

## COMPILATION OF WRITTEN RECOMMENDATIONS

*(Covering Working Sessions 12-15)*

*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. This compilation contains recommendations from all documents received at the HDIM Documentation Centre by the end of Working Session 15; documents received after this time will be included later in the Consolidated Summary.*

**Tuesday, 1 October 2013**

### **WORKING SESSION 12: Democratic elections and election observation- sharing best practices**

*Recommendations to participating States*

#### **United Kingdom**

- States should focus on ensuring compliance with and implementation of OSCE election related commitments and should support rather than question ODIHR's election observation methodology.

#### **Czech Republic**

- The Czech Republic considers election observation to be one of the most efficient OSCE tools for democracy support in all participating States. We strongly support ODIHR's observation methodology and call upon all OSCE participating States to invite the ODIHR to observe their national elections in accordance with their commitments as early as possible and without any restrictions.

#### **Baltic Center of Historical and Socio-Political Researches**

##### **At the international level:**

- Should be sought from the international community, and especially the OSCE, support the conclusion that the existence of a long term deficit of democracy in Latvia it is not a legal but a political problem, and, consequently, its solution can only be political.  
The essence of this political decision is to recognize the OSCE error that was made by the organization in the early 1990s, which resulted in the actual consent of the OSCE does not extend to Latvia and Estonia recorded in the international law principle of option.  
The essence of this political decision is also in recognition of the Supreme Council of the Republic of Lithuania "On the restoration of the rights of citizens of the Republic of Latvia and the basic conditions of naturalization" does not meet recognized in international law and the principle of option in effect on October 15, 1991 Constitutional Law, Latvia.
- Need to ensure that the international community, including Russia, the European Union and the United Nations has recognized that the elections to the local authorities, national and European parliaments, which are not eligible hundreds of thousands of permanent residents, cannot be considered

democratic. Accordingly, the state of Latvia cannot be considered democratic today.

**At the local level:**

- Must seek review from the text of the Declaration of the Supreme Council of the Latvian SSR "On the restoration of the state independence of the Republic of Latvia" from May 4, 1990 thesis on the continuity of the existence of de jure the Republic of Latvia from 1918 to 1990, since this thesis is fundamentally contrary to the spirit and the letter of the Final act of the Conference on Security and Cooperation in Europe, signed in Helsinki in 1975.
- Civil society organizations and political parties of the democratic opposition in Latvia must demand the immediate and unconditional elimination of mass statelessness and the holding of the first after the 1990 general elections to local authorities, national and European parliaments.

**CIS-EMO- Centre for Monitoring Democratic Processes "Quorum"**

The Organization for International Observation CIS-EMO keeps updating their specific set of proposals for the Ukrainian civil society on the reformation and modernization of the current electoral legislation of Ukraine towards its further democratization and accountability. In particular, we suggest to:

- return the possibility of inter-party political blocking during the parliamentary and local elections to the electoral legislation of Ukraine;
- cancel draconian property qualifications for participation of the political parties and their majority candidates in the parliamentary elections;
- change the electoral threshold for party lists in the Verkhovna Rada back to the rate of 3%, followed by preparation to reduce this figure;
- set aside the necessity for political parties of Ukraine to participate in the election of the President and Parliament of Ukraine every 10 years under the threat of de-registration in the Justice Ministry of Ukraine;
- return a democratic opportunity for the Ukrainian voters to vote "against all parties and candidates";
- restrict the total expenses for election campaigns of the parties and candidates (campaign funds) with specific and reasonable amount;
- forbid categorically both direct and indirect financing of election campaigns bypassing the official campaign funds of the parties and candidates;
- establish the institutions of social control with a deciding vote over the parties and candidates spending of their election funds;
- entrench the right of full and free access of the parties and candidates to the private mass media during the election campaign;
- strengthen the government and public media liability for unequal coverage of election campaigns of all parties and candidates without exception; and
- reconsider the restriction of the right to stand for election as a result of conviction record, which has not been expunged or removed at the beginning of the candidates' nomination, to ensure compliance to the ratio principle between the offense gravity and voting rights protection.

