

THE OSCE OFFICE FOR DEMOCRATIC INSTITU-  
TIONS AND HUMAN RIGHTS: ACCOMPLISH-  
MENTS AND CHALLENGES

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HEARING  
BEFORE THE  
COMMISSION ON SECURITY AND  
COOPERATION IN EUROPE  
ONE HUNDRED THIRTEENTH CONGRESS  
FIRST SESSION  
MAY 21, 2013

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# THE OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS: ACCOMPLISHMENTS AND CHALLENGES

MAY 21, 2013

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,  
*Washington, DC.*

The hearing was held from 2:29 p.m. to 3:27 p.m. EST in the Capitol Visitor Center Senate Room 210–212, Washington, D.C., Senator Benjamin Cardin, Chairman of the Commission on Security and Cooperation in Europe, presiding.

*Commissioners present:* Hon. Benjamin Cardin, Chairman, Commission on Security and Cooperation in Europe.

*Witnesses present:* Ambassador Janez Lenarcic, Office of Democratic Institutions and Human Rights Director, Organization for Security and Co-operation in Europe.

## HON. BENJAMIN CARDIN, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. CARDIN. Well, good afternoon, and let me welcome you all to this hearing of the Helsinki Commission, in which we're very honored to have Ambassador Lenarcic here, the director of the Office for Democratic Institutions and Human Rights in the OSCE. Ambassador Lenarcic is a—*is* a familiar face and a person who we have worked with for a long time and it's a pleasure to have him here. It underscores the importance of the work that you do in the Helsinki Commission and the priorities that we place on the human dimension.

Since the Helsinki Final Act in 1975, human rights have formed an inseparable and core part of the OSCE's comprehensive concept of security. Agreement was reached back in 1990 to create specialized institutions to assist the participating states in implementing their human dimension commitments. And based on U.S. proposal, the then Office of Free Elections was established in Warsaw. It later was expanded to encompass human rights under the title it is now known by as the Office of Democratic Institutions and Human Rights, or better known as ODIHR.

In enhancing the role of ODIHR, the 1992 Helsinki Summit declared that the participating states express their strong determination to ensure full respect for human rights and fundamental freedom, to abide by the rule of law, to promote the principles of democracy and, in this regard to build, strengthen and protect democratic institutions as well as to promote tolerance throughout the society.

I think the international community is well aware that the U.S. Helsinki Commission has made human rights, the human dimension and the work of ODIHR our top priority. We're proud of the role that we've had in advancing many of the most important human rights issues—from trafficking, where we now I think have brought about the sharing of best practices to stop this modern form of slavery; to the tolerance agenda, where we're very proud of the role that we've had in improving the capacity of OSCE through special representatives and sharing, again, best practices among the participating states; to transparency initiatives that we're very proud of our initiative in those areas that have put a spotlight on anti-corruption strategies in countries to advance that basic right of good governance. And certainly we've made progress, but, nonetheless, we still face significant issues.

While some OSCE countries have successfully transitioned to democracy, others appear to be moving backwards. Several participating states have yet to hold free and fair elections. Freedom of the media is threatened in many OSCE states, where journalists are harassed, attacked and even killed for their work. And the Internet and other digital media are restricted.

Nongovernmental organizations and human rights defenders face reprisal for their work. Extremism laws are used to go after opposition activists and nontraditional religious groups. Anti-Semitism, racism and discrimination continue to result in hate crimes. Roma, Europe's largest ethnic minority, continue to face discrimination in education, employment, and housing. I support ODIHR's work to address these issues.

The OSCE itself also faces challenges. This year marks the 10th anniversary of the Roma Action Plan and the OSCE's first conference on racism, xenophobia and discrimination. 2014 will mark not only the 10th anniversary of the OSCE Tolerance Unit but also the adoption of the seminal Berlin declaration on combating anti-Semitism. And I was very proud to be part of that U.S. delegation to the Berlin meetings that resulted in that declaration.

However, even as we commemorate and approach these anniversaries, OSCE's efforts to address these issues face political problems. For two years in a row, Russia has blocked all human-dimension decisions by the OSCE Ministerial Council, including a proposal at the Dublin Ministerial last December which would have strengthened the OSCE tolerance efforts. Agreement to hold a high-level tolerance conference taking place today in Albania came only at the last minute and significantly diminishing its impact.

I'd like to take this opportunity to applaud ODIHR's 2011 Roundtable, 2012's hate crimes training and other outreach efforts to the seven (million) to 10 million people of African descent in Europe, who have been especially targeted by hate groups in addition to challenges experienced by North American African-descent population. African-descent civil society is still in great need of additional capacity-building, and I hope ODIHR can build on these efforts.

I would also like to see ODIHR strengthen its work on gender issues and assisting participating states with promoting equality of opportunity between women and men. In this regard, I would like to acknowledge the presence in our audience today of the OSCE

chair-in-office, Special Representative on Gender Issues June Zeitlin, and thank her for her work in this regard.

Ambassador Lenarcic, I understand you are working with the State Department to arrange a visit to the detention facility at Guantanamo Bay in preparation for the possible monitoring of any illegal proceedings related to it. I myself have visited Guantanamo and I support you doing so as well as ODIHR's involved in monitoring the situation there. I believe the United States policy concerning the remaining detainees should be transparent and in accordance with acceptable standards. I look forward to your thoughts on how these and other human rights efforts can be advanced by the OSCE.

I first got to know Ambassador Lenarcic when he chaired the OSCE Permanent Council in Vienna during Slovenia's 2005 chairmanship in office. After his Vienna assignment, he was appointed Slovenia's state secretary for European affairs in 2006. He also served as a diplomatic adviser in the Office of the Prime Minister and in the permanent mission to the United Nations in New York. Ambassador Lenarcic was appointed director of the Office of Democratic Institutions and Human Rights in July of 2008.

Welcome. We look forward to your testimony.

**AMBASSADOR JANEZ LENARCIC, OFFICE OF DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS DIRECTOR, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE**

Mr. LENARCIC. Thank you very much, Mr. Chairman.

Ladies and gentlemen, I would like first to express my gratitude to you for this opportunity. I'm very pleased and honored to be able, again, to testify before this commission. I'm very much grateful for the consistent support that this commission and the United States have extended to our office and its activities.

I think that this meeting today is also an opportunity to look at the five years that have passed since I appeared here for the first time back in September 2008, as well as to look ahead—but not too far ahead because, as you know, I'm entering my last year in this office.

Before I continue, in the interest of saving time for discussion, I would request, or suggest that my prepared statement be put into the record.

Mr. CARDIN. Without objection, your entire statement will be put in the record.

Mr. LENARCIC. Thank you, sir. And I would limit then my introduction to a few highlights.

