

Open Letter

**Attn. Ministers of Foreign Affairs of
OSCE participating States**

OSCE - Ministerial Council, Athens, 1 - 2 December 2009

Re : FIDH position on the future of the OSCE Human Dimension

Excellencies,

The International Federation for Human Rights (FIDH) is writing to you on the eve of a crucial OSCE Ministerial Council, to be held in Athens, marking the end of the Hellenic Presidency, to call on you to take all necessary measures in order to protect and promote the OSCE *acquis* in the field of Human Dimension, and in doing so to preserve the Organization's pertinence and credibility, which are currently at stake.

On the occasion of the OSCE Ministerial Council held in 2007 in Madrid, under the Spanish Presidency, FIDH addressed to the OSCE participating States an Open Letter expressing its concern regarding various trends observed in the OSCE area and the disturbing attitude of some participating States towards independent OSCE institutions active in the field of Human Dimension, as well as regarding the famous balance of the OSCE activities.

In this document, FIDH submitted concrete proposals for the improvement of OSCE action in that respect, aiming to preserve and further promote the OSCE *acquis*, which is facing serious challenges and threats today. FIDH stated that without appropriate action undertaken by the Organization, the OSCE risks losing its leading role in the wider Eurasian region as catalyst for peace, security and consolidation of democracy. Unfortunately, to date, most of these recommendations are still relevant and many of these issues have not yet been adequately addressed by the Organization.

FIDH notes nonetheless that in 2009 the dialogue among participating States made great headway when States engaged in a dynamic process of exchange and sharing of views on the future of the Organization. FIDH wishes to commend sincerely the tireless efforts of the Greek Presidency which succeeded to move this process forward and foster constructive dialogue of an unprecedented level. The year 2009 was marked by the first informal OSCE Ministerial Meeting, the only informal gathering at that level in the history of the Organization. Indeed, the Corfu process launched by the current Presidency is an essential exercise for the future of OSCE and its dialogue regarding European Security.

It is undoubted that OSCE gained its standing due to its activities in the area of human rights protection and promotion and tolerance as well as its expertise in the field of democratic, fair and transparent elections. However, FIDH expresses its concern regarding the persistence of serious human rights violations and the related challenges to the Human Dimension. We firmly believe that such dialogue should not only include those challenges but also elaborate effective means to address them. Otherwise, FIDH fears that the future and pertinence of the Organization, and its

added value in the international arena may be seriously compromised.

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2009 has been a dark year for human rights defenders in many OSCE participating States. The alarming situation of civil society, victim of severe repression in a context where human rights defenders in particular are, once again, targets of an intensified crackdown, sometimes in total impunity, calls for immediate action and urgent measures by the OSCE organs. OSCE has been unable to adopt a decision on this issue and even the participation of civil society in OSCE meetings, such as the annual implementation meeting on the Human Dimension, has been questioned over the past years. FIDH recalls that over the past fifteen years, the increasing participation of non-governmental organizations in OSCE debates has been essential for a better understanding of the issues civil society faces, as well as for the establishment of adequate protection mechanisms and programs. The participation of NGOs has enabled the Participating States, and the Office for Democratic Institutions and Human Rights (ODIHR), to remain informed of violations of OSCE commitments.

FIDH therefore calls upon the participating States to maintain the principle of unhindered access for NGOs and civil society, in compliance with the principles outlined in the 1992 Helsinki Document on the role of non-governmental organizations. FIDH also calls upon participating States to reject firmly any draft decision or other document / initiative which would *de facto* or *de jure* restrict the capacity of NGOs and civil society activists to take part in OSCE meetings.

More specifically, FIDH wishes to share with you its preoccupations regarding the gravity of the human rights situation in several OSCE participating States where fundamental OSCE principles are violated in a continuous and systematic manner.

In Uzbekistan, positive steps such as the release of human rights defenders in 2007 and 2008, the establishment of Human Rights Dialogue with the European Union, and the abolishment of the death penalty have taken place. However, there has still been no impartial inquiry into the May 2005 event in Andijan, those arrested in its wake are still denied fair trials and numerous NGOs were shut down in response to demands for justice. Moreover, forced internment of human rights defenders and journalists in psychiatric hospitals still occurs, exit visas are refused to human rights workers and NGO members in order to undermine their work, and freedoms of expression and opinion are still curbed by harassment and arbitrary arrests and sentences.

