



Office for Democratic Institutions and Human Rights

OSCE HUMAN DIMENSION SEMINAR

JUDICIAL SYSTEMS AND HUMAN RIGHTS

CONSOLIDATED SUMMARY

Warsaw, 23 – 25 April 2002

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**OSCE HUMAN DIMENSION SEMINAR
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WARSAW, 23-25 APRIL 2002**

CONSOLIDATED SUMMARY

I. INTRODUCTION

The Human Dimension Seminar on Judicial Systems and Human Rights was held in Warsaw on 23 – 25 April 2002. The Seminar was organized by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in co-operation with the Portuguese Chairmanship-in-Office of the OSCE.

The Seminar was the eighteenth in a series of specialised Human Dimension Seminars organized by the ODIHR in accordance with the decision of the CSCE Follow-up Meetings in Helsinki in 1992 and Budapest in 1994. The previous Seminars were devoted to:

- Tolerance (November 1992),
- Migration, including Refugees and Displaced Persons (April 1993),
- Case Studies on National Minorities Issues: Positive Results (May 1993),
- Free Media (November 1993),
- Migrant Workers (March 1994),
- Local Democracy (May 1994),
- Roma in the CSCE Region (September 1994),
- Building Blocks for Civic Society: Freedom of Association and NGOs (April 1995),
- Drafting of Human Rights Legislation (September 1995),
- Rule of Law (November/December 1995),
- Constitutional, Legal and Administrative Aspects of the Freedom of Religion (April 1996),
- Administration and Observation of Elections (April 1997),
- The Promotion of Women's Participation in Society (October 1997),
- Ombudsman and National Human Rights Protection Institutions (May 1998),
- Human Rights: the Role of Field Missions (April 1999),

- Children and Armed Conflict (May 2000), and
- Election Processes (May 2001).

The Human Dimension Seminar on “Judicial Systems and Human Rights” reviewed challenges for the judiciary in established and developing democracies in its protection of human rights. The seminar assessed in particular the lessons learned within the reform process of the last decade following the adoption of the 1990 CSCE Copenhagen and 1991 CSCE Moscow document.

It provided for a framework to discuss the challenges to the independence of the judiciary, the role of the administration of justice and recent reforms in the region and ensuring access to justice as a fundamental principle of a democratic society. The seminar also explored the correlation of an independent judiciary and sustainable economic development and devoted time to consider the role of the judiciary in pre- and post-conflict areas in light of OSCE’s recent experiences in this field. The seminar also provided for an opportunity to review the work of the ODIHR and OSCE field operations in this area and to make concrete recommendations how this assistance can be further improved.

The meeting was not mandated to produce a negotiated text. A summary report prepared by the rapporteurs of the six working groups was presented at the final plenary session of the Seminar and it is reflected in Section VII of this report. The report contains recommendations and conclusions developed at the Seminar. These recommendations – from delegations of OSCE participating States and Partners for Co-operation, international organizations and NGOs – are wide-ranging and aimed at various actors (OSCE institutions and field missions, governments, NGOs). The 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, the recommendations are a useful indicator for the OSCE in deciding priorities and possible new initiatives in developing programmes aimed at strengthening judicial systems in its protection of human rights. They can also provide a basis for measuring the degree of follow-up to this meeting.

II. AGENDA

1. Opening of the Seminar
2. Plenary session: keynote speeches
3. Discussions in six Working Groups
4. Closing plenary session: rapporteurs’ summaries from Working Groups
5. Summing up and closure of the Seminar

III. TIMETABLE AND OTHER ORGANIZATIONAL MODALITIES

1. The Seminar was opened on Tuesday 23 April 2002 at 10.00 hrs. It was closed on Thursday 25 April 2002 at 18.00 hrs.
2. All plenary and working group sessions were open to all participants.
3. The closing plenary session, on the afternoon of the 25 April, focused on practical recommendations emerging from the six Working Group sessions (two single and four parallel sessions):
 - Working Group 1: The role of the judiciary in the administration of justice;
 - Working Group 2: Safeguarding the independence of the judiciary;
 - Working Group 3: Access to justice;
 - Working Group 4: The role of the judicial system in conflict situation;
 - Working Group 5: The development of the judiciary and economic development;
 - Working Group 6: Improving the enforcement of human rights by the judiciary;
4. The Plenary and Working Group meetings took place in accordance to the Work Program.
5. Ambassador Gérard Stoudmann, Director of the ODIHR, chaired the plenary sessions.
6. Standard OSCE rules of procedure and working methods were applied at the Seminar.
7. Discussions were interpreted into all six working languages of the OSCE.

IV. PARTICIPATION

The seminar was attended by a total of 163 participants, including 85 delegates of 41 OSCE participating States. Four representatives of three Partners for Co-operation were also present (Algeria, Egypt and Thailand).

In addition, representatives of six international organizations were present: Council of Europe, International Committee of the Red Cross, UNESCO, the Office of the United Nations High Commissioner for Human Rights, United High Commissioner for Refugees and the World Bank.

The seminar was attended by 18 representatives of 16 OSCE field operations and by 47 representatives of 40 Non-Governmental Organizations.

V. SUMMARY OF PROCEEDINGS

The Seminar was opened by the Director of the ODIHR, Ambassador Gérard Stoudmann. Welcoming remarks were presented by Mr. Slawomir Dabrowa, Deputy Minister of Foreign Minister, Poland and Mr. João Bernardo Weinstein, Director of the OSCE Department, Ministry of Foreign Affairs, Representative of the Chairman-in-Office.

The following keynote speakers addressed the opening plenary session:¹

Judge Marek Safjan, President of the Constitutional Tribunal, Poland

Judge Boštjan M. Zupancic, Judge at the European Court of Human Rights

Judge Andrew Grotrian, Judge at the Human Rights Chamber of Bosnia & Herzegovina

An opening statement was made by *Ms. Margaret Killerby*, Head of Department of Private Law, European Committee on Legal Co-operation on behalf of the Secretary General of the Council of Europe.

During the Seminar, six Working Groups met. The topics were divided as follows:

Working Group I: The role of the judiciary in the administration of justice

Moderator: Professor Karoly Bard, Professor of Law, Central European University, Budapest, Hungary;

Introducer: Dr. Elena Mizulina, State Duma, Russian Federation;

Rapporteur: Mr. Ulf Lindell, Counsellor, Swedish Delegation to the OSCE;

Topics included, *inter alia*:

- The place of the judiciary in the administration of justice system;
- The role of the judiciary in the investigative process and the establishment of checks and balances; the relationship of the judiciary *vis-à-vis* law enforcement and the prosecution; ensuring the principle of equality of arms;
- The role of the judicial system with regard to human rights violations committed by law enforcement agencies.

¹ Copies of the keynote speeches delivered at the plenary opening session are available at the ODIHR office in Warsaw upon request.