First, if we look back to all these years, there were many significant developments and challenges throughout the OSCE area and around it. And these developments, unfortunately, have led recently to what appears to be a mismatch between the decreasing ability of decision-making bodies of the OSCE to adopt timely and substantive and relevant decisions. And you mentioned that, Mr. Chairman, in your introduction. And this is, on the other hand—on the other hand, we have other parts of the organization, the same organizations, that are responsible for implementing those decisions and are able more or less to do their work. I'm talking about secretariat institutions, field offices and others.

One of the major factors that impacted the OSCE in these years was undoubtedly the financial crisis that hit just after I appeared before you five years ago. And this, obviously, has resulted in restriction of resources, of available resources, but not only that. Some of the participating states have had to economize and they did so by prioritizing immediate firefighting, I would call it, over long-term fire prevention and protection. And that happened also within the OSCE human dimension. The available resources have shrunk while the challenges have increased.

Others, meanwhile, whether affected by that same economic crisis or not, have continued to prioritize stability over human rights standards and system continuity over systemic reforms. I think we have seen a situation developed in OSCE, where some of the willing have become less able, while some of the increasingly able have become less willing. And the result is that we have now individual appetites for questioning existing commitments sometimes stronger than the common desire to further strengthen them. And this is also visible in what you noted in your introduction, Mr. Chairman: the absence of meaningful human dimension decisions taken by the ministerial council over the last couple of years.

But there is also the other part of the OSCE: overseeing of the institution's field operations and secretariat, and including, of course, of the parliamentary assembly, which are trying to assist and support participating states. And a lot has been over two and more decades in turning commitments into practice and offering best practices that—for the participating states and other regions and organizations to learn from them.

This part of the OSCE is the one that helped develop democratic institutions in the war-torn region of the Balkans. This is the OSCE that has pioneered the development of standards, methodologies and expertise in many fields. And this is also the part of the OSCE whose accomplishments are little known, simply because effective prevention of conflicts draws less attention than the conflicts themselves.

In short, I do see, after all these years, OSCE as a—to use the language of enterprise—a profitable and well-functioning enterprise based on sound principles but with an increasingly paralyzed boardroom. The main problem is not so much that the discussions in that board room, which is the permanent council, on meeting protocols and possibly new products that these discussions require increasing amounts of both energy and time. The main problem is that this paralysis in our boardroom, combined with the ongoing budgetary squeeze, result in slowing down our assembly line, the assembly line which produced well-tested and quality OSCE products.

Let me now go through some of these products. And I will try to focus only on a few of the highlights here. First, human rights defenders. Our office continues to work closely with civil society and nongovernmental organizations in order to ensure that their voice is heard in the OSCE and that they can play their fundamental role in human rights protection. We try to ensure that they can operate in an enabling environment, free from reprisals, harassment, and intimidation.



Unfortunately, in many countries, we have witnessed in the past few years that there is deterioration of the situation of human rights defenders. We have seen disturbing developments where the environment for human rights defenders to operate freely has become much more restricted. That's why the meeting of the civil society organizations on the margins of the Dublin Ministerial last December made a strong call by producing a Declaration on Human Rights Defenders. We will heed that call. And we launched a project aimed at producing recommendations to participating states how to protect human rights defenders, which is an old obligation of the OSCE-participating states codified, if I may say so, already in Budapest in 1994. We will mark the 20th anniversary of the Budapest document next year. And, in our view, this is a good opportunity to recall this obligation—common obligation of OSCE participating states to protect human rights defenders.

In the area of rule of law, I would like to highlight our trial monitoring activities. Trial monitoring can be an important way to promote transparency in the administration of justice and full adherence to fair trial standards. Since 2008, we have conducted large trial monitoring projects in Armenia after 2008 presidential elections, in Belarus in the aftermath of the 2010 elections, and currently in Georgia, where we monitor criminal proceedings against former senior officials of the previous government; proceedings that were initiated after the 2012 parliamentary elections there.

Of course, I wish to thank the United States for its continuous financial and political support to these projects, which would not be possible if we had to rely solely on our regular budgets.

You mentioned, Mr. Chairman, the anti-trafficking, where OSCE has pioneered standards and commitments. I could tell you that over all these years, in close cooperation with the special coordinator of OSCE on trafficking on human beings, Mrs. Giammarinaro, we have been developing and promoting a human rights-based approach in combating trafficking.

ODIHR was one of the first international bodies to raise the issue of trafficking for not only sexual, but also labor exploitation by advocating for a diversified approach to the identification of victims and assistance to trafficked persons. We also specialized in establishment of compensation funds and we advocated the access of victims to compensation for the losses that they have suffered.

Gender—and I share your pleasure with seeing Ms. Zeitlin here—gender has remained one of our most important activities over all these years. Our office has attempted to mainstream the gender aspects into all—all—of its programmatic activities.

Let me just illustrate this by our election related activities, where all observation and assessment activities take into account the gender aspect of elections. And we have also been active in promoting women's political participation throughout the OSCE and beyond, notably in the Mediterranean partner countries. We have developed a plethora of tools in support to OSCE-participating states and the field operations, for instance, the base line study gender equality in elected office six-step action plan. So it implies that if there is political will, six steps would do and improve the participation of women in political and public life.

Freedom of peaceful assembly and association is one of those freedoms that have come under increasing strain in the OSCE since 2008. In some participating states, the space for free expression of these fundamental rights is shrinking as a result of restrictive legislation and practices, including increased scrutiny and monitoring of civil society activity through, for instance, deployment of tax, labor and other inspections.

Another troubling development is the tendency to brand legitimate exercises of freedom of peaceful assembly and association as the activity done by so-called extremists or foreign agents. We are launching now a joint activity with the Council of Europe's Venice Commission to develop guidelines on freedom of association. These guidelines will be designed to assist the participating states in implementing their important commitments in this area and will complement the existing joint guidelines on freedom of peaceful assembly that we produced recently also together with the Venice Commission.

Mr. Chairman, you mentioned Roma and Sinti issues. Indeed, the OSCE action plan on improvement of the situation of Roma and Sinti, which was adopted in 2003, was a landmark document. It was a pioneering document, but it remains not implemented. This was the case in 2008 when I already reported to you about our preparation of status report after five years since the adoption of the Roma and Sinti action plan.

We are now preparing a second status report at the 10th anniversary of the adoption of the action plan. I can already tell you that preliminary reading of the background data that we have collected for this second status report indicates that Roma and Sinti overall remain discriminated against, remain vulnerable, and that sizeable communities live—continue to live in abject poverty and on the margins of societies. And that all this is happening also in countries that otherwise (are known ?) as well-developed ones.

On hate crimes, you are aware of our annual report, which clearly shows that more needs to be done to develop the capacity to effectively address such crimes. In many instances, law enforcement agencies and officers lack the required knowledge and skills to recognize hate crimes as such and also to offer effective and adequate victim protection.

