



**SUPPLEMENTARY HUMAN DIMENSION  
MEETING**

**“HUMAN RIGHTS DEFENDERS  
AND NATIONAL HUMAN RIGHTS INSTITUTIONS:  
LEGISLATIVE, STATE AND NON-STATE ASPECTS”**

**FINAL REPORT**

**Vienna, 30-31 March 2006**

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## I. EXECUTIVE SUMMARY

The first OSCE Supplementary Human Dimension Meeting (SHDM) in 2006 on *Human Rights Defenders and National Human Rights Institutions: Legislative, State and Non-State Aspects* took place on 30-31 March in Vienna.<sup>1</sup> This meeting brought together 252 participants, including 101 representatives of 86 non-governmental organizations (NGOs). Forty governmental delegations were present.<sup>2</sup> A distinguished group of Introducers and a Keynote Speaker participated in the Meeting.<sup>3</sup>

In October 2001 a SHDM devoted to the topic of *Human Rights: Advocacy and Defenders* was held for the first time under the OSCE auspices. The 30-31 March Meeting was organized five years later after the aforementioned SHDM and presented one more opportunity to reaffirm the OSCE's continuing commitments to the issues relating to human rights defenders and national human rights institutions. During the Meeting participants, with valuable contributions from representatives of the civil society, examined concrete ways for making OSCE commitments and decisions more effective and better implemented in practice.

In addition to the Opening and Closing Sessions, the SHDM was comprised of three Working Sessions:

- Human rights defenders in the OSCE region: challenges, obstacles and opportunities;
- Synergies and co-operation between state organs, national human rights institutions and human rights defenders;
- Human rights defenders: pertinent legislation and implementation of OSCE commitments.

A number of side events took place on the margins of the SHDM.<sup>4</sup>

Introductory remarks at the **Opening Session** were delivered by Ambassador Frank Geerkens, Head of the OSCE Chairmanship Unit in the Ministry of Foreign Affairs of Belgium, and Ambassador Christian Strohal, Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

Representing the Chairman-in-Office, Ambassador Frank Geerkens noted that the Belgian OSCE Chairmanship planned an ambitious human dimension agenda for 2006.<sup>5</sup> He stressed the importance that the OSCE attached to intensive exchanges between international organisations, state institutions and civil society and emphasized that the Belgian Chairmanship viewed such close cooperation as vital to the promotion of the

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<sup>1</sup> Please see Annex I for the Agenda and Annex II for the Annotated Agenda of the Meeting.

<sup>2</sup> Please see Annex IX for Statistics on participation and Annex X for List of participants.

<sup>3</sup> Please see Annex IV for texts of introductory speeches and Annex V for biographical information on the speakers.

<sup>4</sup> Please see Annex VIII for the list and description of the side events.

<sup>5</sup> Please see Annex VII for Opening remarks by Ambassador Geerkens.

OSCE values and the achievement of its objectives. Ambassador Geerkens noted with regret that the difficulties that human rights defenders faced appeared to be on the rise. Security concerns, notably related to terrorism, were increasingly used to legitimise a crackdown on human rights and their defenders. Human rights defenders were accused of propagating so called “Western” values. Ambassador Geerkens underlined the importance that international organizations, including the OSCE, played in promoting exchanges and partnership between governmental and non-governmental human rights defenders and supporting their work. He noted that the European Union’s Guidelines on Human Rights Defenders and the Council’s of Europe Fundamental Principles on the Status of NGOs in Europe could provide valuable additions to the body of the OSCE commitments. Ambassador Geerkens encouraged participants of the SHDM to promote positive practices and explore the ways for concrete improvements of the human rights situation on the ground.

The Director of the ODIHR, Ambassador Christian Strohal, noted that national human rights institutions and human rights defenders contributed to the stability and overall security in the OSCE region<sup>6</sup>. He said that it was an important commitment of each OSCE participating State to respect the right of the individual to assist others in defending human rights and fundamental freedoms. He emphasized that the primary responsibility for implementing commitments, in the case of the Meeting the promotion and protection of human rights, lied with states. Ambassador Strohal stated with disappointment that recently a number of the participating States introduced new legislation placing further restrictions on the activities of civil society. He stressed that it was precisely the curtailment of civil society that threatened an important pillar of security.

Ambassador Strohal emphasized that the OSCE field operations played a crucial role in assisting human rights defenders. Projects aimed at civil society capacity building, including trainings for human rights defenders were useful tools in this regard. Encouraging closer consultation between the legislature and civil society in the legislative process and assisting inclusive political decision-making processes through workshops and roundtables were further examples of potential OSCE’s involvement.

Ambassador Strohal compared the current state of human rights affairs in the OSCE participating States with the situation five years ago. He noted positively that the recognition and awareness about human rights defenders in societies became stronger. He also added with regret that the gap between human right defenders and government authorities had been widening in a number of the participating States. An important factor that contributed to the gap were measures taken by some governments to combat terrorism, which were not always compatible with the respect for human rights.

Ambassador Strohal said that this SHDM would certainly identify a number of shortcomings and difficulties faced by individuals and groups, but he also expressed hope for the forum to provide opportunities for networking and the exchange of good practices and solutions, and to contribute to finding a common platform for the joint fruitful work.

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<sup>6</sup> Please see Annex VI for the Opening and Closing remarks by Ambassador Strohal.

Keynote speech was delivered by Ms. Hina Jilani, the Special Representative of the United Nations Secretary General on Human Rights Defenders<sup>7</sup>. She emphasized a significant role, which civil society played in inducing recognition of the concepts of participatory democracy, transparency and accountability. She spoke about the difficulties human rights defenders faced in their work. She noted that defenders whose work challenged social structures, economic interests, traditional practices and interpretation of religious perceptions faced greater risks. Women human rights defenders, in particular, were targeted by various social and private actors.

Ms. Jilani underlined that national laws in many countries did not provide for favourable conditions conducive for the full respect and enjoyment of human rights. Freedom of association was increasingly being targeted in many countries, and restrictions were placed on freedom of expression and assembly, as well as on freedom to seek and disseminate information on human rights. She stressed that these freedoms were essential for human rights defenders.

Ms. Jilani highlighted the important role of National Human Rights Institutions in ensuring that human rights norms were reflected in laws, and also in raising an alarm when these were threatened in practice.

Ms. Jilani noted that the protection of human rights defenders was a shared responsibility of States, civil society and international community. She mentioned the EU Guidelines on Human Rights Defenders as a positive action that promised support to defenders both in policies of the EU member States and in more practical ways, that would contribute to defenders' safety and security. National level initiatives to strengthen access to justice and to ensure judicial independence, creation of complaints mechanisms and procedures, as well as programs aimed at raising accountability of law enforcement agencies also promised more benefits for the work of human rights defenders. The impact of many of the undertaken initiatives still remained to be seen.

Ms. Jilani called on the OSCE participating States and the broader international community to give due regard to the voices of human rights defenders and respect their aspirations of achieving the goal of bringing about real and genuine changes.

The Opening Plenary was followed by three Working Sessions. They were moderated by Mr. Neil Hicks, Director of the International Programs and Human Rights Defenders Program at the Human Rights First.

In **Session 1** introductory speeches were delivered by Ms. Natasha Kandic, Director of the International Humanitarian Law Centre in Belgrade, and Mr. Sergei Kovalev, Chairperson of the International Human Rights and Humanitarian Society "Memorial" in Moscow.

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<sup>7</sup> Please see Annex III for the text of key note speech.

The discussion focused on the situation of human rights defenders in the OSCE participating States. NGO representatives from various States identified a damaging regional trend with closing of the space for the independent operation of human rights defenders. This trend was brought about by a combination of state policies, including defamation and smearing of human rights defenders by government officials, parliamentarians and the media; physical attacks on human rights defenders that often remain unpunished; restrictive NGO laws; limitations of freedom of association; interference by governments in the functioning of NGOs; creation of GONGOs (NGOs created by the government), which undermined the idea of independent NGO activity; restriction on access to information; restrictions to freedom of movement placed on human rights defenders; difficulties with access to funding; etc.. The lack of understanding the importance of the work of human rights defenders by national authorities was also pointed out.

It was noted that human rights defenders played a particularly important role in conflict and emergency situations. Participants also discussed the double victimization of women human rights defenders who were subject to persecution in the same way that their male counterparts, and were also additionally vulnerable to particular types of persecution, and faced hostility as women who were challenging accepted social norms. Roma and LGBT (lesbian, gay, bisexual and transgender) activists spoke about their difficulties in having their work recognized as human rights activities.

It was emphasized by the participants that the OSCE participating States already recognized the role of human rights defenders as of “fundamental actors” in the promotion of democracy, peace and security. In that respect a reference was made to the UN Declaration on Human Rights Defenders, European Union’s Guidelines on Human Rights Defenders, Council’s of Europe Fundamental Principles on the Status of Non-Governmental Organizations in Europe, and the OSCE human dimension commitments.

Many speakers made reference to the need for States to work harder in implementing the existing commitments to support the work of human rights defenders, and for international organizations, including the OSCE, to do more in assisting the governments in building national institutions that would lead to better implementation of the relevant commitments.

**Session 2**, focused on synergies and co-operation between state organs, national human rights institutions and human rights defenders.

Introductory speeches were delivered by Ms. Albina Radzevičiūtė, Seimas Ombudsman of Lithuania; Ms. Mary Lawlor, Director, Front Line - the International Foundation for the Protection of Human Rights Defenders; and Mr. Michel Forst, Acting Chairperson of the Coordinating Committee of European National Institutions for the Promotion and Protection of Human Rights.

The participants reiterated that national human rights institutions (NHRIs) could be beneficial for human rights in general and for the situation of human rights defenders.

Speakers stressed that in order for NHRIs to fulfill their functions, firstly, their composition should reflect their independence. The participants stressed that it was not acceptable if NHRIs were silent in the face of persecution of human rights defenders. Such silence could indeed serve as an indication that a NHRI was not fulfilling its mandate. Examples of such negative cases were given by several participants.

Positive examples were heard from the NGO “Frontline” with respect to its co-operation with the Irish government. Representatives of several government delegations spoke about the benefit and importance of high-level diplomatic intervention aimed at protecting human rights defenders who suffered or were at risk of persecution. It was underlined that there were possibilities for the governments to contribute actively to the creation of new mechanisms that would better support the work of human rights defenders. The process of development and adoption of the EU Guidelines on Human Rights Defenders was mentioned as an example of such support.

The participants were reminded by a representative of the UNHCR (UN High Commissioner for Refugees) of the important role of NHRIs in ensuring that states could meet their commitments of protecting the rights of non-citizens, including by promoting enjoyment of the right to asylum, by playing a role in the development of legislation in the field of immigration, as well as by promoting the rights of refugees and immigrants in order to counter racism and xenophobia.

The participants discussed the important role of NHRIs in human rights education and in specialized human rights training for law enforcement personnel. The need for sustained long-term efforts to achieve results in this area was stressed.

It was also pointed out that NHRIs had a particular role in promoting gender equality and in ensuring that women occupy positions of leadership within NHRIs and throughout government structures.

During **Session 3**, participants examined pertinent legislation and implementation of the OSCE commitments relevant to the activities of human rights defenders.

Introductory speeches were delivered by Mr. Antoine Bernard, Executive Director of the International Federation for Human Rights in Paris, and Mr. Maxim Anmeghichean, Programmes Director of the European Region of the International Lesbian and Gay Association.

The participants stressed that the OSCE participating States had an obligation to bring their laws and practices into compliance with applicable international standards. . Freedom of association and assembly were identified as areas, where some OSCE participating States did not implement their commitments in practice. The participants gave examples of new laws restricting freedom of expression in order to prevent the discrediting of the state power. Moreover, examples of restrictions on freedom to assemble, on NGO registration, on foreign funding, etc. were mentioned. New legislation included laws on extremism, which hindered activities of NGOs and threatened civil

society members to be accused of conducting extremist activities. All those legislative developments were noted as negative trends diverting the OSCE participating States further from the OSCE commitments.

The participants highlighted that compliance of national legislation with international obligations and standards was important, and that national security should not be used by States as a pretext to deny human rights. It was also noted that legislation was often tailored taking into account exclusively the interest of the State, excluding any possibilities, i.e. mechanisms and consultation processes, for the views of civil society to be taken into account.

In addition to the country-specific examples and exchanges of best practices, concrete recommendations were voiced by the participants during the SHDM<sup>8</sup>.

Closing remarks at the **Closing Plenary** were delivered by Ambassador Bertrand de Crombrugghe, Chairman of the OSCE Permanent Council<sup>9</sup>, and Ambassador Christian Strohal, Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

Ambassador Bertrand de Crombrugghe said that it was an intention of the Belgian OSCE Chairmanship to put the role of the NGO community in the spotlight, while at the same time focusing on the important interaction between state and non-state actors in the protection and promotion of human rights. He underlined several elements, which were brought up during the Meeting. He suggested considering the possibility of more structured and direct information exchanges between NGOs and the participating States inside the Hofburg - as a first step to support human rights defenders in their actions on the ground. He also mentioned long term proposals voiced by the SHDM participants. Many participants felt that the OSCE should follow the footsteps of the EU in working out Guidelines on Human Rights Defenders. Others called for a Special Representative on Human Rights Defenders. Ambassador de Crombrugghe assured that recommendations made at the SHDM would be considered in the capitals of the OSCE participating States.

Ambassador Christian Strohal noted that discussions during the SHDM one more time demonstrated that the work of human rights defenders had a decisive impact on the consolidation of democratic institutions and the enhancement of national human rights systems. He made several remarks in response to some of the recommendations from the practical ODIHR perspective. Commenting on the proposal of creating a Special Mechanism on Human Rights Defenders for the OSCE region, he pointed to the experience of other international institutions in this regard and referred to the importance of enhancing the capacity of the ODIHR in supporting and strengthening the capacity of human rights defenders. He assured that the ODIHR would take the Meeting's recommendations seriously in order to further advance its work on human rights

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<sup>8</sup> These recommendations are summarized in Chapter II. Please also see Chapter III for recommendations produced at each working session.

<sup>9</sup> Please see Annex VII for Closing remarks by Ambassador Bertrand de Crombrugghe



defenders, on issues of freedom of assembly and association, on capacity building for civil society, on national institutions, and on support for dialogue and cooperation at the national and local levels. Ambassador Strohal also underlined that the OSCE commitments could be further enhanced and reinforced through incorporation of guidelines and principles adopted by other international organizations. He noted, in particular, that the ODIHR looked forward to consolidating its draft Guidelines on Drafting Laws Pertaining to Freedom of Assembly through a process of consultations with governmental experts and representatives of civil society. He reiterated that the ODIHR stood ready to provide participating States with assistance and advice in order to ensure compliance of their laws and practices with international legal obligations and relevant OSCE commitments. He also noted that the ODIHR would continue its work to support women's organizations in their efforts to promote protection of women human rights defenders and to strengthen their position.

Ambassador Strohal encouraged participating States to endorse and implement the recommendations stemming from the SHDM. Recommendations made were the results of constructive and intensive discussions among the OSCE delegations, civil society and international organizations and deserved more than a place in the OSCE records. He welcomed continued discussion of the issues brought forward at the SHDM, during the OSCE Human Dimension Implementation Meeting to be held in the first half of October 2006.

## II. RECOMMENDATIONS

This part of the report focuses on recommendations arising from the three sessions. These wide ranging recommendations made by delegations of OSCE participating States, international organizations, and NGOs, were aimed at various actors, such as OSCE participating States, OSCE institutions and its field operations, as well as other international organizations and NGOs. These recommendations have no official status, are not based on consensus, and the inclusion of a recommendation in this report does not suggest that it reflects the views or policy of the OSCE. Nevertheless, they are a useful indicator for the OSCE in reflecting upon how participating States are meeting their commitments, determining future priorities and considering possible new initiatives relevant to the work of human rights defenders and national human rights institutions.

### *Recommendations to the OSCE participating States:*

- OSCE participating States should pay particular attention to the well-being of those human rights defenders who will return after this Meeting to countries where they may be at a risk of persecution.
- OSCE participating States should desist from and publicly denounce all verbal and physical attacks and media campaigns carried out to discredit human rights defenders. Support from OSCE participating States and the co-operation between their Embassies on the ground is vital in this respect.
- Those OSCE participating States that have not yet done so, should extend an invitation for a visit to the UN Special Representative of the Secretary General on Human Rights Defenders, and to co operate with her fully before, during and after the visit.
- OSCE participating States should ensure that all those who carry out human rights work enjoy protection afforded to human rights defenders. Every individual who defends human rights by means of concrete and peaceful actions should be considered a human rights defender. Thus, the definition of the human rights defender should not be narrowly predefined in national laws.
- OSCE participating States should speak out in promoting the vital role played by human rights defenders in their respective countries, and to ensure fair and free environment for their work. Anti-NGO propaganda needs to be countered by explaining why human rights groups are necessary.
- OSCE participating States should continue raising awareness and concerns about the state responses to NGOs and human rights defenders. Diplomatic, moral and emergency support to human rights defenders should be rendered. Such support would include raising individual cases internationally and bilaterally at the highest levels; regular meetings with human rights defenders (including visits in prison),

provision of emergency material assistance needed for the continuation of their human rights work. Funds should be provided to human rights defenders in order to allow them to attend OSCE meetings. Training for human rights defenders, as well as the incorporation of human rights education into the school curricula should be supported.

- OSCE participating States should give attention to promoting full recognition and protection of economic, social and cultural rights, which are intrinsically related to and dependent on the right to react peacefully to economic, social and cultural concerns. New approaches should take into consideration the role and responsibilities of business enterprises, including multinational corporations, for respecting human rights standards and contributing to their realization.
- Promotion and protection of human rights defenders should be done jointly with human rights defenders. A constructive dialogue should be established with human rights defenders of various categories: international, local, NGOs, lawyers, journalists, judges, officials, doctors, trade unions and citizens. OSCE participating States should provide open and inclusive fora to discuss issues of concern to civil society.
- OSCE participating States should review their domestic legislation concerning freedoms of association and assembly and improve the laws and regulations which are found to restrict the freedom of NGOs, human rights and democracy advocates as well as lawyers who defend them. States are encouraged to submit their laws to the OSCE legal experts for the evaluation of whether those laws are compatible with the OSCE commitments. Technical assistance of the OSCE should be used to bring legislation in line with OSCE principles.
- OSCE participating States should support programs to empower women, such as capacity building and training for NGOs and human rights defenders working to promote women's rights. Initiatives in legal education for women should be supported.
- OSCE participating States should render support to women's organizations for stepping up efforts to guarantee protection of women's rights and strengthen their position.
- Violence against women human rights defenders should be the subject of particular attention and protection, as they become double victims, both as women and as human rights defenders. All cases of violence against human rights defenders should be investigated promptly, efficiently and thoroughly by the police and charges brought against the perpetrators.
- OSCE participating States should pay particular attention to the situation of human rights defenders during an armed conflict.

- Country specific recommendations of the OSCE Special Representative on Freedom of the Media should be implemented. Training, media production assistance, and building management capacity in media outlets should be supported.
- National Human Right Institutions should be established in OSCE participating States, based on the so called Paris Principles. Those institutions could take different forms, for example, an Ombudsman office, national human rights institution or an Ambassador on human rights issues at the national level. Parliamentary nomination to such institutions is preferential, and NGOs can play a role in this process as well by nominating candidates.
- OSCE participating States should support and strengthen their national human rights institutions.
- Human rights education in schools should be given an increased attention, including education on gender issues.
- OSCE participating States should respect and protect the right to freedom of assembly and expression as recognized in the OSCE commitments. A happening or a threat of the counter demonstration should not be used as an excuse to ban the main event.
- OSCE participating States should provide adequate protection for public assemblies in order to ensure the safety of demonstrators. Special attention should be paid to building the capacity of the police in human rights and policing public assemblies, with focus on prevention of excessive use of force while adequately protecting public safety.
- OSCE participating States should establish and support national mechanisms for monitoring the implementation of legislation and regulations concerning public assemblies. Participation of civil society in such mechanisms should be ensured.
- Governments of OSCE participating States, public authorities and public institutions at the national, regional and local levels should refrain from statements which are likely to have the effect of legitimizing, spreading or promoting forms of discrimination, hatred or intolerance, so preventing the enjoyment of human rights. Legislation should be adopted to protect minorities from speech which is likely to incite hatred, violence and intolerance.
- OSCE participating States should invoke the Vienna and Moscow Mechanisms in relation to those States, which fall short of implementation of OSCE commitments. A study could be made on the effectiveness of these mechanisms and steps be taken by OSCE participating States on the basis of such a study in order to boost the effectiveness of these mechanisms.