## **Human Rights Educational Centre, Belarus**

Рекомендации. (для Беларуси)

- На всех уровнях, в избирательных комиссиях, должно быть не менее 3-х членов, от реальной оппозиции, а не от просто «от партий», т.е. без обмана. Именно то, о чём говорил директор ODIHR Amb. LENARCIC Janez: честность и прозрачность. Это должно быть!
- Реальный доступ к TV, телевидению, и реальное время, для представления своей программы кандидатами.

## **The international association of independent democrats against authoritarian regimes**

Рекомендация.

- Помочь угнетённым народам ЦА и Беларуси освободиться от диктатуры и, реально, пользоваться, документами ОБСЕ и иметь Права Человека.

### *Recommendations to International Organizations*

#### **European Exchange**

I will close my presentation with a small set of recommendations to those international organisations that already support or intend to support citizens' election observation in the OSCE region:

- Where election dates are as a rule well known for years in advance civil society never knows in advance about the thematic focus and the dates of upcoming calls for proposals and often has to develop observation strategy, methods and operation in only a very few months ahead of the elections. This situation extremely restricts the quality of election observation. Funders should develop long-term strategies for citizens' election observation in Europe
- Citizens' election observation needs a long-term commitment and therefore institutional support. Election observation requires longstanding networks of activists, permanent development and update of methods and techniques and well-developed contacts to local media and political stakeholders – this means that a long-term and sustainable funding strategy for citizens' election observation is indispensable.
- Stefan Fule' motto "more for more" is not applicable for citizens' election observation. Democracy support needs a "more for less" – the more free elections are at risk the greater should be international awareness and support for those election observers that stand for the transparency of the election process in their countries.

### *Recommendations to the OSCE*

#### **Social Democratic Party of Tajikistan**

В конце хотел бы сделать ряд рекомендаций для БДИПЧ ОБСЕ, прежде всего с целью укрепления и её работы, и совершенствования процесса организации и проведения выборов в Таджикистане. Итак:

- Хотелось бы, чтобы БДИПЧ ОБСЕ был более решителен и настойчив в требовании соблюдения своих рекомендаций, ибо от этого, зависит авторитет БДИПЧ ОБСЕ;

- Необходимо настоятельно требовать разработки и принятия нового конституционного Закона РТ «О выборах президента РТ», с целью приведения этого закона в соответствие с действующей Конституцией страны и обязательствами РТ;
- Особым требованием должно явиться неукоснительное обеспечение равного и равноправного участия субъектов избирательного процесса в частности, политических партий, особенно в формировании избирательных комиссий;
- Необходимо уменьшение или отмена сбора подписей для выдвиженцев в кандидаты в президенты от политических партий, оставив сбор подписей в свою поддержку только для самовыдвиженцев, для чего в новом законе предусмотреть право граждан на самовыдвижение;
- Безусловно необходимо увеличение срока для избирательной кампании (сегодня всего 23 дня), хотя до трех месяцев, чтобы этот срок был бы достаточным для ознакомления избирателей с предвыборной программой кандидата в президенты РТ и организации разъяснительной работы;
- Исключить из закона предоставление права на выдвижение кандидатов в президенты РТ не субъектам избирательного процесса на уровне президента страны, например, местным представительным органам, которое не соответствует праву и законодательству РТ;
- Принять существенные меры для обеспечения прозрачности и демократичности организации и подведения итогов голосования, своевременного и прозрачного подсчета голосов и предоставления протоколов итогов голосования заинтересованным сторонам и их представителям.

### **Human Rights Educational Centre, Belarus**

- Просим ОБСЕ, Парламентскую ассамблею, принять наше предложение 2003 года, «Конвенцию избирательных принципов».

