

Human Rights Defenders in the OSCE Region

Our Collective Conscience

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Table of Contents

Summary	v
List of Abbreviations	vi
Foreword: Our Collective Conscience	vii
Introduction	1
I. Threats to, and Attacks on, the Physical Integrity of Human Rights Defenders	7
II. Freedom of Association of Human Rights Defenders	15
III. Freedom of Assembly of Human Rights Defenders	21
IV. Right to Liberty and Freedom of Movement of Human Rights Defenders	25
Recommendations to Participating States	29
Annexes	
I. Compilation of Relevant OSCE Commitments	35
II. The OSCE/ODIHR Focal Point for Human Rights Defenders and National Human Rights Institutions	50
III. UN Declaration on Human Rights Defenders	53
IV. OSCE Parliamentary Assembly Resolution on Strengthening OSCE Engagement with Human Rights Defenders and National Human Rights Institutions	62
V. Summary of Written Responses by Participating States on the Draft Report	66
VI. Information Resources on Human Rights Defenders	68

Summary

In this report, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) identifies patterns of human rights violations affecting human rights defenders in the OSCE area in the period from April 2006 to April 2007. The first ODIHR report of this kind, it is a result of a number of OSCE human dimension meetings that highlighted the situation of human rights defenders and is part of the work of the ODIHR's Focal Point for Human Rights Defenders and National Human Rights Institutions. The Focal Point was created in response to these meetings in order to monitor the situation of human rights defenders, to identify issues of concern, and to promote their interests, together with strengthening co-operation with national human rights institutions.

On the basis of an overview of cases, the report identifies four areas of particular concern: continuing physical attacks on defenders, whether actual or threatened; the curtailment of the freedom of association of defenders; the failure to respect and protect defenders' freedom of assembly; and the often severe restrictions placed on the freedom of movement and right to liberty of defenders.

The report is intended to generate action in support of effective implementation of relevant international commitments by the OSCE participating States. It concludes by putting forth a number of recommendations on how OSCE participating States could strengthen their commitments and practical measures to protect human rights defenders and facilitate their work.

List of Abbreviations

AI	Amnesty International
CoE	Council of Europe
GA	General Assembly
HRW	Human Rights Watch
IHF	International Helsinki Federation for Human Rights
FIDH	Fédération Internationale des Ligues des Droits de l'Homme
LGBT	Lesbian Gay, Bisexual and Transgender
NGO	Non-governmental organization
OMCT	Organisation Mondiale Contre la Torture (World Organisation against Torture)
OHCHR	Office of the United Nations High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OSCE PA	OSCE Parliamentary Assembly
PACE	Parliamentary Assembly of the Council of Europe
SHDM	Supplementary Human Dimension Meeting
SRSG	Special Representative of the UN Secretary-General
UNSG	United Nations Secretary-General

Foreword:

Our Collective Conscience

Human rights defenders in any participating State are at the forefront of efforts to secure human rights and hold governments to account. They are the lifeblood of a vibrant civil society and are the essence of any democratic society. They serve as our collective conscience.

The March 2006 Supplementary Human Dimension Meeting entitled “Human Rights Defenders and National Human Rights Institutions: Legislative, State and Non-State Aspects” identified a number of issues affecting human rights defenders. These included physical attacks on human rights defenders, restrictive NGO laws and government interference in the functioning of NGOs, limitations of freedom of association and freedom of assembly, and restrictions on freedom of movement.

The meeting also saw a number of recommendations that reaffirmed the need for the OSCE to support human rights defenders. As a result, in October 2006 the ODIHR established a Focal Point for Human Rights Defenders and National Human Rights Institutions, while monitoring more closely the situation of human rights defenders across the entire OSCE region.

As part of this effort to enhance its support for human rights defenders and highlight issues affecting them, the ODIHR has produced this report. It reviews developments in four broad areas in the year following the March 2006 SHDM. Consistent with the ODIHR’s mandate to monitor the implementation of participating States’ human dimension commitments relating to human rights and fundamental freedoms and to assist them in implementing these commitments, the report includes recommendations to participating States relating to the situation of human rights defenders.

A draft of this report was sent on 12 September 2007 to all OSCE participating States, as well as to a number of ombudsmen and national human rights institutions, international organizations, and NGOs, including all those whose reports provided sources for this report. As a result, where provided, state responses to individual cases cited have been incorporated into the report. We are grateful to those who commented on the content and balance of the report. This will serve to guide us in our future work, and I am looking forward to continuing the exchange of information and of response strategies with all stakeholders concerned.

The importance of citizens, both individually and collectively, being aware of their human rights, to realize and defend them is reflected in numerous OSCE commitments, beginning with Helsinki 1975. This report indicates that much remains to be done before citizens of all participating States can fully enjoy their human rights and fundamental freedoms.



Ambassador Christian Strohal
ODIHR Director
Warsaw, December 2007

Introduction

International Context

From the beginnings of the so-called Helsinki Process in the 1970s, participating States committed themselves to protecting human rights and fundamental freedoms, and also highlighted the importance of making these rights known to everyone and to protecting those involved in such activities. The recognition of the role that civil society and NGOs play in promoting respect for human rights was first reflected in the 1975 Helsinki Final Act and has been reaffirmed since then in the 1990 Charter of Paris and in the commitments made in the 1993 Helsinki Document, the 1994 Budapest Document, and the 1999 Istanbul Charter for European Security.

The OSCE's activities in this field are embedded in a wider international context that emphasizes the need to protect human rights defenders. In 1998, the United Nations General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights.¹ Subsequently, in 2000, the UN Secretary-General appointed a special representative on the situation of human rights defenders, with whom the ODIHR closely co-operates.

In 2002, the Council of Europe (CoE) adopted Fundamental Principles on the Legal Status of Non-Governmental Organisations in Europe, which set out in detail the rights and duties of NGOs in the light of Article 11 of the European Convention on Human Rights (which guarantees the freedom of assembly and association).² The Action Plan of the Third Summit of CoE Heads of State and Government held on 16 and 17 May 2005 in Warsaw further recognized the essential role of NGOs in contributing to the transparency and accountability of democratic government.³ The CoE set up a group of specialists to draft a recommendation on the legal status of

1 UN General Assembly, Resolution A/RES/53/144, 18 March 2006, hereafter "the Declaration on Human Rights Defenders". See Annex III. This report follows the Declaration in its understanding of the term "human rights defender".

2 CoE, Fundamental Principles on the Status of Non-governmental Organisations in Europe, <<http://www.coe.int/t/e/ngo/public/PrincFondam%20en%20engl.pdf>>.

3 CoE Action Plan, CM(2005)80 final, Warsaw, 17 May 2005, <www.coe.int/t/dcr/summit/20050517_plan_action_en.asp>.

NGOs in Europe setting out minimum standards in this field, which was adopted on 10 October 2007 by the CoE Committee of Ministers.⁴

In November 2006, a Colloquy held by the Council of Europe on “Protecting and Supporting Human Rights Defenders in Europe” identified issues affecting human rights defenders. A number of conclusions were drawn by the CoE Commissioner for Human Rights.⁵ Following the Colloquy, the CoE Group of Specialists on Human Rights Defenders began its work on preparing a report and drafting a Committee of Ministers Declaration on the protection of human rights defenders and promotion of their activities.

In June 2004, the Council of the European Union adopted guidelines on human rights defenders that provide practical suggestions for enhancing EU action in support of human rights defenders. The guidelines promote the role of EU missions in supporting and protecting human rights defenders and provide for intervention for those at risk.

This report follows a number of OSCE meetings highlighting the situation of human rights defenders. It responds, in particular, to recommendations made at the March 2006 Supplementary Human Dimension Meeting on “Human Rights Defenders and National Human Rights Institutions: Legislative, State and Non-State Aspects”.⁶ In follow-up to this meeting, the ODIHR established a focal point to monitor and report on the situation of human rights defenders in the OSCE region and to strengthen systematic involvement with national human rights institutions in this regard (See Annex II”).

Most recently, the OSCE Parliamentary Assembly, at its annual meeting on 5-9 July 2007 in Kyiv, adopted a Resolution on Strengthening OSCE Engagement with Human Rights Defenders and National Human Rights Institutions (see Annex IV).

Recent Positive Developments and Responses in the OSCE Region

This report highlights key issues regarding the situation of human rights defenders

⁴ CoE Committee of Ministers, 10 October 2007, Recommendation, “Fundamental Principles on the Status of Non-governmental Organisations in Europe”, <[https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec\(2007\)14&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Rec(2007)14&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75)>.

⁵ CoE, Commissioner for Human Rights, Colloquy “Protecting and Supporting Human Rights Defenders in Europe”, Strasbourg, 13-14 November 2006, <http://www.coe.int/t/commissioner/Activities/event_files/061113HRdefenders_en.asp>.

⁶ OSCE SHDM, “Human Rights Defenders and National Human Rights Institutions: Legislative, State and Non-State Aspects”, Final Report, Vienna, 30-31 March 2006, <<http://www.osce.org/item/18830.html>>.

across all 56 OSCE participating States for the period April 2006 to April 2007. It is based on information published by international organizations and non-governmental organizations. Yet, in addition to challenges resulting from violations of the rights of human rights defenders, there have also been considerable positive developments in a number of OSCE participating States:

- Criminal-law reforms carried out in Turkey in recent years, for instance, amended articles of the Penal Code that were frequently used against human rights defenders;⁷
- Azerbaijan granted access to prisons to the ombudsperson and to local and international NGOs, as well as to human rights defenders;⁸
- Ukraine is currently modernizing its legislation on civil society organizations in compliance with the Council of Europe's Fundamental Principles on the Status of Non-governmental Organisations in Europe;⁹
- Kazakhstan reduced the state registration fees for all legal entities, including NGOs;¹⁰
- Kyrgyz lawmakers adopted a freedom-of-information bill that lays out broad access for citizens and residents to information that is not deemed to be a commercial or state secret;¹¹
- The Ombudsman for Human Rights of the Russian Federation prepared a report on freedom of assembly that covers a range of issues related to the enjoyment of this right.¹²

7 For example, Articles 159 (insulting the state and state institutions), 169 (aiding and abetting terrorist organizations), and 312, para. 2 (incitement to enmity and hatred) of the Turkish Penal Code; UN SRSG on Human Rights Defenders, Hina Jilani, Report on her Mission to Turkey, E/CN.4/2005/101/Add.3, 18 January 2005, <<http://www.ohchr.org/english/issues/defenders/visits.htm>>.

8 PACE, Resolution 1545 (2007), "Honouring of obligations and commitments by Azerbaijan", 16 April 2007, <<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta07/ERES1545.htm>>.

9 OSCE/ODIHR, "Opinion on the Draft Law of Ukraine on Civil Society Organizations", Warsaw, 22 June 2007, <<http://www.legislationline.org/upload/lawreviews/07/12/fb04348a596cbe89cb7196231b31.pdf>>.

10 The Government of the Republic of Kazakhstan, Decree No. 1324 "On Introducing Changes to the Decree of the Government of the Republic of Kazakhstan, December 19, 2001, No. 1660", 30 December 2005, <http://www.icnl.org/knowledge/news/2006/01-17_RegistrationRatesKazak06.doc>.

11 ODIHR's Legislationline website, <<http://www.legislationline.org/news.php?tid=1&jid=29>>.

12 Ombudsman for Human Rights of the Russian Federation, "O soblyudenii na territorii Rossiiskoi Federatsii konstitutsionnogo prava na mirnye sobrania" [Monitoring the Constitutional Right to Peaceful Assembly on the Territory of the Russian Federation], 26 June 2007, <<http://www.ombudsman.gov.ru/doc/spdoc/0107.shtml>>.