*Recommendations to the OSCE, its institutions and field missions:*

- OSCE should construct strategies suitable for impact and effectiveness according to the complexities of the political, economic and social conditions that States and civil society are called upon to address. Countries in transition need stronger emphasis on implementation of newly articulated constitutional principles, peace agreements and commitment for strengthening of institutions.
- OSCE should consider the possibility of more structured and direct information exchanges between NGOs and participating States in Vienna as a first step to strengthen the human rights defenders in their actions on the ground.
- The OSCE should consider the creation of a special mechanism within the OSCE dealing with the protection of human rights defenders. This mechanism would complement and bolster the work of the Special Representative of the UN Secretary General, the mandate currently held by Hina Jilani, and would bring the OSCE region into step with African and Inter-American regional bodies that have already created such a mechanism.
- OSCE should endorse the EU Guidelines on Human Rights Defenders, which provide a set of ways and means to effectively work towards the promotion and protection of human rights defenders.
- Continued support and protection for civil society actors by the OSCE, its institutions and field operations, as well as individual participating States, is vital. In this respect, particular attention and support should be given to grass root human rights defenders emerging in a number of participating States.
- OSCE should organize and support regional and country specific events on topics relevant for the work of human rights defenders, such as on freedom of association, assembly and expression, aiming at discussing practical steps to improve laws and practices, as well as ensuring the continuing dialogue between governments and civil society.
- Strategies of field missions, other OSCE institutions and participating States should be well targeted and well co-ordinated. Diplomatic support should be provided within the OSCE when human dimension aspects of the field mission's mandates are under threat. In this regard the OSCE participating States should be reminded that the human dimension is an integral and indivisible component of lasting security and a core OSCE principle, which should not be marginalized.
- A core component of an OSCE field mission should be the support of human rights defenders. The mandate of the OSCE field presences should be more clear-cut, and the OSCE field missions should serve as a mediator in trying to restore the dialogue between human rights defenders and authorities. OSCE field missions should be strengthened in order to pay more attention to the support of civil society.

- OSCE should act more vigorously in cases of individual human rights violations, paying attention not only to the fast and flexible response, but also to follow up.
- Each OSCE field mission should have the necessary financial, technical and human resources necessary to promote democracy and human rights. In addition to the OSCE budgetary allocations for human dimension activities, the participating States should provide voluntary contributions for projects in the field of human dimension, as well as seconded personnel to work in the field missions.
- OSCE should conduct a meeting dedicated to functioning of Ombudsman institutions in 2007.
- Special mandate should be developed within the OSCE, which would focus on the interaction between human rights defenders and national human rights institutions.
- A contact point for liaison with national human rights institutions should be established in the ODIHR.
- OSCE should develop a mechanism for preventing the misuse of national human rights institutions to prevent them from becoming a facade to justify and hide state violations of human rights and fundamental freedoms.
- OSCE should address the issue of restrictive NGO legislation in a number of OSCE participating States.
- OSCE human rights monitoring should be strengthened. In particular, the OSCE should monitor peaceful assemblies and produce recommendations to national governments and international organizations.
- OSCE should establish a specific mechanism to evaluate and assess the implementation of laws on association and assembly that are critical to the work of human rights defenders. ODIHR should analyze legislation and practices that may hinder the work of human rights defenders.
- ODIHR should continue monitoring the implementation of OSCE commitments on freedom of peaceful assembly. The work in progress on the Guidelines on Drafting Laws Pertaining to Freedom of Assembly should continue and be supported.
- ODIHR should continue paying specific attention to discrimination of women and assisting participating States in enhancing the role and status of women in society and in public life.
- OSCE should continue supporting training on various human rights issues for women, youth and NGOs. Particular attention should be paid to rural areas.

- OSCE should pay particular attention to giving visibility and legitimacy to women human rights defenders and the specific risks they face.
- OSCE should consider organizing country specific meetings devoted to discussion of the implementation of OSCE Human Dimension Commitments.

*Recommendations to other intergovernmental organizations, to non-governmental organizations and to national human rights institutions:*

- Human rights defenders should co-ordinate their efforts to achieve common goals, establish networks to help each other when needed and to enhance advocacy efforts. Presence of NGOs and human rights groups at discussions, where issues of their interest and concern are discussed, is important.
- Human rights defenders and NGOs should work and co-operate with government structures at all levels in order to promote and protect human rights in their respective states.
- A study should be conducted regarding the funding, which is being given to human rights groups in the OSCE region in order to determine in which areas such funding should be reinforced.
- Funding requirements of donor organizations to NGOs should be made more flexible.
- NHRIs should engage actively in the law-making process by building stronger links with parliaments and advising them on legislative measures to strengthen the protection of human rights in the domestic legislative framework. NHRIs should submit references to courts on existing legislation that does not comply with constitutional guarantees and international human rights standards. NHRIs should be consistently engaged with civil society in order to remain well informed on issues related to human rights.
- Networks should be created between human rights defenders and NHRIs. Co-operation between them should be strengthened. A clearly defined mechanism should exist for interactions between human rights defenders and NHRIs.
- Human rights defenders and NHRIs should be committed to gender equality.
- International Organizations should assist in supporting and strengthening legitimate and credible NHRIs.
- UNODC is interested to receive information (studies, legal provisions and experiences) from various actors in the OSCE participating States on several aspects related to terrorism, such as how terrorism is defined in their States, how a State identifies if a person or a group is terrorist, how long terrorism suspects can be detained for, and in what circumstances wiretapping devices can be used.

### III. SUMMARIES OF THE SESSIONS

#### **SESSION 1: Human rights defenders in the OSCE region: challenges, obstacles and opportunities**

**Moderator:** **Mr. Neil Hicks**, Director of the International Programs and Human Rights Defenders Program, Human Rights First

**Introducers:** **Ms. Natasha Kandic**, Director of the International Humanitarian Law Centre, Belgrade

**Mr. Sergei Kovalev**, Chairperson of the International Human Rights and Humanitarian Society “Memorial”, Moscow

The discussion in Session 1 focused on challenges and obstacles, which human rights defenders experienced in their work. Opportunities for and importance of the activities of human rights defenders were also discussed.

Ms. Kandic focused on the situation in post-conflict Serbia. She compared the situation with regard to human rights defenders during and after the rule of Milosevic with the current situation. Examples were given on of how deputies of the Assembly (Parliament) engage in condemning human rights defenders publicly for their human rights activities, and in particular for their work related to disclosing war crimes. Human rights defenders became a target of various extreme groups in Serbia. Ms. Kandic also provided positive examples of how human rights defenders contributed to their societies, among which was the work of the Humanitarian Law Centre, by denouncing execution of Muslims in Srebrenica, by organizing conferences and a regional forum dedicated to victims of Srebrenica, and by representing victims at war crimes trials.

Mr. Kovalev spoke about his experience of human rights work in the Russian Federation. He came up with a critical evaluation of the state of affairs regarding human rights and rule of law in the Russian Federation and described it as catastrophic. He spoke about the new NGO legislation and criticized it for giving too many powers to the executive to determine whether an NGO was pursuing its own statutory aims. Mr. Kovalev stressed the need to uphold rule of law, democracy and OSCE commitments. He also addressed the problem that OSCE faced these days - when individual States raised their criticism of the OSCE referring to the principle of non-interference with internal affairs. He recalled the Helsinki process and in particular the commitment that human rights did not belong exclusively to internal affairs of States.

After presentations made by the introducers, there were interventions from the OSCE delegations and NGOs.

The discussion focused on the situation of human rights defenders in the OSCE participating States. NGO representatives from Belarus, Georgia, Kazakhstan,



Kyrgyzstan, Russian Federation, Turkmenistan, Ukraine and Uzbekistan used this forum to raise awareness about the difficulties they face in their work: pressure on human rights defenders and members of their families, smear campaigns, defamation cases, restrictions to freedom of movement, and creation of GONGOs as a substitute to real human rights movement. Human rights defenders were often accused of economic crimes and were brought to trial on trumped-up charges. They increasingly experienced difficulties with access to funding. Legal framework was used as a method of repression rather than a tool for freedom. Difficulties with NGO registration were mentioned. It was also noted that women human rights defenders faced particular difficulties in trying to promote and protect women's rights. Awareness on this issue was needed in order to ensure the protection of women human rights defenders. The lack of understanding about the importance of work of human rights defenders from the side of national authorities was mentioned as one of the persisting concerns. It was noted that human rights defenders played a particularly important role and were especially vulnerable during conflict and emergency situations: it was often in such situations, when extremism prospered, that they were most threatened.

The participants expressed their appreciation for the documents existing in frameworks of different international organizations, which facilitated the work of human rights defenders. The documents referred to were: the UN Declaration on Human Rights Defenders, European Union Guidelines on Human Rights Defenders, Council's of Europe Fundamental Principles on the Status of Non-Governmental Organizations in Europe, and the OSCE human dimension commitments. Support and appreciation was expressed by the participants to the mandate of the UN Special Representative on Human Rights Defenders

Criticism was expressed by human rights defenders towards the OSCE's lack of mechanisms and instruments to protect human rights defenders under threat of persecution or violation of their rights. Several participants brought up an idea of establishing a specific protection mechanism within the OSCE in order to raise concerns and address problems related to human rights defenders. Such mechanisms exist in the UN and within African and Inter-American regional organizations. A need for a clear mandate and policies for OSCE field missions with regard to their role vis-a-vis human rights defenders was stressed by many participants.

The following specific recommendations were made in Session I:

*Recommendations to the OSCE participating States:*

- OSCE participating States should pay particular attention to the protection of human rights defenders returning after this Meeting to countries where they will be at risk of persecution.
- Those OSCE participating States that have not done so should extend an invitation for a visit to the UN Special Representative of the Secretary General on Human Rights Defenders, and to co operate with her fully before, during and after the visit.

- OSCE participating States should recognize the term “human rights defender” on the basis of the defenders’ activities, and not by reference to some predefined category. Every individual who defends human rights by his concrete and peaceful actions should be considered a human rights defender.
- Promotion and protection of human rights defenders should be done jointly with human rights defenders. A constructive dialogue should be established with human rights defenders of various categories: international, local, NGOs, lawyers, journalists, judges, officials, doctors, trade unions and citizens.
- OSCE participating States should continue raising awareness and concerns about the treatment of NGOs and human rights defenders. Diplomatic, moral and emergency support to human rights defenders should be rendered. Such support would include raising individual cases internationally and bilaterally at the highest levels; regular meetings with human rights defenders (including visits in prison), provision of emergency material assistance in order to allow them to continue their work.
- Funds should be provided to human rights defenders so that they could attend OSCE meetings.
- Training of human rights defenders should be supported, as well as the incorporation of human rights education into the school curricula.
- OSCE participating States should speak out in defense of the vital role played by human rights defenders in their respective countries, and to ensure fair and free environment for their work. Anti-NGO propaganda needs to be countered by explaining why human rights groups are necessary.
- OSCE participating States should improve their laws and regulations, which restrict the freedom of NGOs, human rights and democracy advocates as well as lawyers who defend them. States should submit their laws to the OSCE legal experts for the evaluation of whether those laws are compatible with the OSCE commitments. Technical assistance of the OSCE should be used to bring legislation in line with OSCE principles.
- OSCE participating States should publicly denounce all verbal and physical attacks and media campaigns carried out to discredit human rights defenders. Support from international community and the co-operation between Embassies is vital in this respect.
- All cases of violence against human rights defenders should be investigated promptly, efficiently and thoroughly by the police and charges brought against the perpetrators.
- OSCE participating States should support programs to empower women, such as capacity building, training and aspiration for NGOs and human rights defenders

working to promote women's rights. Initiatives in legal education for women should be supported.

- Violence against women human rights defenders should be the subject of particular attention and protection, as they become double victims, both as women and as human rights defenders.
- OSCE participating States should pay particular attention to the situation of human rights defenders during an armed conflict.
- Country specific recommendations of the OSCE Special Representative on Freedom of the Media should be implemented. Trainings media production assistance, and building management capacity in media outlets should be supported.

*Recommendations to the OSCE, its institutions and field operations:*

- The OSCE should consider the creation of a special mechanism within the OSCE dealing with the protection of human rights defenders. This mechanism would complement and bolster the work of the Special Representative of the UN Secretary General, the mandate currently held by Hina Jilani, and would bring the OSCE region into step with African and Inter-American regional bodies that have already created such a mechanism.
- OSCE should endorse the EU Guidelines on Human Rights Defenders, which provide a set of ways and means to effectively work towards the promotion and protection of human rights defenders.
- Continued support and protection for NGOs and human rights defenders by the OSCE, its institutions and field operations, as well as individual participating States, is vital.
- OSCE should organize and support regional and country specific events on topics relevant for the work of human rights defenders, such as on freedom of association, assembly and expression, aiming at discussing practical steps to improve laws and practices, as well as ensuring the continuing dialogue between governments and civil society.
- Strategies of field missions, other OSCE institutions and participating States should be well targeted and well co-ordinated. Diplomatic support should be provided within the OSCE when human dimension aspects of the field mission's mandates are under threat. In this regard the OSCE participating States should be reminded that the human dimension is an integral and indivisible component of lasting security and a core OSCE principle, which should not be marginalized.
- A core component of an OSCE field mission should be the support of human rights defenders. The mandate of the OSCE field presences should be more clear-cut, and

the OSCE field missions should serve as a mediator in trying to restore the dialogue between human rights defenders and authorities.

- Each field mission should have the necessary financial, technical and human resources necessary to promote democracy and human rights. In addition to the OSCE budgetary allocations for human dimension activities, the participating States should provide voluntary contributions for projects in the field of human dimension, as well as seconded personnel to work in the field missions.
- OSCE should use its Vienna and Moscow Mechanisms. A study could be made on the effectiveness of these mechanisms and steps be taken by the OSCE participating States on the basis of such a study in order to boost their effectiveness.

*Recommendations to others (including intergovernmental and non-governmental organizations):*

- Human rights defenders should co ordinate their efforts to achieve common goals, establish networks to help each other when needed and to enhance advocacy efforts. Presence of NGOs and human rights groups at discussions, where issues of their interest and concern are discussed, is important.
- Human rights groups themselves need to be present when talking about issues of racism, and be directly involved. NGOs and old structures need to change their methodology.
- Human rights defenders and NGOs should work and co-operate with government structures at all levels in order to promote and protect human rights in their respective States.
- There needs to be a study of funding of human rights groups in order to determine where such funding should be reinforced in the OSCE region.

**SESSION 2: Synergies and co-operation between state organs, national human rights institutions and human rights defenders**

**Moderator:** Mr. Neil Hicks, Director of the International Programs and Human Rights Defenders Program, Human Rights First

**Introducers:** Ms. Albina Radzevičiūtė, Seimas Ombudsman, Lithuania

Ms. Mary Lawlor, Director, Front Line - the International Foundation for the Protection of Human Rights Defenders

**Mr. Michel Forst, Acting Chairperson of the Coordinating  
Committee of European National Institutions for the Promotion  
and Protection of Human Rights**

The discussion in Session 2 focused on the ways for governments, national human rights institutions (NHRI) and human rights defenders to co-operate and work together for achieving the common goal of the respect for human rights in the OSCE participating States.

Ms. Radzevičiūtė spoke about the experiences of the Lithuanian Seimas (Parliament) Ombudsman institution, which had been existing for over ten years. As established by the amended Law on Parliamentary Ombudsman in November 2004, the purpose of the Ombudsman institution was to protect a person's right to good public administration securing human rights and freedoms, and to monitor the conduct of state authorities in fulfilling their duties. In addition to the Seimas Ombudsman, there were other institutions, which looked into specific issues, like the institution of the Controller for the Protection of the Rights of the Child and the Office of the Equal Opportunities Ombudsman.

With time, these institutions had become an important guarantor of good public administration that was favourable to citizens and was carried out in accordance with the law. Ombudsmen had the right to examine complaints and issue recommendations. They also played a preventive role in seeking to eradicate human rights violations and making statements about such violations in courts. The Parliament ombudsmen came into contact with other law enforcement institutions that defended human rights. Parliament ombudsmen tried to find out how an interrogation by the police was conducted, and whether an individual's rights had been violated.

There were several public organizations working in Lithuania, activities of which were aimed at promoting human rights. The role taken by these NGOs was extremely important in filling the gaps in raising public awareness and providing information on human rights, in encouraging the public interest and respect for human rights, in raising human rights-related issues and proposing ways to tackle these problems.

Ms. Radzevičiūtė pointed out that the efficiency of protecting and defending human rights depends not only on how actively state or government bodies, human rights defenders, NHRIs were working independently within the boundaries of their own competence, but rather on how effectively they managed to co-operate in pursuing the common goals. Finding out the most efficient ways for such a cooperation was important.

Ms. Lawlor spoke about the role of NGOs in general and gave an example of co-operation between *Front Line*, the NGO she worked for, and the Irish government in protection of human rights defenders at risk. When a state was supportive and cooperated with non-state actors, it created good synergies, and allowed state and non-state actors to work towards a common goal.

She described concrete examples of co-operation. One of them was the process of adoption and promotion of the EU Guidelines on Human Rights Defenders. The Irish Department of Foreign Affairs set up a mechanism through which Front Line could raise cases of human rights defenders facing grave danger.

Another initiative which resulted from co-operation between *Front Line* and the Irish Minister for Justice was setting up a structure for the provision of temporary humanitarian visas quickly to human rights defenders in extreme danger or for rest and respite. Since this scheme was introduced, five human rights defenders benefited from this mechanism, stayed in Ireland with Front Line and now returned to their countries to continue their human rights work.

At the Bi-annual Dublin Platform, the Irish government demonstrates its commitment to human rights defenders by providing Dublin Castle as a venue. The Prime Minister, Minister for Justice and Minister for Foreign Affairs had accepted invitations to speak at that forum. Front Line received funding from the Irish Government.

Soon Front Line planned to provide a training session for human rights defenders, officials and mission staff of the Irish Department of Foreign Affairs.

Ms. Lawlor highlighted the situation of women human rights defenders and expressed appreciation to the Austrian Presidency of the EU for prioritizing protection of women human rights defenders, who often faced risks that were specific to their gender and additional to those faced by men. Such a situation placed on states the responsibility of adopting and implementing relevant legislation and administrative procedures, and put on non-state actors the responsibility of raising awareness of gender implications in civil society, ensuring the development and implementation of effective protection of women human rights defenders. She gave examples of concrete cases of violations of rights of human rights defenders.

Ms. Lawlor pointed out the existing long standing commitments in relation to human rights defenders and noted that much still remains to be done by the OSCE to strengthen the protection of human rights defenders.

Mr. Forst recalled the adoption of the UN Declaration on Human Rights Defenders, and mentioned that many defenders were called to Paris to discuss the issue. He reminded the participants that in spite of government repression, women and men united every day to defend human rights and freedoms, driven by an incredible force of conviction and magnificent courage. Whether they were members of an officially recognized organization or not, they were, to us and to the United Nations, still human rights defenders.

Mr. Forst then noted a number of assets national institutions like the one which he represented possessed. Those assets were the following:

- Ability to bring together a wide variety of opinions and experiences;

- Recognition of human rights as universal, global problems, which means they should also engage with institutions in other countries to look across borders to identify human rights issues that could impact their own country;
- Ability to advise national governments on the implementation of human rights obligations at the national level;
- Ability, for which a mechanism was developed at the NHRIs conference in Seoul, to monitor other NHRIs and see whether they were being used as mere instruments by their own governments.

Mr. Forst then introduced propositions and recommendations for reflection on the work of NHRIs. He stressed that actions of NHRIs should always be directed at potential victims, even ones with whom they might have ideological differences. He said that rights could not be taken away, for example, in the name of fighting communism, to fight wars of independence, or to counter such wars. Human rights defenders were equated with terrorists and persecuted in the name of such ends, and this could not be permitted. Mr. Forst recognized the importance to emphasize common convictions rather than differences because in spite of the discourse about the clash of civilizations, all people had one thing in common: we were all free and equal in dignity and rights. NHRIs played an important role in this respect as they were pluralist meeting places, as well as permanent networks for the protection of defenders.

Mr. Forst proposed to join efforts to construct an effective network for defense and protection of human rights defenders, which had been shown to be necessary through the creation of mechanisms such as the one set up at the UN and now filled by Hina Jilani, and the mechanisms set up at the African Commission for Human and People's Rights and the OAS, as well as the EU Guidelines. Long-term strategies to protect defenders had to be devised, based on the recognition that human rights were universal, indivisible and interdependent, and that the best way to deal with violations was to prevent them. Synergies should be developed between the many organizations and governments active in this field, and duplication should be prevented. NHRIs, with their vast networks and national and international links, had a vital role to play in organizing urgent interventions, diplomatic pressure and providing material and financial assistance. This network could be used much more.

Mr. Forst urged the participants to make sure that the Guidelines on Human Rights Defenders should be applied everywhere, and to everyone, by demanding that all EU embassies put the EU guidelines into action. He proposed to establish an office of the OSCE Special Representative for human rights defenders, which would complement the mechanisms set up by other intergovernmental organizations. He also suggested that a liaison office for NHRIs should be established at the ODIHR.

After presentations made by the introducers, the floor was open for interventions of the OSCE delegations, international organizations, NHRIs and NGOs.

An importance of NHRIs in the protection and promotion of human rights, strengthening democracies and the rule of law and reinforcing peace processes was underlined. The

significance of the so called Paris principles in establishing effective, legitimate, credible and independent NHRIs was stressed. The role of NHRIs in the prevention of torture and other forms of ill-treatment was noted. The protection of refugees and returnees could also be monitored by NHRIs. In this respect NHRIs could deal with reviewing individual complaints and petitions, as well as advising courts and hardship commissions. NHRIs could raise the issues of plight of refugees and combating racism and xenophobia, as well as protection of stateless persons.

