



OSCE Chronicle: Kazakhstan at the Helm of the OSCE

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1. Kazakhstan at the helm of the OSCE in 2010 amidst concerns about human rights

For the first time in the history of the OSCE, a former Soviet republic has taken the lead in the OSCE. Kazakhstan has become Chairman-in-Office of the organization in 2010 amidst concerns whether the country is up to the task in, in particular, the area of the human dimension. The country takes over this task, while its best-known human rights defender, Evgeny Zhovtis, has been put in prison for four years for his involvement in a tragic and fatal traffic accident. After an initial sentencing on the 4th of September by an Almaty court in a controversial procedure, the verdict was upheld in appeal on the 20th of October, brushing aside all complaints about serious procedural flaws. This led to a wave of criticism both within civil society in Kazakhstan and in the international community, both calling on the authorities to review the case.

On the 21st of October the Director of OSCE's Office for Democratic Institutions and Human Rights (ODIHR), Janez Lenarcic, expressed his dismay about the conduct of the appeals hearing and demanded a fair trial for Zhovtis. 'We are dismayed by the appeal court's reported failure to appropriately address the apparent violations of due process that occurred during the initial trial', Lenarcic said. Following the first-instance verdict, ODIHR conveyed its concerns to the Kazakh authorities about reports of numerous procedural irregularities. The same concern was expressed by all EU member states at a meeting of the OSCE Permanent Council in Vienna. This seems not to have had any impact on the Kazakh authorities. Observers of the appeals hearing again reported interference with the defendant's right to a fair trial, including the rejection of the defence's technical expertise on the essential matter of whether Zhovtis could have avoided the accident. 'The conduct of the appeals hearing regrettably confirmed our concerns about the fairness of the proceedings in this case', Lenarcic said. He reiterated that while Zhovtis should not be entitled to any special treatment, it is the responsibility of the Kazakh authorities to ensure full respect for his right to a fair trial as enshrined in OSCE commitments and international human rights law.

Even though the mother of the victim in the traffic accident had forgiven Mr Zhovtis and requested the court to discontinue the proceedings, the appeals court upheld the verdict. Since this type of 'crime' is considered to be only a 'minor' issue under Kazakh legislation, it is impossible to submit the case to the Kazakh Supreme Court. Only a 'review' on procedural grounds is possible which ultimately did not lead to any results, as the supervisory college of the Almaty regional court on the 10th of December did not find any grounds to open review proceedings. It's a sad coincidence that the 10th of December is also the international human rights day. The EU immediately expressed its profound concerns again in the PC on the 17th of December, but since previous protests didn't achieve any results, one may wonder whether Zhovtis will be released before his 4 year term has expired.

Although many observers suspect a political hand behind this case against a well-known critic of the Kazakh authorities in the area of human rights, it is sad to say that a case like this actually may reflect the day-to-day reality in the Kazakh criminal justice system as well. Procedural guarantees for the protection of the rights of the defendant are very often trampled upon, as also clearly shown in the Zhovtis-case. So, from this perspective alone, Mr. Zhovtis is also the victim of an inefficient and politicized criminal justice system which needs serious overhaul. Since his conviction, weekly demonstrations in Almaty have taken place, demanding his release. Police have harassed several of its participants, giving them high fines for 'unlicensed demonstrations'. If the verdict won't be reviewed properly, the Zhovtis-case will undoubtedly continue to haunt Kazakhstan over the year of its chairmanship, affecting its credibility in the human dimension sphere. It also demonstrates the urgent need for Kazakhstan to reform its judicial system so as to comply with its international obligations, including the numerous OSCE commitments on the human dimension. Zhovtis is the

Director of the Kazakhstan International Bureau for Human Rights and Rule of Law and was a frequent visitor of OSCE meetings on human dimension issues.

