

Opening Remarks
by Ambassador Christian Strohal,
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at the Supplementary Human Dimension Meeting
on
*'Protection and Promotion of Human Rights:
Responsibilities and Effective Remedies'*

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Check against delivery!

Excellencies,

Ladies and Gentlemen,

It is a pleasure to welcome you here to discuss several issues that are fundamental to the effective protection and promotion of human rights. Together, we will assess the implementation of a vital OSCE commitment, the right to an effective remedy. The basic underlying concept of this right is that each time a human right is violated, an individual must have somewhere to turn for redress. This SHDM will outline where individuals can find effective remedies. It will broadly focus on three main actors in this regard: courts, human rights defenders, and national human rights institutions.

How to ensure that national courts can deal with complaints of human rights violations speedily, efficiently and fairly, is the subject of our first session this afternoon. The basic conditions for courts to fulfil their role in this context are well known. Let me mention some of them:

- expertise in human rights doctrine;
- adequate funding; and
- true independence and impartiality on the part of judges.

We will discuss today the state of implementation of OSCE commitments in this regard: do individuals in the OSCE region have the opportunity to seek redress before courts that meet these high standards, and if they do not, what can be done to remedy the situation? How have courts dealt with the challenges posed by human rights violations, how have they developed their jurisprudence, and how have they cooperated, both nationally and internationally, to improve and enhance their own capacity?

We have come together because we recognise that governments do not always offer proper remedies, or offer them in equal ways to

everyone. When that happens, it is often human rights defenders who step in and bring the lack of justice and the lack of redress for the victim to the public's attention. Often at great risk to themselves and their families, defenders raise the public profile 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 human rights, human rights defenders need the full range of freedoms promised to them by OSCE participating States: the freedom to communicate with the victim and, equally important, the freedom to bring the plight of the victim to the attention of the national and the wider international community. They must have access to the victim to bring their case to any person, body or institution who can help them. If defenders cannot take advantage of the range of rights, how can we expect them to promote the human rights of others? When human rights defenders are in trouble, the fundamental freedoms of all are in trouble.

Defenders are here precisely to deal with unpopular cases, difficult cases, cases of principle. It is our duty to not let them stand alone. Let me refer you to the important Resolution that emerged from the sixteenth Annual Session of the OSCE Parliamentary Assembly's that ended this Monday in Kyiv. It expresses concern and disappointment with regard to the introduction of new legislation that places further restrictions and constraints on the activities of defenders, in particular by subjecting them to unnecessary bureaucratic burdens, arbitrary detentions, assault, ill-treatment, or defamation campaigns. This Resolution is well-informed and well founded. I believe that we have to do the utmost to put an end to, and reverse, this worrying trend. Some of the individuals present here today can testify how this trend concretely affects them and their mission.

The second session tomorrow morning will allow us to take stock of the role of civil society and defenders in addressing human rights issues. Has their situation improved, or is it deteriorating further? How can defenders play their vital role in the most effective way possible? How do they help individuals best? What strategies work, and what strategies do not? I have no doubt we will hear more about the valuable contribution of defenders in assisting victims, and how we can continue to help them to do their work in the most effective ways possible.

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 public bodies fully independent from the government in accordance with the *Paris Principles*. As was demonstrated at last year's SHDM, such institutions can play a vital role in improving the human rights situation in participating States.

On the subject of remedies, such bodies can play a dual role - they can help the individual both by hearing complaints and by assessing them in their wider context: do individuals have anywhere to turn, or are the bodies they are supposed to turn to not functioning properly? It is only after hearing individuals, in particular defenders, that national human rights institutions can translate individual cases into general action: action to improve the system, the laws, the practices and the policies that lie beneath the denial of rights to redress to all, and the fate of individual citizens. In tomorrow's third session, we will inquire how National Human Rights Institutions have taken up this role, what best practices they have developed, and what they can learn from each other in dealing with both individual and group complaints.

Together, these three actors have to interrelate in the wider system of human rights protection. They do so, too, in relation to other

institutions and individuals, many of which have been the subject of past Meetings: defence attorneys, government departments and parliaments. One of our aims today and tomorrow should therefore be to explore further how these actors connect with each other within the national protection architecture. How can human rights defenders be protected by National Human Rights Institutions, and how can those discuss human rights cases and situations with defenders? How can defenders make better use of the courts, and how can courts ensure they take up human rights cases in the most efficient way? Conversely, how can National Human Rights Institutions interact with the national court system to ensure it is up to its vital tasks?

Ladies and Gentlemen,

Effective remedies do not promise a comprehensive final answer to all of the problems created by a deficient rule of law which we find in various parts of the OSCE region – be it the glaring imbalance between prosecutorial powers and defendant’s rights; be it the detention of terrorist suspects without access to courts; or a corrupt judicial system in which the strong do what they can and the weak suffer what they must. Our first priority must remain preventing human rights abuses from occurring. And still, the extent to which remedies are provided, not as a as generosity showered upon complainants, but as a right, is a measure for State’s commitment to uphold, and be subject to, the rule of law.

I do not know whether our keynote speaker of today agrees with this point; in the many years in which I have known him -- as a deeply committed human rights activist, as a wise public intellectual, as a member of the International Commission of Jurists, or as a judge *ad hoc* for the International Court of Justice -- he has seldom agreed with me without refining my words, sharpening them, and adding his particular brand of scholarly irony, and concrete experience, to it. It is therefore a particular pleasure for me to introduce to you my old

friend Professor Vojin Dimetrijević, the Director of the Belgrade Center for Human Rights.

Before handing over the microphone to Professor Dimetrijević, I would like to extend my gratitude and appreciation to the Spanish OSCE Chairmanship for having chosen this important topic. As in all Human Dimension meetings, it is in particular the contributions from civil society representatives that add energy and a sense of realism to our discussions.

For us at the ODIHR, this meeting will certainly prove most useful. The best practices shared today and tomorrow will enhance the ability of our Focal Point on Human Rights Defenders and National Human Rights Institutions to assist participating States effectively in implementing their commitments in this field. Also from this perspective, I encourage the over 130 representatives from 100 NGOs who have come to Vienna, to participate actively.

I wish us all a productive meeting, and encourage you to speak out freely and with concrete recommendations in mind.

Thank you.