Areas of Particular Concern

As this report is intended to strengthen the implementation of commitments by OSCE participating States and generate further action, it focuses on patterns of violations affecting human rights defenders that were identified during the 2006 SHDM and in the course of the ODIHR's monitoring work. On this basis, four areas of particular concern have been identified:

- Continuing physical attacks on defenders, whether actual or threatened;
- The curtailment of the freedom of association of defenders;
- The failure to respect and protect human rights defenders' freedom of assembly; and
- The often severe restrictions placed on the freedom of movement and right to liberty of defenders.

The report further identifies specific challenges and obstacles faced by human rights defenders; it does not discuss or draw any conclusion as to the broader exercise of human rights in any state, although clearly there is a connection between the two. It should be noted that examples of specific threats faced by human rights defenders in hate-motivated incidents can also be found in the ODIHR's 2006 annual report on hate crimes in the OSCE region.¹³

This report is not intended to provide a complete picture of individual cases; rather, cases cited serve as illustrations for identifying trends and patterns. Therefore, the omission from this report of any particular incident should not be interpreted as meaning that the ODIHR does not consider the victims in question to be human rights defenders. Similarly, the inclusion of any incident should not be viewed as an endorsement by the ODIHR of any of the opinions expressed or actions taken by the human rights defenders in question. It is not for defenders to prove they are "right"; it is for the state to ensure that measures limiting the exercise of human rights are necessary and proportionate, and in line with OSCE commitments and international human rights law.

Follow-up

Human rights defenders play an important role in promoting and protecting human rights. It is states, however, that bear the primary duty of implementing their

13 *Hate Crimes in the OSCE Region: Incidents and Responses – Annual Report for 2006* (Warsaw: OSCE/ODIHR, 2007), Part II, <<http://www.osce.org/item/26296.html>>.

commitments relating to human rights and fundamental freedoms. A non-exhaustive list of key OSCE commitments related to the work of human rights defenders can be found in Annex I to this report.¹⁴

This report concludes with a number of recommendations on how these commitments can be implemented more comprehensively. Participating States are invited to continue to communicate to the ODIHR their work on ensuring the effective promotion and protection of human rights defenders, the challenges they face, and the responses they are developing in order to arrive at solutions that respect their international commitments. Intergovernmental and non-governmental organizations will continue to be contacted by the ODIHR as well in order to follow up on the trends identified in this report.

¹⁴ *OCSE Human Dimension Commitments* (Warsaw: OSCE/ODIHR, 2005), Vol. 1, Thematic Compilation, second edition, <http://www.osce.org/publications/odihr/2005/09/16237_440_en.pdf>.

I.

Threats to, and Attacks on, the Physical Integrity of Human Rights Defenders

Human rights defenders faced a number of serious violations of, and threats to, their physical integrity during the period under consideration. These included killings, torture, and ill-treatment by police and security forces; disappearances; physical attacks by unknown assailants; harassment and intimidation, including of lawyers; threats of prosecution; retaliation against family members; threats by unknown individuals; and the falsification of evidence. The following examples set out circumstances and challenges that have been affecting human rights defenders.

1. *Killings*. In two highly publicized attacks, two journalists were killed. An award-winning journalist who had written for many years about human rights issues and was at the time of her death preparing a report on torture was killed by unknown assailants in her apartment building.¹⁵ In January 2007, a well-known journalist, intellectual, and human rights activist was shot dead, eliciting public protest from a wide cross-section of society.¹⁶ Another journalist affiliated with a human rights NGO died under unexplained circumstances in prison after being held incommunicado throughout

15 Case of **Anna Politkovskaya** (Russian Federation), UN SRSG on Human Rights Defenders, Hina Jilani, "Report on the situation of the Human Rights Defenders. Summary of cases transmitted to Governments and replies received", A/HRC/4/37/Add.1, 27 March 2007, para. 571; UN Committee against Torture, "Conclusions and Recommendations of the Committee against Torture with respect to the Russian Federation", 6 February 2007, para. 22; Reporters without Borders, "Six months after 'Novaya Gazeta' reporter Anna Politkovskaya's murder, RSF awaits findings of investigation", press release, 9 April 2007.

16 Case of **Hrant Dink** (Turkey), Amnesty International, press release, AI index EUR 44/001/2007, 19 January 2007. The Government of Turkey points out that it swiftly condemned this act and that the alleged perpetrator and seven alleged accomplices were apprehended and charged shortly after the incident.

her detention.¹⁷ A human rights education campaigner was killed on his doorstep, and his daughter wounded in the attack, after having complained about threats for a year and a half. He had gone to the police that day to complain about them.¹⁸

2. *Torture and ill-treatment by police and security forces.* Human rights defenders were on a number of occasions tortured or ill-treated by the police, either during detention,¹⁹ in their own homes,²⁰ or in public places.²¹ Such attacks were not limited to human rights defenders themselves: one defender's son was handcuffed and then violently beaten by prison-camp guards after being sentenced to a prison term for "hooliganism" in an attack allegedly related to his father's human rights activities.²²
3. *Disappearances.* A woman who had been working for an NGO that helped those living with HIV/AIDS and had written a number of reports on human rights abuses was abducted by a group of armed men.²³
4. *Physical attacks by unknown assailants.* In a number of instances, human rights defenders faced physical attacks by unknown individuals. One human rights defender was wounded in the back of the head by an unknown individual several days after leading a demonstration against organized crime.²⁴ Human

17 Case of **Ogulsapar Muradova** (Turkmenistan), UN SRSG, *op. cit.*, note 15, para. 702; HRW, "Turkmenistan: Journalist dies in custody, Authorities Must Permit Independent Forensic Examination", press release, 15 September 2006. The Government of Turkmenistan responds by referring to its previous statement in the OSCE Permanent Council that Ms. Muradova was provided with legal representation at all times and had been advised of her right to appeal, that her relatives had been notified of her death, that it had been announced that an autopsy would be carried out, and that she had been in poor health. The Government maintains she was neither a journalist nor a human rights defender, and rejects any suggestion that her death was other than as a result of natural causes.

18 Case of **Duško Kondor** (Bosnia and Herzegovina), IHF, "Human Rights Activist Duško Kondor Murdered in Bosnia and Herzegovina", press release, 23 February 2007.

19 Case of **Azam Formonov** and **Alicher Karamatov** (Uzbekistan), FIDH/OMCT Observatory for the Protection of Human Rights Defenders, "Steadfast in Protest", Annual Report 2006, p. 552.

20 Case of **Elena Urbaeva** (Uzbekistan), *ibid.*, p. 560; UN SRSG, *op. cit.*, note 15, para. 713.

21 Coordinadora para la prevención de la tortura [Coordination for the prevention of torture], "Annual Report", Spain, 12 May 2007.

22 Case of **Ikhtior Khamraev** (Uzbekistan), UN SRSG, *op. cit.*, note 15, para. 721; FIDH/OMCT, *op. cit.*, note 19, p. 554.

23 Case of **Elina Ersenoyeva** (Russian Federation), UN SRSG, *op. cit.*, note 15, para. 569; for the Government's response, see para. 577.

24 Case of **Edil Baisalov** (Kyrgyzstan), HRW, "Kyrgyzstan: Assault on Organized Crime Critic", press release, 14 April 2006.

rights defenders were attacked with stones,²⁵ thrown down stairs,²⁶ and were the subject of other violent acts.²⁷ Female human rights defenders are particularly vulnerable to attack. One prominent female human rights activist was beaten by four unknown assailants on the street, suffering serious injuries.²⁸ In some cases, doctors were afraid to open a medical file, which hampered the ability of the human rights defenders in question to prove they had been attacked.²⁹ A leading trade unionist who had been involved in anti-racist activities was attacked and seriously injured at his home in front of his two daughters after receiving death threats from neo-Nazi groups for many years.³⁰ A youth centre involved in addressing racism, anti-Semitism, and right-wing extremism was also attacked by an extreme-right group, which demolished its entrance hall and left stickers of an extreme-right party.³¹

5. *Harassment and intimidation.* There were a number of cases of harassment, including announced and unannounced visits by government officials to the offices of human rights NGOs.³² In several cases, their materials were confiscated or stolen.³³

25 Case of **Ramazan Dyryldaev** (Kyrgyzstan), IHF, “Kyrgyzstan: Pressure on Journalists Intensifying While Political Unrest Grows - A Human Rights Defender Also Threatened”, press release, 11 April 2007.

26 Case of **Women in Black** (Serbia), Information received by the OSCE/ODIHR from the OSCE Mission to Serbia (incident of 22 January 2007).

27 Case of **Rakhmatullo Alibaev** (Uzbekistan), UN SRSG, *op. cit.*, note 15, para. 710; HRW, *op. cit.*, note 24; case of **Edil Baisalov**, IHF, “Kyrgyzstan: Attack on Civil Society Group Leader”, press release, 14 April 2006; FIDH/OMCT, *op. cit.*, note 19, p. 519. Case of **Youth Initiative for Human Rights** (Serbia), Information received by the OSCE/ODIHR from the OSCE Mission to Serbia, incident occurred on 24 January 2007.

28 Case of **Elena Urlaeva**, Front Line, “Prominent Uzbek human rights defender brutally attacked”, press release, 9 January 2007, <http://www.protectionline.org/Elena-Urlaeva-Agression.html?var_recherche=urlaeva>; also see the cases of **Shokhida Yuldashaeva**, **Lydia Volkobrun**, **Elena Urlaeva**, **Mashurov Mansur**, **Mukhtarova Dilzora**, **Gavkhar Yuldasheva**, **Imamova Munozhaat**, **Bolbekova Bukhvol**, **Kurbanova Saida**, **Togaeva Hurshida** and **Fazieva Gulnora** (Uzbekistan), UN SRSG, *op. cit.*, note 15, para. 713.

29 Case of **Bakhtier Khamraev** (Uzbekistan), UN SRSG, *op. cit.*, note 15, para. 715; FIDH/OMCT, *op. cit.*, note 19, pp. 555-556; cf. the case of **Ekaterina Sokerianskaya** (Russian Federation), UN SRSG, *op. cit.*, note 15, para. 573; FIDH/OMCT, *op. cit.*, note 19, p. 536.

30 Case of **Alan McFadden** (United Kingdom), *Hate Crimes in the OSCE Region*, *op. cit.*, note 13.

31 Case of the **Berlin Youth Centre JUP**, *ibid.*

32 Case of the **Human Rights Information and Documentation Center** (Georgia), HRW, “World Report 2007”, Georgia section, p. 392; case of **Ucha Nanuashvalli** (Georgia), UN SRSG, *op. cit.*, note 15, para. 276.

33 Case of **Multinational Georgia** (Georgia), UN SRSG, *op. cit.*, note 15, paras. 279, 282, 283; FIDH/OMCT, *op. cit.*, note 19, p. 513.

6. *Harassment of lawyers.* Lawyers in particular were threatened and intimidated on a number of occasions, simply for exercising their duty to defend their clients vigorously. For example, three lawyers were prosecuted for appealing the sentences of their clients.³⁴ Another lawyer was accused of violating her professional duties and threatened with disbarment.³⁵ A criminal case was filed alleging “misuse of official position” against two lawyers who had alleged that their clients had been tortured.³⁶ In another case, the defence minister called for the resignation of the president of a law association, accusing his NGO of being politicized and misusing foreign funding.³⁷ Just like other human rights defenders, lawyers engaged in human rights work were also the subject of threats from unidentified persons.³⁸
7. *Threats of prosecution.* Human rights defenders often face threats for simply doing their work. Sometimes, these threats are official, e.g., where a prosecutor threatens to open a case against them for the content of their work, such as by describing it as “slanderous”, “defamatory”,³⁹ “libellous”,⁴⁰ “insulting”,⁴¹ or as “incitement to hatred and hostility”⁴² towards the government and/or towards those whose alleged human rights violations are being addressed.