Examples were given of the work of NHRIs and Ombudsman offices in different countries:

- There was a commission on human rights in France, which compiled an annual report on freedom of expression, which formed a basis for further actions.
- Slovak human rights centre's mandate was reinforced in 2004, with the adoption of anti-discrimination legislation. The centre was engaged in human rights monitoring, provision of legal aid providing advice in discrimination cases and publishing cases. The centre co-operated with governmental bodies, judges, prosecutors and human rights NGOs, which proved to be useful.
- In the Russian Federation there were institutions, which monitored implementation of human rights. One such institution was the Office of Ombudsman, another one was a Civil Rights Council, which was set up by the President. There was a lot of progress in the form and methods, in which the institutions functioned within the Russian Federation. For example, more than half of the subjects of Federation had an ombudsman working on human rights and on the rights of the child, and the impact of that was considerable. There were warning structures in place. The Prosecutor-General office's body on human rights had been set up. People went to court to defend their rights more often than before, because the trust in the system increased. The funding provided by state bodies and business had increased, while foreign funding had declined.
- Azerbaijan Ombudsman's office representative spoke about the work of this institution. There was growing public awareness about the possibility to file individual complaints. Regional Ombudsman's centres had been created, as well as children's and elderly rights organizations. There was a hotline for cases of torture in police stations and places of detention. Visits to places of detention took place.

Participants underlined the importance of synergies and continuous interaction between State organs and civil society, including consultations with civil society on important policy decisions, which should have an influence on the overall human rights situation.

The following specific recommendations were made in Session II:

*Recommendations to OSCE participating States:*

- NHRIs should be established in the OSCE participating States, based on the so called Paris Principles. Those institutions could take different forms, for example, an Ombudsman office, national human rights institution or an Ambassador on human rights issues at the national level. Parliamentary nomination to such institutions is



preferential, and NGOs can play a role in this process as well by nominating candidates.

- OSCE participating States should support and strengthen their NHRIs.
- Human rights education in schools should be given an increased attention, including education on gender issues.
- OSCE participating States should pay attention to women's rights violations and to appropriate police response to these kinds of violations. OSCE structures should continue rendering assistance in this respect.

*Recommendations to the OSCE, its institutions and field operations:*

- OSCE should conduct a meeting dedicated to functioning of Ombudsman institutions in 2007.
- Special mandate should be developed within the OSCE, which would focus on the interaction between human rights defenders and NHRIs.
- A contact point for liaison with NHRIs should be established in the ODIHR.
- OSCE should develop a mechanism for preventing the misuse of NHRIs to prevent them becoming a facade to justify and hide state violations of human rights and fundamental freedoms.
- OSCE should continue supporting training on various human rights issues for women, youth and NGOs. Particular attention should be paid to rural areas.
- OSCE should act more vigorously in cases of individual human rights violations, paying attention not only to the fast and flexible response, but also to follow up.
- OSCE should support the OSCE participating States in combating the lack of freedom of assembly and association.
- OSCE should pay particular attention to giving visibility and legitimacy to women human rights defenders and the specific risks they face.
- ODIHR should continue paying specific attention to discrimination of women and assisting participating States in enhancing the role and status of women in society and in public life.

*Recommendations to other intergovernmental and non-governmental organizations:*

- International Organizations should assist in supporting and strengthening legitimate and credible NHRIs.

- Networks should be created between human rights defenders and NHRIs. Co-operation between them should be strengthened. A clearly defined mechanism should exist for interactions between human rights defenders and NHRIs.
- Human rights defenders and NHRIs should be committed to gender equality.

### **SESSION 3: Human rights defenders: pertinent legislation and implementation of OSCE commitments**

**Moderator:** **Mr. Neil Hicks**, Director of the International Programs and Human Rights Defenders Program, Human Rights First

**Introducer:** **Mr. Antoine Bernard**, Executive Director of the International Federation for Human Rights, Paris

**Mr. Maxim Anmeghichean**, Programmes Director of the European Region of the International Lesbian and Gay Association

The discussion in Session 3 focused on legislation of the participating States affecting the work of human rights defenders, and on the implementation of relevant OSCE commitments.

Antoine Bernard introduced the Observatory for the Protection of Human Rights Defenders – an initiative, which has existed since 1997 to systematically monitor cases of repression against individual human rights defenders and NGOs. FIDH produced a report on the occasion of the SHDM, which took stock of the evolution of the phenomenon of repression. Mr. Bernard noted that there was a very worrying trend of systematic repression of human rights defenders and NGOs. He noted there was a real risk for those defenders who participated in the SHDM, and called on OSCE participating States to ensure there would be no reprisals against those defenders who had attended the meeting.

Mr. Bernard pointed out that protection of human rights defenders was necessary to ensure the effective implementation of human dimension commitments, and pointed to the Copenhagen document as a good reference in this regard. He recalled existing OSCE commitments on freedom of assembly and association and noted that although the OSCE was ahead of the UN in producing the Copenhagen document, there were a number of examples of these commitments being disregarded. Laws had become a tool for the arbitrary exercise of power, with restrictive laws requiring authorization from ministries aimed at controlling access to funding. A number of different forms of legislation have been adopted, for example in fight against terrorism, which directly violated the freedom of association. He noted that many activities were labeled as crimes merely to muzzle and restrict freedoms; the risk of separatism and sedition were invoked to restrict freedoms. In the CiS, the main aim was to restrict or repress NGOs, especially those involved in

monitoring activities. This constituted the misuse of law for the purposes of arbitrary repression. Mr. Bernard gave several examples. Belarus introduced criminal sanctions for the crime of discrediting the state, which directly violated freedom of association and expression. The Russian Federation passed article 33 of the law on non-profit organizations, which made it a criminal offence to engage in 'extremist activities'. On the other hand, the immunity of perpetrators of human rights violations was absolute. This arbitrary legislation was the fruit of political will, particularly of the government and the security services.

Mr. Bernard called on the OSCE to publicly promote understanding regarding the activities of human rights defenders and be given enough clout to deal with the issue. A specific mechanism on issues relating to the work of human rights defenders seemed very important as well; and the OSCE could draw from experiences in other regions, and consider the positive and negative side of those mechanisms. The OSCE could also look at the EU Guidelines. In general, OSCE should be more committed to the protection of human rights defenders.

Mr. Anmegichean underlined the importance of universality of human rights and the importance of access to human rights by each person in a society. He said that this principle was not accepted by all cultures and societies, which was particularly true for the rights of minorities that were stigmatized, such as gay, lesbian, bisexual and transgender (LGBT) people, Roma, Sinti and Travellers, legal and illegal migrants, religious minorities, HIV+ people and people who did not fit traditional roles of men and women. The stigma suffered by these minorities was also reflected upon those who defend the rights of these minority groups, and was often used to discredit them. This stigma also stopped some human rights organizations from tackling particular issues and problems through their work that they found too sensitive for the countries they worked in. The stigmatisation of minorities was often reinforced by public authorities, the government and religious organisations. Mr. Anmegichean gave examples of the negative reactions of religious leaders and politicians in some OSCE participating States in response to the LGBT's announcements about holding pride parades. In 2005 peaceful equality parades were banned or obstructed in Latvia, Poland, Lithuania, Moldova, Romania, and the Russian Federation.

The speaker also depicted positive examples, when pride parades were authorised by authorities and were professionally protected by the police, despite counter-demonstrations and a real risk of homophobic violence manifestations. In conclusion, Mr. Anmegichean underlined the importance of freedom of assembly for the work of human rights defenders. After presentations made by the introducers, interventions were made by the OSCE delegations, international organizations, NHRIs and NGOs.

Participants noted that human rights work of civil society groups and individuals was carried out within the national legal frameworks. A number of rights and freedoms regulated by States through legislation were important and in most cases, vital for the activities of human rights defenders, such as freedom of assembly and association, freedom of expression and freedom of movement.

Since September 11, new legislation was passed in a number of the OSCE participating States, which introduced restrictions and obstacles on certain activities of human rights defenders in the name of national security. Restrictions were placed on freedom to assemble, on NGO registration, on foreign funding, etc. Such conditions led to the situation that in some States NGOs could not operate freely and continued to struggle for their existence. In some States there were no more independent human rights groups; since most of the NGOs had to close down. New legislation included laws on extremism, which hindered the activities of NGOs and put civil society members under the risk of being accused of conducting extremist activities.

It was also noted that legislation was often written from the point of view of national authorities, and there were no mechanisms and consultation processes in place to ensure that views of civil society were taken into account.

It was underlined by the participants that restrictions should be applied in a transparent, consistent and non-discriminatory manner. Compliance of the national legislation with international obligations and standards was important, and national security should not be used by States as a pretext to deny human rights. Belarus, Kazakhstan, Russian Federation, Turkmenistan and Uzbekistan were mentioned in this context.

The following specific recommendations were made in Session III:

*Recommendations to OSCE participating States:*

- OSCE participating States should respect and protect the right to freedom of assembly and expression as recognized in the OSCE commitments. A happening or a threat of the counter demonstration should not be used as an excuse to ban the main event.
- OSCE participating States should provide adequate protection for public assemblies in order to ensure the safety of demonstrators. Special attention should be paid to building the capacity of the police in human rights and policing public assemblies, with focus on prevention of excessive use of force while adequately protecting public safety.
- OSCE participating States should establish and support national mechanisms for monitoring the implementation of legislation and regulations concerning public assemblies. Participation of civil society in such mechanisms should be ensured.
- Government representatives of the OSCE participating States, public authorities and public institutions at the national, regional and local levels should refrain from statements which are likely to have the effect of legitimizing, spreading or promoting forms of discrimination, hatred or intolerance, so preventing the enjoyment of human rights. Legislation should be adopted to protect minorities from speech which is likely to incite hatred, violence and intolerance.

- OSCE participating States should invoke the Vienna and Moscow Mechanisms in relation to those States, which fall short of implementation of the OSCE commitments.

*Recommendations to the OSCE, its institutions and field operations:*

- OSCE should address the issue of restrictive NGO legislation in a number of OSCE participating States.
- OSCE should organize and support regional and country specific events on freedom of assembly and association aiming at discussing practical steps to improve laws and practices. With respect to laws on freedom of association it is important to emphasize the need for transparent and non-discriminatory NGO registration laws.
- OSCE should establish a specific mechanism to evaluate and assess the implementation of laws on association and assembly that are critical to the work of human rights defenders.
- ODIHR should continue monitoring the implementation of OSCE commitments on freedom of peaceful assembly. The work in progress on the Guidelines for Drafting Laws Pertaining to Freedom of Assembly should continue and be supported.
- ODIHR should analyze legislation and practices that may hinder the work of human rights defenders.
- OSCE field missions should be strengthened in order to pay more attention to the support of civil society.
- OSCE human rights monitoring should be strengthened. In particular, the OSCE should monitor peaceful assemblies and to produce recommendations to national governments and international organizations.
- OSCE should pay attention to the worsening human rights situation in Turkmenistan. A special meeting should be organized in this respect.

*Recommendations to other intergovernmental and non-governmental organizations:*

- Funding requirements of donor organizations to NGOs should be made more flexible.
- UNODC is interested to receive information (studies, legal provisions and experiences) from various actors in OSCE participating States on several aspects related to terrorism, such as how terrorism is defined in their States, how a State identifies if a person or a group is terrorist, how long terrorism suspects can be detained for, and in what circumstances wiretapping devices can be used.

### III. ANNEXES

#### ANNEX I. AGENDA

**Day 1**                      **30 March 2006**

15.00 - 16.00              **OPENING SESSION:**

*Opening remarks:*

**Ambassador Frank Geerkens**, Head of the OSCE Chairmanship Unit,  
Ministry of Foreign Affairs of Belgium

**Ambassador Christian Strohal**, Director of the  
OSCE/ODIHR

*Keynote speech:*

**Ms. Hina Jilani**, Special Representative of the UN  
Secretary General on the situation of human rights  
defenders

*Technical information* by the OSCE/ODIHR

16.00 - 18.00              **Session I: Human rights defenders in the OSCE region:  
challenges, obstacles and opportunities**

*Introductory speeches:*

**Ms. Natasha Kandic**, Director of the International Humanitarian  
Law Centre, Belgrade

**Mr. Sergei Kovalev**, Chairperson of the International Human  
Rights and Humanitarian Society “Memorial”, Moscow

*Moderator:* **Mr. Neil Hicks**, Director of the International  
Programs and Human Rights Defenders Program, Human Rights  
First

*Discussion*

18:00                        **Reception offered by the OSCE Chairmanship**

**Day 2**                      **31 March 2006**

09.00 - 12.00              **Session II: Synergies and co-operation between state organs,  
national human rights institutions and human rights  
defenders**

***Introductory speeches:***

**Ms. Albina Radzevičiūtė**, Seimas Ombudsman, Lithuania

**Ms. Mary Lawlor**, Director, Front Line - the International Foundation for the Protection of Human Rights Defenders

**Mr. Michel Forst**, Acting Chairperson of the Coordinating Committee of European National Institutions for the Promotion and Protection of Human Rights

***Moderator:* Mr. Neil Hicks**

*Discussion*

12.00 - 14.00

Lunch

14.00 - 16.00

**Session III: Human rights defenders: pertinent legislation and implementation of OSCE commitments**

***Introductory speeches:***

**Mr. Antoine Bernard**, Executive Director of the International Federation for Human Rights, Paris

**Mr. Maxim Anmeghichean**, Programmes Director of the European Region of the International Lesbian and Gay Association

***Moderator:* Mr. Neil Hicks**

*Discussion*

16.00 - 16.30

Break

16.30 - 17.30

**CLOSING PLENARY:**

Report by the Working Sessions Moderator

Comments from the floor

**Closing remarks:**

**Ambassador Bertrand de Crombrughe**, Chairman of the OSCE Permanent Council

**Ambassador Christian Strohal**, Director of the OSCE/ODIHR

**17:30**

**Close of Day 2**

## ANNEX II. ANNOTATED AGENDA

The role of human rights defenders and national human rights institutions in promotion and protection of human rights has been recognized worldwide. The UN Declaration on human rights defenders<sup>10</sup> confirms the right of everyone, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. The Declaration stresses the responsibility of each State to protect, promote and implement all human rights and fundamental freedoms and commits the States to adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the Declaration are effectively guaranteed.

National human rights institutions (NHRIs), as defined in the so-called Paris Principles<sup>11</sup>, are vested with competence to promote and protect human rights and are increasingly seen by all stakeholders as key actors in this sphere. Independence from the executive power is the attribute that most clearly underpins the legitimacy, credibility and effectiveness of NHRIs. NHRIs take many forms in terms of their mandate, composition and the political and legal traditions within which they operate. The Paris Principles identify the role of NHRIs as pluralist and co-operative with a range of groups and institutions, including governmental authorities, non-governmental organizations (NGOs), judicial institutions and professional bodies. NHRIs should make recommendations and proposals to governments on various matters relating to human rights, including the human rights related legal framework and practice, pointing out to concrete violations.

For women human rights defenders, promoting and protecting women's rights in particular can be an additional risk factor, as the assertion of some such rights can be perceived as a threat to, and disruptive of, cultural, religious and societal norms. They may face rights abuses not only as human rights defenders, but also because of the gender based expectations about their position in society as women and the fact that their work may be viewed as countering society's notions about the status of women. Awareness and knowledge of gender implications in this regard are relevant in order to ensure development and maintaining of effective, appropriate and accessible protection of women human rights defenders.

The OSCE has a long standing relationship with human rights defenders and NHRIs, based on commitments reflected in various OSCE documents, including 1990 Copenhagen Document and 1991 Moscow Document. Annual Human Dimension Implementation Meetings (HDIMs) provide an opportunity for peer review of

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<sup>10</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the General Assembly on 8 March 1999. The severity and scale of reprisals committed against defenders were one of the primary motivations behind the adoption of the Declaration and the establishment of the mandate of the Special Representative of the Secretary-General on human rights defenders.

<sup>11</sup> Principles relating to the Status of National Institutions (The Paris Principles), adopted by the General Assembly resolution on 20 December 1993.



implementation of the OSCE human dimension commitments, including those relevant for human rights defenders and NHRIs, such as freedom of expression, movement, assembly and association, etc. Problems facing human rights defenders were also discussed at the Supplementary Human Dimension Meeting (SHDM) in 2001.

The OSCE participating States recognized that the promotion of human rights through education and training is vital for the strengthening of respect for human rights and fundamental freedoms<sup>12</sup>. It can be achieved through formal or informal human rights education and awareness raising efforts undertaken by state bodies, NHRIs and human rights defenders, with every actor having its important and particular role to play in this process.

## **Working Session 1**

### **Human rights defenders in the OSCE region: challenges, obstacles and opportunities**

“Human rights defender” is a term used to describe people who, individually or with others, act to promote or protect human rights. The Special Representative of the Secretary-General on human rights defenders has expressed concern for the situation of human rights defenders in all countries, including both emerging democracies and countries with long-established democratic institutions, practices and traditions. Human rights defenders, in every region of the world, have been subject to violations of their human rights. Women human rights defenders are facing specific violations because of their gender and/or because of the gender specific nature of the issues they advocate for.

The importance of adequate legislation has been underlined in the UN Declaration on human rights defenders which states that each country’s domestic legislation should provide a conducive environment for human rights defenders.<sup>13</sup> At the same time, it places on States the responsibility of adopting and implementing relevant legislation and administrative procedures that would allow human rights defenders to be seen and heard.<sup>14</sup> Likewise, the OSCE commitments stressed that the OSCE participating States

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<sup>12</sup> Ministerial Council Decision no. 11/05 “Promotion of human rights education and training in the OSCE area”, Ljubljana, 6 December 2005.

<sup>13</sup> “Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.” (Declaration on human rights defenders, Art. 3)

<sup>14</sup> “1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

”2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.” (Declaration on human rights defenders, Art. 2)

“will respect the right of their citizens to contribute actively, individually or in association with others, to the promotion and protection of human rights and fundamental freedoms<sup>15</sup>” and “will take necessary action in their respective countries to effectively ensure this right”.<sup>16</sup>

The participating States recognized that co-operation among themselves, as well as the active involvement of persons, groups, organizations and institutions, will be essential to ensure continuing progress towards their shared objectives.<sup>17</sup> The OSCE participating States offer various opportunities for human rights defenders and civil society to get involved in promotion and protection of human rights and fundamental freedoms. These different experiences developed within the OSCE region could be discussed in view of identifying the best practices.

Issues that can be discussed in connection with this topic are:

- What challenges do human rights defenders face in the OSCE region, including specific gender based difficulties faced by women human rights defenders? How can these challenges be overcome?
- What opportunities do OSCE participating States create to facilitate the work of human rights defenders? How can these opportunities be further reinforced?
- What are the registration and other bureaucratic demands faced by NGOs and how do they impact on their work?
- What are the main legal obstacles limiting the activities of human rights defenders and NGOs?
- What happens to human rights defenders when NGOs are closed down?
- How to promote the important work of human rights defenders and to strengthen their image vis-a-vis States and non-state institutions?

## **Working Session 2**

### **Synergies and co-operation between State organs, national human rights institutions and human rights defenders**

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<sup>15</sup> Concluding Document of the Vienna Meeting 1989, “Questions relating to Security in Europe: Principles”, paragraph 13.5.

<sup>16</sup> Concluding Document of the Madrid Meeting 1983, “Questions relating to Security in Europe: Principles.”

<sup>17</sup> Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 1990.

The OSCE commitments confirm that the protection and promotion of human rights and fundamental freedoms is one of the basic purposes of government, and the recognition of these rights and freedoms constitutes the foundation of freedom, justice and peace.<sup>18</sup>

As the State is the most significant and by far the most important protector of human rights on the national level, there is a need for a continuous interaction between the State organs and civil society. This may be done in several different ways: by respecting the freedoms of its citizens to exercise their civil and political rights; by consulting with civil society on important policy decisions which may influence the human rights situation; or by providing protection to human rights defenders.

NHRIs, including Ombudsman institutions, play a special role in this context. NHRIs offer people, including human rights defenders, an opportunity to have their complaints heard, evaluated and investigated by independent bodies. While these institutions are not directly involved in the outcome of judicial processes, they can comment on complaints and offer recommendations, aiming to remedy the situation and prevent it from happening again. They should also have a right to consistently monitor the extent to which relevant authorities follow their advice and recommendations.

Relationships with civil society can help NHRIs to protect their independence and pluralism. This can also enhance their effectiveness by deepening their public legitimacy, ensuring they reflect public concerns and priorities, and giving them access to expertise and valuable social networks, including to individuals or groups who are politically, socially, economically or culturally marginalized.

In order to ensure effective human rights protection by State organs and NHRIs, training for staff members of these bodies is required to equip them with necessary professional skills, including expertise in human rights.

Issues that can be discussed in connection with this topic are:

- What mechanisms already exist in the OSCE participating States to protect the rights of human rights defenders, including the rights of women human rights defenders? What else can be done by States to reinforce the protection of human rights defenders?
- How can State organs, NHRIs and human rights defenders support each other in enhancing the promotion and protection of human rights?
- What best practices the participating States can offer that encourage and facilitate the dialogue between State organs, NHRIs and human rights defenders?

### **Working session 3**

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<sup>18</sup> Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 1990, paragraph 1

## **Human rights defenders: pertinent legislation and implementation of OSCE commitments**

Human rights defenders carry out their activities within national legal frameworks, which, as prescribed by the UN Declaration on human rights defenders<sup>19</sup>, should be consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms.