Working Group II: Safeguarding the independence of the judiciary

Moderator: Judge Miroslaw Wyrzykowski, Judge at the Constitutional Tribunal, Poland;

Introducer: Judge Radmila Dragicevic-Dicic, District Court Belgrade, President of the Association of Judges, Federal Republic of Yugoslavia;

Rapporteur: Mr. Ulf Lindell, Counsellor, Swedish Delegation to the OSCE;

Topics included, *inter alia*:

- Challenges to the independence and the integrity of the judiciary in OSCE participating States and ways of its better safeguarding;
- The appointment and dismissal process and the extent to which the executive branch of government regulates this process; the system of salaries and benefits; other possible areas of interference;
- The role of constitutional and legal provisions in safeguarding the independence of the judiciary;
- Transparency and good governance in the judiciary.

Working Group III: Access to justice

Moderator: Dr. Arie Bloed, Executive Director of the Constitutional and Legal Policy Institute (COLPI), Budapest, Hungary;

Introducer: Mr. Ed Rekosh, Public International Law Initiative (PILI), New York/Budapest;

Rapporteur: Mr. Donald Bisson, OSCE ODIHR, Rule of Law Adviser;

Topics included, *inter alia*:

- Access to justice as a fundamental right in a democratic society;
- Challenges to an effective access to justice in the OSCE area: the system of legal aid, legal representation, long delays in the administration of justice, etc.; good practices drawn from OSCE participating States;
- Access to justice with regard to administrative decisions;
- Effective access to justice for all groups in a society and the relationship between access to justice and the representation of groups in the legal system.

Working Group IV: The role of the judicial system in conflict situation

Moderator: Mr. William O’Neill, Senior Visiting Research Fellow at the International Peace Academy, USA;

Introducer: Ms. Donna Gomien, Deputy Ombudsperson Kosovo;

Rapporteur: Mr. Gary Collins, OSCE Mission to the Federal Republic of Yugoslavia;

Topics included, *inter alia*:

- The role of the judicial system in conflict prevention and early warning;
- The challenges of rebuilding an equitable judicial system in a post-conflict environment;
- Lessons learned from the international community and OSCE missions regarding comprehensive post-conflict assistance for rebuilding the rule of law and an independent judiciary.

Working Group V: The development of the judiciary and economic development

Moderator: Mr. Scott Newton, Senior Lecturer in the Laws of Central Asia, University of London, Centre for Contemporary Central Asia and Caucasus

Introducer I: Dr. Maria Yordanova, Centre for the Study of Democracy, Head of Law Department, Bulgaria;

Introducer II: Judge Kairat Mami, Chairman Head of the Supreme Court of Kazakhstan;

Rapporteur: Mr. Donald Bisson, OSCE ODIHR Rule of Law Adviser;

Topics included, *inter alia*:

- The role of the judicial system in creating confidence in an environment conducive to long-term economic stability in OSCE participating States;
- The importance of good governance in the judicial system and best practices drawn from OSCE participating States.

Working Group VI: Improving the enforcement of human rights by the judiciary

Moderator: Mr. Ivan Bizjak, Minister of Justice, Slovenia;

Introducer: Mr. Gerald Staberock, OSCE ODIHR Rule of Law Officer;

Rapporteur: Mr. Gary Collins, OSCE Mission to the Federal Republic of Yugoslavia;

Topics included, *inter alia*:

- Increasing the knowledge and awareness of international human rights standards within the judiciary; the effect of international human rights law as part of domestic law;
- Improving training in human rights standards and capacity-building;
- The challenge of creating a legal culture and tradition, including the respect for human rights and the role of supreme and constitutional courts;
- Monitoring of the judicial system by civil society and ensuring of transparency as a tool to enhance respect for human rights;
- The role of professional associations, domestic and international.

The seminar also provided for informal side meetings during lunch breaks and after the working group sessions (see annex I). The side meetings were: “Still No Justice? Azerbaijan and Belarus: Ten Years Later a Synopsis”, convened by the International League for Human Rights; “Bringing courts to the courtyards of Roma and Sinti: Access to Justice - gypsies included”, convened by the ODIHR Contact Point for Roma and Sinti; “Judicial Reform Projects Implemented by ODIHR Rule of Law Unit”, convened by the ODIHR Rule of Law Unit and “Assessing Progress in Judicial Reform”, convened by the American Bar Association Central and East European Law Initiative (ABA/CEELI).

The closing plenary meeting was chaired by the Director of the ODIHR, Ambassador Gérard Stoudmann. The Rapporteurs summarized the topics and the recommendations issued by the Working Groups.

A closing keynote speech was held by Ambassador Jivan Tabibian, Head of the Armenian Delegation to the OSCE.

During the closing plenary session, statements were made by three national delegations, two non-governmental organizations and one OSCE Field Mission.

VI. RAPPORTEUR'S REPORTS

Following the opening of the Seminar, discussions took place in six working groups. The first working group focused on the role of the judiciary in the administration of justice; the second group was devoted to safeguarding the independence and integrity of the judiciary; the third one concentrated on the question of access to justice. The fourth group considered the role of the judiciary in pre- and post-conflict situations, whereas the fifth working group was devoted to the judiciary and its relationship to economic development. The last working group discussed ways of improving the enforcement of human rights by the judiciary.

The current report does not pretend to exhaustively reproduce the full content of the debates but rather concentrates on recommendations formulated in the working groups. These recommendations were not formally adopted by Seminar participants and do not necessarily reflect the views of any participating State.

Working Group I: "The Role of the Judiciary in the Administration of Justice"

The session discussed the role of the judiciary in the administration of justice. The participants stressed the importance to view the judiciary not in isolation, but within a framework that includes the Prosecutor's Office and the role of lawyers. The discussion focused in particular on the structural shortcomings in the set-up of the judicial system. The participants concluded that there is a need to strengthen the competencies of the judicial authority with regard to the investigative period as a necessary check on the investigative authorities.

The participants also debated lessons learned regarding the process and nature of judicial reform initiatives in various OSCE participating States within the last decade.

Also addressed were questions concerning fair trial principles and the need to ensure an equality of arms between the different actors in the judicial process.

Recommendations to the OSCE participating States:

- As a rule discussions on the reform of the judicial system should be open and transparent.
- Working groups that are established to elaborate proposals for judicial reforms should be based on a broad representation, including the judiciary. Its existence should not be secret and participating States should ensure that there is enough time for a public discussion of the proposals.
- Civil society should be given sufficient possibilities to participate in the process and to comment on judicial reform proposals.

