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## Ministerial Council Decision No. 7/08 on Strengthening the Rule of Law – The Search for Common Ground in the Third Dimension

### Introduction

The concept of comprehensive security is one of the cornerstones of the OSCE. It rests upon the conviction that common European security “from Vancouver to Vladivostok” can only be guaranteed in the long term if economic and environmental issues and democracy and human rights are placed on an equal footing with politico-military aspects of security. In the area of democracy and human rights, the so-called third (or “human”) dimension, in particular, it proved possible to consolidate and significantly expand the body of joint CSCE/OSCE commitments in the last decade of the twentieth century, following the raising of the Iron Curtain.<sup>1</sup>

Since then, however, there have been few additional developments to this “*acquis*”. And while the basic principles of the third dimension such as human rights, democratization, and the rule of law have not yet been called into question – at least not openly – these are precisely the areas where, in recent years, the practical implementation of the *acquis* has so often been the subject of highly controversial and protracted discussions between OSCE participating States.<sup>2</sup>

Particularly controversial topics include election monitoring; fundamental rights and freedoms, such as freedom of expression and freedom of the media, freedom of assembly and freedom of association; support for and protection of human rights defenders;<sup>3</sup> the participation of non-governmental organizations in OSCE events;<sup>4</sup> the mandate of OSCE institutions such as the

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Note: The views contained in this contribution are the author’s own.

- 1 Key steps here were the meetings of the Conference on the Human Dimension of the CSCE in Paris (1989), Copenhagen (1990), and Moscow (1991), as well as the CSCE Summits in Paris (1990), Helsinki (1992), and Budapest (1994).
- 2 The causes of this can be found in the sometimes widely varying views participating States possess regarding the value of the third dimension within the overall tableau of OSCE activities; for more details, see also P. Terrence Hopmann, *The Future Impact of the OSCE: Business as Usual or Revitalization?* in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook 2008*, Baden-Baden 2009, pp. 75-90.
- 3 Although a clear commitment to the necessity of protecting human rights defenders was made at the Budapest Summit in 1994 (Decision No. VIII of the Budapest Document 1994, *The Human Dimension*, para. 18), there have been many cases of disagreement between the participating States over how the issue of human rights defenders should be treated at OSCE events over the years.
- 4 In Decision No. IV of the Helsinki Document 1992, paras 12ff. (particularly paras 14f.) the participating States make a commitment to provide opportunities for the participation

Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR) and the Representative on Freedom of the Media; relevant activities carried out by the OSCE field missions; the modalities of OSCE events;<sup>5</sup> as well as the priorities of the third dimension in general and the way they are dealt with in OSCE bodies, particularly the Permanent Council and the Human Dimension Committee.

Against this background it may come as a surprise that most of the substantive documents adopted at the Helsinki Ministerial Council Meeting in December 2008 can be assigned to the third dimension.<sup>6</sup> These include Decision No. 7/08 on further strengthening the rule of law in the OSCE area.<sup>7</sup>

### *Germany's Special Interest in Promoting the Rule of Law*

Ministerial Decision No. 7/08 goes back to an initiative proposed by Germany, a country that places a special value on rule of law issues.<sup>8</sup> In light of Germany's historical experience, the principle of the rule of law was anchored in the constitution of the Federal Republic of Germany<sup>9</sup> and is considered to be one of the foundation stones upon which the German state is built.<sup>10</sup>

The German government has long been committed to promoting the principles of the rule of law at the international level. It supports the "juridification" of international relations by, for instance, consistently calling for

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of non-governmental organizations in OSCE events. Nevertheless, there have often been disagreements regarding the inclusion of particular NGOs, who have been accused by individual participating States of perpetrating violence or publicly condoning terrorism or the use of violence.

5 Decision No. 476/2002 of the Permanent Council governs the modalities of OSCE meetings on human dimension issues; the relationship between this decision and the OSCE's general Rules of Procedure (MC.DOC/1/06), which were adopted at the Ministerial Council Meeting in Brussels in 2006, has often been an object of heated discussion between participating States.

6 Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights (MC.DOC/2/08) and the Ministerial Declaration on the 60th Anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide (MC.DOC/3/08), as well as Ministerial Decisions 5/08 (on trafficking in human beings), 6/08 (Sinti and Roma), 7/08 (rule of law) and 8/08 (Alliance of Civilizations), all in: Organization for Security and Co-operation in Europe, *Sixteenth Meeting of the Ministerial Council*, 4 and 5 December 2008, Helsinki, 5 December 2008, at: <http://www.osce.org/item/36852.html>.

