

# Remarks by Ambassador Janez Lenarčič

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## Hearing at the Commission on Security and Cooperation in Europe (U.S. Helsinki Commission)

Washington, D.C., 17 September 2008

Mess. Co-Chairmen,  
Distinguished Commissioners,  
Ladies and Gentlemen,

It is a true honour to be invited to participate in this hearing so early in my tenure as the Director of the ODIHR, and in a year in which we celebrate the 60<sup>th</sup> anniversary of a document which was truly standard-setting with respect to upholding human rights on a global scale, the Universal Declaration of Human Rights. Let me also say at the outset that the support of your unique Commission and that of the U.S. government has been, and remains, essential to our work.

Prior to our discussion, I would like to make a few remarks about what I believe to be the place of the OSCE in the global security architecture and more specifically the position of our Office, the ODIHR, in it. Second, I would like to give you a few examples how our Office contributes to strengthening the Helsinki spirit upon which this Commission was founded. And in a third step, I would also like to expand upon the notion of democracy promotion within the OSCE context, some of its successes, and some of the challenges it faces.

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At the 1990 Summit in Paris, heads of state and government from across the CSCE region declared that “the era of confrontation and division of Europe has ended”, and heralded a “new era of democracy, peace and unity in Europe.” Today, less than two decades later, it turns out that the optimism shown in Paris may have been premature. The enthusiasm of the early 1990s has given way in the capitals of the region to a more sober view of Europe’s post-Cold War realities. New divisions seem to have appeared in recent years. Confrontation appears to have made a comeback in the meeting rooms where the debates about Europe’s security challenges take place.

Not surprisingly, the OSCE, as the only platform where all states of this vast region discuss security issues on an equal footing, has become one of the main stages where these new divisions are being played out. As a result, a certain measure of mistrust and suspicion has characterized relations within the OSCE in recent years. This has also affected the work of our office, the ODIHR.

I want to be very clear: I am convinced that the OSCE can continue to play a crucial role in achieving the goals we have set ourselves in Paris and at other OSCE summits and meetings over the past two decades. The OSCE has a number of unique features that should make it our organization of choice for tackling some of the key security challenges of our time. The OSCE remains the only regional security organization that brings together all states on the basis of equality and, if activated by its members, can react flexibly to new threats and challenges, including those that we have seen in the very recent past. No-where is this more significant than in the current discussions around the future activities of an enlarged group of monitors in Georgia and the role of the organisation in a peaceful settlement concerning Abkhazia and South Ossetia.

It is also clear that the promise of democracy, peace and unity enshrined in the Paris Charter remains very much alive among the peoples of our region. We experience this every day in our work in the field, in countries across the entire region. It is this promise, and the expectations of the people of this region, that must guide us as we – individually and collectively within the OSCE framework – design our responses to the challenges we face.

It is therefore my unwavering conviction that if we want this Organization to prosper and develop in the 21<sup>st</sup> century, and if we want the ODIHR to continue to fulfil its mandate in an effective manner, we need to rebuild trust and overcome suspicion. One way of doing this is to start dropping the labels and adjust our idioms. It is disappointing that we still refer to “East” and “West”, or, as is practice in the OSCE, “east of Vienna” and “west of Vienna”.

While such language of division was at the heart of the Cold War confrontation, it has lost its function in today's reality. We should have, once and for all, overcome the decades of ideological confrontation and these designations should have become devoid of meaning. Invoking a line dividing the "East" from the "West" of Vienna two decades after the fall of the Berlin Wall sounds strangely stale and wooden. Perhaps it is also time to adjust our idioms and to re-think, within the OSCE framework, our references to "longer established democracies" and what we have come to call "new" or "transitional democracies".

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Ladies and Gentlemen,

The OSCE's approach to promoting democracy has never been a one-way street. The OSCE is not about one-direction value transfer or imposition. The Helsinki process, we will recall, was inspired by what a former West-German Minister, Egon Bahr, coined *Wandel durch Annäherung* – "change through rapprochement". Striving for a convergence of positions through dialogue and exchange, sometimes in incremental steps but nevertheless in an ongoing process, has always been the approach chosen by this organization.

