

## COMPILATION OF WRITTEN RECOMMENDATIONS

(Covering Working Sessions 8 -9)

*This compilation contains recommendations submitted to the HDIM Documentation Centre in accordance with the established procedure. The compilation is organized by Working Sessions and by what was submitted by Delegations / International Organizations / NGOs to participating States and, separately, to OSCE Institutions / Field Missions or other International Organizations. Recommendations are compiled in original language.*

**Please note that the deadline for submitting Recommendations to the HDIM Documentation Centre is Thursday, 04 October 2007.**

**Friday, 28 September 2007**

**WORKING SESSION 8: Rule of law I, including:**

### **Separation of powers**

Recommendations to the OSCE:

#### **Soteria International:**

- Recommends the establishment of a commission under the OSCE/ODIHR representing directly the diversity of authentic spiritual praxis followed in the OSCE participating countries. Such a commission would as needed issue recommendations in the following areas:
  - Recommendations to parliaments on legislative matters to secure the respect of non-domesticated spiritual praxis.
  - Recommendations to the national organs regulating mass media in order to hinder campaigns and aggressions towards any specific spiritual praxis based in spiritual xenophobia.
  - Recommendations on how to open the educational system in order to provide the pupils a tolerance towards lives based in different spiritual praxis.

## **WORKING SESSION 9: Rule of law II, including**

### **Exchange of views on the question of the abolition of capital punishment**

#### **European Union:**

- The EU urges all OSCE Participating States that have not yet done so to abolish capital punishment and to establish a moratorium on executions in the meantime.
- Recommends all OSCE Participating States to support the draft resolution on a moratorium and the abolition of the death penalty to be presented at the UN General Assembly.
- The EU urges OSCE Participating States, which regrettably still apply capital punishment to abide by international laws and standards, to guarantee due process and most notably to inform other Participating States as well as their own civil society about any death sentence, any final judgement imposing or confirming the death penalty and any execution, including dates and names of those convicted or executed, the grounds for their conviction and any other relevant circumstances in full.
- The EU recommends all OSCE Participating States to ensure the implementation of UN Commission on Human Rights resolution 2005/59 on The Question of the Death Penalty and requests all OSCE Participating States who have not yet done so to sign the Declaration Against the Death Penalty, which was read out on 19 December 2006 at the UN General Assembly and has so far been signed by nearly 100 UN Member States, among them 50 OSCE Participating States.

#### **Amnesty International, International Helsinki Federation on Human Rights, Penal Reform International and the World Coalition against the Death Penalty:**

- Call on all the OSCE states taking part in this Human Dimension Implementation meeting in Warsaw (Poland) to support this important cross-regional initiative by urging the UNGA to adopt a resolution calling for a global moratorium on executions. By adopting a resolution on a moratorium on executions, the UNGA will take a further, major step towards the worldwide abolition of the death penalty.

#### **International Helsinki Federation for Human Rights:**

##### *Tajikistan:*

- the soonest ratification of the second optional protocol to the ICPPR;
- ratification of the optional protocol to the Convention against torture and other cruel, inhumane and degrading punishments;
- strict and immediate implementation of the international standards in human rights and adjusting the national legislation to the international norms;
- create an effective mechanism of appeal of the illegal actions of investigation and interrogation bodies and courts;

- publish all information on the questions of death penalty use (number of executed, places of burial, etc)

*Uzbekistan:*

- publish the number of executed persons in Uzbekistan and of inmates still on death row and open the burial places;
- to ensure that current prisoners on death row are not be executed and their verdicts will be reviewed according to the law on legal abolition of death penalty from 29.07.07;
- to review the cases individually before 01.01.2008 and make the procedure public and open to the civil society;
- give access to the places of detention to the international observers, including ICRC and “Doctors without borders”;
- control and provide medical aid to all ill prisoners to avoid the forcible contamination by mortal diseases, and prisoners with such diseases to release from places of detention;
- provide independent psychiatric expertise for investigators and police officers who have facts of torture or death of suspected in their files;
- investigate immediately all facts of torture and death during investigation, in pre trial cells and in places of detention; to institute criminal proceeding against police officers guilty in these facts under article 235 and 97 CC RU;
- to fulfill all UN recommendations on complains registered and decided in the UN committee for human rights.