The Declaration stipulates that in order to promote and protect human rights and fundamental freedoms, human rights defenders should have a right to meet or assemble peacefully; and to form, join and participate in NGOs, associations or groups<sup>20</sup>. It is widely acknowledged that protection of opinions and the freedom to express them is one of the objectives of the freedom of assembly and association. Moreover, genuine and effective freedom of assembly and association cannot be reduced to a mere duty on the part of the State not to interfere and requires States to take positive measures to guarantee these freedoms.

OSCE Commitments<sup>21</sup> echo international standards contained in the United Nations documents and demonstrate the participating State's commitment to develop relevant laws pertinent to freedom of assembly and association and put them into practice. OSCE Commitments also recognize that civil society should be consulted during the drafting of primary and secondary legislation which affects their status and operation<sup>22</sup>.

Freedom of assembly and freedom of association are of importance for all members of any democratic and pluralistic society, but NGOs and human rights defenders are often the first ones to be affected in case of limitations placed on these freedoms.

National law enforcement plays an important role in protection and enforcement of the rights of human rights defenders and NGOs and should act "in the public interest, respond to a specific need and pursue a legitimate aim". The participating States should ensure that "law enforcement acts are subject to judicial control and the law enforcement personnel are held accountable for such acts"<sup>23</sup> and human rights defenders and NGOs

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<sup>19</sup> UN Declaration on human rights defenders, Art. 3

<sup>20</sup> UN Declaration on human rights defenders, Art. 5

<sup>21</sup> In 1990 Copenhagen Document in Paragraph 10.3 the participating States committed themselves to "ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including human rights monitoring groups. In Paragraph 9.2 the participating States declared that "everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards"

<sup>22</sup> 1990 Copenhagen Document, Paragraph 5.8 foresees the participating State's commitment to have "legislation, adopted at the end of a public procedure, and regulations published, that being the condition for their applicability" and Principle 78 of the Council of Europe Fundamental Principles on the Status of Non-governmental Organisations in Europe, adopted on 13 November 2002.

<sup>23</sup> Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE 1991, paragraph 21.1 and 21.2.

“enjoy recourse to effective remedies, national or international, against any violation of their rights”<sup>24</sup>.

Issues that can be discussed in connection with this topic are:

- Does existing national legislation in OSCE participating States provide adequate guarantees for freedom of association and assembly? How is it enforced in practice?
- Do law enforcement bodies fulfill their duties with regard to ensuring and facilitating the free exercise of freedom of assembly and association?
- Do participating States effectively prosecute members of the law enforcement in cases when human rights violations are committed by them, for example, in instances of the excessive use of force?
- What reforms are needed to ensure that law enforcement agencies better contribute to the protection of human rights defenders according to their needs, including gender based needs?
- How do participating States raise awareness of the law enforcement personnel about human rights standards? Can the OSCE assist in this process?

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<sup>24</sup>

Charter of Paris for a New Europe, 1990.

### **ANNEX III. KEYNOTE SPEECH**

- **Ms. Hina Jilani, Special Representative of the United Nations Secretary General on the situation of human rights defenders**

(written statement)

Ambassador Geerkens, Ambassador Strohal, distinguished delegates, ladies and gentlemen,

It gives me great pleasure to participate in the Supplementary Human Dimension meeting on human rights defenders and National Human Rights Institutions. I greatly appreciate the initiative taken by ODHIR to focus on the importance of the work of human rights defenders.

Human rights defenders are fundamental actors in any effort to implement the overall international human rights framework. Establishing, promoting and sustaining democracy, maintaining international peace and security and providing or advancing a people oriented agenda for development cannot be accomplished without the contributions that human rights defenders make. Civil society actors have played a significant role in inducing recognition of the concepts of participatory democracy, transparency and accountability.

This was not easily done. Human rights defenders operate at great risk to their safety and many times the safety of their families. They have suffered harm and face grievous threats to their life, liberty, security, independence and credibility. State apparatus, oppressive laws and other tools of repression continue to be used against defenders in attempts to deter them from the valuable work they contribute to the promotion of human rights. In many parts of the world defenders are subjected to assassinations, disappearances, illegal arrest and detention, and torture. A number of human rights defenders are living in self-imposed exile after having to flee their country to safeguard their lives or liberty. Reprisals and repressive measures have been taken against individuals and groups who have reported human rights abuse to international bodies, including the United Nations human rights mechanisms. They are targeted in their professional capacity as lawyers, journalists, and doctors, as NGOs working on different fields of human rights, as students conducting human rights activities and as relatives of victims of human rights abuses. Even civil servants working as judges, ombudsmen, prosecutors and members of national human rights institutions have been targeted for their work in the defense of human rights.

Defenders whose work challenges social structures, economic interests, traditional practices and interpretations of religious precepts face greater risks. Women human rights defenders, in particular, are targeted by various social and private actors, such as religious groups and institutions, community or tribal elders, or even members of their own family. They become particularly vulnerable to prejudice, to exclusion and to public repudiation, not only by State forces but by social actors as well when they are engaged in the defence

of women's rights. State force has frequently been used to repress popular movements and quell the voices of protest against the violation of rights. Leaders of indigenous and other minority communities, leaders of movements of the poor, environmental and anti-globalisation activists, trade union leaders and defenders of the rights of displaced persons, migrants and refugees are increasingly being targeted. These trends could lead to a further increase in violations and a future crisis of human rights could well emerge. Attention must, therefore, be given to ensuring respect for the right to react peacefully to economic, social and cultural rights concerns. New approaches should take into consideration the role and responsibilities of private sector corporations, including multinationals, for respecting human rights standards.

Weakening of the rule of law in many countries has heightened the prospects for serious human rights violations, especially in countries with little or no space for citizen participation in governance, and without accountability or transparency. National laws in many countries do not provide a suitable legal framework for the full realisation and enjoyment of human rights. The freedom of association is increasingly being infringed in many countries through laws and regulations that impose a wide range of restrictive conditions on the registration, management, operation and financing of non-governmental organisations. Such practices and restrictive laws have been applied to selectively deny legal status to NGOs critical of government policies and have forced defenders to continue their work without legal protection, to terminate their activities and, in some cases, even to flee their country.

Restrictions placed on the freedom of information, expression and assembly have limited the access of human rights defenders to information or to sites of violations. Access to information is indispensable for the work of human rights defenders. The UN Declaration on Human Rights Defenders seeks to protect the monitoring and advocacy functions of defenders by recognizing their right to obtain and disseminate information relevant to the enjoyment of human rights. In many states provision of laws on counter terrorism, internal security, official secrets and sedition, amongst others, have been used to deny the freedom of information to defenders and to prosecute their efforts to seek and disseminate information on the observance of human rights standards.

In several countries armed conflict, struggles for the right of self-determination and movements for democracy form the backdrop for the work of human rights defenders. In the current security dominated climate, upholding human rights and fundamental freedoms is being portrayed in a number of countries as a threat to national and international security. The worst affected are pro-democracy activists or those organizing or taking part in peaceful public action asserting their right to independence and self-determination. With the rise in the threat of terrorism security has become a declared priority on many international and national agendas, to the extent that security legislation is called upon for application in a widening number and range of situations. In an increasing number of countries national security laws have been activated with renewed vigour.

There are grave apprehensions that increase in powers of the intelligence and security forces, with the simultaneous limitations placed on oversight and monitoring measures

has raised the level of risk to the safety of human rights defenders. Intelligence structures of the State are being used to harass defenders, interfere with their efforts to seek and disseminate information on violations, and to prevent any action to draw public attention to these violations. Communicating human rights abuse to concerned international agencies has, in particular, become the reason for surveillance and crack down against human rights groups and individuals. Many human rights defenders have been subjected to interrogation, investigations and placed on intelligence files for defending the right to due process and fair trial, offering legal defence or demanding conditions of detention compatible with human rights standards.

In an environment in which formal guarantees of human rights protection have decreased, defenders play an important role in monitoring and exposing deviations from human rights norms. They find themselves addressing a range of violations by state and non-state actors in a political context that is generally less sympathetic to their concerns. National Human Rights Institutions have a major role in the human rights protection system and protection of human rights defenders is inherent in their mandates. As national legislative watchdog it is their function to ensure not only that human rights norms are preserved in the laws, but also to raise the alarm when these are threatened by any legislative action. In this context public debate on proposed legislation must be emphasized as an essential requirement of democracy. These institutions must engage more actively in the process of law-making by building stronger links with parliaments and advising them on legislative measures to strengthen the protection of human rights in the domestic juridical framework. It is well within the competence of national human rights institutions to submit references to courts on existing legislation that does not comply with constitutional guarantees and the international standards of human rights. A consistent engagement with the civil society is critical for such institutions so that they remain well informed of issues related to human rights and can share the broader responsibility of their protection and promotion. National Institutions must only become the forums which human rights defenders can use for complaints but must also use human rights defenders as a conduit for information on the human rights situation and violations that need to be addressed.

The Declaration has given the civil society a “role and responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes”. Human rights defenders can only fulfill this responsibility effectively if they have a secure and enabling environment in which to function. Protection of human rights defenders is a shared responsibility of States, the civil societies and the international community. Some countries have taken initiatives to give due significance to the activities of human rights defenders. The adoption of the guidelines on human rights defenders by the European Union is a positive action that promises support for them in policies of the member states and in more practical ways for their safety and security. National level initiatives to strengthen access to justice and to ensure judicial independence, creation of complaints mechanisms and procedures and programs to impose more accountability on law enforcement agencies also promise more benefits for the work of defenders. However, the impact of many of these initiatives is yet to be seen.



The OSCE participating States are at different phases of democratic development and the institutional arrangements for the respect of human rights. The OSCE as body must construct strategies suitable for impact and effectiveness according to the complexities of the political, economic and social conditions that states and civil society are called upon to address. Countries in transition need stronger emphasis on implementation of newly articulated constitutional principles, peace agreements and commitment to the strengthening of institutions. The international community must not be satisfied with the minimum and give due regard to the voices of defenders and respect their aspirations to achieve the maximum in order to bring about real and genuine change.

## **ANNEX IV. INTRODUCTORY SPEECHES TO WORKING SESSIONS**

### **SESSION 1: Human Rights Defenders in the OSCE region: challenges, obstacles and opportunities**

- **Ms. Natasha Kandic, Director of the International Humanitarian Law Centre, Belgrade**

(written statement)

#### **Human Rights Defenders in Serbia**

Throughout the rule of Slobodan Milošević, Human Rights Organizations and Human Rights Defenders were treated as harmless marginal groups and individuals. Between 1991 and 1999 the regime of Slobodan Milošević did not ban a single anti-war demonstration by nongovernmental organizations because they served as proof to the international community of his ‘democratic’ attitude towards the ‘handful’ that did not support him. The regime and its media paid little attention to the reports of domestic human rights organizations on human rights and humanitarian law violations during the armed conflict because the regime felt secure and supported by the majority of citizens.

The period of the NATO bombing campaign from 24 March until 9 June 1999 united the opposition, civil society and regime. Nongovernmental organizations led the way in criticizing the international community and urging the citizens to keep their differences with the government aside as long as bombs kept dropping on the country. It was in those circumstances that several Human Rights Defenders and human rights organizations became the target of government media and secret services above all for publicly pointing out that the regime was taking advantage of the NATO campaign to settle with the Albanians. Because of its attitude during the NATO campaign, the Humanitarian Law Centre (HLC) was twice visited by members of the military security service, who threatened to bring charges of espionage against the HLC Executive Director; also, financial police examined the organization’s accounts and financial records for three weeks. On 23 May 1999, the day the Hague tribunal announced the indictment against Slobodan Milošević, State Security (DB) members arrested Nataša Kandić in Kosovo while she was trying to help an Albanian family to leave Kosovo. During her eight-hour detention she was threatened by DB personnel with being charged with espionage. After the end of the war in Kosovo, the General Staff of the Army of Yugoslavia (VJ) filed a criminal complaint against Nataša Kandić for going public with allegedly untrue information about the involvement of VJ members in war crimes.

Shortly after Slobodan Milošević’s ouster 5 October 2000, a period of rude awakening set in in Serbia. People began talking openly about Milošević’s responsibility for the bombing of the country. The fact was acknowledged that the citizens had voted against Milošević above all because he had brought the country into the position of being bombed. The first transitional government disclosed the existence of mass graves in

Serbia. Milošević's supporters, the Serbian Radical Party (SRS) and those who took part in war crimes kept silent lest the new government should raise the question of their own responsibility. The former government media fell over themselves inviting Human Rights Defenders to speak about war incidents that had for years been kept secret from the public.

Very soon, however, it became clear that the new government was powerless to reform the institutions, above all the police and the army. The assassination of Prime Minister Zoran Đinđić on 12 March 2003 left no doubt that the forces loyal to the old regime had meanwhile reorganized and were in control of major positions in the police, army and secret services. The imposition of a state of emergency and the arrest of many suspects in connection with the assassination failed to result in a political decision to remove from the institutions, above all from the police, army and secret services, all who had occupied high positions of power at the time the war crimes and grave human rights violations were committed.

Today Serbia has an undemocratic Assembly, from whose rostrum deputies are openly supporting the war crimes indictees and instigating public violence against Human Rights Defenders, particularly against three women who are at the head of organizations whose priority is the establishment of the rule of law by means of transitional justice mechanisms. In the forefront of the campaign against the Human Rights Defenders are the deputies of the SRS, who urge the institutions to arrest Nataša Kandić, ban certain human rights organizations, disclose their sources of finance, and forbid Nataša Kandić, Sonja Biserko and Biljana Kovačević-Vučo to appear in the media.

### *1. Serbian Assembly deputies on Human Rights Defenders*

I am quoting a number of statements by deputies of the SRS and of the Socialist Party of Serbia (SPS) to illustrate their attitude towards Human Rights Defenders:

1. 'Secondly, when are you going to stop Sonja Biserko and Nataša Kandić, the open enemies of this people? Why, in every [other] state their place would be you know where. [A hubbub of voices] You know where.'

Source: Transcript of Assembly proceedings, 4 April 2002, vol. 8, p. 151, deputy Toma Bušetić (SPS).

2. 'I'd like to say one more thing to you: if you were to put to a referendum or ask the citizens of Serbia what they think of Nataša Kandić and of those who support her, and also of the occupying media which take her side, you'd find out that, if possible, they'd be declared personae non gratae everywhere. There's no municipality in Serbia that has a kind word for such anti-Serbs, such psychopaths.'

Source: Transcript of Assembly proceedings, 24 June 2005, vol. 12, p. 140, deputy Aleksandar Vučić (SRS).

3. 'As to the various characters figuring in the so-called nongovernmental organizations – "so-called" because unfortunately we still haven't developed a genuine civil sector in

Serbia – these characters, like Nataša Kandić who's been mentioned here, surely ought not to serve as an occasion for the distinguished representatives of the citizens whom we have had occasion to see on the rostrum today to take the floor or be named.'

Source: Transcript of Assembly proceedings, 24 June 2005, vol. 12, p. 144, deputy Miloš Aligrudić (Democratic Party of Serbia, DSS).

4. 'I'm asking you, Mr Minister, what business is it of Nataša Kandić and of the employees of certain embassies to comment on the judgement against one Cvijetan for the media? Who are they? Are they supervisors here, Mr Minister? Did you see that? You saw it all right, it was all over the media. They turn up and ask the chief bandit, Nataša Kandić, what she thinks of this judgement. The chief bandit replies, saying: "I'm pleased, just keep up the good work."

'Who is Nataša Kandić? What is she? Nataša Kandić is a common bandit who turns up outside the Palace of Justice to say whether or not she is pleased with a judgement.'

Source: Transcript of Assembly proceedings, 24 June 2005, vol. 12, p. 151, deputy Miloš Aligrudić (DSS).

5. 'The bandits are going to end up behind bars as they do all over the world, so I'd like to tell you in advance that Nataša Kandić will be away on business for a long time and to congratulate Serbia on that. If things are kept fair and square, and if you don't step in to protect the leader of the gang in Serbia, Nataša Kandić, she'll have to go on a long trip by the end of the year. May that bring luck to the citizens of Serbia.'

Source: Transcript of Assembly proceedings, 24 June 2005, vol. 12, p. 244, deputy Aleksandar Vučić.

6. 'I have introduced an amendment to Article 1, the new Article 14 (a), which would insert after the second paragraph a new paragraph stipulating: "A public media outlet which carries the notorious lies of the pathological liar Nataša Kandić shall not be inscribed in the register of public media outlets." In my reasons for this amendment I have written that the pathological lies of Nataša Kandić are injurious to the reputation and law of Serbia and must be penalized...'

Source: Transcript of Assembly proceedings, 14 July 2005, vol. 16, p. 156, deputy Vjerica Radeta (SRS).

7. 'This time I'm going to accentuate the nongovernmental organizations. As you know, thanks to funding above all from the Soros Foundation and from all kinds of secret services from the West, they make their voice heard all over Serbian towns, at every place, by means of billboards, which are the most expensive, in the busiest locations, putting across untrue messages and using advertising methods most insulting to the human dignity of us members of the Serb people and of all other citizens of Serbia. I wish to remind you of all those billboards pasted over in Belgrade on the eve of the commemoration of the Srebrenica events.'

Source: Transcript of Assembly proceedings, 7 September 2005, vol. 21, pp. 74 and 156, deputy Nataša Jovanović (SRS).

8. 'Of course, we don't think that we ought to interfere with the work of every nongovernmental organization and we have no intention of doing so, but we ought to and must control the anti-Serb nongovernmental organizations in which Sonja Biserko, Biljana Kovačević-Vučo, Kandić, etc., are active.

Indeed, all of you here know, everybody in Serbia knows, that these nongovernmental organizations are financed with suspicious resources from abroad, that they operate contrary to the interests of the Republic of Serbia and the citizens of Serbia. At least a routine audit wouldn't go amiss.'

Source: Transcript of Assembly proceedings, 25 October 2005, vol. 25, p. 179, deputy Vjerica Radeta (SRS).

9. 'What is the purpose of the work of these international organizations, that is, of the nongovernmental organizations existing in the territory of the Republic of Serbia? It is to instil in the Serb people a sense of collective guilt and to declare as victims the real war criminals, who did those things in an organized manner?

There's no other purpose of the work of such nongovernmental organizations – those of Sonja Biserko and Nataša Kandić. That's the problem, so our object is to place their financial operations under scrutiny in order to find out who is paying them and who they work for. The citizens of Serbia would then be in a position to judge whether or not these people are to be trusted. Given the way things stand now, we're not keeping them fully informed, since he who pays probably has some interest to advance.'

Source: Transcript of Assembly proceedings, 8 November 2005, vol. 27, p. 63, deputy Veroljub Arsić (SRS).

## *2. Contribution of Human Rights Defenders to securing justice regarding past human rights violations*

The Human Rights Defenders are a constant target of the SRS and of other extreme groups and political parties in Serbia above all because they insist that the institutions and society should open a debate on the legacy of the previous regime and on the instruments for ensuring justice.

But in spite of these constant attacks, the human rights organizations have succeeded in getting the institutions and society to stop denying the war crimes and the responsibility of the Serbian forces. Since the HLC released footage of the execution of six Srebrenica Muslims, no one has denied the massacre of the Srebrenica Muslims in spite of the efforts of the SRS to disprove the authenticity of the footage.

In the past two years, over ten conferences dedicated to victims and their truth-telling have been held in Serbia. On 11 June 2005 the HLC held the conference 'Srebrenica Beyond Any Doubt', the first public gathering in Serbia at which participants observed a minute's silence in honour of the victims and mothers from Srebrenica told of how they were separated from their sons and of their search for their bodies. In January 2005, also for the first time in Serbia, Bosniaks from eastern Bosnia attending the conference 'Judicial Truth and Justice for the Victims' spoke about the things that happened to them in April 1992 as Serb forces started to expel Bosniaks.

In Serbia, Human Rights Defenders represent victims at war crimes trials. Thanks to their trust in Human Rights Defenders, the victims – Bosniaks, Croats, and Albanians – have agreed to testify before courts in Serbia, which they consider responsible for their ordeal. On the other hand, participation by victims is of great assistance to judges seeking to ascertain the truth and to mete out justice on the basis of evidence.

On a regional level, the Human Rights Defenders from Serbia have launched an initiative for a region-wide approach to ascertaining and telling the truth about the past. A regional forum in Sarajevo to be held early in May 2006 will discuss instruments for victim recognition, truth-telling and restoring dignity to victims.

Before the May conference, on 6 April, the Sarajevo City Assembly will present Nataša Kandić with a medallion on behalf of the residents of Sarajevo, a gesture best illustrating their attitude towards the Human Rights Defenders from Serbia.

- **Mr. Sergei Kovalev, Chairperson of the International Human Rights and Humanitarian Society “Memorial”, Moscow**

(based on notes)

Mr. Kovalev expresses his trepidation at once again criticizing the OSCE for being indecisive. In 2004, the Russian Interior ministry and other CiS members had criticized others for interfering with their internal affairs. [Russian foreign minister] Lavrov has now again criticized the OSCE on these grounds for its criticism of the Belarus election. Kovalev himself, through personal experience, states that he can testify there were indeed gross violations of electoral law during the Belarus election. The OSCE observers were only allowed to see positive things. He points out that Minister Lavrov should remember that he was himself one of the most active participants advocating that such matters were not internal affairs, during a September 1991 OSCE Human Dimension Meeting within the then recently reformed OSCE. Now the OSCE supposedly interfering in internal affairs is the basis for the stance of the CiS criticism. This is not surprising. The indecisiveness of the OSCE can be explained by the fact that it is attacked by its own member states, leading to the further dilution of a vague and unproductive mandate.