It is this approach that has allowed us over the past decade to bring human rights to the field and to deliver concrete results. By way of example, let me elaborate on a sample of six activities our Office has been undertaking this year:

1. Our Office cares about the fate of human rights defenders. It monitors and reports on the situation of those who derive their mission from the Helsinki movements of the late 1970s and 80s. Over the past years, we have seen serious violations of the rights of human rights defenders -- ranging from the subtlest of means to the most violent of methods. Our Office will publish the second report on the situation of defenders by the end of this year, which will not fail to point out challenges and obstacles, but will also contain a number of good

practices detailing how to respect, protect, engage with and facilitate the work of defenders, in line with the commitments States made in Budapest 1994.

2. After the tragic events in Yerevan in March this year, the ODIHR, together with the Council of Europe's Venice Commission, engaged in discussions with the Armenian authorities on the amendments that were hurriedly made to the Law on Meetings and Demonstrations. The ODIHR was able to convince the Armenian authorities that these amendments were not in line with international standards and encouraged changes that would provide for a more enabling environment for holding rallies and assemblies. The *Guidelines on Freedom of Peaceful Assembly* that the ODIHR developed over the past two years were a very useful tool for conducting discussions in Yerevan. They provided examples on how to ensure the respect for the right to peaceful assembly while accounting for the need to maintain public order. After these discussions the Armenian Parliament brought the law closer in line with international standards. The ODIHR is currently conducting follow-up training of human rights defenders in Yerevan as we speak.
3. We are in the process of finalising an overall assessment of the implementation of the OSCE Action Plan on Roma and Sinti, which will offer concrete recommendations as to how discrimination against these groups can be eradicated. We are fortunate this year as the Finnish OSCE Chairmanship has prioritized this issue and has paid particular attention to areas in which Roma face particular challenges: education, housing and employment. I may add that the urgency of these issues has been highlighted in Italy this year where we have undertaken a field visit to collect first hand data and highlighted the positive measures for the long-term integration of Roma that should be taken without delay.
4. Let me also mention our assistance in the fight against trafficking in human beings – the heinous practice of modern-day slavery – which has been a priority for our office since 1999. Since then, we have

worked hard to raise awareness that preventive and protective action is needed also in destination countries, where trafficked persons are exploited. In fact, we have continuously drawn attention to the need for comprehensive rights-based responses in reaching out to, and protecting, the rights of marginalized groups often exposed or vulnerable to exploitation. This includes migrants, regular and irregular, among them often women and minorities. Both nationals and foreigners must be in a position to access assistance and justice. They must not be re-victimized or criminalized because of their legal status or their work.

In this context, our Office has focused this year on an issue that is often being overlooked: access to justice for those trafficked and exploited. In May this year, we published a study on compensation for trafficked and exploited persons in the OSCE region which analyses the right to compensation in international law as well as in eight OSCE participating States, including the U.S. The study is already being used, both by governments and civil society, as a resource and guidance in their practical and policy work. The American Bar Association, for instance, is organizing a two-day training for civil attorneys on civil remedies for trafficked persons in early October in Washington. The Special Day on Trafficking in Human Beings during this year's HDIM, on 8 October, will be an excellent opportunity to share good practices and identify key challenges, also related to victims' access to justice and compensation.

5. Our office has developed a wide array of tools to support States and civil society across the OSCE region in their efforts to prevent and combat hate crimes and other forms of intolerance. These include guidelines for legislators, training seminars for law enforcement and civil society as well as resource guides on specific communities. I will mention in particular the teaching materials on anti-Semitism which we have developed for 10 States, each version tailored to their specific histories and on contemporary manifestations of anti-Semitism. We have now started the implementation phase in Germany, Lithuania,

and Ukraine, where training sessions for teachers are currently being held. The successful work in the area of combating anti-Semitism has allowed us to use the experience and plan for similar approaches to other areas of tolerance and non-discrimination.

6. Last but not least, as I would like to elaborate on some of the concrete assistance projects our Office is undertaking this year, let me remark on what has become the signature activity of our Office for more than a decade: election observation. Within the past 12 months, the ODIHR has followed elections in Armenia, Croatia, Georgia, Kyrgyzstan, the Former Yugoslav Republic of Macedonia, Italy, Montenegro, Poland, Serbia, Spain, Switzerland and Uzbekistan. We have currently deployed Election Observation Missions to Belarus and Azerbaijan, and will soon – in three weeks, in fact -- send our 50 or so observers to follow the U.S. presidential and congressional elections.

