



**SUPPLEMENTARY HUMAN DIMENSION
MEETING**

**“FREEDOM OF ASSEMBLY, ASSOCIATION AND
EXPRESSION: FOSTERING FULL AND EQUAL
PARTICIPATION IN PLURALIST SOCIETIES”**

FINAL REPORT

Vienna, 29-30 March 2007

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I. EXECUTIVE SUMMARY

The first OSCE Supplementary Human Dimension Meeting (SHDM) in 2007 on *Freedom of Assembly, Association and Expression: Fostering full and equal participation in pluralist societies* took place on 29-30 March in Vienna.¹ This meeting brought together 285 participants, including 135 representatives of 46 governmental delegations as well as 106 representatives of 88 non-governmental organizations (NGOs).² Fifteen OSCE field missions were represented at the meeting. A distinguished keynote speaker and group of moderators and introducers participated.³

The implementation of the freedoms of peaceful assembly, association and expression has been expressly recognized in OSCE human dimension commitments. These freedoms have often been the subject of discussion in OSCE forums. For example, a Special Day on freedom of assembly and association was held at the 2004 Human Dimension Implementation Meeting. The 2006 Supplementary Human Dimension Meeting on *Human Rights Defenders and National Human Rights Institutions* discussed challenges and opportunities in the implementation of the OSCE commitments relating to freedom of peaceful assembly, association and expression.

This SHDM sought to address how the full implementation of the rights to freedom of association, peaceful assembly and expression could be advanced and secured in order to promote the development of an inclusive and diverse society as well as long-term security. It identified the challenges faced by governments throughout the OSCE region in ensuring that all citizens have an equal opportunity to express their opinions and interests, either collectively or individually. It also discussed the ways to overcome obstacles in the implementation of OSCE commitments relating to these freedoms in the OSCE region.

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

- Freedom of association in the OSCE region: challenges and opportunities;
- Freedom of peaceful assembly in the OSCE region: challenges and opportunities;
- Freedom of expression and the role of the media in a pluralist society.

A number of side events took place on the margins of the SHDM.⁴

Introductory remarks at the **Opening Session** were delivered by Ambassador Carlos Sánchez de Boado, Chairman of the Permanent Council, and Head of the Permanent Mission of Spain to the OSCE, as well as Ambassador Christian Strohal, Director of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

¹ Please see Annex I for the Agenda and Annex II for the Annotated Agenda of the Meeting.

² Please see Annex IX for Statistics on participation and Annex X for List of participants.

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

⁴ Please see Annex VIII for the list and description of the side events.

Representing the Spanish Chairmanship, Ambassador Carlos Sánchez de Boado underlined that the three freedoms – of association, assembly and expression - constituted an essential component of the comprehensive security of the OSCE.⁵ He informed that the main human dimension theme selected by the Spanish Chairmanship for this year was *Diversity and Participation in Pluralist Societies*. This formulation suggested that it was only through participation that diversity could be guaranteed in any self-respecting democratic society. He pointed out that in the OSCE context the essential role played by each individual in the process of taking decisions was recognized. Ambassador Sánchez de Boado stressed that it was at OSCE Human Dimension meetings that participating States could assess and take account of the progress achieved in the areas under discussion and at the same time envisage further actions to ensure the implementation of the three freedoms.

He welcomed the work done by the ODIHR in connection with the freedoms of assembly, association and expression. He also welcomed and expressed his support to the work undertaken by the OSCE Representative on Freedom of the Media in the area of freedom of expression. The valuable work done by national human rights institutions was also emphasized and their participation at the SHDM was appreciated. Ambassador Sánchez de Boado called upon the participants to bring forward both good practices as well as challenges. He encouraged the participants to come up with specific and realistic proposals as to how the enjoyment of freedom of assembly, association and expression could be improved in the OSCE region.

The Director of the ODIHR, Ambassador Christian Strohal, commended a number of positive measures taken in some OSCE participating States in favour of a more effective protection of the freedoms of peaceful assembly, association and expression⁶. He then noted with regret that numerous negative trends and violation patterns remained, including abusive administrative and even judicial measures, and, most commonly, threats and harassment of individuals and groups. Ambassador Strohal drew attention to the fact that the situation of NGOs in the OSCE region had deteriorated in recent years. Examples were changes to NGO legislation, increased state control of civil society institutions, and increased pressure on NGOs by state prosecutors, tax authorities and security agents.

Ambassador Strohal underlined the importance of the exercise of the three freedoms in a democratic society, which represented the collective heritage of the struggle for democracy, human rights and pluralism within the OSCE region. He reminded the participants that the ultimate value of the freedom of expression was not merely that individuals could hold opinions, but also that they could share them with others, and convince them of their worth through the force and value of their arguments. In order to do this effectively, individuals would often need to join together. Denial of the right to associate equated to denial of participation in a democratic society, which would ultimately endanger the security of not only the state in question, but also the collective security of the region.

⁵ Please see Annex VII for the Opening remarks by Ambassador Carlos Sanchez de Boado.

⁶ Please see Annex VI for the Opening and Closing remarks by Ambassador Strohal.

Ambassador Strohal noted that OSCE commitments foresaw the respect, protection and promotion to freedom of assembly, association and expression. He noted the role of the ODIHR in the provision of legislative and practical assistance to OSCE participating States and introduced the OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly. He further called upon the participants of the meeting to contribute to productive discussions and welcomed the participation of almost all OSCE field missions at the SHDM. He also noted with appreciation a great number of NGOs at the meeting as well as representatives of National Human Rights Institutions.

Keynote speech was delivered by Ambassador Jiří Gruša, President of International Pen and Director of the Diplomatic Academy of Vienna.⁷ Leaving aside his own work in the Charter 77 movement, Ambassador Gruša discussed the notion of free expression from a historical and philosophical angle. He pointed out that human rights were under threat from many sides, and that those in the human rights community had often applied reason where emotions reigned. Opponents of human rights, who used such emotional appeals, often pointed to the discrepancy between the vision of human rights and reality, which, the Ambassador pointed out, was unfortunately often all too real.

He noted that dictatorships which use emotional appeals were likely to be short-lived, whilst the human rights discourse created a common bond of humanity between all, and the universal ethics on which human rights are based had a longer lifespan than those who oppose it. He pointed out that the true expression of freedom could only be achieved by using the freedom of expression in a contextual way and bringing it from an abstract notion to reality. Only if it were based on notions of practical humanity could human rights succeed.

Several delegations of the OSCE participating States then took the floor, namely United States of America, France, Armenia and the Russian Federation. The Opening Plenary was followed by three Working Sessions. The first two Working Sessions were moderated by Professor David Goldberger, member of the OSCE/ODIHR Expert Panel on Freedom of Assembly. The third Working Session was co-moderated by Mr. Miklos Haraszti, the OSCE Representative on Freedom of the Media and by the Director of his Office, Mr. Roland Bless.

Session 1 was introduced by Mr. Edwin Rekosh, Executive Director of the Public Interest Law Institute (PILI) in Budapest. The ensuing discussion focused on the situation regarding freedom of association in a number of OSCE participating States. Representatives of governments as well as NGO participants shared their views on issues relating to the respect of freedom of association in their countries. Challenges and obstacles as well as examples of positive practices were raised. The importance of creating an environment conducive to the existence and operation of both formal and informal unregistered associations was stressed.

⁷ Please see Annex III for the text of key note speech.

The discussion in **Session 2** focused on challenges and opportunities with freedom of assembly in the OSCE region. The introductory speech was delivered by Mr. Vardan Poghosyan, founder of the Armenian NGO “Democracy” and the member of the OSCE/ODIHR Expert Panel of Freedom of Assembly. A number of issues pertaining to the exercise of peaceful assembly were touched upon, such as the duty of the state to protect peaceful assemblies, a notification as opposed to an authorization procedure, spontaneous assemblies, the responsibilities of organizers and participants of an assembly, outdoor and indoor assemblies, as well as simultaneous assemblies and counter-demonstrations. Participants from various OSCE States shared their views and experiences on how freedom of peaceful assembly was respected in their countries.

Session 3 was devoted to freedom of expression and the role of the media in a pluralist society. It discussed participating States’ obligations to ensure the right of freedom of expression, including the role and responsibilities of the media in a diverse and inclusive society. The introductory speech was delivered by Mr. Aidan White, General Secretary of the International Federation of Journalists (IFJ), Brussels. Participants spoke about the necessity to ensure that OSCE participating States comply with their international obligations and OSCE commitments with regard to freedom of expression. It was noted that challenges in this regard still persisted and that freedom of expression and media freedom were subjected to increasing restrictions in a number of OSCE participating States over the last years. The vital role of freedom of expression in a democratic society was pointed to as it was through the exercise of this freedom that public opinion was formed, political parties created and civil society developed.

Closing remarks at the **Closing Plenary** were delivered by Mr. Josep Borrell Fontelles, Special Envoy of the OSCE Chairman-in-Office⁸, and ODIHR Director Ambassador Christian Strohal. Mr. Borrell Fontelles said that the SHDM identified obstacles and challenges in the fulfillment of the three freedoms. The two days of the meeting demonstrated that implementation of those commitments was still problematic, and interferences, obstacles and restrictions ran counter to the commitments made. Mr. Borrell Fontelles stressed that the responsibility for their fulfillment lies with participating States, and in the way they work together with the civil society to see all three freedoms flourish. He referred to the worrisome situation of human rights defenders in some participating States, who face difficulties in exercising the freedoms of association, assembly and expression.

The establishment of the Focal Point for Human Rights Defenders and National Human Rights Institutions within ODIHR was mentioned as a positive development. The OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly were also referred to as well as legislative support provided by the ODIHR to the participating States. Presence of the OSCE field missions at this SHDM was noted and further encouraged.

Mr. Borrell Fontelles referred to the upcoming Summer Session of the OSCE Parliamentary Assembly in Kyiv, which would focus on the *Implementation of Commitments*. He stressed that it would be of the utmost importance that the

⁸ Please see Annex VII for Closing remarks by the Special Envoy.

shortcomings, challenges and difficulties raised during the SHDM be known by the OSCE parliamentarians, so that they pay attention to those issues when legislating in their own national Parliaments and when they act as representatives of the people they serve, thus defending the three fundamental freedoms. In conclusion, Mr. Borrell Fontelles expressed expectations that the SHDMs of 2007 would bring concrete results in the developments in the Human Dimension throughout the entire OSCE region.

In concluding the meeting, Ambassador Strohal focused in more detail on some issues raised during the two days of the SHDM. He acknowledged that participants identified a number of obstacles and challenges to the realization of the three freedoms under discussion. He noted with concern that limitations in the exercise of the three freedoms often lacked considerations of proportionality and necessity in a democratic society.

On freedom of association, Ambassador Strohal stressed that laws and regulations should be interpreted in the light of the principles of democracy, tolerance and pluralism rather than in a formalistic and technical sense. Ambassador Strohal underlined the common responsibility to ensure that no participant of the SHDM faced any repercussions upon returning home after the meeting. National Human Rights Institutions could play a crucial role in this regard. He reiterated that the responsibility for ensuring the necessary environment for a vibrant and independent civil society lies with the participating States themselves.

On the freedom of peaceful assembly, Ambassador Strohal indicated that much work still needed to be done, both in the formulation of proper laws and in the practical implementation of this freedom. On the freedom of expression, Ambassador Strohal noted with concern that media professionals often faced harassment, torture or inhuman treatment and even death for doing their jobs, which constituted a grave threat to free expression in the OSCE region, and needed to be addressed. In this context Ambassador Strohal commended the important work done by the OSCE Representative on Freedom of the Media.

Ambassador Strohal also acknowledged a number of positive examples that were provided during the meeting, e.g. on how well-trained police could regulate assemblies in a professional manner and how participating States engaged in a constructive dialogue with groups which oppose the strongly held views of the majority of their citizens. Ambassador Strohal expressed his conviction that the OSCE community could meet the identified challenges. He expressed hope that the OSCE/ODIHR Guidelines on the Freedom of Assembly would be translated into practice on the ground. He reiterated the ODIHR willingness to continue offering its assistance to OSCE participating States.

Ambassador Strohal thanked the participants of the meeting for their contributions and assured that their input would be taken seriously. He encouraged participating States to implement the recommendations stemming from the SHDM and welcomed continued discussion of the issues raised at the SHDM, in future discussions in the OSCE forums, including the OSCE Human Dimension Implementation Meeting to be held in autumn 2007.

II. RECOMMENDATIONS

This part of the report enumerates the wide-ranging recommendations arising from the three sessions, made by delegations of OSCE participating States, international organizations, and NGOs. They aim at various actors, such as OSCE participating States, OSCE institutions and its field operations, as well as other international organizations and NGOs. These recommendations have no official status, are not based on consensus, and the inclusion of a recommendation in this report does not suggest that it reflects the views or policy of the OSCE. Nevertheless, they are a useful indicator for the OSCE to reflect upon how participating States are meeting their commitments on freedom of association, assembly and expression, determining future priorities and considering possible new initiatives in the three areas.

Recommendations to the OSCE participating States:

- The freedoms of peaceful assembly, association and expression are recognized in OSCE human dimension commitments as well as in all major human rights instruments. OSCE participating States should promote conditions throughout its region in which all can fully enjoy these three freedoms under the protection of effective democratic institutions, due judicial process, and the rule of law.

On Freedom of association:

- OSCE participating States should create an environment, including a legal framework, in which individuals can exercise their right to association, including the right to form, join and participate effectively in associations and non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms;
- OSCE participating States should ensure their legislation regulating the activities of NGOs is in conformity with OSCE and other international commitments. Financial and administrative obstacles, likely to hinder the free operation of human rights defenders, should be removed;
- OSCE participating States should exercise caution when drafting new legislation that affects civil society groups. It particularly concerns counter-terrorism regulations;
- OSCE participating States should make sure that legal regulations governing NGO activities are non-discriminatory and do not allow for government interference in NGO activities. The principle of non-discrimination should also mean that no additional restrictions are imposed on the operation of international non-governmental organizations in their countries, or on co-operation of domestic NGOs with such organizations;

- OSCE participating States should not restrictively interpret freedom of association as a freedom to found and join registered civic organizations. Unregistered NGOs and informal associations should have equal protection to formally established ones and should be allowed to operate freely;
- Registration procedures should be transparent, prompt, non-bureaucratic, inexpensive and egalitarian;
- OSCE participating States should ensure that if an NGO violates national legislation, as established by courts, graduated sanctions are available in the law, rather than merely dissolution of the NGO in question;
- OSCE participating States should ensure that NGO status is not withdrawn or suspended on the basis of administrative decisions and that the closure of an NGO is possible only on the basis of a ruling by an independent court following a fair trial;
- OSCE participating States should presume that the activities of NGOs are lawful, and not allow for unimpeded access of state officials to NGO events and/or records (in the absence of evidence of unlawful activity by the NGO in question); this is all the more so where a certain level of confidentiality is required as a prerequisite of effective operation (e.g. shelters and counseling centers for crime victims);
- OSCE participating States should pay close attention to acceptable methods of government resource allocation to NGOs (including direct financing and social contracting) and to the accountability of their use in the light of the independence of the organizations in question;
- OSCE participating States should encourage dialogue with independent civil society groups, including with those from minority groups;
- OSCE participating States should guarantee physical and psychological integrity of human rights defenders. They should support and implement recommendations stemming from the 30-31 March 2006 Supplementary Human Dimension Meeting on *Human Rights Defenders and National Human Rights Institutions*;
- OSCE participating States should allow individuals and groups to practise their religion without registration if they so desire, and not to criminalize activities of non-registered groups. States should also facilitate registration of religious groups if they wish to be registered;

On freedom of peaceful assembly:

- OSCE participating States should ensure that national legislation regulating the organization of assemblies is in compliance with international human rights

standards and OSCE commitments. The OSCE /ODIHR expertise and assistance should be solicited by the OSCE participating States. The newly launched Guidelines on Freedom of Assembly should be widely used by OSCE participating States;

