



United States Mission to the OSCE

Session 1: Rule of Law I

*Legislative transparency;
Independence of the judiciary;
Right to a fair trial;*

*Follow-up to the 14-16 May Human Dimension Seminar
on Constitutional Justice*

As prepared for delivery by Ambassador Julie Finley
to the OSCE Human Dimension Implementation Meeting
September 29, 2008

Mr./Madam Moderator,

The impartial administration of justice is fundamental to democracy. Individuals must have faith in the possibility of seeking justice through the legal system, which presupposes an independent judiciary that can serve as a check on executive power and can interpret the law without political influence.

Unfortunately, many participating States have faltered in their creation of an independent judiciary. This has resulted in trials and verdicts in politically sensitive cases that, at best, elicit skepticism and, at worst, appear politically influenced. We offer several illustrative examples.

The United States remains concerned about the fate of those imprisoned in Turkmenistan following the events of November 2002. The trials of these individuals were not conducted in accordance with OSCE commitments and their whereabouts and health are still unknown. We renew our call for the Government of Turkmenistan to allow the ICRC access to these prisoners, including our former OSCE colleague Batyr Berdiyev.

Following a contested election in Armenia this year, hundreds of people were arrested in the wake of disturbances, most often charged with attempting to stage a coup d'état. Many of them remain in jail. The judicial process has been arbitrary and has lacked independence from the executive. Defense attorneys have not been allowed to call witnesses except in three cases, and have similarly been denied the opportunity to call outside experts. The United States calls on the Government of Armenia to rectify the problems with its administration of justice.

In Azerbaijan, there have also been trials of journalists and political figures which did not meet OSCE commitments. Agil Khalil, a young journalist engaged in investigative reporting, was mysteriously stabbed by assailants. Azerbaijani authorities subsequently convicted someone, even though the victim said that this man was not involved in the assault. After considerable hand-wringing, the government allowed Khalil to depart Azerbaijan for France. In other trials, some of which have involved former government ministers, serious failures of due process were present. At very high levels, we have brought these issues requiring judicial reform to the attention of Azerbaijan's leaders.

In Uzbekistan, the administration of justice regarding opposition politicians, independent journalists and human rights activists has not corresponded to OSCE commitments. Sanjar Umarov, head of the Sunshine Coalition, remains in prison after a highly questionable trial and is in reportedly deteriorating physical condition. Human rights defender and independent

journalist Salijon Abdurakhmanov was arrested and held on charges of illicit drug use, though there was no evidence of illicit drugs in his system. We urge the Government of Uzbekistan to fulfill the commitments they made not only to the OSCE but more recently to the International Committee of the Red Cross.

The legal treatment of politicians and businessmen in Russia who fell afoul of the Kremlin is also of concern. The continued prosecutions and the dismantlement of YUKOS continue to raise serious questions about the rule of law in Russia. In particular, the denial of parole to former YUKOS head Mikhail Khodorkovsky for alleged prison infractions appears politically motivated. This year, Vasily Aleksanyan, a former vice president of YUKOS also faced troubling obstacles when his medical treatment was reportedly delayed because he refused to testify against his former YUKOS bosses. Also remaining a problem are unresolved killings of journalists in Russia.

We remain concerned about the trial of U.S. citizen Emanuel Zeltser, sentenced last month in Belarus to over three years on charges of commercial espionage and use of fraudulent documents. The trial was closed to diplomats, the media, and relatives and friends of the defendant. The United States has also been denied access to his appeal trial. Mr. Zeltser – who is in ill health – reported suffering physical abuse while in pre-trial detention and that he continues to be denied needed medication. The United States reiterates its call on the Belarusian authorities for consular access to Mr. Zeltser's appeal, the administration of his required medicines, and for Mr. Zeltser's release on humanitarian grounds.

On a positive note we welcome the release of Belarusian political prisoners Aleksandr Kozulin, Andrei Klimov, Aleksandr Sdvizhkov, Dmitri Dashkevich, Artur Finkevich, Nikolai Avtukhovich, Yuriy Leonov Sergei Parsyukevich and Andrei Kim. If the Government of Belarus shows that it is truly committed to democratic reform, we will have the possibility to develop a more robust relationship between our two countries.

We also commend Georgia on its implementation of the ban on ex parte communication in four separate circumstances in the last year. This is a positive step forward in judicial fairness and impartiality.

We welcome the work of the ODIHR's Democratization unit and the OSCE field missions, which provide ongoing assistance at the working level and at the political level to encourage comprehensive reform in criminal-justice systems. This assistance includes training, exchange of experience through conferences and seminars, trial monitoring as well as direct advice on legislative reform.

In closing, Mr./Madam Moderator, we reiterate our belief in the fundamental importance of independent, impartial courts to the proper functioning of any democracy. We urge OSCE participating States to conduct their trials in accordance with international standards, and we call on all States to refrain from abusing their legal systems to achieve political ends.