

## CONFERENCE

---

### LEGAL FRAMEWORK ON FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY

---

**30 – 31 March 2005**

**Almaty, the Republic of Kazakhstan  
ALATAU Sanatorium, poselok Kamenka**

### OBJECTIVES

- To introduce international standards on freedom of assembly and association;
- To discuss legal framework on freedom of assembly and association in the Central Asian countries (the CAC);
- To discuss perspectives for the development of legislation of the CAC on freedom of peaceful assembly and association;
- To elaborate recommendations on further development of the CAC legislation on freedom of peaceful assembly and association.

## AGENDA

Wednesday, 30 March 2005

**08.30 – 09.30** Registration of participants

**09.30 – 10.00** Welcoming speeches:

*Ivar Vikki, Ambassador, Head of the OSCE Center in Almaty  
Madina Dzharbusynova, Ambassador, Ministry of Foreign Affairs of  
the Republic of Kazakhstan  
Stephen Larrabee, ICNL Program Director in Central Asia  
Zhemis Turmagambetova, Deputy Director, Kazakhstan  
International Bureau for Human Rights and Rule of Law*

**10.00 – 10.10** *Natalya Seitmuratova, OSCE/ODIHR Human Rights Officer,  
Warsaw* – Introduction to the topic of the Conference, scope of the  
discussions and expected results

*First plenary session*

### INTERNATIONAL STANDARDS ON FREEDOM OF ASSOCIATION

*Moderator: Ambassador Madina Dzharbysynova, MFA of RK*

- 10.10 – 10.25** *Irina Urumova, OSCE/ODIHR Expert, Warsaw* – Concept of legal framework on freedom of association; international and European standards of legal framework on freedom of association
- 10.25– 10.40** *Chloe Marnay-Baszanger, Desk Officer for the Special Representative of the Secretary General on Human Rights Defenders, Office of the United Nations High Commissioner for Human Rights* - Key trends and challenges to regulatory framework on freedom of association and the UN Special Representative activity for protection of human rights defenders
- 10.40 – 10.50** *Natalya Seitmuratova, OSCE/ODIHR Human Rights Officer, Warsaw* – Fundamental principles on the status of non-governmental organizations in Europe – brief overview
- 10.50 – 11.10** *Coffee-break*
- 11.10 – 11.30** *Ninel Fokina, Head of the Almaty Helsinki Committee, member of the Republican Commission for Human Rights under the President of the Republic of Kazakhstan* – New challenges to the principle of superiority of human rights and freedoms (based on the example of freedom of association in Kazakhstan)
- 11.30 – 11.50** *Filiz Bikmen, Director of The Third Sector Foundation of Turkey (TUSEV)* – Legal framework on NGOs in Turkey: reforms, challenges and perspectives
- 11.50 – 12.05** *Natalia Bourjaily, Vice-President for CIS, International Centre for Not-for-Profit Law* – Development of legislation on freedom of association in Central Asia – brief overview
- 12.05 – 13.00** Open floor for other participants
- 13.00 – 14.20** Lunch

*Second plenary session*

**LEGAL REGULATION OF FREEDOM OF ASSOCIATION**  
**IN THE CENTRAL ASIAN COUNTRIES**

*Moderator: Zhemis Turmagambetova, Deputy Director, Kazakhstan International Bureau for Human Rights and Rule of Law*

- 14.20 – 14.35** *Marziya Baltabai, Judge, Civil Collegium of the RK Supreme Court* – Judicial implementation of legislation on freedom of association in Kazakhstan
- 14.35 – 14.55** *Professor Roman Podoprigora, Academy of Jurisprudence, “Adilet” the Higher Law School* – Conceptual issues of legal regulation of freedom of association in the Republic of Kazakhstan

