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Election Observation Under Threat:
The Relationship between ODIHR, OSCE PA, Russia
and the CIS

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Introduction

As everyone here knows, the promotion of democracy is a vital factor in building sustainable human development and long-lasting peace. Actions in support of democratisation and the respect for human rights, including the right to take part in the establishment of governments through democratic elections, can make a key contribution to peace, security and the prevention of conflict. One of the essential elements of any functioning democracy is of course fairly contested elections. To assess whether elections meet international standards the importance of election observation has grown substantially over the last few decades.

In the last 30 years or so, election observation has, on the whole, become increasingly professional and taken on greater importance. It is my opinion, and that of many others, that the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) is one of, if not the, most important and professional election observation bodies in existence today. ODIHR is without doubt the jewel in the crown of the OSCE and I have the utmost respect for their expertise in this field. Their knowledge and expertise in elections is surely unparalleled in international organisations.

The UN has an excellent record in terms of democratisation and observation of critical elections (for a detailed account of UN work in this field please see *The UN Role in Promoting Democracy: Between Ideals and Reality*). However in recent years the UN has stepped back from observation work, leaving it to regional organisations to take the lead. These organisations include OSCE, EU, Organisation of American States, African Union, Southern African Development Community, Organisation of the Islamic Conference, the Commonwealth (former British Commonwealth) and the Organisation Internationale de la Francophonie. However the standards of election observation within these organisations greatly varies; some are excellent (particularly OSCE/ODIHR and the EU) while others pay little more than lip service to observation. There are also a number of sophisticated international non-governmental organisations such as the Carter Center, National Democratic Institute, International Republican Institute. Also largely, though not exclusively, as a result of European and American funding there has developed a series of excellent domestic NGOs leading some to debate the merits of domestic observation compared to international observation. In the OSCE region many of these domestic NGOs cooperate together as the European Network of Election Monitoring Organisations (ENEMO). There are of course also a number of excellent domestic NGOs in other regions including Latin America, Africa (such as the Electoral Institute of Southern Africa) and Asia (such as the Asian Network for Free Elections) The large majority of these credible election organisations came together in 2005 at the UN to jointly sign the "Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers." This document recognises the need for elections and the important work of election observation. Furthermore it reaffirms the role of observation as

“systematic, comprehensive and accurate gathering of information concerning the laws, processes and institutions related to the conduct of elections and other factors concerning the overall electoral environment; the impartial and professional analysis of such information; and the drawing of conclusions

about the character of electoral processes based on the highest standards for accuracy of information and impartiality of analysis.”

Rather interestingly you will not find the OSCE PA or the Commonwealth of Independent States among the list of organisations who have endorsed these principles.

As someone who has headed some eighteen Short Term Observation Missions organised by ODIHR and the OSCE Parliamentary Assembly, and having participated in two other missions outside this framework, I believe I am able to write on the basis of a great deal of experience and interest. Much of what I write is quite painful in the light of my membership of the OSCE PA going back to its very first formal session in 1992. I have in that time been committed to the enormous contribution OSCE has made to election observation and democratisation.

It would appear to any neutral observer who has studied the evolution of election observation within the OSCE system that there needs not be any lengthy defence or even explanation as to how it has evolved and the legitimacy of its observation role and its methodology. Yet ODIHR has to justify, to an OSCE audience of specialists, its legitimacy in election observation. Yet this seminar may well serve to prove to some of the participants why their persistent and damaging attacks are totally unjustified and should cease forthwith. Nobody should argue that any organisation including ODIHR should not seek to constantly re-evaluate its *raison d'être* and the way it operates. Any professional organisation must seek to assess its past performance based on their experience and both internal and external criticism; self evaluation and critical re-evaluation is an imperative. This, ODIHR already does. Since its creation in 1991 as the Office for Free Elections ODIHR has re-evaluated its guidance on election observation a number of times. The ODIHR Election Observation Handbook has been repeatedly updated and is already in its fifth edition. Furthermore since 2000 ODIHR has on a number of occasions been asked to examine and re-evaluate their methodology; a move which ODIHR has welcomed. These requests included the 2001 OSCE Human Dimension Seminar where ODIHR was encouraged to examine the possibility of building on the Copenhagen Document and clarifying and further developing the commitments for democratic elections. ODIHR also committed to undertaking an extensive study of existing norms and commitments for democratic elections within the OSCE. This study produced a very detailed report in 2003.

