



HELSINKI COMMISSION HEARING

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SECURITY AND COOPERATION IN EUROPE

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Chairman Smith and Members of the Commission, thank you for holding this timely hearing --- in the period before the Warsaw Human Dimension Implementation Meeting and the Sofia Ministerial --- to focus on the important work of the OSCE. The Congressional calendar is extremely full this late in the session, so your time and focus is very much appreciated. I commend Commission Members for your long-standing commitment to human rights and democracy work. I am also pleased to be joining Assistant Secretaries Jones and Rademacher at this important hearing.

This is my first appearance before the Helsinki Commission, but I have had the pleasure of working with you and your excellent staff over the years. Before coming to the Bureau of Democracy, Human Rights and Labor (DRL), I spent three years as Ambassador to Belarus where I saw the impact that the OSCE had on promoting human rights and democratic change. The OSCE Mission put a spotlight on the abuses of the Lukashenko regime, and was a beacon of hope for courageous human rights activists.

Next year will mark the 30th Anniversary of the Helsinki Final Act. Many challenges remain, but the fact that the Government of Bulgaria is now serving as the OSCE Chair-in-Office -- something unimaginable in 1975 -- demonstrates how far we have come. OSCE has been a vital partner in the pursuit of democracy and human rights in Europe and Eurasia, a goal that is more important than ever given the ongoing fight against terrorism. As Secretary Powell has stated, "A world in which human rights and fundamental freedoms are respected and defended is a world of peace in which tyrants and terrorists cannot thrive."

In my testimony, I will discuss the democracy deficit that continues to plague some parts of the region. Next I will cover the continuing need to establish and improve key democratic institutions such as elections, media freedom, the rule of law, and tolerance. Finally, I will address some of the recent challenges facing the OSCE, and conclude by proposing strategies for refining and strengthening the Organization and promoting enhanced respect for OSCE commitments.

Elections that meet international standards remain a hallmark of democratic society. Yet for elections to be truly democratic, citizens need to enjoy all of their human rights and fundamental freedoms. Unfortunately, a democracy deficit continues to plague many countries of the OSCE, as is evident in the flawed elections some countries continue to hold. We therefore support the crucial work of ODIHR, not only in monitoring and reporting on elections, but also in assisting participating States in developing and implementing laws and legislation that ensures the rule of law and essential rights such as freedom of speech and assembly.

Collectively these efforts have helped foster important reforms.

Recent OSCE involvement in the Balkans and Georgia has resulted in marked improvement, with progress made towards elections that meet OSCE standards. With U.S. and OSCE assistance, Albania in 2003 held what was deemed to be the fairest and most transparent elections in the country's history despite some administrative issues and isolated incidents of violence.

In other cases, we have seen less success. Examples of flawed elections since the Commission's last hearing on the OSCE include Azerbaijan's October 2003 presidential election, Russia's December 2003 parliamentary elections and March presidential election, and the August presidential election in Chechnya. There has been little or no accountability for the poor conduct of these elections, and in the case of Azerbaijan, there also has not been an investigation into or accountability for reports of torture by security forces following post-election violence. Georgia's parliamentary elections involved serious irregularities which led to peaceful protests and the resignation of President Shevardnadze -- showing that governments that engage in efforts to manipulate the electoral process do so at their own peril.

ODIHR involvement in assisting Kazakhstan, Kyrgyzstan, and Tajikistan to revise their electoral laws this past year has been

remarkably successful. While none of their respective laws are fully compliant with OSCE commitments, they have all been brought closer to international standards. We urge these governments to continue their close work with ODIHR to bring their laws into full compliance with OSCE commitments and we remain hopeful that on the basis of this improved electoral legislation, the conduct of upcoming elections in their countries will be a step forward. All depends on the political will and good faith efforts of these governments to impartially implement their legislation.

Domestic and international observers can enhance the electoral process and public confidence. We welcomed provisions in the recently revised electoral codes in Kazakhstan and Kyrgyzstan that provide explicit guarantees for domestic election monitoring. Unfortunately, Tajikistan's and Azerbaijan's legislation falls short in that important area. We encourage them to work with ODIHR to revise their laws to fully guarantee that right.

We regret that Uzbekistan, despite assurances to ODIHR, did not enact any changes to its election legislation, as recommended by an ODIHR assessment. Due to that refusal, and the denial of registration to four independent opposition parties, we regretfully note that the electoral process for the December parliamentary elections is already flawed and will likely not be democratic unless serious steps are taken to reverse course. We are urging the government to allow citizen initiative groups to field independent candidates – something permitted under current law.