The Zhovtis-case led to heated debates at the annual Human Dimension Implementation Meeting in Warsaw, which this year took place from 28 September to 9 October and which brought together hundreds of governmental delegates, civil society representatives and experts. Many NGOs raised serious concerns about the — in their view — deteriorating human rights situation in Kazakhstan. They referred in particular to issues such as a law restricting internet use, repressive legislation on religion, court cases against opposition newspapers, and the detention of participants in peaceful protests. Apart from Zhovtis, they also referred to other cases such as the imprisonment of newspaper editor Ramazan Yesergepov. Yesergepov, editor of the independent weekly Alma-Ata Info, received a three-year prison sentence on August 8 on a criminal charge of ‘gathering information containing state secrets’. He had been exposing lawlessness among Kazakhstan’s intelligence officials which obviously was not appreciated by the authorities. This atmosphere amounts to ‘a chilling environment in which media outlets and journalists are faced with the constant threat of lawsuits and crippling defamation penalties’, Human Rights Watch argued in a November 25 briefing paper.

As usual, the Kazakh delegation routinely brushed aside all criticism and painted a much more positive picture of the human rights situation in the country. The official Kazakh position is also that Zhovtis may be a human rights defender, but that he is just a Kazakh citizen and is not entitled to better treatment than other Kazakh citizens. Looking at the serious situation in the Kazakh criminal justice system, this seems to be a fair point from the Astana perspective at least. Many observers wonder why such authoritarian moves are made in the crucial period just before starting its much-desired chairmanship of the OSCE, clearly tainting the reputation of the country. Some seem to suspect that rival groups within the ruling elite are acting against President Nazarbayev in order to damage his image in the West because of his efforts to further consolidate his power position, including a life-long presidency without new presidential elections. It is certainly not excluded that internal power struggles in the past few years may be part of the explanation for some rather surprising, worrisome developments in the human rights sphere in the country.

Whatever the real background, it is obvious that OSCE participating states will carefully follow Kazakhstan’s moves as chairman-in-office of the OSCE. And all these issues will definitely burden the Kazakh chairmanship substantially.

2. Ministerial Council in Athens discussed future of European security

A two-day meeting of the OSCE Ministerial Council in Athens, Greece, adopted a so-called Ministerial Declaration on OSCE Corfu Process on the 2nd of December. It was the first time in several years that the 56 participating states managed to find consensus on such a declaration. The declaration got a stimulating subtitle: ‘Reconfirm-Review-Reinvigorate Security and Co-operation from Vancouver to Vladivostok’. With less than two pages it might also have been the shortest ministerial declaration in the OSCE history.

‘The vision of a free, democratic and more integrated OSCE area, from Vancouver to Vladivostok, free of dividing lines and zones with different levels of security remains a common goal, which we are determined to reach’, said the Ministerial Declaration on the OSCE Corfu Process, adopted by the required consensus. The ministers said they remained seriously concerned that the principles of the 1975 Helsinki Final Act and subsequent OSCE commitments are not fully respected and implemented. ‘Our highest priority remains to re-establish our trust and confidence, as well as to recapture the sense of common purpose that brought together

our predecessors in Helsinki almost 35 years ago', the statement said. In the declaration, the ministers said they were concerned 'that the use of force has not ceased to be considered as an option in settling disputes; that the danger of conflicts between states has not been eliminated, and armed conflicts have occurred even in the last decades'.

The Declaration also welcomed Kazakhstan as the new CiO and 'noted with interest' its proposal to organize an OSCE Summit meeting in 2010. Further preparatory work is needed, however, in order to determine whether the time is ripe for another summit. The last OSCE Summit took place in Istanbul in 1999.

What is known now as the 'Corfu Process' is the result of an initiative by the Russian President, Dmitri Medvedev, to start work on a treaty on European security which should replace/supersede the present security 'architecture'. It was officially launched at an informal meeting of the OSCE Ministers of Foreign Affairs in June on the Greek island of Corfu.

A separate Ministerial Decision on the Corfu Process provided a roadmap for the way ahead, saying the dialogue should focus on seven areas: OSCE norms; principles and commitments; conflict resolution; arms control and confidence- and security-building regimes; transnational and multidimensional threats and challenges; common economic and environmental challenges; human rights and fundamental freedoms as well as democracy and the rule of law; and enhancing the OSCE 's effectiveness and interaction with other organizations and institutions.