- OSCE participating States should not impose blanket restrictions and not impose unnecessary and/or disproportionate restrictions on locations or on simultaneous assemblies without properly examining the situation in question and giving reasons for any refusal of permission to assembly organizers;
- OSCE participating States should put in place adequate mechanisms and procedures that are not unduly bureaucratic to ensure that freedom of peaceful assembly is enjoyed in practice. The relevant authorities should assist individuals and groups who wish to assemble peacefully;
- OSCE participating States should ensure that legislative provisions that confer discretionary powers on the regulatory authorities are narrowly framed;
- OSCE participating States should introduce, where they have not already done so, a system of notification, instead of authorization of assemblies; it is equally recommended that participating States shall not treat assemblies that do not comply with the prior notification requirement as illegal and subject to dispersal;
- OSCE participating States should allow spontaneous demonstrations to be organized whenever they are peaceful in nature;
- OSCE participating States should adopt appropriate policing practices conducive to creating and maintaining a peaceful climate during assemblies;
- OSCE participating States should promote constructive dialogue, including the issue of negotiation and/or mediation of disputed issues, to create a co-operative environment for the event;
- OSCE participating States should address the specific concerns of particular groups, including by providing adequate security against violent counter-demonstrations;

On freedom of expression:

- Freedom of expression should be upheld in all states throughout the OSCE region;
- OSCE participating States should refrain from adopting – or, where already in place, should abolish – any legislation which exceeds permissible restrictions on the right to freedom of expression under international law, and which permits the criminalization of a wide range of peacefully expressed dissenting opinion;

- OSCE participating States should repeal libel and defamation laws;
- OSCE participating States should not only create good media laws, but also ensure that they are implemented correctly;
- OSCE participating States should avoid imposing unnecessary additional restrictions on freedom of expression;
- OSCE participating States should ensure that crimes against journalists are timely, properly and thoroughly investigated and those responsible are brought to justice;
- Access to information should be guaranteed, also including access to court hearings, except if to protect the identity of a witness;
- OSCE participating States should ensure that no private monopoly ownership or state ownership of the media exists;
- OSCE participating States should promote a strong independent Public Service Broadcasting respectful of cultural diversity;
- Freedom of movement should be respected in the OSCE region. This freedom is particularly vital for journalists, who should enjoy simplified procedures for receiving exit and entry visas;
- Safe working environment for journalists, even when they cover unauthorized events, should be ensured and protected;

Recommendations to the OSCE, its institutions and field operations:

On freedom of association:

- OSCE should provide assistance to NGOs in exercising their freedom of association;
- OSCE should organize and support regional events on freedom of association in order to facilitate the dialogue between governments and civil society on this issue;
- OSCE/ODIHR and the OSCE field missions should provide trainings and capacity building for NGOs engaged in human rights work. Trainings and awareness raising programs on freedom of association should also be provided to relevant state officials;
- OSCE/ODIHR, upon request of OSCE participating States, should review both draft and existing national legislation affecting the freedom of association with a

view to ensuring and further improving the compliance with international standards, particularly OSCE commitments;

- ODIHR in co-operation with the field missions should continue dialogue with countries where freedom of association is hindered by legislation or administrative practices with the aim of reforming laws and practices that are not in conformity with the OSCE commitments;
- OSCE/ODIHR should assist those religious groups, which have difficulties in being registered. It should also provide assistance to OSCE participating States in bringing their legislation on freedom of religion into conformity with the OSCE commitments and international standards;
- OSCE should condemn as a violation of the freedom of expression and as a discriminatory measure the new draft law in Poland, which proposes a prohibition on the alleged promotion of homosexuality in schools;
- OSCE/ODIHR, within its Tolerance and Non-discrimination Programme, should also focus on issues related to discrimination on grounds of sexual orientation.

On freedom of assembly:

- OSCE/ODIHR should disseminate widely and promote the OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly;
- OSCE/ODIHR should, upon the request of the OSCE participating States, review both draft and existing national legislation affecting the freedom of assembly with a view to ensure and further improve the compliance with international standards, particularly OSCE commitments
- OSCE should develop and implement programs on building a capacity of human rights defenders and civil society activists in monitoring assemblies;
- OSCE should assist OSCE participating States in adopting appropriate policing practices conducive to creating and maintaining a peaceful climate during assemblies;

On freedom of expression:

- The office of the OSCE Representative on Freedom of the media should continue its efforts to decriminalize libel and defamation;

Recommendations to others:

On freedom of expression:

- National Human Rights Institutions should investigate complaints against the press;
- Media professionals should establish self-regulatory mechanisms (including guidelines on culturally sensitive topics), and ensure that the codes of ethics are respected;
- Media should employ more journalists from communities with different religious and/or cultural backgrounds through equal opportunity recruitment policies and practices;
- Journalists and editors should ensure the accuracy of the information they publish, by checking their confidential sources and verifying this information with other sources.

III. SUMMARIES OF THE SESSIONS

SESSION 1: Freedom of association in the OSCE region: challenges and opportunities

Moderator: **Professor David Goldberger**, Isadore and Ida Topper Professor of Law, Ohio State University; Member of the OSCE/ODIHR Expert Panel on Freedom of Assembly

Introducer: **Mr. Edwin Rekosh**, Executive Director of the Public Interest Law Institute (PILI), Budapest

The discussion in Session 1 focused on challenges and opportunities with freedom of association in the OSCE region.

Introducing the topic on freedom of association in the OSCE region, Mr. Rekosh offered his thoughts on how law and human rights standards affect the relationship between the state and civil society. In particular, he raised five issues of practical relevance in OSCE states.

1. Freedom of association covers a variety of entities, which extend far beyond the classic NGO legal forms, such as associations, foundations, newly emerging form of non-profit companies, political parties, trade unions and religious organizations. *The requirement to register* with the state comes from the state's legitimate interest in protecting citizens from harms such as financial fraud and labor violations and ensuring compliance with tax and other fiscal policies. If an association does not raise and spend funds, enter into contracts, employ people and require a bank account, there is no need to formalize the association; an individual is free to associate with others without registering a formal legal structure with the state.

2. While the state has a duty to ensure against fraud and other harm that NGOs can potentially create, such *regulation should be proportionate* to the interest at stake. For example, during the registration process, the main state interest should be to guard against any confusion caused by a misleading name or the setting out of objectives incompatible with the law. All other aspects of registration are essentially technical, and NGOs should be given the information and opportunity to correct any deficiencies quickly and simply.

There are objectives which could legitimately result in a refusal to register, such as advocating the violent overthrow of the government. However, the legislation providing for such a possibility is often worded quite vaguely, and the practical application of those provisions could violate the freedom of association. Independent and effective judicial supervision over such decisions is especially vital. It is also important that registration authorities respect political pluralism and are not be driven by prejudice.

3. *The extent to which NGOs may conduct political activities* is also an issue. Mr. Rekosh found that a lot of confusion stemmed from issues of vocabulary and translation. In Slavic languages in particular, the use of the same word – *Politika* – to refer to both “public policy” and “partisan politics” has resulted in a great deal of misunderstanding on this topic. In fact, NGOs engage in all sorts of political activities in the form of public advocacy. They monitor legislation and its implementation; propose and oppose changes in legislation; study policies and make recommendations for change; frame political and social issues for the general public; mobilize civic engagement by communities and the citizenry as a whole. These are all legitimate activities for NGOs, through which they play a vital role in promoting political pluralism and developing democratic culture. Council of Europe documents and the jurisprudence of the European Court of Human Rights confirmed that position.

4. Another relevant issue is the *funding provided to NGOs from donors outside the respective country*, which occasionally resulted in new reporting obligations and/or the requirement to obtain governmental approval in advance of spending such funds. Mr. Rekosh was of an opinion that such regulations should be shown to be necessary in order to safeguard some public interest, and the regulatory obligations should be proportionate. Moreover, due care should be taken to avoid the possibility of a chilling effect on civil society, such as inhibiting NGO activities and discouraging much needed financial support.

5. The issues with freedom of association are linked to larger *problems with governance and state administration*. It relates to cases when, for example, state agencies provide incomplete or vague information about the NGO registration process or issue inconsistent or unfounded decisions. The root cause in those cases relate to deficiencies in the practices of the state administration. Sometimes these actions are politically motivated or result from prejudice. Sometimes they simply stem from bad administrative practices that might also extend to other areas of state administration. This phenomenon is worsened by the inability of courts in some OSCE countries to exercise effective judicial supervision in order to safeguard good administrative practices.

Mr. Rekosh reminded the participants of the meeting that NGOs make an essential contribution to political and social development and provide a channel for participation of minority voices. Through NGOs, individuals exercise their right to freedom of association, and as a result, large numbers of citizens can participate more fully in the democratic life of their country. In answering the question of how the state could facilitate NGO development, he cautioned states against trying to organize the organizations, but encouraged them to set up a simple and clear framework for organizing and then withdraw. Mr. Rekosh encouraged the participants to look closely at the issues with a clear perspective, without ideological bias and with the conviction that freedom of association was one of the most important cornerstones of a democratic society.

After the presentation made by the introducer, the floor was open for interventions of the participants.

The discussion then focused on the situation relating to the exercise of freedom of association in a number of OSCE participating States, in particular, in Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russian Federation, Tajikistan, Ukraine and Uzbekistan. Representatives of governments as well as NGO participants shared their views on issues relating to the respect of freedom of association in their countries.

Participants shared experiences in legislating on freedom of association. It was pointed out that in the majority of States freedom of association was guaranteed by the constitutions of those countries. Many States adopted specific laws to regulate freedom of association. Experiences of civil society groups with registering their NGOs were described.

It was pointed out that governments of some States strived to facilitate the exercise of freedom of association, including the liberalization of legislation and financial support to NGOs.

However, it was admitted by many participants that a great number of obstacles still continued to exist in the OSCE region with regard to the practical implementation of the commitments on freedom of association, such as onerous registration requirements and reporting obligations, complex bureaucratic procedures, wide-ranging sanctions within the power of executive and other extrajudicial authorities, government monitoring of NGO activities, geographic limitations on NGO operations, difficulties of NGOs in obtaining funding from outside of the country, and restrictive policies with regard to state subsidies to civic organizations. It was pointed out that many States introduced criminal charges for individuals participating in activities of unregistered associations, including religious associations. It was also underlined that measures taken by governments in the context of fighting terrorism have detrimental effect in the development of civil society.

The importance of creating an environment conducive to the existence and operation of both formal and informal unregistered associations was stressed.

The following specific recommendations were made in Session I:

Recommendations to the OSCE participating States:

- OSCE participating States should create an environment, including a legal framework, in which individuals can exercise their right to association, including the right to form, join and participate effectively in associations and non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms;
- OSCE participating States should ensure their legislation regulating the activities of NGOs is in conformity with OSCE and other international commitments. Financial and administrative obstacles, likely to hinder the free operation of human rights defenders, should be removed;

- OSCE participating States should exercise caution when drafting new legislation that affects civil society groups. This particularly concerns counter-terrorism regulations;
- OSCE participating States should make sure that legal regulations governing NGO activities are non-discriminatory and do not allow for government interference in NGO activities. The principle of non-discrimination should also mean that no additional restrictions are imposed on the operation of international non-governmental organizations in their countries, or on co-operation of domestic NGOs with such organizations;
- OSCE participating States should not restrictively interpret freedom of association as “freedom to found and join registered civic organizations.” Unregistered NGOs and informal associations should have equal protection as formally established ones and should be allowed to operate freely;
- Registration procedures should be transparent, prompt, non-bureaucratic, inexpensive and egalitarian;
- OSCE participating States should ensure that if an NGO violates national legislation, as established by courts, graduated sanctions are available in the law, rather than merely dissolution of the NGO in question;
- OSCE participating States should ensure that NGO status is not lost or suspended merely on the basis of extrajudicial decisions and that the closure of an NGO is possible only on the basis of a ruling by an independent court in a fair trial;
- OSCE participating States should presume that the activities of NGOs are lawful, and not allow for unimpeded access of state officials to NGO events and/or records (in the absence of evidence of unlawful activity by the NGO in question); this is all the more so where a certain level of confidentiality is required as a prerequisite of effective operation (e.g. shelters and counseling centers for crime victims);
- OSCE participating States should pay close attention to acceptable methods of government resource allocation to NGOs (including direct financing and social contracting) and to the accountability of their use in the light of the independence of the organizations in question;
- OSCE participating States should encourage dialogue with independent civil society groups, including with those from minority groups;
- OSCE participating States should guarantee physical and psychological integrity of human rights defenders. They should support and implement recommendations

stemming from the 30-31 March 2006 Supplementary Human Dimension Meeting on *Human Rights Defenders and National Human Rights Institutions*;

- OSCE participating States should allow individuals and groups to practise their religion without registration if they so desire, and not to criminalize activities of non-registered groups. States should also facilitate registration of religious groups if they want to get registered;
- OSCE should use its Vienna and Moscow mechanisms when the situation warrants it;

Recommendations to the OSCE, its institutions and field operations:

- OSCE should provide assistance to NGOs in exercising their freedom of association;
- OSCE should organize and support regional events on freedom of association in order to facilitate the dialogue between governments and civil society on this issue;
- OSCE/ODIHR and the OSCE field missions should provide trainings and capacity building for NGOs engaged in human rights work. Trainings and awareness raising programs on freedom of association should also be provided to relevant state officials;
- OSCE/ODIHR, upon request of OSCE participating States, should review both draft and existing national legislation affecting the freedom of association with a view to ensuring and further improving the compliance with international standards, particularly OSCE commitments;
- ODIHR in co-operation with the field missions should continue dialogue with countries where freedom of association is hindered by legislative acts or administrative practices with an aim of reforming laws and practices that are not in conformity with the OSCE commitments;
- OSCE/ODIHR should assist those religious groups, which have difficulties in being registered. It should also provide assistance to OSCE States in bringing their legislation on freedom of religion into conformity with the OSCE commitments and international standards.

SESSION 2: Freedom of peaceful assembly in the OSCE region: challenges and opportunities

Moderator: **Professor David Goldberger**, Isadore and Ida Topper Professor of Law, the Ohio State University; Member of the OSCE/ODIHR Expert Panel on Freedom of Assembly

Introducer: **Mr. Vardan Poghosyan**, founder of the Armenian NGO “Democracy”; Member of the OSCE/ODIHR Expert Panel on Freedom of Assembly

The discussion in Session 2 focused on challenges and opportunities with freedom of assembly in the OSCE region.

Mr. Poghosyan, as a member of the OSCE/ODIHR Expert Panel on Freedom of Assembly, presented the newly launched OSCE/ODIHR Guidelines on the freedom of peaceful assembly. He described the process consolidation of the Guidelines in 2006. He informed the audience that the Guidelines were designed for practitioners in many sectors, i.e. drafters of legislation, those implementing it, as well as those affected by the implementation. The Guidelines offered a practical toolkit for legislators by drawing on best practice examples from the OSCE participating States to illustrate the various legislative options used to regulate issues pertaining to the freedom of assembly.

Mr Poghosyan indicated that the approach to regulating the right to freedom of assembly varied greatly across the OSCE space. Legislators in different countries have chosen a variety of models from adopting a specific law to govern the exercise of this fundamental right to introducing provisions concerning public assemblies across a diverse array of relevant legislation, most importantly, acts pertaining to the police and general administrative law. Recognizing those differences and the great diversity of country contexts, the Guidelines did not attempt to provide ready-made solutions, but rather to clarify key issues and discuss possible ways to address them.

The document provided examples of good practice (measures that have been proven successful across a number of jurisdictions or which have demonstrably helped ensure that the freedom is accorded adequate protection).

