SUPPLEMENTARY HUMAN DIMENSION MEETING

DEMOCRATIZATION: STRENGTHENING DEMOCRACY THROUGH EFFECTIVE REPRESENTATION

2 – 3 November 2006
HOFBURG, VIENNA

ANNOTATED AGENDA

The OSCE participating States recognized in the early 1990s the fundamental "right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes" (Copenhagen 1990).

Representation in a democratic society is commonly achieved through free and fair elections but only takes on its full meaning when properly enacted on the floors of legislatures and when the vital link with the citizens is maintained throughout a parliamentary mandate. Parliamentary frameworks as well as rules of procedure are crucial in ensuring that the elected representatives are in a position to carry out their mandate effectively. That mandate typically consists of the three classic functions of parliament: representation, law-making and oversight.

No two legislatures in the OSCE region are identical. Legislatures in both established as well as in newer democracies have evolved in response to what the 1991 OSCE Human Dimension Expert Seminar on "Democratic Institutions" called "the circumstances of their constitutional history". OSCE commitments underline the important role of parliaments: "the executive is accountable to the elected legislature or the electorate" (Copenhagen 1990) and "legislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives" (Moscow 1991).

In practice, the quality and effectiveness of a parliament's representation is dependent both on its *capacity* to carry out its multiplicity of functions and the *efficiency* and *transparency* of the legislative drafting process. These factors are as critical as the constitutional framework within which a given parliament operates. In addition to capacity and transparency, the effectiveness of parliamentary representation reflects the quality of the political parties represented and how they interact with each other. Parliaments ultimately belong to the citizens. Increasing public awareness of, and participation in, parliamentary processes is intrinsic to democratic development.

These different aspects of effective representation constitute the basis for democratic parliamentary practice. Issues of capacity and transparency of parliamentary structures as well as political party frameworks are critical to achieving the ultimate goal of raising effective public representation within governmental structures.

Day 1   **2 November 2006**

16.00 – 18.00   **Session I: Empowerment of legislatures: A modern and democratic parliamentary infrastructure**

The powers of the legislature and thereby the effectiveness of its representation depend to a large extent on the tasks and responsibilities assigned by the constitution, as well as on the safeguards and guarantees provided. If legislatures are to carry out their constitutional roles and effectively represent the interests of citizens, they require well-developed, well-resourced organizational structures. Effective oversight of the executive branch requires a functional committee structure and professional support staff with specialized expertise in various policy areas as well as legal and technical skill in writing legislation. The legislative branch should also possess adequate research and library facilities.

Legislatures share the responsibility for the development of policies alongside the executive. As such, they are not only a critical sounding board for government policies but also an actor in policy development. Regular constituency consultations lead to the development of policies which are geared to the citizens' needs. Adequate communication with the executive is a key element in shaping policies that better reflect citizens' interests.

This Session will focus on how legislatures can perform their representative duties most effectively. Participants will examine the practical, realistic steps needed to increase the capacity of legislatures. Discussions will focus on legislative skills and capacities, including effective staff and technical support. Enhancing representation through transparent and fully functional legislative structures (including expert committees) and rules of procedure (including provisions for readings, consultations and public hearings) will also be addressed. The management of administrative functions as well as relations between the legislature, constituencies and the media will be examined. An important focus for discussion will be the necessity of achieving effective representation of women and groups such as minorities and youth.

The OSCE and other international organizations have been assisting a number of participating States with improving the capacity of their legislatures to carry out these roles. Such assistance has taken various forms: provision of books, training of legislators and of their staff, training visits, twinning programs, provision of expertise on management of the parliament and standing committees, the organization of public hearings as well as assistance with outreach to the media and particular groups, such as women and youth.

This Session will make practical suggestions on how the OSCE and other international assistance initiatives can contribute to building the capacity of parliaments to represent their constituencies more fully and professionally.