*Kazakhstan:*

- sign and ratify the Second Optional Protocol to the ICCPR, excluding death penalty in any case (with possible reservation only for time of war), also adopting the necessary amendments to the Constitution;
- ratify the Optional Protocol to the UN Convention against Torture and the First Optional Protocol to the ICCPR;
- further improve the prison conditions, with particular regard to the construction of a special colony for persons attending life term;
- uarantee the effective independence and impartiality of the judiciary;
- properly investigate all alleged cases of suicide and self mutilation among the prisoners;

*Kyrgyzstan:*

- to review all the cases of persons sentenced to death individually and make the procedure public and open to the civil society;
- to allow public access to all information related to death penalty cases;
- to improve and humanize the prison conditions, currently very poor and often unbearable;
- to provide proper medical aid to all ill prisoners;
- to investigate immediately all facts of torture and death during investigation, in pre trial cells and in places of detention;

- to investigate immediately all allegations of corruption in the judiciary and in the prison administration.

## **Prevention of torture**

### *Recommendations to Participating States:*

#### **European Union:**

- The EU expects all OSCE Participating States to ensure that no one is subjected to torture or cruel, inhuman or degrading treatment or punishment or transferred to a country where there are substantial grounds to believe that he or she would be subjected to torture or ill treatment.
- The EU also expects all OSCE Participating States to cooperate fully and in good faith with international organisations and independent international monitors such as the OSCE, ICRC, the Council of Europe and the UN human rights mechanisms such as the Special Rapporteur on Torture, CAT and SPT and to grant them unconditional and unhindered access.
- The EU recommends that OSCE Participating States sign and ratify the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment at the earliest opportunity and make the declarations provided for in Articles 21 and 22 of the Convention.
- The EU recommends all OSCE Participating States to ensure the implementation of UN General Assembly resolution 61/153 on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

#### **Amnesty International:**

- AI is calling on OSCE Participating States to ensure that the Committee of Ministers of the Council of Europe and the Council of the European Union act on the recommendations of the investigations carried out by the PACE, the Secretary General of the Council of Europe and the European Parliament. Standards, recommended by the Secretary General of the Council of Europe more than a year ago, should be drafted and should aim at, among others:
  - ensuring effective democratic oversight and accountability for all intelligence services – civilian, military, national and foreign;
  - creating a framework for the waiver of immunity of state officials reasonably suspected of involvement in grave violations of human rights.

#### **Calls on OSCE Participating States:**

- to publicly condemn rendition, which includes unlawful transfers of individuals, secret detention, enforced disappearance, torture and other ill-treatment.

- they must demand that the member states initiate independent, impartial and effective investigations; bring those responsible for unlawful conduct to justice; and ensure adequate reparation for the victims of rendition and secret detention.

In relation to **prohibition of torture**:

- Amnesty International calls on OSCE to remind all participating states that human dimension commitments, including those relating to the absolute prohibition of torture and other ill-treatment are not simply matters of internal affairs of the State concerned, but rather are matters of direct and legitimate concern to all OSCE Participating States and (Moscow Document, 1991);
- Amnesty International calls on OSCE Participating States that have not ratified the Optional Protocol to the UN Convention against Torture to ratify it immediately and implement it accordingly.

