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**INDEX OF DOCUMENTS DISTRIBUTED THROUGH THE ODIHR SECRETARIAT
DURING THE SEMINAR**

I. INTRODUCTION

The Human Dimension Seminar on Building Blocks for Civic Society: Freedom of Association and NGOs took place in Warsaw on 4-7 April 1995. The Seminar was organised by the Office for Democratic Institutions and Human Rights.

The Seminar was the eighth in a series of specialized Human Dimension Meetings organised by the ODHIR in accordance with the decision of the CSCE Follow-up Meetings in Helsinki 1992 and in Budapest 1994. The previous seminars were devoted to: Tolerance (November 1992), Migration, including Refugees and Displaced Persons (April 1993), Case Studies on National Minorities Issues: Positive Results (May 1993), Free Media (November 1993), Migrant Workers (March 1994), Local Democracy (May 1994) and Roma in the CSCE Region (September 1994).

The main theme of the Seminar was freedom of association and NGOs, including: right to association and its administrative, legal and financial aspects; and how to build successful programmes that attract public support and influence governments.

The Seminar was not mandated to produce any negotiated texts, but summary reports prepared by the Rapporteurs of the two Discussion Groups were presented in the final Plenary Meeting.

II. AGENDA

1. Opening of the Seminar by the Director of the ODHIR.
2. Keynote speech.
3. Discussion on building blocks for civic society: freedom of association and NGOs, including: right to association and its administrative, legal and financial aspects; and how to build successful programmes that attract public support and influence governments.
4. Summing up and closure of the Seminar.

TIMETABLE AND OTHER ORGANISATIONAL MODALITIES

1. The Seminar was opened on Tuesday, 4 April 1995 at 10 a.m. in Warsaw. It was closed on Friday, 7 April 1995.
2. All Plenaries and the Discussion Groups were opened.

3. Agenda items 1, 2, 3 and 4 were dealt with in the Plenary. In addition, the closing Plenary, scheduled for Friday morning, was focused on practical suggestions for dealing with the issues and problems raised during the Discussion Groups.

4. Agenda item 3 was dealt within the Plenary, as well as in the two Discussion Groups:

DG1: Right to association: administrative, legal and financial aspects

Topics may include:

- statement of purpose: vague or precise, examples of successful NGOs;
- organisational models, election of officers, executive bodies, what makes an NGO successful;
- obtaining legal recognition, registration formalities, control procedures;
- non-profit rule, receiving financial support, meeting financial reporting requirements in various countries.

DG2: How to build successful programmes that attract public and influence governments

Topics may include:

- the NGO and the public: responsibility and transparency, building of constituency: use of media, meetings, being part of a country's civic culture;
- the NGO and the legislative and executive branches, expertise and consultancy, relationships with politicians, governmental officials;
- specific problems of the human rights NGO;
- international organisations and NGOs-positive experience.

5. Meetings of the Plenary and Discussion Groups took place according to the attached work programme.

6. The ODIHR representative chaired the Plenary meetings.

7. The ODIHR invited the Moderators to guide discussion in the Discussion Groups. ODIHR representatives assisted them.

8. During one half day in the course of the seminar no session was scheduled in order to provide opportunities for possible contacts with NGOs and different NGO meetings.

9. Standard OSCE rules of procedure and working methods were applied at the Seminar.

III. PARTICIPATION

The Seminar was attended by a total of 286 participants. Representatives of 44 Participating States took part in it. The delegation of an Observer State, the Former Yugoslav Republic of Macedonia and one Mediterranean Non-participating State, Egypt were also present.

In addition 5 international organisations were represented: CoE, EBRD, UNDP, UNESCO and UNHCR.

At the seminar, 154 representatives of 123 non-governmental organisations were present.

IV. SUMMARY OF PROCEEDINGS

The Seminar was opened by the Director of the ODIHR, Ambassador Audrey F. Glover. The keynote address was delivered by the President of the Institute for Democracy in Eastern Europe, Mrs. Irena Lasota.

Opening contributions were made by 12 national delegations, 3 international organisations and 4 NGOs.

During the Seminar two Discussion Groups met. The topics were divided as follows:

Discussion Group 1: Right to Association - Administrative, Legal, and Financial Aspects

Moderator: Ms. Guri Rusten, Secretary General, Norwegian Helsinki Committee, Oslo
Rapporteur: Prof. Karla W. Simon, Executive Director, International Center for Non-Profit Law, Washington
ODIHR: Ms. Elizabeth L. Winship, NGO Liaison Adviser

Discussion Group 2: - How to build successful programmes that attract public and influence governments

Moderator: Mr. Konrad Huber, Associate Director, Foundation on Inter-Ethnic Relations, The Hague
Rapporteur: Ms. Rachel Brett, Quaker Office to the UN Centre for Human Rights, Geneva
ODIHR: Mr. Jacek Paliszewski, Conference Services Adviser

There were also several NGO meetings taking place in the course of the Seminar, among others with the Director of the ODIHR, representative of the OSCE Secretariat, consultation on Roma and OSCE activities in Central Asia.

The closing plenary meeting was chaired by the Director of the ODIHR. The Rapporteurs presented their reports. Statements on behalf of 8 national delegations and 4 NGOs were made afterwards.

The press conference was organized after closing of the Seminar and 15 representatives of press and radio were present.

V. PLENARY MEETING - KEYNOTE SPEECH BY MRS. IRENA LASOTA, THE PRESIDENT OF THE INSTITUTE FOR DEMOCRACY IN EASTERN EUROPE

To know where we are today we have to look at where we were twenty years ago and what we accomplished in the last four years.

