

Statement to the UN Commission on Human Rights 59th Session

by Ambassador Christian Strohal

Director of the OSCE Office for Democratic Institutions and Human Rights
(ODIHR)

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It is an honour and a real pleasure to be back in the Commission, albeit in a different capacity – so please allow me a personal remark at the outset:

10 years ago, as we were preparing for the World Conference, it would have been difficult to imagine the broadness and depth of the programme of the UN OHCHR – an office which did not yet even exist.

10 years ago, it would also have been difficult to imagine that the Office for Democratic Institutions and Human Rights, founded in 1991 and composed initially of two people mandated “to facilitate contacts...in elections” would today comprise of a staff of 100 developing and executing about 100 projects bringing human rights and democracy very concretely to situations on the ground.

It is this operationalization of the protection and promotion of human rights which has brought a completely new quality to the work of all of us, which has brought new opportunities and challenges. I will attempt to address a few of these issues as seen by my Office – and a fuller version will be distributed in writing.

These examples demonstrate that the work of my office, as indeed that of all human rights institutions, is addressing crucial security concerns. The OSCE is governed by a comprehensive security concept, placing the human being at the centre of our activities.

In view of the current international context, with armed conflict in Iraq, the respect for human rights, humanitarian and refugee law is of paramount importance. Indeed, the need for intensified co-operation in promoting and protecting human rights and fundamental freedoms has never been stronger than today. This was the main message of the current Chairman-in-Office of the OSCE, when he addressed the Commission on 25 March.

There is already a tradition of co-operation between the ODIHR, UN OHCHR and the Council of Europe, but we must build even stronger partnerships. We also must continue to be inclusive in our approach. The fundamental role that non-governmental organizations and civil society– as human rights defenders - play in human rights protection must be not only recognized and respected. They deserve and need our full support. Whatever we do, should be measured against what we achieve. In the words of our respected colleague, the Special Rapporteur on Violence against Women, Ms. Radhika Coomaraswamy: “In the end, the success of activism with regard to any human rights rests on the enjoyment of these rights by the people in their communities.”

This is very much the approach that the ODIHR is adopting in the implementation of its mandate.

The ODIHR is perhaps most widely known for its mandate to promote democratic elections as an essential element of democracy. But ODIHR today is much more than an institution monitoring elections. We have a mandate - and indeed the responsibility - to assist the 55 OSCE participating States “to ensure full respect for human rights and fundamental freedoms, to abide

by the rule of law, to promote principles of democracy and to build, strengthen and protect democratic institutions, as well as to promote tolerance throughout society”.

We fulfill our mandate by engaging in constructive dialogue, by providing assistance to the governments on a broad range of issues and by working with civil society.

I would like to give some examples of what the ODIHR does to promote security and respect for human rights:

Rule of Law

As stated by the High Commissioner in his Opening Statement, the rule of law is the most solid foundation of security. I fully agree that security and peace are best achieved through the development of strong democracies where the rule of law is respected. The OSCE commitments in this area are far-reaching and detailed. Human security through rule of law is indeed one of the very pillars underpinning the OSCE. For the ODIHR the rule of law represents- and here I quote the Copenhagen Document- “not merely a formal legality...but justice based on the recognition and full acceptance of the supreme value of human personality and guaranteed by institutions providing a framework for its fullest expression.”

To make the rule of law active and real, the ODIHR has generated programs of co-operation and support for its participating states. We have for example developed tools to assist lawmakers in drafting legislation in line with international standards. In 2002, a pioneer free-of-charge legislative database went online (www.legislationline.org). It carries laws and legal commentaries on 13 “human dimension” subject areas including trafficking in human beings, states of emergency and elections. Its purpose is to foster legal reforms and empower legislators by providing them access to their own as well as foreign laws in the most user-friendly way possible.

Human rights and countering terrorism - Strength in Partnership

I don’t need to remind the Commission of the need to protect human rights while countering terrorism. To be effective, we must work in partnership. In November 2001, my predecessor Ambassador Gérard Stoudmann, together with Mary Robinson, the then United Nations High Commissioner for Human Rights, and Walter Schwimmer, Secretary-General of the Council of Europe, issued a joint statement on the subject of upholding human rights and fundamental freedoms:

“While we recognize that the threat of terrorism requires specific measures, we call on all governments to refrain from any excessive steps which would violate fundamental freedoms and undermine legitimate dissent. In pursuing the objective of eradicating terrorism, it is essential that States strictly adhere to their international obligations to uphold human rights and fundamental freedoms.”