**Kurdish Human Rights Project:**

**Recommendations to the Government of Turkey**

On 28 June 2007, BIA News Centre reported that former head of the Human Rights Association (IHD) Akin Birdal listed concrete steps the Turkish government could take to prevent the use of torture in its prisons. We support and also recommend some of his suggestions, urging the state of Turkey to:

- internalise and truly implement the international and regional conventions against torture to which it has signed;
- take the Law on Police Duties and Authorities before the Constitutional Court and cancel it;
- sign and ratify the Optional Protocol to the Convention Against Torture, and implement it through such measures as systematic but unannounced prison check-ups by an independent monitoring group;
- create and enforce mechanisms to punish torturers and otherwise stop encouraging this practice.
- KHRP encourages the state of Turkey to make its purported “zero-tolerance” policy on torture a reality and eradicate this blemish on the country’s human rights record. KHRP calls on all NGOs, IGOs, government bodies and human rights defenders to support Turkey in this endeavour. It also further recommends that the Turkish government take all necessary steps to stop the practice of torture within its borders, and accordingly urges the state of Turkey to:
  - with the aid of an independent monitoring group such as a human-rights-focussed NGO, collect current, accurate and disaggregated data on the occurrences of torture and other serious abuses by law enforcement officials on a regular basis such that a clear picture of the practice of torture and efficacy of anti-torture laws can be achieved;
  - seriously and thoroughly investigate allegations of human rights violations by law enforcement officials, and ensure that their trials are independent,

impartial and transparent to both the families of the victims and the public overall;

- repeal the statute of limitations for crimes of torture, as this step will remove the incentive for judges and defense counsel to delay trials endlessly;
- hold strict standards on the collection of evidence, and refuse to accept as admissible evidence allegedly extracted by torture unless a thorough investigation reveals that it has not been;
- provide training to all law enforcement officials, gendarmerie, judges and prosecutors on the new anti-torture laws and international human rights standards.

### **International Helsinki Federation for Human Rights:**

- The IHF calls on the OSCE participating States to renew their commitment to preventing and eradicating torture and ill-treatment in all its forms and to take vigorous measures to addressing remaining problems in their countries, including through close cooperation with relevant international mechanisms and institutions.

In addition, we recommend:

*To the authorities of Armenia:*

- Ensure that arrests and interrogations are carried out in accordance with relevant provisions of the law and that any allegations of torture and ill-treatment by law enforcement officials – including in the case of Levon Gulyan – are promptly, impartially and thoroughly investigated.
- If evidence of police involvement in the death of Gulyan is found, the perpetrators should be duly prosecuted and punished.

*To the authorities of the Russian Federation:*

- Condemn any forms of “punitive psychiatry” and make sure that the case of Larissa Arap and other cases where individuals allegedly have been placed in forcible psychiatric detention without compelling grounds and subjected to ill-treatment are properly investigated with a view of bringing all those responsible to justice and for preventing similar cases from reoccurring.

*To the authorities of Uzbekistan:*

- Comply with recommendations made by the UN Special Rapporteur on Torture following his visit to Uzbekistan in late 2002, including with respect to ensuring that judges are attentive to the condition of defendants brought from pre-trial custody and order a medical examination whenever there are allegations of torture and ill-treatment, even in the absence of a formal complaint, and that they do not admit as evidence confessions that

have been made during pre-trial interrogations without the presence of legal counsel and that are not confirmed during trial.

### **International Rehabilitation Council for Torture Victims:**

In order to effectively fight against impunity and to prevent acts of torture the IRCT calls upon all States of the OSCE region to:

- Fully implement the UN Convention Against Torture, and include the definition of torture as a criminal offence in their domestic law.
- Ensure that prompt, effective and independent investigations into allegations of torture are conducted.
- Ensure that detainees and victims can exercise their right to be examined by an independent medical or forensic expert.
- Encourage the dissemination and the full implementation of the international standards on the investigation and documentation of torture contained in the Istanbul Protocol. This includes providing for adequate training of medical and legal professionals and capacity building of forensic expertise.
- Ensure that medical findings and forensic evaluations gathered in accordance to international standards are admissible as evidence in court proceedings.
- Fully co-operate with the international and regional preventive and monitoring mechanisms, like the UN Special Rapporteur on Torture, the Committee Against Torture as well as with the European Committee for the Prevention of Torture, and provide them relevant information and grant them unhindered access to places of detention and to all persons deprived of their liberty.
- Sign and ratify the OPCAT. In the same line the IRCT congratulates the 35 OSCE member States that have already signed and ratified the OPCAT.
- Ensure that experienced and independent medical and forensic experts will collaborate with the Subcommittee on Prevention established under the OPCAT and will be part of the National Preventive Mechanisms.
- Ensure that local rehabilitation centres are allocated the necessary funds enabling them to provide medical and psychological treatment to torture victims, to restore the dignity of the latter and help them reintegrate into society.