Almost twenty years ago, on August 1, 1975 the Final Act of the Conference on Security and Cooperation in Europe was signed in Helsinki. At that time many doubts and questions were raised about the rationale of signing one more accord between liberal democracies and communist states. Why sign an accord on common security with a state - the Soviet Union - that had annexed independent states like the Baltic states and less than seven years before had invaded Czechoslovakia? Why pretend that both sides: the liberal pluralist democracies and the repressive communist states speak the same language and give the same meaning to words like freedom of speech, freedom of associations, cooperation, civil society?

For many, the Helsinki Accords were seen as one more betrayal by the Western states of the people living in the East. I was among those who had many doubts twenty years ago.

But the Helsinki Accords, soon after called simply "Helsinki", became an important mechanism for defending human rights and civic rights under communism.

The "stability and security" part of the Helsinki Final Act became void a few years later when the Soviet Union invaded Afghanistan, an invasion and war that resulted in over a million casualties, several million displaced persons and instability in the region that lasts until today.

But the "human dimension" of the Helsinki Accords became a tool, a weapon and a shield for those, East and West, who believed that citizens, in every country, have the rights to behave like citizens and not like subjects.

Within a few years Helsinki Committees, grass root citizens groups, that we call today NGOs, were created in many countries, to monitor the compliance with the Helsinki Accord. In the communist countries these were dissidents' groups of very courageous people, who risked their liberty, and sometimes even life, to monitor and report on the violations of human and civil rights. Often they were the seed of future civil societies. In the West the

Helsinki groups were citizens' voluntary associations that not only monitored the situation in their own countries but supported their fellow citizens in the East. Also governments and parliaments in democratic countries became actively involved in monitoring and demanding compliance with the Helsinki Accords.

In the years 1975-1990 a special ethos was created, a "Helsinki ethos" that transcended the state borders, the language and cultural barriers. When one spoke of "Helsinki" one spoke of attempts to create a civil society under communism and of western solidarity toward that endeavour.

What is interesting is that West and East, that is, liberal democracies and people under communism, had different concepts of the civic society. As Gaspar Miklos Tamas, a former dissident and today a member of the Hungarian parliament, noted "in a liberal society... civic order cannot be sustained without the activities of the citizens... without voluntary associations... and non-coercive co-operation individuals would become "atomized", disoriented, amoral and oblivious of duty". "On the contrary --writes Tamas --our <in totalitarian countries> worry was that without diversified, pluralistic, voluntary associations, the dutiful citizens of the totalitarian state would become automatons, soulless executors of orders from on high. The problem was not the peril inherent in *too much* autonomy, but in *too little*".

Thus the notion of civil society under totalitarianism was directed against the state, while in liberal democracies it was to complement the state.

This difference of approach, these different roots of the civil society in the East and in the West remain, in a lesser form, until today, and are often the base for the discussions on what is the role of the civil society, how do we define it, what are the non-governmental organizations, how do we define them, where do we delineate between politics and non-politics. What does it mean to be a NGO "independent of government and **of political groups**". After all in liberal democracies there is a much clearer definition of politics and a clearer demarcation line between what is the state and what is the society. The term *politics* is reserved primarily for state and parties activities, while under communism everything --and nothing -- was politics, and societies emerging from under communism have to define themselves and to discover for themselves where politics start and end.

That process of rediscovery will take time and adjustment. In the first period of rebuilding civic society on the rubble of communism we are witnessing a terminological and practical confusion. On the one hand the reawakening societies have to reinvent everything, rebuild everything, including politics and we should not be surprised that there is a grey sphere where civic society and the state are intermingled. We should accept it as a fact of life, that once in a while a NGO becomes a political party and a political party transforms itself into a NGO. Once in a while a civic activist becomes a politician, sometimes even a president, and some politicians leave politics and move into civic activities. This turmoil will last for a while. It is a normal process during peaceful revolution. What is important is to try to define and legislate in the most precise way who is who and who is doing what.

On the other hand the politicians, the governments have, in many instances, been very slow in proposing legislation that would allow the non governmental sector to develop itself. Bad legislation, unclear legislation, restraining legislation or simple lack of legislation had slowed down the process of finding the place for the NGOs in the society. Some governments do not care enough, others do not want to relinquish power, others, thoughtlessly pass legislation which, like in Poland, may mean the financial extinction of the NGOs.

What are the NGOs and how can the "Helsinki framework" help us to understand and define this concept?

We have seen in the last five years an incredible proliferation of non government organizations in the postcommunist world where even the family was considered by the state to be a dangerous and unwelcomed formation. This blooming of NGOs is the best proof that human beings want to organize their socio-political environments themselves and that in doing so the imagination, resourcefulness and energy have no limits. Everywhere people, groups of people, communities, nations are working on taking their lives and their futures into their own hands. You represent here organizations that work in the domains of culture, education, information, development, economy, environment, human rights and many others. In doing so, you limit the role of the state and influence and modify the activities of the state. Democracy cannot be built and cannot be sustained without civil society.

Of course there are difficulties and pitfalls that we will be discussing in the days to come. A very important one is how to be independent and how to maintain such an independence from the state, from the governments.

Governments, per their nature, have a tendency to interfere more than they should. In the case of NGOs they do so basically in two ways: either through not enough or too much love. Not enough love means inadequate legislation, financial limitations; too much love may be even more dangerous if the governments want to support financially and to direct politically the NGOs.

We agree, of course, that a foundation for voters' education, a charity and a cultural association are all examples of NGOs. But in postcommunist states we also have borderline cases which require reflection.

