



HELSINKI COMMISSION HEARING

UNITED STATES COMMISSION ON
SECURITY AND COOPERATION IN EUROPE

Testimony :: Ambassador Janez Lenarcic

[Print](#)

Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) -

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 (TAHCLE) 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 on-going 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.