- 14.55 – 15.10**      *Aibek Dumbayev, Chairman of “Zhan” the Asian Association for Protection of Invalids’ Rights* - Definition of “freedom of association” and “establishing of public association”: common and different
- 15.10 – 15.30**      *Vsevolod Ovcharenko, International Center for Not-for-Profit Law, Consultant* – Legal framework on freedom of association in Kazakhstan: comparison with international standards and comments to the RK Draft Law “On amendments to some legislative acts of the Republic of Kazakhstan on national security”
- 15.30 – 15.40**      *Yuliya Shapovalova, Deputy Head of the Bishkek Justice Department, Ministry of Justice of Kyrgyz Republic* - Legal framework on freedom of association in Kyrgyzstan
- 15.40 – 15.50**      *Yuryi Khvan, International Centre for Not-for-Profit Law, Consultant,* – Legal framework on freedom of association in Kyrgyzstan: comparison with international standards
- 15.50 – 16.00**      *Mavlon Mukhtorov, Secretary of the Public Council of the Republic of Tajikistan* – Legal framework on freedom of association in Tajikistan
- 16.00 – 16.10**      *Muatar Khaidarova, International Centre for Not-for-Profit Law, Consultant,* – Legal framework on freedom of association in Tajikistan: comparison with international standards
- 16.10 – 16.20**      *Gyulnaz Khidoyatova, Chairwoman of NGO “Legal Training Center”* – Legal framework on freedom of association in Uzbekistan: problems of implementation
- 16.20 – 16.40**      Coffee-break
- 16.40 – 18.00**      Questions and answers, elaboration of recommendations on freedom of association and perspectives for further development of national legislation of Central Asian countries
- 18.30**                Reception on behalf of the organizers

**Thursday, 31 March 2005**

*Third plenary session*

**INTERNATIONAL STANDARDS ON FREEDOM OF PEACEFUL ASSEMBLY**

*Moderator: Marziya Baltabai, Judge, Civil Collegium of the RK Supreme Court*

- 10.00 – 10.30**      *Dr. Michael Hamilton, Expert on International and European Human Rights Law, Transitional Justice Institute, School of Law, University of Ulster* - International and European standards on freedom of peaceful assembly

- 10.30 – 11.00** *Irina Urumova, OSCE/ODIHR Expert, Warsaw* – Key trends and challenges to legal framework on freedom of peaceful assembly; Presentation of the draft OSCE / ODIHR Guidelines for Drafting Laws Pertaining to the freedom of assembly
- 11.00 – 11.20** *Coffee-Break*
- 11.20 – 11.35** *Leila Baishina, UNDP Human Rights Project Coordinator* – Development of the National Human Rights Action Plan in Kazakhstan
- 11.35 – 11.50** *Amangeldy Shormanbayev, Lawyer, Kazakhstan International Bureau for Human Rights and Rule of Law* - Legal framework on freedom of peaceful assembly in Kazakhstan: promotion or restriction
- 11.50 – 12.05** *Zhan Kunserkin, Lawyer, Almaty Helsinki Committee* – Practice of enforcement of freedom of peaceful assembly during election period
- 12.05 – 13.00** Discussion
- 13.00 – 14.20** *Lunch*

*Fourth plenary session*

**LEGAL REGULATION OF FREEDOM OF PEACEFUL ASSEMBLY  
IN THE CENTRAL ASIAN COUNTRIES**

*Moderator: OSCE/ODIHR Representative*

- 14.20 – 14.40** *Dmitriy Kabak, National Expert, OSCE/ODIHR* – Legal framework on freedom of peaceful assembly in Kyrgyzstan
- 14.40 – 14.50** *Farukh Karimov, Senior Specialist, Department for Constitutional Guaranties of Citizens' Rights, Executive Office of the President of Tajikistan* - Legal framework on freedom of peaceful assembly in Tajikistan
- 14.50 – 15.10** *Umed Kalandarov, Lawyer, "Kalam" NGO* – Legal framework on freedom of peaceful assembly in Tajikistan: promotion or restriction
- 15.10 – 15.30** *Ildar Shafiev, Lawyer, "Legal Aid Association" NGO* - Legal framework on freedom of peaceful assembly in Uzbekistan: promotion or restriction
- 15.30 – 15.50** *Coffee-break*
- 15.50 – 16.10** *Irina Urumova, OSCE/ODIHR Expert, Warsaw* – OSCE / ODIHR Legislative Support Unit and its activity on rendering legal expertise in Central Asian region

**THE CONFERENCE IS FUNDED FROM THE EXTRA-BUDGETARY CONTRIBUTIONS TO THE OSCE/ODIHR  
OF THE NORWEGIAN AND THE AMERICAN DELEGATIONS TO THE OSCE**

- 16.10 – 16.50** Questions and answers, elaboration of recommendations on the rights for freedom of assembly and perspectives for further development of national legislation of the Central Asian countries
- 16.50 – 17.30** Discussion and adoption of the final document of the Conference
- 17.30 - 18.00** Closing of the Conference

CONFERENCE

---

LEGAL FRAMEWORK ON FREEDOM OF PEACEFUL ASSEMBLY AND  
ASSOCIATION

---

30 – 31 March, 2005  
Almaty, Republic of Kazakhstan  
ALATAU Sanatorium, Tausamaly vil.