And for these reasons, victims are often reluctant to report hate crimes and that results in underreporting of this phenomena. We are developing a number of tools and activities to assist participating states to improve their performance in this area, notably by our program on training against hate crimes for law enforcement. This is a success story I can say. To date, this—through this program, we have trained more than 70,000 police officers in Bulgaria, Croatia, Poland, and with the support of the OSCE mission in Kosovo, also in Pristina. We are planning to continue this work this year and next in Albania, Italy, where I will sign the memorandum next year, Montenegro and Ukraine.

Combating hate crimes is only one of our ongoing activities in the field of promoting tolerance and nondiscrimination, which are much wider. We have a variety of tools and activities in this area, in the areas of combating anti-Semitism, combating discrimination against Muslims as well as of Christians and members of other re-

ligions. We work closely together with the special representative—personal representatives of the chairperson in office, including Andy Baker, in this field. Next month, for instance, we will help organize jointly a conference in Berlin on the security of Jewish communities.

With regard to freedom of religion or belief, you probably are aware of the fact that we have overhauled the institutional structure at our disposal; there is a new panel of experts on freedom of religion or belief that has been established recently. It has 12 notable personalities serving in it and we believe that it will allow us to improve our capacity to assist participating states in meeting their obligations in the area of freedom of religion or belief so that everyone will be able to exercise this freedom in whatever way they wish to do it, when and where they wish to do it.

It is now more than two years since the events unfolded that became commonly referred to as the Arab Spring. I can report to you that our office has been actively promoting closer cooperation between the OSCE and its Mediterranean partners of cooperation. We have come particularly far with our cooperation and support to the efforts by Tunisia in many fields, but we also are pursuing expansion of this cooperation with others.

Mr. Chairman, of course, we have to—I have to also mention one of the major activities of our office, which is election observation. We have deployed many election observation missions over these years. We have cooperated in most cases well with the parliamentary assembly of the OSCE and other parliamentary partners.

I would single out the observation missions in the Russian Federation in December 2011 and March 2012. Why? Because you will recall that five years earlier, it was not possible for our office to monitor elections there due to the restrictions imposed at that time. So there was a challenge how to overcome that legacy. And I think that challenge was met. It was not easy. It was not easy to overcome the mistrust and suspicion, but I think we were able to do that and we were able to produce together with—on both cases, with OSCE Parliamentary Assembly and other parliamentary partners two reports—two assessments of those elections. And I am confident about the value of those reports. There are many other election observation activities that are ongoing and I do hope that there will be a good cooperation between our office and parliamentary assembly, maybe a word about it a little later.

Before I go there, just one more thing. Election observation is not an end in itself. We see it as only a stage in the longer process, a process which should include the follow-up to recommendations that are usually contained in our final reports. I'm pleased to note that that is a growing number of participating states that do engaged in earnest in follow-up activities. And this group includes the United States. As we speak, this week, the follow-up visit is underway in order to present and discuss our final report from the last November elections and to discuss its recommendations. I'm particularly pleased the U.S. is engaging in this activity in earnest because I think it's important for the OSCE that the U.S. is able to show an example to others also in this area.

A word about the cooperation with the OSCE Parliamentary Assembly. I would like to emphasize here before you that we are fully

committed to cooperation with our parliamentary assembly on the basis of the '97 cooperation agreement as endorsed by the ministerial council decision. That ministerial council decision talks about election observation as a common endeavor of our two institutions, ODIHR and OSCE Parliamentary Assembly, and other parliamentary bodies as appropriate. And it calls for partnership. And we are committed to this.

I think that the previous president of the parliamentary assembly, Petros Efthymiou, put it very well when he said that OSCE Parliamentary Assembly and ODIHR have complementary roles to play. I fully agree with it and also have to know that during his presidency of parliamentary assembly, our cooperation was generally good.

I would like to move towards conclusions, sir, with importance of the United States leadership in the promotion of human rights, freedoms, rule of law and democracy, importance which was clearly demonstrated over the past century and also in the framework of the OSCE.

But as for any leadership, it is most effective when it is done by example. In January 2012, on the 10th anniversary of the transfer of the first detainees to the U.S. naval base in Guantanamo Bay, we—it was with regret and dismay that we had to issue a press release stressing that universal human rights standards require that also detention of terrorist suspects should be accompanied by concrete charges and that the persons detained under these charges shall be immediately informed of them and brought before a competent judicial authority. We also called for a swift closure of Guantanamo of—we called for prosecution of the remaining detainees in accordance with international fair trial standards or for their release.

And, most recently, President Obama echoed what international human rights and democracy activists have been saying for years—that Guantanamo, I quote, “hurts the United States in terms of its international standing,” end of quote, and that the facility, quote, “likely created more terrorists around the world than it ever detained,” end of quote.

The United States has traditionally aspired to play a role as both a leader and example for others. If it wishes to do so, it must move, I believe, without delay towards closing of the Guantanamo detention center.

In conclusion, Mr. Chairman, I would like to thank you once more for your kind invitation. I would like to thank you and the commission and the United States for its staunch, consistent support for our activities. I very much look forward to our discussion and also to our continued cooperation for the remainder of my term in this office. Thank you.

Mr. CARDIN. Mr. Ambassador, thank you for that very comprehensive overview of the work under your portfolio. It certainly is a very ambitious agenda from the point of view of the challenges that we have within the OSCE region.

I also appreciate you started with the—some of the procedural challenges that we have. I think the OSCE has been one of the most successful consensus organizations in modern history, but a consensus organization requires the cooperation of all the partici-

pating states with a common objective, and a willingness to sit down and listen as well as to voice concerns, and to recognize that there are principles that we all need to improve upon. And by the work of the OSCE, each of our states can become stronger in all three baskets. And I think that's the hallmark here.

I also thank you for bringing up the election monitoring. We think that's one of the basic responsibilities that we have. And I think we all are somewhat feeling better today because of renewed commitments between the parliamentary assembly and ODIHR to work out its issues. And, as I understand it, the most recent observation teams have worked and it looks like we're back on track on the observation issues.

I am concerned about some suggestions being made by participating states that they want more of the election monitoring decision-making done by consensus rather than done in a professional manner between ODIHR, and the chair in office, and the parliamentary assembly.

Can you just share with us—you know, we want to make progress on the process issues. We certainly don't want to back-track. Can you just fill us in as to whether we're going to be able to move forward in a similar manner, as we have in the past, in election monitoring?

Mr. LENARCIC. Now? Thank you, sir. I think your concern is very well justified. I think that the attempts to place a greater share of the ODIHR's or any other OSCE institution's activities under the consensus-based decision-making of the permanent council can only result in hampering the activities of the institutions. I think that such attempts must be resisted.

It was for a reason that OSCE decided to establish distinct institutions and give them their mandates. It is necessary to allow these institutions—and I think I'm talking about all three of them, all three of these institutions established by the ministerial council, to be able to deliver on their mandate without undo—without undo hindrance.