### **Voice of Freedom – Network of Human Rights Defenders:**

- Рекомендовать Государству, придать больше значение понятию и преследованию за совершение пыток в национальном законодательстве;
- Рекомендовать Государству, безотлагательно расследовать заявления о случаях применения пыток, и преследовать лиц применивших пытки;
- Рекомендовать Государству, открыто обсуждать проблему применения пыток с общественностью, для искоренения или скорейшего решения данной проблемы;
- Рекомендовать Государству, реализовать все рекомендации Комитета по правам человека, и Комитета против пыток;

- Рекомендовать Государству, предпринимать соответствующие меры по рекомендациям Комитета по правам человека, вынесенным после реакции рассмотренным индивидуальным сообщениям против Таджикистана;
- Рекомендовать Государству, сделать заявление по статье 21-22 Конвенции против пыток, и ратифицировать 1-ый факультативный протокол к данной конвенции; \_

Recommendations to the OSCE:

**Kurdish Human Rights Project:**

Recalling its stated commitment to uphold the security and well-being of prisoners and eradicate the practice of torture throughout the OSCE region, KHRP urges the OSCE to:

- facilitate dialogue amongst OSCE participating States and provide support for discussions of and investigations into allegations of torture, abuses, degradations and other forms of ill-treatment;
- liaise with NGOs, human rights defenders and official state bodies to remain informed on the topic of torture and any developments that relate to its practice within the OSCE region;
- support Turkey in its endeavours to stop the use of torture

**International Helsinki Federation for Human Rights:**

To the OSCE and its institutions:

- Give particular attention to the problem of misuse of forcible psychiatric detention to intimidate and punish “inconvenient” individuals, such as political opponents and human rights defenders, which has resurfaced in a number of OSCE countries.

**International humanitarian law**

Recommendations to Participating States:

**European Union:**

- The EU expects that all OSCE Participating States ensure respect for international humanitarian law, including in particular the obligation to distinguish between civilians and combatants and the principle of proportionality.

### **Amnesty International:**

In relation to **impunity under international humanitarian law** Amnesty International calls on OSCE Participating States to:

- Take all necessary steps to ensure full cooperation by Participating States with the ICTY and to ensure that thorough, independent and impartial investigations into all war crime cases, regardless of the ethnicity of the victims or of the suspected perpetrators, are conducted before domestic courts with a view to bringing the perpetrators to justice.
- OSCE Participating States should ensure that arrangements are made to allow for ICTY indictees still at large to be tried before the ICTY even if, following their arrest, proceedings extend beyond the 2010 deadline.

### **Russian-Chechen Friendship Society:**

- We call on the member states of the OSCE, the EU and the USA to monitor closely the situation in Nizhny Novgorod and numerous cases of harassment of independent human rights defenders and journalists as well as civil society activists as the authorities are evidently trying to send a tough threatening message to the whole civil society in Russia in order to suppress it.
- We also call on the HR Committee at the PACE to initiate investigation in the situation on the filed in Nizhny Novgorod as we do feel concerned about our freedom and integrity.

### **Protection of human rights and fighting terrorism**

#### *Recommendations to Participating States:*

### **European Union:**

- While the European Union underlines the importance of a comprehensive and vigorous response to terrorism and remains determined to tackle this scourge, the EU expects that all OSCE Participating States fully respect human rights, refugee law and international humanitarian law in their counter terrorism measures. In particular, it is of utmost importance that freedom of assembly, association and expression are respected in the measures countering terrorism.

