

COMPILATION OF WRITTEN RECOMMENDATIONS

(Covering Working Sessions 10-11)

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.

Please note that the deadline for submitting Recommendations to the HDIM Documentation Centre is Thursday, 9 October 2008.

Monday, 6 October 2008

WORKING SESSION 10: Tolerance and non-discrimination II

Recommendations to participating States:

European Union

The EU calls on all participating States:

- to step up their efforts to promote the integration of Roma.
- to implement their commitments to collect and maintain reliable information and statistics about anti-semitic and other hate crimes.
- to protect the human rights of these people, including their right to organise and campaign free of intimidation.

The EU encourages participating states

- to seek the assistance of ODIHR in responding to hate crimes, in particular in training law enforcement officers, strengthening legislation, data collection and developing educational programmes.

Council of Europe

- Member States of the Council of Europe are encouraged to sign and ratify Protocol N° 12 to the European Convention on Human Rights.
- OSCE participating States are encouraged to sign and ratify the Additional Protocol to the Council of Europe's Convention on Cybercrime, on the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
- OSCE participating States are encouraged to enact and implement legislation against racism and racial discrimination, if such legislation does not already exist or is incomplete and to ensure that the key components set out in ECRI's General Policy Recommendation No7 are provided in such legislation.

- Member States of the Council of Europe are encouraged to implement ECRI's recommendations contained in its country-specific monitoring reports as well as ECRI's General Policy Recommendations.

Observatory Forum for Religious Tolerance and Freedom

Participating States are urged:

- to welcome the concerns of religious communities regarding legal or administrative provisions or the alternative initiatives of those communities;
- to reject the claim that a democratic and pluralistic society should relegate to the realm of private opinion its members' religious beliefs and the moral convictions which derive from faith;
- to fully respect and guarantee the exercise of the right to conscientious objection of those who work in Public Administration;
- while respecting freedom of expression, to adopt practical measures to ban the vilification of religions and of their identity symbols;
- to guarantee that the media and the public discourse are respectful for religions, their teachings and symbols;
- to adopt effective and tailor made commitments, particularly in the next Ministerial Council Decisions, to firmly combat discrimination and intolerance against Christians, especially in the field of education, in the media, in public discourse and in the fight against hate crimes;
- to follow-up the Cordoba and Bucharest Conferences by convening in 2009 a Conference at appropriate level to examine in a balanced way anti-Semitism, Christianophobia, Islamophobia, intolerance and discrimination against members of others religions in the OSCE area, within the realm of existing commitments.

COC Netherlands

- To recognize principles on the application of international Human Rights law in relation to sexual orientation and gender identity as laid down in the Yogyakarta Principles.
- COC expects from the OSCE and its partner States to clearly identify this task in the mandate of the Personal Representative by adding 'combating homophobia' to the existing title, resulting in: 'the Personal Representative of the OSCE Chairman-in-Office on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians, Members of other Religions and LGBT people.'

To Uzbekistan and Turkmenistan:

- To decriminalize homosexuality.

European Jewish Congress

- To abide by the agreements they have entered into if they are to understand what is going on [in terms of anti-Semitism] within their borders.

Human Rights First

- to support the reappointment of the three personal representatives on combating intolerance by the Greek Chairmanship in 2009.
- to undertake immediate preparations for a high-level conference on combating hate crimes in 2009 in order to generate political support for the implementation of tolerance and nondiscrimination commitments as well as to reinforce the activities of the personal representatives on tolerance and the ODIHR. Action must be taken immediately to identify a host country, develop an agenda and proposed outcomes, and take steps to ensure high-level participation, with the goal of developing a common program of action to respond to hate crime while recognizing the unique factors that characterize different types of bias motivation.
- to share their expertise in monitoring hate crime and support the ODIHR in efforts to help states improve monitoring as a priority concern.
- to support the ODIHR's civil society training program and encourage the ODIHR to convene a meeting of the National Points of Contact on Combating Hate Crimes on the building of trust and cooperation between law enforcement agencies and victims, their communities and civil society groups.
- to ensure that the Law Enforcement Officer Program on Combating Hate Crime (LEOP) has the support it needs and that participating states are taking part in this program.
- to reinforce their commitment to guarantee to all persons equal and effective protection against discrimination on any ground by unambiguously stating their intention to combat all hate crimes, including those motivated by bias based on race, religion, ethnicity, national origin, sexual orientation, gender, gender identity, disability, or other similar attributes.