After having introduced the Guidelines, Mr. Poghosyan then touched upon some challenges and obstacles with respect to the freedom of assembly in OSCE participating States. He noted that the freedom of peaceful assembly was undermined in some countries of the OSCE region by authorities who imposed unnecessarily restrictive measures as a result of an excessively wide interpretation of legitimate grounds for limitations. Those countries ignored the crucial principle of proportionality which requires that the least intrusive means of achieving an objective should always be given preference.

Mr. Pogosyan drew attention of the participants to the fact that in some participating States of the OSCE excessive penalties such as detention or high fines were used to punish individuals who take part in peaceful assemblies. He also noted that in many participating States, freedom of peaceful assembly was regulated through a system of requiring permission from the authorities before an assembly could take place, rather than through the preferable system of only requiring that notice be given to the authorities.

Mr. Pogosyan invited the participants of the meeting to participate in a constructive dialogue and encouraged them to use the OSCE/ODIHR Guidelines.

After the presentation made by the introducer, the floor was open for interventions of the participants. They stressed the importance of freedom of assembly in a democratic society. It was also acknowledged that in the atmosphere of increased concerns by governments about national security, challenges to peaceful assembly persisted in the OSCE region.

A number of issues pertaining to the exercise of peaceful assembly were touched upon, such as the duty of the state to protect peaceful assemblies, notification versus authorization procedure, spontaneous assemblies, responsibilities of organizers and participants of an assembly, outdoor and indoor assemblies, as well as simultaneous assemblies and counter demonstrations.

Participants from Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Germany, Kazakhstan, Kyrgyzstan, Latvia, Russian Federation, Moldova and Uzbekistan shared their views and experiences on how freedom of peaceful assembly was respected in their countries.

It was noted that in many OSCE participating States, which choose to adopt specific laws governing the exercise of peaceful assembly, consultation process with NGOs would take place and in some instances NGOs would be presenting their own draft laws for the consideration in parliaments. It was further noted there was a general shift in practice of the OSCE participating States to turn from the system whereby assembly organizers had to request for permission from local authorities before holding an assembly to the system of advance notice.

However, even when the legislative framework was in compliance with the OSCE commitments and international standards, challenges to the practical implementation of those laws persisted in the OSCE region. Examples were given by the participants when peaceful assemblies were dispersed by police, often by using disproportionate force against demonstrators. In some instances demonstrators would be prevented from reaching the place where an assembly was to take place. In cases of dispersals, arrests would take place as well as administrative and criminal sanctions introduced against the organizers and participants of an assembly. Organizers would often be held responsible for the behaviour of participants.

In some countries where advance notice was required in order to hold an assembly, problems with implementation would take a different form, for example the local authorities could offer an inconvenient time or a remote place for an assembly, usually far from city centres, administrative buildings, public monuments and residential areas. Specific locations might also be assigned by local authorities for assembly organizers. Participants also spoke about the indoor assemblies, which were not tolerated in some states if they were organized by an unregistered civil society group or religious community.

The OSCE/ODIHR Guidelines on Freedom of Peaceful Assemblies were welcomed by the participants. Those Guidelines, based on international and regional treaties relating to the protection of human rights, state practices and the general principles of law, were aimed at those involved in the drafting of legislation, those implementing it, as well as those affected by the implementation. The Guidelines they provided examples from different countries' legislation that could assist in drafting legislation regulating the exercise of the freedom of assembly.

The following specific recommendations were made in Session II:

Recommendations to OSCE participating States:

- OSCE participating States should ensure that national legislation regulating the organization of assemblies is in compliance with international human rights standards and OSCE commitments. The OSCE /ODIHR expertise and assistance should be solicited by the OSCE participating States. The newly launched Guidelines on Freedom of Assembly should be widely used by OSCE participating States;
- OSCE participating States should not impose blanket restrictions and not impose unnecessary and/or disproportionate restrictions on locations or on simultaneous assemblies without properly examining the situation in question and giving reasons for any refusal of permission to assembly organizers;
- OSCE participating States should put in place adequate mechanisms and procedures that are not unduly bureaucratic to ensure that freedom of peaceful assembly is enjoyed in practice. The relevant authorities should assist individuals and groups who wish to assemble peacefully;
- OSCE participating States should ensure that legislative provisions that confer discretionary powers on the regulatory authorities are narrowly framed;
- OSCE participating States should introduce, where they have not already done so, a system of notification, instead of authorization of assemblies; it is equally recommended that participating States not treat assemblies that do not comply with the prior notification requirement as illegal and subject to dispersal;

- OSCE participating States should allow spontaneous demonstrations to be organized whenever they are peaceful in nature;
- OSCE participating States should adopt appropriate policing practices conducive to creating and maintaining a peaceful climate during assemblies;
- OSCE participating States should promote constructive dialogue, including the issue of negotiation and/or mediation of disputed issues, to create a co-operative environment for the event;
- OSCE participating States should address the specific concerns of particular groups, including by providing adequate security against violent counter-demonstrations;

Recommendations to the OSCE, its institutions and field operations:

- OSCE/ODIHR should disseminate widely and promote the OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly;
- OSCE/ODIHR should, upon requests of the OSCE participating States, review both draft and existing national legislation affecting the freedom of assembly with a view to ensure and further improve the compliance with international standards, particularly OSCE commitments
- OSCE should develop and implement programs on building a capacity of human rights defenders and civil society activists in monitoring assemblies;
- OSCE should assist OSCE participating States in adopting appropriate policing practices conducive to creating and maintaining a peaceful climate during assemblies;

SESSION 3: Freedom of expression and the role of the media in a pluralist society

Moderators: **Mr. Miklos Haraszti**, the OSCE Representative on Freedom of the Media,

Dr. Roland Bless, Director of the Office of the OSCE Representative on Freedom of the Media.

Introducer: **Mr. Aidan White**, General Secretary of the International Federation of Journalists (IFJ), Brussels

The discussion in Session 3 focused on freedom of expression and the role of the media in a pluralist society. It discussed participating States' obligations to ensure the right of freedom of expression, including the role and responsibilities of the media in a diverse and inclusive society.

The OSCE Representative on Freedom of the Media, **Mr. Miklos Haraszti**, opened the working session by enumerating the six dangers currently threatening freedom of the media in the OSCE area. These were:

1. Physical harassment, sometimes even the murder of journalists. Those crimes often go unpunished, thus creating a chilling effect on the media professionals.
2. Media monopolization and state ownership of the media. On a positive note, however, the Representative noted that there was a move away from this negative tendency. A well-functioning public service broadcaster is nevertheless vital for a pluralist democratic society.
3. Restricting media freedoms on account of security concerns presents another danger to freedom of expression, more specifically to access to information, which is essential to guarantee the citizen's right to know.
4. Another worrying tendency in the OSCE area is that some participating States are adopting additional hate speech legislation in response to the heightened cultural sensitivities in society today. However, it is imperative to stress that no new hate speech legislation should be adopted.
5. A trend in the OSCE area to adopt arbitrary speech restrictions on historical events.
6. An increasing pressure on the internet through the overregulation, filtering and blocking of the internet.

Mr. Aidan White continued the discussion by stressing that the structures of freedom of expression were being shaken by several factors, and many journalists started to impose self-censorship out of fear.

He stressed the vital role of freedom of expression in a democratic society. It is through the exercise of this freedom that public opinion, political parties and civil society are created. Freedom of information is essential to the public's right to know. It is through access to information that the electorate can keep their democratically elected representatives in check.

Mr. White pointed out that the more powerful the media becomes, the more violent the attacks on the media become as well. The impunity of unresolved aggression against and murders of journalists put a muzzle on freedom of expression. In 2007 thirty journalists have been killed in the world.

Other obstacles to freedom of expression are the current cultural sensitivities in our pluralistic societies. However, instead of imposing new laws to restrict hate speech, it should be stressed that the media is essential to continue the dialogue and resolve possible racist sentiments in society.

Mr. White suggested that a debate between governments, civil society and media was necessary to define the use of law on what is freedom of expression in a continually globalizing world. He stressed the importance of media self-regulation, rather than imposed governmental interference, as editorial independence should under no circumstances be compromised.

After the presentation made by the introducer, the floor was open for interventions of the participants. Participants spoke about the necessity to ensure that OSCE participating States comply with their international obligations and OSCE commitments with regard to freedom of expression. It was noted that challenges in this regard still persisted and that freedom of expression and media freedom were subjected to increasing restrictions in a number of OSCE participating States over the last years. In many cases the restrictions were directly connected with elections in a country.

The following specific recommendations were made in Session III:

Recommendations to OSCE participating States:

- Freedom of expression should be recognized in all territories throughout the OSCE region;
- OSCE participating States should refrain from adopting – or, where already in place, should abolish – any legislation which exceeds the permissible restrictions on the right to freedom of expression under international law, and leaves the way open for the criminalization of a wide range of peacefully expressed dissenting opinion;
- OSCE participating States should repeal libel and defamation laws;
- OSCE participating States should not only create good media laws, but also ensure that they are implemented correctly;
- OSCE participating States should avoid imposing unnecessary additional restrictions on freedom of expression;

- OSCE participating States should ensure that crimes against journalists are timely, properly and thoroughly investigated and those responsible are brought to justice;
- Access to information should be guaranteed, also including access to court hearings, except if to protect the identity of a witness;
- OSCE participating States should ensure that no ownership monopoly or state ownership of the media exists;
- OSCE participating States should promote a strong independent Public Service Broadcasting respectful of cultural diversity;
- Freedom of movement should be respected in the OSCE region. This freedom is particularly vital for journalists, who should enjoy simplified procedures for receiving exit and entry visas;
- Safe working environment for journalists, even when they cover unauthorized events, should be ensured and protected

Recommendations to the OSCE, its institutions and field operations:

- The office of the OSCE Representative on Freedom of the media should continue its efforts to decriminalize libel and defamation;
- OSCE should condemn as a violation of the freedom of expression and as a discriminatory measure the new draft law in Poland, which proposes a prohibition on the alleged promotion of homosexuality in schools;
- OSCE/ODIHR, within its Tolerance and Non-discrimination Programme, should also focus on issues related to discrimination on grounds of sexual orientation.

Recommendations to others:

- National Human Rights Institutions should investigate complaints against the press;
- Media professionals should establish self-regulatory mechanisms (including guidelines on culturally sensitive topics), and ensure that the codes of ethics are respected;
- Media should employ more journalists from communities with different religious and/or cultural backgrounds through equal opportunity hiring practices;
- Journalists and editors should ensure the accuracy of the information they publish, by checking their confidential sources and verifying this information with other sources.

IV. ANNEXES

ANNEX I. AGENDA

Day 1 **29 March 2007**

15.00 - 16.00 **OPENING SESSION:**

Opening remarks:

Ambassador Carlos Sanchez de Boado, Chairman of the Permanent Council, Head of the Permanent Mission of Spain to the OSCE

Ambassador Christian Strohal, Director of the OSCE/ODIHR

Keynote speech:

Ambassador Jiří Gruša, President of International PEN, London; Director of the Diplomatic Academy of Vienna

Technical information by the OSCE/ODIHR

16.00 - 18.00 **SESSION I: Freedom of association in the OSCE region:
challenges and opportunities**

Introductory speech:

Mr. Edwin Rekosh, Executive Director of the Public Interest Law Institute (PILI), Budapest

Moderator:

Professor David Goldberger, Isadore and Ida Topper Professor of Law, the Ohio State University; Member of the OSCE/ODIHR Expert Panel on the Freedom of Assembly

Discussion

18:00 Reception offered by the OSCE Chairmanship

Day 2

30 March 2007

09.00 - 12.00

SESSION II: Freedom of peaceful assembly in the OSCE region: challenges and opportunities

Introductory speech:

Mr. Vardan Poghosyan, founder of the Armenian NGO 'Democracy'; Member of the OSCE/ODIHR Expert Panel on the Freedom of Assembly

Moderator:

Professor David Goldberger, Isadore and Ida Topper Professor of Law, the Ohio State University; Member of the OSCE/ODIHR Expert Panel on the Freedom of Assembly

Discussion

12.00 - 14.00

Lunch

14.00 - 16.00

SESSION III: Freedom of expression and the role of the media in a pluralist society

Introductory speech:

Mr. Aidan White, General Secretary of the International Federation of Journalists (IFJ), Brussels

Moderator:

Mr. Miklos Haraszti, the OSCE Representative on Freedom of the Media

Discussion

16.00 - 16.30

Break

16.30 - 17.30

CLOSING PLENARY:

Report by the Working Sessions Moderator
Comments from the floor

Closing remarks:

Mr. Josep Borrell Fontelles, Special Envoy of the OSCE Chairman-in-Office

Ambassador Christian Strohal, Director of the OSCE/ODIHR

17:30

Close of Day 2

ANNEX II. ANNOTATED AGENDA

The freedoms of peaceful assembly, association and expression are expressly recognized in OSCE human dimension commitments⁹ as well as all major international human rights instruments.¹⁰ On the basis of the commitments, the OSCE and its 56 participating States should promote conditions throughout its region in which all can fully enjoy their human rights and fundamental freedoms under the protection of effective democratic institutions, due judicial process, and the rule of law. This includes secure environments and institutions for peaceful debate and expression of interests by all individuals and groups of society.¹¹

The freedoms of association and peaceful assembly 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. As such, these three freedoms form a vital part of the OSCE's comprehensive concept of security.

During the Special Day on Freedom of Assembly and Association of the 2004 Human Dimension Implementation Meeting, participants noted with concern "a lack of progress and indeed a setback in recent years" with respect to the implementation of these rights.¹² In its 2006 *Common Responsibility* report, the OSCE/ODIHR notes that these rights are under threat from a range of excessively restrictive laws and policies that do not always respect the principles of proportionality, legality, non-discrimination, or the requirements of good administration of and transparency in the decision-making process.¹³

At the 2006 Supplementary Human Dimension Meeting (SHDM) on 'Human Rights Defenders and National Human Rights Institutions, Legislative, State and Non-State

⁹ A compilation of OSCE commitments relevant to the freedom of assembly, association and expression can be found in the brochure distributed for this meeting.

¹⁰ See e.g. the Universal Declaration of Human Rights, Article 19 (freedom of expression and opinion) and Article 20 (freedom of peaceful assembly and association); International Covenant on Civil and Political Rights, Article 19 (freedom of opinion and expression), Article 21 (freedom of assembly) and Article 22 (freedom of association); the European Convention on Human Rights and Fundamental Freedoms, Article 10 (freedom of expression) and Article 11 (freedom of assembly and association), and on all three rights, 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, adopted unanimously by the United Nations General Assembly (A/RES/53/144), in particular Article 5:

"[f]or 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."

¹¹ OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, Maastricht 2003, para. 36.

¹² 2004 Human Dimension Implementation Meeting, Consolidated Summary, p. 35 (www.osce.org/odihr/16534.html).

¹³ OSCE/ODIHR, *Common Responsibility. Commitments and Implementation*, Report submitted to the OSCE Ministerial Council in response to MC Decision No. 17/05, on Strengthening the Effectiveness of the OSCE (2006), at §§43-47 (cited as '*Common Responsibility*', available at www.osce.org/item/22321.html).

Aspects', participants identified a number of new laws that restrict the freedom of peaceful assembly, association and expression. They also noted that new anti-extremism and anti-terrorism legislation hindered the activities of civil society organizations.¹⁴

This SHDM seeks to address how the full implementation of the rights to freedom of association, peaceful assembly and expression can be advanced and secured in order to promote the development of an inclusive and diverse society as well as long-term security. It will identify the challenges faced by governments throughout the OSCE region in ensuring that all citizens have an equal opportunity to express their opinions and interests, either collectively or individually. It will focus on ways to overcome obstacles to the implementation of these rights and seek to explore how in a continually evolving society, participating States can benefit from the full implementation of these rights to engage in a meaningful dialogue with civil society.

