



RC.DEL/123/10
7 October 2010

ENGLISH only

2010 OSCE Review Conference
Warsaw, 30 September - 8 October 2010

**Statement by Ambassador-at-Large Madina Jarbussynova
at the Review Conference
Plenary session of 7 October 2010**

Ladies and Gentlemen,
Distinguished participants of the Review Conference,

During past few days several participating States raised the point of order on NGO access to the Review Conference, and some did that more than once, despite the exhaustive reply given by the Chairmanship in the morning of 5 October and distributed in writing as document RC.DEL/50/10. It is understandable, because this is the issue of great importance. The full participation of the civil society at OSCE events is *"a signature of this Organization and at the very heart of its value-added"*, as eloquently said by the distinguished delegation of Canada, and Kazakhstan can not agree more.

The latest statements by the distinguished delegations of the European Union and the United States of America suggest that there are still some open issues requiring further clarification, and I refer in particular to the US statements RC.DEL/54/10 and RC.DEL/105/10, as well as the EU statements RC.DEL/53/10 and RC.DEL/63/10. Therefore, the Chairmanship considers it important not leave these questions unanswered. Furthermore, the Chairmanship can not leave unanswered the allegations about "inaccurate assertions" and accusations about "drastic revision of agreed rules", as well as complete misinterpretation of unambiguous statements made by the Chairmanship. I will focus my intervention on two major groups of issues addressed by these delegations: interpretation of the rules and understanding of the role of the Chairmanship.

1. First, what are the rules and procedures governing NGO access to OSCE meetings and to this particular Review Conference, and why there seem to be different interpretations?

(a) I am pleased to note that actually there is no disagreement that there is only one rule or criteria for NGO participation in OSCE meetings, including both the HDIM and the Review Conference, namely compliance with paragraph (16) of Chapter IV of the 1992 Helsinki Document. However, I regret to note that some delegations fail to recognize the difference between this single criteria and the procedure for ensuring compliance with that single criteria, or in other words, the procedure for qualifying NGO representatives as *"persons or organizations which resort to the use of violence or publicly condone terrorism or the use of violence"*.

For the HDIMs, there is no formally agreed procedure for ensuring conformity with this Helsinki criteria. PC Decision No. 476 in paragraph 3 of Annex 3 only states that *"all non-governmental organizations having relevant experience in the field of the human dimension will be invited to participate, subject to the provisions contained in Chapter IV, paragraph (16), of the Helsinki Document 1992, following registration with the ODIHR."* Therefore, there is no any formally established mechanism for HDIMs to determine whether an NGO passes the Helsinki criteria, except for registration with the ODIHR.

For the Review Conferences, including that of 1996 and 1999, the participating States have established more elaborated procedures, as set out in the Annex to PC Decision No. 952. The main element of the procedure, which significantly distinguishes it from the HDIM modalities, reads as follows: *“Should questions arise concerning the application of Chapter IV, paragraph 16 of the Helsinki Document 1992, the Secretary General, assisted by the ODIHR, will undertake consultations to ensure that any decision on the matter is in conformity with the said provisions and is based on the views of the interested participating States.”* This is the only provision existing in OSCE documents which provides a mechanism to ensure compliance with the Helsinki criteria. It is not ideal, but it is the only tool available in the OSCE, and it is applied only for the Review Conferences.

Therefore, the only one rule, namely the Helsinki criteria, governing NGO participation in all OSCE meetings is enforced through different procedures at HDIMs and Review Conferences. Therefore the Chairmanship does not accept any accusation of making inaccurate assertions or drastic revision of agreed rules. We do not need to be reminded about our duty to implement properly OSCE decisions and rules.

