



World Organisation Against Torture
Case postale 21 - 8 rue du Vieux-Billard
1211 Geneva 8, Switzerland

OSCE HUMAN DIMENSION IMPLEMENTATION MEETING WARSAW

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Oral statement by The World Organisation Against Torture (OMCT)

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Mr Moderator, esteemed Representatives of States and Human Rights Organisations.

Thank you very much for allowing me to address you here today in the name of the World Organisation Against Torture (OMCT), a network of more than 280 organisations, which are fighting every day in their respective national context to reduce and ideally to bring an end to the practice of torture and other forms of ill-treatment.

We could quote here a long list of torture cases, which the OMCT and its network members have documented in the last months. Many of them have been disseminated in the form of Alternative Reports to the Committee Against Torture and Human Rights Committee, Urgent Appeals to the SOS-Torture Network and to the media. It would only highlight the situations where the information has come out and leave in the shadow all countries where the news are not even coming out. Instead, we would like to touch upon the subject under a different perspective.

In spite of the clear legal prohibition of torture and other forms of ill-treatment under international law, we have in the last years seen an unprecedented connivance in the commission of, and/or unwillingness to investigate, prosecute, punish and remedy

such crimes by many countries, including in European states and this in spite of their multiple legal obligations to do so. However, in this respect the OMCT would like to stress that, while there have in the last years been attempts by certain States and scholars to erode the absolute legal prohibition of torture, judgments by international courts and legal opinions adopted by other monitoring organs have consistently rejected such attempts. OMCT welcomes in particular the resistance of the European Court of Human Rights to efforts by some High Contracting Parties to the European Convention on Human Rights to water down their legal obligations in this respect, such as with regard to diplomatic assurances.

The OMCT acknowledges the legitimacy of the fight against terrorism. Indeed, it is the duty of States to ensure the security of their populations, but this security must be ensured on the basis of a democratic constitutional order, the Rule of Law and a strict respect for human rights and fundamental freedoms in general and the right to be free from torture and ill-treatment in particular.

During in particular the last years, the fight against terrorism has unfortunately been tarnished by the use of unlawful methods, such as kidnappings, the holding people in unacknowledged places of detention for years unbeknownst even to the close family members, unlawful methods of interrogation – including torture and other forms of ill-treatment – and the lack of basic due process guarantees contrary to international law. Numerous persons have thus been held *incommunicado* in human conditions just to be released several years later because no evidence has been found to link them to terrorist activity. Added to their trauma are their ongoing difficulties in obtaining redress for the wrongs committed, even in European countries.

It is the opinion of OMCT, that this kind of panic reaction in the face of real or fictitious terrorist activities must from now on give way to rational and balanced reflection and decision-making based on the principles of a democratic society, the Rule of Law and human rights.

It is in this respect remarkable to note that in the aftermath of the Second World War, which left many countries in ashes and caused millions of dead people, the drafters of the major international human rights treaties firmly believed in the necessity to protect the human person against torture and ill-treatment also in wars and other

states of emergency threatening the life of the nation. It is noteworthy that, while derogations from international human rights obligations in times of crisis are carefully regulated under international human rights law, the so called fight against terrorism, which can more appropriately be described as a fight against human rights, is not even normally carried out within a legally declared state of emergency.

The OMCT wishes in this respect to commend the European Union, which confirmed in April of this year, “that the promotion and protection of the right not to be submitted to torture is a priority of the EU’s human rights policy. To work towards the prevention and eradication of all forms of torture and ill treatment within the EU and worldwide is a strongly held policy view of all EU member states”. The Council also recalled in this respect “the EU’s firm position to fully comply with obligations in respect of torture and other cruel, inhuman or degrading treatment or punishment, in the fight against terrorism, in particular the absolute prohibition of torture and cruel, inhuman and degrading treatment.”

In this same positive spirit, the OMCT now proposes that all participating States of the OSCE make a similar undertaking to prioritise the eradication of torture and other forms of ill-treatment across their 56 participating States and also worldwide. Such a determined contribution to bring an end to these illegal practices would provide a good example to the rest of the world and could inspire further important progress in this field.

Thank you for your attention.