**Tuesday, 1 October 2013**

### **WORKING SESSION 13: Democratic elections and election observation- sharing best practices (cont.)**

*Recommendations to participating States*

#### **Independent TV SAFO**

Рекомендации:

- Призвать таджикские власти обеспечить беспрепятственный доступ к последственному адвокатов, обеспечить его необходимой медицинской помощью, обеспечить открытое судебное разбирательство с допуском прессы, прекратить нарушать презумпцию невиновности, прекратить проведение кампании очернения Зайда Саидова в государственных СМИ, потребовать проведения независимой ДНК-экспертизы, которая бы определила, является ли Зайд Саидов отцом ребенка так называемой потерпевшей, предложить помощь таджикским правоохранительным органам в проведении независимой ДНК- экспертизы, которая могла бы

помочь определить весомость обвинений против Зайда Саидова. Уверены, что справедливое разрешение конфликта вокруг Зайда Саидова и партии «Новый Таджикистан», строгое следование законам, процессуальным нормам и международным правовым обязательствам, прозрачность, гуманность и цивилизованное отношение власти к инакомыслию, выражению иного мнения и ненасильственным проявлениям политической конкуренции благоприятно отразятся на атмосфере в стране, на доверии к власти перед президентскими выборами и на международном имидже Таджикистана. Политическое по сути, преследование Зайда Саидова может оказать негативное влияние на дальнейшее развитие ситуации в Таджикистане, на инвестиционный климат в стране и может негативно отразиться на международном имидже Таджикистана.

### **CIS-EMO- Centre for Monitoring Democratic Processes "Quorum"**

Мы предлагаем:

- Вернуть в избирательное законодательство Украины возможность межпартийного политического блокирования на парламентских выборах и выборах в органы местного самоуправления;
- Отменить драконовские имущественные цензы для участия политических партий и их мажоритарных кандидатов в парламентских выборах;
- Вернуть проходной барьер для прохождения партийного списка в Верховную Раду в размере 3% с последующей подготовкой уменьшения и этой цифры;
- Отменить необходимость для политических партий Украины 1 раз в 10 лет принимать участие в выборах Президента и парламента Украины под угрозой их снятия с регистрации в Министерстве юстиции Украины;
- Вернуть демократическую возможность для избирателей Украины голосовать «Против всех партий и кандидатов»;
- Ограничить конкретными и обоснованными цифрами сумму общих расходов партий и кандидатов (избирательные фонды) на проведение электоральных кампаний;
- Категорически запретить как прямое, так и косвенное финансирование избирательных кампаний в обход официальных избирательных фондов партий и кандидатов;
- Ввести институты общественного контроля с решающим голосом по расходованию партиями и кандидатами средств избирательных фондов;
- Закрепить право полного и беспрепятственного доступа партий и кандидатов во время избирательной кампании к средствам массовой информации частной формы собственности;
- Усилить ответственность государственных и коммунальных СМИ за неравноправное освещение избирательных кампаний всех без исключения партий и кандидатов.
- Пересмотреть ограничение права баллотироваться на выборах в результате судимости, которая не была снята или погашена в начале выдвижения кандидатур, для обеспечения соблюдения принципа соотношения тяжести правонарушения и защиты избирательных прав.

## **European Union**

- The EU believes that the value of democratic elections cannot be reduced to questions related to legislation and procedures. In implementing ODIHR's recommendations, the participating states should take also into account the important role played by civil Society and free media in helping us to ensure full respect for democracy, including free and fair elections, as stated in the OSCE Astana Commemorative Declaration.
- In order to improve the implementation of recommendations resulting from election observation the EU supports a concrete and dynamic follow-up also at the political level of the OSCE, first and foremost by informed and timely in-depth debates of related issues in the Permanent Council. The EU calls upon all participating states to accept their ownership for this process and to actively report on follow-up measures to be adopted in reaction to ODIHR's recommendations.