34 Case of **Zaruhi Postanjan, Ashot Atoyán, and Stepan Voskanian** (Armenia), FIDH, “Overview of Major Human Rights Issues in the Republic of Armenia”, 13 November 2006, <http://www.fidh.org/article.php?id_article=3803>. The Human Rights Defender of the Republic of Armenia reports that the case was concluded on 30 May 2007 on grounds of absence of *corpus delicti*, and that he had treated the case as a violation of the freedom of speech.

35 Case of **Karinna Moskalenko** (Russian Federation), IHF, “Human Rights Defenders at Risk”, contribution to OSCE SHDM on the “Promotion and Protection of Human Rights”, p. 3.

36 Case of **Ana Ursachi and Roman Zadoinov** (Moldova), UN SRSG, *op. cit.*, note 15, para. 453; for the government’s response, see para. 455.

37 Case of **Georgian Young Lawyers Association** (Georgia), HRW, “World Report 2007”, Georgia section, p. 392.

38 Case of **Lela Bekauri** (Georgia), UN SRSG, *op. cit.*, note 15, paras. 284, 286; FIDH/OMCT, *op. cit.*, note 19, p. 515. The Government of Georgia states that the only complaint received in this case was the letter of the UN Special Representative on Human Rights Defenders and the UN Special Rapporteur on the Independence of Judges and Lawyers. A subsequent criminal investigation failed to establish that any threat had taken place or the identity of the person responsible.

39 Case of **Maxim Kuleshov** (Kyrgyzstan), FIDH/OMCT, *op. cit.*, note 19, p. 479.

40 Case of the NGO **Spravedlivost**, HRW, “Kyrgyzstan: Human Rights Watch’s Open Letter on Libel Trial Against Spravedlivost”, press release, 13 June 2007.

41 Case of **Abdumalik Sharipov and Mahamatjan Abdujaparov** (Kyrgyzstan), FIDH/OMCT, *op. cit.*, note 19, p. 519.

42 Case of **Ibrahim Kaboglu and Baskin Oran** (Turkey), UN SRSG, *op. cit.*, note 15, para. 683; for the government’s response, see para. 690.

In one case, a female defender who had tried to address what she alleged were cases of sexual violence against women inmates by security forces was sentenced to 10 months in prison, later converted into a fine upon appeal.⁴³

8. *Retaliation against family members.* Human rights defenders and their families also face retaliation for their work. One defender's husband was beaten by unknown assailants, lost consciousness and had to be hospitalized with a broken nose. The defender herself was subsequently beaten by police officers who entered her home.⁴⁴ Another human rights defender's wife was hit by police officers during a search of his house, and their relatives were subsequently subjected to threats and harassment.⁴⁵
9. *Threats by unknown individuals.* Human rights defenders are often threatened by unknown individuals. After publishing a report criticizing the security services for persecuting the opposition, one defender received threatening phone calls for over a month.⁴⁶ In another participating State, human rights defenders' names were put on a website by members of an extremist political party, and listed as "traitors to the nation".⁴⁷ Other defenders were threatened by phone,⁴⁸ and there were also instances of them being listed on the websites of ultranationalist groups⁴⁹ or far-right groups.⁵⁰ Similar incidents have happened to other defenders as well.⁵¹

43 Case of **Eren Keskin** (Turkey), UN SRSG, *op. cit.*, note 15, para. 684; for the government's response, see para. 691.

44 Case of **Elena Urlaeva** and her husband (Uzbekistan), FIDH/OMCT, *op. cit.*, note 19, p. 560.

45 Case of **Azam Formonov** and his wife, **Ozoda Yakubova** (Uzbekistan), FIDH/OMCT, *op. cit.*, note 19, p. 552.

46 Case of **Ramazan Dyryldaev** (Kyrgyzstan), FIDH/OMCT, *op. cit.*, note 19, p. 520.

47 Case of **Svetlana Gannuchkina**, **Sergey Kovalov** and others (Russian Federation), UN SRSG, *op. cit.*, note 15, para. 572; FIDH/OMCT, *op. cit.*, note 19, p. 526.

48 See, for example, the case of human rights activist **Alexander Zeković** (Montenegro), who received threats from unknown individuals that they would release information that "would compromise him in the eyes of the population". Information was sent to the ODIHR from the OSCE Mission to Montenegro.

49 FIDH/OMCT, *op. cit.*, note 19, p. 526 (Russian Federation).

50 Case of **Katarzyna Hejna** (Poland), UN SRSG, *op. cit.*, note 15, para. 562.

51 See, for example, the case of **Lida Yusupova** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, p. 536.

10. *Falsification of evidence.* Another tactic sometimes used against human rights defenders is the falsification of evidence to incriminate them. One defender was arrested and charged with firearms offences after a grenade had allegedly been planted in his car by security services.⁵²

Freedom of the Media and Human Rights Defenders

The following contribution was received from the Office of the OSCE Representative on Freedom of the Media.

Freedom of expression and freedom of the media are fundamental human rights. By fulfilling their duty to report independently, media are instrumental in creating the public space needed for voicing the concerns of human rights defenders. In addition, media report on the human rights situation generally and often independently from government interpretations. As such, and whereas in their general role journalists are not human rights defenders, many do act as defenders, for example when they report on human rights abuses and bear witness to acts that they have seen.

There are a number of OSCE media-freedom commitments, starting with the 1975 Helsinki Final Act, that are binding for participating States irrespective of their culture or recent history.⁵³ The acknowledgement by OSCE participating States of the importance of freedom of the media as a cornerstone of democratic societies resulted in the establishment of the Office of the Representative on Freedom of the Media at the 1997 Ministerial Council. In the past 10 years, the Representative has observed relevant media developments in all participating States. He has intervened on a broad range of violations of OSCE media-freedom commitments and has regularly assisted participating States in furthering free, independent, and pluralistic media.

52 Case of **Osman Bolyev** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, p. 533.

53 For a list of media-related commitments, see *Freedom of Expression, Free Flow of Information, Freedom of Media* (Vienna: OSCE Representative on Freedom of the Media, 2001), <http://www.osce.org/fom/item_11_13578.html>.

Media and journalists, however, face impediments to their work in a number of OSCE participating States. In his March 2007 report to the Permanent Council,⁵⁴ the Representative identified several major emerging challenges that threaten freedom of the media in the OSCE area:

- The most intimidating for free speech is when states tolerate harassment, physical attacks, and even murders of media workers;
- In several participating States, pluralism is considerably restricted by undue governmental influence over broadcasting; by favouritism towards the state-owned press, and by administrative discrimination against the non-governmental media sector;
- Tightened security concerns – not only in the wake of the global terrorist threat – have prompted authorities to deny investigative rights for journalism regarding governmental data, or to force journalists to reveal their sources to law enforcement agencies;
- In a world of dissolving boundaries, the otherwise legitimate expectation that the media should be culturally sensitive has increased attempts to label offending or critical views as punishable “extremism” or “hate speech”.

The ongoing work of the Representative on Freedom of the Media to decriminalize libel and defamation, to foster access to information, to assist in the establishment of genuine public service broadcasters at arm’s length from governments, as well as supporting the privatization of former state-owned media in order to increase pluralism, enhances the media’s role in providing the public space for a thorough human rights debate. New challenges, such as preserving the freedom of the Internet, are equally suited to provide public platforms for human rights defenders. In this sense, free media is one of many prerequisites that human rights defenders depend on.

⁵⁴ OSCE Representative on the Freedom of the Media, Miklós Haraszti, “Regular report to the Permanent Council”, 29 March 2007, <<http://www.osce.org/fom/documents.html?lsi=true&limit=10&grp=296>>.

II.

Freedom of Association of Human Rights Defenders

A number of different challenges and obstacles have been hampering the freedom of association of human rights defenders. These include criminal sanctions for “unregistered activities”, deregistration, abuse of criminal charges, official warnings, excessively high fees and burdensome procedures for (and maintenance of) registration, visits, audits and investigations, harassment and visits by unknown individuals, misuse of fiscal provisions, and defamation campaigns.⁵⁵ The following examples set out key circumstances and challenges that have been affecting defenders.

1. *Criminal sanctions for “unregistered activities”*. In some participating States, legislation outlaws associating without registration. Criminal penalties are imposed on those who work in unregistered or deregistered organizations.⁵⁶ In some cases, human rights defenders were imprisoned for activities considered illegal merely due to lack of such registration. For example, one group was sentenced to prison terms of six months to two years for organizing independent election monitoring.⁵⁷
2. *Deregistration*. A number of NGOs were also deregistered during the course of the period under consideration for this report. In some cases, this followed amendments to legislation expanding the state’s discretion to interfere in and hamper the activities of NGOs. One NGO was deregistered, *inter alia*, for not denouncing a statement by one of its founders that had been considered “extremist” by the authorities, by making such a denouncement

⁵⁵ For an overview of difficulties and challenges related to the freedom of association facing human rights defenders worldwide, as well as an overview of recommendations and best practices, see the Report of the UN SRSG on Human Rights Defenders, Hina Jilani, *A/59/401*, 1 October 2004, pp. 12-23.

⁵⁶ For example, Article 193.1 of the Criminal Code of Belarus.

⁵⁷ Case of **Mikalay Astreyka, Tsimafey Dranchuk, Enira Branizkaya and Alyksandr Shalayka** (Belarus), UN SRSG, *op. cit.*, note 15, paras. 60, 64, 65, and 69.

a legal requirement under stricter NGO laws.⁵⁸ Deregistration proceedings were started against another NGO because it had supposedly not sent a proper change of address to the registration and tax authorities.⁵⁹ An LGBT-rights NGO was threatened with closure for acting “against the laws and morality rules”. The chief public prosecutor decided, however, to reject the application for the closure of this NGO.⁶⁰ Local and international NGOs were the target of deregistration proceedings.⁶¹

3. *The abuse of criminal charges.* NGOs involved in human rights activities were frequently charged with crimes for politically motivated reasons. One human rights NGO was charged with tax evasion for taxes for which it was exempted under an international agreement (and which, as a court had already decided, it was not obliged to pay), and subsequently had its equipment removed to start paying off its debt.⁶²
4. *Official warnings.* NGOs involved in human rights activities were stifled in their freedom of association and expression by official warnings from prosecutors. One NGO was officially warned by prosecutors to remove an analysis of the legality of banning certain publications by a banned Muslim organization from its website.⁶³ Another NGO was told it was under investigation because its press releases were of an “extremist” nature.⁶⁴ One defender was informed that his NGO’s work “incited social, racial or ethnic

58 Case of the **Russian-Chechen Friendship Society** (Russian Federation), FIDH/OMCT, “Russian Federation: Closure of the Russian-Chechen Friendship Society, a new step into the repression of civil society”, press release, 25 January 2007.

59 Case of the NGO **International Standard** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, p. 537.

60 Case of the **Rainbow Solidarity and Cultural Association for Transgenders, Gays and Lesbians (Gokkusagi Dernegi)** (Turkey), UN SRSG, *op. cit.*, note 15, para. 686; additional information provided by the Government of Turkey.