The Institute on Religion and Public Policy

- to institutionalize with permanent mandates the three special representatives of the Chairman in Office to promote greater tolerance and combat racism, xenophobia and discrimination (Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions; Personal Representative on Combating anti-Semitism; and Personal Representative on Combating Intolerance and Discrimination against Muslims). Their permanent mandate will strengthen the OSCE's capacity to advance fundamental rights in an ongoing and uninterrupted manner.
- to provide greater resources to the three special representatives of the Chairman in Office to promote greater tolerance and combat racism, xenophobia and discrimination. These resources must include permanent staff to each special representative to assist them in the fulfillment of their mandates, as well as funds for research, travel, and publications.

- to amend the mandates of the special representatives of the Chairman in Office to promote greater tolerance and combat racism, xenophobia and discrimination to coincide with those of the United Nations special rapporteurs in order to grant the special representatives investigative authority, site visit opportunities, and permanent structures to allow them to fulfill their mandates in the most effective means possible.
- to grant greater resources and staff to the Panel of Experts on Freedom of Religion and Belief to assist with the development of religion laws in keeping with OSCE commitments to religious freedom, education on freedom of religion and belief within OSCE member states, and advance the protection of individual rights within the OSCE region.

OMNIUM des Libertes Individuelles et des Valeurs Associatives

- To be reminded that the rights of religious, spiritual or philosophical minorities regarding the respect due to their beliefs as drafted by the Helsinki agreement and that it encourages all French authorities to undertake a constructive dialogue with representatives of these minority movements.

To the personal Representative of the CiO against intolerance and discrimination regarding Christians:

- To send a mission to France, to gather evidence stemming from the many members of spiritual or religious associations, victims of discrimination.

Order of St. Andrew

- To place its full weight and support behind the ruling of the European Court and to advise Turkey that OSCE takes formal notice of the ruling as a serious and non-negotiable position of the international community regarding Turkey's human rights obligations and
- to include the demand for immediate implementation of the Court's decision in the agenda of discussions with the Government of Turkey. Furthermore, a fundamental change of policy is necessary in order for Turkey to convince its partners in this and other organizations, as well as the members of the European Union and indeed the world, that it is indeed a reformed state with a forward outlook, worthy of inclusion in the family of civilized nations.

Public Movement 'Multinational Georgia

To Russia and Georgia

- To support strong informational campaigns both in Russian Federation and Georgia aimed at the elimination of the hate speech, war propaganda and enemy image and dissemination of the fair and balanced information about the conflict
- To promote creation in both Russian Federation and Georgia of the coordination bodies consisting of the both civil society based and government based stakeholders responsible for the monitoring and prevention of the hate crimes and hate speech

- To support contacts between civil societies of Russian Federation and Georgia as a potential resource for the peaceful resolution of the conflict.
- To support civil societies of the two countries in their work in the field of human rights protection, conflict resolution, protection of freedom of expression in order to ensure that peacemaking process and protection of the democratic values in the both countries will not be endangered more than it is at the moment and new threats to the lives and rights of the citizens of the both countries will not emerge, as well as threat of the proliferation of violence, war propaganda and non-democratic forms of the political system development.

SOVA Center for Information and Analysis

- To focus legislation regarding counteractions to racism on the most dangerous, i.e. violent, crimes.
- To regularly publish statistics related to crimes committed with racist, ethnic, religious, or hate motives, ideally with distinctions made between the various types. Separate this data from statistics on crimes which right now are being considered by articles of the existing national criminal legislation.