7 Decision No. 7/08, Further Strengthening the Rule of Law in the OSCE Area, in: *ibid.*, pp. 20-23.

8 The German word "*Rechtsstaat*" (state under the rule of law, literally "rights-state") was invented in the 19th century in opposition to the concept of the absolutist state.

9 Article 20 para. 3 of the Basic Law, and corresponding clauses in the constitutions of the *Länder*. The core elements of the principle of the rule of law as interpreted by the German Constitutional Court (*Bundesverfassungsgericht*) are: justice, legal certainty, the principle of proportionality, the primacy of the law, and the binding of the executive to statute.

10 According to Article 20, paras 1 and 2 of the Basic Law, "the Federal Republic of Germany is a democratic and social federal state".

the strengthening of international legal jurisdiction via instruments such as the International Criminal Court.

Where required, Germany also offers other states support and advice with legislative issues – for instance via the German Foundation for International Legal Cooperation (IRZ), which was established to concentrate mainly on the post-Communist reform states and has been helping partner states to reform their legal and justice systems since 1992. Several of Germany's party-affiliated political foundations also support projects in the area of rule of law, as does the *Gesellschaft für Technische Zusammenarbeit* (GTZ) in the area of development policy.

Germany also supports the rule of law in multilateral frameworks – including the United Nations, whose General Assembly has taken up the topic several times in recent years.<sup>11</sup> In the European Union, Germany and France have joint responsibility for co-ordinating the EU Rule of Law Initiative for Central Asia, one of the main focuses in the implementation of the EU's Central Asia Strategy, which was adopted during the German EU Presidency in the first half of 2007.<sup>12</sup> Germany also used its chairmanship of the G8 in 2007 to take initiatives in this area – including via the holding of an expert conference in Berlin in November 2007 and a declaration of G8 foreign ministers in support of the rule of law.

In the OSCE, a broad commitment to the rule of law has long been part of the *acquis* taken on by participating States. Its general form is set out in numerous documents,<sup>13</sup> and it has been specifically underlined, for instance in 2005 at the Ljubljana Ministerial Council Meeting in Decision 12/05 on upholding human rights and the rule of law in criminal justice systems.<sup>14</sup> There is a dedicated Rule of Law Unit within the Democratization Department of ODIHR in Warsaw. Field missions in various OSCE regions also run projects on the topic.

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11 United Nations General Assembly, Resolutions A/RES/62/70 from 2008 and A/RES/61/39 from 2006, each entitled “*The rule of law at the national and international levels*”, as well as Resolutions A/RES/57/221 from 2003 and A/RES/55/99 from 2001, each entitled “*Strengthening the rule of law*”.

12 Cf. *The EU and Central Asia: Strategy for a New Partnership*, 31 May 2007, at: <http://www.auswaertiges-amt.de/diplo/en/Europa/Aussenpolitik/Regionalabkommen/EU-CentralAsia-Strategy.pdf>.

13 An overview is available in the compilation put together by ODIHR: *OSCE Human Dimension Commitments* – Volume 1 (Thematic Compilation) and Volume 2 (Chronological Compilation), 2nd edition 2005 – under the heading “Rule of Law” in each case.

14 Cf. Organization for Security and Co-operation in Europe, *Thirteenth Meeting of the Ministerial Council*, 5 and 6 December 2005, Ljubljana, 6 December 2005, pp. 42-43.

*The Initiative for an OSCE Ministerial Council Decision on Strengthening the Rule of Law*

Against this background, the aim of the German initiative was to reaffirm once more in general terms the common OSCE *acquis* on the rule of law by means of a Ministerial Council Decision, to stress the importance of the topic on the OSCE agenda, while also lending impetus to new concrete activities and projects with the involvement of the participating States and relevant OSCE institutions, where possible.

This was done in the belief that there was a more realistic chance of finding a consensus among the 56 participating States on the topic of the rule of law than on the more controversial topics mentioned above. At the same time, it was an attempt, despite unfavourable conditions, to breathe new life into the OSCE's third dimension as a whole by finding a new "common denominator".