While the release of political prisoners in 2008 allowed Belarus to achieve legitimacy at the international level in regards to human rights, the country subsequently had a substantial backslide. Calls for reform of its Electoral Code to bring it in line with OSCE commitments and other international standards for fundamental human rights of freedom of assembly and political association have remain unfulfilled while crackdowns on peaceful political actions and denial of registration of political parties, independent media and NGOs remain common practice. Moreover, the death penalty remains in place in both law and practice, in spite of requests that the country place a moratorium on capital punishment until its eventual abolition.

In 2006, in regards to Turkmenistan, the United Nations Secretary General made recommendations to the government asking for a halt to “arrests, detentions and other forms of intimidation of human rights defenders and other civil society organizations”. However, the government has failed to put an end to embedded patterns of restrictions on freedom of action for human rights defenders and other forms of harassment on civil society in general. In addition, many bodies, including FIDH have raised concerns regarding the limitations on freedom of religion and expression and minority rights.

FIDH is a federation of 155 non-governmental human rights organizations operating in more than 100 countries. FIDH has a consultative status before the United Nations, UNESCO, and the Council of Europe, and observer status before the African Commission on Human and Peoples' Rights. <http://www.fidh.org> – <http://www.blogfidh.org>

The fight against terrorism in Russia has seen the introduction of anti-terrorism legislation with problematic articles in the Penal Code which are open to abuse by authorities in order to silence dissenting voices. The government also makes claims that NGOs are manipulated by foreign and terrorist organizations in order to discredit their activities or as a pretext to arrest or harass activists. In addition, the 2006 law on NGOs still has negative effects on the functioning of civil society as it places numerous administrative and judicial obstacles to organizational registration. The dangers that human rights defenders are currently facing in the country remain a great challenge for both the national government, unable or unwilling to provide the minimum protection for its own citizens, and the international community, unable to pass the message that assassinations of democratic voices in Russia will no longer be tolerated.

Excellencies

The OSCE is today at a crucial crossroads. The participating States must make a choice as to whether they will make full use of OSCE's potential and move it forward as an organization based on a legal treaty and as a primary actor for stability, security and democracy in the region, or whether they will continue to undermine, for strictly internal, political reasons and purposes, the organization's ability to act as a fully equipped body. Taken into account the expansion of the OSCE commitments and activities since the signature of the Paris Charter, it is a *sine qua non* condition for the participating States to provide the Organization with the necessary financial means and institutional ability to act in the same capacity mode as other international bodies such as the Council of Europe or the United Nations. Otherwise, the OSCE may end up functioning on the model of an agency or a stand-by Organization.

The implementation of the OSCE commitments should be addressed by this Ministerial Council as a matter of absolute priority. OSCE participating States have been reluctant to use the flexible OSCE Human Dimension tools, the Vienna and Moscow mechanisms, which should be the first answer of the organization in cases where grave human rights violations are observed in a given OSCE participating State. One of the best ways to turn these words into action would be to give follow-up to ODIHR *Common Responsibility* report¹ which outlines concrete guidelines for enhanced human rights protection, and represents an important step towards the reinforcement of the Human Dimension, in the fields of election observation missions, freedom of assembly and association, and human rights defenders. This action should enable the OSCE to make the necessary follow up to the key reports on the OSCE reform which remains a dead letter. It is regrettable that due to the current political deadlock this reform has still not been accomplished.

FIDH recognizes the importance of political dialogue not only regarding the human dimension but also the political and security dimension and the economic dimension as well as the necessity of balance among them and the general context in which OSCE operates today in a multi-polar and changing international environment. However, FIDH insists on the need to protect and consolidate the OSCE norms and commitments in the field of Human Dimension and avoid any effort to question them or undermine them as we have unfortunately witnessed in recent years. It was the common purpose of the OSCE participating States and OSCE institutions to serve these principles and objectives and it is a question of credibility to do so effectively. What the OSCE needs today is not new declarations but concrete proposals and projects to move beyond the current deadlock and bring real changes. This is the only way that the OSCE will overpass its identity crisis and adapt to a new international reality. With this in mind, FIDH underlines without reservation, that the absence of a Ministerial Declaration will certainly further undermine the OSCE's status and role at the international level.