Most of you will, I'm sure, be aware of the work by academic Samuel Huntington in mapping the process of democratisation across the world; his so-called "waves" of democratisation. Whilst many hoped that the third wave of democratisation (which began in the mid-1970s) would continue, it is painfully obvious that in some parts of the world the process is actually being reversed. The optimism that many felt as democracy spread east into the Former-Soviet Union has not lasted as certain countries within the OSCE region have witnessed in some cases a reversal of democratic standards, and in others little more than the pretence of maintaining a democratic system of government. In these countries election results are often pre-determined, with any real opposition forces suppressed or banned from taking part in so-called "elections". We have seen within the OSCE region government's working extremely hard to ensure their own re-election through the routine and entrenched

abuse of administrative resources. The current case of Zimbabwe, while obviously not within the OSCE region, is a perfect example of the lengths some government's are willing to go to, to ensure they secure electoral victory. Whilst it would be unfair to suggest any countries within the OSCE have gone to the same lengths of Zimbabwe or that they use any of the violent tactics Mugabe's regime has deployed in the last few weeks, the determination to remain in office is often the same and the principle of abusing state power for personal gain remains the same.

Office for Democratic Institutions and Human Rights

As I have already stated ODIHR has, since its establishment as the Office for Free Elections in 1991, worked extremely hard to ensure democratic elections throughout the OSCE's membership. Much of ODIHR's work in relation to elections is guided by the so-called Copenhagen Document which OSCE member states all signed up to following a meeting of the Conference on the Human Dimension of the Conference on Security and Co-operation in Europe (CSCE, now OSCE). That document was quite specific in terms of recognising the need for democratic elections amongst member states. The document states that signatories (member-states)

“Recognize that pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms, the development of human contacts and the resolution of other issues of a related humanitarian character. They therefore welcome the commitment expressed by all participating States to the ideals of democracy and political pluralism, as well as their common determination to build democratic societies based on free elections and the rule of law.”

The Copenhagen document goes further and asserts that “the participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government.” It is on this basis that ODIHR has sought to encourage OSCE member states to live up to this commitment and hold genuinely democratic elections. All OSCE member countries, including those who are now utterly failing to offer their electorates a democratic choice, signed up to that document.

Following the Copenhagen Document the OSCE has agreed a whole host of treaties and commitments that all member states, including Russia have signed up to. These include The 1990 Charter of Paris, the 1993 Rome Document, the 1994 Budapest Summit Document and the 1999 Istanbul Summit. All of which confirmed the OSCE's commitment to holding democratic elections and cemented the mandate of ODIHR to monitor elections within the OSCE region.

ODIHR has over the years established an excellent methodology for its election observation missions. It is constantly evolving and is widely acknowledged as one of the best methodologies in the world. Indeed many other organisations involved in election observation, such as the European Union (EU) have based their own methodologies on that of ODIHR. However while most organisations acknowledge the excellent work that ODIHR undertake there are a number of increasingly vocal groups attacking ODIHR and trying to undermine all that they have achieved. While

I'm not saying that ODIHR is completely perfect, like everyone they have their problems, the attacks that they have had to face in recent years are completely unjustified for and are merely attempts to severely restrict ODIHR's ability to do its job.

These attacks on ODIHR and its methodology come predominantly from two quarters, Russia and quite unbelievably from certain sectors of our own OSCE Parliamentary Assembly. I will deal firstly with the attacks being made by Russia.

Failure of Russian Democracy

One has to recognise that the Russian people underwent severe difficulties during the collapse of Communism and the Russian government clearly believed itself to have been humiliated by the USA and the West. But there was still the hope that with all the assistance that was given to a weakened Russia it would progressively, all be it slowly, evolve into a form of democracy. These hopes have long been abandoned and as one distinguished French academic recently wrote Russia has witnessed a "transition to autocracy".

As the two recent elections have demonstrated democracy is not progressing in Russia; reports following the elections went as far as to argue that levels of democracy were actually declining. One German Government spokesman was quoted by the BBC after the Parliamentary elections saying "Russia was no democracy and it is no democracy". There are two primary concerns with Russia; its failure domestically to ensure true democratic elections, therefore breaking OSCE commitments they willingly signed up to, and its attempts through the OSCE to undermine the ODIHR and completely overhaul the well established ODIHR methodology.

