



**2014 Chairmanship OSCE-wide Counter-Terrorism Conference
THE ROLE OF THE OSCE IN ADDRESSING CURRENT TERRORIST CHALLENGES**

Oral statement delivered by The World Organisation Against Torture (OMCT)

Thank you Ms Moderator,

The World Organisation Against Torture (OMCT) would like to thank the panellists for their interventions and the OSCE and the Swiss 2014 Chairmanship for organising this Conference. More than 13 years into a global agenda to counter terrorism it is time to take stock of the progress made and the remaining challenges.

Accountability as missing link:

Over the years we have seen important progress in bringing the human rights dimension back into the counter-terrorism debate. It reflects that terrorist acts attack the very values human rights law entails. Human rights law itself is not silent on terrorist acts, it requires states to protect those under its jurisdiction, and it provides itself the framework within which threats must be addressed.

We believe that this meeting is timely to move one step further: respecting human rights and the absolute prohibition of torture is not only a legal limit to counter terrorism. It should be seen as positively contributing to countering violent extremism and contributing to an effective response to terrorist acts.

To do so counter-terrorism should address a missing link in the global counter-terrorism response: the lack of accountability for human rights violations committed in the name of protecting our security.

Strengthening legal frameworks:

To tackle the gap between law and practice and ensure an accountability framework it is of utmost importance that adequate safeguards against torture and other forms of ill-treatment, arbitrary arrest and other human rights abuses are maintained without exception.

We see with concern in many OSCE participating states a tendency to reduce these vital safeguards when dealing with terrorism. It is our common experience around the world that these safeguards are particularly important when the incentive to abuse is higher, such as in counter-terrorism.

The OSCE with its comprehensive concept of security and the ODIHR are well placed to conduct a thorough review of relevant laws of its participating states with a view to increasing safeguards against abuse, such as access to lawyers, independent medical counsel and judicial oversight and review.

Ensuring accountability over all actors:

It is equally important that all actors in counter-terrorism are accountable. It is evident that states seek to build specialized anti-terrorism expertise, including through its intelligence services. However, we have seen over the years with grave concern that intelligence actors have assumed law enforcement functions, have benefitted from arrest, detention and interrogation powers, without a proper system of accountability.

While intelligence is a much needed tool in countering terrorism we remain concerned that intelligence services in OSCE participating states have replaced the ordinary criminal justice actors, and that intelligence actors, including in their international cooperation, are not subject to an adequate system of accountability, oversight and legal controls.

To this end, law enforcement, the criminal justice system and intelligence powers should remain distinct and intelligence actors should not have detention powers as highlighted by the UN Special Rapporteur on Human Rights while countering terrorism.

We consider equally important that the OSCE integrates the findings of the recent report of the UN Special Rapporteur on Torture on the respect for the exclusionary rule on torture evidence into its work, including within security and intelligence structures.

The OSCE with its multidimensional approach to security is well placed to tackle the gap on intelligence accountability and oversight on the basis of the guidelines presented in 2010 by the UN Special Rapporteur on Human Rights while countering terrorism.

Legal accountability:

In any case, for the OMCT it is a crucial aspect, to ensure that counter-terrorism strategies and operations are human rights-compliant, the full legal and democratic accountability of any element of the security infrastructure. That is, States should strive to guarantee that *all* actors are held to account including law enforcement and intelligence services when there are reports indicating wrongdoing, in particular when they involve serious human rights violations such as torture and other cruel, inhuman or degrading treatment. In this context, it is vital to strictly limit the use of restrictions that hinder transparency and, ultimately, the criminal, civil and political liability of State agents such as those behind the banner of “State secrecy” or “national security and to ensure that legitimate security interests cannot extinguish the right to an effective remedy and reparation.

The OMCT would also like to highlight that terrorist financing, including through the payment of ransoms and other kinds of financial assistance, raises serious concerns in the fight against terrorism. Nevertheless, its framework, too, has to ensure accountability and due process. In this setting, the principles of legality, transparency and accountability need to be upheld to avoid that allegations of "terrorist financing" or association with

"terrorists" are applied on NGOs as a defamatory tactic that endangers their activities and the integrity of their members.

Final remarks:

The OSCE and its participating States have a key role in ensuring that no concessions are made on the need to end impunity and to address terrorist acts with full respect for human rights and for the absolute prohibition of torture, cruel and inhuman or degrading treatment.

Respect for human rights and fundamental freedoms forms a key part of the OSCE's comprehensive security concept and this approach should be also, and above all, endorsed and strengthened when addressing terrorist threats to security. Ultimately, we need to remember that arbitrariness and the lack of accountability may not only violate fundamental human rights and human dimension commitments but also steer resentment and support to radical causes that we all want to counter.

We are open to work with ODIHR and other OSCE institutions in setting a clearer framework on accountability for torture.

We thank you.