



OSCE Human Dimension Implementation Meeting

Warsaw, 28 September – 9 October 2009

Working Session 3 : 'Fundamental Freedoms'

Contribution of the Council of Europe

Freedom of assembly and association

The **Expert Council on NGO Law**, which operates under the authority of the Conference of INGOs, aims at contributing to the creation of an enabling environment for NGOs throughout Europe by examining national NGO law *and its implementation*, and promoting its compatibility with Council of Europe standards and European good practice, notably the Committee of Ministers' Recommendation (2007) 14 on the legal status of NGOs in Europe. It monitors the legal and regulatory framework for NGOs in European countries, as well as the administrative and judicial practices which affect the status and operation of NGOs. It provides advice (on how to bring national law and practice into line with European standards and good practice. It proposes ways in which those standards could be developed. Its work is primarily thematic, but country studies are appended to the reports to illustrate the findings.

The Expert Council is composed of five members with extensive experience in the law, regulations and practices affecting NGOs. Its findings are based upon responses to questionnaires by national and international NGOs in Europe, the case law of the European Court for Human Rights, as well as research and experience of its members.

To launch its work, the Expert Council in 2008 undertook a first thematic study on the *Conditions for the Establishment of NGOs*. The first report has discussed at the Conference of INGOs' Session in January 2009 and gave way to specific recommendations:

1. legislative restrictions on the establishment of informal groupings should be repealed and their legitimacy should be clearly recognised as a matter of law;
2. the requirement for securing registration or acquiring legal personality should be simplified both to lighten the burden on those applying and to facilitate the administrative task of determining applications;
3. the restrictions on children, convicted persons and non-nationals from being founders of NGOs should be brought into line with the requirements of international standards;

4. formal time limits for decision-making by authorities should be no more than two or three weeks and steps should be taken to ensure their observance, namely the provision of additional staff and of clear consequences for failure to meet them, whether a presumed refusal or positive decision;
5. legal grounds for refusal should be reformulated where they are insufficiently precise and they should be reviewed and modified to ensure their relevance and substantive compatibility with international standards;
6. decision-making with respect to the registration of NGOs or granting them legal personality should be protected from political influence, and those charged with this role should be appropriately trained for the task;
7. effective and timely judicial control over decisions concerning registration and the grant of legal personality should be assured, with judges and lawyers trained in the relevant international standards, to increase confidence inscrutinising refusals of registration or the grant of legal personality.

The reports are used by the European Committee on Legal Cooperation (CDCJ) to assess the implementation of the Committee of Ministers Recommendation (2007)14 by Council of Europe member states.

In 2009, the Expert Council focused on *Internal Governance of NGOs* and will present its report in January 2010. It refers to the basic principle of self-governance of NGOs, as well as criteria such as requirements for an NGO statute, membership in the highest governing bodies, internal structure, employment, decision-making, auditing, reporting and inspection by relevant authorities.

The 2010 report will deal specifically with sanctions and liabilities. 2010 will also be the year for evaluation of the Expert Council's achievements and future perspectives.