- As far as judicial reform is mandated by international human rights standards, those opposed to the reform should be educated and informed about the content of existing human rights obligations and their rationale.
- OSCE participating States should ensure that the domestic judicial structure complies with international human rights law and that it provides a necessary system of checks and balances. They should seek assistance from international organizations such as the Council of Europe, the OSCE ODIHR or other actors in this respect.
- OSCE participating States should ensure that rights in the investigative period are clearly defined, if possible in the Constitution, and review whether domestic law is reflecting such constitutional provisions.
- Those participating States that have not yet given the mandatory authority over arrest and detention to judicial authorities should do so as a matter of urgency in order to ensure compliance with the European Convention of Human Rights and the United Nations International Covenant on Civil and Political Rights.
- States have to ensure that the arrested needs to be brought physically before the judicial authority for deciding on arrest and detention.
- States should review their legislation – if need be with the help of international organizations – to ensure that intrusive investigative measures, such as house searches, wire-taping, access to confidential information, are authorized not only by the Prosecution or another investigative authority, but by a an authority exercising judicial control.
- States should depart from factually relying on confessions as main evidence. Moreover, in order to ensure the fair trial principle, rules for challenging evidence must exist. In particular there must be clear rules regarding the inadmissibility of evidence collected through duress or through other human rights violations.
- OSCE participating States should review their system to reduce pre-trial custody. This may include the stipulation of a maximum time and the frequent review of a judicial authority.
- The judicial structure has to ensure that effective access to legal counsel is ensured at an early stage of the proceedings so as to ensure a fair trial. The legal defence must include sufficient ways to access evidence and must be organized with the necessary independence for the performance of its work.
- Special courts need to comply with international human rights standards and need to be limited to those being legitimately subject to a special jurisdiction.
- The institute of re-investigation following court proceedings should be abolished where it still exists (the possibility to send the case back to the Prosecution for

further investigation following a full court hearing and the submission of evidence).

- Appeals procedure need to reflect the equality of arms principle enabling both sides (Prosecution and Defence) to appeal court decisions.

Recommendations to the OSCE institutions and field operations:

- The ODIHR should provide advise, especially for those participating States, that are not a party to the European Convention of Human Rights, on ensuring compliance with international treaties such as the International Covenant on Civil and Political Rights.
- The ODIHR and field operations should increase their efforts to facilitating dialogue between Civil Society and Government on judicial reform.
- The OSCE and its field operation should further strengthen assistance projects for judges, prosecutors and lawyers on international human rights standards, especially regarding fair trial and the respective roles of each professional group.
- The OSCE should consider (1) an effort to collect best practices for ensuring fair trials, (2) to support training in fair trial standards, and/or (3) to establish fellowships for fair trial research.
- The ODIHR should expand its *project Legislation On-Line* to cover fair trial and equality of arms aspects.

Recommendations to others:

- Expert advise from international organizations, other states should be provided to improve the legislative framework.
- International and national NGOs should increase effort in monitoring court cases as well as the judicial reform process. Increasing the opportunities for NGOs filing amicus curiae briefs should be considered.
- NGOs should consider offering training on fair trial standards, rules of evidence, etc..

Working Group II: “Safeguarding the independence of the judiciary”

The participants discussed the fundamental importance of an independent judiciary. The session identified a number of problematic situations for the judiciary in the OSCE area and reflected on the experience in OSCE participating States in effectively safeguarding the independence of the judiciary in law and practise.

Particular topics discussed included the appointment and dismissal of judges, the remuneration and material conditions, the difficult evaluation and lustration of judges, in particular in a transition context.

Recommendations to the OSCE participating States:

- As far as possible, Constitutions should not only stipulate the independence of the judiciary, but also formulate safeguards for its independence. Present constitutional reforms should strengthen such safeguards and a clearer separation of powers from the executive.
- OSCE participating States should reduce the influence of the *executive branch over the appointment of judges*. This is particularly so if the appointment by the executive is not complemented by other effective checks and balances between the branches.
- OSCE participating States should review their legislative framework for the independence of the judiciary in order to fully reflect OSCE commitments – notably as contained in the OSCE Copenhagen document - relevant UN Minimum Standards and Council of Europe commitments, such as Recommendation No R (94) 12 of the Committee of Ministers and the European Charter on the Statute for Judges of the Council of Europe. For this purpose, they should seek the assistance of the OSCE, Council of Europe or other relevant organizations.
- Participating States should ensure long term or life time *terms of service* for judges, since frequent re-appointments offer more opportunity for attempts to put pressure on judges. Such lifetime appointments may take affect only when a judge has shown his or her professional competence.
- *Immunity* for judges, at least for actions in the line of professional duty (functional immunity), need to be respected.
- States should ensure that the judiciary is adequately *funded* through a budget of its own and that it enjoys financial autonomy.
- States should review their practises with regard to judges in order to reduce the potential influence through a hidden system of benefits and favours relating to housing or other benefits.
- OSCE participating States should provide sufficient financial means and salaries in order to reduce the incentive to corruption.
- States should consider legal provisions prohibiting judges from being involved in cases where they have a *conflict of interests*.

- States should provide individuals with effective means to challenge the impartiality of a judge during proceedings on the grounds of *bias or perceived bias*.
- The assignment of cases to different judges *within* a court has to take place according to a well-defined system that is already in place before the case is transferred to the court, and not be left to anybody's discretion.
- *Judicial Councils* and similar structures can be important tools for an independent judiciary. However OSCE participating States need to ensure that the executive influence over these bodies is decreased. As a rule judicial representation should be encouraged and increased within such bodies and the mandate of such bodies should focus on the internal administration of the judicial system.
- Reform aiming at improving the independence of judges should be accompanied by *similar reform* of the police and of the prosecutors' offices.
- *Education and training* are crucial elements. Aspiring lawyers and future judges need to be educated about human rights and about the independence of the judiciary.
- The independence of Supreme Courts and Constitutional Courts is particularly important as those bodies can strongly influence a legal culture. OSCE participating States should refrain from interfering in cases "perceived" as political sensitive.

Recommendations to the OSCE institutions and field operations:

- OSCE missions should continue to establish co-operation with the relevant authorities of participating states in order to assist in the process towards an independent judiciary. One important function is to provide *information on international standards* and relevant documents that are already available. (For example, the UN Principles of the Role of the Judiciary.)
- The OSCE/ODIHR and field missions should strive to increase their activities in "*training the trainers*" of future judges and other professionals in the legal field, including providing good training material.
- The OSCE ODIHR should offer to review the framework of the independence of the judiciary in OSCE participating States in order to ensure full compliance with international standards.
- The ODIHR should consider to provide background information on "best practises" in ensuring the independence of the judiciary, in particular with regard to the structure and tasks of Council of Judges and other self-governing bodies.

Recommendations to others:

- Civil society should monitor the independence of the judiciary.
- Judges should work together in *professional associations within participating states* in order to improve their efforts towards more independent judiciary. The associations can, for example, have an important role in education and training.
- Such associations of judges ought to further develop their *international co-operation* with counterparts in the OSCE area and to exchange information about experiences and best practices.
- In terms of *development assistance* aiming at strengthening the independence of the judiciary, *donor countries* need to take a long-term view and to co-ordinate closely between themselves.

Working Group III: “Access to Justice”

The discussion focused on providing legal representation in both criminal and civil cases. There was much discussion of the cost involved in providing legal representation and innovative ways to lower costs like using law students involved in clinics, hiring NGOs to provide the legal representation and alternative dispute resolution.

The discussion also focused on denial of access through overly complicated filing procedures, lack of an adequate remedy and high filing fees.

Recommendations to the OSCE participating States:

- System must be transparent and understandable to people. OSCE States should ensure that access is not denied through overly complicated filing procedure and that all administrative procedures are understandable.
- Some states have set the threshold for obtaining free legal aid in criminal cases too high; these laws should be changed to ensure that all people facing incarceration have a lawyer.
- States must pay lawyers a reasonable fee for representing indigent criminal defendants and allocate the necessary resources.
- OSCE participating states should ensure that criminal defendants are represented at the pre-trial phase as this when the majority of human violations occur.
- Participating states need to ensure that their legislation contains effective remedies that will be enforced.