There are attempts, as you said, that important parts of ODIHR's activities, including in election observation, would be placed under this decision-making authority of the permanent council. For instance, that—let's say, preliminary statement should first be discussed and agreed in the permanent council. I think that such arrangement would inevitably result in the absence of any meaningful assessments of election processes. Clearly, if every state has a veto, they would prevent anything that would reflect negatively. It would, in other words, spell the end of professional, independent and impartial election observation. It would mean the end of election observation as a professional activity which is devoid of the politics between—playing out between the participating states.

Mr. CARDIN. I agree with you completely and that's a matter that I can tell you this commission will be watching very closely. I've had discussions with our mission in Vienna on this issue. And we will continue to push very hard to continue the professional manner in which the election activities have been taking place within OSCE.

You mentioned the human rights defenders and protecting human rights defenders, which is something that is a very high priority to us. I'd like to put into that a recent concern that's been brought to our attention about NGOs and NGOs' participation in OSCE activities and proposals made by Belarus and Russia that would cause the vetting process to deny active participation by many of the NGO organizations.

Can you just bring us up to date on this issue as to whether we are—how well NGOs are able to operate within the OSCE framework and within OSCE countries? And what does the trend line here look like?

Mr. LENARCIC. Thank you, sir. I think that the—one of the unique features and advantages of the OSCE is precisely the format of its human dimension events. I think the OSCE is the only international organization which holds its human dimension, human rights events in the format which is completely open to nongovernmental organizations, to civil society representatives; but not only open, it places them. It gives them place at the table and they can take the floor and confront participating states with their views and suggestion.

Clearly, this can often be uncomfortable for some participating states. It's never comfortable when government policies are criticized, especially in front of others, but that's what actually OSCE is all about. OSCE is about peer pressure. OSCE is about peer review. And the civil society organizations and nongovernmental organizations have a crucial role to play. And this role was most recently reaffirmed or acknowledged again at the highest level at the Astana summit, where the leaders of OSCE participating states acknowledge the role of civil society organizations in helping them meet their OSCE commitments.

So I think it is of utmost importance to preserve the access of nongovernmental organizations to OSCE conferences, to human dimension meetings. It is, therefore, of utmost importance to not allow attempts to exclude this or that civil society representative upon request of an individual state. There are—there is one exception, according to OSCE rules. It is defined in the Helsinki document from 1992, which stipulates that all NGOs will be able to participate in OSCE human dimension events, except for those organizations and individuals that advocate violence or justify terrorism. So this is the only exception. I think that this arrangement is adequate.

There are ongoing complaints—ongoing complaints almost every year about certain individual organizations appearing, appearing before—appearing at the human dimension event. But those complaints usually—I would say, are an issue between two or more participating states, because state A claims this person should not be seated at the OSCE conference table because according to a court decision in our country, that person was convicted of terrorist activities. But that same person lives and works in another participating state which obviously disagrees with that court judgment.

So this is an issue that in my view should be solved between the countries concerned and not—not—at the conference itself. Certainly, we at ODIHR do not see our role—our role as policing the human dimension events. We see our role as opening the door to

all those who wish to attend and participate. And we don't see our role as identifying those who are not supposed to attend and throw them out.

Mr. CARDIN. I would just underscore the point that you made. I understand the exception that's there on participation, but I would argue that's not for an individual state's determination, even if the event is in that individual state. It has got to be a broader acceptance that the organization is disqualified rather than it being suspicious that an NGO is being denied participation because the host country doesn't particularly like what they stand for rather than being disqualified for the reasons that you mentioned. So I think we have to be pretty aggressive in protecting the participation, which is what we believe in as an organization.

I want to move to the issue that you mentioned, which I think is very, very important: trial monitoring. In more and more countries, we're finding that countries that have transitioned into free and fair elections and to democracy, after an election is over are using every tool at their disposal to crush their opposition, their new opposition, including using the trial process in imprisoning the opposition, denying them full rights to participate in the government in order to try to maintain the power of their new—their new election. The election may have been free and fair, but as a result of the elections they're taking steps that are really questionable as to the rights of opposition.

You've mentioned a couple of points in your opening comments about monitoring trials that could very well be political in nature. And you also mentioned the opportunity, freedom of expression, and the ability to effectively oppose the government in power. It seems to me that we have some countries that have—that we thought were pretty far along the way that require some attention today that may resist that. How can we effectively put a spotlight on those concerns and try to improve the conduct in these countries?

Mr. LENARCIC. Thank you. There are two firm commitments made by OSCE-participating states to invite international observers. One widely known is to invite international monitors for elections. Another one, which is less known, is commitment to invite international observers to monitor trials. It is as unequivocal as the first one. And we tried to use that. We tried to use it in—on occasions, when there are—when there are concerns with regard to the motivation for the trials, with regard to the fairness of the trials, or with regard to the—to the circumstances that result in the—in the trials.

In all the three cases that I mentioned, Armenia, 2008; Belarus, 2010; and, most recently, Georgia, we use these arguments—this unequivocal commitment combined with the concerns that were due to circumstances in order to advocate this kind of exercise.

Mr. CARDIN. Let me interrupt you just for one moment. I was aware that we had the right to monitor trials. It seems to me we're better off if we never have a trial in some of these cases and that is there any way that we can work with countries to say, don't just try to find a criminal statute or invent a criminal statute so the person you beat ends up in jail, but to really look at the type of country you want to live in and understand that elections have con-

sequences. You won, but you're—you won because of a free and fair election. It's your responsibility to maintain that. Understand that once the indictments are there, you have the opportunity to monitor how the trial itself takes place. It seems to me we want to prevent the intimidation factor to start off with.

Mr. LENARCIC. That's a strong point that you made, sir, but I don't think that we are in a position to prevent trials if prosecutors, you know, go ahead and trials start, but we can monitor them. And we can—and the purpose of monitoring is to ascertain to what extent the defendant was afforded fair trial guarantees. And those fair trial guarantees are quite unequivocal and are contained in a number of OSCE commitments. So there is a solid basis for our work in monitoring the trials.

And there is also key added value in such monitoring. Every monitoring exercise results in a comprehensive report, which, if it identifies significant shortcomings, it also contains specific, concrete recommendations for the country to undertake in order—what measures to take in order to improve its judiciary, the functioning of a judiciary, its independence, as well as to strengthen the fair trial guarantees.

I can tell you that the Armenian authorities worked with us seriously and engaged with us intensively on the basis of our report from the trial monitoring in that country. We're still waiting for Belarus to work with us on recommendations from our trial monitoring report in their case. I am optimistic with regard to the readiness of Georgia and its authorities to work with us on recommendations that will be part of our final report when we issue it.

Mr. CARDIN. Let me move on I guess beyond than just monitoring. We had the chair in office here not too long ago when we brought up the Ukraine situation, where the former leader was—is now in prison, and how the European institution has found that that was a political action. Do you coordinate some of the work that you do with the appropriate institutions within Europe that are monitoring some of these activities?