1 See <http://www.osce.org/item/22478.html>.

Finally, FIDH and its affiliated leagues and partners in the OSCE area take note of the commitments taken by the upcoming Presidency, Kazakhstan. The next OSCE Chairmanship declared during the 2007 Madrid Ministerial Council that it stood "for the compliance with the fundamental principles of open NGOs' participation in the OSCE events in accordance with the Helsinki document of 1992 and Budapest document of 1994". More generally, Kazakhstan had committed "to preserve ODIHR and its existing mandate" and not to "support any future efforts to weaken them"². Kazakhstan had further considered "the Human Dimension to be one of the most important directions of the OSCE activity", and declared that "Kazakhstan pa[id] priority attention to the broad scope of activities within the framework of this "basket"". However, before Kazakhstan makes use of its role as Chairman in Office to inform the Permanent Council of serious cases of non compliance with the human dimension principles, it must ensure that such cases do not occur in its own territory. It is unfortunate that the current human rights situation in the country is not only far from satisfactory but compromises Kazakhstan's ability to assume fully its responsibilities as the next OSCE Presidency. The constitutional amendment, passed in May 2007 to allow President Nazarbaev to run for unlimited number of terms, together with the intimidation of the media, the shortcomings observed during the 2008 elections and the alarming situation of refugees and of human rights defenders illustrates the serious setback for public liberties and fundamental freedoms in the country. FIDH seizes the occasion to call upon the authorities to immediately and unconditionally release Mr. Evgeny Zhovtis, a founding member and Director of the Kazakhstan International Human Rights and the Rule of Law Bureau, and member of the Council of Experts of ODHHR in charge of freedom of assembly, sentenced to four years' imprisonment in colony following an unfair trial, despite international condemnation.

In the light of the above, FIDH strongly recommends to OSCE participating States to :

- Support ODIHR and its existing mandate, including its Focal Point on Human Rights Defenders and National Human Rights Institutions, and refrain from supporting any future efforts to weaken them;
- Strengthen and monitor the actual implementation of the existing OSCE Human Dimension commitments by:
 - fully supporting the work of the ODIHR on strengthening the implementation of OSCE commitments, and ensuring concrete follow-up to suggestions made in the ODIHR *Common Responsibility* report while guaranteeing the political support provided by OSCE participating States to the main Human Dimension OSCE Institution;
 - undertaking an annual review of cases of serious non-compliance with OSCE commitments at Ministerial Councils, and defining plans of actions to be followed-up at Permanent Council regular sessions;
 - adopting to that effect a decision at the Ministerial Council level in order to have the highest possible political authority and value and should serve as a general human rights monitoring system covering all participating States;
 - making full use of the Vienna and Moscow mechanisms whenever the situation so requires, in order to adequately respond to concerns relating to Human Dimension issues;
- Address the issue of the fight against terrorism and its compliance with human rights as it does constitutes a serious threat for safeguards in almost every OSCE country; a follow up

² See Address of H.E. Dr. Marat Tazhin, Minister of Foreign Affairs of the Republic of Kazakhstan, at the OSCE Ministerial Meeting in Madrid, http://www.osce.org/documents/html/pdf/html/28529_en.pdf.html.

mechanism at the OSCE level should be established as soon as possible in order to consolidate not only advisory councils regarding the adoption of national laws but also alert the OSCE community in cases of serious breaches of the OSCE commitments in this particular field;

- Make the OSCE an area free from the death penalty, torture and ill-treatment;
- Address and establish a concrete follow-up at the political level of continuous human rights violations in the fields of freedom of expression and of the media, of freedom of association and assembly, of the rights of human rights defenders and of the right to free and fair elections;
- Address with a more coherent and rights based approach the urgent issue of migrants in the OSCE area as well as refugees and asylum seekers; the Organization, with its comprehensive concept of security, is well placed to deal with this issue which unfortunately is still not a priority on its agenda;
- Continue to work in close coordination with the European Union and the Council of Europe as well as the United Nations and increase the visibility of the outcomes of such coordination.

We sincerely hope that you will take into consideration these concerns, and we remain

Sincerely yours,



Souhayr Belhassen

President