- Participating states should explore the possibility of setting up public defender systems that are not controlled by the state to provide free legal representation to indigent criminal defendants.
- States should explore the use of alternative dispute resolution to improve the access to justice.
- Procedural barriers that make it difficult if not impossible for ordinary citizens to access the judicial system need to be abolished, such as overly complicated filing requirements, use of simplified language in all court documents, high filing fees or the requirement of the posting of a bond in civil cases.
- Participating states should consider contracting NGO's to provide free legal advice and representation in civil cases.
- Participating states need to consider the problem of the geographical isolation of segments of its population. One example of dealing with this is the Canadian "flying judge" program.
- Participating states should not forget that often the victim of a crime also needs legal representation and should develop a system to provide it.
- Integration of traditional and alternative dispute resolution methods should be explored.
- Participating states should create legal frameworks that allow NGO's to provide free legal services.
- Distinct budget lines need to be created for the provision of free legal aid to promote transparency in the system.
- Information in writing about rights should be provided to all criminal defendants who are detained.
- Registrations systems that prevent refugees from accessing courts in the region they are located should be changed.
- The use of radio to dispense legal advice should be look into.
- Criminal defendants should have access to lawyers of their own choosing without interference from the state, especially the prosecutor's office.
- Participating states need to monitor the expenditure of funds for free legal aid to ensure that they are being spend appropriately.
- When creating alternative dispute resolution mechanisms participating states must be cognizant of the right to go to court and make sure that any waiver of this right is knowing and voluntary.

- Unreasonable or over-burdensome licensing procedures for lawyers must be changed.

Recommendations to the OSCE institutions and field operations:

- ODIHR should increase its activities in the area of legal clinics as they not only provide free legal help but also train young lawyers.

Recommendations to others:

- Public legal libraries and resource centers should be created. Use of legal aid hot lines should be expanded.

Working Group IV: “The Role of Judicial Systems in Conflict Situations”

The Working Group discussed the importance of a fully functioning judiciary in both pre-conflict and post-conflict countries. One of the “bell weathers” identified by the participants for predicting whether a country is preparing to enter the conflict phase is a dysfunctional judiciary. In light of the conflicts that have erupted over the past decade, it is self evident that judiciaries that are unable or unwilling to provide citizens with appropriate relief for human rights violations are, if not one of the causes of the conflict, at least a lost opportunity to avoid the conflict.

In post-conflict situations, it is imperative that an independent, competent judiciary is established as a matter of priority to adjudicate citizens claims and administer justice.

These claims are usually directly related to the former conflict and include, among other things, claims for property return. A satisfactory property claims process will assist refugee and DP returns.

Recommendations to the OSCE participating States:

- Considerable emphasis needs to be placed on conducting criminal trials. These alleged crimes usually relate to the conflict. Persons who violated international human rights or humanitarian laws should be prosecuted and accountability ensured.
- Participating states should, however, intensify their efforts to equally contribute to rebuilding the civil justice system as well. Functioning civil courts are needed to provide citizens with administrative decisions relating to such things as property

ownership, changes in marital status, births and deaths. Failure to provide due process in administrative affairs greatly disrupts citizen's lives.

- Participating states should ensure that International Administrators comply with the rule of law.
- Local citizens in UN administered areas, such as Kosovo, should be able to bring claims against international staff within the administered area. The immunity of international organizations and staff should not serve as a barrier to compensating locals for damage suffered as a result of activities of international organizations.
- Amnesty laws should not apply to grave violations of international humanitarian law or gross violations of human rights.

Recommendations to the OSCE institutions and field operations:

- OSCE field missions and the ODIHR should intensify its monitoring function regarding judicial developments as an early warning indicator for democratic degradation and possibly conflict.
- The OSCE and the ODIHR should ensure that international staff have suitable human rights training and that human dimension concerns are sufficiently reflected in OSCE mandates.
- There should be a widely disseminated check-list of standards for court monitoring teams.
- In that many citizens in post-conflict countries view the laws of the former regime as a source of injustice, it would be useful to have model laws and procedures that could serve as, at a minimum, interim laws for the rebuilding phase. There should be a Model Criminal Procedure Code that meets international standards and allow the judiciary to effectively dispense criminal justice.
- OSCE should give due respect to local traditions and customs in Mission Areas while also respecting mandatory human rights norms. As much as possible, local systems of justice should continue to function.
- Training should be practical and include a follow-up of the training. If the follow-up shows that there are deficiencies in the training, a review of the training should be undertaken.

Recommendations to others:

- The work of all judges and prosecutors should be monitored, including international judges and prosecutors.

Working Group V: Judicial system and economic development

Much of the discussion focused on the need for the OSCE to take a more cross dimensional approach to project development involving both the Economic Co-ordinators office and the ODIHR. The session also discussed the issues of corruption, administration of the courts, the creation of specialized courts to handle economic cases and enforcement of judgements in economic cases.

Recommendations to the OSCE participating States:

- Participating States should explore the use of alternative dispute resolution such as mediation to resolve economic disputes. One model could be the Swiss system of court mediation, which can speed up the process and foster agreements between the parties to settle issues.
- Countries in transition should consider creating specialized courts to handle economic cases.
- Corruption issue needs to be dealt with, as successful anti-corruption measures will have a dramatic effect in the economy.
- Develop a well functioning case management system to ease delays in resolving cases.
- OSCE participating States must show the political will needed to fight corruption.
- OSCE explore the possibility of conducting corruption surveys in countries where this has not been done like the one done in Bulgaria.
- Because legislation in this field is constantly changing the training and re-training of judges is of paramount importance.
- The issue of undue delay has become an issue in developed countries and transition countries should begin now to find ways to deal with this before case loads increase and litigation becomes increasingly more complex.
- Participating states should consider carrying out a study to determine what number of judges is needed in each country for the judicial system to operate at its optimum level.
- Participating states must deal with the issue of the enforcement of judgments in commercial disputes.

Recommendations to the OSCE institutions and field operations

- ODIHR and the Economic Coordinator's Office should explore ways of coordinating their activities in the fields of human rights protection and economic

development, as there is a correlation between the human rights protection system and economic development.

- OSCE needs to find ways to take a more cross-dimensional approach to project development.
- OSCE can act as a platform for bilateral discussions and exchanges between judicial system actors on economic issues.
- OSCE should not forget about the rights of workers and the enforcement of labor codes when dealing with the economic dimension.
- OSCE should deal more aggressively with the issue of “dirty money” from transition states being invested in developed states.
- OSCE should look into the role business and foreign investors can and do play in human rights promotion and judicial reform and attempt to leverage this role to make it more effective.
- OSCE should look at having more business lawyers in missions to deal with economic issues.
- OSCE should consider calling a meeting to discuss developing binding rules for the conduct of judges.
- OSCE should call a technical level mission and institution personnel to further explore ways to develop cross-dimensional approaches.