When discussing the situation of Rule of law and individual rights in Russia, Kovalev makes what he calls a radical statement: it is catastrophic. He realizes this may not go down very well. Why is the situation catastrophic? Basic constitutional principles have been violated in a bold-faced way. An example is the supposed separation of powers in the Russian Federation, which he describes as a ‘myth’. The name ‘federation’ implies a federal Structure, but, Kovalev asks, where is there a federation where the governors are appointed by the central authorities? This is not a federal system.

Some new legislation has been passed on NGOs in Russia. There are certain technical drawbacks about them, but more importantly, there are certain matters of conceptual principle that he objects to. He points out that under the new legislation, the state will have the right to determine whether an NGO is pursuing its own statutory aims. Is it for

the state, he asks, to check whether NGOs are doing this? This, he thinks, is more an issue for the members of such NGOs. The role of the state is to determine whether the law has been violated, not to check on compliance with statutory aims.

The aims behind the laws are no secret: preventing human rights defenders from maintaining their opposition to government policy and discussing direct violations of constitutional rights and the ‘nightmarish operations’ in Chechnya. The right to vote, enshrined in the electoral law, is grossly violated in the Chechen territories. The elections there have been 100% falsified.

He stresses that these offences are a national catastrophe, a crisis situation, considering that an enormous country is departing from its own principles and a new totalitarianism is being introduced. Given the place Russia has in the world, recommendations designed to help human rights defenders and organizations are needed. He submits human rights organizations should have understood long ago that they are the ones who kick up the fuss when things go wrong.

The rule of law, democracy and OSCE commitments need to be applied. There are hundreds of political prisoners in Russia, he believes, although the situation is not as bad as it is in Central Asia. There is a need to train law enforcement agents in human rights. His main recommendation would be to pressure the government, and to further clarify and extend the OSCE’s mandate. It cannot be that in such a critical area, the OSCE has such a vague mandate.

He recalls that the Helsinki process seemed to be the hook by which the Soviet state could be caught. Now Russian diplomats are using the Helsinki baskets as bait to mislead the international community. The vague way it is construed is used to say to the EU and others that they are interfering with internal affairs. This is the same old Soviet line.

## **SESSION 2: Synergies and co-operation between state organs, national human rights institutions and human rights defenders**

- Ms. Albina Radzevičiūtė, Seimas Ombudsman, Lithuania  
(written statement)

The right to appeal to ombudsman has been increasingly gaining recognition worldwide as a specific, widely available extra judicial means of defending human rights. This trend has been reflected in a new version of the Law on the Ombudsmen of the Seimas of the Republic of Lithuania (hereinafter referred to as the Parliament Ombudsmen) which came into force on November 25, 2004. The above-mentioned law stipulates that the purpose of the activities of the Parliament Ombudsmen is to protect a person’s right to good public administration securing human rights and freedoms, to supervise fulfillment by state authorities of their duty to properly serve the people. Although the previous version of the Law on the Ombudsmen of the Parliament did not stipulate protection of human rights,

the logic of the law indicated, among others, this particular competence of the Ombudsmen of the Parliament. Bureaucracy, *inter alia*, was defined as the failure to properly implement laws or other legal acts (this consequently covers the legal acts that regulate securing human rights, including international treaties). There are grounds to believe that this provision is in conformity with the Constitution of the Republic of Lithuania that served as the basis for establishing the office of the Ombudsmen of the Parliament.

After Lithuania regained its independence and the Constitution of the Republic of Lithuania was adopted in 1992, it was necessary to take a new look at many issues, including the framework of the public authorities. The office of the Parliament ombudsmen, the tenth anniversary of whose activity was marked last year, in fact was a completely new institution. As part of the efforts to integrate into the democratic world, the imperative of protecting human rights imposed a new requirement: to protect a person's right to good public administration, to employ the most effective and rational methods in supervising whether actions of public administration subjects are in conformity with the law. The Constitution contains the provision that "government bodies serve the people" which is closely linked with the recognition by the Constitution that human rights and freedoms are natural rights. Therefore, taking into account the classical nature of the ombudsman's office and the efforts to implement the provision stating that "government bodies serve the people" contained in the Constitution, there was established office of the Ombudsmen in Lithuania in 1995.

There are grounds to believe that it is the constitutional regulation which predetermines that not only the Parliament ombudsmen office but also some other institutions defending human rights are active in Lithuania. The fact that the Constitution strictly defines the subject of examination by the Parliament ombudsmen – abuse of authority and bureaucracy by officials – in turn led to a situation where other paramount fields of human rights, such as rights of the child, equal opportunities, non-discrimination are dealt by other institutions established in accordance with the laws, i.e., the institution of the Controller for the Protection of the Rights of the Child and the Office of the Equal Opportunities Ombudsman.

This short overview of the work performed by the above-mentioned institutions should note that basically the controller of the rights of the child is an official whose responsibility is to supervise and control whether the rights of the child are respected, to monitor and give assessment of the overall situation of children in Lithuania and their welfare. The controller submits proposals on how to improve children's welfare and in cases of dealing with individual complaints, examines the situation of an individual child (family).

The Law on Equal Opportunities for Women and Men came into force in Lithuania on April 1, 1999; later that same year, the Parliament appointed an ombudsman for equal opportunities for women and men and set up the office of the Equal Opportunities Ombudsman. After the Parliament adopted the Law on Equal Treatment in 2003, the competence of the office was widened by including the task to supervise the implementation of principle demanding to outlaw discrimination on grounds of a person's



age, sexual orientation, disability, race and ethnic origin, religion or faith; the institution was named the Office of the Equal Opportunities Ombudsman. Starting with 2005, the office examines complaints of victims of discrimination or harassment on the grounds of age, sexual orientation, disability, race and ethnic origin, religion or faith at work, educational institutions or in providing services.

Thus, the Parliament ombudsmen while defending human rights, have a solid basis for their activity. The Parliament ombudsmen office is a special institution. Ombudsmen's objective is to guarantee that a person's right to good public administration is not a mere theory but that it is also translated into practice. It should be noted that the right to good public administration is closely linked with the securing many other rights (for example, the right to the protection of property, the right to have access to information, etc.). Therefore, ombudsmen have become an important guarantor of good public administration that is favourable to citizens and is carried out strictly according to the law. Examination of each complaint at the office of the ombudsmen and recommendations given by an ombudsman open up flexible opportunities to apply different ways in tackling human rights-related problems pointed out by a complainant and these ways are frequently more acceptable to a complainant as well. Many people decide to choose the Parliament ombudsmen due to the advantages the ombudsman offices enjoy not only in Lithuania but also in any other foreign state, i.e., this kind of help is free of charge and easily accessible, one can file an application that does not necessarily have to be of a set form or one can come and talk to an ombudsman in person, in other words, anyone who applies will receive assistance and help. The right to appeal to an ombudsman is not only a means of defending human rights; it also plays a preventive role in seeking to rule out human rights violations and making statements about such violations in courts.

Having secured a solid position in the system of other institutions, the Parliament ombudsmen come into contact with other law enforcement institutions that defend human rights. For example, the Prosecutor's Office carries out certain control functions; it also defends human rights and secures the public interest. The police as a law enforcement institution also protect human rights. On the other hand, law enforcement institutions (the Prosecutor's Office and the police) can abuse their authority. In this sense, the Parliament ombudsmen office occupies an exceptional place as it has the right to examine whether the state-established institutions that are a part of law enforcement system, do not violate human rights. It should be noted that at the time when the formation of the conception of the Parliament ombudsmen was still underway, there had been heated discussions held at the Parliament: can or cannot the Parliament ombudsmen go to the police and try to find out how an interrogation had been conducted, and whether an individual's rights had/had not been violated; what are concrete limits for the Parliament ombudsmen in conducting examination of prosecutors' actions. The provisions of the new Law on the Parliament Ombudsmen created a more explicit legal basis for actively defending human rights and are likely to assist in changing the stance of many legal institutions on ombudsmen's role in the human rights field. For example, a proper application of the new law would contribute to tackling the human rights-related problem pointed out in 2004 by the United Nations Committee against Torture and the UN Human Rights Committee: however, no

independent mechanism of examining complaints on police officers' inadmissible behavior exists in Lithuania.

Prior to discussing the role played by national nongovernmental human rights organizations in improving the human rights situation in Lithuania, I would like to draw everybody's attention to a common trend observed in public relations, i.e. failure to adequately raise public awareness in the field of human rights and a passive stance taken by the Lithuanian population in defending their own rights and lawful interests. There are several public organizations working in Lithuania whose activity is aimed at securing human rights. Without pointing to any particular organization, I would like to note that the role taken by these NGOs is extremely important in making efforts to fill the gaps in raising public awareness and providing information on human rights, encouraging the public at large to take interest and respect human rights, raise human rights-related problems, and propose ways for tackling these problems.

To conclude this report and encourage discussions on this topical issue proposed by the organizers, I would like to note that the efficiency of protecting and defending human rights depends not only on how actively state or government bodies, human rights defenders, national human rights institutions are working independently within the boundaries of their own competence, but rather on how effectively they manage to cooperate their activity in pursuing this common goal. And it is extremely important to find out the most efficient ways of such cooperation.

- **Ms. Mary Lawlor, Director, Front Line - the International Foundation for the Protection of Human Rights Defenders**

(written statement)

It is a great honour for me to be here and I would like to thank the ODIHR for inviting me to give an intervention. I will speak from the experience of Front Line –all our activities are focussed on human rights defenders at risk and are guided in everything we do by the spirit, needs and protection of HRDS. It is easy when thinking aloud to get bogged down in the wider picture so ably painted by HRDs here yesterday and it can be overwhelming - but if we strip everything down to each individual case, sometimes it can take very little to protect them. I have been asked to talk a bit about the duties of States, the role of NGOs and how States and NGOs can and should co-operate in defence of human rights defenders with specific reference to our experience with the Irish government.

Let me start with the UN Declaration on Human Rights Defenders which governments adopted by consensus. Article 2 spells out the duty of States and I quote:

“Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its

jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.”

The OSCE has also long standing commitments in relation to human rights defenders and many of the provisions of the UN Declaration are similar to the OSCE commitments.

The OSCE commitments include:-

- the right of citizens to contribute actively, individually or in association with others to the promotion and protection of human rights and fundamental freedoms,
- the right to know and act on human rights and fundamental freedoms to seek , receive and disseminate information on human rights,
- the right to freedom of expression and freedom of association,
- the right to an effective remedy which includes both right to seek assistance from others in defending human and fundamental freedoms and to assist others in defending human rights and fundamental freedoms,
- support for non-governmental organisations,
- recognition and facilitation of the ability of NGOs to carry out their work.

I think however, it is safe to say that much remains to be done by the OSCE in its work to strengthen protection for human rights defenders.

### *Human Rights NGOs*

Human Rights NGOs are organized on local, national, regional or international level. The first and most crucial level of human rights protection is at the local and national level and properly functioning national mechanisms offer the best hope of sustainable human rights protection. The role of regional and international non governmental organisations should be to internationalise the work of local and national NGOs and support them in their struggle in the ways that they themselves say they need.

### *Functions of human rights NGOs*

They are essential in the struggle against human rights violations in assisting and seeking justice and compensation for victims;

They are major sources of information and *can be* capable of monitoring the situation in a more effective way than governments ever can if governments are ineffective, unwilling or unable to monitor human rights violations;

They have played a very substantial role in the field of standard setting. e.g. in the Convention against Torture. The spectacular success of the establishment of the International Criminal Court was due in no small part to the NGOs who formed part of the coalition for the ICC;

They have a special role and expertise in the field of hr. education and awareness;

They play a role in expressing solidarity; the contacts and relations worldwide do bind them together;

They are in a position to deliver services that other segments of society do not have. They are able to fill the gaps in information, documentation/training courses etc.;

They can and do have a crowbar-function in the political system that is essential for a good human rights atmosphere;

They can mobilise public pressure to hold governments accountable for the commitments they have given to upholding human rights.

As NGOs take an increasingly important role in political life, some critics are concerned that NGOs speak in many different and conflicting voices, which can fragment and weaken political action. NGOs have been most effective when they work together in coalitions, pooling their resources and coordinating their lobbying efforts

As discussions continue about democracy and accountability in global decision-making, it becomes increasingly clear that NGOs have a vital role to play. Globalization has created both cross-border issues that NGOs address and cross-border communities of interest that NGOs represent. National governments cannot do either task as effectively or as legitimately. In the globalizing world of the twenty-first century, NGOs will have a growing international calling.

A central part of the assessment of any countries' record in the field of human rights should be based on the possibilities of human rights defenders and NGOs to function effectively. NGOs should build up reliability and credibility and should be prepared to be accountable for activities, organization and financial reporting.

The situation for human rights around the world is bleak because human rights are always at the mercy of a government's economic and political interests. There is no such thing as a good government. When I started working 30 years ago, the human rights landscape was much more black and white - governments acted unilaterally without accountability and didn't recognise the legitimacy of the work of human rights defenders.

Two factors have made it necessary to adopt new approaches to governments:

Governments have hijacked the language of human rights. Listening to the rhetoric of their speeches, one could be forgiven for believing that they mean what they say. The line between what they say and do has become increasingly blurred but in the end it is always a case of dump on your enemies and go easy on your friends.

Secondly, more and more international standards have been developed and governments are now signing and ratifying international conventions and covenants to a greater degree.

But they don't take their international obligations seriously and adopt an a la carte approach to them – choosing the bits they can live with and ignoring or derogating from the bits that would force them to take real concrete steps to promote and protect human rights.

At the end of the day the power of politics has to be constantly challenged, so you have to find new ways of protecting human rights. In order to try and make human rights a reality for all, we must acknowledge those actions governments take in defence of human rights while at the same time rigorously denounce inaction or bad action; hold them accountable under the rhetoric and international law they so like to parade and attack their national and international image which is so important to them. We should be investing the same kind of time and energy in the “violaters” as we do in our partners the defenders of human rights in order to try to influence them in a way that will change their behaviour. Neither can be seen in isolation but in terms of their relationship with the other.

Let me talk now a little bit about Front Line's experience with the Irish government and the co-operation between us for the protection of human rights defenders at risk. When a state is supportive and cooperates with non-state actors, it creates good synergies, state and non-state actors work towards a common goal. This doesn't mean that there shouldn't be a healthy tension between them.

As we heard yesterday the EU adopted guidelines on HRDs in June 2004 under the Irish Presidency which provide for interventions by the Union for human rights defenders at risk and suggest practical means to support and assist human rights defenders. Front Line lobbied both the Minister and the Political Director of the Department of Foreign Affairs in 2003 in advance of the Presidency in January 2004, to make human rights defenders a priority for their EU Presidency. The Department of Foreign Affairs agreed to this and commissioned Front Line to prepare a discussion/consultation document on possible EU Guidelines for their EU partners, which we produced in consultation with a broad range of human rights defenders and key international organisations working on their behalf. The government also held a seminar to discuss same. The resulting guidelines include most of the issues raised by those consulted and we were particularly delighted when the government pursued the guidelines even when initially it looked like there would be no support for them from their EU partners.

On the 9<sup>th</sup> and 10<sup>th</sup> of December 2004, embassies, NGOs and experts were gathered in the Hague to discuss implementation of the Guidelines at the 6th EU Annual Human Rights Discussion Forum, hosted by the Dutch Ministry of Foreign Affairs. The outcome was a manual for EU Missions containing the concrete steps and instruments identified during the Forum for implementation of the Guidelines.

The Irish Department of Foreign Affairs have set up a mechanism through which Front Line can raise cases of human rights defenders facing grave danger. This is extremely important to us because the case can then be floated to EU partners with a request for action and we are then notified of the result.

Another initiative which resulted from co-operation between Front Line and the Irish Minister for Justice was setting up a structure for the provision of temporary humanitarian visas quickly to human rights defenders in extreme danger or for rest and respite. A visa is issued very quickly to a human rights defender for a period of up to three months. So far, since this scheme was introduced we have had 5 hrs who stayed with us for between 1 and 3 months and who have now all returned to their countries to continue their human rights work.

Front Line receives funding from the Irish Government. This kind of support contributes to our ability to carry out our work for the protection of human rights defenders and in no way takes away our independence and freedom to express our critical views about non-compliance with human rights obligations by the government. Indeed this was clearly stated by a member of the Irish delegation publicly under Item 17 on HRDs at the Human Rights Commission a few years ago.

Currently we are monitoring the controversial Shell to Sea campaign in Ireland and should we find any evidence of harassment or intimidation, we will certainly be publicly raising the case. Previously we have raised killings of human rights defenders in Northern Ireland as a matter of course.

At the Bi-annual Dublin Platform the government shows its commitment to HRDS through providing Dublin Castle as a venue. The Prime Minister, Minister for Justice and Minister for Foreign Affairs have all accepted invitations to speak. At the 3<sup>rd</sup> Dublin Platform in Oct 2005, the Minister for Foreign Affairs stated that “human rights defenders globally is an important aspect of Irish foreign policy and that Front Line was an important policy partner for the department.”

Next week we will be doing a training session on human rights defenders with officials and mission staff of the Department of Foreign Affairs

Now in case you think Ireland was always like that, let me assure you it was not. It was a struggle to get the covenants ratified, the death penalty abolished and there are many issues such as discrimination and police accountability that need to be tackled.

#### *WOMEN:*

It is also very important to highlight the more precarious situation of women human rights defenders and we are particularly pleased that the Austrian Presidency is prioritising women human rights defenders often face risks that are specific to their gender and additional to those faced by men. This places on states the responsibility of adopting and implementing relevant legislation and administrative procedures, and places on non-state actors the responsibility of raising awareness of gender implications in civil society, ensuring the development and implementation of effective, appropriate and accessible protection of women human rights defenders.

Many government structures and NGOs are not effective in gender proofing their work. Attitudes, practices and structures need to be transformed. For example, Eren Keskin, the Turkish human rights defender and lawyer has just been sentenced to 10 months in prison on grounds of article 301 of the Turkish Penal Code (TCK). Eren Keskin, the founder of

the "Legal Aid For Victims of Sexual Harassment and Rape Under Detention Project" has been repeatedly harassed over the years as a result of her human rights work. Her organisation works on documenting and assisting women who have been raped or sexually abused in custody.

Finally I would like to offer some recommendation to the meeting to consider.

I believe that the EU Guidelines on HRDs is a good tool to push EU governments into more effective and sustained protection of human rights defenders. I realize the Guidelines are not properly known yet by either governments or defenders but Front Line for example plans awareness raising campaigns. I think there would definitely be added value to the protection of HRDs if the OSCE were to develop similar guidelines with concrete provisions for implementation by their missions. This would also help to ensure that OSCE action was consistent and not patchy.

The OSCE should develop a structure to speed up its action on individual cases which involves not only a fast, flexible response but sustained follow up.

The OSCE should pay particular attention to giving visibility and legitimacy to women human rights defenders and the specific risks they face.

The OSCE should examine how to combat lack of freedom of assembly and association in participating states and should vigorously work on country action plans to challenge this issue.

It would be good to see a study on how effective the Vienna Mechanism and Moscow Mechanism has been and what needs to be done to use these mechanisms in a more effective way.

Finally friends, today I am thinking particularly of Ahmadjan Madmarov and his family in Uzbekistan. Ahmadjan Madmarov continues to face daily threats and surveillance because of his activities but the most terrible part of the persecution he is facing is that three of his sons and two nephews have been imprisoned and tortured because of his human rights work Ahmadjan Madmarov is a long-standing human rights defender who has worked for over thirty years defending the rights of people in Uzbekistan. Ahmadjan was targeted as early as 1994, when he was arrested and fired from his job as chief engineer of a car manufacturing plant after being accused of organising a public meeting. The meeting was organised in order to protest against state corruption and demand the resignation of President Karimov.

In 1999 the arrests of his family members started and in 2000 he was informed by the Deputy Head of the Margilan Militia, Adyl Ahmadjanov, that the militia had decided not to arrest him as he was too old and he would be freed under an amnesty, but that instead they would “*[...] use different means to make him silent*” and “*[...] stop your human rights activity, and we will let your sons alone. We will stop torturing them. Maybe we will help them to be freed*”. All five of his family members are still in prison. It is feared that all 5 of them are at risk of being ill-treated or tortured while in state custody.

I cannot imagine the horror of having your children taken away, imprisoned and tortured because of your work and I wonder about how he can reconcile himself to this without going mad with guilt, wild imaginings and sorrow. I cannot imagine the relentless pressure and stress that Admajan Madmarov has to live under because it seems too awful to comprehend. But if there is to be a test out of today's meeting on whether the OSCE is serious about protecting human rights defenders, then I ask that you do whatever you can to have Admajan's sons released and make it clear to the Uzbek authorities that you cannot and will not tolerate the destruction of a human being whose sole crime is to work for a civil and just society where the human rights and fundamental freedoms of the people are respected.