I will deal firstly with their domestic political failings. Russia was widely condemned during both its most recent Parliamentary and Presidential elections for its failure to offer the electorate a real opportunity to choose their government. During both elections opposition candidates were severely restricted in their ability to register as candidates; during the Presidential election one of the main opposition figures, former Prime Minister Mikhail Kasyanov, was barred from standing because the Central Election Commission claimed many of the signatures supporting his candidacy were invalid. However even those candidates that were allowed to stand found running an effective campaign virtually impossible. Former World Chess Champion Garry Kasparov withdrew from the Presidential election due to restrictions on his ability to campaign. Kasparov's spokesman accused the government of bringing pressure to bear to prevent his campaign from renting venues to hold a legally required meeting for supporters to endorse his campaign.

Furthermore the Russian government was widely credited with having extensively abused administrative resources, with the OSCE PA arguing "state infrastructure and personnel on the public payroll on behalf of United Russia is a clear violation of these commitments and standards." Another factor in the elections was the serious weaknesses in the freedom of the media, with much of Russian media, in particular the various forms of broadcast media, almost completely under state control. With a

biased media dominating the airwaves this makes it extremely hard for the electorate at large to get a fair and balanced view of the different political parties.

However it is not just during Russian elections that the government has moved to limit and restrict the democratic rights within its country. Many academics, commentators and opposition figures have charted the continued failure of Russian democracy under the Presidency of Vladimir Putin. During his tenure as President, power was further concentrated in the hands of a few select individuals, with many previous resemblances to democracy slowly disappearing. As Garry Kasparov wrote in 2007 "For more than six years, the administration of President Vladimir Putin has deepened and darkened a political, economic and moral crisis in Russia." In this short paper I will deal with a handful of domestic issues that have been witnessed in Russia over recent years. These includes restrictions of a free media, a crackdown on genuine political opposition (indeed the creation of a false opposition) and attempts by the government to curb activities of Non-Governmental Organisations (NGOs).

Non-Governmental Organisations

One of the biggest concerns in recent years has been Russian treatment of non-governmental organisations. In early 2006 President Putin secretly signed into law a piece of legislation that the Russian Duma had introduced that put a number of severe restrictions on both foreign and domestic NGOs. The legislation severely limited the ability of foreign NGOs to successfully operate in Russia; amongst other provisions it forced offices of foreign NGOs to inform the government about their projects for the upcoming year, and about the money allotted for every specific project. The Executive Director of Human Rights Watch described the law as an "unprecedented assault on the work of human rights groups [that] will invariably undermine the rights of all Russians." During the passage of the bill it was feared that the law could be used to intimidate NGOs that the government didn't like. In the UK with the British Council we have seen this fear become a reality. While the law has not gone as far as giving the government the power to ban a particular NGO, the red tape, all-out control, regular inspections and check ups, and stepped-up financial costs could certainly prevent it from conducting any meaningful work.

However beyond the scope of this particular law the situation for many NGOs in Russia is no better, with many facing repeated government investigations and inspections as well as regular intimidation and threats. Amnesty International has reported that "government representatives and state-controlled media repeatedly accused human rights defenders and members of the opposition movement of working for foreign interests and being "anti-Russian"." Under these conditions NGOs are faced with an extremely harsh environment.

Press Freedom

But it's not just NGOs that are being restricted in modern Russia, the media (or at least the non-state media that exists) as already briefly discussed is put under severe pressure and is often seriously curtailed. The excellent American NGO "Freedom House" in its annual report on Freedom of the Press worldwide lists Russia as one of

the countries without a free press. Indeed they list a whole series of reasons why freedom of the press has got progressively worse under President Putin. I can do no better than quote their most recent edition -

“Although the constitution provides for freedom of speech and of the press, authorities are able to use the legislative and judicial systems to harass and prosecute independent journalists...despite public objections, Russia’s Parliament passed amendments to the Law on Fighting Extremist Activity, which Putin signed in July. The measure expanded the definition of extremism to include media criticism of public officials and authorized up to three years’ imprisonment for journalists as well as the suspension or closure of their publications if they were convicted.”

Once again Amnesty International and other NGOs have repeatedly reported the detainment of journalists, especially those who try to cover any forms of Kremlin opposition. But suppression of free media goes beyond the intimidation of journalists, there are institutional attempts to control media across the Russian State. This includes the Vladimir Putin’s former Press Secretary (and now Deputy Head of the Presidential Administration), Mr Alexi Gromov being a prominent member of the Board for Russia’s largest television channel, which the government controls 51% of the shares.