Let's examine some of these cases. In 1944 the Soviet state overnight deported several nationalities from their historical places of inhabitation. The Crimean Tartars were among them. Soon after 1956, after the first liberalization, the Crimean Tartars started to rebuild their community, to organize themselves and to demand the right to return to Crimea. After 1975 their cause was adopted by the Helsinki Committees in the Soviet Union and abroad. The Crimean Tartars' was a remarkable case of rebuilding civic society from scratch. And let me add, it is a society based on democratic and liberal principles. Until the fall of the Soviet Union the Crimean Tartars were possibly the best example and the largest, of a grass roots NGO in the Soviet Union. They ran programs in civic, cultural, economic and developmental education. Their leaders were deported to work camps, but the Crimean Tartars kept on rebuilding their society, their civil society. Slowly they came back to Crimea, where they now number over two hundred thousand. They have their own, democratically elected and democratically functioning parliament - the Metchlis. Are they an NGO?

They have elected 14 deputies to the parliament of Crimea. Are they still an NGO? They conduct an incredible amount of projects that they realize in the areas of education, economic development, environment and others. Are they an NGO? If our answer is yes, we have to answer more difficult questions that follow logically.

What about Kosovo? Is it an NGO? And if yes, what does that mean? How should the people there be treated? What does it mean for us here? Who decides in such a borderline case? The government of Yugoslavia? The people of Kosovo? The Organization for Security and Cooperation in Europe? The United Nations? The Hague Tribunal?

What about an even more difficult case? What about Chechnia? If it is a state, then the aggression against Chechnia is a violation of all possible international agreements. If it is not a state, what is it? An NGO? The largest known NGO in the Russian Federation? How does the war in Chechnia fit into the Helsinki Accords? How do we deal with those questions from the perspective of the Helsinki Final Act? Do we deal with it, or do we try to forget it as soon as possible?

These questions are not just pure provocation. They are examples, maybe very drastic examples, of difficulties we are facing in the fifth year after the fall of the Berlin Wall. Are we going to leave those questions to the politicians, or are we going to attempt to answer them for ourselves? After all we, as private citizens believe that politicians cannot solve all or even the majority of problems and that is up to us to face the problems and try to resolve at least some of them.

VI. RAPORTEURS' REPORTS

DISCUSSION GROUP 1

Right to Association - Administrative, Legal, and Financial Aspects

Rapporteur's Report: Prof. Karla W. Simon

FIRST DAY:

During the meetings of Discussion Group 1 -- which considered various administrative, legal, and financial aspects of the freedom of association and the effect of laws on NGOs -- the group discussed the laws in several countries and attempted to derive some general principles that need to be considered in analyzing the extent to which the laws of a given country respect the freedom of association. The group suggested that certain norms are relevant for such an inquiry. The following are the principal points made by the delegates during the first day.

1. International Covenants and Norms. There are several international covenants and norms that may apply to countries in the OSCE and that guarantee freedom of association and

assembly. These include UN documents such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The latter requires party states to conform their domestic laws to the standards set out in the Covenant, and it has been ratified by 140 countries. It also established a monitoring and reporting mechanism through the Human Rights Committee. Equally important are regional covenants such as the European Convention for the Protection of Human Rights and Fundamental Freedoms, which has even stronger enforcement mechanisms. Such instruments also guarantee rights of citizens belonging to minority groups to freely associate.

2. **Constitution.** Most countries recognize the freedom of association in their constitutions, but even those that do not (such as Norway) tend to respect freedom of association in agreement with international norms.

3. **Subconstitutional Laws Implementing Freedom of Association.** The consensus opinion was that, although there may be general laws and instruments guaranteeing freedom of association, it is imperative to look to the laws of any country to see whether or not they effectuate the freedoms of association and assembly.

a. In many countries NGOs operate quite actively without registration. However, it was generally recognized that registration may be necessary if an NGO desires to acquire certain benefits from the state, including juridical personality, the privilege to open a bank account, limited liability, the right to solicit funds in its own name, and tax exemptions. There was consensus that the registration process, if required, should be simple and straightforward, not permitting undue administrative discretion. The laws about registration should be clear and simple so that NGOs will be able easily to understand them.

b. It was also recognized that although an NGO may not wish to receive certain benefits from the state, it might engage in certain activities that would require it to register with or be licensed by state agencies that protect the public (e.g., a day care center or a home for the elderly).

c. Some members of the group noted that there need to be sensible regulations for NGOs for their protection, because without such regulations the state may exercise unfettered discretion not guided by general norms. It was noted that many countries reserve the right to shut down NGOs if they act contrary to “public law or morals.”

d. In addition, states may try to control activities of NGOs by using permits, such as permits for meetings (as in Kazakhstan). These should be strictly limited so that they do not inhibit the freedom of association.

4. **Appropriate Registration Entities.** The group noted that each country must determine which registration agencies will be appropriate for it. It is important to take into account the purpose of the registration in making such a decision.

a. Appropriate registration entities include the courts, administrative agencies, the Ministry of Finance, other ministries, or local governments. Each has benefits and drawbacks, which we discussed, noting that courts generally have more independence and objectivity than agencies. However, most agencies operate well if given clear guidelines.

b. If registration is required at both a general agency or a court and the Ministry of Finance, that may cause greater reporting burdens on NGOs. It may, however, be necessary, depending on the requisites of the registration with the general agency or court.

c. The agency registering NGOs should be independent and transparent; it should have clear rules; and it should not be permitted to exercise undue discretion over the registration process.

d. There should be a decision as to whether local or national agencies are more competent to perform the registration. Whichever means is chosen, there should be a national listing of NGOs that is open to the public.

e. There should be access to judicial review by independent courts to ensure that freedom of association is respected.