61 HRW, “World Report 2007”, p. 445 (Uzbekistan); UN SRSG, *op. cit.*, note 15, paras. 709, 714, 724 (Uzbekistan).

62 Case of the **Belarus Helsinki Committee** (Belarus), “Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2007 (Events of 2006)”, English version, IHF, p. 254; HRW, “Belarus: A Last Vestige of Civil Society Comes Under Attack”, press release, 14 December 2006.

63 Case of the NGO **Memorial** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, p. 529.

64 Case of the NGO **CCNS** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, pp. 534-535.

hatred” and that, in future, he would have to clear all his articles with the prosecutor’s office prior to publication.⁶⁵

5. *Excessively high fees and burdensome procedures for (and maintenance of) registration.* In some participating States, registering an NGO remains costly and requires complex bureaucratic procedures.⁶⁶ Maintaining registration as an international NGO in one participating State required quarterly financial reports to the registration services,⁶⁷ and certain international human rights NGOs had to temporarily suspend their activities due to burdensome registration requirements.⁶⁸ Another participating State had only four registrations of independent NGOs in nearly three years.⁶⁹
6. *Visits, audits, and investigations.* In some cases, NGOs faced investigations of their books, audits, and their premises were visited by state officials for reasons apparently unrelated to the needs of proper administration.⁷⁰ Such officials included police⁷¹ and security services.⁷² After the head of a human rights NGO appeared on television and challenged certain government policies, the organization’s premises were visited by security service personnel who asked an individual employed at a company also housed there about the financing of the NGO, the movements of its staff, and whether it had paid its rent on time. The head of the NGO was also questioned herself on related

65 Case of **Azimzhan Askarov** of the NGO **Vozdukh** (Kyrgyzstan), AI, *Central Asia Summary of Human Rights Concerns, January 2006 – March 2007*, 26 March 2007, AI Index EUR 04/001/2007.

66 See the example of Bosnia and Herzegovina, IHF statement, SHDM, 29-30 March 2007, p. 4, <http://www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4384>; also see the procedures in Serbia, which currently do not adequately regulate, in particular, the fiscal status of NGOs, which may be changed soon as a result of draft legislation (information sent to the ODIHR from the OSCE Mission to Serbia).

67 FIDH/OMCT, *op. cit.*, note 19, p. 523 (Russian Federation).

68 The cases of **Amnesty International**, **Human Rights Watch**, and **Penal Reform International** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, p. 475.

69 Turkmenistan; see M. Doucin, *Guide de la liberté associative dans le monde* (Paris: French Foreign Ministry, 2007), p. 781.

70 See, for example, the case of **Aziza Abdurasulova** of the NGO **Kylym Shamy** (Kyrgyzstan), FIDH/OMCT, *op. cit.*, note 19, p. 521; and of the NGO **Romachka** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, p. 534.

71 Case of **Aziza Abdurasulova** (Kyrgyzstan), FIDH/OMCT, *op. cit.*, note 19, p. 521; UN SRSG, *op. cit.*, note 15, para. 399, for the government’s response, see para. 400.

72 Case of **Yadgar Turlibekov** (Uzbekistan), FIDH/OMCT, *op. cit.*, note 19, p. 553; Case of **Aziza Abdurasulova** (Kyrgyzstan), FIDH/OMCT, *op. cit.*, note 19, p. 521.

matters.⁷³ Other human rights defenders were reportedly under surveillance by the security services.⁷⁴

7. *Harassment and visits by unknown individuals.* NGOs were visited and harassed by unknown individuals. One human rights NGO was visited by a group of three men dressed in camouflage uniforms who refused to disclose their identities or present documents attesting to their exact role, and who demanded to know details about the organization's activities.⁷⁵
8. *Misuse of fiscal provisions.* NGOs faced abuse of fiscal procedures and provisions by prosecutors, where it was claimed that they owed taxes on income that was not taxable or was exempt under national law.⁷⁶ They were also the subject of scrutiny by tax authorities without any clear legal basis.⁷⁷
9. *Defamation campaigns.* NGOs were often subjected to defamation campaigns. One high-level government representative described NGOs as a "fifth column"⁷⁸ and called for an investigation into all NGOs registered in the country that received foreign funding to determine whether they posed a threat to "national security".⁷⁹ This threat was never carried out. In another participating State, the prosecutor-general ordered prosecutors in several municipalities to monitor the links between LGBT-rights organizations and organized crime and to monitor their activities in schools.⁸⁰ A prosecutor in

73 Case of **Aziza Abdurasulova**, *op. cit.*, note 71.

74 Case of **Annakurban Amanklychev** (Turkmenistan), UN SRSG, *op. cit.*, note 15, para. 700; case of **Akifa Aliyeva** (Azerbaijan), IHF, "Human Rights Defenders at Risk", contribution to OSCE SHDM on the "Promotion and Protection of Human Rights", 12-13 July 2007, pp. 1-2. The Government of Turkmenistan questions the factual basis of the report of Mr. Amanklychev's case and disputes that he was a human rights defender. The Government of Azerbaijan states that an investigation has established that no such incident had ever occurred.

75 Case of the **Russian-Chechen Friendship Society-Grozny Section** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, p. 537.

76 Case of the **International Protection Centre** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, p. 529.

77 Case of the NGO **Eho** (Kazakhstan), Kazakhstan International Bureau for Human Rights and the Rule of Law, Monitoring Bulletin, February 2007.

78 FIDH, "Preliminary Conclusions of the Observatory International Fact-Finding Mission to Kyrgyzstan", 22-29 July 2006.

79 HRW, "World Report 2007", p. 401 (Kyrgyzstan).

80 FIDH/OMCT, *op. cit.*, note 19, p. 485 (Poland).

another participating State accused a number of well-respected human rights NGOs of being funded by Western intelligence agencies.⁸¹ Other human rights defenders were accused of collaboration with terrorists or equated with being terrorists.⁸² A Roma rights activist found himself accused of being an adviser to drug dealers in a national newspaper and in a local leafleting campaign.⁸³

81 *Ibid.*, pp. 524-525 (Russian Federation).

82 Case of **Timur Aliev** (Russian Federation), *ibid.*, p. 537.

83 Case of **Boris Maksovich Kreindel** (Russian Federation), UN SRSG, *op. cit.*, note 15, para. 567; for the government's response, see para. 576.

III.

Freedom of Assembly of Human Rights Defenders

Challenges and obstacles to the free exercise of the freedom of assembly included violent dispersal of assemblies, denial of permission to assemble, lack of sufficient police protection for demonstrators, dispersal despite official permission, and the dispersal of meetings in privately owned premises.⁸⁴ The following examples set out key circumstances and challenges that have been affecting human rights defenders.

1. *Violent dispersal of assemblies.* Assemblies organized by defenders are often violently dispersed. An assembly commemorating the death of a prominent human rights defender was violently broken up by police, resulting in several arrests and one defender being wounded.⁸⁵ During the trial of two journalists, five NGO activists were standing outside a courtroom peacefully making statements in support of the accused. They were detained by court guards, two of them being injured in the process, and charged with “disrupting court proceedings” and sentenced to 30 days’ administrative detention.⁸⁶ In another case, a defender of media freedom was brutally beaten by plain-clothes police during a rally in favour of an opposition newspaper.⁸⁷ During an assembly protesting the forcible removal of illegal immigrants, two demonstrators were hit by police and others were dragged along the ground.⁸⁸

84 A methodology on monitoring human rights defenders’ right to freedom of assembly was developed by Ms. Hina Jilani, UN SRSG on Human Rights Defenders. See Report of the UN SRSG on Human Rights Defenders, A/61/312, 5 September 2006, <http://ap.ohchr.org/documents/dpage_e.aspx?m=70>.

85 Case of the **memorial for Anna Politkovskaya**, FIDH/OMCT, *op. cit.*, note 19, p. 483.

86 Case of **Irakli Kakabadze, Zurab Rtveliashvili, Lasha Chkhartishvili, Jaba Jishkariani and Davit Dalakishvili** (Georgia), HRW, “World Report 2007”, p. 391. The Government of Georgia maintains that those concerned had disrupted court proceedings and had been disrespectful to the judges.

87 Case of **Emin Huseynov** (Azerbaijan), FIDH/OMCT, *op. cit.*, note 19, pp. 483, 504. The Government of Azerbaijan maintains that, in the course of the criminal investigation, Mr. Huseynov had denied being mistreated.

88 Case of the **Brussels demonstration of Coordination et initiatives pour et avec les réfugiés étrangers (CIRE)** (Belgium), FIDH/OMCT, *op. cit.*, note 19, p. 511.

2. *Denial of permission to assemble.* Defenders are often denied permission to assemble. Such denials are sometimes justified by claiming that another unrelated festival or assembly is taking place at the same time.⁸⁹ In one case, an NGO was denied permission to hold an assembly because it refused to omit an LGBT group from the list of participants.⁹⁰ The same LGBT organization was denied permission to stage an equality march, on the grounds that it would “propagandize for homosexuality and threaten public order and Christian values”.⁹¹ Similar demonstrations were banned for the risk they supposedly posed of creating public disorder.⁹²
3. *Lack of sufficient police protection for demonstrators.* The views of many human rights defenders are controversial in nature. Counter-protests are often organized that may be violent in nature. Though it is the duty of the state to protect demonstrators from such violence, police protection is often lacking. For example, a gay-pride parade was attacked, leaving 10 demonstrators injured and one also needing hospitalization.⁹³ Similar attacks occurred elsewhere.⁹⁴ In other cases, police intervention was reportedly slow in coming.⁹⁵
4. *Dispersal despite official permission.* In some cases, human rights defenders’ gatherings were also dispersed despite having received official permission. In one instance, an NGO that had initially been refused permission to

89 See, for example, the case of the **Ponomarev picket** (Russian Federation), FIDH/OMCT, *op. cit.*, note 19, pp. 527-528.

90 Case of **Information Centre Gender Doc-M** (Moldova), FIDH/OMCT, *op. cit.*, note 19, p. 485.

91 Case of **Information Centre Gender Doc-M** (Moldova), HRW, “Moldova: Reverse Ban on Gay Rights Demonstration, Respect Domestic and European Law”, press release, 8 May 2007; UN SRSG, *op. cit.*, note 15, para. 454.

92 Council of Europe Commissioner for Human Rights, Memorandum to the Latvian Government, Strasbourg, 16 May 2007, CommDH(2007)9, available at <<https://wcd.coe.int/ViewDoc.jsp?id=1134279&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FF6699>>.

93 Case of the **Tallinn Gay Pride March** (Estonia), AI, “Amnesty International Report 2007. The state of world’s human rights”, p. 114.

94 Case of the **Krakow March for Tolerance** (Poland), UN SRSG, *op. cit.*, note 15, para. 560; HRW, “Poland: Official Homophobia Threatens Basic Freedoms”, press release, 5 June 2006; FIDH/OMCT, *op. cit.*, note 19, p. 485.

95 **Riga Pride** case (Latvia), CoE Commissioner for Human Rights, *op. cit.*, note 92, para. 87; FIDH/OMCT, *op. cit.*, note 19, para. 402.

assemble in a park was granted permission to assemble on appeal, but all nine participants in the demonstration were nonetheless arrested and detained for 40 hours.⁹⁶

5. *Dispersal of meetings in privately owned premises.* Human rights defenders peacefully meeting in their own homes were also targeted. For example, seven LGBT-rights activists were arrested at a meeting in a private home. Though no one was charged, they subsequently abandoned plans to continue the organization of a conference they were planning.⁹⁷

96 Case of the NGO **Hyde Park** (Moldova), AI, *op. cit.*, note 93, p. 185.

97 Cases of **Vyacheslav Andreev, Sviatlana Siarheichyk, Svyatoslav Sementsov, Tanya Ivanova, Aleksei Filipenko, Natallia Kavalchuk, and Viachaslau Bortnik** (Belarus), UN SRSG, *op. cit.*, note 15, para. 61.