**Wednesday, 2 October 2013**

## **WORKING SESSION 14: Rule of Law I**

### *Recommendations to participating States*

#### **Save Teghut Civic Initiative**

- The Government of Armenia has huge influence on law making process (more than 80% of laws are admitted by the Parliament after the initiative of the Government). Therefore, the negative position of the Government is actually stops the process of legal amendments. Thus, the content of our recommendation is completely similar to the recommendation of the Aarhus Convention Compliance Committee and the Constitutional Court of Armenia, which is as follows: to stimulate the Government of Armenia to initiate legal amendments in the Law on NGOs and the Administrative Procedure Code, and clearly define the right of Access to Justice of NGOs in protecting the public interests, which are defined in the Charter of the NGO.

#### **Open Dialog Foundation**

- I hereby appeal to all the OSCE member countries to pay close attention to the case regarding Tatiana Paraskevich's extradition, and support the initiative, presented during the OSCE Parliamentary Assembly in Istanbul, regarding the need for the reform of Interpol, as under the current system of operation; Interpol doesn't have the slightest opportunity to verify the political context of charges.

#### **Fund for Development of Parliamentarism in Kazakhstan**

- В связи с вышеизложенным, считаем необходимым рекомендовать казахстанским властям привести национальное законодательство и международные договора с учетом фундаментального права каждого гражданина на благоприятную для жизни и здоровья окружающую среду

в соответствии с международными обязательствами Республики Казахстан.

### Recommendations to International Organizations

#### **Norwegian Helsinki Committee**

- Bosnia and Herzegovina still has a long way to go towards reconciliation. Educating future leaders and professionals in the values and applications of transitional justice is therefore an important task. Hence, the Helsinki Committees of Human Rights in Republika Srpska (Bosnia and Herzegovina) and Norway have carried out a project for nearly 3 years providing extracurricular education in transitional justice to students of law, journalism, and political and social sciences. The methodology and contents that have been developed in cooperation with professors from five universities is ready for being systematically used in full scale by all universities within law, journalism and political and social sciences. However, Universities have to make decisions to do so as a part of the formal education and they need the support of education ministries. We are working with friends and partners at Universities to bring this about, but we call on international organizations, including the OSCE mission and all member states to strongly support this effort.

### Recommendations to the OSCE

#### **Russian Federation**

- С учетом изложенного хотели бы призвать ОБСЕ продолжить обсуждение причин чрезмерно длительных сроков судебного разбирательства, его высокой стоимости. При этом важно добиваться снижения издержек судопроизводства для сторон, в особенности в спорах граждан с государством.
- Также хотели бы рекомендовать БДИПЧ провести мониторинг соблюдения прав узников Гуантанамо. Кроме того, призываем ОБСЕ обратить пристальное внимание на практику бессудного содержания заключенных под стражей, распространить положительный опыт по предотвращению пыток и недопущению непроцессуальных методов следствия и дознания.

#### **Open Dialog Foundation**

- We hereby call on the OSCE to continue the discussion, begun in Istanbul during the OSCE Parliamentary Assembly on the need to reform Interpol mechanisms, and to urge Kazakhstan to comply with the international conventions they have signed. As long as there is no chance of a fair trial in Kazakhstan and similar countries, no one should be extradited from Europe to countries where they may face torture and inhumane treatment.
- We call on the OSCE to monitor the situation regarding the fairness of trials in Kazakhstan closely and to prevent the extradition of persons who may face torture, as well as to counteract the abuse of Interpol by non-democratic regimes and to work out specific recommendations for Interpol.

**Wednesday, 2 October 2013**

## **WORKING SESSION 15: Rule of Law II**

### Recommendations to participating States

#### **NGO 'Sandidzan'**

- Считаем необходимым призвать Грузию к выполнению взятых на себя обязательств в целях искоренения практики пыток и других форм жестокого обращения.

#### **Spain**

- Abogamos por la adopción por los Estados de unas líneas directrices y un catálogo de derechos de las víctimas del terrorismo, incluyendo la reparación e indemnización, la protección de la dignidad, la seguridad y la vida privada, la asistencia en el proceso penal, el derecho a la justicia, a la verdad y a la memoria.