LIST OF PARTICIPANTS

NAME	ORGANISATION
------	--------------

KAZAKHSTAN

- |                                |   |
|--------------------------------|---|
| 1. MADINA DZHARBUSYNOVA        | Special Ambassador, Ministry of Foreign Affairs of the Republic of Kazakhstan   |
| 2. MARZIYA BALTABAI            | Judge, Civil Collegium of the RK Supreme Court  |
| 3. MEIRAMBEK<br>TAIMERDENOV    | Chief of the Registration Service Committee, Ministry of Justice of the Republic of Kazakhstan  |
| 4. TASTEMIR ABISHEV            | Head of the Secretariat, Republican Commission for Human Rights under the President of the Republic of Kazakhstan                             |
| 5. ARBOL ARGYNOV               | Head of the Expert Department, National Center for Human Rights, Office of the Human Rights Commissioner of the Republic of Kazakhstan        |
| 6. DUDAR ZHAKENOV              | Expert, Ministry of Foreign Affairs in Almaty   |
| 7. MADINA BERKALIYEVA          | Chief-Expert, Counstitutional Council of the Republic of Kazakhstan   |
| 8. DAUREN TABZHANOV            | Chief-consultant, Legislation Department, Office of the Majilis of the RK Parliament  |
| 9. ZHUMABEK<br>TUREGELDINOV    | Deputy, Member of the Committee for legislation and legal reform, Senate of the RK Parliament   |
| 10. SERIK ABDRAKHMANOV         | Deputy, Head of the Committee for Foreign Affairs, Defense and Security, Majilis of the RK Parliament   |
| 11. TOKHTAR AUBAKIROV          | Deputy, Member of the Committee for Foreign Affairs, Defense and Security, Majilis of the RK Parliament                                       |
| 12. TOKHTARKHAN<br>NURAKHMETOV | Deputy, Head of the Committee for Foreign Affairs, Defense and Security, Majilis of the RK Parliament   |
| 13. NINEL FOKINA               | Head of the Almaty Helsinki Committee, member of the Republican Commission for Human Rights under the President of the Republic of Kazakhstan |
| 14. ZLOTNIKOV SERGEI           | President, Civic Foundation "Interlegal" in Kazakhstan  |
| 15. ROMAN PODOPRIGORA          | Professor, Law Academy – High law school Adilet   |

**THE CONFERENCE IS FUNDED FROM THE EXTRA-BUDGETARY CONTRIBUTIONS TO THE OSCE/ODIHR  
OF THE NORWEGIAN AND THE AMERICAN DELEGATIONS TO THE OSCE**

- |                              |  |
|------------------------------|--|
| 16. DOS KUSHIM               | Chairman, Board of directors, Republican Network of Independent Observers                                      |
| 17. ZHAN KUNSERKIN           | Lawyer, Almaty Helsinki Committee  |
| 18. AIBEK DUMBAEV            | Chairman, Asian Association for Protection of Invalids' Rights "Zhan"  |
| 19. DZHASUR TAIPOV           | Chairman, Consortium "Kazakhstan Legal Aid to Refugees"  |
| 20. SERIK MUSSIN             | Chief Legal Adviser  |
| 21. ZHEMIS<br>TURMAGAMBETOVA | Deputy Director, Kazakhstan International Bureau for Human Rights and Rule of Law                              |
| 22. AMANGELDY<br>SHORMANBAEV | Lawyer, Kazakhstan International Bureau for Human Rights and Rule of Law                                       |
| 23. ROZA AKYLBEKOVA          | Head of the Informational Educational Center, Kazakhstan International Bureau for Human Rights and Rule of Law |
| 24. VICTORIA TYULENEVA       | Head of the Advocacy Center, Kazakhstan International Bureau for Human Rights and Rule of Law                  |
| 25. DIANA BEREZOVSKAYA       | Manager, Kazakhstan International Bureau for Human Rights and Rule of Law                                      |

