

Opening Remarks by Ambassador Janez Lenarčič  
Director of the OSCE Office for Democratic Institutions  
and Human Rights (ODIHR)

Supplementary Human Dimension Meeting  
on Democratic Lawmaking

Vienna, 6 November 2008



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Excellencies,  
Ladies and Gentlemen,

It is a pleasure and honour to welcome you to this Supplementary Human Dimension Meeting on “Democratic Lawmaking”.

This is the first time ever that the OSCE looks specifically into this cross-cutting theme that has ramifications across the entire spectrum of OSCE human dimension commitments, and far beyond.

Lawmaking of course is of direct interest to parliamentarians, and I warmly welcome the participation of the OSCE Parliamentary Assembly in this meeting: Ms. Walburga Habsburg Douglas is one of our keynote speakers today. The contribution of parliamentarians to this topic is essential and is certainly not limited to the discussions at this meeting.

I am also grateful for the presence of representatives of governmental bodies and national institutions and agencies who domestically play a decisive role in lawmaking.

Lawmaking is a process that requires broad participation, and I therefore wish to express my appreciation to those here today who come from civil society. Civil society representatives already met this morning to discuss possible recommendations for this meeting. We will listen to these recommendations in a moment.

Ladies and gentlemen,

Democratic lawmaking has never been the subject of a human dimension meeting in its own right. But the topic is by no means new to the OSCE. It has been addressed in the context broader subjects such as democratic governance or the rule of

law. It has also been discussed in connection with legal reform in specific thematic areas.

But what we have not looked at sufficiently, so far, is the importance of the **lawmaking process itself**. What I mean here is the process through which laws are prepared, discussed, adopted, published and monitored – irrespective of the content of the legislation.

These process issues are often overlooked. They are often seen as less important. And they are not specifically addressed in international legal instruments.

Within the OSCE, we **do have** clear commitments on the lawmaking process. They are included in the 1990 Copenhagen document and the 1991 Moscow documents, and can be summarized as follows:

First, legislation must be formulated and adopted as the result of an **open process** reflecting the will of the people.

Second, legislation and regulations must be **published** and made accessible to everyone, as a condition for their applicability.

These commitments are uncontroversial – anybody would easily subscribe to them.

So why should we attach particular importance to looking at these commitments and their implementation now?

I believe there have been significant changes in the last two decades that make them more topical than ever.

Although lawmaking is embedded in the unique traditions of each country, there is a trend towards greater **uniformity** of

law. This is a development that mainly affects the economic and commercial sphere, but also areas that fall under the OSCE human dimension.

In addition, many participating States have been engaged in an **unprecedented lawmaking** effort. They are in the process of conducting a significant overhaul of existing structures, systems and legal frameworks. This has placed considerable strain on legislative systems. As a result, concerns about the quality of legislation are widespread throughout the OSCE region.

Ladies and gentlemen,

I believe that our discussions here will be an opportunity to have a thorough exchange of views on the instruments, mechanisms and procedural arrangements available to address these concerns.

Underlying these discussions are, in my view, the following three key observations:

First – democratic lawmaking is not just about ensuring that laws are enacted by democratically elected representatives. It is also about ensuring that the public in general is given reasonable opportunities to contribute – in particular those affected by the legislation and those responsible for its enforcement.

Second – there is no good law on paper, but only good laws in practice. Therefore, the process whereby laws are prepared is as important as their content.

And thirdly, democratic lawmaking means that a more open, transparent and participatory process increases the likelihood

that new laws will be well received and accepted and thus properly implemented.

These three elements are integral parts of the rule of law. How these requirements translate into concrete measures will be the main subject of our discussions.

Such measures may involve far-reaching changes to the system in place. They may be directly related to the laws, regulations and rules of procedure for lawmaking. And they may also relate to the practices, working habits and the legislative culture of lawmakers.

Too often calls for transparency are nothing more than a lip service.

“Time is pressing”, we often hear, “reforms cannot wait, democracy requires changes, and changes require fast-track adoption procedures”.

There is a perception that the process does not matter as much as the end result – as if these were unrelated issues.

But we all know that the ultimate test of the quality of legislation lies with its implementation. Expeditious processes often lead to bad laws that cannot be implemented as intended and thus need to be changed over and over again.

Today there is an increased awareness of the importance of addressing these issues comprehensively and systematically. It is my hope that our discussions over these two days will reflect this trend.

For us at the ODIHR, this meeting will certainly prove useful, as legislative assistance is an integral component of many of our activities.

In recent years, we have not only reviewed laws, but have also paid increased attention to the root causes of shortcomings often observed in the legislation we comment on.

We have come to realize how essential it is to encourage and support home-grown initiatives aimed at identifying legal and practical measures for strengthening the capacity of legislative systems.

I am confident that this meeting will provide a further impetus to enhance the ODIHR's capacity to assist participating States in implementing their commitments in this field.

I wish you all a fruitful discussion.

Thank you.