

COMPILATION OF WRITTEN RECOMMENDATIONS
(Covering Working Session 1)

This compilation contains recommendations submitted to the HDIM Documentation Centre in accordance with the established procedure. The compilation is organized by Working Sessions and by what was submitted by Delegations / International Organizations / NGOs to participating States and, separately, to OSCE Institutions / Field Missions or other International Organizations. Recommendations are compiled in original language.

Monday, 02 October 2006

WORKING SESSION 1 – Fundamental freedoms, including:

Address by the OSCE Representative on Freedom of the Media:

Freedom of expression, free media and information, including follow-up to the 13-14 July 2006 Supplementary Human Dimension Meeting on Freedom of the Media: Protection of Journalists and Access to Information

Recommendations to Participating States:

United States of America:

- Participating States should enact and enforce laws such as Freedom of Information Acts that help to ensure routine public access to government records, press conferences and judicial trials.
- Participating States should enact and enforce laws or regulations that promote parliamentary transparency such as affording timely public access to draft and enacted laws and regulations, legislative voting records and key government decisions.
- Participating States should remove administrative obstacles that hinder journalists from doing their job. These include but are not limited to:
 - Laws that effectively criminalize criticism of the government or government officials;
 - Restrictive and expensive accreditation requirements;
 - Travel bans prohibiting legitimate journalists from traveling internally or abroad; and
 - Excessive taxes on ink, paper and media equipment.
- Participating States should also ensure that journalists who are arrested, detained and charged have timely access to competent legal counsel and are immediately informed of the particular charges filed against them.

- Participating States should ensure the timely, thorough and independent investigation and, if necessary, prosecution of those who harass, intimidate or attack journalists.

Finland / European Union:

Participating States should

- strengthen their political commitment to ensuring freedom of opinion and expression, and especially to decriminalize libel;
- review best practices in raising awareness among journalists about religious and cultural sensitivities and diversity among these groups;
- ensure the freedom of the media in the context of the fight against terrorism and in acting as a watchdog to ensure the respect for human rights and fundamental freedoms in countering terrorism;
- ensure the right of journalists to keep their sources of information confidential by enacting appropriate legislation (“shield laws”)
- ensure that governance and regulation of the internet are not misused in order to restrict freedom of expression.

Amnesty International:

Amnesty International calls on the OSCE and its Participating States to:

- Insist on thorough, independent and impartial investigations into all incidents of killings, beatings and other human rights abuses committed against journalists. This is both urgent and necessary to counter the current climate of impunity for assaults on journalists and on all those who peacefully exercise the right to freedom of expression which exists in some Participating States.
- Refrain from passing – or, where already in place, abolish – any legislation, such as Article 301 of the Turkish Penal Code, which exceeds the permissible restrictions on the right to freedom of expression under international law, and leaves the way open for the criminalization of a wide range of peacefully-expressed dissenting opinion.

Article 19

- We call on the Government of Turkmenistan to fully investigate the killing, and to refrain from further harassment of media professionals and their families. We would also call on the OSCE community not to forget the overall human rights’ situation in

Turkmenistan, which is amongst the most critical on Earth. We would recommend that a special Permanent Council debate be convened to discuss this.

- Since the massacre in Andijan in 2005, Uzbekistan has clamped down on independent voices with great efficiency. We call on the Government of Uzbekistan to reverse this trend and live up to its international commitments.
- We urge the Representative on Freedom of the Media to remain engaged in Belarus. We call on Belarus to accept his expertise, and stand ready to offer Belarus necessary assistance.
- We urge Azerbaijan to implement the new law on Freedom of Information, which entered into force in December 2005. The recent spate of legal action against journalists in Azerbaijan has provoked the concerns of the international community. We call on Azerbaijan to take action to improve the environment for free expression in the country and stand ready to offer assistance.
- ARTICLE 19 would urge the President of Kyrgyzstan to allow the public broadcasting law to be passed.
- We call on the Armenian Government to speed-up implementation of its law on Freedom of Information.
- ARTICLE 19 would call for the removal of article 301 from the Turkish penal code under which several writers have been charged since 2005, notably Orhun Pamuk and Elif Shafak.
- Ending the frozen conflicts in Nagorno-Karabakh, South Ossetia, Abkhazia and Transnistria remain crucial to bring peace, stability and prosperity to the region. We call on all sides, including those with influence over the various parties, to exercise responsibility when making public statements. ARTICLE 19 would be interested in supporting measures to strengthen and encourage media ethics and professionalism in the conflict zones.

ARTICLE 19's focus has not been solely in the Former Soviet Union. During 2006, we made a submission to the ICJ Eminent Jurists Panel on freedom of expression and UK anti-terror law and practice, in which we expressed increasing concern at the impact of the UK's anti-terror laws and policies on the legitimate exercise of the right to freedom of expression.