IV.

Right to Liberty and Freedom of Movement of Human Rights Defenders

The free exercise of the right to liberty and freedom of movement was compromised on a number of occasions. As regards human rights defenders, this included unjustified prison sentences, administrative detention, detention in psychiatric institutions, bans on travelling abroad, extradition, detention without access to a lawyer, and detention of journalists for publishing classified reports in the public interest. The following sets out key circumstances and challenges affecting defenders.

1. *Unjustified prison sentences.* On occasion, prison sentences were passed on human rights defenders following trials that gave rise to concerns as to whether international fair-trial standards had been met. In one case, a defender who was carrying books on human rights and books by members of the opposition was arrested at the border, convicted, and sentenced to six years in prison – later reduced to a three-year suspended sentence – for “attempting to overthrow the constitutional system”, “slander”, and “producing and spreading materials threatening public order”.⁹⁸ Another human rights defender was sentenced to two years in a prison colony for harming the dignity and honour of the president and insulting and threatening a judge on the basis of a letter she had written but that she never sent. The letter argued that the president should undergo a psychiatric examination and called for a boycott of the presidential elections.⁹⁹ Another human rights defender was sentenced to a two-year suspended sentence and four years’ probation for publishing calls for peace by

98 Case of **Gulbahor Turayeva** (Uzbekistan), FIDH/OMCT, contribution to the 2007 SHDM on the “Promotion and Protection of Human Rights”, Vienna, 12-13 July 2007, p. 4; IHE, “Human Rights Defenders at Risk”, contribution to the OSCE SHDM on the “Promotion and Protection of Human Rights”, p. 5; cf. the case of **Umida Niyazova** (Uzbekistan), *idem*.

99 Case of **Katsiaryna Sadouskaya** (Belarus), “Human Rights in the OSCE Region”, *op. cit.*, note 62, p. 255.

two rebel leaders.¹⁰⁰ One defender was sentenced to six years' imprisonment on charges of "extortion" for blackmailing a woman who had allegedly put money in his pocket right before police arrested him.¹⁰¹ Another defender was sentenced to two days in prison for "light hooliganism" after calling for a fair trial of police officers in a murder case.¹⁰² Another human rights defender was sentenced to 30 days in prison after questioning the fairness of a court decision sentencing a 14-year-old boy to a seven-year prison sentence for "attempted murder" and "hooliganism".¹⁰³

2. *Administrative detention.* Human rights defenders were also subjected to administrative detention. One was sentenced to six months' administrative detention and fines for destroying a database containing complaints about human rights abuses before it could fall into the hands of the police, who had entered his apartment to pursue what turned out to be false accusations against his son.¹⁰⁴ Yet another was jailed just prior to the arrival of a group of international parliamentarians, apparently in an attempt to silence dissent.¹⁰⁵
3. *Detention in psychiatric institutions.* Within the review period, at least one human rights defender was committed to forced hospitalization for nine months after sending a letter abroad complaining about human rights violations in his country.¹⁰⁶
4. *Bans on travelling abroad.* Defenders were sometimes banned from attending gatherings abroad. One defender wanted to visit a number of events –

100 Case of **Stanislav Dmitrievsky/RCFS** (Russian Federation), UN SRSG, *op. cit.*, note 15, para. 572; FIDH/OMCT, *op. cit.*, note 19, p. 532 (Russian Federation).

101 Case of **Ulugbek Khaidarov**, HRW, "Uzbekistan: Journalist Imprisoned in Widening Crackdown", press release, 6 October 2006. For more cases, see FIDH/OMCT, *op. cit.*, note 19, pp. 550-562 (Uzbekistan).

102 Case of **Lasha Chkhartishvili** (Georgia), FIDH/OMCT, *op. cit.*, note 19, pp. 513-514.

103 Case of **Jaba Jishkariani** (Georgia) FIDH/OMCT, press release, 23 March 2007, Ref. No. GEO 004 / 0606 / OBS 085.2.

104 Case of **Ivan Kruk** (Belarus), "Human Rights in the OSCE Region", *op. cit.*, note 62, p. 255.

105 Case of **Elena Ovezova, Sapardurdy Khajiev** and **Annakurban Amanklychev** (Turkmenistan), UN SRSG, *op. cit.*, note 16, para. 701; HRW, "Authorities Must Immediately Release Detained Human Rights Defenders", press release, 20 June 2006.

106 Case of **Kakabai Tejenov** (Turkmenistan), HRW, "World Report 2007", p. 431. Mr. Tejenov was released in October 2006 following international intervention. The Government of Turkmenistan denies that he has ever been detained or forcefully confined in any medical institution.

including OSCE events – to publicize what he believed were violations of religious freedoms in his country but was prevented from doing so by the authorities on at least five separate occasions in the period under review.¹⁰⁷

5. *Extradition.* Extradition procedures are sometimes used in a seemingly arbitrary manner to secure jurisdiction over defenders who reside abroad. A request for the extradition of one campaigner for the recognition of the right to freedom of conscience was requested on the basis of accusations from his home country of “participating in disorder” and “resistance to state representatives” during events that took place three years before the accusation.¹⁰⁸
6. *Detention without access to a lawyer.* Human rights defenders were held without access to a lawyer. In one case, three human rights defenders were held incommunicado for over a month, reportedly without access to counsel, amid allegations they were being forced to confess under duress.¹⁰⁹
7. *Detention of journalists for publishing classified reports in the public interest.* Reporters have also faced the threat of imprisonment for publishing classified material revealing alleged violations of human rights, even though this is often clearly in the public interest. In one case, two journalists faced a military court for revealing the existence of secret prisons and detainee transports run by the US Central Intelligence Agency because they had based this on information obtained from the security services.¹¹⁰

107 Case of **Ilgar Ibrahimoglu Allahverdiyev** (Azerbaijan), FIDH/OMCT, *op. cit.*, note 19, p. 503; HRW, “World Report 2007”, p. 444 (Uzbekistan). The Government of Azerbaijan responds that Mr. Ibrahimoglu Allahverdiyev was barred by the court from changing his place of permanent residence without permission due to his participation in what it describes as a violent 2003 post-election mass disturbance.

108 Case of **Azer Samedov** (Azerbaijan), FIDH/OMCT, *op. cit.*, note 19, p. 512; UN SRSG, *op. cit.*, note 15, paras. 277-278. The Government of Azerbaijan confirms the grounds of the application for extradition; however, it maintains that Mr. Samedov had absconded during the investigation and a warrant for his arrest had been issued.

109 Case of **Amankurban Amanklychev, Ogulsapar Muradova, and Sapardurdy Khajiev** (Turkmenistan), HRW, “Turkmenistan: Open Letter From a Coalition of Human Rights Organizations”, press release, 18 July 2006. The Government of Turkmenistan denies that access to counsel was refused.

110 Case of **Sandro Brotz, Beat Jost, and Cristoph Grenacher** (Switzerland), European Federation of Journalists, “European Journalists Condemn ‘Military Justice’ for Swiss Journalists”, press release, 12 April 2007.

Recommendations to Participating States

As the ODIHR noted in its mandated report on implementation of OSCE commitments to the 2006 OSCE Ministerial Council, recent years have seen a visible trend of alienation between human rights defenders and state authorities in a number of OSCE participating States.¹¹¹ Indeed, as the previous sections clearly illustrate, human rights defenders face serious and persistent threats to themselves and their work as they exercise their right to advocate the effective realization of human rights in accordance with international obligations. Participating States have an obligation by virtue of their OSCE commitments and under international law to address these threats and to ensure that all citizens can fully exercise their human rights and fundamental freedoms.

The ODIHR therefore proposes the following recommendations in order to assist participating States to meet these obligations and improve the situation of human rights defenders. These recommendations complement those made by other bodies, such as the OSCE Parliamentary Assembly,¹¹² the Council of Europe,¹¹³ the European Union,¹¹⁴ and the UNSG Special Representative on Human Rights Defenders.¹¹⁵ The recommendations draw, in particular, on discussions at OSCE human dimension meetings.

111 *Common Responsibility: Commitments and Implementation* (Warsaw: OSCE/ODIHR, 2006), report submitted to the OSCE Ministerial Council in response to MC Decision No. 17/05 on Strengthening the Effectiveness of the OSCE (2006), paras. 43-47, <<http://www.osce.org/item/22321.html>>.

112 OSCE PA, Resolution on Strengthening OSCE Engagement with Human Rights Defenders and National Human Rights Institutions, Kyiv Declaration of the OSCE Parliamentary Assembly, 5-9 July 2007, pp. 28-30, <<http://www.oscepa.org/admin/getbinary.asp?FileID=1733>>. See Annex IV.

113 CoE, “Fundamental Principles on the Status of Non-governmental Organisations in Europe”, May 2003, <http://www.coe.int/T/E/NGO/public/Fundamental_Principles>; CoE Commissioner for Human Rights, Colloquy, *op. cit.*, note 5.

114 EU, “Ensuring Protection - European Union Guidelines on Human Rights Defenders”, 2004, <<http://ue.eu.int/uedocs/cmsUpload/GuidelinesDefenders.pdf>>.

115 The UN SRSG on Human Rights Defenders makes specific recommendations on improving the implementation of the UN Declaration on Human Rights Defenders in her annual reports, <<http://www.ohchr.org/english/issues/defenders/annual.htm>>.

1. Allow human rights defenders to operate freely by respecting and protecting their rights to freedom of assembly, freedom of association, and freedom of expression.
2. Ensure that legislation affecting human rights defenders is in conformity with international human rights standards and in particular with the UN GA's Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and OSCE commitments.
3. Ensure security to human rights defenders by preventing and adequately responding to harassment and attacks on them and their families; effectively investigating cases of threats, violence, ill-treatment, and torture; and punishing those responsible.
4. Refrain from extraditing human rights defenders to countries where they face the risk of torture and ill-treatment.
5. Ensure that all human rights defenders are afforded the right to an effective remedy, including by properly establishing the facts of any complaint and, where the complaint is upheld, offering an appropriate form of redress.
6. Use diplomatic and other direct channels to follow up on incidents of violations of the human rights of defenders, and monitor investigations and trials against human rights defenders; allow such monitoring by civil society groups.
7. Co-operate with the ODIHR, the UN Special Representative of the Secretary General on Human Rights Defenders, and relevant Council of Europe bodies, and exchange information on cases of intimidation and harassment of defenders.
8. Encourage courts, prosecutor's offices, the police, and national human rights institutions to promptly review complaints concerning restrictions being imposed on association, assemblies, and expression, and ensure that such bodies have adequate powers and resources to do so.
9. Expedite visa requests for foreign defenders who urgently need to leave their country of origin as a result of threats to, or actual attacks on, their personal security.

10. Implement recommendations set out in the ODIHR's *Guidelines on Freedom of Peaceful Assembly*.¹¹⁶
11. Ensure that fiscal, administrative, and other laws are not abused to harass and/or intimidate human rights defenders.
12. Create a positive environment for the compilation of examples of good practice in the area of co-operation between governments and human rights defenders.
13. Report systematically on their efforts to implement these recommendations, including to the OSCE Human Dimension Implementation Meeting.