Working Session 1: Freedom of association in the OSCE region - challenges and opportunities

The freedom of association guarantees the right to join with others for a common purpose and forms one of the basic guarantees for participation in a democratic society.¹⁵ The freedom of association can be a means of addressing the concerns and promoting the understanding of a diverse range of persons in society, and through partnerships and co-operation with civil society can be a way of dealing with challenges in an inclusive and constructive manner.

Significant challenges and obstacles remain on the way to the full implementation of the freedom of association. The OSCE/ODIHR noted in *Common Responsibility* that the freedom of association is the subject of increasingly stringent regulation in many States. NGOs seeking to exercise their right to freedom of association are faced with laws requiring them to comply with burdensome registration requirements, cumbersome reporting obligations, complex bureaucratic procedures, and the abuse of fiscal, economic, health-protection, and other ostensibly neutral legal regulations. This has contributed to a process that has widened the gap between civil society and the governments of some OSCE States.¹⁶

Furthermore, the absence of graduated sanctions for breaches of laws by NGOs, wide-ranging sanctions within the power of executive and other extrajudicial authorities (e.g. prosecutors' offices), government monitoring of NGO activities, geographic limitations on NGO operations, and restrictive policies with regard to state subsidies to civic organizations all create obstacles for the establishment of a strong civil society.

¹⁴ Final Report of the 2006 SHDM, '*Human Rights Defenders and National Human Rights Institutions, Legislative, State and Non-State Aspects*', Vienna, 30-31 March 2006, pp. 6-7, 25-28 (www.osce.org/odihhr/18831.html).

¹⁵ Cf., e.g. §9.3. of the 1990 Copenhagen Document. For other commitments on this issue, see the compilation of OSCE commitments in the brochure distributed for this meeting.

¹⁶ OSCE/ODIHR, *Common Responsibility*, § 46.

The OSCE/ODIHR has also noted many positive examples in which participating States have created an environment conducive to the existence and operation of informal associations and other types of NGOs that do not choose to obtain formal legal personality. It indeed should be noted that the duty of States to uphold the freedom of association applies equally to informal association (such as meetings in private accommodation or other venues) and to formal association (e.g., registered NGOs). In instances where NGOs prefer to have a formal legal status, some participating States merely require notification to be filed with the responsible public body following a simple and non-cumbersome procedure. The OSCE/ODIHR has noted that this procedure is to be preferred over a practice that requires authorization by the responsible public body before formal legal status is obtained.¹⁷

There is therefore considerable scope for the exchange of best practices on the freedom of association, both between and among participating States and civil society, the OSCE and other intergovernmental organizations such as the Council of Europe, which has promulgated a list of principles on these matters.¹⁸

In response to suggestions made at the 2004 Special Day and the 2006 SHDM on ‘Human Rights Defenders and National Human Rights Institutions’, the OSCE/ODIHR has established a Focal Point on Human Rights Defenders and National Human Rights Institutions, which will among other issues, address the freedom of peaceful assembly and association of human rights defenders. The OSCE/ODIHR has also responded to recommendations made at these meetings by providing legislative support to participating States to assist them in ensuring legislation on freedom of association complies with OSCE commitments and international standards.¹⁹

This session will look at the obstacles and challenges to the right to freedom of association, whilst at the same time showing positive examples of how this right has been used to encourage participation in society of a diverse range of groups.

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

- How can freedom of association contribute to a more inclusive society?
- How can OSCE participating States advance the freedom of association and create enabling environments for civil society, and how can intergovernmental organizations and civil society assist participating States in implementing their commitments in this respect?

¹⁷ Ibid., § 47.

¹⁸ Council of Europe, *Fundamental Principles on the Status of Non-governmental Organizations in Europe* (13 November 2002). A draft recommendation by the Council of Europe’s Council of Ministers on the Legal Status of NGOs in Europe can be found in the brochure distributed for this meeting.

¹⁹ For ODIHR legal reviews of such laws see: www.legislationline.org.

- What is the best way to shape the relationship between the State and civil society, and how can undue interference with NGO independence be avoided?
- What role can independent national human rights institutions play in protecting and supporting civil society in exercising its freedom of association?

Working Session 2: **Freedom of peaceful assembly in the OSCE region - challenges and opportunities**

The freedom of peaceful assembly guarantees the public expression of opinion. As a cornerstone of any democratic society, it serves as a powerful tool for a diverse range of groups to make their views known. It may also manifest itself in the spontaneous expression of opinion – both popular and unpopular – on matters of public concern, allowing citizens to express openly their views on current events.

The freedom of peaceful assembly can play a key role in achieving the full and equal participation in society of a diverse range of groups. Full implementation of this freedom implies that governments must be prepared to listen to a wide variety of voices and views, even if controversial. Conversely, respect for this right will promote understanding between groups in society and can serve as a vital tool in resolving issues of public concern, which will ultimately lead to a more inclusive and secure society.

A number of best practices exist in the OSCE region:

- In many participating States, an assembly is considered peaceful if its organizers have peaceful intentions, which includes conduct that may annoy or give offence to persons opposed to the ideas or claims that it is seeking to promote, or even conduct that deliberately hinders, impedes or obstructs the activities of third parties.
- Moreover, in many participating States, spontaneous assemblies are tolerated and managed by the police, not banned or dispersed. Authorities and would-be assembly organizers co-operate in a constructive way with one another without undue interference on the part of the authorities in the practicalities of the organization of the event. Best police practices have developed significantly in the area of assembly management in a way that is sensitive to the needs of both demonstrators and the wider public. The option of using force by the police has hence faded into the background in those States.²⁰

However, a number of challenges and obstacles exist with respect to this in the OSCE region.

¹² *Common Responsibility*, § 45.

- The freedom of peaceful assembly is undermined by authorities who impose unnecessarily restrictive measures as a result of an excessively wide interpretation of legitimate grounds for limitations.²¹
- Excessive penalties such as detention or high fines are used to punish individuals who take part in peaceful assemblies. Graduated sanctions are rarely used. Blanket restrictions are imposed without sufficient consideration of the circumstances of each case, and police conduct in the management of assemblies often exceeds permissible limits, which is frequently paired with a lack of accountability.
- In too many participating States, freedom of peaceful assembly is regulated through a system of requiring permission from the authorities before an assembly can take place, rather than through the preferable system of only requiring that notice be given to the authorities.²²

The exchange of best practices developed in OSCE participating States on the proper regulation and policing of the freedom of peaceful assembly is one of the aims of this SHDM. In response to suggestions made by participants at the 2004 HDIM Special Day, the OSCE/ODIHR has continued its consultation on the freedom of peaceful assembly with participating States, provided legislative support, developed new training programmes on monitoring freedom of peaceful assembly, and drafted guidelines.

The OSCE/ODIHR Guidelines on Freedom of Assembly, which will be launched at this SHDM, were compiled on the basis of extensive consultation with experts and stakeholders from all regions of the OSCE area and provide a comprehensive guide for participating States and others in the full implementation of this vital right. They demarcate clear parameters for implementation consistent with international standards, and illustrate key principles with examples of good practice from individual participating States. The Guidelines are addressed to practitioners in many sectors – drafters of legislation, politicians, legal professionals, police officers, local officials, trade unionists, assembly organizers and participants, NGOs, and those involved in monitoring freedom of assembly and policing practice.

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

- What challenges do assembly organizers face in the OSCE region and how can these be met by participating States? What legal and regulatory framework is most conducive to the implementation of this freedom?
- How can dialogue between groups seeking to exercise the right to freedom of peaceful assembly and the authorities be promoted?

¹³ *Ibid.*, § 44.

¹⁴ *Ibid.*

- How can the freedom of peaceful assembly be advanced in a manner so as to allow as diverse a range of groups as possible the greatest degree of free expression?
- What best policing practices have been developed to fully uphold the exercise by all of the freedom of peaceful assembly?

Working Session 3: Freedom of expression and the role of the media in a pluralist society

This session will discuss participating States' obligations to ensure the right of freedom of expression, including the role and responsibilities of the media in a diverse and inclusive society.²³

This right was the subject of SHDMs in 2001 and 2006, which focused in particular on the role of the media.²⁴ The SHDM in 2006 on 'Freedom of the Media: Protection of Journalists and Access to Information' discussed the importance of access to information and the laws that facilitate and restrict it. This has recently come under intense scrutiny as the security concerns of many states grow. On the other hand, it was stressed that human rights also need to be safeguarded.

The 2006 SHDM also addressed the question of how the media could contribute to the promotion of mutual respect and understanding. It looked at the favourable role of self-regulation compared to governmental interference when handling freedom of expression. The participants looked at a worrying trend in some OSCE participating States, where additional restrictive administrative mechanisms have been adopted, or existing legislation has not been implemented properly, which has resulted in unnecessary procedural restrictions to the free functioning of the media. The right guarantees the expression of a wide variety of views, including those that could "offend, shock or disturb".²⁵ It is especially important for media professionals, who should be able to work in a safe environment with the guarantee that they will not be persecuted for the reflection of their views or those of others.

²³ The 1990 Copenhagen Document sets out 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". For other commitments on this issue, see the compilation of OSCE commitments in the brochure distributed for this meeting.

²⁴ Final report of the 2001 SHDM on the '*Freedom of Expression: New and Existing Challenges*', Vienna, 12-13 March 2001 (<http://194.8.63.155/odihr/16613.html>); Final Report of the 2006 SHDM on the '*Freedom of the Media: Access to Information and Protection of Journalists*', Vienna, 13-14 July 2006 (www.osce.org/odihr/20116.html).

²⁵ European Court of Human Rights 7 December 1976, application nr. 5493/72, *Handyside v. United Kingdom*, § 49.

Participating States have identified “freedom of the media as a basic condition for pluralistic and democratic societies.” At the same time, they have expressed “deep concern about the exploitation of media to foment hatred and ethnic tension and the use of legal restrictions and harassment to deprive citizens of free media...”²⁶ Pluralism of media content provides a safeguard against the effect of intolerant expressions. At the same time, media professionals can engage with a wide a variety of groups through their work; they may choose to highlight the plight and concerns of marginalized or disadvantaged groups, address prejudices, and break taboos.

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

- What positive measures can participating States take to promote and protect the freedom of expression and ensure the full and equal participation of all individuals and groups in public debate?
- What are participating States' duties in facilitating the pluralism of outlets representing different opinions and in enabling equal access to information and the media?
- In what ways can the media respond to and engage with as diverse a range of groups as possible and what are the roles and responsibilities of the media in a diverse society?
- What are the benefits of minority access to public service broadcasting?

²⁶ Istanbul 1999 (Summit Declaration), § 5.3.6.

ANNEX III. KEYNOTE SPEECH

- **Jiří Gruša, President of International Pen, Director of the Diplomatic Academy of Vienna**

(Written statement, in German)

Ambassador Jiří Gruša, President of International Pen, Director of the Diplomatic Academy of Vienna

Sehr geehrter Herr Botschafter Sanchez de Boado,
Sehr geehrter Herr Botschafter Strohal,
Exzellenzen,
Sehr geehrte Damen und Herren!

Als ich nach 1989 wieder nach Prag zurückkehren durfte, habe ich den Sieg einer Argumentation gefeiert, die mir zehn Jahre zuvor Gefängnis und Ausbürgerung gebracht hatte, aber und vor allem den Verlust einer Sprache, in der ich mich am freiesten zu äußern wusste. Alles, was ich in ihr gesagt habe, schien Frechheit zu sein, jetzt jedoch vorausschauend und sinnvoll.

Ich setzte voraus, dass es etwas universal Gültiges gibt, selbst wenn es lokal nicht praktiziert wird. Aufgrund dieser Annahme habe ich mich friedlich assoziiert und regelmäßig mit den Gleichgesinnten getroffen.

Unsere Vereinigung hieß Charta 77 und wie das Geburtsdatum zeigt, feiert sie ihr Jubiläum gemeinsam mit OSCE.

Wir haben uns bei der Bekanntgabe unserer Ziele auf den Helsinki Akt berufen. Auf etwas also, ohne das wir heute nicht tagen würden. Die Äußerungsfreiheit sollte auch ostwärts gelten. Eine noch ältere Deklaration wurde aktualisiert, diejenige über die Menschenrechte aus dem Jahre 1948. Diese Deklaration resultierte aus der Erfahrung des Totalitarismus:

Der Kommunismus hat Rechte nur für Kommunisten gehabt. Der Nationalsozialismus vor ihm nur für die Nazis. Jetzt sollten alle Menschen dem gleichen Appell folgen. Jetzt gab es ein Ethos universell und wir waren dessen Vertreter.

Unser Universalismus wurde zum Zeichen der Zeit. Er fasste Wurzeln auch dort, wo der Boden unfruchtbar schien. Sogar seine Feinde passten sich rhetorisch an und schauten nervös auf Den Haag.

Bald aber waren sie wieder arrogant. Scharfsinnig haben sie erkannt, dass unser Ethos eine Vision ist, die den Unterschied zwischen Wunsch und Wirklichem vermischt. Dass wir gerne den handelnden Menschen übersehen, der Machtgier und Lüste mehr schätzt als Liebe und Logik.

Jawohl, Europa – vom alten Athener bis zum kantigen Kant – hat Vernunft gepredigt, aber Triebe gelebt. Und selbst wir staunten über den brutalen Stammeskrieg auf dem Balkan, als er entflammte.

Dennoch arbeiten wir weiter mit dem “Vernünftigen Edlen”, definieren das Legalogische, schaffen neue und neue Paragraphenpuzzles und vergessen peinlich, dass Ethos auch Eros braucht. Dass Arbeit nicht automatisch Arbeitsplatz bedeutet und Sicherheit ein erkämpftes Gut ist.

Unser großgeschriebener Mensch wird somit an Kleingeschriebenes adaptiert, als verfügten wir alle über den gleichen IQ!

Unsere Gegner belächeln uns immer mutiger. Oder sie schlagen wieder zu, wie jetzt in Minsk. Immer lauter sagen sie, wir mögen die Dummheit des Durchschnitts und unser einziges Know How gelte der Vermassung. Und sie schmatzen laut bei ihren Gelagen und werfen uns die Langeweile des Konsumerismus vor.

Auch unsere Politiker, in stiller Verzweiflung über die Unvernunft ihrer Wähler, suchen Wege, diesen das Gute verdaulicher zu machen. Sie entdecken die Einzigartigkeit ihrer Nationen und versprechen Minimumstandards des Eigenen.

Dabei ersetzen sie unseren Respekt vor dem *common sense* – die Brutstätte unserer Ethik – durch plebiszitäre Theatralik.

Es wird uns ebenfalls vorgeworfen, dass wir alles zerstückeln und einsam und kalt machen. Ohne einen praktikablen Ersatz zu bieten - für Familie, Gemeinde, Kirche und wärmendem Stammstaat. Dass wir der Atomisierung von Menschen nicht deren Intellektualisierung folgen lassen.

Aber der Weltrahmen der Lokalentscheidungen, Standardisierung der Herstellungsprozesse und eben der Rechtsideen hilft der Universalethik weiter. Ihre Redensart ist eine positive Talkshow selbst dort, wo es um Horrorszenarien geht.

Natürlich wissen wir, dass der Mensch nicht einmal mit unserer Vision netter wird. Dass die Politik sich nicht in Poetik verwandelt oder Wirtschaft in Umweltschutz. Zumindest nicht ohne weiteres.

Es ist uns nicht unbekannt, dass das Auftreten ethischer Begriffe nahezu immer eine politisch-ökonomische Ursache hatte. Unser ethischer Universalismus selbst ging aus dem Zweiten Weltkrieg hervor und nach dem Kalten wurde er sogar heißer.

Wo ist also der Haken, dass er seine Siege nicht ungeniert feiert?

