

Delegation of France

**STATEMENT BY THE DELEGATION OF FRANCE
AT THE SUPPLEMENTARY HUMAN DIMENSION MEETING ON
THE RULE OF LAW IN THE PROMOTION AND
PROTECTION OF HUMAN RIGHTS**

Vienna, 11 and 12 July 2013

Since the revolution in 1789, France has continued to improve its rule of law system.

This has not been a linear path. Since the affirmation in the 1789 Declaration of the Rights of Man and of the Citizen that “A society in which the observance of the law is not assured, nor the separation of powers defined, has no constitution at all”, we have experienced rapid advances but also in the meantime detours and backtracking.

Our political system is now based on the key principles of the rule of law that are also recalled in the OSCE commitments, namely:

- The separation of executive, legislative and judicial powers;
- Respect for the hierarchy of legal norms and the submission of the exercise of power to these standards;
- The equality of all before the law;
- The independence of the judiciary.

These principles would be in vain without the commitment of political power, of the judges but also of all citizens to apply them and make them live.

Beyond the texts, it is also necessary to educate all sectors of society in the rule of law.

Thus, the principle of the independence of the judiciary with impartial and independent processes for the appointment of judges would be nothing if the judges themselves had no obligation to judge independently and were not trained in this way with strict rules of conduct.

Similarly, the affirmation of the rights of citizens in solemn texts would be futile if the citizens themselves were not mobilized to defend their rights. Hence the importance that we attach to the commitments made in Astana to give civil society its rightful place.

Through associations, non-governmental organizations and demonstrations, citizens contribute to the defence of their freedoms and thus to the rule of law. This is why the National Advisory Commission on Human Rights, which is composed mainly of civil society representatives, has been granted a decisive role in advising the government and making proposals in the area of human rights and respect for the fundamental guarantees accorded to citizens for the exercise of civil liberties.

Likewise, the principle of legal security could not be fully respected if the legislator did not endeavour to make the law useful, clear and normative. The law should be a source of security and clarity and not of instability and uncertainty.

Lastly, the officials who are the first to be responsible for ensuring that the dignity of the human being and the separation of powers guide public action must be in a position to uphold these principles, including by opposing a “manifestly unlawful order”. This right has been guaranteed by the law governing our civil service since 1983. The “ombudsmen” mechanism is also essential for defending individual rights and freedoms within the framework of relations with administrations and for ensuring respect for the professional code of ethics by persons performing security-related activities. In France, this mechanism has been provided since 2011 by the Human Rights Defender and the Controller General of Places of Deprivation of Liberty for matters connected with places of detention.

Governments and political leaders have a major role to play in giving impetus to the promotion of human rights and the mechanisms of the rule of law, including advancing some sensitive causes as far as public opinion is concerned such as the abolition of the death penalty or even the fight against discrimination on the basis of sexual orientation and gender identity or women’s rights.

The entire system is being improved day by day and the professionalism of international institutions such as the Office for Democratic Institutions and Human Rights is a great help in giving concrete expression to the principles of the rule of law in the participating States, beyond their affirmation in the legislative and constitutional frameworks, and in guiding their implementation through these different components.