Stichting Magenta - Magenta Foundation

- To assure their citizens that they will be protected against all forms of discrimination and hatred.
- To strive to abolish laws on blasphemy or defamation of religions from their legal system.
- To make -and keep- a clear distinction at all times between race and religion.
- To oppose proposals for codifying “defamation of religion” at national and international levels.
- To filter-out religion as a subject of protection from the international Human Rights discourse.
- To rephrase the terms Islamophobia and Christianophobia as ‘hate against Muslims’ and ‘hate against Christians’.

Turkish Cypriot Human Rights Foundation

To the Greek Cypriot Authorities:

- To take the strictest measures as regards such racist organizations, and to introduce severe legal sanctions against the responsible
- To encourage the recent initiative taken by the Greek Cypriote Ministry of Education initialising the introduction of reconciliation themes in the school programmes while deploring that this initiative has strongly been opposed by some teacher unions and the ultra-nationalist camp including Church representatives.

Ukrainian Helsinki Human Rights Union

To Ukraine

- To draw up and pass a basic anti-discrimination law which should contain all necessary definitions, a list of prohibited grounds for discrimination, as well as mechanisms for

protecting against such discrimination. It should also increase the State's responsibility for combating discrimination and introduce a special anti-discrimination body.

- To prepare a Draft law on amendments to the Law «On national minorities in Ukraine», and undertake an expert analysis of the Draft to ensure its compliance with OSCE, Council of Europe and European Union standards.
- To draw up a Draft law on amendments to the Law on languages and review the Law on ratification of the European Charter on regional languages and language minorities.
- To prepare Draft laws «On national-cultural autonomy», on amendments to the Civil Code and other laws, as well as special programmes aimed at developing the principle of non-discrimination, and allow special quotas for discriminated ethnic groups (the Roma, Crimean Tatars, Karaims, Krymchaks, etc.).
- To prepare a special electoral law for the Autonomous Republic of the Crimea.
- To carry out an inventory of land in the Crimea to help resolve the problem of land allocations to representatives of formerly deported peoples.
- To provide better definition of the elements of the crime under Article 161 of the Criminal Code; introduce norms stipulating civil and administrative liability for actions directed at discriminating against individuals and groups of society.
- To broaden the force of anti-discrimination norms to cover foreign nationals legally abiding in Ukraine
- To improve the procedure for the gathering of information by the law enforcement agencies and the courts regarding hate crimes. This includes statistics on the use of Article 67 § 1.3 of the Criminal Code.
- The MIA should carry out generalization of investigative operations and other action on prevention and investigation of crime in order to eliminate discrimination on the basis of ethnic origin or other factors.
- To develop a policy of zero tolerance for manifestations of racism and xenophobia, including drawing up and implementing educational and cultural campaigns aimed at building tolerance towards people of other nationalities.

Recommendations to the OSCE and the OSCE Institutions:

SOVA Center for Information and Analysis

- To continue discussions with member countries which already have experience in gathering statistics about racism and discrimination.

European Union

To the ODIHR and the Council of Europe:

- To enhance and strengthen their cooperation across all fields, especially regarding tolerance and non-discrimination session at the Human Dimension Implementation Meeting.

Holy See

To the ODIHR:

- The Holy See reiterates its call for a more balanced and transparent approach on the part of the ODIHR, in accordance with Ministerial Decisions and existing commitments.

Council of Europe

- OSCE institutions are encouraged to continue their co-operation in the fight against racism, racial discrimination and all forms of intolerance with the Council of Europe by further strengthening mechanisms enabling the free flow of and exchange of information and data.

Observatory Forum for Religious Tolerance and Freedom

To the ODIHR:

- The ODIHR should not consider hate crimes and hate speeches against majority religions less serious than those against minority religions because hate crimes and hate speeches are serious per se. Therefore the ODIHR is urged to continue to monitor and report the recurring episodes of intolerance and discrimination against Christians, not only East by also West of Vienna.
- The ODIHR and CiO Personal Representatives efforts should focus more to fulfilling the existing commitments agreed upon by the 56 participating States and pay less attention to other concerns out the boundaries of the OSCE *acquis*.