Issues that could be discussed in connection with this topic are:

- *Strategies for strengthening parliaments:* What methodologies for needs assessments of legislative strengthening have been used in the OSCE region? What is the input and the local ownership of legislatures in prioritizing their own reform strategy?
- *Increasing the effectiveness of parliaments:* What parliamentary structures have contributed to increasing transparency and

effectiveness? What rules and procedures ensure fair representation within parliamentary structures? How can, in particular, the women's perspective be fairly represented throughout the whole work of the legislature?
- *Policy development:* How are policy objectives determined and who sets these objectives? How do legislatures ensure timely and thorough consultations with their constituencies when developing policies?
- *Best practices and lessons learned:* What legislative assistance programs have effectively contributed to strengthening legislatures in the OSCE region?

Day 2   **3 November 2006**

09.00 - 12.00   **Session II: Political parties and parliamentary factions**

Political parties are indispensable for the effective functioning of a democratic society. They are the only representative institutions in a position to bring together the divergent interests of different groups and translate them into coherent overall policies. In a democratic and pluralistic society, political parties provide a stable, legitimate means of expression for political interests in the political process. They help to maintain orderly, lawful, and open government, and, by aggregating, deliberating and negotiating among competing demands, tend to produce more consensual and sustainable policies, hence, enhancing the legitimacy of government. They are an important mediating institution between the citizens and the state, indispensable not only for forming governments but also for constituting effective opposition. Political parties are defined by a shared conviction, sets of ideas or political philosophy. Political parties contribute to the democratization process by seeking voters' legitimation for their exercise of power, by integrating citizens into the political process, by developing platforms and programmes for stable and efficient government (or developing political alternatives and performing their checks-and-balance role from the opposition) and by offering non-violent means for resolving the conflicts of interest which are inherent to any society.

Effective parliamentary representation requires the participation of effective and democratic political parties. Conversely, weak parliaments are unlikely to generate strong, democratic parties.

Without clear rules of procedures and practices to promote intra-party democracy, equitable representation within party structures, sound party organization and financial management, ethical standards and, above all, accountability to rank-and-file members, parties are unlikely to serve as effective advocates of genuine interests and priorities. Relations between parties as well as between parties and their respective factions in parliament are of similar importance.

Parliamentary *factions* (caucuses, groups) and expert committees constitute the backbone of a parliament. Whereas committees provide the functional structure, parliamentary factions provide the political infrastructure allowing individual MPs to interrelate within a broader political programme, with their political party and ultimately with the citizens. In the absence of functioning parliamentary factions there is no infrastructure in place to support political decision-making processes between the government and its supporting MPs, as well as among opposition groups.

Co-operation between parliamentary factions is also a key element in improving the representation of citizens' interests by the legislative branch. There is a critical need to find the balance between the representation of party interests and those of the public at large, as well as a balance between the rather technical work in expert committees and the political decision-making in plenary sessions. Certain issues and questions of national interest require consensus and cooperation across party lines. Models of co-operation in standing committees and legislatures, such as co-sponsoring laws by more than one party faction could also be discussed during this Session.

This Session will further concentrate on the interplay between parliamentary reform and the democratic institutional development of political parties. Clear regulations and practices are needed to govern inter-party relations, especially between opposition and government parties. Of special significance is how political parties can best ensure that women and underrepresented groups such as minorities and youth contribute to their governance.

The OSCE and other international actors have implemented political party development programmes in a number of participating States. This is inherently a sensitive and challenging exercise given that the parties represent local interests. The lessons learned in the course of delivering assistance to political parties – in the fields of strengthening analytic and management capacities, improving the representation of women, young people, and national minorities as well as in enhancing international contacts – should be of further use to the OSCE as, in a number of participating States, multi-party systems are being strengthened and the interaction between parties and the citizens they represent is being improved.