Working Group VI: “Improving the enforcement of human rights by the judiciary”

The discussion highlighted the need for the judiciary in OSCE participating States to improve its performance in protecting human rights and stressed the urgent need to close the implementation gap that continues to exist between international standards and practise at home.

The potential positive role that Constitutional and Supreme Courts was raised in creating a legal culture essential for an effective human rights protection as well as the question of how human rights literacy of the judiciary can be enhanced. The participants also stressed frequently the importance of the democratic culture in a country that also finds its expression in providing sufficient resources to the judiciary.

A number of participants raised the importance of civil society monitoring, trial monitoring and the positive impact of assessments of judicial systems.

Recommendations to the OSCE participating States:

- Participating States that have not yet formally acceded to major international human rights treaties should do so as a matter of urgency and also consider recognizing the authority of treaty monitoring bodies to receive individual communications.
- Increased efforts should be undertaken to incorporate international human rights standards into the domestic legal machinery. States should consider either their direct applicability or their full translation into domestic law.
- OSCE participating States should ensure that their legal system fully complies with international standards, providing the judiciary with the legal remedies needed to implement international human rights. Attention should be given to the judicial review of administrative decisions where this does not yet exist.
- Supreme Courts and Constitutional Courts play a particular important role in enforcing human rights. Participating States should consider broadening the access to Constitutional Courts as a possible mean for enforcing human rights.
- Participating States should respect judgements of these courts even in political critical cases, as should the international community in countries where it exercises executive powers.
- Participating States should ensure that their legal training includes the protection of human rights.
- States should establish Judicial Training Centres or equivalent structures to ensure that human rights standards are a standard component of legal education.
- International human rights standards and concepts should be part of judges' qualification exams.
- Efforts to publish international documents and case law in respective domestic languages should be increased. Such information should be made available to courts at all levels. Domestic decisions must equally be published and made available.
- Sufficient funding has to be ensured for a timely adjudication by the judiciary. States should review measures to be undertaken with regard to long delays in the administration of justice.
- OSCE participating States should increase the representation of minorities, woman and others groups of society in the judiciary in order to improve the performance of the judiciary with regard to such groups and in order to strengthen the confidence into the judiciary by those groups of society.

Recommendations to the OSCE institutions and field operations:

- The ODIHR and its field operations should increase its efforts in training judges, prosecutors and lawyers on international standards. Such training should place sufficient focus on the concept and scope of legitimate limitations to human rights

norms in a democratic society, the principle of proportionality and non-discrimination clauses.

- The OSCE and other international actors should increase their assistance in know-how to judicial training institutions in order to ensure the sustainable legal education for judges on international human rights standards.
- The OSCE should also consider providing assistance to parliamentarians and law-makers in order to ensure sufficient awareness of human rights standards binding on OSCE participating States.
- The ODIHR should offer assistance to participating states in reviewing draft laws and – in co-ordination with other international actors – to work towards systematic screening procedures for compliance with international standards.
- The ODIHR could provide assistance in establishing a national strategy for the enforcement of human rights by the judiciary in participating States.

Recommendations to others:

- Legal resource centres providing information on human rights standards could be established.
- Training undertaken by bilateral actors and international organizations should intensify. However, it should be better co-ordinated and lead to more sustainability. Agencies should seek to base their assistance on agreed international standards as common denominator instead of referring to their domestic practises.
- Non-governmental organizations should increase their advocacy work towards the judiciary. International trial monitoring programmes provide a useful tool for improving the implementation of international standards in the domestic forum. Efforts should be undertaken to strengthen domestic capacities to monitor and assess the human rights performance through trial monitoring and other activities.
- Assessment studies on the structure and performance of the judicial system and its human rights protection that have been undertaken within the EU accession countries are useful tools for the improvement of human rights enforcement by the judiciary. They can provide benchmarks for measuring the performance of a judicial system and should be extended beyond EU accession countries.

ANNEX I

ANNOTATED AGENDA

I. Introduction

The Human Dimension Seminars are organised by the OSCE/ODIHR in accordance with the decisions of the CSCE follow-up meetings in Helsinki (1992) and Budapest (1994). The 2002 Human Dimension Seminar will be devoted to “Judicial Systems and Human Rights” in accordance with PC Decisions No. 464 of 31 January 2002 (PC.DEC/464) and No. 467 of 14 March 2002 (PC.DEC/467).

II. Aims

The 2002 Human Dimension Seminar on “Judicial Systems and Human Rights” will review challenges for the judiciary in established and developing democracies in its protection of human rights. The OSCE participating States have stressed the importance of an independent judiciary as a key element of a democratic society in a number of OSCE documents, most notably in the 1990 CSCE Copenhagen and 1991 CSCE Moscow documents.

Recent years have seen dramatic changes in OSCE participating States in developing an accessible, reliable and independent judicial system ensuring respect for and protection of human rights. OSCE institutions and field missions have assisted participating States in this process for a number of years. However, ample challenges remain that the meeting will seek to address. The participants should take into consideration judicial reform efforts in order to identify best practices.

The seminar will provide a framework to discuss pertinent issues such as the independence of the judiciary, the question of access to justice as a fundamental principle in a democratic society and the inter-linkage with economic development. The judiciary will not be viewed in isolation but in the context of the administration of justice including the role of law enforcement and the prosecution. It will also place judicial development in the context of democratic processes. Moreover, the seminar will discuss further steps to improve the efficiency of human rights protection by the judiciary. In light of OSCE’s experience, it will also consider the role of the judiciary with regard to conflict prevention and post-conflict rehabilitation.

The seminar will also provide an opportunity to review OSCE’s experience in assisting the judicial systems of OSCE participating states and present lessons learned from the ODIHR and field missions.

III. Participation

Representatives of OSCE participating States, OSCE institutions and field missions, inter-governmental and non-governmental organizations will participate in the Seminar.

The participation of representatives of the judiciary and the legal community in OSCE participating States as well as specialized NGOs and associations in this field will be particularly encouraged. In this connection, participating States are requested to widely publicise the Seminar and to include wherever feasible legal experts and judges in their delegations.

The “partners for co-operation” and the “Mediterranean partners for co-operation” are invited to attend and to contribute with respect to their co-operation and links with the OSCE in the field of the seminar.

All participants are encouraged to submit in advance written interventions on their respective work and proposals regarding the subject of the Seminar, which will be distributed to delegates. Participants are also encouraged to make oral interventions during the Seminar.

While prepared interventions are welcomed during the plenary sessions, more free-flowing discussions are encouraged during the working group sessions.

IV. Organization

The venue for the Seminar is the Centrum Konferencyjne MON, ul. Zwirki I Wigury 9/13, 09909 Warsaw.

The Seminar will open on Tuesday 23 April 2002 at 10.00 hrs. It will close on Thursday 25 April 2002 at 18.00 hrs.

All plenary and working group sessions will be open. The plenary and working group sessions will take place according to the Work Program below.