It has been said many times that all 56 OSCE States are bound by the same commitments. We have, over the past years, and under the stewardship of my predecessor, Ambassador Strohal, broadened the geographic scope of our activities to follow electoral developments in a wider range of States. Let me at this point thank you, the Helsinki Commission, and in particular Chairman Hastings, 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 U.S. I have been reassured by your Government and many other participating States that attempts to reinterpret OSCE election commitments, or the mandate of the ODIHR, and efforts to curb the scope of observation, or the number of observers that we send to a particular country, will not succeed.

Likewise, if we were to abandon our neutral judgment on election-related issues, both before, on, or after election day, we could as well stop our work. By inviting our observers to follow the upcoming elections in this country without imposing any restrictions, the United States is again demonstrating that it stands firmly behind the commitments it has made almost two decades ago. We look forward to

a good cooperation as we prepare for the deployment of our observation mission.

I would also like to take this opportunity to recognize the valuable contribution of parliamentarians to election observation, and in particular our cooperation with the OSCE PA. As I have emphasized before, this cooperation must be based on a genuine partnership, as prescribed by the participating States. We are bound to work in this spirit of cooperation and partnership, on the basis of an agreement signed in 1997.

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Ladies and Gentlemen,

At the roots of the Helsinki Process was a realisation that democracy and empowerment need to be home-grown and need to develop at their own pace. And indeed, the Helsinki Final Act, including its reference to the principle of territorial integrity of States, remains a fundamental cornerstone not only for the wider security framework of Europe and of the OSCE. It also serves, in its spirit and its letter, as a guiding beacon for our Institution. In essence, it set in motion a process that has recognized human rights, the rule of law, and democracy as essential prerequisites of security and lasting peace. Since then, of course, the OSCE has deepened and developed its commitments on human rights and democracy, and the commitments undertaken later in Copenhagen, Paris, and Moscow have set the standards for an accountable and transparent democratic system *as the only system of government*, and have confirmed that the protection of human rights is the first responsibility of government.

But as we pay tribute to the standard-setting role of these documents, we will have to recognize that democracies develop at different speeds, and from different starting points. While the OSCE *acquis* has set out the perhaps most developed international standards of democracy in the world, it has not laid down in parallel a precise timeframe, or clear

trajectory along which democratic development must occur. This would have been counter-intuitive to the framers of the CSCE process.

Indeed, we have come to realize that democracy is not a prize or trophy that once won is passed on from one generation to another. Democracy has no finality; it is a process, everywhere. And the level of trust in this process must be constantly maintained and renewed. If we acknowledge that this is the case, and move away from the stereotypes of the past, we obtain a clearer and more honest view of the specific challenges individual States face, no matter where they are located on the map.

The concerns we are preoccupied with have anyway long ago stopped to neatly follow the old dividing lines. This is also true for the human dimension of security, the area our Office is mandated to promote. Ensuring that the fight against terrorism does not unduly infringe on the protection of human rights, combating the global trade in human beings, promoting the integration of Roma and Sinti, fighting hate crime and other forms of intolerance – these are enormous challenges that pose a threat to many societies across the whole region, and not just in one particular part of it.

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Distinguished Commissioners,

As someone who has been brought up and lived half of his life in a country devoid of democratic checks and balances, in which the party gave and took from the people at its own behest, I personally experienced the difference between democracy and autocracy, between freedom and oppression.

It is one of the particularities of our organization, contrary to the European Union or the WTO, for instance, that it does not reward, nor punish the lack of, compliance with its *acquis*. It does not hand out carrots and cannot wield sticks. The OSCE, and in particular our Institution, is not in the business of “grading” democratic development. We don’t grade, we don’t reprimand. We assist. And our assistance goes

wherever States may fall short of their human dimension commitments, and invite us to be of use. In short, we cannot do our work without their cooperation.

