

Second day of the Sixteenth Meeting
MC(16) Journal No. 2, Agenda item 8

DECISION No. 7/08
FURTHER STRENGTHENING THE RULE OF LAW
IN THE OSCE AREA

The Ministerial Council,

Reaffirming the OSCE participating States' commitments to the rule of law and to the Principles Guiding Relations between participating States in the 1975 Helsinki Final Act, as well as to the fulfilment in good faith of obligations under international law and reiterating the OSCE participating States' determination to foster strict respect for these principles,

Recalling the OSCE documents adopted in Vienna 1989, Copenhagen 1990, Moscow 1991, Budapest 1994 and Istanbul 1999 and Ljubljana Ministerial Council Decision No. 12/05 on Upholding human rights and the rule of law in criminal justice systems,

Recalling also the Universal Declaration of Human Rights and taking note of the International Covenant on Civil and Political Rights,

Recalling also other relevant United Nations documents affirming, *inter alia*, the need for universal adherence to and implementation of the rule of law at both the national and international levels, the commitment to an international order based on the rule of law and international law,

Underlining the importance we attach to human rights, the rule of law and democracy, which are inter-linked and mutually reinforcing,

Underlining also the importance of the rule of law as a cross-dimensional issue for ensuring the respect for human rights and democracy, security and stability, good governance, mutual economic and trade relations, investment security and a favourable business climate as well as its role in the fight against corruption, organized crime and all kinds of illegal trafficking including in drugs and weapons as well as trafficking in human beings, thus serving as a basis for political, economic, social and environmental development in the participating States,

Underlining also the importance of the rule of law in the implementation of OSCE decisions and documents in the politico-military sphere,

Taking into account activities related to the rule of law of relevant OSCE executive structures, in particular, the Secretariat, the ODIHR and the OSCE field operations, to assist participating States to enhance rule of law capacities, and taking also into account the role of the OSCE Parliamentary Assembly to promote respect for the rule of law in the OSCE area,

Taking into account relevant OSCE events concerning rule of law, in particular the 2008 OSCE Human Dimension seminar on the issue of Constitutional Justice as well as relevant Supplementary Human Dimension Meetings,

Taking into account participating States' ongoing and envisaged bilateral activities regarding the rule of law,

Underlining the importance of providing the OSCE with a legal personality, legal capacity, privileges and immunities and thus strengthening the legal framework of the OSCE,

1. Calls on the OSCE participating States to honour their obligations under international law and to observe their OSCE commitments regarding the rule of law at both international and national levels, including in all aspects of their legislation, administration and judiciary;
2. Calls on participating States to contribute, where appropriate, to OSCE projects and programmes supporting the rule of law;
3. Encourages the relevant OSCE executive structures, in accordance with their mandates and within existing resources, in cooperation with relevant international organizations, to further identify and use synergies in assisting participating States, upon their request, in strengthening of the rule of law;
4. Encourages participating States, with the assistance, where appropriate, of relevant OSCE executive structures in accordance with their mandates and within existing resources, to continue and to enhance their efforts to share information and best practices and to strengthen the rule of law, *inter alia* in the following areas:
 - Independence of the judiciary, effective administration of justice, right to a fair trial, access to court, accountability of state institutions and officials, respect for the rule of law in public administration, the right to legal assistance and respect for the human rights of persons in detention;
 - Honouring obligations under international law as a key element of strengthening the rule of law in the OSCE area;
 - Adherence to the principle of peaceful settlement of disputes;
 - Respect for the rule of law and human rights in the fight against terrorism according to their obligations under international law and OSCE commitments;
 - Prevention of torture and other cruel, inhuman or degrading treatment or punishment, including through co-operation with the applicable intergovernmental bodies;
 - Efficient legislation and an administrative and judicial framework in order to facilitate economic activities, trade and investments in participating States and between them;

- Respect for the rule of law with regard to the protection of the natural environment in the OSCE area;
 - Awareness-raising for issues related to the rule of law in courts, law enforcement agencies, police and penitentiary systems as well as in training for legal professionals;
 - Education on the rule of law as well as interaction and exchange opportunities for legal professionals, academics and law students from different participating States in the OSCE region;
 - The role of constitutional courts or comparable institutions of the participating States as an instrument to ensure that the principles of the rule of law, democracy and human rights are observed in all state institutions;
 - The provision of effective legal remedies, where appropriate, and the access thereto;
 - The observation of rule of law standards and practices in the criminal justice system;
 - The fight against corruption;
5. Tasks the relevant OSCE executive structures, in close consultation and co-operation with participating States and within existing resources, to organize a seminar focussing on rule of law in 2009 which could serve as a platform for exchanging best practices between the participating States on issues related to the rule of law.

MC.DEC/7/08
5 December 2008
Attachment

Original: ENGLISH

**INTERPRETATIVE STATEMENT UNDER
PARAGRAPH IV.1(A)6 OF THE RULES OF PROCEDURE
OF THE ORGANIZATION FOR SECURITY AND
CO-OPERATION IN EUROPE**

By the delegation of Georgia:

“While it has joined the consensus on the Ministerial Council decision on Further Strengthening the Rule of Law in the OSCE Area, Georgia regrets the fact that, during the Ministerial Council meeting in Helsinki, the participating States were not able to reach consensus on the implementation of rule of law on the territories in the OSCE area, affected by the unresolved conflicts, where the absence of legitimate governance, democracy, respect for human rights and lack of transparency at both national and international levels have led to absolute lawlessness on these territories in some cases, resulting in severe and detrimental conditions of life of the citizens of the OSCE Member States residing there. Adequate reflection of this issue in the Ministerial Council decision would be crucial for ensuring universal adherence to and implementation of the rule of law and observing the commitment to an international order based on the rule of law and international law, affirmed by the relevant OSCE and UN documents.

We request that this statement be attached to the decision adopted and be included in the journal of today’s meeting.”