Mr. LENARCIC. In the case that you mentioned, the case of former Ukraine prime minister is the European Court of Human Rights that has been seized with the matter and we—of course, that court is completely independent and autonomous. We do, on the other hand, cooperate closely with another institution of the Council of Europe, the so-called Venice Commission, on a number of issues related to human rights, rule of law, independence of judiciary. We produce joint legal opinions about relevant pieces of legislation so there is good cooperation with the Council of Europe.

Mr. CARDIN. Let me—I don't want your comments on Guantanamo Bay to go without a response. And my response is pretty brief. I agree with you, everything you said, without equivocation.

I would add one additional point, and that is—in every one of our country—every one of our states, we're struggling with budget problems. And the cost of Guantanamo Bay is astronomical. When you look at the comparable cost of bringing the detainees to trial and housing them in a more mainstream penal facility, the cost would be a fraction of what it's costing the U.S. taxpayers today in Guantanamo Bay.



Now, that's not the reason to close Guantanamo Bay. That's not the reason to do everything you just said, but it's another factor that I think needs to be understood. So I hope that you will be aggressive in this and I can assure that there are members of Congress that will be working on this issue with you and members of our commission.

I want to get your thoughts on how we go to the next level. It's been a decade since the tolerance agenda really was in full stride. You mentioned the document for the Roma population, and what was done, and tremendous commitments made. And I agree with you, not enough progress has been made. I think we've made significant progress on tolerance and very proud of what we've been able to accomplish in sharing of best practices.

On gender issues, there are still significant problems in our region. We've got to get beyond just the ability to run for office, but also deal with the family issues and have to deal with the economic issues on gender.

What strategies would you recommend that we employ, those of us who are interested in keeping the tolerance agendas and the equity agendas aggressive, to take it to the next level, recognizing it's now been a decade that we've followed this strategy?

Mr. LENARCIC. From what we have experienced, the areas where things could definitely be lifted to a higher level are at least two.

One is our training programs, like the one that I mentioned, training against hate crimes for law enforcement. This is important because if hate crimes are not recognized as such, then nobody sees it as a problem from the perspective of tolerance and non-discrimination. And hate crimes can be described as the extreme form—extreme manifestation of intolerance and discrimination. In that area, what really would be needed would be better collection of data by all participating states. This is a perpetual problem that we are encountering when we collect information that serves as a basis for our annual report.

We see that some states don't even collect data. Some collect only part of the data necessary. This data collection and statistics, these are important things because you don't have that, you don't have the understanding of the dimension of the problem. So this is one thing where we are trying to foster greater efforts by the participating states to systematically collect data, to analyze data, to convey that data to us so that we can—we can get the picture of what the dimensions of the problems really are.

If somebody asked me today is the—are the incidents of hate crimes on the rise or not, I couldn't give you an answer. If you look at our annual report, you will see some participating states with a high number of hate crime incidents. But that is—does it mean that those crimes are more common in that country? Not necessarily. More likely it is due to the fact that that country is collecting its data more successfully and systematically.

So there are—these efforts should be upgraded, but on a strategic level I think that tolerance and nondiscrimination issues, including issues connected to with Roma, would need to be—would need to continue to be kept on the agenda. Sometimes, one has the—one has the impression that there is no more attention paid to these issues. And this comes at a particularly unfortunate time.

It is obvious that the current difficulties that many countries are dealing with due to economic and financial situation the result—do result in scapegoating members of minority, migrants, Roma and others. So we do see the increase in that context of the manifestations of discrimination and intolerance. So we should keep this item very high. And also this conference that is taking place in Tirana this week is I think a welcome step in this direction.

Mr. CARDIN. I agree. I think information is critically important. Statistics are important. I think you will find that there are states that are doing this the right way. The United States, I think our statistical information on hate crimes is pretty sophisticated. And it can be very informative as to where we need to put our priorities.

I think there are other participating states that have equally strong statistical information. Some states don't. And that's where best practices can help and that's where I think the special representatives can help in trying to promote the practices in states, at a minimum, to get the information so we can evaluate.

I can assure you the commission wants to work with you in how we can strategize to continue to keep a focus on these areas. The plight of the Roma is a high priority of our commission and it will remain a high priority. Dealing with the problems of anti-Semitism, anti-Muslim activities and anti-Christian activities are going to be front and center for this commission. And gender equality issues are going to be matters that we're going to spend a lot of time to make sure that we'll move forward on. So these are issues that we have promoted in the past, special conferences. We have promoted agendas at the ministerial meetings and strategies.

What I would urge is that we come together and try to figure out the right strategy to advance these issues moving forward, recognizing the procedural hurdles that have been more difficult in recent years and also recognizing the competing areas. You laid out a very comprehensive report and where there are so many different areas. And the resources—and I don't mean just financial resources, just the resources have to be used in a most judicious way in order to set priorities so we can make progress in each of these areas.

I can assure you that this commission will strongly support your work. And we look forward to your recommendations and advice as to how not only our commission, but also the United States Congress and the administration can weigh in to help advance the objectives of the human dimension within OSCE. We value very much your recommendations and we want to make sure that you have the tools in order to carry out your responsibilities. And we will continue to fight from a procedural point of view to make sure that OSCE can continue to be a functioning institution to advance the human dimension.

Thank you for your public service. Thank you for coming to the United States. We very much appreciate that.

Mr. LENARCIC. Thank you.

Mr. CARDIN. The commission will stand adjourned.

# APPENDIX

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## PREPARED STATEMENTS

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### PREPARED STATEMENT OF HON. BENJAMIN CARDIN, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

I would like to welcome Ambassador Lenarčič back here to the Commission today and thank him for this opportunity to discuss the ongoing work of the OSCE Office for Democratic Institutions and Human Rights.

Since the Helsinki Final Act in 1975, human rights have formed an inseparable and core part of the OSCE's comprehensive concept of security. Agreement was reached back in 1990 to create specialized institutions to assist the participating States in implementing their human dimension commitments, and based on a U.S. proposal, the then Office of Free Elections was established in Warsaw. It later was expanded to encompass human rights under the title it is known by today, the Office for Democratic Institutions and Human Rights (ODIHR). In enhancing the role of the ODIHR, the 1992 Helsinki Summit declared that "the participating States express their strong determination to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote the principles of democracy and, in this regard, to build, strengthen and protect democratic institutions, as well as to promote tolerance throughout society."

I think the international community is well aware that the U.S. Helsinki Commission has made human rights, the human dimension, and the work of ODIHR our top priority. We are proud of the role that we have had in advancing many of the most important human rights issues: from trafficking, where we share best practices to stop this modern form of slavery; to the tolerance agenda, where we are very proud of the role that we have had in improving the capacity of the OSCE through the work of the OSCE Special Representatives and sharing best practices; to transparency initiatives that have put a spotlight on anti-corruption strategies to advance good governance. We have made progress, but nonetheless, we still face significant issues.