It is therefore appropriate to argue that we need to re-create a Helsinki momentum. I advocate that we regularly return to our basic texts, and to an understanding in which we use the OSCE as a political forum for peer review, in which its members hold *each other* accountable on the basis of *equality* and avail themselves of the assistance and advice of missions and institutions such as the ODIHR, which were set up precisely for this purpose.

In this process, civil society actors must play a vital role. The vision of OSCE commitments is not one where action taken by States alone is sufficient to achieve democratic government under the rule of law. The commitments recognize as matters of international concern precisely those that civil society actors should engage in to influence government policy and protect democracy: full respect for human rights, including the freedom of assembly, freedom of association, freedom of expression and, of course, a free media. Where States fall short in upholding these and other rights, our Office has not failed, and will not fail, to alert political leaders, and will continue to be specific and concrete in identifying both challenges and possible solutions.

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Ladies and Gentlemen,

My elaborations so far have underscored that democracy promotion may have become more difficult over the years, and the decade of quick-fix solutions to problems of transition has yielded mixed results. I do, however, remain convinced that effective multilateralism can contribute to the growth of democracy. The OSCE remains a political community based on commitments which – though they do not carry the full force of international legal obligations – have enormous political weight. They were freely entered into by all States, *in consensus*. I therefore predict

that States will continue to seek our advice and counsel in fields where relevant international practice or standards exist. The way forward therefore is to instil confidence and trust in the OSCE, and particularly our Institution, so that the notion of pluralist democracy is not seen in some quarters as a threat.

I hold the view that democracy and institution-building are unfinished business everywhere. Distinguishing between ‘young’, ‘new’, ‘longer-standing’ and ‘old’ democracies does not serve any useful purpose. Let me give you a quote by a former prime minister, who pronounced himself on the future of democracy: “We are now entering upon a new era”, he declared in 1933, “Parliamentarianism, with its political parties, belongs to the past”. With these words, the late Austrian Chancellor Dollfuß sealed the fate of a democratic experiment that had lasted for over a decade and was endowed with the model constitution of its time. My point is: democracy, unlike good bourbon, does not necessarily improve by itself, with age. There are reversals and setbacks. We should therefore shed those labels. They only make our work more difficult. We should focus more on genuine dialogue founded on mutual respect and cooperation.

Indeed, the sad experience of the past century has shown us that democracy is not an end-state, but one which ebbs and flows in accordance with the determination and the resolve of those committed to upholding it and protecting it from those who seek to arrogate power to themselves. It is our collective duty to ensure that the democratic tide does not recede, and the duty of our Office to assist both States and civil society actors to ensure a positive trend is set or continued, in the interest of the security of all States.

This is especially valid as new challenges have appeared – those, for instance, that relate to the fight against international terrorism and the careful balance states should strike in order to meet both their obligations under international human rights law, and equally important, the political commitments undertaken in the framework of the OSCE.

While throughout the 20<sup>th</sup> century, the United States was one of the driving forces in the promotion of human rights, the rule of law and democracy, some recent developments have led some to cast doubts over the sustainability of this role. For many in the international human rights movement, documented instances of abuse at Guantanamo and Abu Ghraib have been a great disappointment. The establishment of secret places of detention and rendition flights have dented, in the eyes of some, the credibility of the United States as promoter of freedom and effective human rights. And yet, the international human rights and democracy movement will hardly succeed without the determined and credible leadership of the United States. The approach taken by the presidential candidates on this issue has been received with a degree of relief across many parts of our region, and it instils hope that America will once again find the way back to its traditional role as a leader and example for others.

In order to show true leadership on human rights one must start at home. There can be no double standards. The norms against which each State's actions are measured are the same for all OSCE countries. It is in this context that the work of the Helsinki Commission is important in that it has, over the years, been a forceful voice for America to live up to its commitments.

Credibility is a crucial factor for human rights policies; it begins with honouring commitments made by governments to protect human rights effectively and to respect the rule of law. It is on the basis of our own country's performance within what we call the OSCE 'human dimension' that we should be developing our stance vis-à-vis our international partners. The OSCE remains a unique framework for realizing the fundamental objectives that have been so forcefully put forward in the Paris Charter.

In closing, I would like to thank you most warmly for your invitation to address you and I look forward to cooperating with you throughout the term of my Office.