

Credibility of Kazakhstan's Chairmanship of OSCE put to the test

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1. Imprisonment of Kazakhstan's main human rights defender causes storm of protest

The sentence of four years imprisonment for Evgeny Zhovtis because of a fatal car accident in Almaty has caused a storm of criticism both within Kazakhstan and in the international community. Zhovtis is the best-known human rights activist in the country and has participated in numerous OSCE meetings on the human dimension. He was sentenced on the 3rd of September after a two day trial that was widely criticized for alleged procedural violations. The court convicted him for dangerous driving, causing a death in a traffic accident on the 26th of July. The conviction rested on the strong argument of the prosecution that Zhovtis could have avoided the accident, although the initial investigation on the scene clearly proved the opposite.

Observers widely consider this case to be organized 'from the top,' as the tragic accident offered a great opportunity to silence a long-standing critic of the regime. Zhovtis apparently is of the same opinion, as already before his trial he declared to journalists: 'This is a demonstration of power and lawlessness, in which all decisions are taken in [the capital] Astana, and the forensic teams work for the prosecution.' This suspicion seems not to be unreasonable. All motions brought by the defense team were routinely denied by the court. At the end of the session the judge's 'verdict took as long as he had allegedly spent writing it (15 minutes),' as an observer noted, fueling suspicion that the whole verdict had been well prepared in advance.

This case comes at a very sensitive time for Kazakhstan which is scheduled to take over the leadership of the OSCE in 2010, thereby becoming the political leader of this Euro-Atlantic security and human rights' organization. The decision to grant the chairmanship to Kazakhstan had already been a very complicated process, due to serious concerns over its many problems relating to human rights and the rule of law, and was accompanied by several conditions relating to its human rights record. Many observers consider the Zhovtis case as an omen, signaling that even the upcoming presidency of the organization won't prevent the Kazakh authorities from abuse of power. And some NGOs even called on the OSCE to withdraw the chairmanship from Kazakhstan, although that is highly unlikely to happen. As a matter of fact, it should not happen at all, as the OSCE community's interest is not in revoking a chairmanship, but making sure that the OSCE commitments are upheld in all OSCE countries, including in countries which will hold the OSCE Chairmanship.

The OSCE community has been very critical of this case. Even OSCE's ODIHR, the Office for Democratic Institutions and Human Rights, has publicly expressed its concerns about the judicial procedure in the Zhovtis case. ODIHR's Director Janez Lenarcic officially wrote the Kazakh Foreign Minister that he had 'serious doubts' that Mr. Zhovtis has had a fair trial. In the Permanent Council meeting of 10 September the EU expressed its serious concern about the Zhovtis case, particularly in light of the upcoming Kazakh chairmanship. It called on the Kazakh authorities to handle the appeal case with full respect for the Kazakh law and international commitments. The Kazakh authorities, however, deny any interference in the judicial process. In the PC, the Kazakh delegation made it clear that the court case had been conducted in full compliance with the Kazakh legislation, offering little hope that Mr. Zhovtis will be freed soon. The Kazakhs even made it clear that they consider the international pressure on them as 'unlawful' and 'undiplomatic,' which is a quite remarkable statement coming from an upcoming chairman of the OSCE whose task it will be to uphold the OSCE acquis. They may have 'forgotten' that the OSCE is generally considered as a 'community of values' and a 'community of responsibility,' where OSCE participating states are fully entitled to raise concerns about human rights problems in each OSCE state. The EU community will follow the appeals procedure with great attention and its outcome will have a considerable impact upon how Kazakhstan will be able to take on its task as OSCE's next Chairman-in-Office. Its credibility is at stake, now seriously tainted by the Zhovtis case.

In the meantime, the Kazakh authorities are hard at work preparing for the OSCE chairmanship. The country considers it probably more important than any of the previous OSCE participating states which have held the chairmanship so far. This is reflected in the fact that the chairmanship is considered as 'a national strategic project.' The president himself has ordered the establishment of a special state commission for the chairmanship and has personally presided over related meetings. It is also obvious that it won't be the Foreign Ministry which will be the main player in Kazakhstan, but rather the Presidential Administration. It is obvious that Kazakhstan is undertaking every effort to make its chairmanship a success. That will be a daunting task, as the country will be the first post-Soviet, Asian and mainly Muslim country in this challenging position. That offers great chances though, as it has experiences in highly sensitive areas, in particular of course in Central Asia itself and in the area of the former USSR. Through careful operation it may be able to achieve successes that other countries won't be able to get easily. However, the Zhovtis case should be handled properly and quickly in order to avoid undermining its own credibility as OSCE Chairman-in-Office.