Issues that could be discussed in connection with this topic are:

- *Political party development:* Is political party development work a priority in the OSCE region? Which methodologies and transfers of experience have been used? How do such programmes ensure that local context and factors are taken into account? To what extent are political parties personality-based rather than programme-based?.
- *Intra-party democracy:* How can programming and decision-making processes become more transparent and participatory? How can political participation be encouraged? How can the participation of women and youth in political life be increased?
- *Political party and parliamentary faction relations:* How can political programme priorities be effectively transmitted and defended in party factions? What rules governing relations between the parties and between the factions strengthen constructive democratic dialogue?
- *Interface between political parties and Civil Society:* How do political parties interact with civil society and Non Governmental Organizations? What consultation mechanisms and cooperation models provide a transparent, effective and fair exchange of opinions and priorities? How can political parties increase the public's trust in their work?
- *Monitoring political party development*: What methodologies exist for monitoring the development as well as the democratic performance of political parties? How can these methodologies be best used to strengthen democratic practices in the political framework?

14.00 – 16.00 **Session III: Law Making and Access to Legislation in a Democratic System of Government**

Since the early 1990s, more than half of the OSCE participating States have been engaged in an unprecedented lawmaking effort in order to create the institutional and regulatory environment necessary for a pluralistic democracy based on the rule of law. While legal reform in any democracy is a major endeavor replete with potential pitfalls, countries that emerged from authoritarian forms of governance confront even greater challenges. Concerns about the quality and impact of legislation are widespread, and the way in which legislation is prepared and enacted has come under scrutiny in many places. There is a developing understanding that both the content of legislation and the methods by which it is made must be more responsive to the context in which it is to operate. Improved and more systematic methods of law-drafting have been recommended.

Calls have been made to develop and enforce more organized regulatory frameworks for drafting legislation. Legislation should emerge as the result of a planned and coordinated process which has been structured to provide adequate time for preparation, consultation (inside and outside government), and parliamentary consideration. Furthermore, there are calls for wider use of alternative devices in order to address what some see as an excessive recourse to legislation. This involves more frequent use of non-normative instruments, such as procedural rules, instructions, interpretative guides, and prescriptive rules, as well as recommendations, codes of conduct, practice rules, and voluntary codes.

Due to their intrinsic democratic value, there is an increasing requirement to consult with non-governmental organizations, and other segments of civil society. Not only do such consultations make public acceptance of legislative proposals more likely, but they are, in themselves, a valuable means of improving the quality of proposals and may result in legal solutions more likely to encourage compliance. Policies for improving access to legislation may be worthy of consideration. Full collections of legislation, primary and secondary, currently and formerly in force, must be readily available, and copies of individual instruments must be easily acquired by officials, legal representatives and members of the public. Finally, the Session might examine ways in which the implementation of adopted legislation could be monitored at regular intervals, and which mechanisms could be used to evaluate its impact and, if necessary, amend it.

This Session will provide an overview of the challenges faced across the OSCE region with regard to these issues. Participants will be invited to discuss possible ways of improving law-drafting systems, taking into account the specificities of the local legislative and political cultures. Good practices in this field will be highlighted. Finally, the Session will include a focus on how the OSCE and other international assistance programs can best support domestic efforts towards developing more efficient law-making rules and practices.

- *Legislative policy development:* How is the need for legislation assessed? Are alternatives to legislation given consideration? What are the checks performed when considering draft legislation? (regulatory checks, cost assessment, implementation checks, etc)?
- *Legislative programming and budgeting for drafting:* What is the process for developing and approving an overall programme of legislation?
- *Drafting Procedures:* What are the tools and techniques required to draft legislation and which are best suited to the needs and the local

conditions? What level of specialization and expertise is required from law drafters? How are they trained?

- *Co-ordination of legislative preparation:* How can the effectiveness of relations between the legislature and the executive be improved in drafting legislation?
- *Non-governmental consultation:* How can the law-making process be made more transparent to affected groups? How can government be enabled to be more responsive to the needs and interests of affected persons? How can greater public acceptance of legislative proposals be developed?
- *Access to legislation*: How can ready access to legislation be secured? How can techniques be developed which ensure the availability of legislation in a timely and responsive manner? What procedures are used for registering, archiving and authenticating legislation?
- *Monitoring the implementation of legislation*: What mechanisms are foreseen for monitoring the implementation of legislation adopted? How can these mechanisms be used to encourage or improve compliance with the legislation?