Rule of law based on democratic principles and commitments is a lynchpin of democratic society, and an independent judiciary is integral to the rule of law. Without rule of law, no fundamental freedoms and rights guaranteed to citizens of the OSCE region are safe. Instituting the rule of law requires two basic steps: that countries enact laws that meet international standards, and then enforce them impartially and consistently. The OSCE can and has played an invaluable role with both these steps.

Regarding the first step, the OSCE can analyze participating States' legislation and recommend amendments to meet OSCE standards. In Kyrgyzstan, ODIHR advisers provided a praiseworthy service when they analyzed the 2003 constitutional amendments and proposed changes to bring them into compliance with international standards. We urge Kyrgyzstan to enact those recommendations.

Concerning the second step, the OSCE can bolster participating States' capacity to enforce the law consistently and impartially. ODIHR has several notable success stories in Central Asia, especially Kazakhstan and Kyrgyzstan, where the governments have transferred authority for prison administration to the Ministries of Justice. Comprehensive penal reform programs are bringing prison administration close to international standards.

These commendable efforts need to be reinforced in all participating States where corruption and abuse of authority continues to weaken the rule of law, and thus democracy. We see that in the case of Albania. As I noted earlier, last year Albania had the fairest election in its history. However, organized crime and corruption continues to threaten the stability of Albania. Corruption remains one of the greatest obstacles to improving human rights in many countries in the region. Continued efforts to promote good governance are essential to help countries fulfill their OSCE commitments.

There can be no democracy without media freedom. Free press ensures that people have information needed to make informed choices. Unfortunately, the situation for journalists in some OSCE participating States has worsened since the last OSCE hearing.

Actions in Russia over the past few years raise serious questions about its commitment to media freedom, which had been a hallmark of post-Soviet Russia. NTV's recent cancellation of two programs effectively has left Russian national television without independent political programming. Ukraine and Belarus intensified their assault on independent media in the run-up to October elections by harassing, intimidating, fining, and at times imprisoning independent journalists, and by closing down independent media outlets. Moldova is still grappling with transforming TeleRadio Moldova into a truly independent broadcaster, while Turkmenistan recently took steps to clamp down further, creating a National Press Service to supervise print media.

We are pleased with the selection of Miklos Haraszti, the new Representative for Freedom of Media. We wish him success and are pleased that one of his first major initiatives is to urge governments to decriminalize libel laws. The U.S. made an extra budgetary contribution to the project to develop a database matrix on libel legislation in the OSCE region. Only when libel is decriminalized, can there be a vibrant market place of ideas.

An active civil society is one of the most important components for a thriving democracy. Last year we reported a growing

number of vibrant civil society groups advocating for peaceful change and greater accountability in a majority of OSCE states. This past year, NGOs continued their courageous work; however, we remain concerned by harassment and/or restrictions placed on NGOs in several countries.

In FY04 the U.S. provided over \$400 million to support democratic development in the OSCE region. My Bureau uses the Human Rights and Democracy Fund (HRDF) to support freedom of the press, political party development, and human rights advocacy, primarily in Central Asia. In FY04, DRL funded over \$7 million in HRDF projects in Europe and Eurasia. These projects, as implemented by our partners in the NGO community, show U.S. commitment to developing civil society in the OSCE target region and are described in detail in the State Department publication, "Supporting Human Rights and Democracy: the U.S. Record 2003-2004." U.S. democracy funding also includes approximately \$6.5 million in voluntary contributions to the OSCE for human and economic dimension projects, including the participation of NGO representatives at the annual OSCE Human Dimension Implementation Meetings (HDIM) in Warsaw, giving human rights activists from Europe and Eurasia the invaluable opportunity to openly report on the human rights abuses in their countries.

Unfortunately many countries have failed to understand the benefit of U.S. democracy assistance. Recent developments in Russia have called into question for the first time in their post-Soviet history whether the Government respects freedom of association. In his May State of the Union speech, President Putin questioned the loyalty of NGOs that receive foreign assistance. Recent pressure on NDI and its Russian partner The VOICE Association for Voters' Rights are troubling. In Belarus, over 20 human rights organizations have been closed along with several independent trade unions, and the Belarusian Party of Labor was shut down. Ukraine's vibrant civil society is at times weakened by governmental harassment that has intensified, and at times turned violent, with the upcoming elections. There has been violence against members of civil society NGOs or their relatives in several OSCE countries, including Ukraine, Uzbekistan, Armenia and Azerbaijan, with little or no accountability.

In Central Asia, Uzbekistani legislation enacted over the past nine months has severely restricted the rights and ability of domestic and international NGOs to engage in democracy-building work. In both Uzbekistan and Kyrgyzstan, U.S. implementing partners have been publicly accused of engaging in illegal activities. Turkmenistan's civil society is seriously hindered by its November 2003 draconian law on public associations.