COC Netherlands

- To safeguard the right to association and peaceful assembly for LGBT individuals and organisations;
- To recognize principles on the application of international Human Rights law in relation to sexual orientation and gender identity as laid down in the Yogyakarta Principles;
- To contribute to fostering a climate in which LGBT people are free from discrimination, exclusion, prejudices and prosecution;
- To extend the mandate of the Personal Representative on combating Discrimination to combating homophobia;
- To collect data on hate crimes based on sexual orientation;
- To respect the rule of law and ensure that perpetrators of hate crimes do not go unpunished.

Danish Turkish Islamic Foundation

To the ODIHR:

- To go into a constructive dialogue with the Danish governmental institutions focused on the following recommendation no. 1805 point 2 from the Council of Europe in 2007 under the heading “Blasphemy, religious insults and hate speech against persons on

grounds of their religion” *“The Assembly underlines the importance of respect for, and understanding of, cultural and religious diversity in Europe and throughout the world and recognises the need for ongoing dialogue. Respect and understanding can help avoid frictions within society and between individuals. Every human being must be respected, independently of religious beliefs.”*

Human Rights Without Frontiers

To the ODIHR:

- To adopt a comprehensive and consistent approach to the various facets of religious intolerance;
- To include some clarification about the terminology to be used in order to identify the target-groups;
- To establish a typology of concrete acts through which this religious intolerance is manifested;
- To achieve a balanced coverage of religious intolerance throughout the OSCE space so as to avoid complaints by some states about real or perceived double standards;
- To collect data throughout the whole spectrum of ethno-religious groups and communities of faith or belief affected by hate crimes;
- To post on its website a standardized complaint form aiming at collecting data according to its typology of hate crime incidents such as verbal harassment, threats, intolerance in the workplace, cases of defamation in public services and in the private sector, defamation in the media, physical attacks, vandalism and attacks on property, desecration of cemeteries, etc.;
- To collect court decisions on defamation of individuals motivated by their religious affiliation and of religious communities in the OSCE participating states.

International Network Against Cyber Hate

To the ODIHR and participating States:

- To look at the possibility of putting certain neo-nazi groups that have shown a history of violence and terror on terrorist lists.
- To hold a follow-up meeting to the Paris 2004 conference, in the form of a Supplementary Human Dimension Meeting or an expert meeting, with the express purpose of looking in depth at the relationship between online incitement to violence and hate crime in real life.
- To report what has been done with the other decisions of the 2004 ministerial Council in Sofia relating to Internet and hate, inter alia action taken against violence and criminal threats of violence, motivated by racist, xenophobic, anti-Semitic or other related bias on the Internet; the training of law enforcement agents and prosecutors on how to address said crimes and; fostering exchanges directed toward identifying effective approaches to the issue of racist, xenophobic and anti-Semitic propaganda on the Internet.

Monday, 6 October 2008

WORKING SESSION 11: Humanitarian issues and other commitments

Recommendations to participating States:

European Union

- [...] La gestion des migrations requiert un renforcement du dialogue politique et une étroite collaboration avec les pays tiers en veillant à un équilibre entre les routes migratoires du sud et celles de l'est et du sud-est. [...]
- Parallèlement, l'UE considère qu'il est nécessaire de promouvoir une approche globale et cohérente des politiques d'intégration des ressortissants de pays tiers dans les Etats membres de l'UE. [...]
- L'émergence de réseaux internationaux structurés fait peser sur les travailleurs migrants potentiels la menace de tomber dans des filières de migration clandestine ou de traite d'êtres humains. Pour faire face à ce fléau, et en complément de la coopération policière et judiciaire, l'UE souhaite orienter autant que possible la politique de lutte contre la traite des êtres humains vers la prise en charge des victimes et la prévention. [...]
- L'Union Européenne rappelle que tout étranger persécuté a le droit d'obtenir aide et protection sur son territoire. Les Etats de l'UE sont parties à la Convention de Genève de 1951 relative au statut des réfugiés et doivent à ce titre assurer la protection des personnes menacées de persécutions dans leur pays d'origine. L'UE souligne que le renforcement des contrôles aux frontières extérieures ne doit pas interdire aux demandeurs d'asile d'accéder au territoire de l'Union Européenne. L'enjeu pour l'UE est d'identifier les réfugiés parmi les flux de migrants et de leur apporter la protection adéquate, notamment en leur permettant d'effectuer sans discrimination leur demande d'asile sur le territoire européen. [...]
- En conclusion, l'Union Européenne a démontré sa pleine implication dans la problématique des migrations et sa volonté d'explorer toutes les pistes à sa disposition. Elle estime que l'OSCE peut contribuer utilement à ce débat. Les questions de migration seront ainsi un des thèmes principaux lors du prochain Forum économique et environnemental. L'action de l'OSCE doit se faire en synergie et dans le respect des compétences des organisations en charge de ces questions. C'est à ce prix que l'OSCE renforcera plus encore sa crédibilité, à laquelle l'Union européenne attache la plus grande importance. L'action de l'OSCE sera jugée plus sur des réalisations concrètes et tangibles pour les citoyens et la société civile que sur des promesses excessivement ambitieuses qui ne pourraient être tenues.

