justice system? What safeguards should exist to prevent potential abuses?

Charges or complaints against judges in their judicial and professional capacity must be processed expeditiously and fairly under an appropriate procedure. Judges have the right to a fair hearing. What disciplinary procedures and sanctions pose threats to judicial independence?

Maintaining judicial integrity is key to the proper fulfilment of judicial functions. What should be the role of self-government bodies in this regard? What tools should the judiciary employ to effectively maintain high professional standards?

What are the comparative advantages of different models of judicial education? What contents and methodology of this education help equip the future judges with the knowledge, skills, and values necessary for their profession? The participants are invited to share their views in this regard.

*13 May 2009, Wednesday*

**9:00 – 12:00 Working Group II:**

**Administrative justice: Judicial review of administrative decisions, administrative offences and due process of law**

*Moderator:* **Mr Ihor Koliushko**

Director, Centre for Political and Legal Reforms, Ukraine

*Introducer:* **Dr Denis Galligan**

Professor, Centre for Socio-Legal Studies, University of Oxford,  
United Kingdom

The rule of law is strengthened by accountable public administration. The right to effective legal remedies is emphasized in OSCE human dimension commitments. To what extent are these principles upheld in practice? This Working Group invites participants to discuss the availability and effectiveness of legal remedies for the people affected by administrative decisions.

The rule of law necessitates an effective judicial review over the acts of public administration. Participating States employ different models to carry out this review: ordinary and specialized courts and chambers, as well as quasi-judicial bodies. Scope of judicial review also differs, especially when it comes to decisions made by administrative authorities exercising their discretionary powers. What conditions must be satisfied to ensure effective judicial review of administrative decisions? What reforms proved effective in strengthening the rule of law and accountability of public administrations?

The second part of this Working Group will address the problem of administrative offences and due process of law. Administrative codes in a number of participating contain offences. These offences, in some cases, may be punishable by custodial sentences. Occasionally, fair trial guarantees that must accompany the imposition of such sentences are not in place. Participants of this Working Group are invited to discuss the “criminalization” of administrative law and make recommendations on

how to treat administrative offences by respecting internationally accepted fair trial standards.

**13:30 – 16:30 Working Group III:**

**Administration of justice: Transparency and enforcement**

*Moderator:* **Mr Christopher DECKER**

Director, Department of Human Rights and Communities, OSCE  
Mission in Kosovo

*Introducer:* **Ms Genevieve MAYER**

Head of Department, Execution of Judgments of the European Court of  
Human Rights, Council of Europe

Public access to trials is not only an important fair trial guarantee, but also an attribute of public confidence in the administration of justice. Recognizing this, OSCE participating States have explicitly undertaken “to accept as a confidence building measure the presence of observers sent by participating States and representatives of non-governmental organizations and other interested persons at proceedings before courts as provided for in national legislation and international law” (1990 Copenhagen Document, para. 12).

OSCE institutions and field operations have accumulated considerable expertise in trial monitoring initiatives. The wealth of these experiences is reflected in ODIHR’s *Trial-Monitoring: A Reference Manual for Practitioners*. Participants in this Working Group are invited to share best practices and examples of independent observation initiatives and their contribution to the improvement of justice administration.

The second part of this Working Group will address the importance of enforcement of judgments. Execution of court decisions is essential for an effective administration of justice. It is of particular importance in administrative matters, where authorities may be compelled to enforce decisions that are unfavourable to them. Their compliance with court decisions in such circumstances is imperative for upholding the rule of law.

**14 May 2009, Thursday**

**9:00 – 12:00 Working Group IV:**

**Administration of justice: Accountability**

*Moderator:* **Dr Malcolm Evans**

Professor, University of Bristol, United Kingdom

*Introducer:* **Ms Zhemis TURMAGAMBETOVA**

Director, NGO “Charter for Human Rights”

Accountability of all public authorities is a fundamental pillar of the rule of law. This is particularly relevant with regard to law and justice agencies who, by nature of their profession, must adhere to high standards of human rights protection.

This Working Group is invited to examine mechanisms for the investigation of complaints of torture and/or ill-treatment, with a focus on places of detention under police authority. The risk of torture and/or ill-treatment has been shown to be significant during the early stages of detention, when detainees are frequently held in police detention facilities. An added risk at this stage is the use of illegal practices to secure confessions and dispose of cases. What mechanisms should exist for the prevention of torture and ill-treatment in places of police custody?

An increasing number of participating States are now party to the Optional Protocol to the UN Convention against Torture (OPCAT), and currently engaged in its implementation. It requires the creation or designation of National Preventive Mechanisms (NPMs) with specific powers to monitor places of deprivation of liberty and engage in preventive work. This session will also examine how NPMs can most effectively implement their mandate in relation to places of police detention, and how various mechanisms of control can function in a complementary manner to combat torture and ill-treatment.

### **13:30 – 16:30 Closing Plenary Session**

Rapporteurs' summaries from the Working Groups

Statements from Delegations

#### **Closing Remarks**

**Amb. Janez Lenarčič**  
Director of the OSCE/ODIHR

Closing of the Seminar