

Penal Reform International Recommendations from Working Session 8 – Rule of Law 1

Protection of Human Rights and Fighting Terrorism

To the OSCE and its participating States

- While recognizing that terrorism itself is a gross violation of human rights, the OSCE and its participating states must be vigilant in their absolute defense of the human rights of all those suspected of, charged with or convicted of terrorism.
- All OSCE participating States must uphold the international standards for the treatment of prisoners established by the United Nations Standard Minimum Rules for the Treatment of Prisoners and the European Prison Rules. The ‘war on terror’ cannot be used as an excuse to roll back decades of work in the development and implementation of international standards and norms for more humane conditions of incarceration.

Prevention of Torture

To the OSCE and its participating States

- The OSCE should encourage all participating States to sign and ratify or accede to the Optional Protocol to the Convention Against Torture and to put in place the inspection procedures for all places of detention. Without a thorough independent inspection process, there is no way for state governments or civil society to know what is being done in their name. The only way to prevent abuse and to uphold international standards is to shine a strong light into the dark corners of all places where people deprived of their liberty are held.
- Those states that have already ratified or acceded to the OPCAT should be congratulated for so doing and should be supported in moving as quickly as possible to establish effective national oversight mechanisms to prevent torture and cruel, inhuman and degrading treatment and punishment.
- Those states that have not yet ratified or acceded to the Convention Against Torture should be strongly encouraged to do so without delay and to move onto ratification of the Optional Protocol as soon as feasible.

To the government of Armenia

- The government of Armenia is congratulated upon ratifying the OPCAT, and on having set up independent civil society monitoring commissions for pre and post-trial prisons, and temporary detention isolators (*izoliatory vremennogo sodержania*). In order to provide a more comprehensive protection mechanism for detained persons the government should ensure that the relevant commission also has unimpeded access to police cells (*politseiskie uchastki*).

To the government of Georgia

- The government of Georgia is congratulated upon ratifying the OPCAT, and on having set up independent civil society monitoring commissions for three of its 16 prisons. The government should not delay in setting up such commissions for the remaining 13, and on bringing the working statute of the commissions into line with OPCAT standards. The government should respond positively to the recommendation of the OSCE Ambassador that an independent inquiry be held into the events on 27 March at Tbilisi's central prison during which 7 prisoners died. The results of the inquiry should be made public and include lessons learnt, as well as information on changes to be made in regulations, legislation and practice to avoid such a tragedy occurring in the future.

Exchange of views on the question of the abolition of capital punishment

To the government of the United States

- The United States government should uphold its commitments under international law by reducing, rather than increasing, the number of offenses that can lead to imposition of the federal death penalty, by ending the erosion of habeas corpus rights and by ensuring effective legal representation at all stages of the process.

Recommendations from Working Session 9 – Rule of Law II

Exchange of views on Criminal Justice Systems, Including Penal Systems

To the OSCE and its participating States

- State experts and OSCE should discuss the type of research and statistics needed to inform planning of resources for criminal justice systems. This is in order to provide a basis for gauging the extent to which the number of prisoners detained pre and post-trial, and the length of time for which they are detained, are proportionate and appropriate to State's commitments. In the absence of comprehensive information it is difficult to avoid deadlock between the commitment to '*improve the conditions of individuals in detention or imprisonment*' and the commitment to '*pay particular attention to the question of alternatives to imprisonment*'. (Guidance can be found in recommendations by the Committee of Ministers of the Council of Europe, for example Recommendation (2000) 22 on Improving Implementation of the European Rules on Community Sanctions and Measures.)