Es ist sein eigenes Misstrauen der Vernunft gegenüber! Uns zu Menschenrechten zu bekennen, bedeutet nämlich noch nicht ihre Umsetzung. Im Gegenteil, die geistige Akzeptanz ruft Diskrepanzen hervor. Die Argumente der Gleichstellung warum etwa die

Kurden nicht zumindest so behandelt werden wie die Kosovaren etc. Menschenrechte sind und werden die Quelle für Spannungen. Jeder, der sich zu ihnen bekennt, kann nämlich seine Angelegenheiten für die Sache der Menschheit halten - und in einem gewissen Sinne mit Recht.

Die Äußerungsfreiheit – unser heutiges Thema – thematisiert auch Lappalien. Es häuft sich das Läppische an und redet Stuss. Auch den scheinbaren, wie damals in Prag. Bis eine Wende kommt. Oder bis die Lappalien ihre Wähler finden.

Universale Menschenrechte lassen sich einfach nicht universal erzwingen. Und ihr Missachten wird nicht automatisch bestraft. Siehe ehemaliges Jugoslawien, Ruanda, Somalia, Darfur. Und manches andere ist noch zu erwarten.

Denn Rechte, die zum Menschen ausschließlich aufgrund seines Menschseins gehören, können ungetadelt herrschen, nur wenn sie ohne Rücksicht auf die Adresse wirksam sind. Solange ein Tschetschene nicht das Gleiche geltend machen kann wie ein Tscheche, bleiben sie auch ein Desiderat **und** ein ideologisches Instrument.

Doch umso aktueller wird ihre Bedeutung. Daher ist sogar die Juristerei unserer Rechtsstaaten wichtig. Und Menschenrechte selbst dort, wo sie bekämpft werden, ein lebhafter Nukleus der Bürgerrechte.

Die verhasste Globalisierung hat eine menschliche Message, sie besagt: es gibt Vergleichbares selbst dort, wo keine Vergleiche geduldet werden.

Das globale Gewirre wird nicht durch ein Weltimperium ersetzt, es wird zum Weltdorf am Rande des Weltalls. Unsere Universalien aber werden die Anleitung bilden, wie man daran bastelt. Und noch etwas: dort, wo es universale Menschenrechte gibt, wird es ein universales Konsum-Minimum geben.

Lassen wir uns also nicht von den neuen völkischen Bossen belehren. Sie vertreten nicht nur fossile Energien, sie vertreten auch fossile Systeme. Denn einzig die Menschenrechte sind eine wahrhafte Energiequelle.

Meine Damen und Herren,
erlauben Sie mir zum Schluss mein Thema zu variieren. Ich werde jetzt über Expression of Freedom sprechen. Also darüber, wie sich die Freiheit äußert. Denn dieses bedingt die anderen Freiheiten als unsere Äußerungs- und Versammlungs-Chancen

Wenn wir nicht in Hekatomben monomanischer Hybris enden wollen, müssen wir von ewigen Wahrheiten zum zeitlichen Faktenschutz kommen, von Schwüren auf Identität – zur Ehrfurcht vor Komplexität. Von Phrasen der eigenen Größe zur Demut vor kleinen Einheiten. Von der Bibel, dem Koran und anderen Büchern der Bücher zu Texten und deren Kontexten. – Sie entwerten das Erstere nicht, sie machen es individueller und moderater.

Denn die Behauptung, dem Menschen stünde etwas zu, bloß weil er Mensch sei, ist nicht ohne Transzendenz. Sie meint sie nur anders.

- Ein Evolutionist wird höchstens über den Affen reden, der aufrecht zu gehen lernte und ziemlich fortgeschritten ist, wohin auch immer.

- Ein oder der Kreationist wird uns ein Geschöpf schildern, das gehorsam dem Schöpfer folgt, weil dieses das Gute bereits verfasst hat.
- Der Mensch mit der Freiheitswürde bestreitet das Gute nicht. Er sieht darin keinen Vorschuss, sondern die Zuzahlung. Und das Gute ist nicht komplett, jedoch komplexer zu machen. Es gibt nämlich Kontextualität als Energie der zusätzlichen Deutung. Wer sie spürt, folgt dem Beschriebenen, indem er es erweitert. Er limitiert und öffnet zugleich. Er zeigt den Mut zum Sein. Er erhält die Freiheit und gebärt sie wieder. Er ist der Einzelne als Ursprung und Sprung. Als Quelle des Neuen und Wille zum Risiko.

Freiheit des Wortes meint das Wort am Anfang des Sprechens. Den Druck und Ausdruck.

Das Freie Wort predigt nicht, es kultiviert, kennt keine Namen ohne Rahmen. Keinen tierischen Ernst der Wächter des Benannten, welche brutal um ihre Wachtposten bangen. Das Freie Wort wird auch sie befreien.

Als es diese Art von Freiheit noch nicht gab, hat ein deutscher Klassiker an ihrer Stelle die Freude besungen. Wir erinnern uns: Götterfunken und Tochter aus Elysium sind beschworen worden.

Nun, Elysium wäre heute ein Touristengebiet, ein Eldorado der Urlaubsheroen. Die Freiheit des Wortes aber ist transzendental geblieben. Sie ist der *risky job* des Menschlichen und dessen zeitlose Blume.

ANNEX IV. INTRODUCTORY SPEECHES TO WORKING SESSIONS

SESSION 1: Freedom of association in the OSCE region: challenges and opportunities

- **Mr. Edwin Rekosh, Executive Director of the Public Interest Law Institute, Budapest**

(Written statement)

I am the founder and manager of an NGO, and I am a board member of several others. As such, I am frequently confronted with problems to solve relating to compliance with laws and regulations governing non-profit organizations – not just in one jurisdiction, but in several: Hungary, the United States and elsewhere. It is my responsibility in these various capacities to ensure that the organizations I help lead comply with the law and act as good corporate citizens to support policies intended to benefit all.

With equal frequency – in my work supporting the development of civil society – I also encounter problems caused by state bureaucracies interfering with the smooth running of NGOs: through unnecessary red tape, negligence or, sometimes, malicious intent. When that happens, states abridge important aspects of the right to freedom of association and undermine the possibilities offered by NGOs for the healthy development of democratic values and social capital.

My goal this afternoon is to try to offer some thoughts on how to separate out these competing perspectives on how law and human rights standards affect the relationship between the state and civil society. I will attempt to do so by raising five issues of practical relevance in OSCE states.

First, freedom of association is much broader and more profound than just the efficient and correct regulation of formal not-for-profit legal entities. Even the formal entities it covers extend far beyond the classic NGO legal forms: associations, foundations and the newly emerging form of non-profit companies. The forms that free association can take include political parties, trade unions and religious organizations, each of which have specific characteristics that are appropriately regulated in different ways.

But most importantly, there is no need to set up a formal legal entity at all in order to enjoy the human right to freedom of association. Just as an individual enjoys the right to freedom of expression without registering with the state the intention to express herself, an individual is free to associate with others without first registering a formal legal structure with the state.

The requirement to register with the state – and incur the duties and obligations that result – comes from the state’s legitimate interest in protecting citizens from harms such as financial fraud and labor violations and ensuring compliance with tax and other fiscal

policies. If an association does not raise and spend funds, if it does not enter into contracts or employ people, if it does not require a bank account, there is no need to formalize the association.

To take an extreme example, if a group of individuals were to informally associate with each other without establishing a legal entity, and they were then to act collectively to conduct illegal activities, such as planning terrorist actions or plotting the overthrow of the government, penalties for conspiracy to commit a crime and other legal tools would be perfectly sufficient for the state to protect its citizens.

On the other hand, if a group of citizens would like to form an informal club or association for the purpose of discussing literature, or to help improve their local school, or to discuss contentious social or political issues, or to write letters to the authorities asking for the release of political prisoners, there is no state interest at stake. Those citizens would simply be exercising their right to freedom of association. As long as they had no need to engage in financial or legal transactions, there would be no reason for them to register.

Turning from informal organizations to formal ones, a **second** important point is the following: while the state has a duty to ensure against fraud and other harms that NGOs can potentially produce, such regulation should be proportionate to the interest at stake. For example, during the registration process, the main state interest should be to guard against any confusion caused by a misleading name or the setting out of objectives clearly incompatible with the law. All other aspects of registration are essentially technical, and NGOs should be given the information and opportunity to correct any deficiencies quickly and simply.

There are certainly objectives which could legitimately result in a refusal to register, such as advocating the violent overthrow of the government or inciting racial or religious hatred. But legislation providing for such a possibility is often worded quite vaguely, and it is the way in which such provisions are applied in practice that can sometimes violate the freedom of association. Accordingly, independent and effective judicial supervision over such decisions is especially vital.

Most importantly, it is not appropriate for registration authorities to apply their own judgment about the overall desirability of an NGO's objectives. Registration authorities must respect political pluralism, and they must not be driven by prejudice.

In some circumstances, however, more extensive regulation of NGOs is warranted. For example, when NGOs benefit from public funds – either through tax subsidies or more directly through government grants and contracts – states legitimately require more reporting and engage in more rigorous monitoring in order to ensure that public monies are properly spent. Likewise, if NGOs raise money from the public, the state has an interest in protecting the public from fraud. But, still, government oversight in these situations should be proportionate, and any measure they take should be necessary for these purposes.

A **third** set of issues that are particularly important have to do with the extent to which NGOs may conduct political activities. I have found that this is an issue about which there is much confusion – and a great deal of it stems from prosaic issues of vocabulary and translation. In Slavic languages in particular, the use of the same word – *Politika* – to refer to both “public policy” and “partisan politics” has resulted in a great deal of misunderstanding on this topic.

As I expect will be clear in the discussions that take place tomorrow, the rights to freedom of assembly and freedom of expression would be far less meaningful if political engagement by NGOs were restricted. In fact, NGOs can and do engage in all sorts of political activities in the form of what is sometimes called public advocacy. They monitor legislation and its implementation; they propose and oppose changes in legislation; they study policies and make recommendations for change; they frame political and social issues for the general public; they mobilize civic engagement by communities and the citizenry as a whole.

All of these activities are legitimate activities for NGOs, indeed through these means NGOs play a vital role in promoting political pluralism, developing democratic culture and, simply put, making the wheels of democratic governance turn more smoothly.

As a recent report from the Council of Europe succinctly states: “an NGO is entitled to pursue the objective of a change in the law and to participate in political debate.” The jurisprudence of the European Court of Human Rights further elucidates the extent of permissible political engagement by NGOs. In the Bowman case, for example, the Court found that the UK violated human rights when they applied regulatory restrictions relating to political campaigns against an NGO. In that case, the NGO had distributed flyers rating political candidates during an election campaign according to their position on the issues of abortion and experimentation with embryos.

A **fourth** issue that seems to be of increasing concern in some OSCE states is the funding provided to NGOs from donors outside the respective country. In some cases, the result has been extensive new reporting obligations and/or the requirement to get advance governmental approval before spending such funds.

Regarding this issue, many of the same principles I already mentioned should apply. Such regulations should be shown to be necessary in order to safeguard some public interest, and the regulatory obligations should be proportionate. Moreover, due care should be taken to avoid the possibility of a chilling effect on civil society: inhibiting NGO activities and discouraging much needed financial support.

Finally, some of the issues with freedom of association are linked to larger problems with governance and state administration, and they must be seen in that context. When state agencies provide incomplete or vague information about the NGO registration process or issue inconsistent or unfounded decisions or apply arbitrary criteria without a legal basis

or regularly exceed their own deadlines without justification, the root cause is often a much more pervasive set of deficiencies in the practices of the state administration.

Sometimes these actions are politically motivated or result from prejudice. But sometimes they simply stem from bad administrative practices that – more often than not – extend to many other areas of state administration. This phenomenon is worsened by the inability of courts in some OSCE countries to exercise effective judicial supervision in order to safeguard good administrative practices.

So, how can the state best harness the potential of its citizenry to contribute to the country's governance and development? Civic engagement through NGOs activates those who are closest to the issues which are legislated by governments and parliaments and implemented by the state administration. In this way, NGOs make an essential contribution to political and social development.

Further, in a democratic system, which rightly privileges majority voices in the society, NGOs provide a channel for participation of minority voices, and this is an indispensable means for ensuring full social inclusion and guarding against the potential that always exists for the tyranny of the majority. Through NGOs, individuals are able to exercise their right to freedom of association, and as a result, large numbers of citizens can participate more fully in the democratic life of their country.

How can the state best facilitate this? That is a difficult question to answer. But one of the less effective ways to do so is for states to make the mistake of trying to organize the organizations. Doing so disempowers NGOs, undermining the very civic engagement that NGOs are most well placed to promote. Probably the best way to activate the internal resources and energy of the citizenry is to set up a simple and clear framework for organizing, and then get out of the way.

Why do NGOs – whether organized formally or informally, whether providing services or advocating a cause – produce so much anxiety among public officials and state administrators? In countries where there is serious discomfort, let's hope that it is a passing discomfort, and that familiarity will breed at least acceptance if not active support. In the meantime, it is important for all of us to look closely at the issues with clear eyes, absent ideological bias and with the conviction that freedom of association is one of the most important cornerstones of a democratic society.

With this perspective in mind, I hope that we can have a vigorous debate during this session that moves us forward toward greater understanding and leads us to more effective action.

Thank you.

SESSION 2: Freedom of peaceful assembly in the OSCE region: challenges and opportunities

- **Mr. Vardan Pogosyan, founder of the Armenian NGO “Democracy”; Member of the OSCE/ODIHR Expert Panel on the Freedom of Assembly**

(Written statement)

Mr. Chairman,
Ladies and Gentlemen,

It is a privilege to be with you this morning for the discussion on “The freedom of peaceful assembly in the OSCE region: challenges and opportunities”. It is not my task today to present in few minutes everything that there is to say about international and European standards relating to the freedom of peaceful assembly nor to report exhaustively about the challenges and opportunities with respect to this fundamental right in the OSCE region. I would rather first draw your attention to the newly launched OSCE/ODIHR Guidelines on the freedom of peaceful assembly and then touch upon some challenges and obstacles with respect to the freedom of assembly in OSCE participating States.

Taking into consideration that a side event will be convened today over lunch time with a view to presenting the Guidelines to OSCE Delegations, NGOs and other participants I will make only some remarks on the purpose and intentions of the Guidelines.

- Drafting the Guidelines

The Guidelines were originally drafted by the ODIHR, providing a solid foundation on which to build. It was posted on the ODIHR website and circulated to all those who contributed to the drafting process, particularly those who took part in consultative roundtable events held in Tbilisi, Belgrade, Almaty and Warsaw. In total, these roundtable sessions (all held in 2006) were attended by as many as 150 participants hailing from 29 different OSCE participating States. These country groups represented many diverse interests, bringing together experts and stakeholders from all regions of the OSCE area. The document takes into account comments made by participants in the course of the events as well as afterwards. Without this input reflecting a broad wealth of hands-on experience in widely differing contexts, this would have been a less comprehensive document. The Document took also into account comments received from members of the Venice Commission who were consulted on an initial draft of the Guidelines.

- Target groups

The Guidelines are designed to practitioners in many sectors – drafters of legislation, those implementing it, as well as those affected by the implementation.

Recognizing a great diversity of country contexts and the need for the legislation to be adapted to national specifics in order to be fully implementable, the Guidelines do not provide ready-made solutions but rather seek to clarify key issues and discuss possible

ways to address them. The Guidelines offer a practical toolkit for legislators by drawing on best practice examples from the OSCE participating States to illustrate the various legislative options used to regulate issues pertaining to the freedom of assembly.

- No “model law“

The approach to the form of the regulation of the right to freedom of assembly varies greatly across the OSCE space. Legislators in different countries have chosen a variety of models from adopting a specific law to govern the exercise of this fundamental right to introducing provisions concerning public assemblies across a diverse array of relevant legislation, most importantly, acts pertaining to the police and general administrative law.

