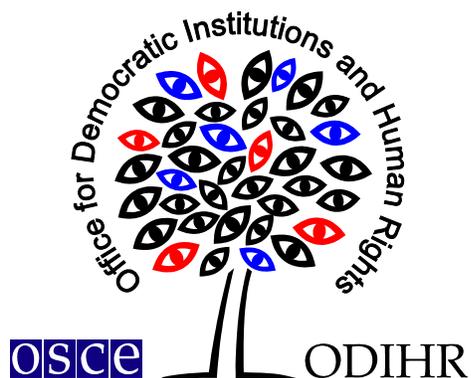


Opening Speech by the Director of ODIHR  
Ambassador Christian Strohal,

Supplementary Human Dimension Meeting  
on the Prevention of Torture  
Vienna, 6-7 November 2003



Ladies and Gentlemen,

I welcome you to this Supplementary Human Dimension Meeting. This meeting is addressing what remains, unfortunately, a crucial and burning issue: torture. No country can claim that it is not concerned by it and no country is exempt from it. So I would like to thank the Dutch Chairmanship for putting this topic on the agenda. I stress this because all too often torture is being ignored, eyes are being closed, victims are further marginalised, perpetrators go unpunished. Also we in the OSCE are not always exempt from these dangers: all too often we might tend to be content with lists of legal guarantees or ratified international instruments in reply to torture allegations. But ratifications and laws never tell the whole story. The discussions during the sessions today and tomorrow will have to remind us, all of us, of the importance of this topic and of its immediate interest for the OSCE. I expect therefore that this meeting will move the issue of torture higher on the OSCE's political agenda: our comprehensive human security concept will remain in danger if we do not fight one of the most appalling and at the same time frequently occurring human rights violations.

Let me repeat what cannot be said often enough: the use of torture, inhuman and degrading treatment is absolutely prohibited under international law. There are no exceptions to this rule - torture can never be resorted to, not even during wartime or in states of emergency. Too often, particularly in recent times, serious human rights violations seem to be acceptable in the face of new security concerns. But this is in clear contradiction to the OSCE concept which holds that only if human rights are respected, only if state arbitrariness has been eradicated, only then can we talk about real long-term security.

All 55 participating States of the OSCE have strongly condemned all forms of torture as one of the most flagrant violations of human rights and human dignity and have committed themselves to its eradication throughout the OSCE region. Despite all these clear and strict international standards, torture still persists and is common in many countries of the OSCE. This has been once again underlined in the debates at the recent Human Dimension Implementation Meeting in Warsaw:

For example, incidents of torture in Turkmenistan were reported by Professor Decaux, the OSCE rapporteur under the recently invoked Moscow Mechanism. Uzbekistan, in a move that should be commended, invited the UN Special Rapporteur on Torture to visit the country in 2002, and following this visit he reported that torture is used systematically in Uzbekistan. The European Committee for the Prevention of Torture took the unusual step of issuing a press release in July of this year stating that there is continued resort to torture and other forms of ill-treatment by members of the law enforcement agencies and Russian federal forces operating in the Chechen Republic. While much of this is well known, it should also be underlined that reports are widely available of incidents of torture and ill-treatment in many other countries "west of Vienna", including in the United States, which have also been indicated as giving rise to serious concern.

Methods of physical and psychological torture are remarkably similar worldwide. Most seek to prolong the victims' pain and fear for as long as possible without leaving visible evidence. Some of the most common methods of torture include beating, electric shocks, stretching, submersion, suffocation, burns, rape and sexual assault. The consequences of torture reach far beyond immediate pain, and have long lasting impact on physical and psychological health. Torture aims at shattering the human being as a whole. But we should never forget that it also impacts on society as a whole: in a country where torture is routinely used, the population will not be able to trust institutions. It is not only the individual human being whose dignity is destroyed, not only their families and friends who are being damaged, it is also society as a whole which sees its dignity destroyed. Societies in which torture is being condoned run a higher risk of finding violations also of other crucial elements for the rule of law, such as arbitrary detentions, or an insufficiently independent judiciary. This, in turn, presents serious dangers for security and stability.

Torture remains a routine part of the criminal process in many countries in the OSCE region. Indeed, unfortunately no country can ever declare the problem of torture resolved once and forever – vulnerable groups run the risk of abuse in all countries of the world. Only a set of legal and practical guarantees and constant control by independent bodies can ensure that the use of torture is continuously reduced.

One of the main reasons for torture in many nations is the routine use of physical force because, unfortunately, it is also routine to extract confessions from a suspect. Police are expected to solve cases. They are rewarded (through promotion and bonuses) for solving cases. Cases are considered solved once there is a confession. This reward structure encourages the continued use of physical force.

Such mistreatment is therefore not only a reflection of poor criminal investigation capacities, it also results – much too often – in deaths in custody.

The meeting today and tomorrow is expected to make concrete recommendations, bearing in mind that prevention is always better than cure.

## **I. Fighting Torture requires the Development of Rule of Law.**

One of the main tools to prevent torture is the effective functioning of the rule of law. The OSCE provides assistance to participating states through a variety of rule of law development programs and projects. Time limitations make it impossible for me to fully describe all of those efforts. Instead, I will try to highlight some of the on-going work. First, I wanted to note that the ODIHR Advisory Panel on Torture helped to shape the OSCE/ODIHR's approach to combating torture. I want to recognize and thank the members of the panel for that work. Specifically I want to thank Anne Burley, one member of the panel who is present here today.

The ODIHR has long-standing projects to assist in criminal law reform in many OSCE participating States. The ODIHR recognises that rule of law development work is long term work and that to achieve success we cannot focus on one part of a society to the exclusion of others. The ODIHR, therefore, has an integrated approach and on-going projects to assist judges, prosecutors, defense attorneys, and legislators.