5. **Self-regulation.** It was noted that self-regulation of the sector should be respected by the state. The sector needs to establish adequate self-regulatory mechanisms, both in the governance structure of each NGO and through umbrella organizations of like-minded NGOs.

SECOND DAY:

The second day of meetings of Discussion Group 1 considered two aspects of the regulation of NGOs and their exercise of freedom of expression -- Building NGOs and Financing them. There was consensus that although NGO is an inexact term for the organizations operating within civil society, (e.g., associations, foundations, and not-for-profit corporations), we would use the term for purposes of convenience. Principal points made by the delegates are reflected in the following discussion.

A. Building NGOs.

1. **Starting an Organization.** In order to start an organization, there must be a certain number of founders. Although different countries require different numbers of founders, it was suggested that a smaller number is better so as to permit more organizations to be formed

2. **Purposes of the Organization.** The purposes of non-political-party NGOs should not be to achieve political power; although political parties and NGOs may transform themselves one into the other, there should be a separation between the two. Even for overtly political organizations, whose aims include monitoring the government, a set of long-term, broad purposes should be identified. The attempt should be to enter into dialogue with the government to assist it in achieving certain goals beneficial to society. Objectives should also take into account the resources of the organization.

3. **Organizational Models and their Governance.** In the civil law systems in Europe, two forms of organization are generally recognized: foundations and associations. Foundations are required to have an endowment and associations are membership organizations. Both types should be able to be operated for the public benefit (charitable purposes, for example), and such an intention should be stated in the statutes or bylaws of the organization. In some countries there is a

preference for the foundation form because its governance structure permits greater flexibility (these are not foundations in the traditional sense, because they are operating, not grant-making organizations). In addition, some difficulties were noted with respect to the association form because of the possibility that members might attempt to take over an organization and change its purposes. Not only should there be clear rules in the laws about rights and obligations of members, which would permit expulsion of members under some circumstances, such rights must be enforceable in court. In addition, statutes or bylaws should be drafted so as to allow for continuation of legitimate purposes of the organization.

Some countries have specific laws governing certain types of organizations, such as trade unions, political parties, and religious organizations. When an NGO changes its character so that it might need to be registered under a different law, it should adhere to legal requirements and change its registration.

4. **Executive bodies.** The laws of various countries have provisions for the election of executive bodies (associations) and for the appointment of executive bodies (foundations). Organizations should have flexibility of governance to fit their needs.

5. **Dissolution.** The laws of a country should have clear rules regarding both voluntary and involuntary dissolution of NGOs, and these should be reflected in an organization's statutes or bylaws. There should be provisions regarding transfer of the assets of an organization to a like-minded NGO in the event of dissolution.

B. Financing NGOs.

1. **Funding Needs.** The need for finding adequate funding for NGOs was well-recognized. Each organization should seek to achieve a balance in funding. Although there are different attitudes about government funding, these reflect cultural differences among countries. The amount of government funding does not necessarily determine whether an NGO is independent from the state. There are aspects of independence that not determined by funding sources.

2. **Government Funding and Support.** There are various types of government support:

a. direct support through grants, contracts, and direct subventions;

b. indirect support through tax benefits for organizations and donors; and

c. indirect support through support centers and monitoring agencies such as the Charity Commission in England and the new Commission for Voluntary Organizations in Italy.

3. **Access to Government Funding.** Different kinds of NGOs have different experiences in this regard. Some organizations, such as cultural organizations in Slovakia, are able to gain considerable government funding. Others, such as human rights organizations in Belgium, have little access to government money because the system is not set up to allow them such access. It was recognized that the state should provide support for NGOs and that certain principles should apply:

a. There should be competition among NGOs for government grants and contracts, and these should be awarded according to objective criteria. Good procedures are very important, and government should be transparent about these awards of support.

b. Governments should consider making general support grants rather than limiting their support to project funding.

c. There should be transparency required not only of the government making the award but also of the NGO receiving the funds. Reports should be required to ensure that public moneys are appropriately used.

4. Other Kinds of Funding. The group discussed other sources of support for NGOs and gave many examples. It was noted, however, that different cultures may affect access to such sources in various countries. The importance of adequate legislation governing fund raising was emphasized, in order to give NGOs access to the public for finding funds for their support. Such legislation must also protect the public from illegal or fraudulent fund raising schemes.

a. Private sources of funding. NGOs should look to individuals, corporations (the new capitalists!), and private foundations for money. They should also seek donations in kind (e.g., food for a food bank) and should actively seek to involve volunteers in their work.

b. Fees for services. NGOs should be permitted to charge fees for their services (e.g., tuition for private schools, museum entrance fees).

c. Business or commercial activities. A few countries prohibit any economic activities of NGOs, but most permit them to engage in both related and unrelated activities for their support, either directly or indirectly (e.g., through a 100% owned subsidiary limited liability company.) The issue of whether they may conduct unrelated commercial (i.e., not merely investment) activities directly or through a subsidiary is answered differently in the various countries. Some countries tax all revenues, whether related to the organization's purposes or not. In general, revenues from commercial activities that are devoted to the organization's public purposes are not taxed, but some countries impose taxes on unrelated commercial activities because of a concern about unfair competition.

d. Funds from foreign and intergovernmental organizations. NGOs should have access to foreign funds, including funds of international organizations and development banks. It was commented that there should be mechanisms for NGOs to gain such access without undue government intervention and the requirement of advance government approval.