Political Opposition

As has already been briefly mentioned there is a great deal of pressure placed upon any opposition party or candidate in Russia. Garry Kasparov who is now Chairman of the United Civil Front and who helped to organise the “Other Russia” conference in 2006, has talked extensively of the difficulties genuine opposition parties face simply to survive. As well as the tactics employed during the recent election opposition groups are regularly raided by the police and security forces.

But the Kremlin is willing to go to extreme lengths to prevent the emergence of any substantial opposition, and this includes the creation of their own opposition party. “Just Russia” which was formed in late 2006 was unsurprisingly welcomed by President Putin. The Chairman of the Party, Sergey Mironov, is even seen as a close ally of Putin having served as Putin’s deputy Campaign Manager in the 2000 election. Although he ran as a Candidate for President against Putin in 2004 he was quoted as saying “We all want Vladimir Putin to be the next president.” It is hard to see Just Russia as anything but an attempt to divert votes from genuine opposition parties and prevent any real challenges to the Kremlin’s authority. As Stephen Sestanovich argued in the Journal of Democracy “the Kremlin’s invent-your-own-opposition strategy shows that it has real confidence in its ability to orchestrate every aspect of the democratic process.”

Russian Attacks on OSCE/ODIHR

My focus today however is not on the current state of Russian democracy but on their despicable actions towards ODIHR and the OSCE. In recent years Russia has

launched a concerted attempt to undermine ODIHR and to make what remains comparable to the totally ineffectual Commonwealth of Independent States election observation. What truly amazes me is they have the audacity to moralise and lecture ODIHR on elections and observation when the record of their own democracy is so weak. Their behavior during the recent Presidential and Duma elections highlights the increasingly bitter relationship that exists between Russia and ODIHR. They have sought unilaterally to deconstruct ODIHR's methodology, one that has been built up over the years and that is acknowledged as one of the best, if not the best in the world. What we are now witnessing is a continuation of a counter-attack by Russia on the international standards that we seek to maintain and an attempt by Russia to unilaterally renegotiate long established commitments to long term observation.

The situation became so impossible during the recent Presidential and Duma elections that ODIHR was ultimately forced to withdraw plans to observe them saying

“The Russian Federation has created limitations that are not conducive to undertaking election observation in accordance with our mandate.”

During the Presidential election the Russian government put a number of barriers in ODIHR's path making it impossible to effectively carry out their work. They refused to allow ODIHR's 'Needs Assessment Mission' that would have been carried out in December to determine the scope of the planned observation mission. Furthermore they seriously delayed the formal invitation to observe their election, without which ODIHR cannot operate. Russia waited until 28 January to formally invite ODIHR, and even when the invitation arrived it contained a number of heavy restrictions on the composition and duration of the mission. Not only did the Russian actions go against standard ODIHR methodology but was also contrary to previous observation missions to Russian elections.

In their actions Russia attempted to unilaterally rewrite the ODIHR methodology and limit any observation in terms of scope and time. Because of the actions of the Russian government ODIHR refused to monitor both Presidential and Parliamentary elections.

Permanent and Ministerial Councils

But Russia's interference in ODIHR's work and methodology is by no means simply limited to restricting scrutiny of their own elections. Russia has for the last few years repeatedly attempted to alter the ODIHR methodology at an institutional level through the different bodies of the OSCE. In particular Russia has used the meetings of the OSCE Permanent Council and the OSCE Ministerial Council to push their agenda and shift the observation balance in their favour. With the weekly meetings of the Permanent Council I have been told that since their own elections at the start of this year Russia has pushed its so-called "Reform Agenda" at least ten times, and that in the run up to their elections this was even greater.

Furthermore at a recent OSCE meeting to agree the timetable of events for the Human Dimension in 2008 Russia once again tried to push for changes to the well established OSCE system of election observation. They refused to sign up to the agreed list of

events unless a meeting on election observation was also agreed. The Finnish Chairman-In-Office agreed therefore to hold today's Chairmanship Seminar. No doubt over these two days we can expect the Russian delegation to once again argue against the established principles of long-term expert led election observation in favour of their preferred model of short-term observation.

Russia has over the years sought to use meetings of the Permanent and Ministerial Councils to seek changes to the established methodology of OSCE election observation. At the Madrid Ministerial Council meeting Russia, together with Armenia, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan, submitted for consideration a "Draft Decision on OSCE/ODIHR Observation of National Elections." Had the document been accepted it would have significantly changed the nature of election observation within the OSCE and would in all eventualities diminish the importance of ODIHR and leave OSCE election observation toothless.