2. OSCE's mission in Georgia definitely closed

Due to a lack of consensus, the OSCE mission to Georgia had to close its doors permanently on the 30th of June this year, which signaled the end of 17 years of relentless work in monitoring the situation in this volatile country and its break-away regions Abkhazia and South-Ossetia as well as assisting the Georgian authorities in promoting the rule of law and democracy. The Russian Federation no longer tolerated a mission with a mandate which would cover both Georgia and its break-away regions which have been recognized as independent states by Moscow after the short Georgian-Russian war of August last year. Although this 'new reality' has been recognized only by Russia (and Nicaragua), Moscow is determined not to give in and demanded the OSCE open a mission both in Georgian and in South-Ossetia, which was fully unacceptable for the other OSCE participating states. The ensuing lack of consensus on a renewal of the mandate for the OSCE Mission in Georgia resulted in its closing.

Russia's refusal to accept Georgia's internationally backed territorial claims to Abkhazia and South-Ossetia also resulted in the closing of the long-lasting UN Observer Mission in Georgia (UNOMIG), as the Russians on the 15th of June vetoed a Security Council resolution which envisaged the extension of its mandate. This resolution contained an indirect recognition of the Georgian territorial integrity. The UN military monitors, therefore, had to leave Abkhazia at the end of that month.

In this way, Moscow succeeded in removing both the UN and the OSCE monitors from the region, leaving only a modest EU Monitoring Mission behind. This EUMM is the result of an agreement between the French President Sarkozy and his Russian counterpart Medvedev shortly after the Georgian-Russian war in order to monitor the situation in the regions bordering the two break-away regions. The EUMM, however, is not allowed to enter the territories of both break-away regions and is regularly the object of harassment by Russian, Abkhazian or South-Ossetian military or paramilitary groups. Efforts to gain Moscow's approval for the EUMM to enter the territories of both regions where reportedly massive ethnic cleansing has taken place are constantly met with a blunt refusal. As a result, the Russian Federation has more or less a free hand to 'annex' the two tiny break-away republics, as Georgia and many other OSCE states maintain. In contrast with the EU-Russia agreement between Sarkozy and Medvedev, the EU monitors are not even allowed into areas that, before the war, were effectively under Georgian control and which have been captured by the Ossetians and Abkhazians. Russia has also launched a major military build-up, particularly in Abkhazia, which also fully contradicts the EU-Russian agreement. The Russian authorities are in the process of building a new naval base

in Abkhazia which might take over some of the tasks which are now undertaken by the Russian fleet in the Ukrainian Crimea. The fact that the EUMM is now the only international presence in the conflict zone may be seen positively by the Georgian authorities, as the Russians are not part of the EU — in contrast to the UN and OSCE. However, the question remains whether Brussels has the political will to take a firm stand against the Russians in view of the EU energy dependence upon Moscow.

Although the Russian Federation effectively achieved the removal of most international observers from the conflict zone, it suffered a serious political defeat in the UN General Assembly in September, when a resolution was adopted condemning the 'forced displacement' of people from Georgia's Abkhazia and South-Ossetia, upheld their right to return and considered both territories as part of Georgia, thereby upholding Georgia's internationally recognized territorial integrity. The resolution was adopted by majority on the 9th of September (48 in favour, 19 against and 78 abstentions).² It is a strong boost for Georgia's efforts to have the territorial integrity over its total territory, including Abkhazia and South-Ossetia, reconfirmed at the international level, while at the same time the resolution means a significant political setback for Moscow's efforts to have the 'new realities' accepted at the international level.

3. Growing tensions between Russia and Ukraine

The tensions in the Caucasian region continue to be high with regular rumours of preparations for another war. Such rumours are not only limited to the Georgian-Russian theatre, but also involve Ukraine. In an unusual and highly undiplomatic move, the Russian president Medvedev has put text on his website in which he basically disavows his Ukrainian colleague Viktor Yushchenko, more or less blaming him personally for the sour relations between Moscow and Kiev and stating that no improvement can be expected as long as Yushchenko maintains his present position. Yushchenko's administration was also blamed for supporting the 'barbaric attacks' by the Georgians and that Ukrainian weapons had been used to kill civilians and Russian peacekeepers. Although highly unusual, this move may be part of the preparations for the upcoming presidential elections in Ukraine. Observers are of the opinion that Moscow has downgraded its relations with Ukraine and indicated that it won't be interested in any more communication with Kiev until a regime change in that country takes place. It is obvious that Moscow is hoping for a replacement of Yushchenko's administration with a pro-Moscow regime, a similar scenario it is seeking to achieve in Georgia. In the meantime, the Kremlin continues to insist that its problems are only with the present government in Kiev (and Tbilisi) and not with their 'longtime Orthodox brothers.'

Tensions between Russia and Ukraine have been mounting over time, culminating in strong rumours immediately after the Georgian-Russian war that Moscow's next target might be Ukraine in order to get control of the Crimea, where the strategically important Russian Black Sea fleet is located. The Ukrainian authorities are highly sensitive about the Russian policies in the Crimea (which has a majority of ethnic Russians), where an increasing number of residents have acquired Russian passports. A similar scenario happened in South-Ossetia and Abkhazia, which was then used by Moscow to justify its invasion, invoking the need 'to protect its citizens.'

