

Check against delivery!

Opening Remarks by Ambassador Janez  
Lenarčič,  
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Institutions and Human Rights (ODIHR)

at the  
FIDH Forum *“Justice - New Challenges:  
the Right to an Effective Remedy before an  
Independent Tribunal”*



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6 April 2010  
Philharmonic Centre, Yerevan

Excellencies,  
Ladies and Gentlemen,

It is a pleasure to participate in this opening ceremony and, more broadly, to discuss several issues fundamental to the effective protection and promotion of human rights, and in particular the right to an effective remedy.

At the outset I would like to thank FIDH, and particularly its President, Madame Souhayr Belhassen, that inspired a generation of human rights defenders.

We have come together in these three days to discuss a wide range of burning issues - issues deeply entrenched in ideas of justice and a state based on the rule of law. We will look at these issues from both national and international perspectives, from the angles of accountability, truth, and compensation, to name a few.

It is first of all worth recalling that within the OSCE, States have recognized that the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal forms an integral part of their **obligation to provide effective remedies** (Vienna 1989, §13.9). Admittedly, national court systems are not always in a position to exercise their function accordingly, be that because they lack independence or powers under national law.

The issue of **independence of the judiciary** - recognized in the OSCE context on repeated occasions as a cornerstone of

human rights protection (i.e. Istanbul 1999, §45) - has been a regular topic at OSCE meetings, where participants have in recent years expressed increasing concern about

- a glaring imbalance between prosecutorial powers and defendant's rights in some parts of the OSCE region;
- the detention of terrorist suspects without access to an independent tribunal, in others;
- political pressure on judges;
- a lack of adequate funding of courts, and limitations on access to legal services.

So the overarching link between the Panels and Workshops today and tomorrow is, I believe, a recognition that governments **do not always offer proper remedies**, or not offer them in equal ways to everyone. When that happens, it is often non-governmental organizations and in particular **human rights defenders** who step in and bring the lack of justice and the lack of redress for the victim to the public attention. They raise the case of those whose rights are forgotten, dismissed or trampled on. They are the **constant reminders** that States must right the wrongs, and improve their laws and practices.

To be able to promote the right to effective remedy, defenders need to be **able to access their own rights and freedoms** guaranteed by national constitutions and international standards. They need to be free to communicate with the victim and, equally important, to bring the plight of

the victim to the attention of the national and the wider international community.. When human rights defenders are in trouble, **the fundamental freedoms of all are in trouble.**

ODIHR has, at numerous occasions, expressed **serious concern** about the situation of defenders in the OSCE region:

- about instances of new legislation that places undue restrictions and constraints on their activities;
- about unnecessary bureaucratic burdens, that stiffen their activities;
- arbitrary detentions;
- assault, ill-treatment, or defamation campaigns.

As the latest Human Rights Council Resolution from a week ago put it: there is an “immediate need to put an end to ... threats, harassment, violence, and attacks by States ... against all those engaged in the promotion and protection of human rights” (A/HRC/13/L.24, 25 March 2010, p. 2). Indeed, we have to do the utmost to **reverse this worrying trend.** Some of the individuals present here today can testify how this trend concretely affects them and their mission.

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Ladies and Gentlemen,

You will agree with me when I say that it is time for governments to open their eyes to human rights violations, and learn from mistakes, to prevent future violations before

they happen. It is time for governments to start listening rather than restricting rights. There is a vital role for the judiciary here, also for the judiciary of Armenia, in improving its capacity to deal with violations which have occurred; there is a vital role for defenders here, to open the government's eyes to human rights concerns which go unaddressed.

Having said that, I would like to end my remarks with a **caveat**:

As efficient and passionate as they may be, **defenders cannot do the job alone**. One way for States to advance the implementation of their human dimension commitments is to create national human rights institutions as fully independent public bodies in accordance with the *Paris Principles*. As we all know, such institutions can play a vital role in improving the human rights situation.

Human rights compliance is a process, carried forward by linking a **multitude of actors**: defence attorneys, courts, government departments, parliaments, civil society, and multilateral institutions such as the OSCE.

ODIHR makes a contribution to this process by advocating a greater role and independence of the legal profession, supporting national human rights institutions, carrying out trial-monitoring programmes, and promoting reforms in the justice systems.

I am confident that this meeting will give a new impetus to the efforts of my Office and contribute to greater respect for human rights in the OSCE region.

Thank you.