The Ministerial Council also adopted several other 'decisions', such as one which grants the 2012 chairmanship to Ireland. Another decision welcomes Australia as the 12th Partner for Co-operation (PfC). This decision is undoubtedly connected with the substantial Australian military involvement in Afghanistan and Iraq. Australia is the second Partner for Cooperation which has no common borders with any of the OSCE States, similar to Thailand which received the status of PfC in 2000. From now on, Australia will be invited to meetings of the Contact Group of Asian Partners for Cooperation which also includes countries like Japan, South-Korea, Mongolia, Thailand and Afghanistan. This means that Australia will have a rather 'light' status within the group of PfC.

3. Russia submits draft Treaty on European security architecture


After having talked about it for months and months, the Russian President Medvedev finally presented some more substance to his proposals on developing a new 'European Security Architecture' by submitting a draft treaty at the end of November. The draft has not been received enthusiastically, to say it diplomatically. It focuses almost exclusively on the area of hard security, omitting the economic and human dimensions which are so typical for the OSCE comprehensive security approach. Moreover, it aims at creating all kinds of consultative mechanisms in cases of security threats which actually would duplicate or hinder existing procedures. As a matter of fact, the whole draft treaty focuses on issues of process and procedures rather than substance, and one may wonder what it seeks to achieve other than securing the interests of the Russian Federation. Some observers are of the opinion that the treaty is completely redundant, as we have enough mechanisms in the Eurasian area to address security concerns. It is just a question of using these mechanisms. Although it is highly unlikely that this draft text will ever be adopted, it will undoubtedly play a role in the ongoing discussions in the context of the Corfu Process. Its main role may be that of a negotiation chip in the hands of the Russians and its closest allies in a dialogue that in the best scenario, may promote some kind of mutual confidence among the participating states.

4. Progress in finding a settlement for the Nagorno-Karabakh conflict?

The three official OSCE mediators, the US, Russia and France, have undertaken many efforts to push for a final settlement of the protracted 'frozen' conflict in and around Nagorno-Karabakh. On the sidelines of the Athens Ministerial top diplomats of the three powers put strong pressure on Armenia and Azerbaijan to come to a framework peace agreement as soon as possible. Also, the French and Russian foreign ministers personally participated in the negotiations. Although the French Foreign Minister sounded very optimistic, expecting a deal within a couple of months, it might take (much) more time, if statements by the two conflicting parties are taken into account. These statements continue to reflect quite different interpretations of the various proposals made by the mediators.

The Athens negotiations took place just a week after the sixth face-to-face meeting between the Armenian president Serzh Sargsyan and his Azerbaijani counterpart Ilham Aliyev in Munich. Although the meeting was described as 'constructive', it was obvious that a breakthrough has not yet taken place. The aim of the mediators is to have Armenia and Azerbaijan accept the so-called 'Madrid basic principles', proposed in 2007. Although these principles have been disclosed in general terms, they have not officially been made public. The principles encompass a phased settlement of the conflict, such as the gradual withdrawal of Armenian troops from occupied Azeri territory and the organization of a binding referendum among the people of Nagorno-Karabakh about its future status. Many disagreements still continue to exist, such as what the outcome of the referendum could be. For Azerbaijan, this can only be some kind of broad autonomy within the Azerbaijani territorial integrity, whereas the Armenian side maintains that the referendum could also end in independence or reunification with Armenia. In spite of the ongoing disagreements, both parties to the dispute have given clear indications that a final agreement may be in reach within the near future.

The warming up of relations between Turkey and Armenia in the past period has definitely put pressure on, in particular, Azerbaijan to accept an agreement. Baku considered the Turkish movements towards Armenia, including the opening of the borders between the two countries, as outright unfriendly acts from its long-time close ally. Relations with Azerbaijan improved again when Turkey decided to slow down the process of opening official relations with Armenia, but it is obvious that the improvement of Turkish-Armenian relations is a clear sign of the changing political landscape in the South-Caucasus.



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Security and Human Rights (formerly Helsinki Monitor) is a journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). It looks at the challenge of building security through cooperation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security.

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