Recognizing these differences, and also the great diversity of country contexts (particularly in relation to democratic traditions, the rule of law, and the independence of judiciary), the Document does not attempt to provide ready-made solutions. It is neither possible nor desirable to draft a single transferable ‘model law’ that could be adopted by all OSCE participating states. Rather, the Guidelines and the interpretative notes attached to them seek to clarify key issues and discuss possible ways to address them.

- Guidelines as a threshold that must be met by national authorities

The Guidelines are of course based on international and regional treaties and the general principles of law recognized by the community of nations. In this sense it demarcates a clear minimum baseline in relation to these standards, thereby establishing a threshold that must be met by national authorities in their regulation of freedom of peaceful assembly. On the other side contrary to the approach of some other analogous texts the Guidelines do not see its task only in codifying the international standards or summarizing the relevant case-law. The Document, instead, seeks to promote excellence, and is therefore illustrated by examples of good practice (measures that have been proven successful across a number of jurisdictions or which have demonstrably helped ensure that the freedom is accorded adequate protection).

- Omissions

Of course, we are aware that the Guidelines cannot provide exhaustive coverage of every issue that might conceivably arise in relation to the exercise and regulation of the right to freedom of peaceful assembly. Omissions should not thus be interpreted as implying that a particular policy, practice, procedure, or penalty necessarily complies with the minimum human rights threshold. Indeed, it is expected that the Guidelines will be revised over time.

Challenges and obstacles with respect to the freedom of assembly

Now I come to the issue of the challenges and opportunities with respect to the freedom of assembly. The freedom of peaceful assembly is undermined in some countries of the OSCE region by authorities who impose unnecessarily restrictive measures as a result of an excessively wide interpretation of legitimate grounds for limitations. These countries ignore unfortunately the crucial principle of proportionality which requires that the least intrusive means of achieving an objective should always be given preference.

As stated in the recent Report submitted to the OSCE Ministerial Council (“Common Responsibility. Commitments and implementation”) the limitations to the freedom of assembly within the OSCE region include

- the outright banning of assemblies critical of the government;
- the placing of excessive burdens on assembly organizers or unwarranted restrictions on the time, place and type of assemblies;
- the denial of adequate protection to participants of peaceful assemblies against third parties, such as counter-protestors;
- and an unnecessarily repressive attitude towards simultaneous and spontaneous assemblies.

In some participating States of the OSCE excessive penalties such as detention or high fines are used to punish individuals who take part in peaceful assemblies.

In too many participating States, freedom of peaceful assembly is regulated through a system of requiring permission from the authorities before an assembly can take place, rather than through the preferable system of only requiring that notice be given to the authorities. The Guidelines on Freedom of Peaceful Assembly take in this regard a very clear stance: “Legal provisions concerning advance notice should require a notice of intent rather than a request for permission. Although lawful in several jurisdictions, a permit requirement accords insufficient value to both the fundamental freedom to assemble, and the corresponding principle that everything not regulated by law should be presumed to be lawful. Those countries in which a permit is required are encouraged to amend domestic legislation so as to require only notification. It is significant that in a number of jurisdictions, permit procedures have been declared unconstitutional”.

Issues that can be discussed in connection with the freedom of assembly

In conclusion I would like to raise some issues that can be discussed during this session:

- What challenges do assembly organizers face in the OSCE region and how can these be met by participating States? What legal and regulatory framework is most conducive to the implementation of this freedom?
- How can dialogue between groups seeking to exercise the right to freedom of peaceful assembly and the authorities be promoted?
- How can the freedom of peaceful assembly be advanced in a manner so as to allow as diverse a range of groups as possible the greatest degree of free expression?
- What best policing practices have been developed to fully uphold the exercise by all of the freedom of peaceful assembly?

SESSION 3: Freedom of expression and the role of the media in a pluralist society

- **Mr. Aidan White, General Secretary of the International Federation of Journalist (IFJ), Brussels**

(Written statement)

In the first years of the 21st century, the spaces of free expression, even in long-established liberal democracies, have been eroded, are being eroded and - if we don't rally to the fight - will continue to be eroded. Free expression is not the preserve of journalists and artists. It's a freedom for all and provides essential nourishment for all other liberties.

It is indispensable for the formation of public opinion. It is vital for the development of the associations and the assemblies we have talked about at this meeting. Without it political parties, trade unions, scientific and cultural societies and, civil society in general, would never be able to exert influence.

It represents, in short, the means that enable the community, when exercising its opinions, to be sufficiently informed. A society that is not well informed is not a society that is truly free.

The erosion of free expression comes in many different ways. Most dramatically, there is violence and the threat of violence.

As media become more powerful violence against journalists intensifies. Last year more journalists and media staff were killed than ever before. So far in 2007 some 30 deaths have been recorded – maintaining the rate of murder and assassination that led the United Nations Security Council, for the first time, to issue last December a call on all governments to respond to the media crisis of violence against journalists by ending impunity.

Across the OSCE the crisis is well recorded. There have been 46 murders of journalists in former Soviet States alone over the past 15 years. The killings of Gyorgy Gongadze in the Ukraine, Anna Politkovskaya in Russia and Veiranika Chakasava in Belarus have become enduring symbols of martyrdom in what is turning into a dark age for freedom of the press. In all of these cases 90 per cent of them remain unresolved.

In Russia alone there are 14 unsolved cases of reporters murdered since President Putin came to power. It is no wonder that last December the IFJ, in co-operation with all other press freedom groups and global organizations of media professionals decided to launch a specific and targeted investigation into the crisis of impunity in the killing of journalists in Russia.

The murder of journalists and complacency in the face of pressure on writers and dissidents is tragic evidence of the lack of respect for human rights. Governments must

set standards of pluralism, transparency and justice so that journalists are free to be independent and professional. They can start by delivering on promises to find the killers of our colleagues. It seems so obvious and undeniable, but I will say it nevertheless, there will never be press freedom so long as impunity reigns.

But it is not just the violence that is eroding free expression – political complacency, judicial corruption, police incompetence, legal uncertainty exists in many corners of the OSCE. In recent months problems in Tajikistan, Bulgaria, Romania, Turkmenistan, Kazakhstan, Uzbekistan, Russia, and Belarus and Turkey have all figured in our concerns. Problems of restrictive legislation, bans on independent media, the curtailing of access to information are in evidence in many of these countries revealing a profound detachment of the institutions of state from the aspirations, principles and values of the OSCE.

Of course, it is not all bad news and we in the IFJ welcome what scraps of comfort we can get. The news that Kyrgyzstan is about to decriminalise defamation is an important and significant step in the right direction. It is grotesque that in many countries journalists can still be jailed for carrying out their professional work. We hope that other countries in the region that have not yet reformed their penal codes will now do so.

At the same time, we welcome moves towards freedom of information in many countries and the adoption of rules that will promote open government and access to information. It is long overdue and worth remembering that at its very first session in 1946 the United Nations General Assembly adopted Resolution 59(I) which stated Freedom of information is a fundamental human right and ... the touchstone of all the freedoms to which the UN is consecrated.

A proper freedom of information regime is a vital aspect of open government and a fundamental underpinning of democracy. It is only where there is a free flow of information that accountability can be ensured, corruption avoided and citizens' right to know satisfied. Freedom of information should ensure the right of citizens to access information and records held by public authorities.

This will not happen overnight – a change in the culture of the civil service from one of secrecy to one of transparency is a slow process – but it will happen quickly when governments establish cheap and efficient procedures for the public to access official information, ensure that record keeping procedures make this possible and ensure that the access regime facilitates the maximum disclosure of information.

It may take up to ten years or longer, but investing in open government is an invaluable contribution that every government should make to enhance the conditions for freedom of expression.

It is worrying that just as some OSCE countries are opening themselves up to more scrutiny, some long-established democracies – Britain and Ireland in particular – are

introducing rules that will make it more difficult and more expensive for people to exercise their right to know.

This brings me to a matter of profound concern that even within the most well-established of our democracies, the structure of free expression protection is being shaken – whether it is because of security concerns, or whether to counter intolerance and new challenges posed by migration or differences between religious and other communities.

The shifting social and cultural landscape often results in friction and strain as communities with different cultures, faiths and traditions adjust to living together. At the same time, however, the increasingly diverse worldwide mix of people, races and faiths has triggered a new political, economic and cultural dynamism across the globe.

The darker side of current societal upheavals is not difficult to see.

As societies change, intolerance is on the rise, with racism and xenophobia re-emerging as powerful perils and anti-foreigner political parties gaining in popularity. In Europe, for example, attacks on non-white minority groups are depressingly routine in many countries, leading to the growth of extremism among minority communities. Much of the anxiety in society is exploited by ruthless and extremist politicians.

A range of recent controversies spotlight these trends. In particular was the publication in 2006 of cartoons of the Prophet Mohammed, racist attacks and violence in the streets of France and Britain, anger over the killing of film-maker Theo Van Gogh in the Netherlands, and growing anti-immigrant and anti-Muslim sentiment in many countries, compounded by opposition to future Turkish membership of the European Union.

In addition, while politicians in most democracies insist they are committed to freedom of the press, journalists in all parts of the world are under pressure from governments and politicians seeking to muzzle press freedom in the name of a so-called “war on terror.” The IFJ has published two reports on how this security agenda has been used to chip away at civil liberties and put journalism under pressure in more than 40 countries in recent years.

The anti-terror campaign has in fact become a useful smokescreen for many governments seeking to crackdown on dissident groups and journalists who they accuse of voicing or publishing extremist views or representing terrorist organisations.

In journalism we have seen the consequences of this – across the democratic world journalists are monitored, every step of the way. Visa restrictions are being strengthened. Telephones are routinely tapped. Prosecutions and threats to media and to journalists are commonplace. In particular, there is more pressure today on journalists to reveal their confidential sources of information than there has ever been.

Last year three journalists were prosecuted, in Denmark for goodness sake, for telling truths that embarrassed the government (a case thrown out by the courts). Two journalists

were briefly jailed in the Netherlands when they refused to name their sources. The German Government was forced to act when its security services were exposed for putting spies into newsrooms and the fining of an editor was struck down on appeal as a threat to press freedom. In the UK, the government has said it is planning to strengthen official secrecy laws to prevent whistleblowers from revealing information about government policy. Latvia, Ireland and Italy have also seen action, both legal and illegally, by officials trying to discover who journalists are talking to.

At a time when information technology gives us the opportunity to express ourselves more extensively and more inclusively than ever before, governments appear to be determined to find out, legally or illegally, who journalists are talking to and about what.

This is a real threat to free expression, for if journalists sources are intimidated into silence by fear of exposure, then the people's right to know, the capacity for scrutiny of those in power will be dramatically diminished.

Much of this can lead to self-censorship. Often this is self-censorship out of fear. But self-censorship can also flow from a well-intentioned notion of multi-cultural harmony. The cutting edge of informed and knowledgeable journalism should never be blunted by misguided ideas of mutual respect for different taboos. In a democracy, all ideas, opinions and traditions are open for debate. Finally, there are the crimes of complacency on the part of misguided democratic governments and parliaments who, in the name of security, domestic peace and inter-communal harmony, legislate to curb free expression. The British government's law on glorification of terrorism and incitement to religious hatred are cases in point. The German campaign to extend its anti-Nazi laws across the European Union may open up new opportunities for censorship

Finally, I want to say a word about the arrival of the Internet. The Internet poses all the questions of free expression policy - copyright, censorship, and media democracy - in a new and urgent context. In this regard there is a debate emerging as to who is a journalist? And how do we apply rules - for instance regarding judicial protection over disclosure of sources or fair comment and public interest defences in cases of libel and defamation when everyone, in the age of information technology, can publish and disseminate whatever they want, whenever and however they want?

We have to find ways of defining the work of journalists - its status as a form of livelihood, the ethical basis for it, the provision of information for public consumption, and the importance of public interest values in the work they do - that distinguishes the community of journalism from others in society's public information space.

We also have to protect those who these days cross with increasing ease the line between personal space in the public information space. That includes people like Josh Wolf, a United States blogger, who has been in jail for 8 months for refusing to provide video material to the authorities and who has refused to identify people in his films (some of which has been used by media). He needs to be protected as much as any journalist worthy of the name.

Given this array of problems, what is to be done? We all need to wake up to the seriousness of the danger. This is one of the greatest challenges to freedom in our time.

We need a ferocious debate about the use of law, particularly when it concerns what we should and we should not be allowed to say or write. We need to debate what free expression means in a globalised world where people of different cultures live so close together. There is a frontier of common sense, wisdom and prudence which lies beyond that which should be defined in law.

Journalists and politicians need to avoid intemperate and inflammatory language, but when that arises we can refute it in measured terms using the tools of free expression to undo the harm caused by people who trade in controversy – and cartoonists are notorious among them. But when any of them acting within the law is threatened by violence we have to defend them. In the spirit of Voltaire we must stand in solidarity with the threatened writer.

Too many times recently journalists and others have been victims of a backlash against dissent. The defence of freedom of expression is often couched in conditional terms that have the effect of excusing as “understandable” the excesses of offended groups and their protests. It will not do.

Principles of free expression need to be given more substance and potency in these difficult and fearful times. In journalism we are forming industry-wide coalitions to examine the cruises of intolerance and extremism and the threat to press freedom. We have launched an Ethical Journalism initiative which aims to

- Debate “self-regulation” to ensure it is viewed as another manifestation of sound editorial judgment rather than self-censorship;
- Find ways of encouraging journalists to be better informed to avoid manipulation by extremists or unscrupulous politicians;
- Ensure impartiality and application of core principles of ethical journalism when covering highly-charged issues of crime, immigration, community relations, immigration, religious belief and terrorism at a time of high public anxiety;
- Promote discussion of these complex issues with other civil society groups and policy-makers without compromising editorial independence;

The time is ripe for this new global campaign bringing together civil society, journalists and governmental groups to strengthen press freedom reinforce quality journalism and consolidate editorial independence.

The OSCE work on strengthening democratic values in the press and media is essential in this regard. Through dialogue and awareness raising we can expand the landscape of free expression in a tolerant and balanced way, if we do not act to do so now, I fear that we have much to lose.

Thank you.

ANNEX V. BIOGRAPHICAL INFORMATION ON KEYNOTE SPEAKERS, INTRODUCERS AND MODERATORS

Keynote speaker: Ambassador JIŘÍ GRUŠA

Jiří Gruša (b. 10 November 1938, Pardubice, Bohemia) is a Czech poet, writer, translator, diplomat and politician. He studied at Prague's Charles university (philosophy and literature) and obtained a doctorate in philosophy in 1962. In 1964, he founded the first non-communist literary magazine *Tvar* (Face). This magazine was soon banned. In 1964, he clashed with the political and literary nomenclature over an article on Stalinist poetry. In 1965, he founded *Sesity* (Notebook), another magazine for young writers. This was banned in 1969. In 1965 he was also appointed editor in the publishing house *Nové knihy* (New books) and worked as journalist, poet, prose-writer, essayist and translator. In 1968 he wrote for the weekly magazine *Zitrek* (Tomorrow). This magazine only survived a short time and was banned before the end of 1968.

Ambassador Gruša took part in the Prague spring of 1968. In 1969 he came before the Communist authorities after the publication of extracts from his novel *Mimmer* in the magazine *Sesity*. This culminated in 1970 in a ban on his professional work. During the regime of Gustav Husak, Ambassador Gruša was employed in a construction company.

In 1977 he signed the Charta 77. From 1972 to 1980 he wrote for a *samisdat* publication: *Edice petlice* (Edition chain). In 1978 he published 'Hour called Hope' in Czech and German. After publication of his first novel *Dotazník* (Questionnaire) he was arrested. However, thanks to the intervention of Heinrich Böll, he obtained his release, and in December 1980 was allowed to travel to the United States. In 1981, while abroad, the Czech authorities deprived him, against his will, of his nationality and he decided to settle in Bonn, working as a freelance editor. In 1983, he obtained German citizenship. While there, he edited Havel's Letters to Olga, published an anthology of Czech writers entitled 'Ostracised Poets' in Cologne in 1983 and a memorial edition 'Prague Spring, Prague Autumn' in 1988.