- In this context, we call on the Governments of *all* participating States of the OSCE to resist the temptation restrict public speech, debate and free media under the pretext of the fight against terrorism. We recommend that the Representative on Freedom of the Media to continue to monitor trends across the region and reports regularly, and publicly.

ARTICLE 19 joins Mr Haraszti in welcoming the abolition of criminal defamation laws in Croatia, and supports his efforts to make the OSCE region a criminal defamation free zone. However too many Governments across the region still have these laws on their statute books, even if they are not used.

- We recommend that countries with an effective moratorium on using these laws should make the effort to repeal them in order to set an example to the few who still repress freedom of expression using these methods.

International Helsinki Federation for Human Rights:

To the government of **Kazakhstan**:

- Promptly propose amendments to the media law adopted in July to bring it up to par with international standards for freedom of expression. In the meantime, the execution of the law should be suspended;
- Take swift steps to move defamation provisions from criminal law to civil law and amend them so as to ensure that the sanctions for defamation or libel are proportional to the harm caused. The laws should entail the principle that public officials must be able to endure more criticism than ordinary citizens.

To the president and the government of **Kyrgyzstan**:

- The president should sign into law the legal act on public service broadcasting, adopted on 8 June 2006, because it is generally in line with international standards and would bring about important improvements to the public broadcasting system in Kyrgyzstan, as well as serve to increase media pluralism;
- Refrain from all attempts to retain or gain influence on publicly funded media, in accordance with their public statements following the 2005 change of government. They should publicly promote pluralism of opinions, transparency and editorial independence in the public broadcast media.

To the government of **Uzbekistan** and the presidential administration:

- Lift the 24 February 2006 government regulations – and other restrictive regulations and practices – which serve as tools to obstruct free reporting, and stop interfering in the operation of the public broadcasters;
- Allow foreign media outlets to open bureaus and journalists to operate freely in Uzbekistan without administrative and other obstacles such as inadequate licensing and registration policies.

To the government of **Turkmenistan**:

- Immediately and unconditionally release Kakabai Tedjenov who is being held in forced psychiatric detention for political reasons;
- Conduct an independent investigation into the death of RFE/RL journalist and human rights defender Ogulsapar Muradova, and release immediately her co-defendants Annakurban Amanklychev and Sapardurdy Khajiev;
- Initiate legislative changes to ensure freedom of expression and provide a basis for an independent media landscape in Turkmenistan.

To the government of **Belarus**:

- Stop the harassment of the independent media, and relax the legislation concerning the media, beginning with the removal of the criminal defamation provisions.

Youth Initiative for Human Rights:

For the purpose of urgent establishment of the rule of law mechanisms and their unconditional respect by Serbian authorities, the YIHR recommends the following:

- The right to free access to the information must be warranted by the Serbian Constitution as one of the basic human rights
- The new Constitution of Serbia must guarantee absolute independence of the Information Commissioner
- The Parliament of Serbia is due to ensure unhindered implementation of the law. For this purpose, it is necessary to introduce stronger sanctions for the breaches of the law, as well as to ensure that courts' decisions be respected.
- The Government of Serbia must immediately prepare the Law on Classified Materials and the Law on Personal Information Protection. Without these two laws, the area of the Law on Free Access to the Information of Public Interest will remain narrow and the amenable to numerous misinterpretations.
- Any kind of officials' support to the breaching of the law must be politically punished and publicly denigrated through democratic procedures within political parties and state institutions.

Recommendations to the OSCE:

Finland / European Union:

The OSCE Representative on Freedom of the Media should

- identify good practices in adopting new legislation in line with OSCE and other international commitments, especially with regard to defamation;

- explore how freedom of the press and respect for cultural sensitivities can be simultaneously preserved;
- identify good practices in strengthening transparency and public access to information;
- explore how self-regulatory mechanisms of the media (press councils, codes of conduct etc.) are more effective than regulation by state interventions into the freedom of the media and expression;
- elaborate how comprehensive and non-discriminatory access to information in particular to the internet can be ensured in the digital age.

Article 19

- We urge the Representative on Freedom of the Media to remain engaged in Belarus. We call on Belarus to accept his expertise, and stand ready to offer Belarus necessary assistance.

OSCE participating States have affirmed “...the importance of (...) the free flow of information as well as the public’s access to information.” We note with satisfaction that the majority of participating States have enacted freedom of information legislation.

- We recommend that the Representative on Freedom of the Media pays attention to implementation of these laws, and assists States who have not yet enacted them.

International Helsinki Federation for Human Rights:

To the **OSCE**:

- Continue close monitoring of media freedoms in the Central Asian participating States and enter into regular bilateral discussion with their governments in order to put an end to the steadily narrowing scope for freedom of expression and media freedom in those countries;
- With regard to Turkmenistan, the OSCE Chairman-in-Office should take up the case of Kakabai Tedjenov in bilateral discussions with the relevant Turkmen authorities and push for making information on the case more readily accessible.