



United States Mission to the OSCE

Sessions 6 and 7: Access to Justice Accessible Legal Assistance and Timely Court Decisions

As prepared for delivery by Kyle Parker
to the OSCE Human Dimension Implementation Meeting
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Mr. Moderator,

The United States welcomes the inclusion of this working session on accessible justice at the HDIM and commends the Belgian Chairmanship for making the rule of law in criminal justice systems a priority this year.

The availability of legal assistance and timely and enforceable judgments are basic aspects of a society rooted in a respect for justice.

Although the right to legal counsel is a recognized fair trial guarantee found in the legislation of nearly all OSCE participating States, the practical implementation of this right often falls short. In too many participating States competent and independent legal counsel remains out of reach for those who need it most. This deficiency is further complicated by the reality that, in many cases, judgments are unduly delayed and then only selectively enforced. Such shortcomings in the judicial process reflect poorly upon the very systems that produce them and undermine the security that a law-based society can and should provide.

It is well known that early access to legal advice in the course of criminal proceedings can help guard against illegal treatment and forced confessions – abuses that, unfortunately, are systematic in Uzbekistan and Turkmenistan and persist in Belarus.

In Uzbekistan, for example, the handling of the Andijon trials raises serious concerns about the Uzbekistani government's failure to protect defendants' rights. In particular, we note ODIHR's valid concerns regarding the lack of readiness of Uzbek authorities to ensure the defendants' right to a lawyer in pre-trial stages and the right to effective legal counsel. The United States notes the conclusions of the ODIHR trial monitoring report and urges the Government of Uzbekistan to take immediate steps to redress these serious deficiencies.

The number of political prisoners in Belarus increased over the past year. Its judiciary does not operate independently. Trials, including those of political figures, are often closed to the public. As for Turkmenistan, we will address its abuses in a separate statement.

Despite discouraging setbacks, however, the past year has seen achievements in the area of expanding access to legal assistance. An illustration of this is Armenia's November 2005 decision to adopt a constitutional amendment guaranteeing each citizen the right to legal assistance. Additionally, this past June, a bill on state legal assistance was introduced in the Moldovan parliament and in the same month the Ukrainian president approved an important

concept paper on improving legal assistance. Albania and Bulgaria have also made progress in making their criminal justice systems more accessible and efficient. These initiatives are steps in the right direction, but in each case much hard work remains.

We acknowledge that the maintenance of the rule of law is an ongoing process requiring constant vigilance. The United States, in fairness, also recognizes that no judicial system is perfect nor should there be a “one size fits all” approach for 56 different countries. But that cannot be an excuse for complacency.

Indeed, it was only in the 1963 landmark case of *Gideon v. Wainwright* that our Supreme Court unanimously ruled that states are required by the Constitution to provide attorneys in criminal cases for defendants unable to afford their own representation. This historic decision made our criminal justice system more open and democratic.

Certainly, we must all strive to constantly improve our legal systems and in this effort, the United States stands ready to share its experience and to continue to stand alongside those pursuing a more just society.

Mr. Moderator, the United States wishes to recognize the significant work being done throughout the OSCE region by ODIHR’s Rule of Law unit as well as by private groups such as the American Bar Association’s Central European and Eurasian Law Initiative and the Open Society Institute’s Justice Initiative. The experts from these organizations have been tireless advocates of legal reform, and many of the positive developments in consolidating the rule of law in some of the newer OSCE States are due, in part, to their efforts.