After the collapse of the Communist block, the new Czechoslovak government appointed Ambassador Gruša as the country's Ambassador to Germany. He remained as Ambassador of the Czech Republic after the split with Slovakia in 1993. In 1997 he joined the Czech government as Minister of Education, Youth and Sports. From 1998-2004, he was ambassador of the Czech Republic in Austria. Since 2004, he has been the President of P.E.N. International. Since April 2005, he has been the Director of the Diplomatic Academy in Vienna.

Moderator, Session I & II: Prof. David GOLDBERGER

David Goldberger is the Isadore and Ida Topper Professor of Law at the Ohio State University. He teaches a course on the First Amendment to the U.S. Constitution, a

survey course on the U.S. Constitution, and course in clinical skills in which he supervises upper level law students representing clients in pending cases. His academic writing focuses primarily on the scope of the right to freedom of speech under the U.S. Constitution. Prior to becoming an academic, he was legal director of the American Civil Liberties Union, Illinois Division. He specializes in free speech cases. Through the years, his clients have included, among others, anti-Vietnam war demonstrators, the National Socialist Party of America (in its effort to get a permit to demonstrate in Skokie, Illinois), the Communist Party of Illinois, and the Ku Klux Klan. He has also represented political candidates for state and county office from America's major political parties.

Moderator, Session III: Mr. MIKLOS HARASZTI, OSCE Representative on Freedom of the Media

Hungarian writer, journalist, human rights advocate and university professor **Miklos Haraszti** was appointed the OSCE Representative on Freedom of the Media effective from 10 March 2004. He was born in Jerusalem in 1945. Mr. Haraszti studied philosophy and literature at the Budapest University and in 1996 received an Honorary Degree from Northwestern University in the United States. In 1976 Mr. Haraszti co-founded the Hungarian Democratic Opposition Movement and in 1980 he became editor of the samizdat periodical *Beszélo*. In 1989, he participated in the "roundtable" negotiations on transition to free elections. A member of the Hungarian Parliament from 1990-1994, he then moved on to lecture on democratization and media politics at numerous universities.

Mr. Haraszti has written several essays and books, including "A Worker in a Worker's State" and "The Velvet Prison", both of which have been translated into several languages. His essays have been published in *The New York Times* and *The Washington Post*. He speaks English, Russian and German.

Introductory speaker, session I: Mr. Edwin REKOSH

Edwin Rekosh is the Executive Director and founder of the Public Interest Law Institute (PILI). For more than a decade, Mr. Rekosh has been a leader in the effort to advance human rights and promote the development of public interest law throughout Central and Eastern Europe, the Balkans, the former Soviet Republics and more recently in China. He teaches Human Rights, Law and Development at Columbia University School of Law and is a visiting professor at Central European University. He previously worked for the International Human Rights Law Group (now Global Rights) in Romania and as a consultant for the Ford Foundation.

Introductory speaker, session II: Mr. Vardan POGHOSYAN

Vardan Poghosyan is founder of the Democracy NGO – an Armenian think-tank focusing on legal and political research. He is also a Legal Advice Project Coordinator with GTZ in Armenia. His primary academic interest is in constitutional and administrative law, as well as in comparative political systems. He participated in a number of legislative drafting projects in Armenia, including membership in the Working

Group on Drafting the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations, as well as participation in drafting the constitutional amendments and the Administrative Procedure Code.

Introductory speaker, session III: Mr. Aidan WHITE

Aidan White is a British journalist, who has been the General Secretary of the International Federation of Journalists since 1987. He previously worked for several newspapers in the United Kingdom. He was with *The Guardian* in London prior to joining the IFJ. He is a long-time campaigner for journalists' rights and is a former activist with the National Union of Journalists in Great Britain and Ireland.

He is the Editor and author of numerous manuals, reports and studies on journalistic ethics, racism and media, freelance journalism, information society, trade union development in media and media and democracy. He is also the author of a number of detailed texts dealing with Media Ethics and Gender (1995 - Published by Council of Europe); Media ethics and commercial sexual exploitation of children (1996 Published by UNICEF); Access and pluralism in the Information Society (1995 - Published by IFJ); Basic Social and Democratic Values in the Information Society (1996 - Published by European Commission); Tolerance and Media in Eastern and Central Europe (1997 - Published by UNESCO); Conditions of Freelance Journalism (1987 - Published by IFJ).

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

OPENING REMARKS

(Written statement)

Excellencies,
Ladies and Gentlemen,

Allow me to warmly welcome you all to this Supplementary Human Dimension Meeting, the first in 2007, on “*freedom of association, assembly and expression*”. We are here today and tomorrow to discuss these three freedoms and their implementation - freedoms which are at the very heart of democracy. Not only do they form a core part of our *acquis* of national and international law and OSCE commitments, they represent the collective heritage of the struggle for democracy, human rights and pluralism within our region. At the outset, I would like to welcome the Chairman of the PC, Ambassador Carlos Sánchez de Boado - may I ask you to open this Meeting, please.

Ladies and Gentlemen,

Your numerous attendance indicates that it is time to dedicate a meeting to specifically address these three freedoms and to examine their implementation. In our report ‘*Common Responsibility*’, which we presented to the last Ministerial Council, we illustrated some specific implementation challenges in this field.

First, some good news: positive measures are taken in a number of countries in favour of a more effective protection of the freedoms of assembly, expression, and association, such as the abolition of criminal libel provisions, as we have recently seen in Kyrgyzstan, or the amendment of the freedom of assembly legislation in Armenia, in 2005, that switched from an authorization to a notification system. Those measures undoubtedly contribute to effective democratic systems; they safeguard pluralism and enhance participation.

However, numerous negative trends and violation patterns remain. In the OSCE region, patterns of violations of the three core freedoms include arbitrary arrest and detention, mistreatment, unfair trials, various types of abusive administrative and even judicial measures, and, most commonly, threats and harassment of citizens: Human rights defenders, trade unionists, social workers, students and teachers, journalists, intellectuals and artists are suffering from the implementation of laws that unduly restrict their freedoms, instead of promoting them.

This trend is also visible in efforts to label legitimate and peaceful expressions on matters of public concern as ‘extremism’, ‘terrorism’ or ‘separatism’. True security lies, as we all

agree, not in the seemingly peaceful silence of a police state, but in democracy, human rights and the rule of law.

The situation of NGOs in our region has certainly not become any easier over the past 10 years in some countries. We have seen changes to NGO legislation designed to tighten, and not loosen, state control of civil society institutions, with special attention given to those which receive foreign funding. We have witnessed domestic NGOs being subject to more, and not less, pressure by state prosecutors, tax authorities, and security agencies. As they exercise the three fundamental freedoms that form the topic of this SHDM, NGO actors should be nurtured, and not harassed. They should be recognized as what they are: *'an integral component of a strong civil society'* (Istanbul, 1999).

The OSCE's normative framework is particularly suited to examine the state of the three freedoms under consideration today and tomorrow. As clearly recognized in OSCE commitments, there can be no lasting security without a stable democracy. The essence of democracy is nourished by an understanding that each individual relinquishes a certain scope of freedoms in favour of a body politic which will eventually regulate a good share of this individual's life. In return, this individual is promised the equal protection of his/her rights, and an equal say in how the government is run.

Let me term this the bargain of democracy: we each give up the right to decide certain matters for ourselves to an entity in exchange for the protection of our rights, and the right to influence the actions of that entity. Clearly, we must also grant the right to say what we please, on any matter of public or private concern. The ultimate value of the freedom of expression is not merely that individuals can hold opinions, but also that they can share them with others, and convince them of their worth through the force and value of their arguments traded on a free market of ideas. In order to do this effectively, individuals often, if not always, need to join together. The expression of collective opinions and the ability to convince others to join them in a common cause is precisely what the right to freely associate is meant to safeguard.

To deny individuals the right to associate and restrict them in a manner that effectively eliminates its essence is equivalent to the denial of participation in a democratic society. Ultimately, a government which greets peaceful groups gathered in the streets with tear gas and riot brigades endangers its own security, and thus the collective security of the region. This is why the three freedoms under consideration matter to a regional security organization, and this is the reason why they must be respected, protected and promoted, as foreseen in OSCE commitments.

The OSCE has always been in the forefront of this endeavour. Its participating States have tasked the ODIHR to provide legislative and practical assistance; I am glad that there is a growing demand. It is also for this purpose that the ODIHR has developed, with the help of many experts from participating States, Guidelines on Freedom of Peaceful Assembly. It will be my pleasure to present them more in detail tomorrow, together with members of our Panel of Experts.

I wish to note that almost all OSCE field operations are represented at this meeting - they can rightfully claim most of the OSCE's concrete achievements in this area. They develop a unique relationship with local counterparts and experience on a day to day basis the implications, for societies as a whole, of the concrete exercise of freedom of assembly, association and expression. We look forward to concrete input and experiences from you.

The way forward for all governments of OSCE participating States is not only to ensure wide NGO participation in Human Dimension events such as this one, but to reach out and to work with civil societies, with human rights groups, on improving situations in which these three, and all other, freedoms are concerned.

It is therefore a particular pleasure to welcome a number of representatives of National Human Rights Institutions from across the region. Their role is essential in promoting and protecting the rights that form the topic of this meeting. Finally, it is the representatives of NGOs who merit our special welcome: It is them who remind us all of the daily reality of defending human rights.

In conclusion, I would like to thank the Spanish Chairmanship, and in particular Ambassador Carlos Sanchez de Boado, for the excellent cooperation we have enjoyed in organizing this meeting.

I encourage you all to engage actively in the discussions in the coming two days and to develop concrete recommendations for a meaningful follow-up.

Excellencies,
Ladies and Gentlemen,

As you know, this year marks the 30th anniversary of Charter 77.s founding, a movement that was dedicated to compelling the communist government of Czechoslovakia to abide by the international human rights agreements it had freely adopted, including the Helsinki Final Act. It is therefore a particular pleasure to welcome among us a friend, whose personal involvement in the movement, and his contribution to the societal changes cannot be overstated. Please join me in welcoming, as our keynote speaker, a very special man: he is an author, a politician, a diplomat, a former prisoner, an activist and a citizen of Europe not only by conviction, but also by necessity, and a teacher: the Director of the Vienna Diplomatic Academy and President of the International PEN Club, Jiří Grusa.

CLOSING REMARKS

(Written statement)

Excellencies,
Ladies and Gentlemen,

We have spent the past two days discussing the freedoms of assembly, association and expression, as well as their expression, and we have identified a number of obstacles and challenges to their realization. We have heard detailed descriptions of shortcomings in these areas. Ever more interferences, ever more unnecessary obstacles, and ever more stifling of the transfer of free thought both within and across States are cause for deep concern.

Participants talked a lot about the notion of legitimate limitations to the three freedoms. We all agree that individuals may exercise the right to say what they please, but do other individuals not have a commensurate right to be free of expressions of, say, racial hatred? A group of concerned citizens may certainly avail itself of the right to go out on the street and collectively express an opinion. Yet aren't there instances in which restrictions should indeed be imposed, for example, to prevent an assembly from falling into complete disorder? We all know there is a right to associate freely, but does that imply that individuals may advocate violence?

This discussion will, of course, continue. What causes concern, however, is deliberate abandonment of any considerations of proportionality and necessity when limiting fundamental freedoms. In particular, civil society participants in this meeting have noted the situation regarding the freedom of association. In a number of participating States, the stifling of a free, well-organized and vibrant civil society is taking place through a variety of different bureaucratic, legalistic and arbitrary techniques.

In this respect, let me also quote from one of the recommendations we have received at the 2006 HDIM: *“Participating States should ensure their legislation regulating the activities of NGOs conforms with OSCE and other international commitments. Financial and administrative obstacles, likely to hinder the free operation of human rights defenders, should be removed. Legislation should not be used to restrict or intimidate them.”* Follow-up to this recommendation means that laws and regulations on the freedom of association should not only conform to commitments; they should also be interpreted not in a formalistic, technical sense, but in the light of the principles of democracy, tolerance and pluralism which pervade the commitments.

The ODIHR and other international organizations are of course always ready to provide technical and other assistance. However, the responsibility for ensuring the necessary environment for a vibrant and independent civil society lies squarely with the participating States themselves. Further, it is national authorities which are accountable to other participating States on whether civil society actors and human rights defenders may operate in accordance with both the letter and the spirit of the OSCE commitments.

This is, sadly, also particularly relevant for those NGOs present at this meeting today. In an environment in which NGOs are under increasing threat, we must all continue to follow the fate of those who have been vocal in criticizing authorities. Let me make it clear: we all have a responsibility to monitor carefully that no participant faces repercussions when he or she goes home from this meeting.

As we have seen, a crucial watchdog function can be played by National Human Rights Institutions. By monitoring, reporting on violations and making constructive recommendations for change, truly independent NHRIs which conform to the letter and spirit of the UN's *Paris Principles* can be national champions of free speech, assembly and association.

On the freedom of peaceful assembly, it is clear that much work still needs to be done, both in the formulation of proper laws which recognize the nature of this right and the diversity of those who exercise it. Free and peaceful assemblies are often interfered with by police practices entirely inconsistent with these principles. This not only puts both the public and the police at unnecessary risk, but it stifles the free expression of ideas and opinions, thus striking at the heart of democratic principles.

On the freedom of expression, we have heard about the dangers faced by media professionals as they go about their work of informing the public. In a number of areas in the OSCE region, they still face harassment, torture or inhuman treatment and even death for simply doing their jobs. This constitutes a grave threat to free expression in the OSCE region, and urgently needs to be addressed. We have also seen how more subtle forms of interference with the freedom of expression, such as controlled media ownership, can have effects not dissimilar to the blunt instruments of oppression and intimidation used against media professionals in other regions.

In this context, I note the important work done by my colleague Miklos Haraszti in these areas; I want to thank him for the excellent cooperation we enjoy.

Amidst all the challenges and obstacles identified at this meeting, we have heard many positive examples: how well-trained police can intervene in a proportionate and professional manner during assemblies; how participating States can not only allow, but sit down and constructively discuss with organizations which directly oppose the strongly held views of the majority of their citizens; how the spirit of tolerance and broad-mindedness which lies at the heart of truly democratic societies can, and indeed has gained a foothold in many societies where the free word was repressed for many years.

The best practices are there, the opportunities are there, and in a joint effort of the OSCE community, I am convinced we can meet the challenges we have identified during these two days. The ODIHR, for its part, stands ready to assist. We have presented our Guidelines on the Freedom of Assembly at this meeting, and I am happy with the positive responses we have received, which I hope will be translated into practice on the ground. We stand ready to ensure targeted follow-up and continue our assistance in the many other areas identified by the participants in this meeting as well.

A substantive discussion of the challenges ahead in the areas of freedom of assembly, association and expression which truly addresses these rights in a spirit of open debate both between States and with civil society would be a positive first step, and would give new meaning and vitality to the OSCE's concept of peer review.

I want to thank the many participants – 285, in total, 135 representatives from 46 participating States as well as the over 100 civil society representatives -- for their contributions, which I assure you we will take very seriously. I call on all those assembled here to work towards their full implementation. In closing, I would like to express my gratefulness to the Spanish Chairmanship for the excellent cooperation in organizing this meeting. I would also like to thank the interpreters as well the ODIHR team, for their stellar work in organizing this meeting.

Thank you, and have a safe trip home.

**ANNEX VII. OPENING AND CLOSING REMARKS by the OSCE
Chairmanship**

**OPENING REMARKS by Ambassador Carlos Sánchez de Boado, Chairman of the
Permanent Council, Head of the Permanent Mission of Spain to the OSCE**

(written statement)

Excellencies,
Ladies and Gentlemen,

On behalf of the Spanish Chairmanship of the OSCE, I should like to welcome you most warmly to this first Supplementary Human Dimension Meeting to be held this year.