#### **Kazakhstan International Bureau for Human Rights and Rule of Law**

- Казахстану следует исключить существующую альтернативную подследственность по делам о пытках (и смежных составах), наделив Департамент специальных прокуроров Генеральной Прокуратуры и его подразделения на местах (Департамент) *исключительными*
- полномочиями по проведению расследования, а также доследственных проверок, сообщений о пытках (и смежных составах).
- 2. При проведении следственных действий в рамках проверок и предварительного расследования сообщений о пытках (и смежных составах), исключить любое взаимодействие спецпрокуроров с правоохранительными и/или иными органами, чьи действия послужили основанием для проведения проверки/расследования.
- Установить общественный контроль за работой Департамента спецпрокуроров ГП РК по делам о пытках посредством:
  - наделения общественных организаций полномочиями направлять материалы, имеющих отношение к проводимой проверке/расследованию (в том числе после принятия процессуального решения в порядке ст. 185 УПК РК), для их изучения и приобщения к материалам проверки/дела;
  - предоставления общественности доступа к документам, регламентирующим работу Департамента в части расследования сообщений о пытках и порядка проведения проверок/предварительного следствия по делам о пытках;
  - размещения регулярных отчетов о работе Департамента в части расследования сообщений о пытках на сайте Генеральной прокуратуры РК;
  - представления ежегодных публичных докладов о работе Департамента в части расследования сообщений о пытках в Парламенте;
  - привлечения общественных организаций к совершенствованию работы Департамента в части расследования сообщений о пытках.



## **France**

- We call upon all States employing the death penalty to observe a moratorium and launch reflection on this cruel and inhumane punishment.

## **Human Rights Center, Khujand**

To the Republic of Tajikistan:

- The state must openly admit existence of torture and inhumane treatment in the country and make an unequivocal statement about “zero tolerance” and inadmissibility of torture and inhumane treatment, as well as fighting torture and impunity in the country.
- Ensure unobstructed access to temporary holding facilities, pre-trial detention centers, and correctional institutions for independent monitoring by civil society representatives.
- Ensure reporting and control of all complaints related to torture and inhumane treatment by a special-purpose committee under the General Prosecution Office of the Republic of Tajikistan, with the involvement of the Ombudsman’s office and civil society representatives, to take efficient action for investigating cases of torture and providing compensations to victims, with a wide media coverage of the committee’s operation.
- Strengthen the guarantees for persons in official detention facilities, concerning access to legal support and procedures for submitting complaints independently from the administration of the institutions.
- In terms of priorities in the area of legislative reform to ensure the necessary conditions for an efficient fight against torture, the following is needed:
  - In the Criminal Code of the Republic of Tajikistan, in the article stipulating responsibility for using torture (Article 143 Part 1 Note 1), stipulate the punishment adequate to the gravity of the crime (with the aim of avoiding impunity as a result of dismissal of a case due to amnesty or reconciliation of the parties) in accordance with Articles 1 and 4 of the Convention Against Torture;
  - Ensure inevitability of punishment for torture, by making respective changes to the criminal legislation, and exclude the possibility of using amnesty on persons responsible for committing acts of torture;
  - In the Criminal Proceedings Code, stipulate a procedure for prompt, thorough and unbiased investigation of the facts of torture or inhumane treatment by an independent authority in accordance with Articles 12-13 of the Convention against Torture and requirements of Istanbul Protocol;
  - Stipulate in the Criminal Proceedings Code a procedure for immediate medical examination of all persons detained by the inquest and preliminary investigation authorities in the first hours of detention.
- Develop and include in the legislation an institution for independent medical examination.

## **Norwegian Helsinki Committee**

On this background, we recommend that:

- United States and other democratic states set standards that prevent development of a global online *Orwellian* surveillance society. The right to privacy should be respected when we communicate electronically. If democratic states do not abide by this principle, they risk undermining the global struggle to strengthen respect of fundamental freedoms.