These points are still valid. Any strategy to prevent and combat terrorism must have human rights at its heart. Human rights law strikes a fair balance between legitimate national security

concerns and fundamental freedoms. We must recognize that violating human rights in the fight against terrorism is self-defeating and counter-productive.

The ODIHR approach in the area of human rights and terrorism is threefold:

Firstly, we provide a basis for preventing and combating terrorism through promoting the implementation of the existing OSCE human dimension commitments. In this respect, the ODIHR works towards the development of long-term strategic efforts to promote human rights and address conditions which may contribute to allowing terrorists to recruit and win support (the so-called "root causes").

Secondly, we monitor the implementation of measures introduced since September 11 in view of human rights standards and the OSCE commitments. In this regard, the ODIHR is studying measures taken and areas of concern with regard to human rights violations in the "war on terror".

And thirdly, the ODIHR helps to ensure that anti-terrorism measures fully comply with the OSCE commitments and states' obligations under international human rights law. We have begun to provide assistance to participating States with drafting or amending anti-terrorism legislation and with implementing the provisions of UN Security Council Resolution 1373, including the 12 UN protocols and conventions relating to terrorism. ODIHR activities in this area are mainly focused on Central Asia and the Caucasus.

Finally, we support calls for the Counter-Terrorism Committee to include human rights within its mandate and appoint an expert in that regard.

Promoting tolerance and non-discrimination

In the climate that followed Sept 11, the OSCE increased its efforts to promote tolerance, non-discrimination and freedom of religion across the region.

This year, under the Netherlands' Chairmanship, there will be a number of meetings dedicated to tolerance and non-discrimination, anti-Semitism, and freedom of religion or belief, culminating in the annual Human Dimension Implementation Meeting in Warsaw, which this year will focus on these topics.

The ODIHR also carries out a number of activities in the field, promoting freedom of religion or belief, including legislative reviews and assistance, and education programmes, both in schools and in the media. In line with the OSCE approach, these activities are carried out in close co-operation with civil society and NGOs, as well as relevant governmental institutions and, of course, representatives of communities of religion or belief themselves.

In this sensitive area, the ODIHR is guided by an Advisory Panel of Experts on Freedom of Religion or Belief. The Panel, comprised of experts who serve in a personal capacity from

various denominations across the OSCE region, also offers its assistance to field missions and participating States.

Combating trafficking in human beings

While the OSCE now has several strong commitments and standards in the anti-trafficking field, much remains to be done when it comes to the implementation of these commitments and the monitoring of developments.

The OSCE is currently elaborating an **Action Plan** to better combat trafficking in human beings. The ODIHR is assisting in this undertaking and we would like to see the emphasis on the word “Action”. This OSCE Action Plan will reinforce and deepen our existing commitments. A significant contribution to this end is made by the UN OHCHR in the *Recommended Principles and Guidelines on Human Rights and Human Trafficking*. The OSCE's Anti-Trafficking Action Plan, by mandating better training, selection of expert staff and clearer guidelines for OSCE personnel, will set anti-trafficking efforts as a priority for years to come.

Turning to immediate priorities, as many of you are aware, there is a compelling need for clearer guidance on how to identify a trafficked victim, how to investigate related crimes and how to co-ordinate assistance and protection. In order to respond to human rights violations and break the cycle of abuse, a mechanism must be developed through which state actors can fulfil their obligations to protect and promote the human rights of trafficked persons. This must be done in co-ordination and strategic partnership with civil society and other actors dealing with trafficked victims.

To address this need, the ODIHR is currently developing a handbook on the establishment of effective and inclusive national referral mechanisms addressing all target groups as defined in the UN Protocol, which the OSCE participating States have committed themselves to ratify. We plan to devote a significant portion of our resources to addressing the situation in countries of destination. Since the 2001 Berlin Conference and more recent initiatives such as the Brussels STOP conference, a serious process has begun both to evaluate the situation in countries of destination and to set up new structures to improve the response in these countries.

Gender Equality

ODIHR welcomes and respects the results of the 10-year mandate of the Special Rapporteur on Violence Against Women. We especially welcome her success of awareness raising and standard setting addressing women's rights and gender-based violence. It is crucial that the international standards developed over the last decade are now translated into reality. This is best achieved with concerted efforts by national governments, civil society and international organizations who all have a role in ensuring that effective mechanisms are put in place and applied so as to give real effect to these rights at the national level. As the Special Rapporteur points out in her last report to the Commission, despite the progress made, in general States are failing in their international obligations to effectively prevent, investigate and prosecute violence against women.

