



United States Mission to the OSCE

Session 14

Rule of Law I:

Democratic lawmaking;

Independence of the judiciary;

Right to a fair trial

As prepared for delivery by Ambassador Robert Bradtke,
Head of Delegation
OSCE Human Dimension Implementation Meeting
Warsaw, October 2, 2013

The principles of justice, democratic lawmaking, independence of the judiciary – the right to a fair trial and equal treatment under the law more broadly – all are essential to the protection of human rights and fundamental freedoms and to securing foundations of democracy. All participating States have committed themselves to upholding these principles, which were elaborated in the Copenhagen and Moscow Documents and other OSCE agreements, but the policies and practices of some participating States raise serious questions about their commitment to the rule of law.

In the worst cases, laws and courts appear to be deliberately used as repressive tools of the state and selectively targeted at human rights defenders, democracy- and anti-corruption activists, members of minorities and others with whom the state disagrees and perceives as political opponents.

Moderator, in Russia, the posthumous trial and conviction of Sergei Magnitsky, the conviction of Alexei Navalny in a politically-motivated case and the ongoing trials of a group of May 6 demonstrators, raise serious concerns about the rule of law.

In Azerbaijan, the United States is troubled by the increasing number of detained peaceful democracy and human rights activists, including youth activists and political leaders such as Ilgar Mammadov and Tofiq Yagublu. Local NGOs consider these charges to be fabricated and politically motivated. We strongly urge a speedy, transparent, and fair resolution of these cases consistent with Azerbaijan's OSCE commitments. Equally disturbing is pressure on independent defense lawyers, which has resulted in a decreasing number of such lawyers ready to defend sensitive cases. We urge the authorities to respect the work of lawyers, who play a pivotal role in fostering respect for the rule of law in modern society.

The United States remains concerned about the trials relating to the 2010 violence in Osh in Kyrgyzstan's Fergana Valley, which so far have fallen short of the minimum trial guarantees required by international law. These trials and investigations were marred by widespread arbitrary arrests and ill-treatment, including torture. In mid-May, Mahamad Bizurukov, who faces charges related to the 2010 violence, was repeatedly assaulted by family members of his alleged victim. Court room violence appears to have influenced the outcome of several similar cases and judges have routinely ignored or

excluded evidence that confessions were obtained under torture, and have handed down convictions despite a lack of concrete evidence.

My government remains concerned about the acute lack of rule of law in Belarus. We deplore the continued politically motivated incarceration of 2010 Presidential candidate Mikalai Statkevich, human rights defender Ales Byalyatski, and other political prisoners. We are concerned by continuing arrests and detentions of political and civil society activists, which are clearly designed to stifle their activities and intimidate others.

In Ukraine, the rule of law is undermined by corruption in law enforcement and the use of the judiciary for political reasons. The most visible manifestation of selective prosecution is the continued imprisonment of former Prime Minister Yulia Tymoshenko. The United States welcomes the pardons earlier this year of former high ranking officials in her government and believes that they are an important step in reversing a negative trend. May's European Court of Human Rights ruling in the Tymoshenko case should provide further impetus for her release. We also expect the Ukrainian government to build on its promise of further judicial reforms.

Serbia has undertaken many reforms regarding the rule-of-law in the past decade, often in cooperation with the OSCE Mission. We note the steps Serbia has taken to deal with the egregious crimes committed during the Milosevic era, such as cooperating with the International Criminal Tribunal for the former Yugoslavia to see that Ratko Mladic and Radovan Karadzic face justice. However, many of the crimes of that era remain to be investigated and prosecuted. One of these cases involves three American citizens—brothers Ylli, Agron, and Mehmet Bytyqi from New York—who were detained by Serbian police in June 1999 while escorting a Romani neighbor to safety out of Kosovo. When a judge ordered their release, they were instead transferred to an Interior Ministry camp, shot execution-style, and their bodies tossed in a mass grave. There has not been a proper accounting for this crime; those who ordered and carried out the crime have not been brought to justice.

In Kazakhstan, we are troubled by the use of a vague law against inciting social, religious, and ethnic discord (article 164 of the criminal code) to silence voices critical of the government. In the wake of the violence against oil strikers in Zhanaozen, this law has been used against opposition figure Vladimir Kozlov and to ban several media outlets. The law has also been used by local authorities against journalist Aleksandr Kharlamov.

We also urge the government of the United Kingdom to work with the Finucane family to reach agreement on addressing the December 2012 DeSilva Report's findings in a manner consistent with the United Kingdom's commitment to human rights and the rule of law.

Thank you.