¹¹⁶ *Guidelines on Freedom of Peaceful Assembly* (Warsaw: OSCE/ODIHR, 2007), <http://www.osce.org/odihr/item_11_23835.html>.

Annexes

I.

Compilation of Relevant OSCE Commitments

Note: This compilation includes OSCE commitments of relevance to the work of human rights defenders. These include commitments on non-governmental organizations; freedom of expression, free media and information (including the right to act upon one's right); freedom of thought, conscience, religion or belief; workers' rights/conditions of work; national minorities; rule of law; independence of the judiciary; right to a fair trial; right to effective remedies and respect for private and family life. This list should not be considered exhaustive.

1975 Helsinki Final Act

The participating States will respect (...) the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

(...)

Within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

The participating States confirm that religious faiths, institutions and organisations, practising within the constitutional framework of the participating States, and their representatives can, in the field of their activities, have contacts and meetings among themselves and exchange information.

Helsinki 1975 (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States - Principle VII)

The participating States recognize the universal significance of human rights and fundamental freedoms (...) They confirm the right of the individual to know and act upon his rights and duties in this field.

(...)

They confirm that (...) organizations and persons have a relevant and positive role to play in contributing toward the achievement of these aims of their cooperation.

1983 Madrid Concluding Document

(12) The participating States reaffirm that they will recognize, respect and furthermore agree to take the action necessary to ensure the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

(...)

(14) They will favourably consider applications by religious communities of believers practicing or prepared to practice their faith within the constitutional framework of their States, to be granted the status provided for in their respective countries for religious faiths, institutions and organizations.

(...)

(17) The participating States will ensure the right of workers freely to establish and join trade unions, the right of trade unions freely to exercise their activities and other rights as laid down in relevant international instruments. They note that these rights will be exercised in compliance with the law of the State and in conformity with the State's obligations under international law. They will encourage, as appropriate, direct contacts and communication among such trade unions and their representatives.

1989 Vienna Concluding Document

[The participating States will]

(13.1) - develop their laws, regulations and policies in the field of civil, political, economic, social, cultural and other human rights and fundamental freedoms and put them into practice in order to guarantee the effective exercise of these rights and freedoms;

(...)

(13.4) - effectively ensure the right of the individual to know and act upon his rights and duties in this field, and to that end publish and make accessible all laws, regulations and procedures relating to human rights and fundamental freedoms;

(13.5) - 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;

(...)

(13.8) - ensure that no individual exercising, expressing the intention to exercise or seeking to exercise these rights and freedoms or any member of his family, will as a consequence be discriminated against in any manner;

(13.9) - ensure that effective remedies as well as full information about them are available to those who claim that their human rights and fundamental freedoms have been violated; they will, *inter alia*, effectively apply the following remedies:

(...)

- the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal, including the right to present legal arguments and to be represented by legal counsel of one's choice;

(...)

(16) In order to ensure the freedom of the individual to profess and practise religion or belief, the participating States will, *inter alia*,

(...)

(16.3) - grant upon their request to communities of believers, practising or prepared to practise their faith within the constitutional framework of their States, recognition of the status provided for them in their respective countries;

(16.4) - respect the right of these religious communities to

- establish and maintain freely accessible places of worship or assembly

(...)

(21) The participating States will ensure that the exercise of the above-mentioned rights will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with their international commitments, in particular the Universal Declaration of Human Rights. These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured.

(...)

(26) [The participating States] confirm that governments, institutions, organizations and persons have a relevant and positive role to play in contributing to the achievement of the aims of their co-operation and to the full realization of the Final Act. To that end they will respect the right of persons to observe and promote the implementation of CSCE provisions and to associate with others for this purpose.

They will facilitate direct contacts and communication among these persons, organizations and institutions within and between participating States and remove, where they exist, legal and administrative impediments inconsistent with the CSCE provisions.

They will also take effective measures to facilitate access to information on the implementation of CSCE provisions and to facilitate the free expression of views on these matters.

1990 Copenhagen Document

(2) [The participating States] are determined to support and advance those principles of justice which form the basis of the rule of law. They consider that the rule of law does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression.

(...)

(4) They confirm that they will respect each other's right freely to choose and develop, in accordance with international human rights standards, their political, social, economic and cultural systems. In exercising this right, they will ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration on Principles and other CSCE commitments.

(...)

(5.3) - the duty of the government and public authorities to comply with the constitution and to act in a manner consistent with law;

(...)

(5.5) - the activity of the government and the administration as well as that of the judiciary will be exercised in accordance with the system established by law. Respect for that system must be ensured;

(5.6) - military forces and the police will be under the control of, and accountable to, the civil authorities;

(5.7) - human rights and fundamental freedoms will be guaranteed by law and in accordance with their obligations under international law;

(5.8) - legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability. Those texts will be accessible to everyone;

(...)

(5.10) - everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity;

(5.11) - administrative decisions against a person must be fully justifiable and must as a rule indicate the usual remedies available;

(5.12) - the independence of judges and the impartial operation of the public judicial service will be ensured;

(...)

(5.16) - in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone will be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law;

(...)

(5.20) - considering the important contribution of international instruments in the field of human rights to the rule of law at a national level, the participating States reaffirm that they will consider acceding to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other relevant international instruments, if they have not yet done so. (...)

(5.21) - in order to supplement domestic remedies and better to ensure that the participating States respect the international obligations they have undertaken, the participating States will consider acceding to the international obligations they have undertaken, the participating States will consider acceding to a regional or global international convention concerning the protection of human rights, such as the European Convention on Human Rights or the Optional Protocol to the International Covenant on Civil and Political Rights, which provide for procedures of individual recourse to international bodies.

(...)

(7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will

(...)

(7.6) - respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities.

(...)

[The participating States reaffirm that]:

(9.1) - everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards. In particular, no limitation will be imposed on access to, and use of, means of reproducing documents of any kind, while respecting, however, rights relating to intellectual property, including copyright;

(9.2) - 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;

(9.3) - the right of association will be guaranteed. The right to form and - subject to the general right of a trade union to determine its own membership - freely to join a trade union will be guaranteed. These rights will exclude any prior control. Freedom of association for workers, including the freedom to strike, will be guaranteed, subject to limitations prescribed by law and consistent with international standards;

(...)

(10) In reaffirming their commitment to ensure effectively the rights of the individual to know and act upon human rights and fundamental freedoms, and to contribute actively, individually or in association with others, to their promotion and protection, the participating States express their commitment to

(10.1) - respect the right of everyone, individually or in association with others, to seek, receive and impart freely views and information on human rights and fundamental freedoms, including the rights to disseminate and publish such views and information;

(10.2) - respect the rights of everyone, individually or in association with others, to study and discuss the observance of human rights and fundamental freedoms and to

develop and discuss ideas for improved protection of human rights and better means for ensuring compliance with international human rights standards;

(10.3) - 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 trade unions and human rights monitoring groups;

(10.4) - allow members of such groups and organizations to have unhindered access to and communication with similar bodies within and outside their countries and with international organizations, to engage in exchanges, contacts and co-operation with such groups and organizations and to solicit, receive and utilize for the purpose of promoting and protecting human rights and fundamental freedoms voluntary financial contributions from national and international sources as provided for by law.

(11) The participating States further affirm that, where violations of human rights and fundamental freedoms are alleged to have occurred, the effective remedies available include (...)

(11.2) - the right of the individual to seek and receive assistance from others in defending human rights and fundamental freedoms, and to assist others in defending human rights and fundamental freedoms;

(11.3) - the right of individuals or groups acting on their behalf to communicate with international bodies with competence to receive and consider information concerning allegations of human rights abuses.

(12) The participating States, wishing to ensure greater transparency in the implementation of the commitments undertaken in the Vienna Concluding Document under the heading of the human dimension of the CSCE, decide to accept as a confidence building measure the presence of observers sent by participating States and representatives of non-governmental organizations and other interested persons at proceedings before courts as provided for in national legislation and international law; it is understood that proceedings may only be held in camera in the circumstances

prescribed by law and consistent with obligations under international law and international commitments.

(...)

(24) The participating States will ensure that the exercise of all the human rights and fundamental freedoms set out above will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with their international commitments, in particular the Universal Declaration of Human Rights. These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured. Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.

(...)

(26) The participating States recognize that vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions. They will therefore encourage, facilitate and, where appropriate, support practical co-operative endeavours and the sharing of information, ideas and expertise among themselves and by direct contacts and co-operation between individuals, groups and organizations in areas including the following:

- developing political parties and their role in pluralistic societies,
- free and independent trade unions,
- developing other forms of free associations and public interest groups

(...)

(30) The participating States recognize that the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary. This framework guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens, the free expression of all their legitimate interests and aspirations, political pluralism, social tolerance and the implementation of legal rules that place effective restraints on the abuse of governmental power.

They also recognize the important role of non-governmental organizations, including political parties, trade unions, human rights organizations and religious groups, in the

promotion of tolerance, cultural diversity and the resolution of questions relating to national minorities.

(...)

(32.2) – [Persons belonging to national minorities have the right] to establish and maintain their own educational, cultural and religious institutions, organizations or associations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation;

(...)

(32.6) - to establish and maintain organizations or associations within their country and to participate in international non-governmental organizations.

1990 Paris Charter

We recall the major role that non-governmental organizations, religious and other groups and individuals have played in the achievement of the objectives of the CSCE and will further facilitate their activities for the implementation of the CSCE commitments by the participating States. These organizations, groups and individuals must be involved in an appropriate way in the activities and new structures of the CSCE in order to fulfil their important tasks.

We affirm that, without discrimination, every individual has the right to (...) freedom of association and peaceful assembly (...)

1991 Moscow Document

(18.2) Everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.

(18.3) To the same end, there will be effective means of redress against administrative regulations for individuals affected thereby.

(18.4) The participating States will endeavour to provide for judicial review of such regulations and decisions.

(...)

(19.2) The participating States will, in implementing the relevant standards and commitments, ensure that the independence of the judiciary is guaranteed and enshrined in the constitution or the law of the country and is respected in practice,

paying particular attention to the Basic Principles on the Independence of the Judiciary, which, inter alia, provide for:

(...)

(iii) protecting the judiciary's freedom of expression and association, subject only to such restrictions as are consistent with its functions;

(...)

(21) The participating States will:

(21.1) - take all necessary measures to ensure that law enforcement personnel, when enforcing public order, will act in the public interest, respond to a specific need and pursue a legitimate aim, as well as use ways and means commensurate with the circumstances, which will not exceed the needs of enforcement;

(21.2) - ensure that law enforcement acts are subject to judicial control, that law enforcement personnel are held accountable for such acts, and that due compensation may be sought, according to domestic law, by the victims of acts found to be in violation of the above commitments.

(22) The participating States will take appropriate measures to ensure that education and information regarding the prohibition of excess force by law enforcement personnel as well as relevant international and domestic codes of conduct are included in the training of such personnel.

(...)

(24) The participating States reconfirm the right to the protection of private and family life, domicile, correspondence and electronic communications. In order to avoid any improper or arbitrary intrusion by the State in the realm of the individual, which would be harmful to any democratic society, the exercise of this right will be subject only to such restrictions as are prescribed by law and are consistent with internationally recognized human rights standards. In particular, the participating States will ensure that searches and seizures of persons and private premises and property will take place only in accordance with standards that are judicially enforceable.

(...)