To keep this paper brief I will not seek to list in full all of the changes that Russia proposed in Madrid (for a full list please see Annex 1) for the current model of election observation, but I will briefly outline some of the central elements.

- 1) There should be no immediate post-election press conference, with the report of findings submitted to the Permanent Council for consideration. The Council would vote to accept the findings.
- 2) Heads of Mission should be chosen by the Permanent Council and not ODIHR.
- 3) Election Observation Missions should be limited to just 50 observers.

Now I have only listed three Russian proposals but already it is evident the damage such proposals would have to the effectiveness of an ODIHR observation mission. As you will know the Permanent Council operates on a consensus basis; given that the first two proposals I listed would require a PC vote, we can envisage a whole series of problems. A critical observation report could easily be vetoed by any member of the Council meaning the findings might never be made public. The same scenario would be true if the Head of the Election Observation Mission were chosen by the Council, any candidate one country deemed a threat would be instantly vetoed. The whole raft of Russian proposals is simply a recipe for disaster and would completely destroy effective long-term observation as we know it today.

The Role of the OSCE Parliamentary Assembly

Perhaps the most worrying Russian action of late is their increasing collusion with the OSCE Parliamentary Assembly on the issue of election observation. Rather astonishingly Russia has found itself allied with certain parts of the Assembly leadership in seeking to attack election observation and undermine ODIHR. It is this development that I find particularly disturbing. For the OSCE PA to be actively campaigning against a fellow OSCE institution is truly remarkable, but this is what has been happening for the last couple of years. We all know that the relationship between the two institutions has had its problems over the years and that sometimes

there have been problems. But generally on the whole I think the two organisations have worked quite well together when a genuine will to cooperate has existed. Unfortunately this relationship has been getting increasingly acrimonious over the last twenty four months. While neither institution is perfect I do lay the majority of the blame at the feet of our own OSCE PA's bureaucratic leadership.

Successive Chairmen-In-Office have sought to bring about a compromise to help heal the relationship between the two institutions which is so deeply to election observation and the OSCE as a whole. The Belgian Chairman-in-Office appointed a team to look at the issue; members of the team included two members of the OSCE PA Francois Xavier De Donnea and Jan Petersen. Their subsequent report was considered and balanced but was quickly rejected by the OSCE PA leadership and the report came to nothing. The Spanish Chairman-in-Office then spent a long time consulting a large number of people throughout the OSCE before presenting a long list of proposals in 2007. The proposals, which had been criticised before they were even published, were instantly rejected by the PA's Secretary General and that ended any further attempts by that Chairmanship.

Ever since an internal report to then President of the OSCE PA Alcee Hastings in June 2006 it has been obvious that elements of the OSCE PA leadership have sought to supplant ODIHR as the primary election observation body within the OSCE. Indeed in the conclusion of this memo the International Secretariat set out quite clearly their aims, which I quote in full.

“1. The Parliamentary Assembly, which has played the leading role in election monitoring since Chairman-in-Office Margaretha af Ugglas asked the Parliamentary Assembly to do so in 1993, should clearly be placed in charge of OSCE election observations. The ODIHR can and should, as foreseen in the Cooperation Agreement, play a subordinate and supportive role.

2. If this is not possible then the Parliamentary Assembly should take full responsibility for all election monitoring activities, as is the case with the Parliamentary Assembly of the Council of Europe, the NATO Assembly, and the European Parliament. The expertise, independence, credibility, visibility and accountability of elected Parliamentarians argues strongly for this approach.”

The actions of some quarters of the Assembly since 2006 have clearly been directed at achieving these aims. As someone who has been heavily involved in election observation, both for the OSCE PA and other organisations (recently National Democratic Institute and NATO PA) I have seen first hand some of the tactics used by the Assembly in recent years to change the observation process. Through my own experience and through conversations with others I can list a number of methods used by the assembly.

- 1) Claiming to have political leadership of the observation mission and political guidance over its conclusions
- 2) Trying to write the report based on politics rather than on the fact-based evidence, thus attempting to infuse a blatant political agenda

- 3) To push forward the press conference before full details could be brought together.
- 4) Attempts by the PA to focus on a short statement of conclusions without endorsing the supporting ODIHR findings
- 5) To try and remove the ODIHR appointed Head of Mission from the press conference
- 6) To try to limit the input from other Parliamentary Assemblies who have observed the election
- 7) To change the format of the statement of initial findings, claiming ODIHR is only useful for statistics
- 8) Attempts to hijack the post-election press conference by not delivering the agreed upon findings to the media
- 9) In preparing the draft statement the PA is attempting to offer their alternative draft as the basis for discussion which is not based on the findings of the long term ODIHR mission
- 10) Reinterpreting the 1997 Agreement between ODIHR and the OSCE PA
- 11) Trying to create a two-tiered observation mission with the other Parliamentary Assemblies acting subordinately to the OSCE PA.
- 12) Refusal to endorse ODIHR based statement and issuing separate statement

The Assembly's leadership has clearly been working with Russia as there is a remarkable similarity between the stated objectives of the two in relation to election observation. In both cases their stated objectives would result in a downgraded ODIHR which would merely carry out a subordinate role rendering it meaningless as an election observation body.

