



Delegation of Ukraine

30 September, 2008 (Tue) Working Session 3: Fundamental freedoms II

FREEDOM OF ASSEMBLY AND ASSOCIATION

Dear colleagues,

On behalf of the Ministry of Justice of Ukraine let me relate the following:

In democratic society there should be a fully-fledged partnership between state and private sector, creating favorable conditions for revealing public potential and channeling social activity.

At present, the legal and organizational framework of exercising the right to freedom of assembly in Ukraine is regulated by the Law of Ukraine «On the Citizens' Associations», which, one should acknowledge, is out-of-date and does not ensure the observance of European standards in the field of legal regulation of public associations' activity.

Modern legislation has preserved a number of major problems, for example a complex procedure of state registration of public associations and its realization by territorial principle, exercising state control over the statutory activity of public associations, etc.

In order to settle the aforesaid issues the Ministry of Justice of Ukraine has elaborated a draft Law of Ukraine "On Public Associations". The main task of this draft Law is to define legal and organizational basis to exercise the right to freedom of association, to create favorable conditions for establishing and functioning of public associations as well as the development of civic society in general.

The said draft Law is based on provisions of Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November, 1950, and on Article 36 of the Constitution of Ukraine.

The abovementioned draft Law has also taken into account the experience of legal provision of the functioning of Non-Governmental Organizations in the leading European states as well as the provisions of Council of Europe Committee of Ministers Recommendations to member states concerning NGO's legal status in Europe, adopted by the Committee of Ministers on 10th October, 2007.

The novelty of the said draft Law lies in a new approach towards the activity of public associations, namely making no reservations by territorial features (in other words, without subdividing public associations into local, all-nation and international in a sense of the Ukrainian legislature) which offers public associations an opportunity to conduct their activity uninhibitedly throughout Ukraine with no need to re-register.

In this connection, a new concept of legalization of public associations is envisaged, namely by the Ministry of Justice of Ukraine and its territorial institutions. Legalization of public associations is carried out through: written notice of its establishment; its registering in the capacity of legal entity; accreditation of branch offices or missions of foreign NGO's.

According to the Law of Ukraine "On State Registration of Legal Entities and Sole Traders" the state registration of public associations will be carried out by legalization bodies, taking into account specific features stipulated by the draft Law.

Moreover, according to the draft Law the public association registered in compliance with the procedure envisaged by the said Law may attain an 'all-Ukrainian' status or renounce it by a simplified procedure.

In order to provide state bodies, citizens and legal entities with reliable and trustworthy information on the public associations legalized in Ukraine the Ministry of Justice of Ukraine keeps an Account Register of public associations. The data of the said Register is open to public and is available at the official web-site of the Ministry of Justice of Ukraine.

The draft Law significantly alters the approach towards state regulating powers over the public associations' activity. That is to say, the legalization authority (the Ministry of Justice and its territorial institutions) will have the authority to check no more than once a year the activity of any public association on the account of its observance of the relevant national legislation on public associations.

Furthermore, the final and transitional provisions of the draft Law offer to make provisions for free-of-charge procedure of making amendments to public association statutes during two years since the Law has come into force.

In addition, I would like to note that in the years 2005 through 2008 in the course

of elaborating this draft Law a number of meetings took place where representatives of public associations took part. The Ministry of Justice also addressed the relevant CoE bodies and the OSCE Project Coordinator in Ukraine to express their view and give an expert opinion on the draft Law within the context to its adherence to the basic principles of observing human rights. On 22 June, 2007, the OSCE Project Coordinator in Ukraine sent its recommendations to the draft Law which were duly taken into account.

The adoption of the said draft Law will give an opportunity to set up modern legal foundation to ensure exercising of citizens' right to freedom of setting up public associations.

On 1 August, 2007, the Ministry of Justice of Ukraine submitted a draft Law of Ukraine "On Public Associations" to the Cabinet of Ministers (the Government) of Ukraine.