

COMPILATION OF WRITTEN RECOMMENDATIONS

(Covering Working Sessions 12-13)

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, 8 October 2009.

Tuesday, 6 October 2009

WORKING SESSION 12 (specifically selected topic): Freedom of expression, free media and information

Recommendations to participating States:

Public Foundation "Journalists in Troubles"

- А страны ОБСЕ я призываю обратить внимание на эту, прямо скажу, угрожающую ситуацию – еще пара месяцев, и в Казахстане не останется оппонирующих власти газет.

National Association of Independent Media in Tajikistan (Nansmit)

To the Republic of Tajikistan:

- Ввести в законодательство Республики Таджикистан понятие «публичной фигуры», с тем, чтобы расширить границы свободы слова в отношении высших должностных лиц;
- Декриминализовать вопросы клеветы и оскорбления;
- Всемерно поддержать создание механизмов саморегулирование СМИ;

Almaty Confederation of NGOs 'Ariptes'

To participating states:

- Международные стандарты обучения журнализму должны стать во главе угла по получению журналистского образования в странах ОБСЕ

To the Republic of Kazakhstan:

- Продолжать обучение и переобучение журналистов вопросам гражданского общества и демократии, иным вопросам

- Оказывать всемерную поддержку НПО, занимающихся проблемами СМИ, правозащитной работы и поддержку прав и защиты журналистов.

ICLA

- That all blasphemy and hate speech laws be repealed, that we use instead normal criminal law to deal with criminal offenses.
- That libel laws in England, Wales and elsewhere be amended to protect the offender in preference to the offended, or entirely repealed.
- That OSCE participant states reassert the right of their citizens to exercise their freedom of expression, that they act much more pro-actively to protect this freedom, in particular by effectively countering any attempt to stifle it.

Netherlands Helsinki Committee

To authorities in **Turkmenistan**:

- To immediately launch fundamental reforms to bring the country's media freedom in line with OSCE principles and other international standards for freedom of expression, which are binding to Turkmenistan through its international human rights commitments.

To authorities in **Tajikistan**:

- To repeal articles 135 (libel) and 136 (insult), and articles 137 and 330 (insult of the president and other state authorities) from the Criminal Code;
- When dealing with defamation under the Civil Code, to make sure that the penalties provided are equal to all individuals, reasonable, and are not used to prevent legitimate criticism of public authorities.

To authorities in **Russia**:

- To revise anti-extremism legislation in force to limit the applicability of provisions on "extremism" to actions that involve the use of violence or incitement to violence and to ensure that such provisions do not lend themselves to arbitrary enforcement infringing freedom of thought, conscience and religion, freedom of expression and other fundamental liberties.

To authorities in **Bosnia and Herzegovina**:

- To fully and promptly complete the reform of the public broadcast media and ensure that the Regulatory Agency for Communications be protected against political pressure;
- To publicly condemn and investigate promptly all cases of violent attacks against critical journalists and media outlets, and bring the perpetrators to justice;
- To take immediate steps to ensure that the law on free access to information is fully implemented;
- To give clear orders to all levels of authorities to fully respect individuals' right to self-identification with regard to their nationality/ethnicity and sexual orientation, and to treat all on an equal footing.

To authorities in **Armenia**:

- To immediately reverse the moratorium on tenders for broadcasting frequencies and enable the allocation of new frequencies to applicants on an equal footing regardless of their political background.

To authorities in **Serbia**:

- To replace the current Law on Public Information with a new one that, prior to its adoption, will be submitted to scrutiny by experts and media professionals, and public debate. This law should serve as a basis for further legislation on the media.
- To amend the current regulations on the RTS - radio TV Serbia, as well as the whole RTS scheme (particularly with regard to topics such as war and war crimes, neighbours and minorities), which has not been changed following the Milosevic era.

To authorities in **Kazakhstan**:

- To immediately release human rights defender Yevgeny Zhovtis on the grounds that he has been imprisoned following an unfair trial, and ensure that a new trial be held for him in compliance with international standards for a due process.

To authorities in **Azerbaijan**:

- To promptly conduct an impartial and thorough investigation into the death of Novruzali Mammedov, who died in prison in August 2009 in suspicious circumstances;
- To immediately release the journalists Eynulla Fatullayev, Qanimat Zahid and Mushfiq Huseynov, as well as the bloggers Adnan Hadjizade and Emin Milli, who all have been detained for activities legitimate under international standards for freedom of expression and the media.

To authorities in **Greece**:

- To stop immediately all acts of harassment - including at the judicial level - against Roma and other human rights activists, in compliance with OSCE principles,²⁸ in accordance with the UN Declaration on Human Rights Defenders (1998), and in the spirit of the European Union Guidelines on Human Rights Defenders (2008).

To authorities in the **Netherlands**:

- To firmly anchor human rights education in a comprehensive manner in primary and secondary school education;
- To publicly promote tolerance, take firm steps to fight the increasing negative attitudes against Muslims, and to prevent any escalation of violence against Muslims living in the Netherlands.