While some OSCE countries have successfully transitioned to democracy, others appear to be moving backwards. Several participating States have yet to hold free and fair elections. Freedom of the media is threatened in many OSCE States, where journalists are harassed, attacked, or even killed for their work, and the Internet and other digital media are restricted. Non-governmental organizations and human rights defenders face reprisals for their work. Extremism laws are used to go after opposition activists or non-traditional religious groups. Anti-Semitism, racism, and discrimination continue to result in hate crimes. Roma, Europe's largest ethnic minority, continue to face pernicious discrimination in education, employment, and housing. I support ODIHR's work to address these issues.

The OSCE itself also faces challenges. This year marks the tenth anniversary of the Roma Action Plan and the OSCE's first Conference on Racism, Xenophobia, and Discrimination. 2014 will mark not only the tenth anniversary of the OSCE's Tolerance Unit, but also the adoption of the seminal Berlin Declaration on combating anti-Semitism—where I myself was proud to be part of the U.S. Delegation. However, even as we commemorate and approach these anniversaries, OSCE efforts to address these issues face political problems. For two years in a row, Russia has blocked all human dimension decisions by the OSCE Ministerial Council, including a proposal at the Dublin Ministerial last December which would have strengthened OSCE Tolerance efforts. Agreement to hold the High Level Tolerance Conference taking place today in Tirana, Albania came only at the last minute and significantly diminishing its impact.

I would like to take this opportunity to applaud ODIHR's 2011 roundtable, 2012 hate crimes training, and other outreach efforts to the 7–10 million people of African descent in Europe who have been especially targeted by hate groups, in addition to challenges experienced by the North American African descent population. African descent civil society is still in great need of additional capacity building and I hope that ODIHR can build on these efforts.

I also would like to see ODIHR strengthen its work on gender issues and assisting participating States with promoting equality of opportunity between women and men. In this regard, I would like to acknowledge the presence in our audience today of the OSCE Chairman-in-Office Personal Representative on Gender Issues, June Zeitlin, and thank her for her work in this regard.

Ambassador Lenarčič, I understand you are working with the Department of State to arrange a visit to the detention facility at Guantanamo Bay, in preparation for possible monitoring of any legal proceedings related to it. I myself have visited Guantanamo, and I support your doing so as well as ODIHR involvement in monitoring the situation there. I believe the United States policy concerning the remaining detainees should be transparent and in accordance with acceptable standards.

I look forward to your thoughts on how these and other human rights efforts can be advanced in the OSCE.

PREPARED STATEMENT OF AMBASSADOR JANEZ LENARČIČ, OFFICE OF DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS DIRECTOR, ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE

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Distinguished Commissioners, Ladies and Gentlemen,

Allow me first of all to express my great appreciation for the honour of the invitation to address you again. I remain grateful for the support of this distinguished Commission and of the United States to the activities and the mission of my Office. This is, furthermore, a welcome opportunity to reflect back on the years that have passed since I last testified in 2008, at the very beginning of my tenure as ODIHR Director, and the challenges and opportunities ahead as I am entering the last year of my term.

Over these years, we have witnessed significant developments and challenges throughout the OSCE area and in our closest neighbourhoods. Unfortunately, these developments and challenges may have led to an increased mismatch between the decision-making part of the OSCE, and those bodies in the rest of the organization responsible for implementing those decisions.

When I last appeared before you, many of our participating States were just about to be among the hardest hit by the worst global economic crisis in living memory, and some may still have the worst of it ahead. Five years of austerity have squeezed available resources, and some participating States have had to economize by prioritizing immediate fire-fighting over long-term fire prevention and protection, so to speak, including within the OSCE's human dimension. Others, meanwhile, whether affected by the economic crisis or not, have continued to prioritize stability over human rights standards, and system continuity over systematic democratic reform.

For the OSCE one might argue that the past few years have seen a development of a situation where some of the willing have become increasingly less able, while some of the increasingly able have become less willing. The result has been that individual appetites for questioning existing commitments sometimes seem stronger than the common desire to further strengthen them. The result has also been that the increased mistrust and suspicion in internal OSCE relations that I spoke of during my previous visit, seems further entrenched on some fronts.

But there is also the other part of the OSCE, and this is the OSCE of the institutions, field operations and secretariat, which are mandated and tasked to assist and support the participating States. This is the OSCE that, over the past two decades, has been instrumental in turning commitments into practice, and offer best practices for other regions and organizations to learn from. This is the OSCE that helped develop democratic institutions in the war-torn region of the Balkans, including in the country soon to become the EU's next member-state. This is the OSCE that has pioneered the development of standards, methodologies and expertise in many fields, and has done so for a "bang for the buck" that few if any can match. This is also the OSCE whose many accomplishments are little known simply because effective prevention of conflicts draw less attention. Last but not least, and for the reasons just mentioned, this is the OSCE for which the demand for its services is growing, rather than diminishing.

I therefore see the OSCE largely as a profitable and well-functioning enterprise based on sound principles, but with an increasingly paralysed boardroom. The main problem is not so much that discussions in the boardroom on meeting protocols and possibly new products require increasing amounts of both energy and time. The main problem, and risk, is that, as collateral damage from this process, combined with the ongoing budgetary squeeze, our assembly-line is slowed down or even put on halt, limiting the output and value of well-tested and quality OSCE products requested.

I would now like to turn to some of these products, consistently delivered under the OSCE/ODIHR brand.

Ladies and Gentlemen,

Our Office continues to work closely with human rights defenders. We provide training opportunities for civil society and include NGOs in our activities. This is to ensure that their voice is heard and that they can play, as effectively as possible, their fundamental role in human rights protection. Most importantly, we remain strongly committed in our efforts to ensure that they can operate in an enabling environment, free from reprisals, harassment, and intimidation. Unfortunately, what we have witnessed in the past few years is that much work remains to be done. We have also seen disturbing developments that would indicate that the environment for some human rights defenders to operate freely has become more, not less,

restricted. The meeting of civil society organizations on the margins of the Dublin Ministerial made a strong call by adopting a Declaration on Human Rights Defenders. Our Office is now redoubling its efforts by initiating the development of *OSCE/ODIHR Recommendations on the Protection of Human Rights Defenders*. Our aim is to publish this document in spring 2014 following a fully inclusive process with human rights defenders across the OSCE region. Our hope is that the Recommendations will assist OSCE's 57 participating States to fulfil their commitment to protect human rights defenders and that they will provide a solid basis, for human rights defenders themselves, to campaign for their own rights and those of the citizens and communities they so bravely defend.

