

United States Mission to the OSCE

Session 1: Rule of Law I

*Legislative transparency;
Independence of the judiciary;
Right to a fair trial;
Follow-up to the 2009 Human Dimension Seminar on
Strengthening the Rule of Law in the OSCE Area,
With a Specific Focus on the Effective Administration of Justice*

As prepared for delivery by U.S. Mission to the OSCE Chargé d'Affaires Carol Fuller
to the OSCE Human Dimension Implementation Meeting
September 28, 2009

Thank you, Mr./Madam Moderator.

Citizens cannot develop trust in their legal systems, a fundamental component of a democratic polity, unless they can assume that police and judicial officials will act in accordance with the law. They must also have faith in their right to a fair trial when charged with a crime, and not fear that their fate will be decided by a phone call from the executive branch or a bribe to the judge.

Unfortunately, in many OSCE participating States, this is not the case.

We are pleased that many of those arrested after Armenia's March 2008 presidential election were granted amnesty in June 2009, but regret that 16 individuals are still in jail apparently for political reasons in connection with the election. Their trials and the judicial procedures followed in these cases have been widely criticized. We are concerned about serious and continuing problems of administration of justice in Armenia, and note that the use of courts for political purposes only instills public distrust in the judiciary. We call on the government to extend the amnesty process and release all of those detained in connection with the disputed election and its aftermath.

In Azerbaijan, two bloggers and youth activists, Adnan Hajizade and Emin Milli, have been in prison since July 8 pending trial on charges of hooliganism and deliberate infliction of serious damage to health after being assaulted by two men in a restaurant, while their assailants were released. The beatings and arrests occurred shortly after one of them placed a politically satirical video on YouTube. We note with concern that the police initially denied Messrs. Milli and Hajizade access to their lawyers, failed to interview eyewitnesses, and that initial court proceedings were closed. We urge the Government of Azerbaijan to ensure that this case is resolved transparently and in accordance with Azerbaijani law and international standards of due process.

There have been disturbing reports from Georgia about the mistreatment of opposition supporters, related to protests involving violence on both sides. We welcome the August 12 meeting between the Ministry of Internal Affairs and opposition leaders and the subsequent

release of opposition activists. We urge Tbilisi to investigate such claims impartially, hold accountable those responsible for the violence, and to release those who have been imprisoned merely for peacefully expressing their opinion or exercising their right to freedom of assembly and expression.

Yevgeny Zhovtis, the director of Kazakhstan's International Bureau on Human Rights, who testified before the U.S. Congress earlier this year, was charged in connection with a July 26 automobile accident in which a pedestrian died. Mr. Zhovtis is one of the most prominent human rights activists in Kazakhstan, and the haste with which he was tried and convicted, as well as numerous alleged irregularities during the investigation and trial, raises many concerns about the fairness of his trial.

In Russia, the treatment of Mikhail Khodorkovsky, former CEO of YUKOS Oil, and his business partner, Platon Lebedev, continues to raise concerns about the lack of rule of law and an independent judiciary. We are particularly concerned by the latest round of charges brought against Mr. Khodorkovsky. In March of this year, a second trial of Mr. Khodorkovsky commenced. Mr. Khodorkovsky is accused of embezzlement and money laundering, charges that could carry up to a 22-year sentence, despite the fact Mr. Khodorkovsky was convicted in 2005 of similar offenses and sentenced to nine years imprisonment in what was considered a politically motivated trial by many international observers. There have been many troubling aspects of the case and the application of rule of law for Khodorkovsky and for several of his associates.

My delegation again urges the authorities of Turkmenistan to provide information about those individuals arrested after the events of November 2002. Their trials fell far short of OSCE norms and violated domestic law, according to which these individuals should have been able to see their family members after five years. No information about their fate or wellbeing has been released. We urge Ashgabat to act in accordance with Turkmen law, and to release all information about the individuals to the families of those arrested.

In Uzbekistan, poet Yusuf Juma remains in prison, despite having been tried and sentenced in proceedings that did not provide adequate safeguards and due process. We are also concerned about the arrest and sentencing of Dilmurod Sayid, an independent journalist and human rights activist whose articles exposed corruption by local agricultural officials. Sayid was sentenced to 12½ years for extortion and forgery after a closed trial replete with procedural and substantive irregularities. While we welcome the news that human rights activist Oyazimhon Hidirova was recently amnestied, we remain concerned about the numerous prisoners convicted on charges of participation in banned religious groups, particularly the previously legal Nur movement, in trials that did not provide adequate safeguards and due process.

In all participating States, ensuring rule of law and an independent judiciary is an ongoing process that entails dedication to the noble principles whose practice separates democracies from tyrannies. The United States would be pleased to cooperate with all OSCE participating States in that endeavor.

Thank you, Mr./Madam Moderator.