While the PA may have visions of separating themselves from ODIHR and directing election observation independently the reality of such a situation would be far from ideal. The PA got their wish in this respect during the Russian Duma elections in December 2007. What I found truly outrageous was that despite the Russians very publicly making it impossible for ODIHR to observe the 2007 Duma elections the PA showed absolutely no solidarity with ODIHR and observed the elections independently. The decision to observe the elections without ODIHR gave the Assembly the opportunity it has long sought. However the hollowness of its boasting was transparently revealed. In a country with nearly 100,000 polling stations the OSCE PA and the Parliamentary Assembly of the Council of Europe (PACE) only sent 70 parliamentarians between them. With so few observers they couldn't even cover 0.5% of the country. There was no Core Team who had been there for two months or more, and no Long Term and very few Short Term Observers. There were

apparently no forms to be filled in and the report, such as it was, could well have been written from media reports outside Russia. In my opinion the whole observation mission was a farce and demonstrates the whole raft of problems we would be faced with if this became the model for election observation within the OSCE.

Most of the analysis that the OSCE PA team undertook during the Duma elections was conducted from long distance via the internet, missing out on the expertise of the core team and long term observers on the ground. Their subsequent report was flimsy, inadequate and without the facts to justify its findings and conclusions. While I did ultimately agree with their ultimate conclusions if OSCE PA election observation reports are to have any credibility they must be based on evidence collected from a large number of expert observers. In my view this Russian adventure by the Assembly was self-defeating and totally vindicated ODIHR's tried and tested methodology.

The OSCE PA leadership has long argued against the merits of long-term observation and have simultaneously rejected ODIHR's methodology so highly respected by others. However Short Term Observation while extremely useful when combined with Long Term Observation is ineffective when conducted in isolation. The author Jorgen Elklit has outlined the twelve key steps of an electoral process. These are –

1. Establishment of the legal framework for the electoral process
2. Establishment of adequate organisational management structures
3. Demarcation of constituencies and polling districts
4. Voter education and voter information
5. Voter registration
6. Nomination and registration of political parties and candidates
7. Regulation of the electoral campaign
8. Polling
9. Counting and Tabulating the Vote
10. Resolving electoral disputes and complaints; verification of final results; certification
11. Election result implementation
12. Post-election handling of election material; production of the official election statistics; archiving; closing the books.

Given the OSCE PA's preferred model of election observation (i.e Short Term Observation only) such a mission would therefore miss the majority of the election process outlined above and indeed would not be able to legitimately comment on it in their report. If we are to accept these 12 steps then Short Term Observation as advocated by the OSCE PA (and as carried out during the Russian Duma election) would only cover two of these – polling, and counting the vote. Even then their coverage is extremely limited given the small size of their missions. As the Russian example has shown us a team of only 70 parliamentarians is not sufficient to monitor a substantial proportion of polling stations. It would appear therefore that the OSCE PA model of election observation is extremely unsatisfactory and is simply not an effective method of election observation.

I must however congratulate the Assembly on quickly learning from its mistakes by following the lead of ODIHR and refusing to observe the Presidential elections which

followed not long after. As a senior PA official said to me during the previous Presidential elections in 2004 "It will be more of a coronation than an election." It is therefore extremely unfortunate that the Parliamentary Assembly of the Council of Europe decided to monitor the elections alone.

What is probably the most astonishing action of the OSCE PA however is the recent decision to start negotiations with the Commonwealth of Independent States Parliamentary Assembly (CIS PA) on shared election standards. In typical fashion, most of this work has been conducted behind closed doors with no attempt to be open and transparent about it. Little appears to have been said to the wider PA membership about these negotiations other than a number of short anodyne comments in "News from Copenhagen". Whilst negotiations were proceeding there was little disclosure of any of the substance of these meetings in "News from Copenhagen." Indeed until late June, almost a month after the last meeting and three months after they were initiated, the fullest report to the membership of the Assembly was little over 250 words.