The ODIHR strives to promote the equality of women and men, to advance the human rights of women and to further the active participation of women in society and in democratic structures through its project work in the field and through advocacy. This year's OSCE Human Dimension Seminar "Participation of Women in Public and Economic Life," to be held on 13-15 May in Warsaw, provides an opportunity to identify ways and means of improving women's participation in decision making at all levels of the society.

Prevention of torture

Torture remains one of the most egregious human rights violations in the OSCE region. The ODIHR has been actively involved in the prevention and elimination of torture through a number of activities in the field. We have raised individual cases of alleged torture – in our discussions with authorities and in human dimension meetings. We have assisted a leading NGO in this field, APT, to elaborate a guide on monitoring places of detention for the use by NGOs.

While we can and should assist the governments in their efforts to eradicate torture, it is also important to acknowledge that prevention of torture must begin with a political will to address and confront this human rights violation. As stated in the conclusion and recommendations of the Special Rapporteur on the question of torture, Theo van Boven, "the highest authorities should publicly condemn torture in all its forms whenever it occurs". His first visit to Uzbekistan in December 2002 was a very important one. The subsequent report to the Commission contains many important recommendations and needs to be followed up.

Effective torture prevention involves multiple parts of the society. The police, prosecutors, defense attorneys, judges and NGOs all have an important role to play in the prevention of torture. Fair trials and improving the access to justice are also fundamental in the fight against torture. The ODIHR will continue to work in close co-operation with others to eradicate torture from this region.

OSCE Human Dimension mechanism

Even though not as elaborate as the UN human rights protection system, the OSCE has established a number of tools to supervise the implementation of commitments that the participating States have undertaken in the field of human rights and democracy. One of these tools, the so-called Human Dimension Mechanism can be invoked on an ad hoc basis by any individual OSCE participating State or group of States to raise questions relating to the human dimension in another OSCE State. It also provides for the establishment, on short notice, ad hoc missions of independent experts to assist in the resolution of specific human dimension problems.

This rarely used mechanism was invoked in late December 2002, by ten OSCE participating States in relation to Turkmenistan to examine concerns arising out of investigations resulting from the reported attack on 25 November 2002 on President Niyazov. The implementation of the Moscow Mechanism mission was not as smooth as desired – due to lack of full co-operation by Turkmenistan, but nevertheless the Rapporteur Professor Emmanuel Decaux produced a detailed

report. The report addressed the human rights situation in Turkmenistan and provided recommendations for their resolution. The situation in Turkmenistan deserves our continued attention.

Future challenges

Regarding future challenges that we all face in the human rights community, I would point to a few trends.

First is the trend of following certain “fashions”. In the aftermath of September 11, for example, many states felt a compulsion to focus on Central Asia and to fund activities in that region. The OSCE has been involved in Central Asia since the break-up of the Soviet Union, but even we have felt this pressure. We need to co-ordinate our messages, prioritize our activities, and set a common agenda.

A second, and related, trend is equally serious - the beginning of a withdrawal by organizations and donors from South Eastern Europe. At the very moment, when we have seriously begun the crucial work of institution building in Kosovo and are addressing a number of issues that are fundamental to the building of true regional co-operation and security. The recent tragic assassination of Prime Minister Zoran Djindic only points to the very real problems which still exist and which continue to require our attention.

As you know, the Chechen Republic held a referendum on the draft constitution and election laws on 23 March. In the context of this exercise, ODIHR sent two small expert teams to the Chechen Republic. Although we did not observe the referendum we considered it useful to continue to assess needs in order to be in a position to engage further should a genuine political process develop.

The cycle of violence, human rights abuses, disappearances and impunity that has characterized conditions in the Chechen Republic can end only if the rule of guns is replaced by the rule of law. This can take place only if the referendum is followed by a serious effort by all sides to engage in a sustained political process to bridge the divide between Moscow and the people of the Republic. Only then can the referendum be considered a success.

ODIHR will follow the post-referendum process. We are prepared to provide support to this process and stand ready to work with the authorities and civil society.

The third, and also related, trend that I want to mention in conclusion is the necessary effort towards longer-term commitment evident in many policies. All too often there is still a tendency to rely on responses that sound good today and are discarded tomorrow. But how are we to build a basis for the recognition of and adherence to human rights commitments, if we don't ensure genuine commitment to international standards? What we need, 10 years after the World Conference, is to continue developing the international agenda for protecting and promoting human rights, for strategically looking at the future.

Whatever we do has to be measured against what we achieve.