5. Financial Reporting. Financial reporting is required so that the public will feel that the NGOs are acting appropriately and are using public moneys (including tax advantages) appropriately. Such reporting may be more limited in certain cases (e.g., where

the NGO does not receive government funds). However, annual reports of activities and financial statements are ordinarily required of all but the very smallest of NGOs. Various aspects of reporting requirements include:

- a. Annual reports of activities and funds spent on them may be required to be published in a newspaper of general circulation.
- b. Tax reports are ordinarily required for NGOs except for those with a certain minimum of receipts.
- c. Donors frequently require that NGOs receiving grant funds make special reports to them.
- d. In some instances, reporting of sources of funds may be necessary, although this should be done only in the most general way.
- e. Privacy laws should and often do preclude public disclosure of names of grantees and donors.
- f. Some reporting laws require disclosure of compensation of top officers and potential conflict of interest situations.

THIRD DAY:

On the third day of the meeting Discussion Group 1 focused on issues regarding transparency, credibility, and cooperation of NGOs. It was generally recognized that NGOs play an important role in civil society, but that they need to be credible in order for that role to be respected. Various aspects of the need for NGOs to develop transparent procedures and to cooperate among themselves were discussed. In addition, much attention was focused on ways in which umbrella organizations and networks can help NGOs to perform their tasks more effectively. Points made by the delegates included the following.

1. **Transparency and Credibility.** Because NGOs are not elected representatives of the citizens, they must work to develop public trust. Providing good information about what they do helps them to establish that trust. NGOs are very important representatives of the public interest and can help to develop trust between the citizens and their government. NGOs should work to be more transparent and credible and in that way establish a good balance between required regulation and self-regulation.

2. **Professionalism of NGOs.** The leaders of NGOs should work to acquire good professional standing and ethics so that they may become more effective advocates. They need to ensure that they have the respect of the government representatives with whom they may be working in the legislative arena.

3. **Umbrella Organizations and Networks.** There are many organizations of NGOs in OSCE countries that are effective in assisting in NGO development and support. NGOs should establish umbrella organizations and networks for various purposes, which include:

a. Standard-setting. Umbrella organizations may wish to establish ethical rules that govern the internal workings of their members. Such standards may apply to compensation of directors and staff, eliminating potential conflicts of interest, the percentage of revenues that may be spent on administrative expenses, what kinds of internal governance are appropriate, etc.

b. Lobbies. NGOs may find it effective to set up networks for lobbying on specific issues.

c. Citizen action. NGO networks may help to encourage citizen action.

d. Support organizations. Umbrella organizations or networks may provide support services to NGOs, including information, administrative assistance, training and education, investment services, etc. Such organizations can provide an effective interface between NGOs and the government.

4. Difficulties of Cooperation. Cooperation among NGOs may be difficult to achieve because of personal animosities and jealousies, competition for funds, etc. However, the benefits that NGOs can achieve through cooperation are substantial and should help NGOs to overcome these problems.

5. Regional Cooperation. NGOs in OSCE countries have achieved considerable regional cooperation on specific issues such as the environment and human rights. That has allowed them to be more effective in lobbying on these issues.

6. Cooperation with International and Regional Organizations. There are various mechanisms to ensure good NGO cooperation with regional and international organizations such as the UN, the Council of Europe, and the OSCE. These include established organizations such as the United Nations Association and the Helsinki Federation, and specific lobbies set up on specific issues (e.g., peace in Bosnia-Herzegovina). The accreditation process that has been established for NGO representation at UN summits has been a welcome development. In addition, NGOs are grateful to the OSCE for its encouragement of their participation in its activities.

DISCUSSION GROUP 2

How to build successful programmes that attract public and influence governments

Rapporteur's Report: Ms. Rachel Brett

The topic of this Discussion Group was "How to build successful programmes that attract the public and influence governments". The Discussion Group held four sessions and the discussion was divided into four broad areas:

- how to define success;
- how to define goals and strategies, and to develop organisational structures to achieve these;
- why it is in the interest of governments to associate with NGOs;
- NGOs and inter-governmental organisations, in particular OSCE.

As the discussion progressed these topics were divided in slightly different ways, or other particular sub-topics were highlighted.

From the beginning, and throughout the discussions, the diversity of NGOs and of national situations was recognised, including the fact that in some countries there is little belief in the ability of NGOs to achieve anything. This means that all the experiences related are specific to the organisations and situations in which they are operating and cannot be assumed to be directly transferable to others. Nevertheless, they may be transferable or they may provide useful examples or ideas which can be drawn on by others.

1. SUCCESS

Success has to be measured in accordance with each NGO's goals and size. It may mean different things to different NGOs or even to the same NGO at different times, eg being accepted by the state and the people may be the first success. Many examples were given including:

- getting legislation passed;
- assisting with court cases by providing free legal services;
- establishing human rights teaching in schools;
- preparing reports comparing the national legislation and situation with international standards and practice;
- exposing corruption in government;
- getting voters to turn out for important ballots; and
- organising discussions between representatives of political parties and local people.

Amongst the factors in achieving success were:

- perseverance;
- working together with a broad coalition of other groups, which may not only provide support to each other but also demonstrate to government the strength of public opinion;
- in the legislative field, mobilising the electorate since in a democracy electoral officials listen to those who are entitled to vote;
- strategic planning rather than a crisis approach;
- demonstrating your usefulness, eg supporting local media to be independent may make them more interested in and sympathetic to your programmes or issues;
- focusing on local as well as national government;
- networking with other NGOs, nationally or internationally;
- influencing the media; and
- educating the public.

On the other hand, the whole notion of "success" was challenged as possibly leading to opportunism - picking projects that can be "sold" - whereas NGOs need to be able to live with and learn from setbacks. The important thing is for NGOs to set their objectives, to evaluate the work they do and to be self-critical.