Federation of Western Thrace Turks in Europe (ABTTF)

We urge the Greek authorities:

- To review Law 3592/2007 and all OSCE States to ensure that media pluralism and free flow of information is in compliance with international standards and mechanisms
- To take measures to support pluralism and independence of the media, while addressing the conflict between freedom of expression and of the media and the right to freedom from discrimination
- To introduce a provision into criminal law expressly stipulating that for all ordinary offences, racist motivation constitutes an aggravating circumstance. In addition, we would like to draw attention of the Greek authorities to ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, indicating the provisions that should be included in criminal legislation.

Way of Reconciliation

Recommendations to the OSCE and participating states

- We therefore recommend to the OSCE and Participating States: that *diverse* standpoints on human sexuality, a subject that is key to the human person, must not be repressed from freedom of speech in the public forum. We recommend to the OSCE for its consideration that this freedom be mentioned specifically in its texts referring to Freedom of Expression.
- Freedom of Expression is a key civil right. We recommend that the OSCE and Participation States protect this right from an alleged right not to be "offended" or a "freedom from hearing criticism" or a freedom from "hurt feelings". As is stated in paragraphs 96 and 97 of the 2008 Venice Commission Report of the European Commission for Democracy Through Law:
"Democratic societies should not be held hostage to excessive sensitivities of certain individuals.." and "the level of tolerance of these individuals and of anyone who would feel offended by legitimate exercise of the right to freedom of expression should be raised."
Protection from "feeling offended" would be impossible to legislate fairly for *all persons* who may feel offended in the OSCE area, and, in addition, it would be at the costly price of the freedom of speech.
- Freedom of expression includes the mention of one's religious beliefs *on an equal level as other topics* in the public debate as well as in the work place.
- At the OSCE Roundtable on Intolerance and Discrimination of Christians on March 4th in Vienna, negative stereotyping of Christians by media was mentioned as a particular problem. Legitimate debate should be heartily welcomed, but using catch phrases and evil-sounding stereotypes in order to "vilify" as Prof. Carulli negatively referred to, stops debate before it begins and slanders persons, denying them of their rights. We urge OSCE/ODIHR to work against these negative tendencies using their existing tools and measures.

Sweden/European Union
Participating States should

- ensure that media laws are in line with international standards and OSCE commitments and are implemented subsequently,
- strengthen their commitment to ensure freedom of opinion and expression, and especially to decriminalize libel and defamation.
- ensure that journalists in the OSCE area can work safely and without being threatened by physical violence, persecution, detention, harassment, intimidation, direct or indirect economic pressure or any other form of interference,
- ensure that these commitments equally apply to journalists who are also Human Rights Defenders,
- ensure that press freedom is guaranteed by an independent judiciary to which journalists can appeal in cases of alleged violations,
- ensure the right of journalists to keep their sources of information confidential by enacting appropriate legislation (“shield laws”).

The OSCE Representative on Freedom of the Media should

- continue to assist participating states in achieving full implementation of the OSCE commitments,
- continue efforts to promote adoption of legislation which is in line with OSCE and other international standards notably in the field of defamation, continue to elaborate how comprehensive and non-discriminatory access to information in particular to the internet can be ensured,
- continue to strengthen freedom of the media through capacity building in the framework of training activities and media conferences,
- in co-ordination with the ODHIR's Point of Contact on Human Rights Defenders, assist the participating states in delivering on their commitments to protect the journalists who are also Human Rights Defenders.

Tuesday, 6 October 2009

WORKING SESSION 13 (specifically selected topic): Freedom of expression, free media and information

Recommendations to participating States:

Amnesty International calls on the Participating States to:

- Respect and protect the human rights of independent civil society activists and journalists, ensuring that they are able to carry out their peaceful activities free from harassment and without threat of detention and imprisonment and other human rights violations
- Refrain from passing -or, where already in place, abolish -any legislation, which exceeds the permissible restrictions on the right to freedom of expression under international law, and leaves the way open for the criminalization of a wide range of peacefully-expressed dissenting opinion.

Civic Campaign “For Freedom”

- Редакционная независимость всех СМИ должна уважаться, а журналисты не должны преследоваться за свою профессиональную деятельность.
- Негосударственные СМИ должны иметь право и возможность работать и развиваться в равных экономических условиях, в том числе иметь право на распространение без ограничений и дискриминации.
- Должны быть утверждены понятные, прозрачные и справедливые правила аккредитации журналистов, направленные на доступ всех журналистов к общественно важной информации.
- Журналистам не должны мешать делать репортажи с общественно важных событий и демонстраций.
- Должна быть прозрачная система в распределении частот и лицензии на теле- и радио вещание, соответствующая международным стандартам, с целью обеспечения плюрализма в электронных СМИ.
- Закон «О СМИ», Закон «О противодействии экстремизму» и статьи Уголовного кодекса, ограничивающие свободу высказывания, должны быть приведены в соответствие с международными стандартами.
- Власти должны обеспечить равное отношение к организациям, которые представляют журналистов.
- СМИ, власти и гражданское общество должны продолжать диалог по улучшению политики и практики в сфере СМИ.