

**“Kazakhstan’s Bid to Chair the OSCE:
A Fundamental Right or a Foolhardy Ambition?”**

Testimony of Dr. Robert Herman, Freedom House
Before the Commission on Security and Cooperation in Europe

October 16, 2007

Mr. Chairman. Let me begin by thanking you for the opportunity to testify today on behalf of Freedom House on the important issue of Kazakhstan’s bid to become Chairman-in-Office (CiO) of the Organization for Security and Cooperation in Europe (OSCE). Freedom House recognizes that Kazakhstan is a country of consequence, a major energy exporter that has long cooperated with the United States on security issues, including the removal of the nuclear weapons and materials it inherited from the USSR. Freedom House also recognizes that Kazakhstan has made some progress in the area of human rights and democratic reform during the past few years as the government has simultaneously pursued its bid to head the OSCE. On October 1, we issued a statement on Kazakhstan’s recent signing of optional protocols to international conventions on civil and political rights and on combating torture, which followed a long advocacy campaign by a number of dedicated Kazakhstani human rights organizations. The statement called the Kazakhstani action an encouraging first step, while also noting that the onus is now on the Government of Kazakhstan to implement these protocols.

It is our hope that one day Kazakhstan will develop into a fully democratic country. Unfortunately, that has not yet happened. As chronicled by Freedom House in its annual global survey of political rights and civil liberties, *Freedom in the World*, Kazakhstan is a solidly authoritarian country that has none of the fundamental features of a democratic society such as free and fair elections, opposition political parties able to compete for power, an independent judiciary, robust civil society, free press, and safeguarding of basic human rights. Kazakhstan falls far short of meeting its OSCE commitments in these regards. For these reasons, Freedom House believes strongly that the United States and other OSCE participating states must oppose Kazakhstan’s bid to chair the OSCE in 2009.

The OSCE played a historic role in the fall of the Iron Curtain and the peaceful end of the Cold War. Since then, it has continued to play a significant role, particularly in promoting human rights and democratic reform in Europe and Eurasia. Today, however, the OSCE finds itself under attack, including from the governments of some participating states that seek to prevent the organization from shining a spotlight on their failure to respect their citizens’ basic civil and political rights. If these governments succeed it will be a severe blow to the universal desire for freedom and damage efforts to create a Europe democratic, whole and free. To settle for a Chairman-in-Office – such as today’s Kazakhstan – that falls so far short of international norms in terms of respect for its own citizens’ basic rights and that flouts OSCE standards, would profoundly weaken the organization’s work in support of democratic governance across the region.

The Importance of the OSCE

The OSCE traces its heritage to the Helsinki Final Act of 1975 and the creation of the Conference on Security and Cooperation in Europe. The Soviets thought the Final Act a major victory, in that it included the principle of respect for the territorial integrity of states. In their minds this enshrined their long cherished position that the post-war map of Europe was final. What they failed to understand was the transformative potential of the Third Basket on human rights. After agreeing to the Final Act, the Soviet Union could no longer claim that Western efforts in support of human rights in the USSR and the countries of the Warsaw Pact constituted an illegitimate interference in those countries' internal affairs. This paved the way for the CSCE review conferences of the 1980s and early 1990s and the formation of Helsinki Commissions in Prague and Moscow (and solidarity groups in the West), which labored heroically to hold their governments accountable for the commitments they made under the human rights basket. The inspired work and dedication of many people involved in this process, including Freedom House Chairman Emeritus Ambassador Max Kampelman, who headed the U.S. delegation to the review conferences, focused international attention on the human rights situation in the USSR and Eastern Europe and helped spur the collapse of communism. Over the years, the CSCE/OSCE also contributed to peace and security, particularly in the area of controlling conventional armed forces in Europe.

A strong OSCE, one capable of carrying out its mandates in the security, economic and human dimensions, is still very much in the interest of the United States and our European allies. The OSCE was pivotal in exposing as fraudulent the initial results of the 2004 Ukrainian presidential election, and in negotiating the agreement that paved the way for a new election that truly reflected the will of the people. It has done admirable work in the Balkans and the Caucasus trying to resolve conflicts and assisting in post-conflict reconstruction. The OSCE also provides a valuable forum for discussing pressing issues such as anti-Semitism and other forms of discrimination. To ordinary citizens across Europe and Eurasia, OSCE has been instrumental in strengthening democratic practices and safeguarding human rights. It is also viewed as a model for regional organizations elsewhere around the world that have as part of their mandate the advancement of democracy and human rights.