- **Mr. Michel Forst, Acting Chairperson of the Coordinating Committee of European National Institutions for the Promotion and Protection of Human Rights**

(written statement, original, in French)<sup>25</sup>

En préparant cette conférence de l'OSCE sur les défenseurs des droits de l'Homme, je repensais à ce 10 décembre 1998 où, pour célébrer le 50<sup>e</sup> anniversaire de la Déclaration Universelle des Droits de l'Homme, 4 ONG internationales travaillant dans le domaine des droits civils et politiques, mais aussi des droits économiques, sociaux et culturels s'étaient fixé comme objectif d'inviter à Paris 350 défenseurs de près de 140 pays différents. Pour montrer au monde ce qu'était la réalité de terreur, d'oppression et de misère dans laquelle vivaient ceux qui défendaient les droits de l'homme. Le 9 décembre de la même année 1998, 50 ans après la Déclaration Universelle des Droits de l'Homme, les Nations unies proclamaient le droit à la protection des défenseurs.

Et pourtant, les témoignages d'hier nous l'a rappelé largement, tous les jours, partout dans le monde, mais aussi dans notre région, des femmes et des hommes sont bâillonnés, empêchés de se réunir, réprimés lorsqu'ils manifestent pacifiquement, assimilés à des terroristes, la presse est muselée ou placée sous contrôle quand elle n'est pas placée sous écoute ou sous le contrôle de l'état.

Tous les jours pourtant, des femmes se lèvent pour manifester et demander où sont passés leurs frères, leurs époux ou leurs fils.

Tous les jours pourtant, et malgré la répression qui s'abat sur eux ou sur leurs familles, des femmes et des hommes se réunissent pour promouvoir les droits de l'homme et les libertés fondamentales, poussés par une incoercible force de conviction et un courage magnifique.

Ces femmes et ces hommes, victimes souvent anonymes, combattants de la liberté, militants anonymes ou plus connus sont des défenseurs. Des défenseurs des droits de

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<sup>25</sup> The summary of the speech in English based on notes is given after the original text.



l'Homme, membres ou non d'une organisation reconnue ou non. Peu importe. Là n'est pas la question, ils sont pour nous, pour les Nations unies, des défenseurs, des défenseurs des droits de l'Homme, puisque c'est par leur action qu'ils sont reconnus et non pas pour leur appartenance à une organisation.

C'est pour parler de ces femmes et ces hommes que nous sommes réunis depuis hier, pour échanger des stratégies et des recommandations pour défendre ces défenseurs. Que nous soyons membres d'une ONG, représentant d'un état ou bien d'une Institution Nationale, ce qui est mon cas.

Un mot rapide sur les Institutions Nationales, puisque c'est le thème de notre discussion de ce matin, vous avez pu lire dans l'agenda annoté de la réunion une bonne description de ce qu'elles sont et le rappel à leur indépendance garantie par les Principes de Paris adoptés par l'Assemblée Générale des Nations Unies. Permettez-moi d'ajouter à ce qui a été écrit 4 atouts que nos Institutions Nationales possèdent et qui constituent leur marque de fabrique. Le premier atout est qu'elles sont un lieu privilégié d'échanges entre des femmes et des hommes d'expériences riches et diverses. Représentants d'ONG et de confédérations syndicales, personnalités choisies en raison de leurs compétences reconnues en matière de droits de l'Homme, experts siégeant dans les instances internationales, parlementaire, tous sont garants du pluralisme. Les représentants des ministres comme les spécialistes invités à apporter leurs opinions, projets et témoignages permettent d'approfondir la réflexion.

Notre deuxième atout réside dans notre ambition de faire partager un idéal universel où chaque citoyen du monde a sa place. Ceci nous préserve du subalterne et nous protège d'un repli sur nous-mêmes. La Déclaration des Droits de l'homme est universelle. La dignité de chaque être humain doit être respectée partout dans le monde. Nous devons écouter, élargir le champ de notre regard, mesurer les répercussions des crises extérieures sur notre pays. De plus, nos rencontres avec les commissions créées dans d'autres pays permettent des échanges, au bénéfice de tous.

Notre troisième atout est d'éclairer le droit par les exigences du terrain. Les Droits de l'homme sont explicités dans les traités et les lois ; nos avis, transmis à nos gouvernements, peuvent contribuer à perfectionner les textes et nous veillerons aux obligations de nos gouvernements, notamment en matière de rapport devant les comités conventionnels des Nations unies.

Enfin notre dernier atout est que nous savons exercer un devoir de vigilance les uns sur les autres afin de veiller à ce qu'aucune de nos Institutions Nationales ne soit instrumentalisée par un gouvernement et de protéger celles et ceux d'entre nous qui sont menacés. Pour cela nous avons développé lors de notre réunion annuelle de Séoul un mécanisme d'alerte précoce et d'interventions progressives qui fonctionne assez bien.

Plutôt que de me lancer dans un long exposé, et pour introduire notre discussion de ce matin, je voudrais vous faire 5 propositions qui pourraient constituer autant de pistes de réflexion pour nos travaux et formuler 3 recommandations:

5 propositions

1. Toujours concentrer notre action sur les victimes potentielles
2. Refuser que la fin justifie les moyens

3. Mettre en commun nos convictions plutôt que nos différences
4. Joindre nos efforts pour construire un réseau efficace de défense et de protection
5. Réfléchir à des stratégies à long terme.

1. Toujours concentrer notre action sur les victimes potentielles

Un défenseur des droits de l'Homme n'est pas une statistique mais une personne. Une personne qu'il faut protéger, qu'elle soit menacée par une autorité gouvernementale ou par un groupe armé d'opposition. Une personne qu'il faut protéger avant qu'il ne soit trop tard et avant qu'elle devienne effectivement une statistique dans le nombre de victimes. Qu'importe si elle défend des idées que nous ne partageons pas ou qu'elle appartienne à une organisation concurrente ou dissidente. Je sais que, dans un certain nombre de pays, cette idée n'est pas simple, surtout pour des défenseurs emportés dans un de ces conflits armés internes que connaît notre région. Qu'importe, dès lors que l'un de ces défenseurs est menacé, il est une victime potentielle et nous avons un devoir immédiat d'intervention qui transcende toutes les querelles idéologiques. Permettez-moi de rappeler que les lignes directrices de l'Union Européenne sont claires à cet égard, lorsqu'un défenseur est en danger il devrait pouvoir être immédiatement protégé avant qu'il ne soit trop tard. Je sais que des instructions claires sont données à nos ambassades en la matière. Et nos Institutions Nationales de protection et de promotion des Droits de l'Homme sont là pour veiller à ce que la protection des états intervienne dès que possible. Ou la leur rappeler si cette protection tarde trop. Il ne faut donc pas hésiter à nous solliciter.

J'aimerais que ces lignes directrices soient appliquées partout de la même manière, c'est là ma première recommandation : « veiller à ce que ces lignes directrices soient appliquées partout ».

2. Refuser que la fin justifie les moyens

Nous avons tous en tête le souvenir de la confiscation des droits au nom du communisme, ou au nom du combat contre le communisme. Au prétexte de la lutte pour la libération nationale ou pour combattre les mouvements de libération nationale. Au nom de la construction de l'état, ou bien au nom de la culture, ou de la sécurité collective. Nous devons être à cet égard sans équivoques : Les droits de l'Homme doivent être protégés en tout temps, la torture ne doit jamais être autorisée, les prisonniers de guerre doivent être traités en vertu des Conventions Internationales, la peine de mort doit être abolie. Un mal ne peut jamais être justifié par un autre mal. Et pourtant c'est bien ce que vivent les défenseurs menacés, assimilés à des terroristes, accusés d'être des agents de puissances ennemies financés par des fonds occultes. Notre rôle, en tant qu'Institutions Nationales est bien de veiller à ce que le droit ne soit pas instrumentalisé, les libertés suspendues et les organisations menacées au prétexte de la raison d'état qui justifierait l'utilisation des moyens. La fin ne justifie jamais les moyens, nous devons plus que jamais en être les garants.

3. Mettre en commun nos convictions plutôt que nos différences

Qu'on le veuille ou non, le paradigme dominant est bien toujours celui de Huntington sur le choc des civilisations. On nous dit que le monde a évolué d'une période de conflits entre des rois, suivie d'une autre période de conflits entre les états nations, puis de conflits entre les idéologies et maintenant de conflits entre les civilisations. Nous sommes

supposés appartenir à un bloc monolithique appelé « civilisation », modelé par la culture, la religion ou l'apparence physique. On nous assène régulièrement nos différences de culture, de religion, de traditions. On nous propose un soi disant « dialogue des civilisations », on cherche des moyens de réconcilier les différences avec des arguments sur la supériorité des civilisations, les valeurs asiatiques, la culture islamique, les traditions africaines...

Oui nous sommes différents. Oui la diversité culturelle est un fait, comme l'est également la biodiversité. Oui nous sommes uniques et le monde est peuplé de 6 milliards d'individus uniques et c'est ce qui fait précisément notre humanité. Nous appartenons tous à la race humaine, mais nous n'avons qu'une seule chose en commun, c'est que nous sommes nés libres et égaux en dignité et en droits. Et c'est bien ce qu'il faut souligner et rappeler partout, ce qui nous rassemble est plus fort que ce qui nous divise, notre humanité commune nous rassemble et ne nous divise pas, c'est bien cela qui rend les droits de l'Homme universels. C'est bien ce que rappellent constamment nos Institutions Nationales, qu'elles soient en Asie, en Afrique, en Europe ou en Amérique Latine. Ne nous laissons pas détourner de cet objectif par celles et ceux qui tenteraient de nous faire croire que ces droits peuvent être adaptés aux réalités locales ou tenir compte de paramètres culturels ou de réalités religieuses. Et c'est bien ce qui fonde notre conviction que si ces droits universels, interdépendants et indivisibles doivent être protégés et promus, alors le meilleur moyen de le faire c'est de protéger précisément celles et ceux qui les défendent partout et en tous temps et qui combattent pour leur mise en œuvre universelle. Là encore, parce que nos Institutions Nationales sont ces lieux pluralistes de rencontre et d'échange, nous formons un réseau permettant, en complément d'autres actions plus militantes ou plus directes, de protéger les défenseurs.

4. Joindre nos efforts pour construire un réseau efficace de défense et de protection  
Il y a quelques jours, l'Assemblée Générale des Nations unies a adopté la résolution faisant disparaître la Commission des Droits de l'Homme des Nations unies, au profit d'un Conseil des Droits de l'Homme dont nous espérons tous qu'il permettra aux droits de l'Homme de retrouver la place qu'ils méritent au sein du système des Nations unies. Et, au-delà de cette place et de cette visibilité, une plus grande efficacité grâce à l'obligation de protéger. Les défenseurs des droits de l'Homme se sont unis depuis des années pour dénoncer l'impuissance de la Commission et réclamer une indispensable protection de leur action. A cet égard, la nomination en août 2000 de Hina Jilani comme Représentante Spéciale du Secrétaire Général des Nations unies pour les défenseurs, puis la nomination d'un Rapporteur sur les Défenseurs par la Commission Africaine des droits de l'homme et des peuples, la mise en place d'un mécanisme similaire en Amérique et les lignes directrices de l'Union Européenne sur les Défenseurs sont autant de signes qui montrent la nécessité de construire cette vaste coalition pour la protection des défenseurs. A cet égard, la création d'un mécanisme similaire au sein de l'OSCE me paraît être une priorité forte, sinon une urgence absolue. C'est là ma seconde recommandation. Nommer un Rapporteur Spécial de l'OSCE sur les défenseurs. En ces temps de menaces qui pèsent sur les droits de l'Homme, nous devons plus que jamais unir nos efforts pour les promouvoir et les défendre. Et pour ce faire nous devons dépasser nos frontières, qu'elles soient géographiques, institutionnelles ou thématiques. Un monde globalisé appelle une

réponse globale, exige des partenariats renforcés avec les gouvernements, les organisations internationales, les Institutions Nationales, les ONG, les mouvements populaires, les universitaires, les artistes, les syndicalistes, les organisations de femmes, les organisations écologistes. Chacun défendant l'autre dès qu'il est menacé et chacun sachant en retour qu'il pourra bénéficier d'un vaste mouvement de soutien si il est menacé.

Enfin il nous faut réfléchir, et c'est mon cinquième point, à

5. Des stratégies à long terme

- 1 Les droits de l'Homme sont indivisibles, interdépendants et universels
- 2 Le meilleur moyen de traiter les violations des droits de l'Homme, c'est de les prévenir.

Voilà les deux piliers qui permettent de construire des stratégies à long terme pour protéger les défenseurs menacés.

- 1 Les droits de l'Homme sont indivisibles, interdépendants et universels
- 2 Le meilleur moyen de traiter les violations des droits de l'Homme, c'est de les prévenir.

De même que nous ne pouvons plus nous permettre des réactions ad hoc, nous ne pouvons être sur tous les fronts. Mais nous devons veiller à ce que tous les fronts soient couverts, c'est-à-dire veiller à ce qu'aucun pays ni aucun groupe n'échappe à notre vigilance, en portant une attention particulière aux femmes, aux enfants, aux minorités ethniques et aux migrants. Ceci exige le développement de stratégies à long terme sur lesquels c'est ensemble que nous devons réfléchir. Les Organisations Intergouvernementales ont leurs propres mécanismes, les Etats développent des stratégies qui leur sont propres, les ONG des droits de l'Homme comme Amnesty International, la FIDH, le Service International ou Frontline ont développé leurs mécanismes de protection des défenseurs menacés. C'est aussi le rôle que se sont assignées les Institutions Nationales en développant un projet concerté. Mais c'est ensemble que ces stratégies doivent se réfléchir et cette Conférence de l'OSCE est probablement l'un de ces lieux dans lesquels nous sommes invités à confronter nos programmes pour mieux les concerter, éviter les duplications, développer des synergies et développer des réponses appropriées aux menaces qui pèsent sur les défenseurs.

Les Institutions Nationales ont un rôle particulier à jouer et elles l'ont bien senti, elles ont réfléchi ensemble sur le plan européen à la manière dont elles peuvent répondre aux besoins. A cause de notre statut particulier, à cause de nos liens privilégiés avec le Bureau des Institutions Nationales du Haut Commissariat aux Droits de l'Homme des Nations unies, grâce au Bureau de liaison mis en place par le Commissaire aux droits de l'Homme du Conseil de l'Europe et, je l'espère bientôt avec l'Union Européenne qui nous a également sollicité pour cela, notre réseau constitue un formidable potentiel d'intervention urgente, de pression diplomatique, de soutien matériel ou financier. Je l'ai expérimenté, nous l'avons expérimenté en tant qu'Institutions Nationales, il n'est pas assez utilisé, il est parfois mal exploité. Il est à votre disposition.

Nous travaillons à développer notre réseau et de faire en sorte que tous les pays, et singulièrement tous les pays membres de l'OSCE qui n'en possèdent pas encore se dotent d'une Institution Nationale. Notre Groupe Européen a développé à cet égard une expertise et un mécanisme avec les Nations unies, le Conseil de l'Europe et la Commission Européenne, permettant d'assurer conseil et assistance technique aux états qui le souhaiteraient.

Il serait plus que souhaitable que l'OSCE entre également dans ce mécanisme et ouvre pour ce faire un bureau de liaison avec les Institutions Nationales, c'est là ma troisième recommandation.

Et puisque la répétition est à la base de toute pédagogie, je voudrais répéter mes 3 recommandations :

1. Demander à toutes les ambassades de l'Union Européenne de mettre en œuvre les recommandations des lignes directrices de l'UE sur les Défenseurs des droits de l'homme ;
2. Mettre en place un mécanisme de l'OSCE pour la protection des défenseurs, en complément de ceux des autres organisations intergouvernementales ;
3. Mettre en place au BIDDH un bureau de liaison avec les Institutions Nationales de promotion et de protection des droits de l'Homme.

**(based on notes)**

Mr. Forst recalled the proclamation of the UN declaration on Human Rights Defenders, and all the defenders who were called to Paris to discuss the issue. He reminded the participants that in spite of government repression, women and men unite every day to defend human rights and freedoms, driven by an incoercible force of conviction and magnificent courage. Whether they are members of an officially recognized organisation or not, they are, to us and to the United Nations, still human rights defenders.

He then noted a number of assets national institutions like the one which he represents possessed. Those assets are the following:

- Ability to bring together a wide variety of opinions and experiences;
- Recognition of human rights as universal, global problems, which means they should also engage with institutions in other countries to look across borders to identify human rights issues that could impact their own country;
- Ability to advise national governments on the implementation of human rights obligations at the national level;
- Ability, for which a mechanism was developed at the NHRI conference in Seoul, to monitor other NHRIs and see whether they are being used as mere instruments by their own governments.

Mr. Forst then introduced propositions and recommendations for reflection on the work of NHRIs, which are the following:

The actions of NHRIs must always be directed at potential victims, even ones with whom we might have ideological differences.

The goal does not justify the means. Rights must not be taken away, for example, in the name of fighting communism, to fight wars of independence, or to counter such wars.

Human Rights Defenders are equated with terrorists and persecuted in the name of such ends, and this cannot be permitted.

It is important to emphasize our common convictions rather than our differences. In spite of all the talk of a clash of civilizations and the truth that there are cultural differences in the world, we all have one thing in common: we are all free and equal in dignity and rights. NHRIs play an important role here, as they are pluralist meeting places, as well as permanent networks for the protection of defenders.

We must join our efforts to construct an effective network for defence and protection of human rights defenders, which has been shown to be necessary through the creation of mechanisms such as the one set up at the UN and now filled by Hina Jilani, and the mechanisms set up at the African Commission for Human and People's Rights and the OAS, as well as the EU guidelines.

Long term strategies to protect defenders need to be devised, based on the recognition that human rights are universal, indivisible and interdependent, and that the best way to deal with violations is to prevent them. No group should escape our vigilance in this regard. Synergies should be developed between the many organisations and governments active in this field, and duplication should be prevented. NHRIs, with their vast networks and national and international links, have a vital role to play in organising urgent interventions, diplomatic pressure and providing material and financial assistance. This network could be used much more.

We should make sure that the guidelines on human rights defenders should be applied everywhere, and to everyone, by demanding that all EU embassies put the EU guidelines into action.

There should be an office of OSCE Special Representative for human rights defenders, which would complement the mechanisms set up by other intergovernmental organisations.

A liaison office for national human rights institutions should be opened at the ODIHR.

### **SESSION 3: Human rights defenders: pertinent legislation and implementation of OSCE commitments**

- **Introductory speech by Mr. Antoine Bernard, Executive Director of the International Federation for Human Rights (FIDH), Paris**

(based on notes)

Antoine Bernard introduces the Observatory, which has existed since 1997 to systematically monitor hundreds of cases of repression against individual human rights defenders and NGOs. FIDH has produced a report on the occasion of the SHDM, which takes stock of the evolution of the phenomenon of repression. There is a very worrying trend of systematic repression of HRDs and NGOs. He notes there is a real risk for those defenders who have participated in the SHDM, and calls on pS to ensure there are no reprisals against those who have attended.

He outlines a trend to use legislation as a tool of repression. This is a paradox, since laws are meant precisely to protect and defend freedom. Commitments have been made, and there are obligations to uphold international standards to protect long-standing freedoms.

He points out that protection of human rights defenders is necessary to ensure the effective implementation of human rights commitments, and points to the Copenhagen document as a good reference document in this regard. He recalls existing OSCE commitments on freedom of Assembly and Association.

Although the OSCE was ahead of the UN in producing the Copenhagen document, there are a number of examples of these commitments being disregarded. The law has become a tool for the arbitrary exercise of power, with restrictive laws requiring authorization from ministries, without a means of recourse, e.g. aimed at controlling access to funding. A number of different forms of legislation have been adopted, for example in fight against terrorism, which directly violate the freedom of association.

Many activities are labeled crimes merely to muzzle and restrict freedoms; the risk of separatism and sedition are invoked to restrict freedoms. In the CiS, the main aim is to restrict or repress NGOs, especially those involved in monitoring activities. This constitutes the misuse of law for the purposes of arbitrary repression.

There are many examples of this. Belarus has introduced criminal sanctions for the crime of discrediting the state, which directly violates the freedom of association and expression. The Russian Federation has passed article 33 of the law on non-profit organisations, which makes it a criminal offence to engage in 'extremist activities'. On the other hand, the immunity of perpetrators of human rights violations is absolute. This arbitrary legislation is the fruit of political will, particularly of the government and the security services.

The OSCE should publicly promote understanding for HRDs, and be given enough clout to deal with the issue. A specific mechanism seems very important as well; the OSCE can draw from experiences in regional mechanism, and consider the positive and negative side of those mechanisms. It could also look at the EU guidelines. A more committed defence of HRDs is necessary.

- **Mr. Maxim Anmeghichean, Programmes Director of the European Region of the International Lesbian and Gay Association**

(written statement)

This is the first time that ILGA is invited to speak at such a high level OSCE event, we are very grateful for this opportunity and hope that it reflects a trend within the OSCE. To defend human rights is an honour, a responsibility and hard work, which unfortunately is often accompanied with danger for the life and security of those who undertake this role. The importance of human rights defenders cannot and should not be underestimated: they represent and fight for the rights of people who often cannot represent or fight for themselves; they speak on behalf of those who often cannot or dare not speak, in particular vulnerable social groups and what one could call ‘unpopular’ minorities.

