

## Prerequisites for a Successful OSCE Summit Leading by Example<sup>1</sup>

*The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.*

*- Helsinki Final Act*

*The successful conduct of a summit of heads of state would be a symbol of the rebirth of the spirit of Helsinki in new historical conditions.*

*- President Nursultan Nazarbayev (Interfax, January 28, 2010)*

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In his speech to the Permanent Council on January 14, 2010, the Chairman-in-Office, Kazakhstani Foreign Minister Kanat Saudabayev reiterated his country's proposal to hold an OSCE summit meeting in 2010. The issue of a summit was discussed extensively at the Athens Ministerial Council meeting in late 2009, at which time the participating States "noted with interest" Kazakhstan's proposal. Summit meetings are rare and important events in the history of the Organization. The six summits that took place between 1975 and 1999 produced such momentous documents as the Helsinki Final Act, the Charter of Paris for a New Europe, and the Charter for European Security. For a summit to be a success in 2010, the thirty-fifth anniversary year of the Helsinki Final Act and the twentieth of the Copenhagen Document, a great deal of work will have to go into preparing an agenda that will produce a result worthy of such a momentous occasion.

However, a fitting agenda is only one prerequisite for a successful summit. In addition to being an important anniversary year for the Organization, 2010 is also historic because for the first time the OSCE is being chaired by a participating State that was part of the Soviet Union. Kazakhstan has pledged to use its chairmanship to heal on-going rifts among participating States from the West and East of Vienna. But the fact that for the first time the Organization is being chaired by a state that falls decidedly short of fulfilling many key OSCE commitments in the human dimension also poses a challenge for the Organization. In 1991 in Moscow, the OSCE participating States agreed that "commitments undertaken in the field of the human dimension of the OSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned."

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<sup>1</sup> This paper represents the views of the following non-governmental organizations active throughout the OSCE region: Anti-Discrimination Centre Memorial, Russia; Article 19: Global Campaign for Free Expression, United Kingdom; Belgrade Centre for Human Rights, Serbia; Bukhara Humanitarian Legal Center, Uzbekistan; Bürgerbewegung Pax Europa, Germany; Center for Security Policy, USA; CIVICUS: World Alliance for Citizen Participation, Republic of South Africa/USA; Coalition "OSCE 2010" (Kazakhstan International Bureau for Human Rights and Rule of Law, Adil Soz, Charter for Human Rights, Almaty Helsinki Committee, Legal Policy Research Centre, Media Net, Green Salvation, Republican Network of Independent Monitors, Internews Kazakhstan), Kazakhstan; Election Monitoring and Democracy Studies Center, Azerbaijan; Eurasia Transition Group, Germany; The Expert Working Group of Uzbekistani Civil Society Representatives, Uzbekistan; The Foreign Policy Centre, United Kingdom; Freedom House, USA; Golos Svobody, Kyrgyzstan; Human Rights Watch, USA; Human Rights Without Frontiers, Belgium; International Civil Liberties Alliance, Denmark; International Federation for Human Rights, France; International Partnership for Human Rights, Belgium; International Rehabilitation Council for Torture Victims, Denmark; International Youth Human Rights Movement, Russia; Mission Europa Karl Martell, Austria; The Netherlands Helsinki Committee, Netherlands; The Norwegian Helsinki Committee, Norway; Open Society Institute, USA; Press Now, Netherlands; The Rapid Response Group, Uzbekistan; Reporters Without Borders, France; Society for Democratic Culture, Albania; SOVA Center for Information and Analysis, Russia; Turkmenistan Helsinki Foundation for Human Rights; Bulgaria; Wiener Akademikerbund, Austria; Youth Human Rights Group, Kyrgyzstan.

Widespread concern about Kazakhstan's performance in the human dimension among the participating States resulted in a one-year delay in granting that country the OSCE chairmanship. In recognition of this concern, Kazakhstan pledged to at the 2007 Madrid Ministerial to adopt a series of reforms in the fields of media, political parties, elections and local government, and "to preserve ODIHR and its existing mandate" and not to "support any future efforts to weaken them."

Kazakhstan has made some small progress since Madrid in areas such as juvenile justice reform. Most recently, the Kazakhstani government has put forward a long-term Human Rights Action Plan that, if fully implemented, would greatly improve the human rights situation in the country. Over the last two years, however, promises of sweeping reforms have in most cases produced few positive results and by and large Kazakhstan's human rights performance is trending in the wrong direction. The amended media law passed pursuant to Kazakhstan's Madrid commitments failed to decriminalize libel. Meanwhile, ruinously high fines in civil libel cases and arrests of journalists and editors on criminal charges have forced several independent newspapers to close, a harshly restrictive law on the Internet was promulgated, and another law passed including such strict privacy protections as to make investigative journalism almost impossible. Key roadblocks to increased political pluralism have not been addressed, while the process of registering a new political party has been made even more complicated. Kazakhstan's best-known human rights activist, Mr. Yevgeniy Zhovtis, has been imprisoned after an investigation and trial that were marred by such significant procedural violations that a number of participating States expressed their concern at sessions of the Permanent Council.

We strongly support President Nazarbayev's desire to see a rebirth of the spirit of Helsinki. We are concerned, however, that this will not be possible while the chairman of the Organization is failing to implement that spirit in its domestic affairs since the human dimension performance of the state chairing of the organization reflects on all participating States. We therefore believe that, for a 2010 OSCE summit to be a success, it is essential that the government of Kazakhstan demonstrate leadership in this area by implementing a number of concrete measures to improve its own record in the human dimension before a summit is convened. These measures would serve as an earnest of the Kazakhstani government's commitment to broader reform over the longer-term and as a salutary reminder to all participating States of the need to continually work to better their implementation of their OSCE commitments. We therefore call on the participating States of the OSCE to approve consensus in favour of holding an OSCE summit in 2010 only after the government of Kazakhstan has:

- decriminalized libel, introduced a cap on awards in civil libel cases so they cannot be used to punitively bankrupt media firms, and secured the release of Ramzan Yesergepov, the editor of the newspaper Alma-Ata Info, and opened a new, transparent investigation into his case;
- secured the release of Yevgeniy Zhovtis and opened a new, transparent investigation into his case;
- moved to adopt all recommendations contained in the ODIHR Final Report on the August 2007 Parliamentary elections for amendments to Kazakhstan's legislation and has taken tangible steps to implement ODIHR recommendations on election administration;
- moved to adopt all recommendations contained in the ODIHR Final Report on the August 2007 Parliamentary elections regarding procedures for registering political parties so as to ensure respect for the rights of individuals and groups to establish in full freedom their own parties;
- submitted proposed changes to the Administrative Code to ODIHR for legal review;
- taken steps to end the harassment of minority religious groups; and
- created, in compliance with the recommendations of the UN Committee Against Torture and the obligations of the Optional Protocol to the UN Convention against Torture, an independent body to investigate torture allegations and implemented the 2009 recommendations of the Special Rapporteur on Torture.