(b) There was also a question raised regarding interpretation of the Annex to PC Decision No. 952. One delegation stated in document RC.DEL/105/10: *“The Chairmanship’s statement this morning would suggest otherwise, i.e. that should any participating State object to an NGO for any reason whatsoever, the Chairmanship would not register that NGO.”* The Chairmanship deeply regrets this attempt to distort its statements and ascribe to it a completely perverted interpretation. In no way the Chairmanship suggested that there are other reasons for non-accession of NGOs than the one set out in the 1992 Helsinki Document and reiterated in PC Decision No. 952. Furthermore, the authors of this line fail to recognize that neither PC Decision No. 476 nor PC Decision No. 952 assign any role in the registration of NGOs to the Chairmanship.

(c) There was also an assertion made by one delegation that PC Decision No. 952 *“does not specifically vest the Secretary General with the authority – long held by the Chair-in-Office – to make this decision.”* This assertion is questionable. While not explicitly stating who is the decision-maker, PC Decision No. 952 clearly vests the Secretary General with the authority to ensure that this decision meets certain requirements. Furthermore, the same authority was given to the Secretary General at the Review Conferences in 1996 and 1999.

2. Second, what should be the role of the Chairmanship in this matter, should it act as an interested party and give strong recommendations to the Secretary General going against the views of at least one participating State?

The answer would be “yes” and “no”. In our capacity as OSCE Chairmanship, we are deeply interested in everything going on in our Organization, and particularly in the success of this Review Conference. According to its mandate, any Chairmanship is responsible for co-ordination of and consultation on current OSCE business and for bridging gaps between different positions of participating States, and must ensure that the whole spectrum of opinions of participating States is taken into account in all Chairmanship’s actions. Therefore, all issues related to openness of OSCE meetings to the civil society and NGOs are indeed of great interest to the Kazakh Chairmanship.

However, it cannot be expected that the Kazakh Chairmanship would be an “interested participating State” in the context of the Annex to PC Decision No. 952, and would take sides in this specific dispute about access of certain NGOs. At the same time, the Kazakh Chairmanship is very much interested in resolving such matters in an impartial, transparent and open manner. Therefore, the Chairmanship will fully support any decision by the OSCE Secretary General on these matters, and has no doubt that they would be in full conformity with paragraph (16) of

Chapter IV of the 1992 Helsinki Document and be based on the views of the interested participating States. We are very grateful to the Secretary General for undertaking transparent consultations with all interested participating States, and we do not see a need for sending strong recommendations to him.

In that regard, we regret that some delegations confuse the issue of the Chairmanship being an interested party in a particular dispute with the issue of being *“an interested party in exercising the leadership ... in carrying out its duties of upholding previously agreed OSCE procedures”*.

We categorically reject the assertion that the Chairmanship does not live up to its promise to stand for the compliance with the fundamental principles of open NGO participation in the OSCE events. The Kazakh Chairmanship has already demonstrated exemplary approach towards civil society. Despite tremendous logistical and organizational difficulties caused by the preparation of the Summit in Astana at a very short notice, we demonstrated good will and supported convening in Kazakhstan of the two additional events for NGOs until the end of this year – a regional seminar on co-operation between NGOs and governments, and the Civil Society Forum in Astana on 26 November 2010, right before the opening of the Astana part of this very Review Conference.

And last, but not least, isn't it a sufficient evidence of the Kazakh Chairmanship's openness to the civil society that the largest number of NGOs attending this Review Conference are from Kazakhstan? All delegations witnessed that Kazakh NGOs are most active participants of this forum, and the Government of Kazakhstan is having with them an open and respectful dialogue. The statistics of the first four days of the Review Conference shows that the floor was given to 200 delegates, including 140 NGO representatives, of which 100 are representatives of the civil society of Kazakhstan.

It is really surprising that despite sincere and tireless efforts of the Kazakh Chairmanship to ensure a successful year for the whole Organization in all areas of its work, some delegations raise the issue of “leadership, responsibility and the effective stewardship of this body”. It is particularly regretful that some delegations unilaterally cast a shadow on the Astana Summit for one reason or another. Let us not forget that the success or failure of the Summit will be equally shared by all 56 participating States of this Organization.

This statement will be attached to the journal of this meeting.