Not all cultures and societies fully understand human rights concepts, especially that of universality. This is particularly true for the rights of minorities that are stigmatized, such as gay, lesbian, bisexual and transgender people, Roma, Sinti and Travellers, legal and illegal migrants, religious minorities, HIV+ people and people who do not fit traditional roles of men and women. The stigma suffered by these minorities is also reflected upon those who defend their rights, and is often used to discredit them. This stigma also stops some human rights organizations from tackling a particular subject they find too sensitive for the country they work in.

It is fairly easy to give an example. ILGA-Europe has recently been on a fact-finding mission to the South Caucasus. During meetings representatives of the Armenian civil society said they are reluctant to work on gay and lesbian rights alongside other issues, because the government can use this fact to turn the public opinion and media against them. And the only organization, which among many other issues also tackles the issue of equal rights for gays, lesbian, bisexual and transgender people suffers a lot as the result. The subject is often discussed in the press, as well as different theories about the sexual orientation of its founder and chair. Every time a new human rights report is issued by the organization, the fact it also works for the rights of LGBT is used to discredit the work. Some parliamentarians and other human rights defenders refuse to sit with the chair of the above-mentioned organization at the same table during public events.

The stigmatisation of minorities is often reinforced by public authorities, the government and religious organisations. When Russian LGBT activists announced they will hold a pride parade in Moscow in May of 2006, it caused a wave of outrage from Russian religious leaders. I have to explain here that parades for equality are organized to increase visibility of the LGBT communities in society and call for tolerance and human rights.



The senior Muslim Cleric Talgat Tadjuddin made a public statement saying that “This should in no case be allowed, but if they still take it to the streets, then one will have nothing to do but thrash them”. The following day Principal Russian Rabbi Berl Lazar and the Russian Orthodox Church made similar statements, coming out strong against the parades. While freedom of speech is at the heart of the global human rights concept, it has to be used responsibly, and not in a way that damages human rights. Such statements can only put the safety of LGBT human rights defenders at risk. This was illustrated all too graphically in Poland last year. Against a background of increasing levels of homophobic speech by leading public figures, and increasing violence against the community, two LGBT human rights activists, one a board member of Poland’s national LGBT organisation, were shot and wounded. At the same time, equality parades in Croatia, despite counter demonstrations and risk of homophobic violence, were authorised and professionally protected by the police, which shows that where authorities have the political will, they can ensure enjoyment of the right to assembly for LGBT people.

Freedom of assembly and association is a very important issue for human rights defenders. The UN Declaration on human rights defenders provides specific protections to human rights defenders, including the right to form associations and non-governmental organizations, to meet or assemble peacefully, develop and discuss NEW human rights ideas and principles and advocate for their acceptance. However, in many OSCE participating states this is far from the reality. In the year 2005 alone peaceful equality parades have been banned or obstructed in Latvia, Poland, Lithuania, Moldova, Romania, Russia. In Poland and Moldova the parades were banned, in Romania and Latvia initially banned, but the decision of public authorities was reversed either by courts, or through the intervention of a higher-ranked official. Inadequate police protection has also sometimes been a problem – for example, in Belgrade in 2001 and in Krakow and Poznan in 2004.

Where the parades went ahead, the participants were subjected to humiliation and violence. IN Riga some protestors tried to block the march, while others used teargas and threw eggs at the marchers. In Poznan participants in a counter demonstration, organized by the All Polish Youth shouted chants such as “Let’s gas the fags” or “We’ll do to you what Hitler did to the Jews” and threw eggs and horse excrement. 68 people were arrested, mostly the peaceful demonstrators of the Equality Parade as opposed to the violent counter demonstration. The charges were later dropped.

You do not need much imagination to understand the effect of this degree of hatred and especially what it means for a human rights defender promoting the rights of marginalized groups. And you can imagine how so much harder it is for human rights defenders in other OSCE participating states, like Turkmenistan and Uzbekistan, where homosexuality is illegal. We need to ask ourselves an important question: What can be done to prevent these situations? What can my government, or my ministry, or my unit do to ensure, that human rights defenders can exercise their freedom of speech, assembly and association without prejudice and abuse of power by public authorities or violence from fellow citizens.

What can be done?

- Public authorities should not hinder or subvert the right to freedom of assembly and expression as recognized in the European Convention for Human Rights and the OSCE commitments, using illegitimate grounds, such as the ‘morality’ of demonstrations or parades;
- public authorities should provide adequate protection for rallies and marches to ensure the safety of participants;
- actual or threatened counter demonstrations should not be used as an excuse to ban events;
- the governments of participating OSCE states, public authorities and public institutions at the national, regional and local levels, as well as officials, have a special responsibility to refrain from statements which are likely to have the effect of legitimizing, spreading or promoting forms of discrimination, hatred or intolerance, so preventing the enjoyment of human rights;
- legislation needs to be put in place to protect minorities, including LGBT persons, from speech which is likely to incite hatred, violence and intolerance, as well as from discrimination;
- ODIHR and other international human rights bodies need to have a mandate to monitor peaceful rallies of human rights defenders, produce reports and recommendations to national governments and intergovernmental organizations;
- OSCE should encourage its member states to continue to educate their citizens about the basic principle of the universality of human rights.

I would like to end with the words of the Special Representative of the UN Secretary – General, Hina Jilani: “Human rights defenders must accept the universality of human rights as defined in the Universal Declaration of Human Rights. A person cannot deny some human rights and yet claim to be a human rights defender because he or she is an advocate for others. For example, it would not be acceptable to defend the human rights of men but to deny that women have equal rights”. Or, I would add, it is also unacceptable to defend the right to free speech and expression for representatives of religious communities, while denying that right to lesbians, gays or other minorities; to defend the right to religious association and assembly while denying those rights to LGBT people. Universality of human rights means that we all have equal access to them, and it shouldn’t be in anyone’s power to say, that one group of people should have more rights than the other. Thank you.

## **ANNEX V. BIOGRAPHICAL INFORMATION ON KEYNOTE SPEAKERS, INTRODUCERS AND MODERATOR**

### **Ms. Hina Jilani Special Representative of the UN Secretary General on the situation of human rights defenders (*keynote speaker*)**

Hina Jilani was born in 1953 in Lahore, Pakistan. She is a well-known lawyer and human rights activist. She is a law partner and co-founder (with her sister Asma Jahangir) of Pakistan's first all-female law practice in 1980. A significant number of the practice's cases involve violations of women's right to security of person, liberty and equality.

In 1986, she was one of the founders of civil society group the 'Human Rights Commission of Pakistan' which takes action to prevent violations of human rights and provides legal aid to victims of human rights violations. She was also assigned to the international fact-finding mission to Darfur.

Since 2000, she has been the first mandate holder of the position of 'Special Representative of the Secretary-General for Human Rights Defenders'. On 23 January 2006, she submitted her sixth and final report to the Commission on Human Rights.

The mandate of Special Representative was established in 2000 by the Commission on Human Rights (as a Special Procedure) to support implementation of the 1998 UN Declaration on human rights defenders. The mandate calls upon the Special Representative to "gather information on the situation of human rights defenders, to enter into dialogue with Governments and other interested actors, and to make recommendations to improve the protection of defenders." Actions taken under the mandate include conducting country visits, taking up individual cases of concern with governments and reporting to the Commission and to the General Assembly.

### **Mr. Neil Hicks, Director of the International Programs and Human Rights Defenders Program, Human Rights First (*Moderator of the SHDM*)**

Director of International Programs for Human Rights First, an independent non-governmental organization with offices in New York and Washington D.C. He has more than twenty years experience working on human rights issues and has focused on developing effective local, national, regional and international mechanisms to protect human rights defenders for much of that period. He is the author of numerous human rights reports and scholarly articles. Before joining Human Rights First, then the Lawyers Committee for Human Rights, in 1991, he was a researcher in the Middle East Research Department of Amnesty International at the International Secretariat in London, and before that, a human rights program officer at Birzeit University in the West Bank. Mr. Hicks is a graduate of the University of Durham, School of Oriental Studies. He has studied at the American University in Cairo and Oxford University. He has served as an adjunct professor at Fordham Law School and in 2000 - 2001 he was a Jennings-Randolph Senior Fellow at the U.S. Institute of Peace in Washington D.C.

### **Ms. Natasha Kandic, Director of the International Humanitarian Law Centre, Belgrade (*introductory speaker, first session*)**

Nataša Kandić is the founder and Executive Director of the Humanitarian Law Centre. She is a sociologist by training. Before conflicts broke out in the region of the former Yugoslavia, she worked as an analyst in the trade union organization. She was dismissed from public office in 1990 following the publication that year of the book *The Kosovo Knot: Untie or Cut?* in which she, Srđa Popović, Ivan Janković, Vesna Pešić, and Svetlana Slapšak analyzed the developments and the Republic of Serbia's media and political propaganda leading to the abolition of Kosovo's autonomy. After war broke out in Croatia, she and friends organized civil actions and campaigns against Serbia's warlike policy and in support of people opposing the war. Between 8 October 1991 and 8 February 1992 Kandić and friends were outside the Serbian Presidency building every day directing the lighting of candles in honour of the victims of the Croatia war. Between November 1991 and May 1992 she led a campaign in support of a referendum against mobilizing Serbian citizens to fight in Croatia. She was among the organizers of the 'Black Crape' event in Belgrade on 31 May 1992, the biggest protest in Serbia against the bombardment of Sarajevo. In June 1992, Kandić led a delegation of Vojvodina Croats, Serbs and Hungarians at a meeting with federal Minister of Justice Tibor Varadi and Minister for Human Rights Momčilo Grubač, demanding that the State protect its minorities against violence at the hands of the Serbian Radical Party. In connection with the war, she founded in November 1992 the Humanitarian Law Centre, a non-governmental organization to document war crimes and ethnically-motivated violence. In April 2004 she initiated the establishment of a regional network of war crimes research and documentation centres to create the conditions for dealing with the past. Kandić has been awarded numerous prestigious international and domestic awards which have earned her the title of human rights defender.

**Mr. Sergei Kovalev, Chairperson of the International Human Rights and Humanitarian Society "Memorial", Moscow (*introductory speaker, first session*)**

Sergey Kovalev was born in 1930. He graduated from Moscow State University in 1954. From 1954 to 1970, he carried out scientific research in the field of biology and biophysics. In 1969, he became a member of the Initiative group for the protection of human rights in the USSR, which was the first independent group of its kind in the Soviet Union. From 1971, Kovalev was one of the editors of the bulletin of Soviet human rights activists.

In 1974, he was arrested on charges of "anti-Soviet activism and propaganda" and imprisoned for 7 years. The trial took place in Vilnius, Lithuania. After his imprisonment, Kovalev was sent into exile for 3 years. He was allowed to return to Moscow during Perestroika. During that time he participated in a number of human rights initiatives, including the founding of the Russian rights group *Memorial*, which focuses on the rehabilitation of victims of severe political persecution during the Soviet era.

In the 1990s, Kovalev was a founder of various organizations aimed at the protection of human rights. In 1993, 1995 and 1999 Kovalev was elected as a member of the Russian State Duma (Gosduma). In 1993-1996 Kovalev chaired a Commission on Human Rights at the President's office, and later resigned in protest at the war in Chechnya. From 1996 to 2003, Kovalev was a member of the Russian delegation in the Parliamentary Assembly

of the Council of Europe. He has been the president of the Russian Human Rights Institute (an NGO) since 1996.

He is one of the authors of the Declaration of rights of a man and a citizen in Russia. He played a leading role in drafting the second part of the Russian Constitution ("Rights and liberties of a man and a citizen"), as well as a number of other laws.

He has been nominated for and has received numerous awards and prizes for his activities in the area of human rights (e.g. a Council of Europe award together with Raoul Wallenberg in 1995, an Award of the International League for Human Rights in 1996 and an award of the Norwegian Helsinki Committee in 1996, etc.). He has been nominated for the Nobel Peace Prize on two occasions, in 1995 and 1996.

**Ms. Albina Radzevičiūtė, Seimas Ombudsman, Lithuania (*introductory speaker, second session*)**

One of the five Seimas Ombudsmen, she was appointed by Seimas on 15 February 2005. Her institution investigates complaints about the abuse of office by and bureaucracy of officers of state government institutions and agencies. The main area of activity - complaints about the activity of officers of Ministry of Justice, Prison Department under the Ministry of Justice, correction homes and remand prisons within the jurisdiction of the Prison Department.

**Ms. Mary Lawlor, Director, Front Line - the International Foundation for the Protection of Human Rights Defenders (*introductory speaker, second session*)**

Mary Lawlor has a background of 30 years experience in human rights. She set up *Front Line* - the International Foundation for the Protection of Human Rights Defenders in 2001. As Director, she represents the organisation and has a key role in its development. She has been a speaker at international meetings in 14 countries.

Prior to *Front Line*, she was Director of the Irish Section of Amnesty International for 12 years and before that was a Board member for 15 years, during which she served as Chair from 1983-1987. She has wide experience of the development of a human rights organisation having a significant role in bringing the Irish section of Amnesty from a membership of less than a hundred with no staff, to a professional well – known and respected organisation with 14,000 members and 13 staff. She left because she wanted to concentrate on human rights defenders at risk.

She has a BA in Philosophy and Psychology and post graduate degrees in Personnel Management and Montessori teaching.

**Mr. Michel Forst, Acting Chairperson of the Coordinating Committee of European National Institutions for the Promotion and Protection of Human Rights (*introductory speaker, second session*)**

Mr Michel Forst is the Secretary General of the French National Commission on Human Rights, Chair of the Coordinating Committee of the European National Human Rights Institutions. He has previously worked at UNESCO's headquarters in Paris, is a former Director General of Amnesty International (France) and was Secretary General of the 1998 Paris Summit for Human Rights Defenders. He has also managed the French

League against Cancer and several French NGOs. He is a founding trustee of Frontline, the International Foundation for the Protection of Human Rights Defenders and a member of the Board of the International Service for Human Rights in Geneva.

**Mr. Antoine Bernard, Executive Director of the International Federation for Human Rights, Paris (*introductory speaker, third session*)**

A recognized human rights lawyer, Antoine Bernard has been leading FIDH since 1991 and has very much contributed to the federation's development.

Previously, Antoine Bernard worked as a consultant to the UN Human Rights Center in Geneva and the International Law Center in Paris. In his capacity as a human rights expert, he is a regular speaker since 2003 at various prestigious schools such as Science Po and the Ecole Nationale d'Administration (ENA) and teaches at Pantheon Assas School of Law as an Associate Professor. His publications are numerous and include «Universality of Human Rights and the Right to Intervene» (1994). Most recently, he co-wrote "Punishing, Providing Reparation and Dissuading: The ICC Mechanism (2005)."

Antoine Bernard was recently appointed as a member of the National Consultative Commission of Human Rights (NCCHR).

**Mr. Maxim Anmeghichean, Programmes Director of the European Region of the International Lesbian and Gay Association (*introductory speaker, third session*)**

Having graduated from Moldovan State University in the field of journalism and communication sciences, Max has linked all of his professional life with the LGBT movement. He has over five years of experience within the Moldovan LGBT movement (Information Centre "GenderDoc-M"), starting it really from scratch and developing, together with the team, into a strong and respected organisation at national and regional levels. At national level, Maxim was also a member of the NGO Council, founding member of the National AIDS Network, and board member of the National Youth Council of Moldova (NYCM), having in his mandate capacity building and organisational development. Within the NYCM Maxim has coordinated a TACIS-funded project on promotion of social inclusion using psychosocial animation tools (social video, theatre forum, etc.). For the past three years he has been actively involved with ILGA-Europe as a board member, taking part in development of IE's Eastern European work, lobbying before the Council of Europe and the European Union, and fundraising. His new post with ILGA-Europe is combines advocacy work before three major European institutions (OSCE, Council of Europe and the EU), development of the Eastern European LGBT movement and work on transgender issues.

**ANNEX VI. OPENING AND CLOSING REMARKS by Ambassador  
Strohal, ODIHR Director**

(written statement)

**OPENING REMARKS**

Excellencies,  
Ladies and Gentlemen,

The OSCE has a long standing relationship with human rights defenders and national human rights institutions. Their important role was acknowledged in the 1990 Copenhagen Document and has since been reflected in numerous other OSCE commitments and decisions where participating States have bound themselves to protect and promote their role. I therefore welcome this opportunity for States to not only reaffirm this commitment, but to examine, together with representatives of civil society, concrete ways in which to implement this long standing obligation effectively.

Also at the international level, recognition and support for the important role played by human rights defenders and national human rights institutions has been steadily growing. Key steps forward were the adoption by the UN General Assembly of the Paris Principles on the status of national human rights institutions in 1993 and the adoption of the Declaration on Human Rights Defenders in 1999. It is now also more broadly understood that there is a need for mechanisms to protect human rights defenders and facilitate their work.

Since the adoption of the Paris Principles, there has been a continual increase in the number of national institutions for the promotion and protection of human rights. However, in many countries, no national human rights institutions yet exist. In many others, they do not yet meet the criteria set out in the Paris principles, both in terms of competences and independence. It is widely recognized that building strong national human rights institutions is a key element in ensuring that human rights are protected and advanced in a sustained manner.

National human rights institutions and human rights defenders document violations, seek remedies for victims of violations, and combat cultures of impunity for breaches of human rights and fundamental freedoms. They are partners for civil society and, at the same time, for governments. Thus, they fulfil another important function: they contribute greatly to the stability and overall security in the OSCE region.

At the same time, this work makes human rights defenders more vulnerable to any repercussions that authorities and others involved in repressing fundamental human rights may take. It is therefore an important commitment of each OSCE participating State to respect the right of the individual to assist others in defending human rights and fundamental freedoms. OSCE participating States have agreed that human rights,

fundamental freedoms, democracy and rule of law are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned. Therefore, this meeting gives us an excellent opportunity to look at the current situation of human rights defenders throughout the OSCE region.

In certain participating States human rights defenders enjoy excellent cooperation with national human rights institutions and face little difficulty in channeling their concerns through executive and legislative bodies, as well as in representing victims of human rights violations in courts. I would be very glad if this SHDM provides us an opportunity to share such good practices with each other.

Sadly, in a number of OSCE participating States, human rights defenders continuously work under extreme pressure from state authorities and face restrictions on the exercise of freedom of expression, association, assembly and movement. There are still far too many cases where human rights defenders are subjected to arbitrary detentions, assaults, ill-treatment and defamation campaigns.

Only ten days ago, I visited Belarus in the context of our election observation mission, where we were able to witness some of the difficulties faced by civil society groups. Among the conclusions of the International Election Observation Mission was that civil society groups were subject to state actions directed against them and were denied fundamental civil rights. I can only join the Chairman-in-Office in calling upon the Belarusian authorities to refrain from repressive action against civil society and to uphold the right to peaceful expression of peoples' views.

Excellencies, Ladies and Gentlemen,

When societies face restrictions of their rights and freedoms, human rights defenders are all too often the first groups who suffer.

Let me reiterate that the primary responsibility for implementing commitments, in this case the promotion and protection of human rights, lies with states.

I am thus all the more disappointed that we have seen recently in a number of participating States new legislation introduced placing further restrictions on the activities of civil society; as a consequence, this may lead to the closure of NGOs dealing with human rights issues. In some cases, combating terrorism or protecting national security are brought forward as reasons for introducing such legislation. But, as OSCE States acknowledge, it is precisely the curtailment of civil society which threatens an important pillar of security.

In addition, the OSCE field operations, many of which are represented here today, play a crucial role in assisting human rights defenders. Often, they are the first point of access for these groups, providing information on OSCE commitments and other advice and assistance. I am glad that my Institution has been able to contribute to these efforts through the Handbook on individual human rights complaints for field personnel compiled in 2003, which you will find among the conference materials outside.



Furthermore, projects aimed at civil society capacity building, including trainings for human rights defenders are useful tools in this regard. Encouraging closer consultation between the legislature and civil society in the legislative process and assisting inclusive political decision-making processes through workshops and roundtables are further examples of how the OSCE can provide useful assistance in this regard.

Five years ago, in October 2001 we held a Supplementary Human Dimension Meetings on Human Rights: Advocacy and Defenders. It was held a month after 9/11 terrorist attacks. So where are we, five years on?

On the positive side, we certainly see a stronger recognition and awareness about human rights defenders in societies. At the same time, sadly, the gap between human right defenders and government authorities has been widening since then in a number of participating States. An important factor that contributes to this gap are measures taken by some OSCE participating States to combat terrorism – measures which are not always compatible with the respect for human rights.

However, many examples show that it is indeed possible to adapt legislation without risking adverse effects on civil society and I hope that such examples will be brought forward in this meeting. My Office stands ready to provide participating States with assistance in ensuring compliance with international legal obligations and OSCE commitments. We are ready to continue providing expertise related to legislation on freedom of association, assembly and human rights defenders, implementing monitoring and training projects. In this regard, I would like to thank all OSCE participating States for their support to us in this work.

Excellencies, distinguished guests,

All too rare are the occasions for NGOs to take the floor here in the Hofburg. By organizing Human Dimension Meetings, the OSCE brings together participating states, civil society as well as international organizations, all on an equal footing. In addition, side meetings will be held to allow more focused discussions on individual issues.

Many of the interventions today and tomorrow will serve to identify shortcomings and difficulties faced by individual groups, which in itself can be a useful exercise. I would hope, however, that this meeting also provides an opportunity for networking and the exchange of good practices and solutions.

