

# **Presentation of the Recommendations on Improvement of the Law-Making Process**

Skopje, 4 May 2010



**Remarks by**

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

**Check against delivery!**

Ladies and gentlemen,

I am pleased to participate at today's event, and I am grateful to authorities here to have extended to our Office - the OSCE Office of Democratic Institutions and Human Rights - such good cooperation over the past years.

The event today formally concludes the process of ODIHR assistance in formulating concrete recommendations regarding law-making in the country. It is, in a way, also a fresh starting point for the authorities here in Skopje to take the initiative and review the shortcomings that were identified, and to work, together with us, on addressing and rectifying them.

You will hear a detailed presentation of our work later, by our key expert, Professor Alan Page. In my remarks, I will therefore focus on one topic, namely, the key link between democratic lawmaking and a democratically constituted society.

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I will start with quoting two key OSCE commitments relevant to democratic law-making:

1. "legislation must be formulated and adopted as the result of an open process reflecting the will of the people" (1990 Copenhagen document);
2. "legislation and regulations must be published and made accessible to everyone, as a condition for their applicability" (1991 Moscow document).

I think it is for all of us useful to recall why transparent and open law-making is such an important building-stone for a democratic society.

We remember, not so long ago, the practices of decreeing laws in the interest of a one-party state and the survival of its functionaries, where assemblies were only rubber stamps, and the laws were being made behind the closed doors. We have seen laws published, or rather not published, in "secret gazettes", we have witnessed the dearth of information available to regular citizens, and their powerlessness in the face of an over-arching and unaccountable state.

The lesson we have learned is, of course, that democracy is about process – debate, interaction, transparency, evaluation, impact assessment, and accountability. The functioning of democracy depends on people, and on institutions. People's representatives need a proper infrastructure, processes and practices to carry out their functions. Parliaments are the bedrock of this infrastructure and the parties are the main vehicles for representation.

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It was Chancellor von Bismarck who once famously said that "the fewer people know how sausages and laws are made, the better they will sleep". I agree with the sausage part, but certainly not with laws that are cobbled together without the involvement of

the broader public. Indeed, when the ODIHR was assessing the efficiency and transparency of the legislative process in this country, we focused on the lawmaking process itself, the process through which laws are prepared, discussed, adopted, published and monitored – irrespective of the content of the legislation.

I believe our studies have been important because the manner in which laws are drafted has significant impact on the way in which they will be implemented and enforced. Conversely, a flawed and inaccessible lawmaking process generally results in poor implementation, and it is poor implementation which is a main obstacle to achieving the objectives of the legislation in question, let alone rule of law overall.

So is hasty law-making. Laws devised in haste are often indicative of an imperative of political convenience based on short-term gains, not the long-run interest of the society as a whole.

For a country like this one, democratic law-making is key. Not only for the sake of disentangling itself from the legacy of non-democratic past in the large part of Europe, through the assistance of OSCE institutions. But also because the reform of law-making is crucial for a second, and for Skopje even more important objective: to realize its European perspective and speed up its approximation to the European Union.

It is true what has been said many times: there is no blueprint or a universal recipe for democracy and no two democracies are identical. But there are key principles and features upon which both the OSCE and the EU *acquis* are built. An EU accession process involves a gigantic and unprecedented lawmaking effort; the required overhaul of existing structures, systems and legal frameworks puts a considerable strain on legislative systems.

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For us it had been very important that the second phase of the project we are concluding today was led, conducted and fully controlled by Macedonian actors. Over 150 officials, specialists, experts from the executive, legislative branches of power and the non-governmental sector participated. The result is in front of us: a final set of recommendations for reform, consolidated in February 2010.

The last phase of the process is still ahead: the implementation of recommendations. I urge the Government to look into them, distribute them to relevant actors, and to eventually act on them.

Let me conclude by thanking all that actively participated in the process: first and foremost, the Macedonian authorities and other actors for their active engagement and serious commitment to reform; the OSCE Spillover Monitoring Mission to Skopje, which will continue the task of supporting the government in further endeavours; and the experts from Poland, Slovenia and UK that contributed with their advice.

Thank you.