In this context, the proposals and initiatives put forward by Russia's President Dmitry Medvedev, which, among other things, stressed the need to uphold the rule of law in the Russian Federation as a precondition for a positive investment climate, were also viewed as an important signal that could boost an initiative to strengthen the rule of law in the OSCE area.<sup>15</sup>

The initiative to seek a Ministerial Council Decision was based upon the assumption that strengthening the rule of law is fundamentally in the self interest of all OSCE participating States. For the negotiating process, this meant that all participating States should be involved in discussions at the earliest possible stage and not simply presented with a fait accompli. It was also important to make clear that this was not a project based on the interests of a single participating State or group of participating States and against the interests of others. Finally, with this approach, winning the support of the other participating States by offering them something in return – e.g. by making compromises in other Ministerial Council documents – was out of the question.<sup>16</sup>

Germany's OSCE ambassador presented the notion of a Ministerial Decision on the rule of law to the participating States for the first time at an informal meeting of the Heads of the Permanent Representations to the OSCE in June 2008, where it was, on the whole, positively received. Informal consultations with participating States from various regions were then carried out in the subsequent months.

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15 The key statement of this policy on the international stage was perhaps the speech he gave in Berlin on 5 June 2008: *President of Russia Dmitry Medvedev's Speech at Meeting with German Political, Parliamentary and Civic Leaders*, Berlin, 5 June 2008, at: [http://www.in.mid.ru/brp\\_4.nsf/e78a48070f128a7b43256999005bcb3/c080dc2ff8d93629c3257460003496c4](http://www.in.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcb3/c080dc2ff8d93629c3257460003496c4).

16 This was particularly relevant with regard to the important Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights, cited above (Note 6), the text of which was hotly disputed.

A key challenge for co-operation within the OSCE at this time was the war in Georgia in August 2008, which severely damaged the climate for discussion within the Organization. Nonetheless – based on its view that the OSCE is a forum for discussion that had proved itself in the past precisely under difficult conditions and should therefore not be abandoned in times of crisis – Germany decided to push ahead with its rule-of-law initiative.

Procedurally, it would have been possible to present the first draft of the Ministerial Council Decision in the name of the EU as a whole, as the German initiative had rapidly received widespread general support from within EU circles. After consultations with its EU partners, Germany decided to follow a different procedure: It offered a number of participating States from OSCE regions “West and East of Vienna” the chance of supporting the initiative as “co-sponsors” to make clear that the draft would enjoy the support of a wide range of participating States from a variety of regional and political backgrounds.

As a result, four participating States declared themselves prepared to present the draft alongside Germany: Austria, Belgium, Norway, and Hungary. They are also among the states whose governments actively promote rule of law issues and which possess corresponding competencies in relevant ministries and in their judiciaries. In November 2008, the co-sponsors presented a first draft, which was initially discussed in the Human Dimension Committee in Vienna and then, immediately prior to and during the Ministerial Council Meeting, in the Preparatory Committee (PrepCom) in Helsinki. There, the Finnish OSCE Chairmanship adopted the draft, in the form it had reached as a result of negotiations to that point, as its own; the talks within PrepCom were concluded on 5 December, and the draft was then adopted in the Permanent Council and Ministerial Council.

In its preamble, the Decision reaffirms the existing OSCE commitments on the rule of law while also establishing a reference to underlying United Nations documents on the subject. In the operational part of the Decision, the participating States are called upon to apply the rule of law principle consistently and to contribute to OSCE activities in this area; in this, they should be supported by the executive structures of the OSCE. The decision names thirteen specific areas for intensified operational activities and the mutual exchange of experience.

The decision refrains from giving a general definition of the rule of law. By making explicit reference to relevant UN documents, however, it suggests that the understanding of the rule of law contained in them<sup>17</sup> also applies to the OSCE case.

