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EUROPEAN UNION

ENGLISH only

**OSCE Review Conference
Warsaw, 5 October 2010**

EU Statement – Session 5: Rule of Law II

Dear Mr. Moderator

I am honoured to speak on behalf of the European Union.

Article 2 of the EU Charter of Fundamental Rights provides that no one shall be condemned to the death penalty or executed. All European Union Member States are fully committed to these provisions and implement them in practice.

The European Union opposes capital punishment in all cases and under all circumstances and calls for a global moratorium as a first step towards its universal abolition. That is why we participate actively in a cross regional group, which intends to follow up the UN resolution on death penalty moratoriums of 2007 and 2008 with a third resolution at the coming General Assembly.

The European Union solicits the support of all participating States for the coming resolution on a moratorium for the death penalty at the UN General Assembly.

The abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights. Moreover, we must remind ourselves that no legal system is immune from error, nor is there any reliable evidence to support the argument that the death penalty is a deterrent to serious crime. Any miscarriage or failure of justice in the application of capital punishment represents the irreparable loss of human life.

Six participating States still maintain capital punishment, two of which – Belarus and the United States - still carry out executions, which call for objections by the European Union. It is regrettable that there has been no development within the OSCE area reflecting the global trend to abolish capital punishment. Capital punishment is deeply objectionable, even if the rule of law is applied in the administration of justice.

The European Union urges the two participating States, which still apply capital punishment, to abolish it, and the participating States, which still maintain capital punishment, to abolish it in law.

Under the Copenhagen Document participating States have committed themselves to exchange information and inform the public on the use of capital punishment.

The European Union calls upon all participating States, where capital punishment is still applied, to inform the other participating States regularly of any death sentence and in advance of any execution.

Mr. Moderator,

Torture is an obnoxious violation of human dignity and integrity. Any state, which deliberately applies torture or which ignores that torture is applied is guilty of official cruelty. Yet despite universal agreement that torture is inexcusable and impossible to defend, it takes place in secret and despite official denial, even in the OSCE area.

The European Union takes note with satisfaction that all participating States adhere to the UN Convention on Torture and

urges all participating States to adhere to its Optional Protocol.

The European Union also calls upon all participating States to implement fully and in good faith HRC resolution 13/19 on “Torture and CIDT: The role and responsibility of judges, prosecutors and lawyers” and all other UN resolutions on torture.

The value of the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment is put to a test in the context of fighting terrorism, and it is not the only human right, which may be challenged by counter terrorism measures. Fundamental human rights such as the right to liberty and security of the person, freedom of assembly and association, freedom of thought and expression, the right to privacy, fair trial and all the rights covered by the rule of law may be challenged in this context.

Some fundamental rights, such as freedom from torture, are absolute and may not be derogated from under any circumstance. Others may be interfered with, but only within strict limitations established by international law.

All participating States need to be constantly vigilant when considering to introduce or maintain human rights limitations in the fight against terrorism and to ensure that any such limitation is in conformity with international legal obligations.

Mr. Moderator,

No matter how unpleasant these issues are, we need to face up to them. The slow, but persistent creep of complacency must be actively resisted.

Thank you Mr. Moderator,

The candidate countries TURKEY, CROATIA*, the FORMER YUGOSLAV REPUBLIC OF MACEDONIA* and ICELAND**, the countries of the Stabilisation and Association Process and potential candidate countries ALBANIA, BOSNIA AND HERZEGOVINA, MONTENEGRO and SERBIA, the European Free Trade Association countries and members of the European Economic Area LIECHTENSTEIN and NORWAY, as well as UKRAINE, the REPUBLIC OF MOLDOVA, ANDORRA and SAN MARINO align themselves with this statement.

*Croatia and the Former Yugoslav Republic of Macedonia continue to be part of the Stabilisation and Association Process.

** Iceland continues to be a member of the EFTA and the European Economic Area.

ANNEX

EU recommendations under Rule of Law II

The European Union

- Solicits the support of all participating States for the coming resolution on a moratorium for the death penalty at the UN General Assembly.
- Urges the two participating States, which still apply capital punishment, to abolish it and the participating States, which still maintain capital punishment, to abolish it in law.

- Calls upon all participating States, where capital punishment is still applied, to inform the other participating States regularly of any death sentence and in advance of any execution.
- Urges all participating States participate to the optional protocol to the UN Convention against Torture (OPCAT).
- Calls upon all participating States to implement fully and in good faith HRC resolution 13/19 on “Torture and CIDT: The role and responsibility of judges, prosecutors and lawyers” and all other UN resolutions on torture.
- Reminds all participating States to be constantly vigilant when considering to introduce or maintain human rights limitations in the fight against terrorism and to ensure that any such limitation is in conformity with international legal obligations.