2. FUNDING

The question of funding of NGOs was the subject of extensive discussion as not only is the existence of adequate funding crucial but the sources of funding may have implications for the programmes which NGOs undertake, their ability to be free from governmental or other influence, and the way in which their programmes are perceived by others. Some NGOs, particularly those involved in advocacy, take no government money. Those involved in the provision of services may not see government funding as problematic and governments may see this as a way of achieving public policy by contracting out specific projects or areas of work to NGOs.

In some countries there is a long-established practice of government funding of NGOs, with clear-cut procedures and understandings about NGO independence. In some cases, the funding is channelled through an NGO or foundation created for this purpose in order to distance the recipient NGOs from government, or is provided in the form of matching funds raised elsewhere by the NGO. In other countries there may be competition between NGOs for government funding, making cooperation between NGOs harder and, in the absence of transparency and clear cut criteria, perceived or actual bias in the way funds are distributed. Some countries provide government funding by means of tax advantages for individual or corporate donors. In some countries there may be general restrictions on funding of advocacy/political lobbying and some NGOs have set up separate branches for different aspects of their work to take account of this, eg a research or educational body separate from the advocacy work of the NGO.

Corporate funding may also come with strings attached, or may be seen as being a possible cause of bias in the NGO's work, thus limiting its effectiveness. Funding from other governments, private foundations or trusts, and the EU were also mentioned.

From whatever source, concern was expressed about the need for NGOs to avoid being donor led in setting their objectives. Some ways of avoiding this are setting clear criteria for the acceptance of funds, mixed funding (thus avoiding too great reliance on any one donor), and educating the donor(s), including annual meetings with major donors in which future work and directions are discussed. The value of funding by members was recognised where this is possible, including direct mailing and, in future, possibly using Internet. The possibility of a donor being willing to fund an NGO to expand its membership and donor base was suggested.

Whatever the source of funds, the need for transparency and accountability to members and to donors were universally recognised.

3. INDEPENDENCE FROM GOVERNMENT

Funding was not the only context in which NGO independence from government was considered. Freedom from governmental control and interference was stressed as a right of NGOs. A particular issue for some NGOs has been how to react to their members becoming involved in government or elected to parliament. Some NGOs insist that such members resign in order not to inhibit continued NGO monitoring and criticism of the government. The importance of applying the same standards whoever is in power was stressed in this context. These NGOs can be seen as a non-partisan constructive opposition to the government. Those NGOs with a broader membership base may allow continued membership but not active participation. Others, particularly those representing minorities may welcome such involvement as an additional means of influencing

government.

4. ORGANISATIONAL STRUCTURE

A model for the democratic internal structure and decision-making process of NGOs was proposed, involving the membership in setting objectives and implementing them through a work plan which includes the financial implications. If this is done, the programme will respond to the needs of the membership. Although this was seen as an ideal for membership organisations, it will not be relevant to all NGOs. The need to develop the NGO beyond one or two charismatic leaders was recognised. Particularly in large countries, the value of having local offices, in different states or regions, was stressed. Such offices can assist in membership drives, as well as campaigning at local level, contacting parliamentary deputies and so on, while the national office works at the national level. Although some NGOs seek members primarily as a source of funding, others seek those who can offer expert services, or as active lobbyists.

The model was quoted of Human Rights Houses, grouping small NGOs together in one location, sharing accommodation and professional services, thus reducing costs. However, it also encourages cooperation among the NGOs, sharing of networks and skills, and providing mutual support.

5. STRATEGIES FOR INFLUENCING GOVERNMENT POLICY

(a) Legislation: Credibility with the media was seen as central to getting anything done. This can equally mean local media where relevant. Others have taken a long term approach, providing human rights education in schools, which may influence governmental policy in the future.

One key strategy was to react to bad bills before they become law and try to correct them. Some NGOs have experts observing the various chambers and/or commissions in parliament: with umbrella organisations these assignments can be divided between the member organisations. However, this presupposes access to such bodies and to bills in draft: this is not the case in all countries. (The International Human Rights Law Group is undertaking an OSCE-wide survey on these questions). Direct access and lobbying in parliament has to be supplemented by developing and educating public opinion on the issues. Various levels of reaction to draft legislation are possible: transmitting written comments to deputies, holding informal discussions with them, publicising comments, and appealing to international organisations. Opening up the legislative consultation process may be one of the results of such NGO actions and is in itself valuable. It was universally recognised that this kind of legislative work requires careful preparation, expertise, a recognition of the possible need for and acceptable limits of compromise and a multifaceted approach, including training and educating the membership of the NGO, providing model letters which members can use to write to deputies or the media, petitions, and networking with like-minded organisations. Where the consultative process provides for hearings on draft legislation, these are an obvious forum for the expression of NGO views.

(b) Using courts: Some American NGOs use the legal system extensively:

- to protect human rights activists, by providing free legal assistance, not only to vindicate the rights of the specific individual but also to establish broader legal principles, eg freedom of

expression on public issues;

- to expose governmental abuse, eg to elicit information which would not otherwise be available through the "discovery" process;
- to attempt to establish rights and principles, eg unconstitutionality of the ban on gays and lesbians in the military.

Not all legal systems lend themselves to all these kinds of activities. However, where the legal system itself is new or in transition, it may be possible to influence its development by challenging vague laws in the constitutional court, thus establishing precedents for such action. In some jurisdictions, NGOs can participate in court proceedings by providing amicus curiae briefs.