These rumours were further fuelled by a draft law, submitted in August by the Russian government to the Duma, aimed at legalizing the use of Russian military abroad 'to defend Russian soldiers and citizens, fight piracy and defend foreign nations against threats.' Medvedev clearly indicated that this legislation was connected with the Georgian war, 'so that in future these questions will be clearly regulated.' Although this

is clearly openly war-like rhetoric, military experts are indicating that a Russian offensive against Ukraine is highly unlikely in the present circumstances, as the Russian military forces are not prepared for a large-scale operation. The experiences in Georgia last year also demonstrated major weaknesses in the Russian military that will require several years to be addressed effectively.

4. Corfu Process launched

A two day informal meeting of the foreign ministers of the OSCE participating states at the Greek island of Corfu at the end of June resulted in the launch of the so-called 'Corfu Process.' The importance of this process is clear already from the fact that almost all foreign ministers were present at this very first informal ministerial meeting in OSCE history. Only The US Secretary of State Hillary Clinton was absent because of surgery of a broken elbow. The foreign ministers convened at the urge of the Russian Federation to discuss the 'European security architecture,' a major initiative of the Russian President Medvedev who proposed several times the conclusion of a new European security treaty. Although the Corfu meeting demonstrated that there are very serious problems to be tackled in the security dimension, the enthusiasm for a new security treaty was very limited and it is highly unlikely that a consensus will be achieved.

A few days before the Corfu meeting, the Russian Foreign Minister Sergei Lavrov tried to put some more flesh on the highly general goals as formulated by his president. At the OSCE Annual Security Review Conference on the 23rd of June, Lavrov detailed four building blocks of the envisaged new security treaty, including the basic relations between states, arms control and confidence-building measures, conflict management, and co-operation between states and organizations to counter new challenges. He also addressed the need to renew discussion of the Conventional Armed Forces in Europe (CFE) treaty. 'To develop the dialogue on pan-European security we propose a meeting of the heads of key international organizations — OSCE, NATO, the EU, the CIS and CSTO — on the basis of the (1999 OSCE) Platform for Co-operative Security.'

The informal Corfu meeting resulted in the launch of the Corfu Process which should be an intensive dialogue on all security threats that challenge the OSCE community, aimed at preparing more concrete steps to be taken by the formal Ministerial in Athens at the end of this year. At the end of the Corfu meeting, the Greek Chairman-in-Office said 'that traditional security problems remained unresolved as new threats and challenges continued to emerge. These included protracted conflicts and other unresolved tensions, the suspended CFE Treaty, the need to strengthen democracy and rule of law in parts of the region, the economic crisis, terrorism, trafficking and instability in neighbouring regions.' The process aims at a very intensive dialogue — meaning many more meetings at the Hofburg conference centre in Vienna, where the OSCE meetings take place — to tackle old and new security threats. It reminds a little bit of the numerous meetings on a 'security model for the 21st century' which took place in the second half of the 1990s and which ended with very modest results. Whether this Corfu Process will be the vehicle to achieve progress in the present-day much tenser political climate within the OSCE region remains therefore to be seen.'

5. Kyrgyz president wins controversial elections

The time that hope was rife for a more democratic and open Kyrgyzstan after the Tulip Revolution in 2005 has long passed. Independent observers consider the present-day political situation in the country even worse than in the period of the previous President Akaev who was forced to flee the country after fraudulent elections triggered massive street protests. His successor Kurmanbek Bakiyev seems to be following the

same path as his predecessor, creating conditions for long-term power with key positions for his family members. Through manipulation of the electoral legislation, he first managed to get a parliament which is predominantly composed of members of the government clique and doesn't play a role of significance any longer, similar to the situation in all other Central Asian countries.

Earlier this year Bakiev decided on early presidential elections to be held on the 23rd of July. It turned out, as some observers described, a new low in the country's democratic record. Bakiev officially received eighty-five per cent of the votes, whereas his main opponent should have received only 7 per cent of the vote. This was contrary to exit polls. The OSCE observation mission issued a highly negative report about the elections which were accompanied by numerous frauds. The incumbent immediately used the law enforcement bodies to suppress any opposition against the controversial outcome of the vote. Although the authorities clearly have not been shy in using many tricks to secure an overwhelming majority for the incumbent president, disagreements in the ranks of the opposition have also been a major reason for the weak performance of the counter candidates. Nevertheless, the opposition declared 'war' on the Bakiev regime, as voiced by opposition leader Tekebaev, although that would require a much stronger co-operation among the various opposition groups. In each case, Bakiev has managed to secure a personal power position, which is rather unparalleled in the country, among other things through an almost complete suppression of freedom of speech and freedom of association and assembly.

Although the presidential elections were definitely not a showcase of beauty, the US authorities have been rather careful in voicing strong criticism. This is undoubtedly due to the fact that it has the airbase Manas in the country, which plays a crucial role in its war against the Taliban in Afghanistan. Under strong Russian pressure and seduced by a substantial loan earlier this year, Bakiev has initiated the closure of this base. In the end, however, one month before the presidential elections, the president announced that the base would remain open against a considerable higher rent from the American tax payer, undoubtedly much to the dislike of the Russian authorities. This is a clear example of a conflict of security interests with human rights problems.



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