



Permanent Council of 24 January 2013

Respect of the Non-refoulement Principle /Incommunicado Detention and Disappearances in the OSCE Area

Mr. Chairperson,

I am speaking on behalf of Iceland, Norway, and Switzerland.

The prohibition against torture is firmly embedded in customary international law and international treaties. We would also like to recall the existence of several OSCE commitments underlining the absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment (e.g. contained in Vienna 1989, Copenhagen 1990, Moscow 1991, and Athens 2009). These commitments are applicable to all OSCE participating States. In addition, the participating States affirmed their commitment to respect the right to seek asylum and to ensure the international protection of refugees as set out in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. They also recognized the importance of the International Committee of the Red Cross (ICRC) and the United Nations High Commissioner for Refugees (UNHCR), as well as of non-governmental organizations involved in relief work, for the protection of and assistance to refugees and displaced persons (Helsinki 1992).

In his address to the OSCE Human Dimension Committee in May of last year, the *United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, Juan E. Méndez, pointed out the problems around recurring, deliberate undermining of the absolute prohibition of torture, ill-treatment and the principle of *non-refoulement*. He emphasized that the non-refoulement principle is absolute unlike in the realm of refugee law, as it is not conditional of the grant of asylum or refugee status but generally aims to protect a person from being expelled or returned to a country where the person would be at risk of torture. Therefore, in the context of immigration laws, of fighting organized crime, and in countering terrorism, States must

adhere to the long-established principle of *non-refoulement* as an effective legal and procedural safeguard against torture. The rule that States must not deport or extradite a person to a jurisdiction where he or she runs the risk of persecution is part of the peremptory rules of international law. In addition, and more specifically with respect to the risk of being tortured, it is contemplated in the Convention against Torture (Article 3).

However, there have been reports of severe violations of international law and OSCE commitments in the OSCE area. Such instances occurred, over the past few years, all across Europe. To illustrate our point, we would like to draw your attention to the more recent cases of Abdulvosit Latipov and Leonid Razvozzhaev:

In its forty-ninth session, the UN Committee Against Torture (UNCAT) stated its concern that **Abdulvosit Latipov** had allegedly been abducted from the Russian Federation to Tajikistan in October 2012 and was being held in incommunicado detention. Amnesty International published a communication stating that they feared that he was at high risk of being subjected to torture and other ill-treatment while in incommunicado detention. In a letter sent earlier this year, the European Court of Human Rights expressed its concern to Russian authorities about the disappearances of several citizens of Tajikistan and Uzbekistan and issued interim measures under Rule 39, which required that their cases were fully considered by the Court prior to any deportation. Latipov was among those on the European Court's list of concern.

Also last October, **Leonid Razvozzhaev** was reported to have disappeared under unclear circumstances in Ukraine following his approach to the United Nations' High Commissioner for Refugees Office and its local partner in Kyiv expressing his wish to seek asylum. According to various public sources, Razvozzhaev himself said that he had been kidnapped and taken to Russia by unknown persons during a break of the legal counseling session. Allegations of mistreatment were also reported. According to Amnesty International the abduction took place on the same day he was put on a "wanted list" in the Russian Federation in connection to a criminal case against him on charges of plotting mass disturbances. Reportedly, Razvozzhaev was interrogated by the Investigations Committee of the Russian Federation on 22 October 2012, three days after his abduction from Ukraine.

Issues related to non-refoulement, incommunicado detention and disappearances have not been raised within the OSCE recently. But as these cases demonstrate all too clearly they do merit our attention. In this context we call upon participating States to:

- Adhere to the long-established principle of non-refoulement and actively protect all individuals, including asylum seekers and refugees, from the possibility of being expelled or refouled, according to international standards.
- Establish independent and effective systems of investigation of complaints and prevention of torture, preferably within the framework of the Optional Protocol to UNCAT (OPCAT).
- Cooperate closely with specialized international bodies, most notably with the UNCAT, the Subcommittee on Prevention of Torture, the UNHCR, and national preventive mechanisms, as well as the ICRC, as applicable.

We also ask the Chairmanship to closely follow these issues in an appropriate forum.

Thank you, Mr. Chairperson.