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## **2008 OSCE HUMAN DIMENSION IMPLEMENTATION MEETING**

### **Working Session 1 Rule of Law I**

**September 29, 2008**

Ladies and Gentlemen,

Freedom House welcomes the increased attention that the OSCE and the ODIHR have paid to the topic of rule of law in the recent years. A number of seminars and human dimension supplementary meetings related to this topic along with the ODIHR Summer School on Criminal Justice in Central Asia are important events in the sector where the OSCE and ODIHR have definite value to add. Freedom House also welcome the publication of the ODIHR's Reference Manual for Practitioners on conducting monitoring of trials, which is a very valuable activity aimed at providing the participating States with valuable information on the functioning of their justice systems.

Ensuring judicial independence is a complex matter which has been debated among experts over many years. But most of all, it is a matter of political will. It is the matter of the legislative and especially executive branches to respect the principle of separation of powers enshrined in the constitutions of most of the participating States and enable the judicial branch to do its work free of political and other pressures. Constitutions remain a dead letter if the executive branch, whose role it is implement, and, in OSCE some participating States, to guarantee the implementation of Constitutional guarantees for the independent judiciary, instead interfere, or worse, apply political and financial pressure on judges.

The Freedom House's study of democracy in 28 of the OSCE participating States entitled *Nations in Transit* examines, along with other parameters, judicial framework and independence. In the most recent study covering the year 2007, Freedom House found a number of worrying trends pointing to the erosion of the rule of law in the region. Only one state covered in the study – Montenegro – has demonstrated improvement in the judicial framework and independence, while these indicators have declined for nine states under consideration: Armenia, Kyrgyzstan, former Yugoslav Republic of Macedonia, Poland, Romania, Serbia, Slovakia, Tajikistan, and Ukraine. We urge these nine countries – 3 of which are members of the European Union -- to address the shortcomings identified in the Freedom House study.

Criminal justice systems are always in need of improvement and concerns exist not only in Central and Eastern Europe or in Central Asia, but also in other parts of the OSCE region that became known in this organization's parlance as "West of Vienna". Freedom House does not limit itself geographically and tomorrow afternoon we hold a side event on our latest study, entitled *Today's American* which is Freedom House's recent study on the state of democracy and civil liberties in the United States of America. The study reveals a number of problems with the criminal justice system in the United States including high rates of incarceration, disparity in sentencing, and police methods which have been criticized. It is our hope that you will attend this side event.

Freedom House encourages the OSCE and the participating States to keep issues of judicial independence, separation of powers, and legislative transparency on the agenda of the organization and to implement the relevant OSCE decisions including the Decision Number 12 of 2005 OSCE Ljubljana Ministerial Council Number 12 which rightly stresses that rule of law is "justice based on the recognition and the full acceptance of the supreme value of the human personality and guaranteed by the institutions providing a framework for its fullest expression."

At the same time Freedom House recognizes that most of the OSCE participating States are also members of the Council of Europe. The European Court for Human Rights has played an important role in strengthening rule of law in the region. Therefore, Freedom House calls upon the State Duma of the Russian Federation to join the Parliaments of other 46 Council of Europe member states in ratifying Protocol 14 of the European Convention on Human Rights which would enable the European Court for Human Rights to operate more effectively.