UNHCR

- [...] People who need international protection must have access to the territory of states and be allowed to make their cases in fair and effective asylum procedures.
- Border controls should be designed to be sensitive to the rights and safety of refugees.
- The lives of people in distress on the high seas must be saved by ensuring their safe and timely disembarkation.
- Crackdowns of human smugglers and traffickers need to be intensified and their victims protected.
- Governments are encouraged to seek new ways to provide safe and legal immigration to their countries.
- As States redouble efforts to "manage migration", it is important to identify refugees and asylum-seekers within mixed movements, enable them to access protection and meet their needs.

Cojep International

- L'Europe de la Diversité est liée par nature à celui de la Paix et nous pousse à la solidarité et à la collaboration. La cohésion sociale de notre continent doit être défendue par tous les moyens et par chaque acteur qui compose l'Europe. Les extrémistes de tout bords ne pourront pas pousser à l'infini la surenchère du choc des civilisations, de l'inadaptation à la culture européenne et du manque de volonté d'intégration. L'important est de dénoncer, de réagir et de vaincre les préjugés de tout bords. D'aller défendre ou exprimer sa solidarité avec toutes les victimes en faisant fi de ses propres origines identitaires et des raisons de ces discriminations. L'humanité appelle à la raison mais aussi à la réaction, et j'invite chacun d'entre vous à être réactifs notamment en période électorale. [...]

Greek Helsinki Monitor, Norwegian Organisation for Asylum Seekers, & Norwegian Helsinki Committee

- The organizations responsible for the present report are of the opinion that these regulations lead to a gamble with the possibilities of seeking protection in Europe. They call on all European countries to stop transferring asylum seekers to Greece.
- They also call Greek authorities to review their asylum policy so that it complies to its International obligations. [...]

Netherlands Helsinki Committee

The NHC calls on the authorities of Georgia, Azerbaijan and the Russian Federation, as well as the authorities of other OSCE participating States with displaced populations, to:

- Ensure that recently displaced persons have prompt, safe and non-discriminatory access to food, medicine and other basic necessities, as well as to satisfactory shelter meeting basic requirements of hygiene;
- Provide more long-term IDPs with housing that is adequate in terms of material conditions and infrastructure, and is located in areas where their safety is not endangered. They should also be protected against forced eviction;

- Ensure that long-term IDPs enjoy equal rights with other citizens with respect to access to employment, health care, social services and education, and make particular efforts to address problems of social exclusion, poverty and trauma among displaced populations;
- Respect the right of displaced persons to freedom of movement and choice of residence, and accordingly, refrain from any kinds of forced resettlement or return, while taking appropriate measures to enable displaced persons to, on a voluntary basis, return to their places of permanent residence, resettle in other parts of the country, or stay and integrate where they currently are;
- Properly inform IDPs about alternatives available to them regarding temporary shelter, resettlement, and return and, to as wide an extent as possible, involve them in the planning and implementation of measures affecting their situation.