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17 On the concept of the rule of law in the UN, the report of the UN Secretary-General on *The rule of law and transitional justice in conflict and post-conflict societies* (S/2004/616, 3 August 2004, item 6), which was approvingly acknowledged by the General Assembly, states: “The ‘rule of law’ is a concept at the very heart of the Organization’s mission. It refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promul-

Even though the initiative for an OSCE Ministerial Council Decision on the rule of law met with the broad support of the participating States and their willingness for constructive co-operation in principle, the negotiations over the text were nonetheless characterized by intense and heated discussions of individual matters. The key reason for this was almost certainly differences in basic attitudes regarding the significance of the OSCE's third dimension. The following areas were particularly controversial:

#### *Rule of Law in (Post-)Conflict Situations*

The Georgian delegation made an interpretive statement to Decision No. 7/08 on the meaning of the rule of law in those parts of the OSCE area affected by unresolved conflicts. During the negotiations, Georgia had made a number of proposals on this topic against the background of the war with Russia in August 2008 and the special situation in the Georgian regions of South Ossetia and Abkhazia following the war.<sup>18</sup>

However, because of the consequences of this particular conflict for the OSCE, which goes far beyond Decision No. 7/08, no agreement could be reached – even though it is obvious that the rule of law, democracy, and human rights are particularly endangered during and after armed conflict as well as under the special conditions of unresolved conflict.

#### *The Rule of Law within the OSCE Itself – the Organization's Legal Basis and Lack of Legal Personality*

The extent to which Decision No. 7/08 should address the question of the OSCE's lack of legal personality and the Organization's legal basis remained contentious until right before the end of negotiations.

This concerned proposals that the participating States had been discussing for years, first, by providing the OSCE with a foundational document (the "Convention"), to grant it legal personality and the various immunities and privileges that this would entail, and, second, to set down its fundamental goals, principles, and commitments and the structure of its main decision-making bodies in a special document ("Charter" or "Statute").<sup>19</sup>

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gated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency."

18 ODIHR presented a report on the consequences of the August 2008 War in Georgia to the Ministerial Council in Helsinki with the title "Human rights in the war-affected areas following the conflict in Georgia", the views expressed in which are also supported by the High Commissioner on National Minorities.

19 In this regard, reference is frequently made to the 2005 report of the Panel of Eminent Persons, which makes these proposals in paras 30 a) and b). See Common Purpose – Towards a More Effective OSCE, Final Report and Recommendations of the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE, 27 June 2006, reprinted

There is still no consensus among the participating States on any of these questions, and especially not on the way the various proposals should relate to each other.<sup>20</sup> Under these conditions, Decision No. 7/08 could in no way prejudice the results of the ongoing discussions, particularly since the same Ministerial Council passed a separate decision on strengthening the legal framework of the OSCE.<sup>21</sup> The formula ultimately agreed upon<sup>22</sup> is a compromise that points in a general way to the relationship between the question of legal personality and strengthening the legal foundation of the OSCE, but which simultaneously also leaves room for interpretation.

#### *Domestic and International Aspects of the Rule of Law*

One operational focus of Decision No. 7/08 is on practical projects to strengthen structures and institutions underpinning the rule of law within the individual participating States; ODIHR and the OSCE field missions, in particular, are active in this area. Domestic aspects of the rule of law therefore play an important role in this document. However, the negotiations also dealt intensively with the rule of law at the international level, particularly the participating States' commitment to uphold their obligations under international law.

As a result, Decision No. 7/08 underscores fundamental principles such as compliance with obligations under international law and the peaceful settlement of disputes, while also addressing the rule of law at both the national and international levels several times. This mirrors the way the topic is being dealt with in the United Nations context.<sup>23</sup> It also takes account of the interest in the "juridification" of international relations by various means, such as strengthening international criminal jurisdiction.

The initiative launched in large part by Russia's President Medvedev, which aims to reshape Europe's "security architecture" by means of a legally binding treaty between the states involved can also be seen as broadly relevant for the strengthening of the rule of law at the international level, even if it was not expressly mentioned in the negotiations over Decision No. 7/08. The Ministerial Council Meeting in Helsinki was the first time that the Russian initiative was discussed in depth by the foreign ministers of the OSCE

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in: Institute for Peace Research and Security Policy at the University of Hamburg (ed.), *OSCE Yearbook 2005*, pp. 359-379.

20 Despite intensive preparation, no agreement could be reached on the draft of a convention that was presented at the OSCE Ministerial Council in Madrid 2007.

21 Organization for Security and Co-operation in Europe, *Sixteenth Meeting of the Ministerial Council*, cited above (Note 6), Decision No. 4/08, Strengthening the Legal Framework of the OSCE (MC.DEC/04/08 of 5 December 2008), pp. 13-14.