In our efforts to promote human rights and the rule of law in the OSCE region as outlined in the Copenhagen document, our Office has developed a methodology for trial monitoring, which is used in our own trial monitoring operations and in our training and capacity-building of civil society. Trial monitoring can be an important way to promote transparency in the administration of justice, and full adherence to fair trial standards. Since 2008, ODIHR has monitored trials in Armenia following the 2008 presidential elections, in Belarus in the aftermath of the 2010 elections and currently in Georgia, where we monitor criminal proceedings against former senior officials of the previous government, initiated following the 2012 parliamentary elections. The ODIHR recommendations from trial monitoring have been widely recognized as providing a key added value in support to OSCE participating States in their efforts to implement OSCE rule of law commitments. ODIHR wishes to thank the United States for its continuous financial and political support to ODIHR in relation to the trial monitoring portfolio, given the complexity and mid-to long-term duration of these activities. In this regard, I would also like to welcome the openness of the United States authorities to host an ODIHR mission to assess the possibility of observing proceedings before the Military Commissions at the Guantanamo Bay Naval Base.

Together with the OSCE Special Co-ordinator on Trafficking in Human Beings, ODIHR has already for many years been at the forefront of the international fight against trafficking in human beings by pioneering, developing and promoting a human rights-based approach in the development of anti-trafficking policies and legislation of OSCE participating states, including National Referral Mechanisms, access to justice and compensation for victims. ODIHR was also one of the first international organizations to raise the issue of trafficking for labour exploitation and trafficking in men, by advocating for a diversified approach to the identification of and assistance to trafficked persons depending on their sex and age, as well as on the type of trafficking. With this aim in mind ODIHR is trying to build the capacity of lawyers, specialized in trafficking cases, advocates the establishment of compensation funds for victims of trafficking, and encourages the OSCE participating States to explore the possibility of filling such funds with confiscated criminal assets from human trafficking cases.

In accordance with the 2004 OSCE Gender Action Plan, ODIHR has a strong mandate in relation to the promotion of women's political participation in the OSCE region and the strengthening of national mechanisms for the promotion and protection of gender equality. ODIHR takes a holistic approach to gender, striving to mainstream gender into all its programmatic activities and applies a strategic approach to women's political empowerment in the form of local capacity building, networking and knowledge sharing among gender advocates and political actors. The aim of increasing awareness among OSCE participating States of the importance of gender equality forms the core of our two main programmes on "Human Rights, Women and Security" and "Increased Participation of Women in Politics". Furthermore, ODIHR's Election Observation Mission Reports are gender mainstreamed, and Gender Analysts form an integral part of EoMs in the OSCE region. Given ODIHR's increased engagement with the OSCE's Mediterranean Partners for Co-operation, ODIHR has also worked on transferring good practices and the experience of the OSCE participating States in promoting women's political participation to the Mediterranean partner countries, in particular to Tunisian counterparts upon request. ODIHR has also developed a plethora of tools in support to OSCE participating States and its Field Operations in the implementation of gender commitments, such as the Baseline Study *"Gender Equality in Elected Office: A Six-Step Action Plan"*, the *"Handbook for National Human Rights Institutions on Women's Rights and Gender Equality"* as well as the upcoming *"Comparative Study on Women structures for MPs in the OSCE Region"* and the *"Handbook for Women in Political Parties"* to be published in 2013.

Freedom of Peaceful Assembly and Association has come under increasing strain in the OSCE region since 2008. In some OSCE participating States, the space for free expression of these fundamental rights is shrinking as a result of restrictive



legislation and practices, including increased scrutiny and monitoring of civil society activity. Another troubling development is the tendency to “brand” legitimate exercises of freedom of peaceful assembly and association as the work of “extremists” or “foreign agents”. ODIHR is now launching a joint activity with the Venice Commission of the Council of Europe to develop guidelines on freedom of association, which will be designed to assist States in implementing their important commitments in this area and to complement our existing Guidelines on Freedom of Peaceful Assembly.

Ladies and Gentlemen,

For nearly two decades now, ODIHR has vigorously raised attention to the plight and challenges of our Roma and Sinti communities, and provided concrete assistance to the OSCE participating States in meeting their Roma and Sinti commitments. In 2008, I reported on the first ODIHR Status Report assessing the participating States’ efforts after five years’ implementation of the landmark 2003 OSCE *Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area*. This year, we are marking the tenth anniversary by preparing the second Status Report for release this fall. The past five years have seen a continued increase in terms of initiatives and programmes, with considerable funds devoted to the improvement of the socio-economic situation of Roma communities. However, and notwithstanding all the resources invested, a preliminary reading of the background data for the second Status Report indicates that Roma and Sinti overall remain vulnerable, with sizeable communities living in abject poverty and on the margins of society (including in many otherwise well-developed countries).

Despite progress made by some participating States to combat hate crimes, much more needs to be done to develop the capacity to effectively address such crimes. In many instances, law enforcement agencies and officers lack the required knowledge and skills to recognize hate crime to be able to offer effective and adequate victim protection. For this reason, victims are often reluctant to report hate crimes to law enforcement agencies with the result that the magnitude of this problem is underreported and the victims are left without justice. To support the efforts of the participating States to address this issue, ODIHR has particularly focused on training of police. Our Training against Hate Crimes for Law Enforcement (TAHACLE) has to date included training of more than 70,000 police officers in Bulgaria, Croatia, Poland, and, with the support of the OSCE Mission in Kosovo, training of police officers in Pristina. In 2013, ODIHR is planning to work in Albania, Italy, Montenegro and Ukraine on this issue.

Combating hate crimes is only one of our ongoing activities in the field of promoting tolerance and non-discrimination. We continue to develop a variety of tools and activities to assist the participating States in combating anti-Semitism, discrimination against Muslims, as well as of Christians and members of other religions. Next month, for instance, we will help organize a conference in Berlin on the security of Jewish communities.

In some parts of the OSCE region, there are significant obstacles to exercising freedom of religion or belief. In some states, for example, communities cannot register and obtain permission to operate due to bureaucratic and restrictive procedures. In 2012, our Office has launched training seminars for government officials and civil society to raise awareness about international standards. We are also developing guidelines on the recognition of religious or belief communities in collaboration with the Council of Europe’s Venice Commission to present examples of good practices in this field. We hope that the recently completed overhaul of the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion or Belief will strengthen our ability to assist participating States in meeting their obligation to ensure that everyone is able to exercise their fundamental freedom to believe what they wish, when they wish and where they wish.

Since my last appearance in 2008, ODIHR has also witnessed the impact of the “Arab Spring” on the OSCE region, and the call for increased engagement by OSCE participating States with its Mediterranean Partners, as outlined in the 2011 Ministerial Council Decision No. 5/11. In response, ODIHR is facilitating the exchange of good practices and experiences between OSCE participating States and the Mediterranean Partners and is providing expert assistance in the fields of election observation, political party regulation, legislation, human rights monitoring and women’s political participation. ODIHR projects promote democratization and increased understanding of the human dimension upon request from Mediterranean Partner countries. ODIHR’s recognized expertise and its co-operation with the Council of Europe’s Venice Commission in reviewing legislation has been seen by OSCE Mediterranean Partners as a valuable contribution to their reform efforts. Some of our key tools, such as the Guidelines on Political Party Regulation, the Guidelines on Freedom of Peaceful Assembly, the Guidelines on Assembly Monitoring and our

hallmark Election Observation Handbooks are increasingly being made available also in Arabic.