The NHC also urges the members of the OSCE community to:

- Continue to support the efforts of the authorities of Georgia, Azerbaijan, the Russian Federation and other countries to assist displaced persons, and to facilitate their return and resettlement. When doing so, they should emphasize the importance of ensuring that all measures employed are consistent with the international obligations of the respective governments and with respect for the dignity and rights of those affected;
- Continue to press for political settlements of the different conflicts in the Caucasus, and for measures to guarantee the security of displaced persons who return to conflict-affected areas, in particular by insisting on accountability for serious violations of human rights and humanitarian law perpetrated in connection with the conflicts.

Norwegian Helsinki Committee

- We urge Member States to suspend Dublin II transfers to countries that do not guarantee and implement an effective access to an asylum procedure.
- we urge the European countries to put a system into place that ensures that those refugees arriving to European territory will get immediate and full access to the procedure for submitting an application, will be given the best possible legal security and humane reception conditions as required by the existing Directives, and finally, will receive guarantees that those applicants in need of legal protection will receive such protection regardless of the country responsible for processing their asylum application.
- We continue to urge all European countries to suspend the transfer of asylum seekers to Greece until it can demonstrate compliance with EU regulations and international standards.
- There are a number of ways in which a new solution may be implemented to improve the legal security of asylum seekers to European territory.
- As an immediate precaution, it is necessary that Schengen Member States suspend transfers to countries that do not guarantee an effective access to an asylum procedure.
- Moreover, the Sovereignty and Humanitarian clauses of the Dublin II regulation must be applied more widely, for instance in order to ensure that the rights and interests of children, families and vulnerable groups are upheld.
- Over time, the Dublin-system must be reformed and possibly even replaced. A reformed system must provide a collective decision-making process, after which all transfers to

non-compliant countries would be suspended. This is both a moral and a legal duty of Europe as a whole.

Turkish Community in Germany

- The number of the migrant's youngsters who get an education place becomes less. This is alarming. Here the politicians must put basic conditions.
- The Turkish Community in Germany demands a regular exchange with the Federal Government. Moreover she hits the institution of a federal advisory board for integration and migration. In this advisory board representatives of the civil-social organisations and the government should sit and deal also with the integration politics.
- Another problem is the attempt of the repudiation of the decisions of the European Court of Justice. Turkish citizens have almost the same rights like citizen of the European Union, if they have legally entered in the EU. Germany must accept that Turkish citizens are a firm component of the Federal Republic of Germany.
- The mother languages of the migrants attract in the German educational system hardly attention. Bit by bit become mother-linguistic offers from the schools. The mother languages are a treasure for the migrant's children and may not be neglected. If the Federal Government speaks of the integration and not from the assimilation, it must promote the mother languages of the migrants. The Turkish Community in Germany asks the Federal Government to take here suitable measures.

Recommendations to the OSCE:

Almaty Confederation of NGOs Ariptes

Предложения:

- Мы обратились в Министерство культуры и информации Республики Казахстан для включения тем лотов по трудовой миграции в государственный социальный заказ на 2009 г., в том числе и по обучению государственных служащих и правоохранительных органов. ОБСЕ мы просим помочь уже на межправительственном уровне Центральной Азии проводить их обучение и НПО в том числе, поделиться опытом других стран.
- Предлагаю изучить и распространить опыт профсоюзов Казахстана и Кыргызстана по работе с трудовыми мигрантами
- Назрела необходимость провести конференцию стран Центральной Азии и России по вопросам трудовой миграции
- Информирование общественности и изменение взглядов на этот вопрос является еще нерешенной проблемой в нашем обществе. Необходимо объединить усилия в этом направлении. Необходим научный подход, осуществления замеров в обществе, сравнительный анализ положения дел в странах Центральной Азии и России, обмен опытом. Решение этих задач необходимо осуществлять вместе и по общим стандартам.

Commissariat for Refugees of the Republic of Serbia

- We have to emphasize that there is need for better coordination and cooperation between offices of OSCE in Belgrade and Pristina.

Norwegian Helsinki Committee

- We urge OSCE institutions to engage in the case of asylum seekers' protection in Member States at a time when the policy of most member States is aimed at stopping refugees even before they enter Europe.