Overcoming the persistent democratic deficit in the OSCE region will improve the lives of citizens by giving them a stake in the system, enabling them to enjoy fundamental freedoms and shape their own destiny. It will also help eliminate an overarching threat to democracy and human rights: extremism and terrorism. All OSCE States must continue to root out extremism and terrorism. We all have the responsibility to ensure that human rights are protected even as we combat terrorism. Sadly, no country is immune from such abuses, but in a democracy, those who abuse power are brought to justice.

The deplorable treatment of some Iraqi detainees at the hands of some U.S. military personnel was a shock to our nation. When President Bush expressed his deep disgust and regret about events at Abu Ghraib, it wasn't just his personal reaction as a man of principle. It was also his reaction as the head of state of a country that holds itself to a higher standard, both at home and in our conduct in the world. As President Bush said, one of the key differences between democracies and dictatorships "is that free countries confront such abuses openly and directly." We expose the truth, hold all who bear responsibility fully accountable and bring them to justice, and then take action to ensure that abuses do not reoccur.

The U.S. is committed to promoting and protecting human rights within its territory and around the world. We take our OSCE commitments seriously and we will continue to keep the OSCE apprised as investigations proceed. We are also organizing a side event for the upcoming HDIM in Warsaw where we will proactively address the issue of prisoner abuse and U.S. efforts at accountability. We will continue to press other governments whose forces commit abuses to follow the same approach.

The U.S. supports OSCE's effort to eliminate all forms of torture, and to press individual OSCE participating States to end torture and hold human rights abusers accountable. The U.S. continues to have serious concerns about torture in Uzbekistan. While the Government there took the highly commendable step to invite the U.N. Special Rapporteur on Torture in late 2002, Uzbek authorities remain slow in implementing the Rapporteur's recommendations. We remain very disappointed that, despite promises to do so during the Spring session of parliament this year, the Government has not introduced habeas corpus legislation into its criminal code. We are encouraged by recent efforts to work with domestic human rights NGOs on monitoring prison conditions and we urge swift implementation of the Rapporteur's recommendations.

A crucial component in the fight against terrorism is the support and promotion of tolerance of all ethnic, racial and religious minorities. By protecting the rights of all minorities, we can work to ensure that the roots of terrorism are not fertilized by feelings of societal marginalization and fear. We applaud the OSCE's commitments to fighting racism, anti-Semitism,

religious intolerance and other forms of xenophobia or discrimination. The U.S. and the OSCE share a common goal of fostering racial, ethnic and religious tolerance.

The Anti-Semitism Conference in Berlin in April resulted in a comprehensive OSCE plan to fight anti-Semitism, while the June Paris Meeting on the Relationship between Hate Speech on the Internet and Hate Crime addressed new forms of propagating hate speech and bigotry while still strongly supporting freedom of expression and ideas. At The Brussels Conference on Racism, Xenophobia and Discrimination, which just concluded, all 55 OSCE participating states joined together to reaffirm and strengthen the OSCE's commitment to combat intolerance in all forms.

But despite these commitments, serious problems remain for racial, ethnic and religious minorities throughout the OSCE region, and much remains to be done by both OSCE institutions and participating States to combat intolerance. As Kosovo struggles to move from the devastation of war to becoming a more stable, democratic society, non-Albanian minorities, particularly Serbs, suffer from widespread social discrimination in employment, education and health services among others. The recent outbreak of inter-ethnic violence resulting in the destruction of homes and churches is a reminder of the crucial relationship between tolerance and the sustainability of democracy and the rule of law.

A good way to address many of the issues is to strengthen the OSCE, but the OSCE can only be as strong as its participating States. This requires the leaders of each OSCE country to honor commitments in word and deed. We must expect more from each other. OSCE provides important tools for promoting democracy and human rights, but ultimately each participating State is responsible for using these mechanisms effectively to hold all OSCE countries to their commitments.

This year, the ability of the OSCE to act as a unified and effective body has been challenged by several developments. The July Declaration signed by nine member States of the Commonwealth of Independent States is puzzling. The Declaration refers to "such fundamental Helsinki principles as non-interference in internal affairs and respect for the sovereignty of States." Yet in 1991, OSCE participating states agreed in the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE that:

"The participating States emphasize that issues relating to human rights, fundamental freedoms, democracy and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the foundations of the international order. They categorically and irrevocably declare that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned."