Some NGOs support individuals or communities in bringing legal action, including monitoring the way in which the police and the courts respond to such cases to try to improve the quality of the legal process. In the USA, many lawyers provide voluntary services to NGOs for such cases.

6. WHY GOVERNMENTS VALUE NGOs

NGOs provide different ideas, angles, and expertise. They may provide support to marginal groups to ensure that their voice is heard. Those which provide services are clearly of benefit to governments. NGOs may also be valuable in interpreting government policy to the public, particularly if NGOs are sufficiently involved to understand the constraints on government (financially and because of domestic and international politics). Governments may benefit from the non-partisan challenge of NGOs to which they can adapt, whereas if the challenge is from the political opposition the government may fall. In addition, individual members of the government, or different ministries, may encourage NGOs to take up issues which it is hard for they themselves to raise, or use NGO pressure as a reason for taking action.

7. RELATIONSHIP BETWEEN NGOs AND STATE BODIES/GOVERNMENTS

Many governments hold regular meetings with NGOs for consultation and discussion, eg before and after OSCE meetings. Others have an Advisory Board or similar body on which NGOs are represented. These meetings or institutions are seen as a way of being responsive to public opinion on issues of foreign policy. (There may be parallel processes for domestic policy, such as commissions established to hold hearings with as many groups as possible on an issue of public concern). Some governments also include NGO members on their delegations; although others consider that NGOs should not be integrated in this way as it devalues their independent NGO status, and some NGOs will not accept delegation status. The specific example of minorities councils was also mentioned. One example was given of an advisory council within the Ministry of Justice.

Broad consultation was recognised as being mutually beneficial. The questions of cooperation between NGOs and governments, and joint decision-making, may be more problematic.

When NGOs do something the government likes, the relationship is good. When they challenge the government, the relationship tends to be less good. This is a particular problem for human rights NGOs who are exposing violations by their own government and may be perceived and treated as enemies of the state. Cooperation is good when it can be achieved, ie when there are shared goals such as ensuring that legislation passed is properly implemented at the local level, but tension is inherent in politically related matters. Governments are more willing to hear views which support the position that they want to take than those which diverge from it. In addition, it is important to challenge the policies of opposition political parties as well as the government to ensure the maintenance of a non-partisan position. In some countries, to approach parliamentary deputies is perceived by others as supporting that person's political stance: there is a need for a new understanding on both sides. Frequent changes of government also inhibit developing contacts.

8. RELATIONS BETWEEN NGOs AND INTERGOVERNMENTAL ORGANISATIONS, IN PARTICULAR OSCE

The relationship between NGOs and the United Nations, the Council of Europe, UNESCO and the EU were discussed, both in terms of how NGOs can influence these bodies and how they can work together, including through the various parliamentary bodies.

The changes in the OSCE were seen as creating a new situation for NGOs. The traditional lobbying of OSCE delegations in capitals is less relevant now that so much of the decision-making takes place in Vienna. There was general agreement that the Vienna bodies, in particular the Permanent Council, should be more open to NGOs, while recognising that complete openness is out of the question since the OSCE remains an inter-governmental process and some discussions benefit from confidentiality. A first step is the designation of a formal NGO contact point in Vienna and clearer information about how the ODIHR operates as a channel of NGO communication for NGO information. There should also be a system for distribution of NGO materials to delegations without them having to be mailed directly to embassies.

The CiO should hold both regular and ad hoc meetings with NGOs. The CiO has a mandate to give briefings and this could evolve into a 2-way system. NGOs should approach the CiO directly, and not just national delegations, with information, particularly about developing and continuing conflicts. The positive experience of the CiO arranging an informal briefing for delegations in Vienna by an NGO which had undertaken missions to conflict areas was quoted as an example.

There is continuing frustration about the opaqueness of the process and the difficulty of obtaining information and documentation, although some steps have been taken to rationalise and systematise the documentation.

There is positive experience of NGO cooperation with OSCE in-country missions, through provision of members of missions, where they have been particularly valuable in the grassroots aspects of the mission's work, as well as in providing background information and analysis for the missions and for the High Commissioner on National Minorities, but the role of NGOs in conflict prevention and in missions deserves further reflection. In addition, local NGOs may be able to assist missions. Outside NGOs with sufficient expertise, non-political approach, discretion and willingness to give sustained attention may be able to support the work of the missions by eg providing a forum for informal discussions between the parties.

A number of questions were posed. Does the OSCE want to develop transparency in its work? How is HD included under conflict prevention and conflict management? What is the role of HD in these? There should be NGO access to Review Conferences, including working groups, not just in HD: there is no intrinsic reason why NGOs cannot also contribute on security issues, and the need for NGO assistance in early warning and conflict prevention is increasingly recognised.

Concern was expressed that some delegations want to restrict NGO access and to set criteria for NGOs but the OSCE is still in an experimental phase and covers countries in which an NGO culture is not well developed; restrictive access could inhibit this development. On the other hand, ad hoc decision-making about NGO access is unsatisfactory.

9. OTHER RECOMMENDATIONS TO OSCE:

OSCE should propose that governments which providing funding to NGOs establish and publish their policy and criteria for this.

ODIHR might explore the advantages and risks of partnership between government and NGOs.

ODIHR could seek and circulate national reports on the consultative process in relation to preparation of national and local legislation.

ODIHR may be able to help to develop partnership between NGOs of different countries.

OSCE should endorse the value and legitimacy of NGO criticism of governments as part of the democratic process, recognising that the maturity of democracy can be measured by the degree of tolerance by government of critical NGOs.

OSCE could encourage states to enact laws providing tax benefits for individual and corporate donors to NGOs.