I have been told that during these negotiations certain members of the OSCE PA team appeared to suggest they were prepared to negotiate with the CIS PA on the basis of Russia's draft election standards. If this is true and the Assembly continues in this vein I fear that serious damage will be inflicted to both the reputation of the OSCE and to international election observation generally. Not only is this recent development truly disturbing I also believe that the Assembly has no legitimacy within the OSCE to conduct such a revision of election standards. Only the inter-governmental side of the OSCE has the right to change ODIHR's methodology. The PA cannot do this independently, which leads me to believe this is an attempt to break away from ODIHR election observation and ally with the CIS. This is further evidence of the PA's attempts to put itself in charge of OSCE election observation and to reduce ODIHR to a subordinate role, as outlined in the internal memo I discussed earlier.

In my view this was an attempt by the Assembly leadership to present the Chairman-in-Office with a signed agreement between the CIS PA and the OSCE PA which would have put the C-i-O under enormous pressure. In my view it was not an informed discussion as the document they had planned to sign (see Annex 2) would have been a *fait accompli*. Thankfully at the last minute it would appear that the Russians refused to sign the agreement, I would therefore extend my deep gratitude to the Chair of the Russian Central Election Commission (who was head of the CIS delegation) for not signing the agreement, what ever his motives.

If the aim of these negotiations was to establish common standards then comparing ODIHR and the OSCE's process with that of the CIS is frankly a fantasy. The two are simply non-comparable processes. Common standards between the two organisations would inevitably see either ODIHR reducing its standards to those of the CIS or the CIS improving its own observations to levels of ODIHR. Both are extremely unlikely to occur. While ODIHR has adapted over the years it has maintained and must continue to maintain its core principles and standards. Reaching a compromise would mean going against many of those principles.

Given that the theme of this years OSCE PA annual session was Transparency in the OSCE it is surely incumbent on the leadership of the Assembly to be completely open

and transparent about his recent dealings with Russia and the CIS. I would hope that the OSCE PA would detail in full the genesis of these negotiations, including a full account of all preparatory discussions held with the CIS (ideally in transcript form), details of all formal meetings of the working group, copies of speeches/presentations made by both sides if available and details of the current status of the negotiations and any potential conclusions reached by the working group and if he plans to continue to pursue them. I would also hope that the Secretary General of the Assembly would make us aware of any consultations the Assembly undertook prior to setting up this joint working group, in particular whether the Chairman-in-Office or ODIHR were informed of these meetings before they began.

The bureaucratic leadership of the PA's motives have been crystal clear to me for a number of years and pursued with vigour, dedication, though not transparency. The goal is to place the PA at the top of the OSCE's election observation system with ODIHR in a purely supportive secondary fact gathering role. The conclusions of election observation missions will no doubt be based on a political assessment with research conducted from a distance by studying the internet and what little they can pick up in two days prior to the election. If this strategy means consorting with the Russian Foreign Ministry, Central Election Commission and the Russian dominated CIS, for all of their inadequacies in election observation then the price to be paid is apparently deemed worthwhile. Their new friends and partners are much more transparent in their motives and have repeated their proposals/demands with a monotonous regularity.

Conclusion

In conclusion the time has now come for the Parliamentary Assembly to abandon the guerrilla warfare it has waged against ODIHR for the last two years, which has got it nowhere except to damage OSCE election observation. The 1997 agreement which the Secretary General is constantly reinterpreting is far from detrimental to the PA's interests, in fact it greatly advantaged us as an Assembly. The Assembly provides the Chair of the Press Conference who announces to the world the findings of the observation mission; the Assembly's nominee to head the Short Term Observation Mission and act as the Chairman-in-Office's Special Representative is the central figure in chairing the discussion and guiding the preparation and publication of the report and all of this with having provided only a small percentage of the Short Term observers and none of the long term observers. But apparently that is not good enough for the Assembly. The Assembly wishes, or should I say the leadership of the Assembly wishes, to take full control of observation with the other assemblies providing nothing more than background support. This will never be accepted by the majority of the OSCE governments and it remains to be seen that Parliamentarians would accept such a unilateral declaration of independence from ODIHR.

It's time to call a halt to this damaging conflict. Perhaps a new opportunity will arise with a new Secretary General, a new President and a new Chairman-in-Office, but I am yet to be convinced.