Recent Attacks on the OSCE's Role in Supporting Democracy and Human Rights

For many years now, a number of OSCE participating states -- Kazakhstan among them - have expressed their displeasure with and attempted to impede the organization's core work. For example, these countries opposed the establishment of large OSCE field missions in Bosnia-Herzegovina and Kosovo that served to constrain Serbian ambitions and they criticized the closing of OSCE field missions in Estonia and Latvia, claiming those countries were not meeting OSCE standards for treatment of their national minorities. But the main reason for these governments' attacks on the OSCE is their unease over the organization's efforts to strengthen democratic governance and in particular its role in monitoring elections and promoting advances in human rights in their countries.

In July 2004, the leaders of the member states of the Commonwealth of Independent States (CIS) -- again, including Kazakhstan -- issued a statement sharply critical of the OSCE. This statement claimed, in part, that the OSCE had "been unable to adapt itself to the demands of a changing world" and that it pursued "double standards," devoting too much attention to human rights and democracy in the countries of the CIS and the Balkans, while ignoring problems elsewhere in the OSCE region. The statement pointedly attacked the OSCE Office of Democratic Institutions and Human Rights (ODIHR), arguing that its election monitoring was "frequently politicized and does not take into account the specific features of individual countries." The joint statement charged that OSCE field missions in the CIS were "ineffective" and that instead of fulfilling their mandate "to provide assistance to the government of the host state," they concentrated "exclusively" on the human rights situation and criticized their hosts' domestic political situation in an "unwarranted" manner.

In April 2005, a meeting was convened in Vienna to air the concerns of those participating states that were displeased with the OSCE's work. A senior member of one delegation put these countries' case bluntly when he told the press that: "Unfortunately, the institution of international monitoring [of elections] today is changing from an instrument assisting countries in implementing the principles of democracy into an instrument of legitimizing political decisions which concern the state of international relations with a given country. We see in this a departure from the goal of ensuring the citizens' rights to participate in the electoral process. Instead, the emphasis is being placed on the political participation [by other countries] in the internal affairs [of the monitored state]." In other words, the leaders of these countries are concerned that, as was the case in Ukraine, OSCE exposure of fraudulent elections could lead to the kind of "color revolutions" they fear.

Considering this criticism, it is instructive to look at the track records of OSCE and CIS teams that have monitored elections in CIS member states. OSCE monitors have frequently documented serious shortcomings and judged that many of these elections fell far short of international standards. The only time CIS monitors found an election in the region did not meet international standards was after President Yushchenko's victory in the re-run of Ukraine's presidential election in 2004. In distinct contrast, the then-head of the OSCE Monitoring Mission stated: "The people of this great country made a great step forward to free and fair elections by electing the next president of Ukraine." This episode underscores that OSCE's crucial role as an independent election monitor is under threat from several participating states, which are also members of the CIS. These governments are seeking to require that the OSCE Permanent Council (PC) approve all ODIHR election monitoring reports. As all decisions at the PC are achieved through consensus, this would give each participating state the ability to veto ODIHR's assessment of elections in that country.

Kazakhstan is Not Ready to be Chairman-in-Office

If OSCE's credibility and effectiveness in support of democracy and human rights is to be maintained in the face of concerted efforts to weaken the organization, it is essential that the Chairmanship be held by a country that fully meets and is demonstrably committed to OSCE standards in the sphere of political and civil rights. The Chairman-in-Office is key to setting the course for the organization over the year, beginning with the incoming CiO's annual speech

setting out the country's priorities for its chairmanship and ending with the annual Ministerial Meeting, which the CiO organizes and hosts. In between, the Chairman's representative in Vienna – his or her country's Ambassador to the OSCE – organizes and chairs the weekly meetings of the Permanent Council. The CiO also makes key personnel appointments. As Freedom House Executive Director, Jennifer Windsor, and her colleagues from the International League for Human Rights, Global Rights, Human Rights First, the Jacob Blaustein Institute for the Advancement of Human Rights, Human Rights Watch, Minnesota Advocates for Human Rights and Physicians for Human Rights wrote in their September 21, 2007 letter to Secretary of State Condoleezza Rice, "Due to the Kazakhstan government's poor record on democracy, we believe that its chairmanship will be a disaster for the OSCE's ability to be a guarantor of human rights among its member states and that the U.S. should therefore continue to oppose it." Freedom House describes Kazakhstan as "Not Free" in its annual survey of political rights and civil liberties, *Freedom in the World*. Never in the history of the OSCE has a "Not Free" or even a "Partly Free" country served in this capacity.

When Kazakhstani State Secretary Kanat Saudabayev made his country's case for the Chairmanship before the Permanent Council in Vienna on September 20, he noted that the OSCE's preliminary analysis of parliamentary elections in Kazakhstan on August 18, 2007 states that this year's elections "reflected welcome progress in the pre-election process and during the conduct of the vote." He also stated that, "Seven political parties were battling for the electorate's votes. These parties presented their programmes for the development of the State and, most importantly, had absolutely equal opportunities to conduct their electoral campaign." Mr. Saudabayev further claimed that local authorities did not use what he himself described as their "notorious administrative resources" to affect the outcome of the elections.

Both of these assertions run counter to the facts of what took place during the campaign and on election day. In fact, the elections were heavily manipulated, resulting in the ruling Nur-Otan party winning every single seat in the parliament. While emphasizing that the OSCE's preliminary analysis indicated that these elections were a step forward, Mr. Saudabayev conveniently forgot to mention the next phrase in the report's opening sentence, namely that "a number of OSCE commitments and Council of Europe standards were not met." In her intervention before the OSCE Permanent Council on September 6, U.S. Ambassador Julie Finley stated that the U.S. Government agreed with the OSCE monitors in negatively assessing "the transparency of the vote count in over 40 percent of the polling stations visited; preferential treatment of the ruling Nur Otan party by authorities and government-controlled media; and restrictive legal provisions that limited the right to seek public office, established a high vote percentage threshold for representation in the Mazhilis, and provided for parties to choose which candidates would become members of parliament only after the election."

In its statement on the elections, Reporters Without Borders noted that: "There were many cases of pressure, self-censorship, violations of electoral legislation and bias in favor of the ruling party (now the only one in parliament) at the opposition's expense." The statement continues, "A country where press freedom stops whenever the authority of the president and his party is challenged is not fit to head an organization such as the OSCE that defends democratic values.... Despite this year's electoral reforms, the way the election was held has reinforced our fear that they were just window-dressing designed to win the support of the western countries."

The flawed parliamentary election this past August is merely the latest example of a long-standing pattern of national elections that have failed to meet accepted international standards. Indeed, Kazakhstan has never had an election judged to be up to international standards by impartial monitors. Few if any of the essential pre-conditions for such an election are in place. In addition to the demonstrated lack of political will on the part of the government, severe limits on and harassment of political opponents and a lack of independent media and robust civil society have precluded the possibility of elections that meet international standards.

But the electoral arena is by no means the only area where Kazakhstan still falls far short of international norms. Another major deficiency in the field of political rights was the promulgation of a constitutional amendment this spring that allows President Nazarbayev to be re-elected indefinitely. In our annual report *Freedom in the World 2007*, we also noted that:

Political violence established a disturbing presence in Kazakhstan in 2005–2006. In December 2005, the authorities ruled the death of opposition leader Zamanbek Nurkadilov a suicide, even though he was found dead in his home with two gunshot wounds to the chest and one to the head. In February 2006, Altynbek Sarsenbayev, a leading member of For a Just Kazakhstan, was found shot to death along with his bodyguard and driver. The subsequent investigation pointed to the involvement of state security officers in the killing, but left many questions unanswered. The trial, which was marred by claims that confessions had been coerced, culminated in the sentencing of Yerzhan Utembayev, former head of the Senate administration, to a 20-year prison term for organizing the murder. Prosecutors said Utembayev had been acting on a personal grudge, but conflicting theories implicating higher government officials were aired by trial witnesses and the opposition.

The report also noted that while the constitution provides for freedom of the press, the government has repeatedly harassed or shut down independent media outlets through measures including politicized lawsuits and confiscations of newspapers. Despite constitutional guarantees, the government imposes restrictions on freedom of association and assembly, while the judiciary is subservient to the executive branch. There are also issues in the area of respect for religious freedom. Just this summer, Kazakhstani authorities demolished two dozen homes of Hare Krishna believers.

In conclusion, Mr. Chairman, let me stress that Freedom House fully understands Kazakhstan's strategic importance as a major oil and gas producing nation located in an important geo-strategic region. Freedom House recognizes that Kazakhstan has made slight progress in the area of civil and political rights, including the recent signing of optional protocols to international conventions on civil and political rights and combating torture. But these are only initial steps and they do not offset the enormous body of evidence that Kazakhstan is failing to uphold the principles and values of the OSCE and therefore should not be entrusted with the responsibility or have the privilege of serving as Chairman in Office.

Freedom House joins the many Kazakhstanis who are working towards this goal in hoping that the country may one day evolve into a democratic state. Together with pro-reform

citizens in Kazakhstan and beyond, we would welcome that historic development. But given Kazakhstan's poor record on democratic reform and respect for human rights, it is not reasonable to expect that the country will be able to institute the requisite reforms in the near term. In addition to placing at risk the credibility and effectiveness of the OSCE, elevating Kazakhstan to Chairman-in-Office would both remove a powerful incentive to undertake democratic reforms and send a crushing message to the courageous men and women struggling to advance the cause of human freedom in their respective OSCE states and across the world. OSCE is too important an institution to put its leadership in the hands of a country that does not live up to the organization's own standards. Freedom House respectfully urges the governments of the United States and our European allies not to support Kazakhstan's bid to become Chairman-in-Office of the OSCE in 2009.

Attachment

October 21, 2007 Letter to Secretary of State Rice

September 21, 2007

The Honorable Condoleezza Rice
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, DC 20520

Dear Secretary Rice:

We understand that a U.S. decision to concur in the selection of Kazakhstan to preside over the Organization for Security and Cooperation during the 2009 term is imminent. Due to the Kazakhstani government's poor record on democracy, we believe that its chairmanship will be a disaster for the OSCE's ability to be a guarantor of human rights among its member states and that the U.S. should therefore continue to oppose it.

Kazakhstan's anti-democratic record is well-documented. Kazakhstan has yet to hold a national election that meets OSCE standards. President Nazarbayev's sweeping victory in the December 2005 presidential election came against a backdrop of government pressure on the country's civil society and political opposition, charges of electoral fraud, and a highly critical report by poll monitors from the OSCE. The brutal February 2006 murder of opposition leader Altynbek Sarsenbayev highlighted the country's disturbing tendency toward political violence. President Nazarbayev's welcoming of the single-party parliament that resulted from the August elections as "a wonderful opportunity to... speed up our country's economic and political modernization" speaks volumes to his respect for institutions promoting pluralism.

Over the years, the OSCE has established a respected track record of credibility in election monitoring and human rights defense. In fact, it is one of the few remaining serious intergovernmental bodies that advocates for democracy and human rights. A Kazakhstan chairmanship would irreparably damage the OSCE's legitimacy and ability to defend those working on the front lines for democratic change.

In 2005, President Bush said that "one day this untamed fire of freedom will reach the darkest corners of our world." Kazakhstan is one such dark corner that remains. Rewarding Kazakhstan with the OSCE chairmanship will only serve to assure a solidly undemocratic government that democratic credentials do not matter, while sending a stark message to human rights defenders around the world. At this crucial time, the countries of Europe cannot afford to ignore the defense of liberty and human rights, nor can the U.S. We strongly urge that the United States government reconsider this tacit endorsement of Kazakhstan's bid.

Sincerely,

Robert Arsenault, President
International League for Human Rights

Mr. Salih Booker, Executive Director
Global Rights

Ms. Maureen Byrnes, Executive Director
Human Rights First

Ms. Felice D. Gaer, Director
Jacob Blaustein Institute for the Advancement of Human Rights

Mr. Tom Malinowski, Washington Advocacy Director
Human Rights Watch

Robin Phillips, Executive Director
Minnesota Advocates for Human Rights

Len Rubenstein, President
Physicians for Human Rights

Ms. Jennifer Windsor, Executive Director
Freedom House