Six working group sessions will focus on the following topics:

- 1) The role of the judiciary in the administration of justice
- 2) Safeguarding the independence of the judiciary
- 3) Access to justice
- 4) The role of the judiciary in pre-conflict and post-conflict situations
- 5) The judicial system and the economic dimension
- 6) Improving the enforcement of human rights by the judiciary

Some of the working group sessions will be held in single and some in parallel sessions.

The concluding plenary session, scheduled for the afternoon of April 25, will focus on practical recommendations emerging from the six working group sessions.

An OSCE/ODIHR representative will chair the plenary sessions.

Standard OSCE rules of procedure and working methods will be applied at the Seminar.

Discussions will be interpreted into all six working languages of the OSCE.

Registration will begin at the Seminar venue at 08.00 hrs. on Tuesday 23 April, and thereafter will be available daily from 09.00 to 18.00 hrs.

By prior arrangement with the OSCE/ODIHR, facilities may be available for participants to hold side events at the seminar venue. A table for display/distribution of publications by participating organizations/institutions will also be available.

WORK PROGRAMME

Working hours: 10 a.m.-1 p.m.
3 p.m.-6 p.m.

	Tuesday, 23 April 2002	Wednesday, 24 April 2002	Thursday, 25 April 2002
Morning	Opening plenary session	WGs 1 and 4 (parallel)	WGs 5 and 6 (parallel)
Afternoon	WG 2	WG 3	Concluding plenary session

Side events may be scheduled before 10.00, between 13.00 and 15.00, or after 18.00, in order not to compete with the plenary or working group sessions.

V. WORKPLAN

Tuesday 23 April 2002

10.00 – 13.00 **Opening Plenary Session**

Welcome and introduction from the *Seminar Chair*
Ambassador Gérard Stoudmann,
Director of the OSCE/ODIHR

Welcoming remarks

Mr. Slawomir Dabrowa,
Deputy Minister of Foreign Affairs, Poland

Mr. João Bernardo Weinstein,
Director of the OSCE Department, Ministry of Foreign Affairs,
Representative of the Chairman-in-Office

Keynote Speeches

Judge Marek Safjan,
President of the Constitutional Tribunal, Poland

Judge Boštjan M. Zupancic,
Judge at the European Court of Human Rights

Judge Andrew Grotrian,
Judge at the Human Rights Chamber of Bosnia & Herzegovina

Opening statement

Ms. Margeret Killerby,
Head of Department of Private Law, European Committee on
Legal Co-operation on behalf of the Secretary General of the
Council of Europe

Statements from delegations

13.15 – 14.45

Informal Discussion
Convenor: International League for Human Rights
Venue: Conference Centre, Meeting rooms 1 and 2

15.00 – 18.00

Single working group session

**Working Group II:
Safeguarding the independence of the judiciary**

Moderator: **Judge Miroslaw Wyrzykowski,**
Judge at the Constitutional Tribunal, Poland

Introducer: **Judge Radmila Dragicevic-Dicic,**
District Court Belgrade, President of the
Association of Judges, Federal Republic of
Yugoslavia

Rapporteur: **Mr. Ulf Lindell,**
Counsellor, Swedish Delegation to the OSCE

The working group will discuss the independence of the judiciary as the cornerstone of a democratic judicial system. It has been recognized in various international documents, including OSCE human dimension commitments, that also set out a number of standards to secure the independence and impartiality of judges. An independent and impartial judiciary provides the framework for ensuring that international fair trial principles are upheld.

However, in practice undue interference into the judicial system is a daily occurrence in the OSCE area. The working group session will take a closer look at the different kind of threats to the independence and integrity of judiciary. Challenges take many forms such as direct or indirect political pressure and executive interference. The appointment (including its duration) and dismissal of judges and the extent to which the executive power influences this process are of great relevance. The system of salaries and benefits can also make the system susceptible to indirect influence. The session should also discuss the roles of legislation and constitutional provisions in safeguarding the independence of the judiciary.

The session would seek to develop concrete recommendations on how better to protect the independence and integrity of the judiciary and how the OSCE Institutions and other international organizations can provide assistance in this field.

19.00

Reception hosted by the Polish Ministry of Foreign Affairs.

Venue: Ministry of Foreign Affairs Palace, Foksal Street 6,
Warsaw

Wednesday 24 April 2002

10.00 – 13.00

Two parallel working group sessions

Working Group I:

The role of the judiciary in the administration of justice

Moderator: **Professor Karoly Bard,**
Professor of Law, Head of Human Rights
Program, Central European University,
Budapest, Hungary

Introducer: **Dr. Elena Mizulina,**
Deputy of the State Duma of the Russian
Federation

Rapporteur: **Mr. Ulf Lindell,**
Counsellor, Swedish Delegation to the OSCE

The working group should take a comprehensive look at the judicial system. It should not be seen as a system operating in isolation, but in the broader context of the administration of justice. This includes the need for a legislative framework for protecting human rights. It also includes the relationship of the judiciary to law enforcement bodies and to the Prosecutor's office. Reforms of the judiciary can thus not be seen without looking at the balance of power and competencies among these different actors. This structural balance largely affects the ability of the judicial system to protect human rights. During the last decade, numerous OSCE participating States have substantially restructured their judicial system or are in the process of doing so. The working group will discuss recent judicial reforms in the OSCE area and consider lessons learned.

The session should cover in particular the role of the judiciary in exercising some control over the investigative period, where human rights are particularly at risk. In this respect, the discussion should focus on the needs for a viable system of checks and balances required to prevent and rectify abuses. Moreover, the session should consider the role of the judiciary in ensuring the principle of equality of arms during the trial period, i.e. the notion that prosecution and defence have equal means at their disposal in judicial proceedings.

**Working Group IV:
The role of the judicial system in conflict situations**

Moderator: **Mr. William O’Neill**,
Senior Visiting Research Fellow at the
International Peace Academy, USA

Introducer: **Ms. Donna Gomien**,
Deputy Ombudsperson in Kosovo

Rapporteur: **Mr. Gary Collins**
OSCE Mission to the Federal Republic of
Yugoslavia

The session will discuss the critical situation of the judiciary in conflict situations. It will draw in particular on the experience within OSCE field missions in crisis situations.

The judiciary can play a role in preventing conflict by providing an independent, reliable and neutral process for the settling of disputes. The question as to whether or not the deterioration of the judicial system should be perceived as an early warning indicator could be discussed.

The working group should in particular focus on the rich OSCE experience in assisting the rebuilding of an effective and credible judiciary following conflict. The immense difficulty in re-building a legal system and culture that the population takes ownership of should be considered in more detail.

The session should result in a reflection of lessons learned, in particular for OSCE field missions operating in a post-conflict situation, and identify good practises from nation building activities.