Throughout these two intensive days of meetings, we shall have the opportunity to discuss at length the question of “Freedom of Assembly, Association and Expression: Fostering Full and Equal Participation in Pluralist Societies”.

First of all, I do not want to fail to take the opportunity that this large forum for debate has given me without mentioning the interest that has been shown in this question within our Organization. This is reflected by the sheer number and wide range of participants in this meeting which is commencing right now.

Permit me also to mention that it is no accident that this meeting is dealing with a question that encompasses both the governmental aspect of the promotion and protection of the aforementioned freedoms and the exercise of these freedoms, responsibility for which rests with civil society itself, the first and ultimate beneficiary of every freedom.

As we all know, freedom is impossible if society does not exercise responsibility.

On the other hand, the forms of freedom we are considering — freedom of assembly, association and expression — are indissolubly related as an essential component of the comprehensive security with which our Organization is so intimately concerned.

Ladies and Gentlemen,

Allow me to spell out here and now the formulation which constitutes the main human dimension theme selected by the Spanish Chairmanship: “Diversity and Participation in Pluralist Societies”.

With this formulation we wanted to signify the fact that it is only through participation that diversity can be guaranteed in any self-respecting democratic society. This requires, quite clearly, a strong sense of belonging to the community of which one is a member

and, at the same time, an unrelenting and complete commitment to freedom in all its manifestations.

It is not for no reason that the more open to participation public institutions are, the better the opinions, sentiments and aspirations of all members of society can be expressed. When all is said and done, there is little use in being entitled to rights if one does not make use of the possibility of exercising them through the power of speech.

The task of guaranteeing this so fundamental right and its inevitable correlative, namely responsibility for ensuring that the right is exercised, is a duty incumbent equally on the State and the individual, who in this way may find himself satisfied in his legitimate wish to transform the world — a world to which he must inevitably belong because he would not exist without it.

Freedom of assembly, association and expression are thus inextricably bound up with the dignity of man. Dr. Manuel Azaña, one of the foremost Spanish intellectuals and statesmen of the past century, must have been thinking of this when he affirmed that “liberty does not make men happy, it makes them, in plain language, men”.

Thus, in the context of the OSCE, we have recognized the essential role played by each individual’s participation in the process of taking decisions, and also the necessity of ensuring that this process actually takes place.

In his report presented last year entitled “The OSCE contribution to the Alliance of Civilizations Initiative”, the Secretary General stressed that “a free society allowing everyone to fully participate in public life is a safeguard against conflict and instability”. Participation constitutes, moreover, the best possible incentive to promote tolerance and non-discrimination in a way which makes it possible to ward off the dangers to stability represented by extremism and social dissatisfaction.

We may be sure, then, that it is only through an open channel of participation that civil society can fully realize its possibilities and offer the best of itself to the advantage of all its members.

Accordingly, it is through Human Dimension meetings such as the one we are holding today that we can assess and take account of the progress effectively achieved in this area and at the same time glimpse the long path that still lies ahead of us if we want to ensure the desired development of the three freedoms, the state of which we are today endeavouring to diagnose in order to ensure in the final analysis the participation of everyone throughout the OSCE area.

It is also true, and this is something we must recognize, that the degree to which freedom of assembly, association and expression are exercised — which so well reflects the pulse of a society — is to some slight extent obstructed by administrative standards and rules which do not always respect the desired principles of proportionality, legality and

non-discrimination, or the actual requirements of good governance and transparency in the decision-making process, something which is of interest to us all.

All in all, the Spanish Chairmanship also wants to recognize the good practices that have developed in this area and suggests to all participants in this Supplementary Human Dimension Meeting that we should put on display both the good practices that have been identified as well as the challenges which we must still confront in terms of effective application of the commitments adopted.

The Chairmanship welcomes the steady work done by the Office for Democratic Institution and Human Rights (ODIHR) in connection with freedom of assembly, association and expression and welcomes also the presentation, as one of the visible and tangible results of this meeting, of the document entitled “Guidelines on Freedom of Assembly” which we hope will prove extremely useful to the participating States and representatives of civil society as they endeavour to improve the commitments undertaken in this area.

The Chairmanship welcomes and supports equally the invaluable work undertaken by the Representative on Freedom of the Media in the general area of freedom of expression.

The Chairmanship supports in addition the creation of a contact point or “focal point” for those active in defending human rights and national human rights institutions operating under the aegis of the ODIHR and hopes that the independent national human rights institutions will strengthen their role in the promotion and protection of human rights and, thereby, their collaboration with all who are active in the defence of human rights.

The Spanish Chairmanship also wants to emphasize the valuable work done by national human rights institutions and is pleased to note that they are well represented in this important Supplementary Human Dimension Meeting.

Thus we can count on the accumulated experience and expertise of those whom we have the honour of welcoming among us today, since they enable us to cope with so many specific and realistic proposals as to how we can improve the enjoyment of freedom of assembly, association and expression in the OSCE.

In conclusion, I should like to say a few words of thanks to Ambassador Christian Strohal and all his team, without whom the organization of this meeting would not have been possible. To these professionals and to all of you I offer our profound thanks for your dedication, your service and your unremitting interest.

**CLOSING REMARKS by Mr. Josep Borrell Fontelles, Special Envoy of the OSCE
Chairman-in-Office**

(Written statement, in Spanish)

Sr. Presidente del Consejo Permanente,
Señor Director de la OIDDH,
Sras. y Sres.:

En mi calidad de Enviado Especial del Presidente en Ejercicio, Ministro Miguel Angel Moratinos, deseo en primer lugar expresarles la satisfacción que me produce el estar entre todos Vds. hoy con motivo de la clausura de esta Primera Reunión Suplementaria de Dimensión Humana de la OSCE bajo la Presidencia española.

Deseo igualmente manifestar mi agradecimiento al orador principal, a los moderadores, ponentes, intérpretes, servicio de conferencias, así como a todos los demás participantes que han hecho posible el que, por la información que he recibido, esta reunión haya sido muy fructífera.

La Reunión Suplementaria ha identificado determinados obstáculos y retos existentes en el área de la OSCE para el ejercicio de tres libertades clave en la vida humana, como son la libertad de reunión, de asociación y de expresión. En estos tres ámbitos los Estados participantes en la OSCE han asumido compromisos políticos claros y explícitos. Sin embargo las intervenciones de estos dos últimos días nos ha permitido constatar, con preocupación, las lagunas que existen en el cumplimiento de tales compromisos. Solamente a través del pleno ejercicio de estas tres libertades fundamentales es posible la existencia de sociedades genuinamente plurales.

La Reunión Suplementaria nos ha permitido contrastar la teoría con la práctica y ha puesto de manifiesto la existencia de numerosas dificultades concretas para el libre ejercicio de las tres libertades: interferencias, obstáculos y restricciones que no tienen justificación objetiva y que van en contra de los compromisos que hemos asumido.

No hay duda de que la responsabilidad en el cumplimiento de los compromisos asumidos recae esencialmente sobre los propios Estados participantes; son ellos los que deben trabajar codo a codo con la sociedad civil para eliminar esos obstáculos que en diversos lugares de la región OSCE impiden el pleno ejercicio de las libertades de reunión, asociación y expresión.

Señores Delegados,

Nos enfrentamos todavía a una situación muy seria y a unos retos considerables. Hoy, transcurrido ya un año desde que tuvo lugar en 2006 la primera Reunión Suplementaria de la Dimensión Humana dedicada a los Defensores de los Derechos Humanos e Instituciones Nacionales de Defensores de los Derechos Humanos, considero que no podemos dar por concluidas estas jornadas sin hacer al menos una referencia a la

inquietante situación de los Defensores de los Derechos Humanos en algunos de los Estados participantes: las tres libertades objeto de nuestra reunión simplemente no existen para muchos de estos defensores de los derechos humanos. En este sentido la Presidencia en Ejercicio manifiesta su apoyo al establecimiento en el seno de la OIDDH de un Punto Focal en materia de Defensores de los Derechos Humanos e Instituciones Nacionales de Derechos Humanos.

Pero Señoras y Señores,

La OSCE trabaja, y tiene que seguir trabajando, para hacer frente también a los restantes retos y necesidades que aún tenemos por delante. Sin ánimo de ser exhaustivo, puedo citar como ejemplos concretos de esta actividad las “Directrices en Materia de Libertad de Reunión”, elaboradas por la OIDDH y que tan positiva respuesta han recibido de los Estados participantes; el apoyo en materia legislativa que proporciona la OIDDH a los Estados participantes que así lo solicitan, y del que animamos a todos a hacer uso; y la labor del Representante en materia de Libertad de Medios de Comunicación, que consideramos tiene una importancia fundamental y que la Presidencia en Ejercicio apoya plenamente.

Me satisface especialmente comprobar el interés que esta Reunión ha despertado entre las Organizaciones No Gubernamentales, así como la presencia aquí de representantes de las Oficinas y Misiones que la OSCE tiene sobre el terreno. Es importante que la sociedad civil conozca no sólo el trabajo que realizan las Instituciones de la Organización, sino también lo que se está haciendo sobre el terreno. Para las propias instituciones es también importante conocer la perspectiva de estas Oficinas ya que ellas desarrollan una relación directa y única con sus contrapartes locales. La Presidencia entiende que la cooperación y dialogo entre todos estos diferentes actores resulta muy positiva y desea, en consecuencia, que esta presencia de las Oficinas sobre el terreno se mantenga en las demás reuniones de la Dimensión Humana que tendrán lugar a lo largo del año.

Siendo quien les habla un parlamentario no puedo sino expresarles el interés que el tema de esta reunión sin duda tendrá para los miembros de la Asamblea Parlamentaria de nuestra Organización. En especial teniendo en cuenta que la Reunión de Verano de la Asamblea Parlamentaria en Kiev girará precisamente en torno al “Cumplimiento de los Compromisos Adquiridos”. Sería muy útil que las carencias, retos y dificultades así como también las recomendaciones que en esta sala se han manifestado estos días sean conocidas, discutidas y tenidas en cuenta por nuestros parlamentarios tanto a la hora de elaborar la legislación correspondiente en estas materias en los respectivos Parlamentos Nacionales, como en general, en el ejercicio de su mandato como representantes del pueblo y principales defensores, por tanto, de las libertades públicas, incluyendo, naturalmente, las de reunión, asociación y expresión.

Permitanme concluir reiterando mi agradecimiento a todos los delegados y asistentes por su activa participación y sus interesantes contribuciones. La presidencia española, como ya lo destacó ayer al inaugurar esta reunión, se esforzará de manera especial por hacer el seguimiento de sus recomendaciones, en particular en el Comité de la Dimensión

Humana, así como en la Reunión Anual de Varsovia sobre el Cumplimiento de los Compromisos que, como todos los años, tendrá lugar el próximo otoño. Al mismo tiempo, esperamos seguir trabajando con todos ustedes para que esta reunión, y sus conclusiones, no sean un fin en sí mismo, sino un primer e importante paso para adoptar medidas concretas en beneficio de todos los ciudadanos de la región OSCE.

ANNEX VIII. SIDE EVENTS

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

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

Thursday, 29 March

Time: 13.00-13.45
Venue: Segmentgalerie I
Title: **IHF Annual Report: Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2007 (Events of 2006)**

Convenor: International Helsinki Federation for Human Rights
Language: English
Summary: The International Helsinki Federation for Human Rights (IHF) will present its new Annual Report that covers human rights developments in 39 countries in the OSCE region. The Organization for Security and Co-operation in Europe (OSCE) has been a main address for the IHF since our establishment in 1982.

Time: 13.45-15.00
Venue: Segmentgalerie I
Title: **Shrinking Space of Liberty: Contemporary Challenges to Three Vital Freedoms in Russia**

Convenor: SOVA Center for Information and Analysis
Language: English
Summary: Representatives of Russian human rights NGOs will provide up-to-date information about increasing restriction of three vital freedoms in Russia – freedom of expression, freedom of association, and freedom of assembly, and about growing use of the “fight against extremism” as a tool of political control of and persecution of independent political and social activism and thought.

Time: 18.30-20.00
Venue: Segmentgalerie I

Title: **Issues of implementation of right on religious association in Russian Federation and Central Asian countries**

Convenor: Almaty Helsinki Committee, Kazakhstan

Language: Russian, English

Summary: Freedom of religious association relates to the right to freedom of thought, conscience and religion. According to Article 18, this right shall include freedom to have or to adopt a religion or belief of personal choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. In 2005 Kazakhstan made amendments to its legalization in order to “straighten national security”. As a result unregistered by the state religious activity is prohibited. In reality, authorities misinterpret this law and prohibit all religious activities for any group of people without legal entity. Since 2006 in Kazakhstan, in Uzbekistan and Turkmenistan officials often raid private homes in order to halt all “illegal religious activities”. High fines for unregistered religious activities are being imposed; religious communities are being banned from operating. Thus, states do not respect the right for religious association leading to the lack of respect for freedom of conscience and religion.

In Russian Federation due to religious and legal ignorance, law enforcement agencies raid unregistered religious communities during religious services. Such actions contravene international legal standards and the Constitution of the Russian Federation (Article 30), which guarantee the right to association. Moreover, another serious problem, which religious communities face, is the issue of religious community property. For example, the majority of Protestant communities in Russia do not have their own place of worship and they have to rent a premise, which leads to serious problems. Religious communities are being denied the right to rent buildings under far-fetched excuses.

Time: 18.30 - 20.00

Venue: Bibliotheksaal

Title: **Presentation of the Annual Report of the Observatory for the Protection of Human Rights Defenders (FIDH/OMCT)**

Convenor: International Federation for Human Rights and World Organisation Against Torture Language: English, Russian

Summary: This side event is aimed at presenting the part on Europe and CIS of the annual report 2006 of the Observatory for the Protection of Human Rights Defenders. The report highlights the confirmation of strong tendencies of repression designed to hamper independent civil society’s capacity for action – or even silence it completely –

in many countries in Europe and the Commonwealth of Independent States (CIS), in 2006.

Friday, 30 March

Time: 12.15 – 14.00
Venue: Neuer Saal
Title: **Briefing on the OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly**
Convenor: OSCE/ODIHR
Language: English, Russian
Summary: The side event will present an opportunity to discuss the newly launched OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly in greater detail. As the Guidelines are aimed at those involved in the drafting of legislation, those implementing it, as well as those affected by the implementation, the potential target audience for the side event may include practitioners in many sectors – legislative drafters, parliamentarians, legal professionals, police officers, local officials, NGO representatives and others.

ANNEX IX. STATISTICS ON PARTICIPATION

The SHDM was attended by a total of 285 participants, including 135 delegates from 46 of the 56 OSCE participating States. One representative of OSCE Partners for Co-operation (Japan) was also present.

The Meeting was attended by representatives from the Office of the OSCE Representative on Freedom of the Media, the OSCE Senior Adviser on Gender Issues, and OSCE Parliamentary Assembly's Liaison Office in Austria. There were 29 representatives from 15 OSCE field missions present (Presence in Albania, Centre in Almaty, Centre in Ashgabat, Office in Baku, Centre in Bishkek, Mission to Bosnia and Herzegovina, Centre in Dushanbe, Mission to Georgia, Office in Minsk, Mission to Moldova, Mission to Montenegro, Mission to Skopje, Project Co-ordinator in Uzbekistan, Project Co-ordinator in Ukraine, Office in Yerevan).

In addition, eight representatives from five international organizations (Council of Europe, European Commission for Democracy through Law (Venice Commission), European Parliament, International Organization for Migration, Austria, UN High Commissioner for Refugees (Branch Office in Austria), were present .

106 representatives from 88 non-governmental organizations participated in the Meeting.

The list of participants can be found in Annex X.

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