(43) The participating States will recognize as NGOs those which declare themselves as such, according to existing national procedures, and will facilitate the ability of such organizations to conduct their national activities freely on their territories; to that effect they will

(43.1) - endeavour to seek ways of further strengthening modalities for contacts and exchanges of views between NGOs and relevant national authorities and governmental institutions;

(43.2) - endeavour to facilitate visits to their countries by NGOs from within any of the participating States in order to observe human dimension conditions;

(43.3) - welcome NGO activities, including, inter alia, observing compliance with CSCE commitments in the field of the human dimension;

(43.4) - allow NGOs, in view of their important function within the human dimension of the CSCE, to convey their views to their own governments and the governments of all the other participating States during the future work of the CSCE on the human dimension;

(43.5) - during the future work of the CSCE on the human dimension, NGOs will have the opportunity to distribute written contributions on specific issues of the human dimension of the CSCE to all delegations;

(43.6) - the CSCE Secretariat will, within the framework of the resources at its disposal, respond favourably to requests by NGOs for non-restricted documents of the CSCE;

(43.7) - guidelines for the participation of NGOs in the future work of the CSCE on the human dimension might, inter alia, include the following:

- (i) NGOs should be allotted common space at such meeting sites or in their immediate vicinity for their use as well as reasonable access, at their own expense, to technical facilities, including photocopying machines, telephones and fax machines;
- (ii) NGOs should be informed and briefed on openness and access procedures in a timely manner;
- (iii) delegations to CSCE meetings should be further encouraged to include or invite NGO members.

1993 Helsinki Document

IV. Relations with International Organizations, Relations with Non-Participating States, Role of Non-Governmental Organizations (NGOs)

14. The participating States will provide opportunities for the increased involvement of non-governmental organizations in CSCE activities.

15. They will, accordingly:

- apply to all CSCE meetings the guidelines previously agreed for NGO access to certain CSCE meetings;
- make open to NGOs all plenary meetings of review conferences, ODIHR seminars, workshops and meetings, the CSO when meeting as the Economic Forum, and human rights implementation meetings, as well as other expert meetings. In addition each meeting may decide to open some other sessions to attendance by NGOs;
- instruct Directors of CSCE institutions and Executive Secretaries of CSCE meetings to designate an “NGO liaison person” from among their staff;
- designate, as appropriate, one member of their Foreign Ministries and a member of their delegations to CSCE meetings to be responsible for NGO liaison;
- promote contacts and exchanges of views between NGOs and relevant national authorities and governmental institutions between CSCE meetings;
- facilitate during CSCE meetings informal discussion meetings between representatives of participating States and of NGOs;
- encourage written presentations by NGOs to CSCE institutions and meetings, titles of which may be kept and provided to the participating States upon request;
- provide encouragement to NGOs organizing seminars on CSCE-related issues;

- notify NGOs through the CSCE institutions of the dates of future CSCE meetings, together with an indication, when possible, of the subjects to be addressed, as well as, upon request, the activations of CSCE mechanisms which have been made known to all participating States.

16. The above provisions will not be applied to persons or organizations which resort to the use of violence or publicly condone terrorism or the use of violence.

(...)

CSCE Human Dimension seminars

18. These seminars will be organized in an open and flexible manner. Relevant international organizations and institutions may be invited to attend and to make contributions. So may NGOs with relevant experience. Independent experts attending the seminar as members of national delegations will also be free to speak in their own capacity.

1994 Budapest Document

14. We confirm the significance of the Human Dimension in all the activities of the CSCE. Respect for human rights and fundamental freedoms, democracy and the rule of law is an essential component of security and co-operation in the CSCE region. It must remain a primary goal of CSCE action. Periodic reviews of implementation of our commitments, fundamental throughout the CSCE, are critical in the Human Dimension. The enhanced capabilities of the Office for Democratic Institutions and Human Rights will continue to assist participating States, in particular those in transition. We underline the importance of human contacts in overcoming the legacy of old divisions.

Chapter VIII. The Human Dimension

2. Human rights and fundamental freedoms, the rule of law and democratic institutions are the foundations of peace and security, representing a crucial contribution to conflict prevention, within a comprehensive concept of security. The protection of human rights, including the rights of persons belonging to national minorities, is an essential foundation of democratic civil society. Neglect of these rights has, in severe cases, contributed to extremism, regional instability and conflict. The participating States

confirmed that issues of implementation of CSCE commitments are of legitimate and common concern to all participating States, and that the raising of these problems in the co-operative and result-oriented spirit of the CSCE was therefore a positive exercise. They undertook to encourage implementation of CSCE commitments through enhanced dialogue, implementation reviews and mechanisms. They will broaden the operational framework of the CSCE, in particular by enhancing the Office for Democratic Institutions and Human Rights (ODIHR), increasing its involvement in the work of the Permanent Council and mission activity, and furthering co-operation with international organizations and institutions active in human dimension areas.

3. The participation of non-governmental organizations (NGOs) was a welcome addition to the implementation review. In their statements, these organizations contributed ideas and raised issues of concern for participating States to take into consideration. They also informed the participating States of their activities, such as in the area of conflict prevention and resolution. The experience of the Budapest Review Conference invites further consideration with regard to promoting within the CSCE the dialogue between governments and NGOs of the participating States, in addition to State-to-State dialogue.

(...)

17. The participating States and CSCE institutions will provide opportunities for increased involvement of NGOs in CSCE activities as foreseen in Chapter IV of the Helsinki Document 1992. They will search for ways in which the CSCE can best make use of the work and information provided by NGOs. The Secretary General is requested to make a study on how participation of NGOs can be further enhanced.

18. The participating States emphasize (...) the need for protection of human rights defenders.

1999 Istanbul Charter for European Security

27. Non-governmental organizations (NGOs) can perform a vital role in the promotion of human rights, democracy and the rule of law. They are an integral component of a strong civil society. We pledge ourselves to enhance the ability of NGOs to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms.

2001 Bucharest Decision on Combating Terrorism

10. Institution building, strengthening the rule of law and state authorities:

ODIHR: Will continue and increase efforts to promote and assist in building democratic institutions at the request of States, *inter alia* by helping to strengthen administrative capacity, local and central government and parliamentary structures, the judiciary, ombudsman institutions and civil society. Will facilitate exchanges of best practices and experience between participating States in this regard. Will continue to develop projects to solidify democratic institutions, civil society and good governance.

2002 Porto OSCE Charter on Preventing and Combating Terrorism

7. All measures against terrorism and all counter-terrorism measures and cooperation should be conducted in accordance with the rule of law, the UN Charter and the relevant provisions of international law, international standards of human rights and international humanitarian law;

2004 Sofia OSCE Action Plan for the Promotion of Gender Equality

42. Participating States are therefore recommended to: (...)

Establish or strengthen existing mechanisms for ensuring gender equality, *inter alia* by making available the services of an impartial and independent person or body, such as an Ombudsman/Human Rights Commissioner, to address gender related discrimination against individual citizens;

(...)

44 (g) Building national mechanisms for the advancement of women: The ODIHR will continue to provide know-how and support for the building-up of democratic institutions for advancing gender equality, such as Ombudsman's offices at local and national levels, as appropriate.

II.

The OSCE/ODIHR Focal Point for Human Rights Defenders and National Human Rights Institutions

Systematic work with civil society is a key element of all programmes conducted by the ODIHR. One of the ODIHR's core activities involves monitoring the implementation of human dimension commitments, as well as lending assistance to participating States, where needed. This involves monitoring the capacity of human rights defenders and national human rights institutions to operate, especially in challenging circumstances. The ODIHR also helps build the capacity of human rights defenders through human rights education and training.

Independent national human rights institutions can play a crucial role in advancing and securing human rights. Working with human rights defenders, they foster a national culture of human rights and serve as a respected independent voice. There is a need to promote the establishment of independent national human rights institutions where they do not exist and to support them where they do.

In its 2006 report *Common Responsibility: Commitments and Implementation*, the ODIHR identified the situation of human rights defenders as an issue of major concern. In a number of OSCE states, human rights defenders work under constant pressure from authorities and face restrictions on the exercise of their freedoms of expression, association, and assembly. There are still too many cases where human rights defenders are subjected to unnecessary bureaucratic burdens, arbitrary detentions, assaults, ill-treatment, or defamation campaigns.

Building on ongoing work across all of its programmes, and following a recommendation from the 2006 Supplementary Human Dimension Implementation Meeting on Human Rights Defenders and National Human Rights Institutions, in 2007 the ODIHR established a Focal Point for Human Rights Defenders and National Human Rights Institutions and a related support programme. This followed consultations with other international organizations, in particular the Council of

Europe and the UN Office of the High Commissioner for Human Rights, as well as the UN Secretary-General's Special Representative on Human Rights Defenders.

The Focal Point monitors the situation of human rights defenders, identifies issues of concern to them, and promotes their interests by:

- Assessing the needs of national human rights institutions and human rights defenders and the prevailing circumstances as they affect civil society;
- Promoting interaction between national human rights institutions and human rights defenders;
- Supporting OSCE missions to strengthen their engagement with human rights defenders and national human rights institutions;
- Working closely with other relevant intergovernmental agencies and national and international NGOs involved in supporting the work of human rights defenders and national human rights institutions;
- Assisting in the development of independent national human rights institutions that are capable of upholding human rights standards, investigating individual complaints of breaches of human rights, and making recommendations for the resolution of the same;
- Giving support to, and strengthening the operational capacity of, human rights defenders;
- Fostering interaction and co-operation between national human rights institutions and human rights defenders; and
- Assisting participating States to create an environment in which civil society may flourish.

These efforts are inherent in the wider context of ODIHR's activities supporting authorities and civil society to ensure the effective implementation of human dimension commitments.

Specific activities include:

Training for personnel at national human rights institutions

Providing training aimed at establishing and strengthening the independence of national human rights institutions, consistent with the Paris Principles,¹¹⁷ and building their capacity to promote and protect human rights generally, including through partnerships with civil society and other national human rights institutions.

¹¹⁷ UN GA, Resolution 48/134, "Principles relating to the Status of National Institutions", A/RES/48/134, 20 December 1993.

Production of a guidebook on freedom of association

A guidebook aimed at legislators and policy makers dealing with practical issues concerning freedom of association is planned. The guidebook will draw on case studies from various participating States and give guidance on how to deal with issues such as the registration of NGOs, payment of registration fees, the taxation of NGOs, foreign funding of NGOs, and the status of domestic branches of international NGOs.

Capacity-building for NGOs

A series of country-based and regional training and capacity-building projects will be delivered to human rights defenders and other members of civil society in order to improve their knowledge of human rights standards and skills in advocacy, monitoring, and strategy formulation, and general capacity to protect and promote human rights. The first of these is designed to further the implementation of the ODIHR's *Guidelines on Freedom of Peaceful Assembly* by training NGOs to monitor and report on public assemblies.

Regional roundtables on freedom of association and assembly

Regional roundtables will be held on issues affecting freedom of association and assembly in the light of current regional developments, e.g., taxation of NGOs, registration of NGOs, prior notification of assemblies, and funding of NGOs.

The ODIHR aims to add value to the work being undertaken to support human rights defenders and national human rights institutions. Accordingly, the activities of the Focal Point will continue to be developed based on an ongoing assessment of the needs of human rights defenders and national human rights institutions and on consultations with governments, as well as with NGOs and international organizations to achieve a joint approach and effective impact.

III.