ANNEX

INDEX OF DOCUMENTS DISTRIBUTED THROUGH THE ODIHR SECRETARIAT DURING THE OSCE HUMAN DIMENSION SEMINAR ON BUILDING BLOCKS FOR CIVIC SOCIETY: FREEDOM OF ASSOCIATION AND NGOS

UNITED STATES OF AMERICA Statement by Mr. Fred Wertheimer, Head of the U.S. Delegation - 4 April, 1995;

Statement by Mr. Fred Wertheimer, Head of the U.S. Delegation - 7 April, 1995

Making Democracy Work - A Citizen's Guide to Grassroots Activism (draft version available for comment) - League of Women Voters Education Fund

CANADA

Statement to the Closing Plenary

FRANCE\EUROPEAN UNION

Intervention le mardi 4 avril 1995;

Intervention vendredi 7 avril 1995

Statement of a Representative of the European Commission in Discussion Group 2

NORWAY

Opening Statement

NETHERLANDS

Opening Statement by Mr. Harm J. Hazewinkel, the Head of the Delegation

POLAND

Statement by Mr. Robert Mroziewicz, Undersecretary of State, Ministry of Foreign Affairs;

Intervention by Mr. Krzysztof Drzewicki;

Die Selbstverwaltung als eine nicht staatliche organisation by Prof. Barbara Zawadzka;

Non-governmental organisations and social service system;

La liberté d'association en Pologne á la lumière de la législation by Marek Brzeski

ROMANIA	Statement by Mr. Dumitru D. Ifrim, April 4; Statement by Mr. Dumitru D. Ifrim, April 7
SWEDEN	Statement by the delegation of Sweden at the Plenary Meeting, 4 April 1995
TURKEY	Statement by Mr. Umur Apaydin, Head of Delegation; NGOs and Democratic Political Culture by Prof. Ergun Özbudun, Vice President of the Turkish Democracy Foundation, a Member of the Delegation of Turkey
EGYPT	Freedom of Association and NGOs in Egypt by Egyptian Delegation
COUNCIL OF EUROPE	Contribution
U.N. HIGH COMMISSIONER FOR REFUGEES	Statement by Mr. Hasim Utkan, Deputy Director, Regional Bureau for Europe
ADA ANTIWAR ACTION CENTER	An Overview
ASSOCIATION OF INDEPENDENT LOCAL NEWSPAPERS	Declaration by Mr. János Pászabi; "Settlements near the Danube" - Registration form for the meeting of community newspapers, Budapest, June 2-4, 1995
CENTER FOR THE ADVANCEMENT OF WOMEN	Leaflet
THE CHURCHES HUMAN RIGHTS PROGRAMME (CHRP)	Contribution of the CHRP to the study of the OSCE General Secretary on enhanced NGO participation in the OSCE
CIVICUS	Citizens - Strengthening Global Civil Society, contributed by Miguel Darcy de Oliveira, Instituto de Aç_o Cultural and Rajesh Randon, Society for Participatory Research in Asia

ENVIRONMENT	Statement by Mr. Engin Ural, Secretary General FOUNDATION OF TURKEY of the foundation
EUROPEAN CENTRE FOR SOCIAL WELFARE POLICY AND RESEARCH	Social and Culture Integration in Civil Society by University Docent Dr. Rainer Bauböck
GLOBAL ENVIRONMENT FACILITY	Leaflet; List of projects accepted for financial support in 1994 SGP/GEF
INTERNATIONAL CENTER FOR NOT-FOR-PROFIT LAW	Contribution
THE INTERNATIONAL CENTER FOR REFORMATION AND DEVELOPMENT OF THE GEORGIAN ECONOMY (ICRDGE)	Leaflet
INTERNATIONAL LESBIAN AND GAY ASSOCIATION	Review of Freedom-of-Association Policies towards Lesbian Women and Gay Men
JAWOR	Jawor Data Bank of Polish Non-governmental Organizations
THE NORWEGIAN HUMAN RIGHTS HOUSE	A Model for Cooperation Between Small Human Rights Non-governmental Organisations
POLISH INDEPENDENT SECTOR PROJECT	Report of Major Findings by Dr. Ma_gorzata Fuszara, University of Warsaw and Prof. Karla W. Simon, Catholic University of America and International Center for Not-for-profit Law
PRO DEMOCRACY ASSOCIATION	Leaflet; Pro Democracy Achievements in four years
ROMANI CRISS - ROMANI CENTER FOR SOCIAL INTERVENTION AND STUDIES	A presentation; Role of the Romani/Gypsies NGOs in building a political space for Roma people at national and international levels;

Role of the Roma NGOs in building a political space for Roma people at national and international levels;

SWEDISH OSCE-NET

Proposals by NGO's of Sweden to the Secretary General for the benefit of his study on NGO participation

VERTIC

Civilian Confidence Building Measures: A second pillar of the confidence building mechanism by Mr. Dennis Sammut, Co-ordinator of the Conflict and Confidence Building Programme at VERTIC

OTHER DOCUMENTS:

OSCE ODIHR

Standards and Commitments Concerning Freedom of Association and Non-Governmental Organizations;

List of Participants;

Corrigendum to the List of Participants

OSCE SECRETARIAT

Fact Sheet

RAPPORTEURS' REPORTS:

Discussion Group 1

Right to Association - Administrative, Legal, and Financial Aspects - Summary of first day's discussion;

Right to Association - Administrative, Legal, and Financial Aspects - Summary of second day's discussion;

Right to Association - Administrative, Legal, and Financial Aspects - Rapporteur's summary of discussion

Discussion Group 2

Rapporteur's report