**INTERNATIONAL ORGANIZATIONS IN KAZAKHSTAN**

- |                         |  |
|-------------------------|--|
| 26. ALESSANDRO LIAMINE  | Political Affairs Officer, Delegation of the European Commission in Kazakhstan |
| 27. JAILON OSKIPPER     | 2 <sup>nd</sup> Secretary of the Turkish Embassy in Kazakhstan                 |
| 28. LEILA BAISHINA      | Human Rights Project Manager of the UNDP Program, Doctor in Philosophy         |
| 29. IVAR VIKKI          | Ambassador, Head of the OSCE Center in Almaty                                  |
| 30. BJORN HALVARSSON    | Head of the Human Dimension Department at the OSCE Center in Almaty            |
| 31. GULNAR YESSIRGEPOVA | Human Rights Assistant, OSCE Center in Almaty                                  |
| 32. STEPHEN LARRABEE    | Program Director for Central Asia, International Center for Not for-Profit Law |
| 33. VSEVOLOD OVCHARENKO | Legal Consultant in Kazakhstan, International Center for Not for-Profit Law    |
| 34. GULMIRA KUZHUKEYEVA | Legal Consultant in Kazakhstan, International Center for Not for-Profit Law    |
| 35. DARIUSZ P. ZIETEK   | Chairman of the Executive Council, Soros Foundation-Kazakhstan                 |
| 36. ANTONIO STANGO      | Executive Director, Freedom House in Kazakhstan                                |
| 37. MARAT AITMAGAMBETOV | Country Director, Counterpart Consortium                                       |
| 38. NURUL RAKHIMBEKOV   | Program Manager, National Democratic Institute (NDI)                           |
| 39. AINUR BAIMYRZA      | Program Assistant, National Democratic Institute (NDI)                         |
| 40. SHEILA BALLEEN      | Country Director, NDI  |
| 41. CAYA ADAMS          | USAID  |

**KYRGYZ REPUBLIC**

- |                     |  |
|---------------------|--|
| 42. SADYK SHERNIYAZ | Deputy Human Rights Commissioner (Akyikatchi) of the Kyrgyz Republic |
|---------------------|--|

**THE CONFERENCE IS FUNDED FROM THE EXTRA-BUDGETARY CONTRIBUTIONS TO THE OSCE/ODIHR  
OF THE NORWEGIAN AND THE AMERICAN DELEGATIONS TO THE OSCE**

43. YULIYA SHAPOVALOVA Deputy Head of the Bishkek Justice Department, Ministry of Justice of Kyrgyz Republic
44. TAALAI KADYRKULOV Head of the Public Associations Relations Department, Ministry of Internal Affairs of Kyrgyz Republic
45. MARAT DONONBAYEV Prosecutor, Department for Inspectorate of Execution of the KR General Public Prosecutor's Office Legislative Acts
46. ASYLBEK KOCHKORBAYEV Cooperation of Civil Society and Law Enforcement Organs and Other Authorities During Realization of Citizens' Rights for Peaceful Assembly, Project Manager, Foundation for Tolerance International
47. ZHANYBEK SOPUYEV Cooperation of Civil Society and Law Enforcement Organs and Other Authorities During Realization of Citizens' Rights for Peaceful Assembly, Project Lawyer, Foundation for Tolerance International
48. YURI KHVAN Legal Consultant in Kyrgyzstan, International Center for Not for-Profit Law
49. DMITRY KABAK National Legal Expert
50. ATA SABIYEV Project Assistant, OSCE Center in Bishkek
- TAJIKISTAN**
51. FARRUKH KARIMOV Senior Expert, Department for Constitutional Guaranties of Citizens' Rights, Executive Office of the President of Tajikistan
52. MAVLON MUKHTOROV Secretary, Public Council of the Republic of Tajikistan
53. SHAVKAT ISMAILOV Doctor in Law, Professor, Tajik Taxation and Legal Institute
54. MUATAR KHAIDAROVA Legal Consultant in Tajikistan, International Center for Not for-Profit Law
55. UMED SOLIEV Lawyer, Civil Society Support Center, Khujand
56. UMED KALANDAROV Legal adviser, NGO "Kalam", Khorog
57. IBRAGIM SAIDOV Lawyer, NGO "Shahrvand", Kulyab
58. ABDUZARIF MUHTOROV Lawyer, Civil Society Support Center
59. MELS BABADZHANOV Vice-chairman, NGO "Judges Association"
60. MATIN MIRZOEV Chairman, NGO "Intelcon"
61. KHOLMUROD OYEV Lecturer in Administrative Law, Department of Law, Tajik National State University
- TURKMENISTAN**
62. ELENA VASILYEVA Legal Consultant in Turkmenistan, International Center for Not for-Profit Law
63. GULLJAN BABAEVA Legal Consultant in Turkmenistan, International Center for Not for-Profit Law
64. BENJAMIN MOREAU Officer, Human Dimension Department, OSCE Center in Ashgabat
65. GULSHEN  
ESEN MURADOVA Journalist, «TIMES OF CENTRAL ASIA»

**UZBEKISTAN**



THE CONFERENCE IS FUNDED FROM THE EXTRA-BUDGETARY CONTRIBUTIONS TO THE OSCE/ODIHR  
OF THE NORWEGIAN AND THE AMERICAN DELEGATIONS TO THE OSCE

66. GULNAZ KHIDOYATOVA Chairwoman, NGO «Legal Training Centre»
67. ILDAR SHAFIYEV Lawyer, NGO «Legal Aid Society»
68. ODILBEK TURGUNOV Employee, NGO «Avlod», Karshy
69. DINARA GABDULKHAKOVA Director, NGO «Jasmin», Namangan
70. ELDOR AMIRKULOV Employee, NGO «Civil Initiatives' Support Centre», Samarkand
71. NIGORA SHAYUSUPOVA Legal Consultant in Uzbekistan, International Center for Not for-Profit Law
72. DILRABO DJURAKULOVA Legal Consultant in Uzbekistan, International Center for Not for-Profit Law

EXPERTS AND OSCE / ODIHR EMPLOYEES IN WARSAW

73. JEREMY MCBRIDE Reader in International Human Rights Law, Member of the European Union Network of Independent Experts on Fundamental Rights, and Vice-Chair, Interights, the United Kingdom
74. MICHAEL HAMILTON Expert on International and European Human Rights Law, Transitional Justice Institute, School of Law, University of Ulster
75. CHLOE MARNAY-BASZANGER Desk Officer for the Special Representative of the Secretary General on Human Rights Defenders, Office of the United Nations High Commissioner for Human Rights
76. FILIZ BIKMEN Director of the Third Sector Foundation of Turkey (TUSEV)
77. ARCHI PYATI Senior Associate, Human Rights Defenders Program  
Human Rights First
78. SUSANNE RINGGAARD-PEDERSEN Head of the Human Rights Department, OSCE/ODIHR
79. LAILA BOKHARI Anti-terrorism officer, Human Rights Department, OSCE/ODIHR
80. NATALYA SEITMURATOVA Human Rights Officer of the Human Rights Section, OSCE/ODIHR
81. IRINA URUMOVA Legal Expert of the Legislative Support Unit, OSCE ODIHR
82. JAKHONGIR AZIZKHODJAEV NGO and Good Governance, Democratization Department, OSCE/ODIHR
83. ANDREAS BUSCH Legal Officer/Human Dimension, OSCE Center in Baku
84. ELVIN ALIYEV Project Assistant of the OSCE Center in Baku

INTERPRETERS

85. VALERY SURIKOV
86. ZHALGAS ASSYLBEKOV

**30- 31 March 2005**  
**Almaty, Republic of Kazakhstan**

## **RECOMMENDATIONS**

We, the participants of "Legal Framework on the Freedom of Association and Assembly in Central Asia" Conference, representing state authorities and non-governmental organisations of the Central Asian states, as well as international organisations,

*Reaffirming* the commitment of all the Central Asian states to democratic development,

*Reaffirming* the commitment to the principle of superiority of human rights in the face of threats to national security and any other challenges of the present time,

*Recognising* importance of such fundamental human rights as freedom of association and peaceful assembly for the development of the strong civil society,

*Taking into consideration* that freedom of association and assembly are not subject to any restrictions except for those that are prescribed by law, satisfy the requirement of proportionality and foreseeability and are necessary in a democratic society,

recommend:

*General recommendations:*

- to comply with international human rights standards while adopting new legislative measures relating to combating terrorism, counteracting extremism and ensuring national security,
- to implement international standards pertaining to the freedom of association and assembly which are contained in the Universal Declaration on Human Rights, International Covenant on Civil and Political Rights, the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention Relating to the Status of Refugees, the Convention on the Rights of the Child, the UN Declaration on the Human Rights Defenders, the Council of Europe Fundamental Principles on the Status of NGOs in Europe into national legislation of the Central Asian states with an aim of ensuring that law implementation practices fully comply with these standards,
- to facilitate awareness raising, dissemination and application of the best international practices relating to the free exercise of freedom of association and assembly,
- to ensure transparency of all stages of the legislative procedure by means of mandatory publication in mass media of draft laws relating to freedom of association and assembly, involvement of NGO representatives in working groups on elaboration of draft laws, holding public hearings and debates,

**THE CONFERENCE IS FUNDED FROM THE EXTRA-BUDGETARY CONTRIBUTIONS TO THE OSCE/ODIHR OF THE NORWEGIAN AND THE AMERICAN DELEGATIONS TO THE OSCE**

- to recognise a need for the systematic professional training for state and law-enforcement officials that ensure free exercise of freedom of association and assembly, by providing awareness raising and training seminars and sessions,
- to inform population about their rights to freedom of association and assembly,
- to extend an invitation to visit the Central Asian states to the UN Special Representative of the Secretary General on Human Rights Defenders for the purposes of analyzing the situation on observance of freedom of association and assembly.

*On freedom of association:*

- to stipulate in the law a provision guaranteeing freedom of association to foreign citizens, stateless persons and minors,
- to stipulate in the law the possibility for activities of unregistered NGOs and abolish criminal and administrative responsibility for taking part in the activities of the unregistered NGOs,
- to simplify the registration procedure for those NGOs that wish to obtain the legal entity status,
- to lower to the extent possible and review a possibility of subsequent full abolition of the registration fee payable upon registration of NGOs,
- to lower to the extent possible the number of persons required by law for the purposes of founding an NGO,
- to eliminate practices of using the re-registration procedures of NGOs for the purposes of restricting freedom of association,
- to review a possibility of excluding from laws territorial restrictions on the activities of NGOs,
- to adopt measures for excluding unjustified interference into activities of NGOs on behalf of the state authorities, entitled to carry out supervision of NGOs.

*On freedom of peaceful assembly:*

- to stipulate in the law a provision guaranteeing freedom of peaceful assembly to foreign citizens, stateless persons and minors,
- to analyze existing legislation in order to ensure its compliance with the presumption towards holding of peaceful assemblies,
- to ensure equal opportunities for the participation of state and other actors during organization and holding of peaceful assemblies,

**THE CONFERENCE IS FUNDED FROM THE EXTRA-BUDGETARY CONTRIBUTIONS TO THE OSCE/ODIHR OF THE NORWEGIAN AND THE AMERICAN DELEGATIONS TO THE OSCE**

- to review existing legislative provisions with the purpose of replacing the authorisation requirement with a notification procedure,
- to review existing restrictions and prohibitions on the choice of place, time and means of conducting peaceful assemblies and bring them in compliance with international standards, in particular, with the principle of proportionality,
- to create conditions for unhindered holding of peaceful assemblies and facilitate the fulfilment of this freedom by means of advance consultations between local authorities and organisers of peaceful assemblies,
- to recognise the responsibility of state authorities, including of law enforcement bodies, in ensuring safety of participants of the peaceful assemblies, in particular from persons who attempt to undermine the holding of assemblies, and to ensure interaction with organizers and other parties involved in preparation and holding of the assemblies, as well as to inform the public about the planned assemblies and measures taken for their realisation,
- to consider the possibility of introducing legislative provisions instituting monitoring and mediation for the purposes of preventing conflict situations during preparations and holding of peaceful assemblies,
- to ensure implementation of legislative provisions, providing for responsibility of state representatives in cases of creating illegitimate obstacles to the exercise of freedom of assembly.

These Recommendations are addressed to the governments and other state authorities of the Central Asian states.

*Adopted in Almaty on 31 March 2005*