

13 September 2018

Dear Mr. Moderator, Thank you for the opportunity to speak at this important meeting.

I will be talking about the situation in the OSCE region and will state the position of the Civic Solidarity Platform, a network of 90 human rights NGOs working in the OSCE region. Torture prevention was and continues to be one of the priority issue for the Platform. Our declaration adopted in Kiev in 2013 contains our position on combating torture and calls for measures needed to be taken to improve the situation. Later we elaborated our recommendations and full package can be found at the Platform website we also used to present them to OSCE every year on the eve of Ministerial council. Today I would like to highlight the key issues and the key actions that are needed now to address the problem.

We have to admit that the situation with torture and inhumane treatment in the region is a situation of crisis. Decades have passed since all OSCE participating states ratified the major international instruments that introduced an absolute ban on the use of torture.

All OSCE member states, as parties to the international human rights protection system, have undertaken to follow the unconditional principle of the absolute prohibition of torture. Each country, to various degrees, has adopted its own relevant legislation.

But what we see in reality is that the number of torture victims globally is growing. If you look at the statistics of the European Court of Human Rights, you will see a dramatic increase in the number of torture judgments. Compared to previous years, the number of judgments where violations of Article 3 were found has grown in 2017 by about one third, from 8.56 percent to 11.64 percent.

Just think about these figures: one out of eight judgments of the Court in 2017 dealt with violations of prohibition of torture.

The current situation calls for both strengthening the measures for combatting torture and broadening the range of obligations.

Broadening the Range of Obligations to Combat Torture

Since the adoption of the Helsinki Accords in 1975, new challenges have emerged and grown, which, in our opinion, should be definitely included in the range of obligations related to the prohibition of torture. First and foremost, I am talking about the issue of *forced disappearances*.

Two things are extremely important here. First: OSCE countries need to include the obligation to uproot forced disappearances and prosecute perpetrators in the package of obligations related to the prohibition of torture. Second: OSCE bodies and institutions need to begin practically addressing the problem of forced disappearances as part of the prohibition of torture section right now, without waiting for member states' agreement to expand their obligations.

Urgent measures

Our experience teaches us that it is impossible to combat torture just by changing the laws. It is a complex problem that is rooted, first and foremost, in practice.

Three key elements are crucial for effectively combatting torture in the region. They are:

- opportunity to complain against torture without fear of further pressure and reprisal;
- effective investigation and punishment of torture perpetrators; and
- effective civic oversight.

When even one of these three elements fails in a given country, it is practically impossible to put an end to torture.

Meanwhile, what we see today in a number of OSCE countries is a **rise in the dangerous trend of exerting pressure on torture victims**. Victims' complaints are resulting in their criminal prosecutions for false allegations; they are facing various disciplinary penalties in jails; their access to lawyers is being restricted; their mail is being censored; their complaints are being prevented from leaving institutions where they are detained. This undermines the very possibility to implement an important right, the right to defense; this imparts an even greater fear and disbelief in attainable justice. This leads to further dissemination of impunity.

In most of the European Court's judgments found violations of prohibition of torture are coupled with violations of the right to effective remedy and Article 3 in its procedural aspect. What this means is that, at the national level, there is **no effective system for investigating allegations of torture and prosecuting perpetrators**. The following factors are important to note:

- very common problem of confessions obtained by torture;
- non-enforcement of procedural safeguards with respect to detainees (early access to a lawyer; notification of family members; due documentation of detention; etc.);
- inefficiency of judicial oversight over prohibition of torture: courts fail to recognize torture cases, and are unable or unwilling to exclude evidence obtained through torture;
- weak or inadequate system for protecting detainees who allege torture;
- failure to implement effective investigation standards.

All these factors are the key incentives to resort to torture for the police, military, penitentiary personnel, and security services.

Effective Tools of Civic Oversight

One of the key problems for many of the OSCE member states, one that contributes to the spreading of torture and inhumane treatment, lies in the inaccessibility of detention institutions (jails, penal colonies, pre-trial detention facilities, etc.). And the best way to address this problem is to refrain from obstruction of civic oversight and develop tools for such oversight. OSCE has raised this concern more than once.

It was in the early oughts that OSCE, for the first time, presented its recommendations on civil monitoring of detention institutions. Later on, and especially after the creation of the national preventive mechanism, OSCE and UN CAT began emphasizing the need to ratify the Optional Protocol to the Convention against Torture and create effective national preventive mechanisms. In a number of countries in the region, these mechanisms are not working in the way they were meant to work to ensure effective and efficient civic oversight. This is happening both east and west of Wien. And it is obvious now how extremely important it is not to reduce the discussion of civic oversight to the national preventive mechanism. Let's not only talk about the civil society's access to monitoring; there are also other objectives that are usually not included in the NPM's mandate. For example, assisting detainees in filing complaints about torture. Civic organizations can be particularly effective in this field.

Rehabilitation of Torture Survivors

An important element in the torture response system is rehabilitation and recovery of torture victims. Today we are seeing, on the one hand, an increase in the number of torture victims in the region and, on the other, very little progress in the development, on the national level, of rehabilitation and recovery programs. There are not so many countries with effective state-administered rehabilitation and recovery programs in our region. As a rule, the efforts undertaken in this area are the efforts of the civil society. So what happens is that torture survivors, going through immense shock and suffering, both physical and psychological, and fighting for justice, are alone in facing the governments, which, according to their

international obligations, have to assist them in their recovery and rehabilitation, ensure effective investigation and punishment for perpetrators — but in practice are quite often far from being their allies.

Use of Torture against Political Opponents

I feel urged to mention one more important problem: use of torture and cruel treatment in political processes, against political opponents.

Based on all of the above, we strongly believe that the problem of torture and cruel treatment must be high on the OSCE agenda. What is needed now is a clear signal from OSCE that would give a new impetus to combatting torture, to ensuring the emergence, in each of member states, of effective key elements in the state mechanism of torture prevention, which I referred to above.

Unfortunately, no decision on this problem has been taken at the level of the OSCE Ministerial Council for quite a few years. And we, representatives of the Civic Solidarity Platform, very much hope that this year a consensus at the ministerial conference level will be reached, and that the Council will manage to adopt a clear and strong resolution on the urgent need to put an end to torture in the OSCE region

We believe that OSCE needs to develop a strategy for uprooting torture in the region. This strategy should include measures to increase the effectiveness of:

- monitoring of detention facilities;
- investigation and documentation of torture cases;
- system of punishment;
- ensuring recovery of torture victims, including compensations and implementation of their right to rehabilitation; and
- system for preventing new incidents of torture.

We strongly believe that civil society participation is crucial for these processes and we encourage OSCE and member states to establish expert group focused on the issue of torture prevention.