The ODIHR has provided assistance in on-going prison reform work in Central Asia, the Caucasus and the Balkans. Prison reform is part of the ODIHR's work that clearly contributes to eliminating torture since in most countries the majority of acts amounting to torture occur during detention. International monitoring bodies found that in many OSCE countries the conditions in places of detention can also be considered "inhumane". By encouraging a change in approach (from punitive to prisoner-centred) and by training prison officials the OSCE ODIHR has tried to foster prison reform, which in a number of countries culminated in the transfer of the pre-trial detention centres and prisons from the Ministry of Interior to the Ministry of Justice – a symbolic act expressing the will to demilitarise and humanise the penitentiary sphere. At the same time, this is only a first step and it will only matter if followed by many concrete actions focusing on the protection of vulnerable persons.

In addition, the OSCE works through its missions and institutions to fight torture in co-ordination with others in the international community dedicated to the fight against torture. In Uzbekistan, a National Action Plan Against Torture was created involving interested international organizations (including the ODIHR, the OSCE Centre in Tashkent, the UN, and international NGOs such as Freedom House and the American Bar Association Central European and Eurasian Law Initiative).

The first steps foreseen by this Action Plan are in process. In October a round table was held on criminal law reform in Uzbekistan. Governmental and non-governmental participants agreed that some urgent changes to the legislation are required and discussed how these can be implemented (including the introduction of habeas corpus, judicial sanctioning of arrest, and strengthening the involvement of defence lawyers during the pre-trial phase).

The OSCE has also provided assistance in Georgia in the creation of a National Action Plan. A wide cross-section of Georgian society was involved in the formation of the National Action Plan which was adopted by the President of Georgia in September 2003. In a number of other countries the OSCE has encouraged discussions about legal and practical measures helping to combat torture and facilitated the exchange of experience between OSCE participating States (including, notably, in Kazakhstan and Kyrgyzstan).

The creation of national strategies or action plans is only a beginning of a process, as changes in behaviour by all levels of the state are required to eradicate torture and to fully implement both the action plans and the existing laws.

## **II. Fighting Torture Requires the Involvement of the Entire Society**

The OSCE recognizes that eradicating torture requires involvement by a cross section of the population. Civil society must be involved. Police must change how they reward their officers so that good behaviour is rewarded and rewards are no longer dependent on raw calculations of numbers of cases "solved." Judges must stop allowing introduction of statements into court proceedings when these statements were made as a result of torture. Prosecutors must zealously protect against the use of such statements, and must prosecute state officials who engage in torture. Medical personnel also have a role to play in treating torture victims, and in helping to document their injuries for future prosecutions. And, finally, a strong defense bar is

needed, as defense lawyers are in the front lines of protecting against torture: they are often the first people to speak with a person after they have been tortured, and are often the first ones to be aware of the complaint.

Monitoring at the national level is one of the most effective means to prevent torture and ill-treatment. One direct and tangible result of last year's OSCE Supplementary Human Dimension Meeting on Prison Reform was that some participating States started the process of establishing National Visiting or Monitoring Mechanisms, as recommended also by the Optional Protocol to the UN Convention against Torture. The ODIHR is directly supporting this process. In 2002 in Georgia a National Visiting Mechanism composed of a group of 17 Human Rights NGOs was established under the auspices of the Ministry of Justice. In addition, The Public Defender of Georgia, the national human rights ombudsman institution, created the Rapid Reaction Group. Under the Rapid Reaction Group unannounced visits to police arrest and detention places are conducted. In Armenia, the legal framework foreseeing the creation of a civil society monitoring board was passed in October. The selection of board members is on-going and training for board members will follow. In addition, in Kazakhstan the OSCE ODIHR and Penal Reform International have assisted in the creation of an informal working group to elaborate relevant amendments to the national legislation.

### **III. Fighting Torture Requires High Level Political Commitment**

Eradicating torture requires a political commitment by the leaders of each country: a commitment that torture is unacceptable. That commitment must be followed by actions. Passing new laws and/or ratifying treaties is a positive step, but it is meaningless to the person subjected to torture if the laws exist on the books alone. The challenge in many nations in the OSCE region is to put into deed the laws. I would like to welcome the adoption of the Optional Protocol to the UN Convention against Torture by the General Assembly in December 2002 and call for its swift ratification.

The Optional Protocol is an important instrument, as it will enable practical steps to be taken to prevent torture worldwide. Regular visits to places of detention are one of the most effective means to prevent torture and to improve conditions of detention. Under the Optional Protocol a new international expert visiting body, a Sub-Committee of the UN Committee against Torture, will be created. States that ratify the Optional Protocol must also establish or maintain national visiting bodies. These bodies will work together to conduct regular visits to places of detention.

The Optional Protocol was opened for signature and ratification on 4 February 2003. To enter into force the Optional Protocol will require 20 ratifications. I welcome the ratification of the Optional Protocol by two OSCE participating states: Albania and Malta. I would like to urge that all other participating state to follow their lead and to ensure the domestic implementation of this instrument.

The ratification of the Optional Protocol is a way for participating States to show their high level political commitment to fighting torture.

In conclusion, I am pleased that so many NGOs are present today as they are a necessary part of the fight against torture in any country. They are the watchdogs that remind us that torture is not a marginal event but an assault on the very core of the values and rules that make up our societies.

And one last reminder: We will discuss many technical questions in the next two days – yes, a complex framework of legal and other guarantees are vital in the fight against torture. But we should not forget in these sometimes technical discussions the essence of what we are talking about: How to prevent that pain is being deliberately inflicted on individual human beings in the name of the same state which is called upon, under international law, to protect the rights of every individual human being.