## **Penal Reform International**

Firstly, we highly welcome the accession by Latvia to the Second Optional Protocol to the International Covenant on Civil and Political Rights and the steps taken by Armenia towards ratification: we encourage ratification as soon as possible. PRI calls on all states that have not done so to follow these examples. We also commend the strong support given by OSCE member states to the most recent UN General Assembly Resolution on a death penalty moratorium, with 54 OSCE members voting in favour.

PRI welcomes the commitment by OSCE participating states to share information regarding the death penalty.

- We encourage states to include in this information details of the wider effects of the death penalty, including the impact on defence lawyers of trying to prevent a client's execution – what one recent book on the subject called 'fighting for their lives' – the effect on prison officers of administering prisoners on death row, and in particular the impact on family members, especially children, of having a parent arrested, tried, sentenced to death and executed.

## **Russian Federation**

- Одновременно призываем власти США провести всестороннее и независимое расследование допущенных правонарушений, привлечь виновных к ответственности, закрыть тюрьму в Гуантанамо, а также отказаться от практики военных трибуналов и бессрочного заключения без предъявления обвинения и судебного разбирательства.

## **Amnesty International**

To all OSCE participating States:

- Ensure that no one within their jurisdiction is returned, by means of extradition or otherwise, to any country where they would be at risk of torture or other ill-treatment (the non-refoulement obligation).
- Refrain from the use of and reliance on diplomatic assurances to circumvent this obligation and extradite or otherwise return persons to places where they are at risk of torture and other ill-treatment.

To Central Asian States:

- Ensure that all detainees, including those who have been extradited or returned from other countries, are able, from the outset of detention, to exercise their

rights to contact their family or another third party, and to consult in private with a lawyer of their choice and with an independent medical practitioner.

- Establish a system of regular, independent, unannounced and unrestricted visits of inspection to all places of detention, with the opportunity for the inspectors to speak privately with any and all detainees.
- Ensure that all trials, including of people extradited or otherwise forcibly returned to Central Asian countries, comply with international law and standards relating to fair trial.

To Ukraine and the Russian Federation:

- Fully comply with all interim measures and judgments of the European Court of Human Rights in relation to cases of return and extradition.

### **Open Dialog Foundation**

- We are extremely concerned with the fact that Kazakhstan is detaining Ablyazov's family as political hostages, and we therefore call on the OSCE to work out recommendations in order to prevent the possibility of future use of the mechanisms of cooperation of intelligence services and Interpol for the purpose of politically motivated prosecution.
- I have to return to Russia, as my family live there and I am a full time student of a university there. However, I fear for my life. There are numerous reports on the use of torture and cooperation of Russian and Kazakh intelligence services, and so, I hereby appeal to all the OSCE diplomatic missions to stand in our defence and to monitor closely the developments in the case of my other's extradition. Dear representatives of the OSCE diplomatic missions, human rights defenders, I do not know how else and who else I should address in order to protect our family, even if only to a limited extent. We would be grateful for any support and assistance on your part. Thank you for your attention.

### Recommendations to the OSCE

#### **Norwegian Helsinki Committee**

On this background, we recommend that:

- The OSCE engage in clarifying the framework of internet and mobile phone surveillance that fully respect human rights. ODIHR could be tasked to provide guidelines for the participating States. There is clearly a need for international standards that prevent surveillance of persons that are not under suspicion of any criminal act and which are not properly sanctioned by a court order;

#### **Human Rights Center, Khujand**

To OSCE:

- In the spirit of Athens Declaration of 2009, by the 25<sup>th</sup> anniversary of the Convention against Torture, support and facilitate the operation of civil society on torture prevention, paying special attention to protecting and ensuring safety of human rights advocates taking part in fight against torture.
- Office for Democratic Institutions and Human Rights (ODIHR) to strengthen support of the states and civil society institutions at the political and practical level in translating international standards, obligations and recommendations of inter-governmental bodies to a practical level.