We have a comprehensive agenda and very interesting speakers. I would like to thank the Belgian Chairmanship, represented today by Frank Geerkens, Head of the OSCE Chairmanship Unit, for their support in preparing this SHDM. I am grateful to our keynote speaker, Ms. Hina Jilani, Special Representative of the UN Secretary General on the situation of human rights defenders. I also want to thank the more than a hundred human rights defenders, national human rights institutions and representatives of governments in the room. All of you have their own experiences and suggestions on how

progress can be achieved. I hope this meeting will contribute to finding a common platform to work together fruitfully.

I encourage all of you to examine what recommendations for concrete actions can come out of your discussions in order to further promote and protect human rights and fundamental freedoms. Only by protecting these rights can we achieve sustainable stability, prosperity and security in our region.

Thank you.

## **CLOSING REMARKS**

We have come to the end of our meeting. I will certainly not try to make a summary of the summaries, just a few comments. Let me start by thanking you all who have travelled to this meeting. It was extremely useful to have so many human rights defenders, including NGO and National Human Rights Institutions representatives making their concerns and suggestions known. We were able to register more than 100 NGOs and National Human Rights Institutions. Let me also thank the representatives of other International Organizations and other OSCE Institutions and Missions for their contributions. I also appreciate the presence of many government representatives, whom I would encourage to be more proactive in such meetings.

Thank you all for your valuable input.

The discussions have highlighted that the work of human rights defenders has a decisive impact on the consolidation of democratic institutions and the enhancement of national human rights systems.

We heard about various conditions under which human rights defenders have to carry out their brave work. It is clear that in some countries these conditions are not conducive, or worse. So as a first principle it was recognized by the participants that each country should provide open and inclusive fora to discuss issues of concern to civil society.

In this respect, support to women's organizations is of particular importance for stepping up efforts to guarantee protection of women's rights and strengthen their position.

We realize that for many human rights defenders coming to this meeting and making a public statement was a human rights activity in itself – sadly, the possibility cannot be fully excluded that upon returning to their countries they may encounter reprisals triggered by their remarks. I can only again call on States to acknowledge the usefulness of their NGOs' contributions and act on their responsibility to protect human rights defenders. We in the ODIHR will make sure to stay in touch with all NGOs we had here at the meeting and will be ready to offer our support, jointly with relevant OSCE missions.

Just a few remarks on some of your recommendations then, from a practical ODIHR perspective.

A number of participants voiced the idea of creating a Special Mechanism on Human Rights Defenders for the OSCE region. Also the recommendation was made for having systematic monitoring and follow up on the situation of women human rights defenders. This proposal is not new; it is, however, certainly interesting: When this idea will be further discussed, a few considerations might be useful: The experiences of other regional organizations, such as the African Union and the Organization of American States (OAS), but, in particular, the experiences of Hina Jilani, to who I am very grateful for her clear remarks in her opening speech.

Other alternative ways have been suggested in which to enhance the capacity of the Organization. These included strengthening my Institution to support and strengthen the capacity of human rights defenders. Based on our existing general human rights mandate, my Office will certainly take all suggestions directed at us very seriously in order to further strengthen our work on human rights defenders, on issues of freedom of assembly and association, on capacity building for civil society on national institutions, and on support for dialogue and cooperation at the national, and local, levels.

Our effectiveness greatly depends on political will, but also on financial and human resources – similar problems that Hina Jilani and others referred to. We are thankful to all Delegations that support our work in this area and to all NGOs and individual human rights defenders whose enthusiasm and idealism makes our work with them particularly gratifying. However, our work can still be improved, and I admit that we still need to establish a better rapport with a number of countries. Let me also urge all OSCE participating States to be open to visits of Hina Jilani and to accept and implement her recommendations.

Participants have also called on the OSCE Ministerial Council to explore possibilities of adopting clear tasks for all OSCE institutions and missions on concrete ways how to support and protect human rights defenders. Clear strategies always make work easier. As the Chairmanship noted in their opening statement, OSCE commitments could be further enhanced and reinforced through incorporation of guidelines and principles adopted by other international organizations.

In particular for those involved in elaborating or assessing NGO laws, the Council of Europe's Fundamental Principles on the Status of NGOs in Europe is a particularly useful document and could be a valuable addition if brought into the OSCE context. When deciding on interventions on behalf of persecuted human rights defenders, OSCE missions can make use of the Handbook issued by the ODIHR on the topic. Participants have also pointed out that other Organizations such as the European Union, have issued clear instructions to their Delegations through their Guidelines on human rights defenders.

On freedom of assembly, the ODIHR looks forward to consolidating its draft Guidelines on Drafting Laws Pertaining to Freedom of Assembly through a process of consultations with governmental experts and representatives of civil society. We count on support of the governments and their active involvement in this process.

A detailed report from this meeting will be prepared within a month and made available to you all. I encourage participating States to endorse and implement the recommendations. They are the results of constructive and intensive discussions among OSCE delegations, civil society and international organizations and deserve more than a place in the OSCE records.

In conclusion, I would like to once more thank all speakers of our Meeting, in particular Ms. Hina Jilani for her opening remarks. My special thanks go to Neil Hicks, who did such an excellent job in moderating all three sessions. I appreciate the support given to us by the Chairmanship in the preparation of this event and would like to thank the interpreters for their hard work.

Finally, let me extend my heartfelt thanks to all the ODIHR staff, who worked so hard to put this meeting together.

I thank all of you for your participation and wish you a safe journey back. I hope to be able to welcome many of you at the Human Dimension Implementation Meeting in the first half of October where we can continue discussions on many of the issues raised yesterday and today, and take a first stock of the follow-up give to your recommendations.

**ANNEX VII.  
Chairmanship**

(written statement)

**OPENING AND CLOSING REMARKS by the OSCE**

**OPENING REMARKS by Frank Geerkens, Head of the OSCE Chairmanship Task Force**

Distinguished Guests, Ladies and Gentlemen,

On behalf of the Belgian OSCE Chairmanship I would like to warmly welcome you at the first OSCE Supplementary Human Dimension Meeting in 2006. Today's and tomorrow's discussions will focus on the role of human rights defenders and national human rights institutions in the promotion and protection of human rights. I am grateful for the momentous interest of the OSCE community in this topic, which is substantiated by your strong presence.

I also look forward to seeing many more of you throughout the year. Our Chairmanship has planned an ambitious human dimension agenda for 2006 with the valuable input of OSCE delegations and institutions. Your active participation in the series of events that are in the pipeline is crucial for achieving our shared goal: to promote and to advance existing OSCE commitments and activities.

It was a deliberate choice to devote this event to a theme that reaches out to governmental and non-governmental actors striving for the promotion and protection of human rights. Today's event was conceived as an acknowledgement of the important contribution of civil society to the workings of the OSCE. The subject of the present meeting marks the importance that the OSCE attaches to intensive exchanges between international organisations, state institutions and civil society. The Belgian Chairmanship regards this close cooperation as vital to the promotion of OSCE values and the achievement of the objectives of the OSCE.

This is not a mere statement. The dialogue between the Chairman-in-Office and NGOs is intense. Minister De Gucht frequently meets with human rights defenders and NGOs on his visits throughout the OSCE region to listen to their concerns and take appropriate action. In this respect, we consider the International Helsinki Federation and the NGOs it works with to be one of our privileged partners and we actively support its work. Regular meetings are also held in Brussels, notably with a coalition of Belgium-based NGOs which functions as a critical voice of our Chairmanship.

Human rights defenders provide us with valuable information on violations of human rights, while working hard to turn negative into positive trends. They support victims of human rights violations, they take action to secure accountability and to end impunity,

they encourage better governance and government policy, and they provide human rights education and training.

Human rights defenders also regularly report on the multiple obstacles they face, such as registration and other bureaucratic problems, limits on their freedom of speech or freedom of assembly, and threats of violence or detention.

There are reasons for concern in both emerging democracies and countries with long-established democratic institutions, practices and traditions. Regrettably, the difficulties that human rights defenders face appear to be on the rise. Security concerns, notably related to terrorism, are increasingly used to legitimise a crackdown on human rights and their defenders.

A fundamental difficulty is the frequent politicisation of human rights, even though human rights should be considered a superior and universal expression of citizenship responsibility. Human rights defenders are increasingly and wrongly seen as a threat to the political status quo, propagating so-called “Western” values and spreading false information about the internal situation with regard to human rights in the countries they work in. Political nervousness in the lead-up to elections seems to trigger this distortion.

Ladies and Gentlemen,

The sharing of information and best practices that will occur today and tomorrow is of paramount importance. Information opens avenues for action. Information should flow not only from civil society groups to state institutions but also vice-versa. Transparent governmental and intergovernmental institutions create the appropriate climate for the promotion of human rights.

State institutions bear a heavy responsibility: they must respect and promote human rights, protect human rights defenders, investigate complaints, remedy violations and prevent them from reoccurring. It is also a duty of the State to ensure and support the creation and development of independent national institutions for the promotion and protection of human rights, such as ombudspersons or human rights commissions. Civil society human rights defenders need to be recognised by state authorities as interlocutors and allowed to fully participate in the work of national human rights institutions.

International organisations like the OSCE play an important role in promoting exchanges and partnerships between governmental and non-governmental human rights defenders and supporting their work. For instance, the EU has agreed to Guidelines on human rights defenders and the Council of Europe has developed Fundamental Principles on the Status of NGOs in Europe. These commitments could provide welcome additions to the body of OSCE commitments.

I would also like to refer to the work of the UN. It is a great honour to welcome the UN Special Representative on Human Rights Defenders, Ms. Hina Jilani. She has been

doing a commendable job since the establishment of her mandate in 2000. Ms. Jilani has kindly accepted to deliver a keynote speech and share with us her expertise on human rights defenders issues.

It is a pleasure to enjoy the company of such a diverse group of people who are all committed to the same principles. Let us benefit of the presence of this array of participants to discuss the issues at stake in a frank manner.

Let us also be realistic. Talking about the problems that human rights defenders face will not suffice to lift these hurdles. All OSCE participating states have subscribed to an extensive range of commitments, yet their implementation is sometimes poor. I therefore invite all of you not only to reflect upon the past and present difficulties, but also to think ahead. Let us not only condemn human rights violations, but also promote positive practices and pave the way for concrete improvements of the human rights situation on the ground. I count on the mass of experiences and expertise present amongst us to voice concrete, yet also realistic, proposals on how the work of human rights defenders in the OSCE region can be supported. What can OSCE participating states do? What can OSCE institutions and missions do? What can the Chairman-in-Office do? How about the human rights defenders themselves? Most importantly, how can these respective actors mutually reinforce each other's work?

We are in attentive listening mode, and look forward to taking up your ideas.

Thank you.

### **CLOSING REMARKS by Ambassador Bernard de Crombrughe, Chairman of the Permanent Council**

Mr. Chairman, colleagues, ladies and gentlemen,

The Belgian Chairmanship is fully aware of the vital role that civil society and non governmental organizations have played and still play in promoting OSCE values during the more than 30 years of the Helsinki process. This fact was first recognized in the 1975 Helsinki Final Act and reiterated in many OSCE Documents following it. Our way of reaffirming that reality was to pursue a Supplementary Human Dimension Meeting on the topic of human rights defenders. We wanted to put the role of the NGO community in the spotlight, while at the same time focusing on the important interaction between state and non-state actors in the protection and promotion of human rights.

The meeting we hoped for not only became reality with the support of the participating States, but also turned into an outright success! Therefore I wish to express my sincere gratitude to you, Ambassador Strohal, and the team of hard working, competent experts within your Office that have helped to organize this first Supplementary Human

Dimension Meeting. Thank you very much, in particular for your important work in supporting and strengthening the capacity of human rights defenders.

A word of thanks also to the moderator of the working sessions, the keynote speaker, the introductory speakers, the interpreters, Conference Services and of course the participants themselves for their active involvement in the discussions.

Mr. Chairman, the Moderator of the working sessions gave an excellent summary of the discussions and recommendations in the different Sessions and though we will need time to ponder further, I would like to underline a couple of elements.

A number of participants referred to the correlation between democratic institutions and good governance on the one hand and the work of human rights defenders on the other hand. Sometimes human rights defenders work in a perilous, hostile environment, symptomatic of a more fundamental problem of poorly functioning democratic institutions. Under those circumstances, human rights defenders are important whistleblowers and their concerns should be considered as a strong warning.

We have heard several examples of fruitful co-operation between civil society and state institutions. Independent national human rights institutions, such as ombudspersons or human rights commissions, are crucial actors in the protection and promotion of human rights, and they should fulfil an important bridging role between government authorities and NGO's.

Mr. Chairman, several speakers, notably Ms. Hina Jilani, *Special Representative of the UN Secretary General on the Situation of Human Rights Defenders*, stressed the link between the work of human rights defenders and the 'rule of law'. It was mentioned that access to justice and an independent judiciary, as well as other aspects of a good functioning criminal justice system, create an enabling environment for human rights defenders.

In this regard I am happy to inform you that the Permanent Council yesterday adopted the agenda of this year's Human Dimension Seminar. This Seminar, to be held in Warsaw on 10-12 May, will focus on upholding the rule of law and due process in criminal justice systems. We hope that enhanced attention to these issues will contribute to changes on the ground also to the benefit of human rights defenders.

Mr. Chairman,

Many participants reminded us of the long-standing plea by NGO's to look at ways of improving the interaction between the NGO community and the participating States of the OSCE. For instance, we could look into the possibility of more structured and direct information exchanges between NGO's and participating States here in the Hofburg. This could be a first step to strengthen the human rights defenders in their actions on the ground.



Some other concrete, longer term proposals were mentioned as well. Many participants felt that the OSCE should follow the footsteps of the EU in working out Guidelines on Human Rights Defenders. Others called for a Special Representative on Human Rights Defenders.

In short, all of the proposals made are valuable points of reference for future discussion among participating States and will go back to our respective capitals for consideration. For the Belgian Chairmanship that's not mere concluding rhetoric. I look forward to working with you all to ensure that this Supplementary Human Dimension Meeting is considered as a start for concrete steps, not as an end in itself.

Thank you very much.

## ANNEX VIII. SIDE EVENTS

*The Helsinki Document of 1992 (Chapter IV) called for increasing the openness of OSCE activities and expanding the role of NGOs. In particular, in paragraph (15) of Chapter IV the participating States decided to facilitate during CSCE meetings informal discussion meetings between representatives of participating States and of NGOs, and to provide encouragement to NGOs organizing seminars on CSCE-related issues. In line with this decision, NGOs, governments, and other participants are encouraged to organize side meetings on relevant issues of their choice.*

*The opinions and information shared during the side events convened by participants do not necessarily reflect the policy of the OSCE/ ODIHR.*

### Thursday, 30 March

**Time:** 10.30-14.00

**Venue:** Segmentgalerie I

**Title:** **Current situation and prospects of Kosovo Roma in a Human Rights framework**

**Convenor:** OSCE ODIHR Contact Point for Roma and Sinti Issues/European Roma and Travellers Forum

#### *Summary:*

The meeting aims to promote emerging of agreement and institutional mechanisms among the relevant organizations and institutions in view of ensuring proper consultation and active participation of Kosovo Roma representatives in the process of international talks /negotiations concerning the final status of Kosovo;

To promote policies of long term and durable solutions for return and reinsertion of Roma in future society of Kosovo, taking in account their current status of living, such as:

- Roma currently living in Kosovo;
- Roma from Kosovo living in countries in South-Eastern Europe and in the EU as:
  - refugees;
  - asylum seekers;
  - IDPs (internally displaced person);
  - returnees.

The meeting proposes to advance urgent and viable solutions for the relocation to safer places of Roma and Ashkalia IDPs who are currently living in Northern Mitrovica in the lead contaminated camps.

### Thursday, 30 March

**Time:** 12.30-14.30

**Venue:** Bibliotheksaal

**Title:** **Human Rights Defenders in Crisis: Are International Organizations Doing Enough**

**Convenor:** International Helsinki Federation for Human Rights (IHF)

#### *Summary:*

The IHF, in cooperation with its affiliates, has prepared a report for the SHDM entitled “*The Assault on Human Rights Defenders in the Russian Federation, Belarus and Uzbekistan: Restrictive Legislation and Bad Practices*”. Human rights defenders from these countries and others will discuss the difficult situation they are facing in their respective countries at the moment. The side event will also aim to formulate recommendations on how the OSCE should further protect human rights defenders.

Thursday, 30 March

*Time:* 18.00-20.00  
*Venue:* Segmentgalerie I  
*Title:* **Current situation and prospects of Kosovo Roma in a Human Rights framework (Continued)**  
*Convenor:* OSCE ODIHR Contact Point for Roma and Sinti Issues/European Roma and Travellers Forum  
*Summary:* Continued, please see above.

Thursday, 30 March

*Time:* 18.00-19.00  
*Venue:* Bibliotheksaal  
*Title:* **Presentation of the 2005 annual report of the Observatory for the Protection of Human Rights Defenders, a joint programme of the FIDH and the World Organisation Against Torture (OMCT)**  
*Convenor:* International Federation for Human Rights (FIDH)

*Summary:*  
Presentation of the annual report of the Observatory for the Protection of Human Rights Defenders, which addresses the cases of 1,172 human rights defenders oppressed and obstacles to freedom of association in nearly 90 countries around the world. This report offers geographical analyzes and compilations of the cases of violations perpetrated against defenders.

This briefing will underline the situation of human rights defenders and freedom of association in the ICS.

Thursday, 31 March

*Time:* 12.00-14.00  
*Venue:* Segmentgalerie I  
*Title:* **Freedom of Assembly in the OSCE region and implementation of pertinent laws: challenges and the role of human rights defenders**  
*Convenor:* Institute for Conflict Research, ILGA Europe  
*Summary:*

The aim of the side event is to discuss examples of law implementation practices in several OSCE participating States, with the special focus on challenges that organizers/participants of Pride Events often encounter.

Director of the Institute for Conflict Research will address the issue of permissible restrictions on freedom of assembly and importance of ensuring that not only national laws, but also law implementation practices fully uphold international standards. A brief overview of problems faced by pride organizers in Eastern Europe will be given by the representative of ILGA-Europe. A role of human rights defenders in monitoring how freedom of assembly is maintained and protected in practice through observing the role of the state and police at public events will be examined.

OSCE/ODIHR representatives will make a brief presentation on relevant OSCE/ODIHR activities, in particular on the project proposal aimed at consolidating the OSCE/ODIHR Draft Guidelines for Drafting Laws Pertaining to Freedom of Assembly as well as on the Tolerance and Non Discrimination Programme. Participants of the side event are invited to make comments and recommendations on all issues on the agenda.

Two experts presenting at the side event are:

1. Neil Jarman, Director of the Institute for Conflict Research, Northern Ireland
2. Maxim Anmeghichean, Programmes Director at ILGA-Europe, Belgium

Thursday, 31 March

*Time:* 12.00-14.00

*Venue:* Bibliotheksaal

*Title:* **Women Human Rights Defenders – Challenges in Defending Women’s Rights**

*Convenor:* OSCE ODIHR

*Summary:*

As women human rights defenders stand up for women’s rights it can be considered traitorous and disruptive of societal norms and traditional values upholding society. The protection of women’s rights places women’s human rights defenders at risk of not only physical abuse and violence but also makes them vulnerable to being ostracized by the community and society as a whole. That is, on allegations of disrupting family structures and other societal structures building on stereotype expectations of women’s roles and status. The event highlights challenges and risks faced by women human rights defenders, and elaborates how the focus on women’s rights is in itself an obstacle in the work of a human rights defender.

Presentations will be made by the following three women human rights defenders:

Ms. Enisa Eminova, Roma Women’s Initiative, the Former Yugoslav Republic of Macedonia;

Ms. Zulfiya Tukhtakhodjaeva, Association of Women's NGOs of Uzbekistan, Uzbekistan;

Ms. Gulnara Ibraeva, Social Technologies Agency, Kyrgyzstan;

## **ANNEX IX. STATISTICS ON PARTICIPATION**

The SHDM was attended by a total of 252 participants, including 111 delegates from 40 of the 55 OSCE participating States. Six representatives of OSCE Partners and Mediterranean Partners for Co-operation (Egypt and Korea) were also present.

The Meeting was attended by 19 representatives from 11 OSCE institutions (OSCE Secretariat represented by the Senior Adviser on Gender Issues; and OSCE Parliamentary Assembly, Liaison Office in Austria) and missions (Centre in Almaty, Centre in Bishkek, Mission to Georgia, Mission in Kosovo, Mission to Moldova, Mission to Serbia and Montenegro, Spillover Monitor Mission to Skopje, Centre in Tashkent, Office in Yerevan).

In addition, 15 representatives from nine international organizations (Council of Europe, European Monitoring Centre on Racism and Xenophobia, European Parliament, International Committee of the Red Cross, International Organization for Migration, Office of UN High Commissioner for Human Rights, UN Office on Drugs and Crime, UN High Commissioner for Refugees, Branch Office in Austria, Women's Federation for World Peace International, were present .

101 representatives from 86 non-governmental organizations participated in the Meeting.

The list of participants can be found in Annex X.

## ANNEX X.

## LIST OF PARTICIPANTS

### OSCE Delegations/Partners for Co-operation

#### **Amb. Zef MAZI**

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#### **Mr. Wolfram MAAS**

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#### **Dr. Axel HARTMANN**

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#### **Mr. Helmut KULITZ**

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