In response to the charge of double standards by ODIHR, we underscore that there is only one standard for democratic elections. We see ODIHR's election monitoring efforts as objective and based upon standards set out in the OSCE commitments stipulated in the 1990 Copenhagen Document and the 1991 Moscow Document and reaffirmed in the Charter for European Security adopted at the Istanbul Summit. That is why the U.S. has invited ODIHR to observe our own Presidential and Congressional elections in November as we have consistently since those commitments were undertaken.

Moreover, in the case of those participating States that have not yet had democratic elections, we view ODIHR monitoring teams not as "interference" but rather as an international resource that is available to those countries that seek to improve public confidence in elections and to uphold their OSCE commitments.

We urge participating States to further refine and strengthen the organization by making key strategic decisions and then backing them with political will. One important strategic decision is striking the appropriate balance among diverse OSCE activities. While each effort helps to further OSCE objectives, a finite budget demands that participating states regularly assess the value added of each component. Administrative expenses are obviously essential. Support for ODIHR is crucial. Visits by high-level OSCE officials and special representatives and international conferences are important to focus attention on problem areas and promote reform. However, sufficient resources should be allocated so that those on the ground who are rolling up their sleeves to effect change – whether in field missions or ODIHR teams -- have adequate means to do so.

Another key strategic decision involves the development and use of a series of positive and negative incentives that will entice participating States to uphold their OSCE commitments. Public statements and private meetings draw important attention to states that fail to meet their OSCE commitments. However, it is clear that some participating States need more encouragement and support. When the Government of Belarus closed down the OSCE mission in 2002, a joint U.S.-EU visa ban on high-level

Belarusian authorities prompted the Government of Belarus to allow the OSCE Mission to be re-established. The Mission in Minsk is still there today. This example demonstrates that unified political will coupled with the right incentives is effective.

The upcoming elections in Belarus and Ukraine are cogent examples of times when targeted incentives backed by unified political will could make a difference. Despite varying degrees of repression, democratic candidates are gaining popular support in both countries. A voting process that meets OSCE standards could significantly advance democracy in these two nations. We commend the OSCE's efforts to date to mount effective observer missions in Belarus and Ukraine and we will continue to urge participating States to contribute as much as they can to these efforts. Yet these two participating States clearly need extra incentives to do the right thing.

Strong, effective leadership strengthens the OSCE. Participating States must select Chairs in Office and Heads of Missions who are willing to put OSCE concerns first and foremost. These leaders must actively promote a unified strategy among participating States who care about democracy and human rights, using revamped incentives as well supporting field missions.

We attach great importance to the chairmanship and consider very carefully the readiness of any state wishing to assume that heavy responsibility. Chairmanship must be held by a nation that has demonstrated leadership in implementing all the commitments undertaken by participating States. The U.S. welcomes Kazakhstan's bid to become Chairman-in-Office in 2009 and we would be pleased to see them become a viable candidate. We very much hope that they will be able to demonstrate the leadership required of a chair well before December 2006, when the chairmanship will be approved.

Field missions need adequate resources and staunch political backing from OSCE leaders and participating States. When participating States fail to fully back field missions, the organization and the host country's citizens suffer. Field missions provide vital support to civil societies and governments alike in the promotion of democracy and human rights. They are there to help countries meet their commitments. For this reason, we hope that the OSCE can move quickly to fill vacancies for Heads of Mission in Uzbekistan and Turkmenistan.

When field missions receive strong support from the Chairman in Office host government, and each member of the Permanent Council, the missions can achieve significant changes even in the most troubled environments. However, when the OSCE allows host governments to obstruct the work of field missions, it is embarking on a slippery slope of dangerous precedent that will undermine the organization. Decisions affecting the operations of field presences should not be taken without full consultations and serious consideration of the implications for the OSCE.

This past July, Turkmenistan refused to renew the contract of the OSCE Head of Mission in Ashgabat, Ambassador Badescu, for activities that fell well within her mandate. The U.S. adamantly opposed this action and we will work with our OSCE colleagues to find another excellent head of mission. A unified OSCE voice from leaders and participating states against such action coupled with calibrated incentives, as were eventually used when Belarus closed down its OSCE Mission, could have kept Ambassador Badescu in Ashgabat, helped promote reform in Turkmenistan, and strengthened the OSCE.

In his memoirs, former Secretary of State George Schultz recalls traveling to Vienna in 1989 to sign the CSCE Treaty that resulted in a Human Rights Conference in Moscow. Recounting the strong efforts of the U.S. that resulted in expanding room for independent media in Russia and the release of political prisoners, he said, "We had insisted...that we would not settle simply for words on human rights. We insisted on deeds by the Soviets and their Satellite states." Today, we can only echo Secretary Schultz' sentiment that we must insist that promises of human rights for citizens are fulfilled in deed throughout the OSCE region.