Furthermore I would like to call upon the Russian delegation and her allies in this endeavour to decrease their repeated attempts to undermine and diminish the work of ODIHR, and to accept that through their membership of the OSCE they are signed up

to election observation. If changes are needed to ODIIR's processes then we should move forward on the basis of consensus and the existing election commitments that all OSCE member states have signed up to.

ANNEX 1.

(As Proposed by the Russian Federation)

BASIC PRINCIPLES FOR THE ORGANIZATION OF ODIHR OBSERVATION OF NATIONAL ELECTIONS

1. Election observation is an impartial and depoliticized activity aimed at providing assistance to OSCE participating States in improving their electoral processes at their request, within a framework agreed with them and in accordance with their national legislation.

ODIHR observation of national elections should be conducted in all OSCE participating States without division into different categories, proceeding from the principle of equality of all participating States and their equal treatment enshrined in the documents of the OSCE and from the understanding of the need to strengthen and develop democracy as a common goal for all the States making up the OSCE.

2. Key decisions on the organization of election observation are adopted by the OSCE Permanent Council. The Office for Democratic Institutions and Human Rights (ODIHR) as an OSCE executive body authorized by the participating States to provide expert assistance in the area of elections is accountable to the Permanent Council and bears responsibility before it. This arrangement is in line with the theoretical and practical functioning of inter-State organizations.

The Permanent Council ensures that election observation activities are performed in conformity with the principles of the sovereign equality of States, independence, transparency, professionalism, political neutrality and impartiality. With this in mind the Permanent Council regularly as well as upon the initiative of one or several participating States examines the activities of the ODIHR for their consistency with the above principles.

3. The ODIHR's election observation activities are financed from the OSCE Unified Budget. In view of the limited budgetary resources, election monitoring missions should be compact and include no more than 50 persons. Within this limit, their numerical strength will vary depending on the size of the national electorate.

The Permanent Council approves an annual election observation programme with the corresponding budgetary funding and may also decide to observe unscheduled elections.

4. All election observation missions should have the same mandate and structure, to be determined by the relevant Permanent Council decisions.

Election observation missions are formed on the basis of a broad and balanced representation of all OSCE participating States. The number of citizens of one participating State should not exceed 10 per cent of the total number of mission members.

The numerical strength and personnel of each particular election observation mission are agreed with the host participating State.

5. The head of the monitoring mission is appointed by the Permanent Council in agreement with the host State from a list of candidates put forward by the OSCE participating States and approved annually by the Permanent Council. Candidates from the list approved by the Permanent Council may not head election observation missions more than once every two years.

6. The working languages of an election observation mission are determined in each particular case by decisions of the Permanent Council from among the OSCE working languages, taking into account the extent of their use in the host State and in consultations with it.

7. In their work, election observation missions are obliged to strictly abide by the principle of non-interference in the internal affairs and political and electoral processes of the host OSCE participating State.

8. Following the announcement of the official election results, the head of the ODIHR mission forwards a report on the election observation to the State that has just held the elections and also submits it to the OSCE Permanent Council.

The procedure for preparing and publishing reports is determined by a separate Permanent Council decision.

Reports should contain a concise assessment of the host State's implementation of the provisions of the section on elections in the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE. This assessment is based on reliable factual information from all the observers reflected in the report.

Comments of the host participating State should be incorporated in or annexed to the final election observation report.

At the request of the host OSCE participating State and on the basis of the report, the ODIHR may elaborate expert technical recommendations on the improvement of the electoral process.

9. The head and members of the mission are to refrain from making any public assessments of the election environment in the host country prior to the official announcement of the election results and the submission of the report to the Permanent Council.

Upon arrival in the State holding the elections, the head of the ODIHR mission issues an official statement on the opening of the election observation mission, specifying the purpose of its activities, its composition and duration of observation.

The head of the ODIHR election observation mission is obliged to notify the national bodies authorized to invite international observers and the organizers of the elections in good time of his/her remarks, conclusions and recommendations for improving electoral legislation and the electoral process and also of all established cases of violation of electoral rights of citizens, electoral legislation and international commitments of the host State.

To this end the head of the ODIHR election observation mission conducts regular consultations with the official representatives of the host participating State to take into account their views on all facts to be reflected in the election observation report and receive various other clarifications.

At the request of the host State, the head of the mission is to provide it with copies of observation forms completed by all the groups of observers comprising the mission.

10. Questions of interaction between various OSCE bodies amongst themselves and with other international organizations in the course of election observation are subject to discussion and agreement by the OSCE collective bodies.