13.15 – 14.45

Informal Discussion

“Bringing courts to the courtyards of Roma and Sinti: Access to Justice – Gypsies included” –

Convenor: ODIHR Contact Point for Roma and Sinti

Venue: Conference Centre, Meeting rooms 1 and 2

15.00 – 18.00

Single working group session

**Working Group III:
Access to justice**

Moderator: **Dr. Arie Bloed**,
Executive Director of the Constitutional and
Legal Policy Institute (COLPI), Budapest,
Hungary

Introducer: **Mr. Ed Rekosh**,
Director, Public Interest Law Initiative (PILI),
New York/Budapest

Rapporteur: **Mr. Donald Bisson**
OSCE ODIHR Rule of Law Adviser

An effective democratic judicial system requires equal access to justice by all members of society. For this reason, access to justice is increasingly seen as a fundamental right in both developing and established democracies. It reinforces the principle of an inclusive society, where all disputes can be settled within procedures set by law.

The Working Group will provide an opportunity to discuss those factors that hamper the effective use by everybody of the judicial system and a discussion of best practices in the OSCE area. The challenges include access to competent and effective legal counsel. Issues to be looked at include high costs of legal help, often highly technical rules for filing court papers, and the question of free legal aid and its system of implementation. Another concern is the occurrence of long delays in proceedings that can amount to a de facto denial of justice both in established and developing democracies.

Increasingly the question of access to justice includes the possibility to challenge administrative decisions in front of a judicial authority.

Access to justice is also linked to the representation of groups in the judicial system, for example with regard to gender equality. Discrimination and perceptions can also affect the access of minorities, Roma and Sinti, migrants, internally displaced persons, foreigners and others, which may be raised in this session.

18.00 – 19.30

Informal Meeting/Reception –
“Judicial Reform Projects Implemented by ODIHR Rule of
Law Unit”
Venue: Conference Centre, Conference room

Thursday 25 April 2002

10.00 – 13.00

Two parallel working group sessions

**Working Group V:
The development of the judiciary and economic
development**

Moderator: **Mr. Scott Newton,**
Senior Lecturer in the Laws of Central Asia,
University of London, Centre for Contemporary
Central Asia and Caucasus

Introducer: **Judge Kairat Mami,**
Chairman of the Supreme Court of Kazakhstan
Dr. Maria Yordanova,
Centre for the Study of Democracy, Head of
Law Department, Bulgaria

Rapporteur: **Mr. Donald Bisson,**
OSCE ODIHR Rule of Law Adviser

The working group will address the role of the judiciary and its relationship to the economic development of OSCE participating States. An independent judicial system is of central importance for the protection of human rights, but equally a condition for the economic development of a country. The quality of the judiciary in the human dimension cannot be separated from its performance in the economic field and *vice versa*. The session should focus on the interrelationship between the two. It should discuss the impact of an independent judicial system in creating confidence in the stability of the system, thus strengthening the framework for long-term development.

Possible issues could include resolving economic disputes through an independent judicial system; the relationship between functioning courts and investment; and the judiciary, good governance and anti-corruption. The reliable execution of civil judgements and the speediness of dispute settlement are other pertinent factors in economic development.

Assistance to reform the judicial system is provided by a number of different actors. Some of them do so from an economic perspective, whereas others focus more on institution building and democratization. An additional benefit of the session would be to provide a better understanding of both approaches, leading to better co-ordination.

The involvement of the OSCE Co-ordinator of Economic and Environmental Activities will be particularly welcomed.

**Working Group VI:
Improving the enforcement of human rights by the
judiciary**

Moderator: **Mr. Ivan Bizjak,**
Minister of Justice, Slovenia

Introducer: **Mr. Gerald Staberock,**
OSCE ODIHR Rule of Law Officer

Rapporteur: **Mr. Gary Collins**
OSCE Mission to the Federal Republic of
Yugoslavia

An independent judiciary is an important democratic safeguard for the protection of human rights. However, that independence alone is not sufficient for guaranteeing the enforcement of human rights through the courts.

The session should thus lead to an identification of the problem areas and the ways to improve the performance of the judiciary in protecting human rights. The discussion should cover the need to increase awareness and knowledge of the concrete requirements of international human rights standards and, in particular of the concept of legitimate limitations to human rights in a democratic society. The role of domestic implementation of human rights treaties is another important concern. A number of OSCE participating States have passed implementing legislation on international human rights treaties, whereas others have accorded these treaties with direct applicability and even supremacy in their constitutions over domestic law. This has not always resulted in the application of those standards in practice however.

Human rights protection is linked to the human rights literacy of judges and to a legal culture and tradition. This raises the question of training and legal education. The possible contribution of constitutions and Constitutional and Supreme Courts to a legal culture respecting internationally agreed human rights standards should be considered.

The impact of civil society in monitoring the judicial system and ensuring transparency as a tool to improve the respect for human rights should also be raised. The role played by professional associations, domestic or international, could also be addressed.

The session could draw on the experience in the OSCE region in transforming legal systems to identify good practices. The session should also discuss the impact of the OSCE and other international organizations in improving the respect for human rights by domestic courts.

13.15 – 14.45

Informal Discussion

“Assessing Progress in Judicial Reform”

Convenor: American Bar Association Central and East European Law Initiative (ABA/CEELI)

Venue: Conference Centre, Meeting rooms 1 and 2

15.00 – 18.00

Closing Plenary Session

Introduction from the Chair

Ambassador Gérard Stoudmann,

Director of the OSCE/ODIHR

Closing keynote speech

Ambassador Jivan Tabibian,

Head of Armenian Delegation to the OSCE

Rapporteurs’ Summaries from Working Groups

Statements from delegations

Seminar Chair’s Conclusions

Ambassador Gérard Stoudmann,

Director of the OSCE/ODIHR

Closing of the Seminar

ANNEX II

ANNOTATED AGENDA: 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 at the Human Dimension Seminar on relevant issues of their choice.

The side meetings below have been exclusively organized and scheduled at the request of participants of the Human Dimension Seminar. The annotated agenda and content for each meeting was prepared by the organization convening the meeting and does not necessarily reflect the views of the OSCE, or the ODIHR.

TUESDAY, 23 APRIL

13.00-15.00: “Still No Justice? Azerbaijan and Belarus: Ten Years Later a Synopsis”

Convenor: International League for Human Rights

Location: Meeting Room 1

At the briefing of the International League for Human Rights, lawyers from Azerbaijan and Belarus will share their views about human rights and judicial systems in their countries.

During the ten years of independence, the situation with human rights and the judicial system in Azerbaijan and Belarus has declined.

The hoped-for improvements in democratic standards and human rights after Azerbaijan's entry into the Council of Europe have yet to materialize: there are still hundreds of political prisoners in the country, the mass media are harassed and election problems persist.

Since the last presidential election held on 9 September 2001, the difficulties faced by Belarusian civil society and mass media have intensified. Most recently, the editor of an independent newspaper "Pahonya" went on trial on what are perceived to be politically motivated charges.

Independent newspapers have been closed down in recent years in both Azerbaijan and Belarus for expressing views unfavorable to the authorities. Courts are under the control of the executive; judges are not perceived to be above corruption; lawyers often function as “go-betweens” to strike a deal between the judge and the defendant.

Censorship, while officially forbidden, continues through the practice of imposing heavy fines in libel suits.