UN Declaration on Human Rights Defenders

**Declaration on the Right and Responsibility of Individuals,
Groups and Organs of Society to Promote and Protect Universally
Recognized Human Rights and Fundamental Freedoms**

General Assembly resolution 53/144

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Taking note of Commission on Human Rights resolution 1998/7 of 3 April 1998, See *Official Records of the Economic and Social Council, 1998, Supplement No. 3 (E/1998/23)*, chap. II, sect. A. in which the Commission approved the text of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,

Taking note also of Economic and Social Council resolution 1998/33 of 30 July 1998, in which the Council recommended the draft declaration to the General Assembly for adoption,

Conscious of the importance of the adoption of the draft declaration in the context of the fiftieth anniversary of the Universal Declaration of Human Rights, Resolution 217 A (III).

1. *Adopts* the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, annexed to the present resolution;

2. *Invites* Governments, agencies and organizations of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of *Human Rights: A Compilation of International Instruments*.

*85th plenary meeting
9 December 1998*

**Declaration on the Right and Responsibility of Individuals,
Groups and Organs of Society to Promote and Protect Universally
Recognized Human Rights and Fundamental Freedoms**

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1

Everyone has the right, 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.

Article 2

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.

Article 3

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.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has

the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

IV.

OSCE Parliamentary Assembly Resolution on Strengthening OSCE Engagement with Human Rights Defenders and National Human Rights Institutions

1. Recalling and reaffirming the important role of civil society and non governmental organizations in our societies as also recognized in the 1975 Helsinki Final Act and expressing genuine appreciation for the contribution of civil society to the promotion and implementation of OSCE principles, standards, commitments and values,
2. Recalling that the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating States and are not exclusively the internal affairs of the state concerned, as stipulated in the 1991 Moscow Document entered into by all participating States,
3. Reaffirming that the protection and promotion of human rights and fundamental freedoms is one of the basic responsibilities of states, and the recognition of and respect for these rights and freedoms constitutes the foundation of freedom, justice and peace,
4. Recalling that the OSCE participating States committed themselves to 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 and to take necessary action in their respective countries to effectively ensure this right,
5. Recalling and reaffirming the Resolution on Cooperation with Civil Society and Non-Governmental Organizations adopted by the Parliamentary Assembly at the Annual Session in 2006, calling upon the OSCE participating States to seek

and implement ways of further promoting exchange of views through an open and constructive dialogue with human rights defenders,

6. Recalling the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) and the responsibility it places on states to adopt and implement adequate legislation and administrative procedures that would provide for a conducive environment for human rights defenders to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels,

7. Recalling the Principles relating to the Status of National Institutions (The Paris Principles), adopted by the UN General Assembly resolution on 20 December 1993, identifying the crucial role of independent national human rights institutions (NHRIs) in promoting and protecting human rights in a pluralist manner by being co-operative with a range of groups and institutions, including governmental authorities, non-governmental organizations (NGOs), judicial institutions and professional bodies,

8. Recalling the OSCE Supplementary Human Dimension Meeting (SHDM) of 30 and 31 March 2006 entitled “Human Rights Defenders and National Human Rights Institutions: Legislative, State and Non-State Aspects” and the recommendations made thereat including the need for particular attention, support and protection for human rights defenders by the OSCE, its Institutions and field operations, as well as by participating States,

9. Deploring that in a number of OSCE participating States, human rights defenders continuously work under extreme pressure from state authorities and face restrictions, in particular on the exercise of freedom of expression, association and assembly,

10. Expressing concern and disappointment with regard to the introduction of new legislation in a number of participating States that places further restrictions and constraints on the activities of human rights defenders, in particular by making them subject to unnecessary bureaucratic burdens, arbitrary detentions, assaults, ill-treatment, or defamation campaigns,

The OSCE Parliamentary Assembly:

11. Recognizes that 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 legal framework within which human rights and fundamental freedoms should be implemented and enjoyed, and within which all activities for the promotion, protection and effective realization of those rights and freedoms should be conducted;

12. Recognizes that human rights and fundamental freedoms are most likely to be secured when citizens either individually or collectively are able to hold their government to account and notes the particular importance of respect for the freedoms of association and peaceful assembly, as they are intrinsic to the exercise by citizens of their right to express their opinions and to raise publicly issues of concern, and their ability to contribute to their resolution;

13. Recognizes that everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs;

14. Recognizes the crucial role independent national human rights institutions can play in advancing and securing human rights and the need to foster links between these institutions and other groups in civil society;

15. Urges OSCE participating States to establish national human rights institutions in accordance with the Paris Principles, to take the appropriate measures to ensure their independence and all steps necessary to promote their working in partnership with and as advocates for other representatives of civil society;

16. Urges OSCE participating States to reaffirm the important role of human rights defenders and national human rights institutions in protecting and promoting human rights and fundamental freedoms at the 2007 Ministerial Council in Madrid;

17. Urges OSCE participating States to address the remaining challenges, the lack of progress and even set-backs with respect to the implementation of the freedoms of expression, association and assembly, under threat from a range of excessively

restrictive laws and policies and that negatively affect the working environment of human right defenders;

18. Commends the OSCE/ODIHR for its continued assistance to participating States in this respect, particularly by reviewing legislation linked to human rights and fundamental freedoms, as they affect activities of human rights defenders, but also the development and recent publication of Guidelines on Freedom of Peaceful Assembly;

19. Recognizes the role that parliamentarians play in their respective States in this regard and reaffirms the commitment to honour and promote the implementation of existing commitments within their national assemblies;

20. Recommends that the Parliamentary Delegations to the OSCE enhance their engagement with human rights defenders and national human rights institutions in their respective States, thereby making use of the assistance and resources developed by the OSCE/ODIHR;

21. Welcomes the establishment of a Focal Point for Human Rights Defenders and National Human Rights Institutions within the OSCE/ODIHR and its enhanced focus on monitoring the situation of these important actors, following the recommendations made at the 2006 SHDM;

22. Emphasizes the importance of providing adequate funding to the OSCE/ODIHR, in particular its Focal Point for Human Rights Defenders and National Human Rights Institutions, as needed, to support their activities;

23. Underlines the crucial role of the OSCE field operations in assisting human rights defenders and national human rights institutions and encourages the field operations to further undertake projects aimed at capacity building and training for human rights defenders and promoting dialogue among and between human rights defenders, national human rights institutions and governments, in particular in the legislative process;

24. Urges the OSCE participating States to increase participation of human rights defenders and representatives of national human rights institutions in the Organization's institutional structures, including involvement in the activities of the Permanent Council and Ministerial Council.

V.

Summary of Written Responses by Participating States on the Draft Report

2 October 2007

The Government of Turkmenistan commented on a number of individual cases in the report (see footnotes 17, 74, 106, 109).

3 October 2007

The **Chancellor of Justice of Estonia** confirmed having reviewed the report and proposed no revisions.

4 October 2007

The **Holy See** commented that reporting cases of human rights defenders working in the field of discrimination on the basis of sexual orientation was outside the ODIHR's mandate and that there was an undue emphasis on cases of this nature. It was of the opinion that participating States should not be judged on instances where human rights and fundamental freedoms had been restricted on the grounds of public order or morality.

The Government of Belgium welcomed the report and made a submission in relation to the facts of a particular case (see footnote 88).

The Parliamentary Ombudsman of Sweden confirmed having reviewed the report and proposed no revisions.

5 October 2007

The Government of Georgia commented on a number of individual cases in the report (see footnotes 38, 86).

8 October 2007

The Government of Croatia proposed that there be a section devoted to defenders in the area of the freedom of the media and the inclusion of a recommendation for the

creation of a positive environment for the compilation of good practices in the area of co-operation between governments and defenders.

The **Human Rights Defender of the Republic of Armenia** provided further information in relation to the case cited in footnote 34. He drew attention to the difficulties faced by journalists in Armenia and condemned violence and harassment against them.

16 October 2007

The **Government of Canada** stated that the report fell within the mandate of the ODIHR, and commended it for being balanced and capable of assisting participating States in implementing their commitments. It also urged that the work of the OSCE focus more on the issue of human rights defenders.

17 October 2007

The **Government of Azerbaijan** commented on a number of individual cases mentioned in the report (see footnotes 74, 87, 107, 108).

26 October 2007

The **Government of Turkey** welcomed the opportunity given to participating States to respond to the report, provided factual information in relation to particular cases in the report (see footnotes 16, 60), and reported on positive developments in Turkey relating to the situation affecting human rights defenders, including the nationwide establishment of human rights complaints procedures.

30 October 2007

The **National Ombudsman of the Netherlands** commended the thoroughness of the report and proposed no revisions.

The **Parliamentary and Health Service Ombudsman of the United Kingdom** noted with concern the reported cases and proposed no revisions.

The **Ombudsman of Croatia** welcomed the report, noting that it outlined a number of disturbing trends, and pointed out that the situation of defenders in Croatia had improved greatly in recent years, although monitoring of the situation would continue.

VI.

Information Resources on Human Rights Defenders

United Nations

Special Representative of the Secretary-General on the situation of human rights defenders

<http://www.ohchr.org/english/issues/defenders/index.htm>

OSCE/ODIHR

Common Responsibility: Commitments and Implementation

<http://www.osce.org/item/22321.html>

Guidelines on Freedom of Peaceful Assembly

http://www.osce.org/documents/odihr/2007/03/23837_en.pdf

Council of Europe

Council of Europe Commissioner for Human Rights

<http://www.coe.int/t/commissioner>

Fundamental Principles on the Status of Non-governmental Organisations in Europe

<http://www.coe.int/t/e/ngo/public/PrincFondam%20en%20engl.pdf>

European Union

Ensuring Protection - European Union Guidelines on Human Rights Defenders

<http://ue.eu.int/uedocs/cmsUpload/GuidelinesDefenders.pdf>

Inter-American Commission on Human Rights

Report on the Situation of Human Rights Defenders in the Americas

<http://www.cidh.oas.org/countryrep/Defenders/defenderstoc.htm>

Human Rights Watch

<http://hrw.org/doc/?t=defenders>

Amnesty International

<http://web.amnesty.org/library/eng-346/index>

International Helsinki Federation (select Human Rights Defenders under topics and click “search”)

http://www.ihf-hr.org/documents/?sec_id=58

Front Line

<http://www.frontlinedefenders.org/news/783>

International Federation for Human Rights

http://www.fidh.org/rubrique.php3?id_rubrique=180

World Organisation against Torture

<http://www.omct.org/index.php?id=OBS&lang=eng&PHPSESSID=59169008d09756235b574f5cb24f72f6>

Protectionline

<http://www.protectionline.org/-Human-Rights-Defenders-.html>

Guide de la liberté associative dans le monde [Guide to the freedom of association in the world]

http://www.diplomatie.gouv.fr/fr/IMG/pdf/Guide_2007_doc_fcaise.pdf

About the OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today, it employs more than 120 staff.

The ODIHR is the leading agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of several observation missions with thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society and democratic governance, freedom of movement, gender equality, and legislative support. The ODIHR implements more than 100 targeted assistance programmes every year, seeking both to facilitate and enhance state compliance with OSCE commitments and to develop democratic structures.

The ODIHR promotes the protection of **human rights** through technical-assistance projects and training on human dimension issues. It conducts research and prepares reports on different human rights topics. In addition, the Office organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States. In its anti-terrorism activities, the ODIHR works to build awareness of human dimension issues and carries out projects that address factors engendering terrorism. The ODIHR is also at the forefront of international efforts to prevent trafficking in human beings and to ensure a co-ordinated response that puts the rights of victims first.

The ODIHR's **tolerance and non-discrimination** programme provides support to participating States in implementing their OSCE commitments and in strengthening their efforts to respond to, and combat, hate crimes and violent manifestations of intolerance. The programme also aims to strengthen civil society's capacity to respond to hate-motivated crimes and incidents.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihhr).