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 Podoprígora, 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  
**Yuri 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 Mukhtarov, 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
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

Discussion and adoption of the final document of the Conference

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

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

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<td>KAZAKHSTAN</td>
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<tr>
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86. ZHALGAS ASSYLBEKOV
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,
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- 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,
• 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