WEDNESDAY, 24 APRIL

13.15-14.45: “Bringing courts to the courtyards of Roma and Sinti: Access to Justice - gypsies included”

Convenor: ODIHR Contact Point for Roma and Sinti

Location: Meeting Room 1

This meeting aims to assess the protection provided by national and international legislation as well as by legally non-binding commitments in connection with minorities, especially Roma and Sinti. The focus is on access to justice – what can be done so that the existing human rights tools, (laws, regulations, conventions, commitments) can be effectively used to protect the (human) rights of Roma and Sinti and to allow them to seek and receive legal help when needed.

Since 1990 the treatment of Roma and Sinti has become more and more a burning issue as many fundamental rights of Roma and Sinti have been violated in Europe. Access to justice is essential for them to be able to realize their human rights. However, access to justice is not self-evident for groups that face discrimination like Roma and Sinti. Some Roma and Sinti have filed complaints with the European Court of Human Rights or with United Nations Committees, others have successfully lodged complaints on a national level.

In United Nations and Council of Europe Committees that supervise the implementation of human rights treaties and advise states on how to improve the implementation of treaties, the treatment of Roma and Sinti is a recurring item, as is the improvement of access to justice on a national level.

The meeting will be in a form of a panel discussion, with three panelists and a moderator. Also, a recently published book on the topic will be introduced.

18.00-19.00: “Judicial Reform Projects Implemented by ODIHR Rule of Law Unit”

Convenor: Rule of Law Unit, Office for Democratic Institutions and Human Rights

Location: First Floor, Cafe

The Rule of Law Unit has been implementing judicial reform projects in the OSCE region for several years now. During the meeting the Unit will present a short overview of projects for 2002 followed by a more detailed presentation on judicial reform projects implemented in the past and projects that are foreseen for 2002. The discussion will focus on lessons learned and prospects for the future. A question and answer session will follow the presentation where people are encouraged to engage in an open discussion of ODIHR work in this field. There will also be an opportunity to meet the members of the Rule of Law Unit on an informal basis after the formal presentation.

THURSDAY, 25 APRIL

13.00-14.30: “Assessing Progress in Judicial Reform”

***Convenor:* American Bar Association Central and East European Law Initiative (ABA/CEELI)**

Location: Meeting Room 1

During 2001, ABA/CEELI finished development of its Judicial Reform Index (JRI), an assessment tool designed to examine a cross-section of factors important to judicial reform in emerging democracies. In an era when legal and judicial reform efforts are receiving more attention than in the past, ABA/CEELI believes that the JRI will prove to be a valuable tool for legal professionals working on judicial reform throughout the globe. Based on international and European judicial standards, the JRI is intended to assist legal reformers in the process of matching scarce resources with effective reform strategies. A general overview of the project will be provided along with sample applications of the JRI.

ANNEX III

INDEX OF DOCUMENTS

DISTRIBUTED DURING THE SEMINAR²

PARTICIPATING STATES

UNITED STATES OF AMERICA	1	1. Information on the US Criminal Justice System
KYRGYZSTAN	27	1. National Programme for "Human Rights" for the period 2002 - 2010
UZBEKISTAN	7	1. Extract from the Constitution of Republic of Uzbekistan
	15	2. Address by H.E. Mr. Islam Karimov, President of the Republic of Uzbekistan at VI session of second convocation of Oliy Majlis of the Republic of Uzbekistan
	16	3. Statement by the OSCE Delegation of Uzbekistan (Russian)
	17	4. Statement by the OSCE Delegation of Uzbekistan (Russian)
	30	5. Information on the Activities of the Ombudsman of the Republic of Uzbekistan for 2001
POLAND	4	1. Opening Address by Slawomir Dabrowa, Undersecretary of State, MFA Poland
	20	2. Intervention by the President of the Constitutional Court of Poland, Prof. Marek Safjan
PORTUGAL/ OSCE CHAIRMANSHIP	6	1. Opening Statement by Mr. J. Bernardo Weinstein, Director of the OSCE Department, MFA Portugal

² Please note that the first number appearing on the list refers to the registration number under which the documents were distributed during the Seminar.

HOLY SEE	3	1. Opening Statement by Msgr. Ettore Balestrero, Head of the Delegation of the Holy See
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RUSSIAN FEDERATION	29	1. Effectiveness of Judicial Defense in the Russian Federation (English and Russian version)
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SWITZERLAND	24	1. Speaking note for Working Group III "Access to Justice"
	28	2. Speaking note for Working Group VI "Improving the enforcement of human rights by the judiciary"
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UKRAINE	13	1. Statement on Elections in Ukraine (Russian)
	14	2. Statement on Development of judicial system in Ukraine and ways of its reforming, (English and Russian version)
	19	3. Statement on Fundamental principles of justice in Ukraine, (English and Russian version)

INTERNATIONAL ORGANIZATIONS

Council of Europe

8	1. Council of Europe, Committee of Ministers, Recommendation No. R (94) 12 on the Independence, Efficiency and Role of Judges (submitted for distribution by the ODIHR RoL Unit)
9	2. Council of Europe, European Charter on the statute for judges and Explanatory Memorandum (submitted for distribution by the ODIHR RoL Unit)
10	3. Opening Statement on Human Rights: Democracy and the Rule of Law by Mr. Bostjan M. Zupancic, Judge at the European Court of Human Rights

OSCE INSTITUTIONS

ODIHR

11	1. Appendix III to the Recommendation No. R (94) 12 on the Independence, Efficiency and Role of Judges (submitted for distribution by the ODIHR RoL Unit)
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- 18 2. Romany - specific Draft Recommendations (submitted for distribution by the ODIHR Contact Point for Roma and Sinti Issues), Working Group 3
- 23 3. Provisional List of Participants
- 32 4. Preliminary Report from Working Group I "The Role of the Judiciary in the Administration of Justice"
- 33 5. Preliminary Report from Working Group II "Safeguarding the Independence of the Judiciary"
- 34 6. Preliminary Report from Working Group III "Access to Justice"
- 35 7. Preliminary Report from Working Group IV "The Role of Judicial Systems in Conflict Situations"
- 36 8. Preliminary Report from Working Group V "The Judicial System and the Economic Dimension"
- 37 9. Preliminary Report from Working Group VI "Improving the Enforcement of Human Rights by the Judiciary"
- 38 10. Final List of Participants

NON-GOVERNMENTAL ORGANIZATIONS

- 21 1. Report by the Tashkent Bar Association (Russian)
- 25 2. Statistical Analysis Provides Key Links in Milosevic Trial, Article submitted by the American Bar Association

Belorussian Helsinki Committee

- 5 1. Report on Judiciary and Human (Russian)
- 22 2. Report on the Rule of Law situation in Belarus (Russian)

International Helsinki Federation for Human Rights

- 2 1. Report on Judicial Systems and Human Rights in the OSCE Region in 2001

International Society for Human Rights, Uzbekistan

- 12 1. Statement by Mr. Murat Zakhidov

Human Rights Education Association

- 26 1. Europe Draft NGO Resolution on Human Rights Education, submitted by the Human Rights Education Association

Romani CRISS - Roma Center for Social intervention and Studies

- 31 1. Report on Developments of Legal Protection of Roman in SEE by Romani CRISS - Roma Center for Social intervention and Studies, Romania