Ladies and Gentlemen,

Needless to say, this presentation would not be complete without sharing some recent highlights from what has been a signature activity for more than two decades since the Office was first established as the Office for Free Elections. Over these years, ODIHR has developed a comprehensive methodology for professional, independent and impartial election observation, one that many other major actors, including the EU, have based their own methodology on.

Among the many election observation missions we deployed over recent years, the last parliamentary and presidential elections in the Russian Federation stand out. Their observation was a major undertaking under complex and challenging circumstances. As you will recall, ODIHR was not able to observe those elections in 2007 and 2008, and we had to overcome that legacy. The challenges involved, however, were met, and I am proud of the two final reports that these two missions produced, and confident in the value of the recommendations they contain.

This year, the ODIHR has already deployed election observation activities to ten participating States (Armenia, Bulgaria, the Czech Republic, Iceland, the former Yugoslav Republic of Macedonia, Malta, Monaco, and Montenegro, as well as ongoing Election Observation Missions in Albania and in our newest participating State, Mongolia). We are also looking forward to upcoming elections later this year in Austria, Azerbaijan, Georgia, Germany, Norway, Tajikistan, and Turkmenistan. We continue our efforts to follow electoral developments across the OSCE region and I am pleased to note that the ODIHR has now observed elections in 56 of the 57 OSCE participating States.

It has been said many times that election observation is not an end in itself, but is intended to assist participating States in implementing their election-related OSCE commitments. In the 1999 Charter for European Security, participating States committed themselves “to follow-up promptly ODIHR’s election assessments and recommendations”. To promote more effective follow-up, ODIHR now regularly presents its final reports with findings and recommendations “in country” following each electoral process. Such follow-up visits serve to discuss ODIHR’s election recommendations as well as possible areas of future co-operation and assistance. Most recently, visits have taken place to present final reports in Belarus, Georgia, Montenegro, Spain and Ukraine. This week, we are presenting the final report on the United States elections to a wide range of interlocutors here in DC. Let me at this point thank you, the Helsinki Commission for the support we have received over the years—not only for the activities we undertake in Europe and Asia, but also here in the United States. By inviting ODIHR to present its findings and recommendations in this country, the United States is again demonstrating that it stands behind the commitments it has made and is ready to show an example. We look forward to good co-operation and positive discussions in the week ahead.

Let me also reaffirm that ODIHR relies on the continued co-operation of all participating States in seconding qualified short-term and long-term observers to our missions. As many of you will know, ODIHR was forced to cancel the Limited Election Observation Mission (LEOM) to Italy earlier this year due to a lack of secondment of long-term observers (LTOs) from participating States. The involvement of LTOs permits observation of the administrative preparations for elections, the campaign, adjudication of complaints, and the media and gives all participating States the opportunity to take part in election observation missions, as is part of their common commitment to each other. ODIHR therefore appeals to participating States to review their rules, policies, and practices regarding the secondment of long-term and short-term observers so as to enable election observation throughout the OSCE area, in line with the 2010 Astana Commemorative Declaration that reiterated that “all OSCE principles and commitments, without exception, apply equally to each participating State.”

I would also like to take this opportunity to recognize the valuable contribution of parliamentarians to election observation, and in particular our co-operation with the OSCE Parliamentary Assembly. As I have emphasized before, we are committed to partnership, based on the 1997 co-operation agreement. As the participating States stressed when they endorsed the 1997 agreement, in Ministerial Council Decision 19/06, election observation is a common endeavour involving ODIHR, the OSCE PA and other parliamentary bodies. I can assure you all that ODIHR remains committed to work in this spirit of co-operation and partnership. I also fully agree with the view, often voiced by the previous President of the OSCE PA, Petros Efthymiou, that the PA and ODIHR have complementary roles to play. And I note that under his presidency of the PA our co-operation was generally good and smooth.

Ladies and Gentlemen,

I started this presentation by reflecting on some of the main developments and challenges we have witnessed since my last hearing here, and on the work of my Office and the OSCE as a whole in addressing those and future ones. When I took up my tenure, my point of departure was that the Helsinki Final Act, in its spirit and its letter, and the commitments undertaken in Copenhagen, Paris, Moscow and elsewhere, established that the protection of human rights is the first responsibility of government, and that the only system of government is one that is transparent, democratic and accountable. I also stressed that every democracy is “condemned” to forever being “work in progress”; I highlighted the uniqueness of the OSCE as a platform for peer-review; and the ability and value of its institutions and missions to be of assistance and support when asked by some or tasked by all.

Some of those most directly involved with and frustrated over the recent inability of the decision-making machinery in Vienna to produce timely budgets, agendas for events or human dimension decisions, may question whether the OSCE has lost its relevance. As the Director of the OSCE’s principal institution in the human dimension, I certainly understand, share and feel this frustration.

After five years as ODIHR Director, I nevertheless remain fully convinced that neither is the OSCE broken, nor has it lost its relevance. On the contrary, its principles, values and achievements remain as relevant as ever. And so does its potential. I am equally convinced that by employing the same determined leadership and formula that produced the Helsinki Final Act in the midst of the Cold War, the current mistrust and suspicions can also be overcome, for the same mutual benefit of all participating States, based on high standards, and not double-standards.

Nobody could deny the importance of United States leadership in the promotion of human rights, freedoms, the rule of law and democracy over the past century, not least within the framework of the OSCE. But as for all leadership, it is the most effective when done by example.

In January 2012, on the tenth anniversary of the transfer of the first detainees to the US naval base in Guantánamo Bay, it was with both regret and dismay I had to stress that *universal human rights standards require that the detention of terrorist suspects shall be accompanied by concrete charges and the persons detained under these charges shall be immediately informed of them and brought before a competent judicial authority*. I also called for a swift closure of Guantánamo, prompt prosecution of the remaining detainees in accordance with international fair trial standards, or their release.

Recently, President Obama echoed what international human rights and democracy movements and organizations have been saying for years, that Guantánamo “hurts the United States in terms of its international standing” and that the facility “likely created more terrorists around the world than it ever detained”. The United States has traditionally aspired to play a role as both a leader and example for others; if it wishes to do so, it must move, without further delay, towards closing of the Guantánamo detention centre.

In conclusion, I would like to thank you once more for your kind invitation to address you here today; I look forward to our discussion and our continued co-operation for the remainder of my term in Office.

Thank you for your kind attention.

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