22 See the eleventh paragraph of the preamble: "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", Decision No. 7/08, cited above (Note 7), p. 21.

23 Cf. United Nations General Assembly, Resolution A/RES/62/70, cited above (Note 11).

participating States. Against this background, Decision No. 7/08 avoided prejudicing the discussion process on the future of European security in any way.

### *The Links between the Rule of Law, Democracy, and Human Rights*

The discussions in the course of the negotiations over Decision No. 7/08 on the interlinkages between the rule of law, democracy, and human rights revealed that the participating States had fundamentally different approaches: While some considered human rights protection to be a central element of the rule of law and wished to stress this nexus as clearly as possible, others took a formal, substantively “value-neutral” conception, which sees human rights and democracy as separate concepts that should be treated separately from the rule of law.

As a result, Decision No. 7/08 stresses that these three principles are “inter-linked and mutually reinforcing”.<sup>24</sup> This language is taken directly from the United Nations.<sup>25</sup> The purpose of this is to make clear that the three elements are not grouped together by chance, but are interdependent: The concept of the rule of law remains incomplete to the extent that it is reduced to the merely formally correct application of laws if these are not created by means of democratic procedures or if they contravene human rights principles.<sup>26</sup> For its part, the consistent application of rule of law mechanisms can make a decisive contribution to ensuring that democratic and human-rights principles are observed.<sup>27</sup>

The decision therefore makes explicit mention of this reciprocal relationship – though it does contain an assurance that the significance of Decision No. 7/08 is not restricted to democracy and human rights per se, but concerns the rule of law in a broader sense with its various cross-dimensional associations.

### *The Significance of the Rule of Law in the Three OSCE Dimensions and the Balance between Them*

Most project-based OSCE activities in the area of the rule of law concern the third dimension – for instance, projects to ensure that the police observe human rights or to strengthen rule of law principles in the area of criminal

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24 Decision No. 7/08, cited above (Note 7), p. 20, fifth paragraph of the preamble.

25 See Resolution A/RES/62/70, cited above (Note 11), para. 3 of the preamble.

26 The Nazi “Race Laws” provide a graphic – and terrifying – example.

27 E.g. via effective oversight by the courts to ensure that the actions of the executive branch accord with the fundamental rights and freedoms of affected citizens, or by means of judicial mechanisms to examine electoral and legislative procedures, such as procedures designed to allow a constitutional court to examine compliance with norms.

justice. Ministerial Council Decision No. 7/08 names some of these topics explicitly.<sup>28</sup>

In general, however, the Decision has been framed to focus less on specific substantive issues than on strengthening mechanisms and procedures for the rule of law. It assumes that effective judicial oversight of the activities of the state has repercussions on all three OSCE dimensions, i.e. on more than democracy and human rights issues in a narrow sense. Many aspects named in the operational part of the decision – e.g. the independence of the judiciary and the effective administration of justice,<sup>29</sup> or awareness raising for rule-of-law issues in law enforcement and penitentiary systems<sup>30</sup> – thus concern primarily the institutional strengthening of the relevant organs of state in each case, independently of specific substantive issues.

The significance of the rule of law for aspects of the second dimension is also expressly made clear, particularly with regard to economic activities<sup>31</sup> but also in terms of environmental protection.<sup>32</sup> Several aspects are also touched upon by the fight against corruption, which is identified as a separate area.<sup>33</sup> Effective oversight of the administration by the courts can contribute decisively to preventing corruption, thereby promoting good governance as a whole. Furthermore, during the negotiations over Decision No. 7/08, it became clear that there was also interest among the participating States in addressing the topic of corruption within the judiciary itself.

Finally, it was agreed during the negotiations on the text of the decision to include in it a general reference to the significance of the rule of law in the politico-military dimension,<sup>34</sup> to which were added elements such as a call for states to adhere to the peaceful settlement of disputes.<sup>35</sup> By this means, an appropriate balance between the three dimensions was to be assured.

#### *The Role of ODIHR, the OSCE Field Missions, and Other Actors*

ODIHR and the field missions are likely to be the most important operational actors in the OSCE's project work in relation to the rule of law. But other institutions, such as the High Commissioner on National Minorities, and various working units in the OSCE Secretariat, such as the Strategic Police Matters Unit (SPMU) and the Special Representative for Combating Trafficking in Human Beings, are also concerned with promoting the rule of law in the broader sense.

