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Copenhagen Anniversary Conference
“20 years of the OSCE Copenhagen Document: Status and Future Perspectives”

Human Rights Observance in Kazakhstan during 5 months of its OSCE Chairmanship

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Dear participants,

Thank you for the opportunity to participate in such significant and important event.

The human dimension with its focus on security and rights of the individual is an integral part of the OSCE's comprehensive security concept. Respect for human rights is a prerequisite for security, as incomplete implementation of human dimension commitments weakens states; it erodes internal stability and endangers external stability. At the international arena you may often hear that Kazakhstan gives priority attention to the work covering a wide range of issues within human dimension framework, which is the most important direction of the OSCE activity. Of course mention should be made of positive steps made during the five month of Kazakhstan OSCE chairmanship, which include presentation of the National Action Plan in the sphere of human rights in the Republic of Kazakhstan for 2009-2012, the Concept of the Policy of Law of the Republic of Kazakhstan from 2010 to 2020, Report to the UN Council on human rights within the framework of the Universal Regular Report, Reports under the UN International Human Rights Covenants and etc. However in reality situation with human rights, with freedom of peaceful assemblies, freedom of conscience, freedom of speech, freedom from tortures and etc. remains the same and in some cases it has got worse. Legislation and law enforcement practice do not comply with international standards in the field of human rights and commitments under Copenhagen OSCE document.

Norms of the international human rights treaties have not yet been integrated into the national legislation. In the law enforcement practice power representatives quite often are guided by the by-law provisions (reference-books, rules and etc.), which quite often are not in compliance either with the international norms or the Constitution of the Republic as well as legislation currently in force in the country.

National human rights institutes set up in Kazakhstan remain inconsistent with the Paris Principles regarding the status of the national institutes dealing with human rights promotion and protection.

As before, Kazakhstan does not manifest “zero” tolerance to sustainable torture problem. Effective mechanisms of torture prevention and investigation of torture cases are not in place. At this point of time law drafting aimed at putting up together a NPM in Kazakhstan is in process and as a positive thing we may mention preparedness of public bodies to discuss the given Draft Law with the civil society representatives. However, the issue of establishment of a body that would facilitate rapid, effective and impartial investigation of any torture report is still

unresolved. At the same time tortures, threat, psychological pressure are widely exercised by the law enforcement representatives with the aim to obtain «self-reporting» and confession evidence in crime commitment. Unfortunately courts quite often use evidence obtained as a result of tortures, while complaints about torture are considered as attempts to avoid criminal responsibility. As it has been noted earlier in 2009 the new National Action Plan in the sphere of human rights in the Republic of Kazakhstan was endorsed; it has been devised by the Human Rights Commission under the President of the Republic of Kazakhstan and four Chapters of the given Plan have been developed by the Director of our Bureau Yevgeniy Zhovtis. One of the chapters of this Plan is dedicated to freedom of peaceful assemblies. The National Plan offers detailed description of existing problems with the freedom of peaceful meetings in Kazakhstan alongside with the measures that would help to bring both legislation and law enforcement practice related to freedom of peaceful assemblies in Kazakhstan in line with the international standards; it also includes terms of their implementation and executing agencies. Thus, the Plan outlined measures towards drafting a new Law “On Freedom of Peaceful Meetings” as well as a new Law “On Introduction of Amendments and Additions into other Legislative Acts on Issues of Freedom of Peaceful Assemblies» based on the draft laws developed by a group of non-governmental organizations and approved by the Expert Council of the Human Rights Commission under the President of the Republic of Kazakhstan.

In the meanwhile in February 2010 the Ministry of Justice presented the Draft Code on Administrative Infractions (AIC) in the Parliament of the Republic of Kazakhstan. Article 449 of the Draft AIC stipulates administrative responsibility for the violation of the procedure of holding peaceful assemblies. The given Article stipulates responsibility based not on law violation but based on the violation of legislative acts, which goes contra to the Constitution that sets that human rights shall be limited only under the laws. This is also the manifestation of the desire of the powers to continue regulating assemblies under different acts, which are not laws in their form. Now courts apply such sanction measures to human rights activists as administrative penalty charge in the sum from 13000 Tenge to 40000 Tenge and more (from 85 US Dollars to 300 US Dollars and more), while with regard to leaders arrest from 10 days to 15 days of detention is practiced. Actually people are called to responsibility for the mere fact of exercising right to freedom of peaceful assemblies without the permission of authorities.

The process of setting up political parties is also of affirmative/ permissive nature. Kazakhstan legislation and law enforcement practice with regard to the activity of political parties is not in full compliance with the commitments under OSCR Copenhagen Document and international standards and hinders the implementation by the people of their right to participate in the country political activity.

Situation with the implementation of the right to freedom of conscience is getting worse. On March 1, 2010 new visa rules for foreigners were enforced. Missionary visas have been introduced for people coming to Kazakhstan for religious- educational activity. To get such a visa it is necessary to have the invitation of a local religious organization coordinated with the Committee on Religious Affairs. Multiple missionary visas are issued for 180 days and are not subject to prolongation. Raids/unexpected visits of peaceful religious assemblies on the part of representatives of local authorities and law enforcement bodies as well as administrative prosecution for the lack of state registration are still in place.

No improvements are observed in the area of freedom of speech. The newspaper “Golos Respubliki” (The Voice of the Republic) still does not have access to printing houses. The draft amendments into the Criminal Code and the new version of the Code on Administrative Offences, developed by the Governments and submitted to the Parliament still stipulate criminal and administrative responsibility for slander and insults, print run confiscation and the possibility to close down media for minor technical mistakes.

While welcoming the intention of the country leadership to improve and develop judicial system and to create conditions for its effective work mention should be made that regardless lengthy process of reforming, Kazakhstan courts have not acquired adequate independence and continue being under tough control on the part of executive power. Unfortunately the number of cases, especially the ones with regard to which political partiality of judges involved into suppression of dissent, independent media and legal lynching of public figures, businessmen, human rights advocates and lawyers keeps on growing. All the cases are characterized by gross violations of human rights, legitimacy and principles of fair trial. All these have been described in details by the Director of the Bureau Yevgeniy Zhovtis that is why he refused from submission of reviewing appeal. He has already spent nine months in the colony-settlement but housing conditions with regard to him are not observed, he is allowed to visit a doctor only under the escort.

In its OSCE chairmanship status Kazakhstan has to confirm its commitment to the principles of this organization undertaking specific measures towards improvement of human rights situation in the country itself. It is absolutely important to ensure that recommendations reflected in the National Action Plan and other documents related to human rights do not remain just “words on paper” like commitments made in 2007 in Madrid. It is important to prevent four human rights enemies – gas, oil, terrorism and geopolitical situation – take the upper hand over the human rights implementation.

Thank you for your attention.