## **Kurdish Human Rights Project:**

### *Recommendations to the Government of Turkey:*

KHRP urges the state of Turkey to:

- Overhaul the current Anti-Terror law, amending it such that it is no longer so open to abuse. KHRP recommends that Turkey consult with human rights defenders, NGOs, IGOs or other independent interested parties throughout this process. KHRP's specific recommendations include:
  - Reforming the language of the new Anti-Terror law, making it more specific and targeted at overt acts of terrorism as opposed to general types of behaviour or acts that are generally not criminal;
  - End "chain liability" for publishers and other responsible parties not actually the author of offensive materials;
  - Remove or amend all sections of the law that allow the closure of publications or any type of criminal liability for statements published or broadcast;
  - Remove provisions that criminalise wearing or carrying an emblem pertaining to a terrorist organisation;
  - Remove provisions criminalising "Conscientious Objection";
  - Amend provisions restricting assembly, association, protests and the funding of "terrorist organisations" such that they do not allow for arbitrary and inconsistent application;
  - Remove the provision in Article 9 denying a detainee access to a lawyer within the first 24 hours of detention;
  - Amend the new police powers law, perhaps consulting with other states, NGOs, IGOs and human rights defenders so that it contains more specific authorisation of detainment, use of force and interrogation only in narrow circumstances relating directly to terroristic threat;

KHRP urges the government of Turkey to:

- Initiate a training program for all members of the Judiciary and law enforcement, perhaps consulting human rights defenders, NGOs or other state bodies, outlining Turkey's international legal obligation to uphold human rights even as it seeks to prosecute crime and prevent acts of terrorism;
- Work with other states to create a coordinated effort to deal with international terrorism. KHRP encourages Turkey to consider the fight against terrorism not as a solitary actor, but as part of an international community universally committed to preventing acts of terrorism and seeking to secure all the world's citizenry from random acts of violence;
- Dialogue with the OSCE, other IGOS, NGOs and human rights defenders on security issues and consult with them on ways to augment national security without failing to respect OSCE commitments.

Recommendations to the OSCE:

**Kurdish Human Rights Project:**

In both the Bucharest and Porto Documents the OSCE has decidedly carved out an active role for itself in the international fight against terrorism and the garnering of greater security for all OSCE participating States. KHRP also envisions an active role for the OSCE in these struggles, and accordingly calls on the OSCE to:

- Maintain dialogue with NGOs, IGOs, human right defenders and all OSCE participating States regarding security issues and developments and the fight against terrorism;
- Encourage Turkey and other OSCE participating States to respect the OSCE commitments upholding fundamental human rights even as they take measures to combat terrorism both domestically and abroad;
- Provide opportunities for participating States to dialogue amongst themselves, building inter-state support networks for helping to combat terrorism both in its domestic and international scopes;
- Provide support for NGOs, human rights defenders and others examining and reporting on security situations in OSCE participating States;
- Assist Turkey and other OSCE participating States in finding solutions to security issues that do not endanger human rights, and encourage them to train prosecutors, judges, military personnel and other members of the security forces on keeping their nations safe without violating these rights;
- Encourage Turkey to dialogue with other nations and to seek a non-violent way to resolve tensions with other nations coming out of its desire to secure the Turkish nation;
- Encourage Turkey to address the root causes of unrest and civil strife within its own nation, focussing on minority rights, the defence of women's rights, freedom of association, freedom of expression, language and culture rights and the use of torture; Organise and send a long-term observation mission to the conflict areas of Turkey and Kurdistan, Iraq to report on the situation in general and developments as they unfold.

*KHRP believes that if Turkey allows free-flowing political dialogue to flourish and actually attempts to address the situation for all of Turkey's national minorities but particularly the Kurds, it will become a stronger democratic state and more secure internally. KHRP also believes that the OSCE can play a vital role in the rehabilitation of Turkey's Anti-Terror law and other legislative provisions which, at present, are being used to frustrate, silence, harass and otherwise discourage individuals the ruling regime regards as falling outside its nationalist agenda. Furthermore, KHRP maintains that the OSCE has the unique ability, through its consensus-based structure, to send an observation mission to Turkey that would be effective, non-obtrusive and inoffensive to Turkey's national sovereignty.*

- Accordingly KHRP urges the OSCE to send such a mission, and generally provide greater support for the Turkish government and other nations in this region going forward.