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28 Cf. para. 4 of the operational part of the Decision, p. 21, bullet points 1, 4, and 5.

29 Cf. *ibid.*, bullet point 1.

30 Cf. *ibid.*, bullet point 8.

31 Cf. *ibid.*, bullet point 6.

32 Cf. *ibid.*, bullet point 7.

33 Cf. *ibid.*, p. 22, bullet point 13.

34 Cf. *ibid.*, p. 20, para. 7 of the preamble.

35 Cf. *ibid.*, p. 21, para. 4 of the operational part, bullet point 3.

The disagreement between the participating States on how to evaluate the activities of ODIHR and the field missions was revealed in the negotiations over Decision No. 7/08, with some participating States proposing that only these two OSCE actors be explicitly foregrounded, and others that none should.

The compromise that was ultimately achieved<sup>36</sup> makes a general reference to “relevant OSCE executive structures”, singling out for attention the Secretariat, ODIHR, and the field operations. The role of the OSCE Parliamentary Assembly is also mentioned<sup>37</sup> – rightly so, as promoting the rule of law, both by shaping legislative procedures and via the contents of the laws they pass, is one of the most fundamental of all parliamentary tasks.

Reference is explicitly made to ODIHR’s 2008 annual Human Dimension Seminar on the issue of constitutional justice, which had offered an opportunity for the intensive exchange of experiences on various sorts of mechanisms for checks and balances performed by constitutional courts<sup>38</sup> – a core element of the rule of law.

### *Implementation and Outlook*

A concrete operational aspect of Decision No. 7/08 was its call to organize a seminar on the rule of law in 2009 that would enable participating States to exchange best practices.<sup>39</sup> This task corresponded to the priorities of the 2009 Greek OSCE Chairmanship, which has made the rule of law one of its focuses in the third dimension.

As a result, ODIHR’s annual Human Dimension Seminar,<sup>40</sup> which was held in May 2009, was dedicated to the rule of law. While the participating States attempted to specify the agenda of this seminar, something of the contentiousness that had characterized the negotiations on Decision No. 7/08 returned – for instance the question of whether and to what extent topics such as human rights protection, in general, and combating and preventing torture, in particular, should be dealt with.

The special focus of the seminar was “the effective administration of justice”, i.e. the institutional preconditions that have to be fulfilled for the rule of law to function. Subsidiary topics included the independence of the judiciary, judicial oversight of administrative decisions, and due process of

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36 Cf. *ibid.*, p. 20, para. 8 of the preamble.

37 Cf. *ibid.*

38 Cf. *ibid.*, p. 20, para. 9 of the preamble, acknowledging that constitutional justice does not require the existence of a constitutional court *per se* – the task may be performed equally effectively by other (ordinary) courts or other institutions.

39 Cf. *ibid.*, p. 22, para. 5 of the operational part.

40 Permanent Council Decision 476 from 2002 on Modalities for OSCE Meetings on Human Dimension Issues makes arrangements for this annual seminar, cf. OSCE, Permanent Council, Decision No. 476, *Modalities for OSCE Meetings on Human Dimension Issues*, PC.DEC/476, 23 May 2002, Annexes 2 and 3.

law with regard, in particular, to transparency and the enforcement of decisions, as well as the accountability of state institutions and officials. Further topics discussed included human rights protection, including the prevention of torture.<sup>41</sup>

As intended in the original initiative for a Ministerial Council Decision, the focus of the seminar was more on the exchange of information at expert level and less on highly contested discussions of the implementation of concrete commitments.<sup>42</sup> These discussions are usually held at the annual two-week-long Human Dimension Implementation Meeting. In any case, it remains vital to ensure that the topic of the rule of law retains a prominent place on the OSCE's agenda. Ministerial Council Decision No. 7/08 has contributed to doing just that.

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41 Cf. OSCE, Human Dimension Seminar, *2009 Human Dimension Seminar, Strengthening the rule of law in the OSCE area, with a special focus on the effective administration of justice*, Warsaw, 12-14 May 2009, Annotated Agenda, CIO.GAL/57/09, 5 May 2009.

42 A Consolidated Summary and further information on this seminar is available at: [http://www.osce.org/conferences/hds\\_2009.html](http://www.osce.org/conferences/hds_2009.html).