

Petition to the International Association of Prosecutors

The Hague, 13 September 2016

Dear members of the IAP Executive Committee and the Senate,

The undersigned organisations appeal to you to take steps to ensure prosecutors comply with the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors¹.

By fighting crime in a professional and legal manner, prosecutors play an essential role in protecting the rights and freedoms of the inhabitants of the country they are serving. We recognise the commitment and sacrifice that in many cases are required from prosecutors to fulfil this role in a proper manner.

At the same time, we observe situations in which prosecutors are involved in procedures and prosecutions that violate basic rights laid down in the Universal Declaration of Human Rights and subsequent international covenants, conventions and other instruments, to which the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors² as well as national professional ethical standards refer.

A particularly worrying development is the increase in the prosecution of Human Rights Defenders (persons and organisations covered by the 1998 UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms³). The UN Special Rapporteur on Human Rights Defenders in 2013 reported that she had seen “the space for civil society and defenders visibly shrink in certain regions of the world”, accompanied by “the consolidation of more sophisticated forms of silencing of their voices and impeding their work, including the application of legal and administrative provisions or the misuse of the judicial system to criminalise and stigmatise their activities.”⁴

The precise role of prosecution services and individual prosecutors in these practices depends on the design of the judiciary system in the respective countries, but in most if not all cases they will be in direct violation of key provisions of the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors. The International Association of Prosecutors should in our view urgently develop procedures to address this gap between professional ethics and practice⁵.

¹ Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors adopted by the International Association of Prosecutors on 23 April 1999.

² Most situations relate to the right to a fair trial (Article 14 of the International Covenant on Civil and Political Rights) and the right to freedom from torture including the prohibition of the use in any proceedings of statements made as a result of torture (Article 15, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). Additionally, obligations that are often neglected include refusal to use evidence reasonably believed to have been obtained through recourse to unlawful methods that constitute a human rights violation, as well as the duty to investigate and prosecute human rights violations by public officials, as per Guidelines 16 and 15 of the UN Guidelines on the Role of Prosecutors Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

³ The UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms adopted by General Assembly resolution 53/144 of 9 December 1998 (“the Declaration on Human Rights Defenders”). See also the OSCE Guidelines on the Protection of Human Rights Defenders.

⁴ Report of the Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya, presented at the Human Rights Council Twenty-fifth session, 23 December 2013, A/HRC/25/55. See also: UN Human Rights Council, Protecting human rights defenders: resolution adopted by the Human Rights Council, 12 April 2013, A/HRC/RES/22/6 and UN Human Rights Council, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, 21 March 2016, A/HRC/31/L.28.

⁵ See appended Memo on the Role of the IAP in Upholding Compliance of Prosecutors with Professional Standards.

Supporting organisations

Netherlands Helsinki Committee, The Hague
Helsinki Foundation for Human Rights, Warsaw
International Commission of Jurists, Geneva
Amnesty International the Netherlands, Amsterdam
Advocacy Advisory Panel, Kyiv
Article 19, London
Association Humanrights.ch, Bern
Association of Ukrainian Human Rights Monitors on Law Enforcement, Kyiv
Barys Zvozkau Belarusian Human Rights House in exile, Vilnius
Belarusian Helsinki Committee, Minsk
Bir-Duino Kyrgyzstan, Bishkek
Center for Civil Liberties, Kyiv
Centre for the Development of Democracy and Human Rights, Moscow
Civil Rights Defenders, Stockholm
Civil Society Institute, Yerevan
Committee for Prevention of Torture, Nizhny Novgorod
Free Press Unlimited, Amsterdam
Front Line Defenders, Dublin
Global Partnership for the Prevention of Armed Conflict
Helsinki Citizens' Assembly Vanadzor, Yerevan
Helsinki Committee of Armenia, Yerevan
Human Rights Center Georgia, Tbilisi
Human Rights Center Azerbaijan, Baku
Human Rights Club, Baku
Human Rights Embassy, Chisinau
Human Rights House Foundation, Oslo
Human Rights House, Zagreb
Human Rights Information Center, Kyiv
Human Rights Monitoring Institute, Vilnius
India Committee of the Netherlands, Utrecht
International Center on Conflict and Negotiation, Tbilisi
International Federation for Human Rights (FIDH), in the framework of the Observatory for the Protection of Human Rights Defenders
International Partnership for Human Rights, Brussels
International Youth Human Rights Movement
Justice and Peace Netherlands, The Hague
Kazakhstan International Bureau for Human Rights and Rule of Law, Almaty
Kharkiv Regional Foundation Public Alternative, Kharkiv
Kosova Rehabilitation Center for Torture Victims, Prishtina
Lawyers for Lawyers, Amsterdam
Moscow Helsinki Group, Moscow
Netherlands Institute of Human Rights (SIM), Utrecht University, Utrecht
Netherlands Lawyers Committee for Human Rights (NJCM), Leiden
Norwegian Helsinki Committee, Oslo
People in Need, Prague
Platform London, London
Promo-LEX Association, Chisinau
Public Association Dignity, Astana
Public Foundation Voice of Freedom, Bishkek
Public Verdict Foundation, Moscow
Regional Center for Strategic Studies, Baku/ Tbilisi
Swiss Helsinki Association, Lenzburg
World Organisation Against Torture (OMCT), in the framework of the Observatory for the Protection of Human Rights Defenders

Memo on the Role of the IAP in Upholding Compliance of Prosecutors with Professional Standards

The Hague, 20 August 2016

The following measures are suggested as a possible model to uphold compliance of the IAP members with the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors:

- To initiate a dialogue in the IAP on the introduction of a transparent monitoring and reporting cycle or audit procedures to review performance of existing institutional/ country members against the standards to which they have committed when joining the IAP;
- To introduce a complaint mechanism when actions of individual IAP members are concerned, accessible to members of the public affected by their actions, as well as human rights groups and civil society organisations;
- To establish a provisional or “on-hold membership” status for IAP members that have been proven to fail to live up to human rights obligations, embedded in the IAP membership commitments;
- To open up channels of communication and information-sharing with civil society organisations, including through providing a possibility of reporting for coalitions of NGOs during the IAP annual conferences, as well as through an “urgent appeal” procedure to the IAP Executive Committee in situations where the IAP members can play a role in preventing grave human rights abuse;
- To initiate a special interest group or committee within the IAP focusing on challenges and responses in dealing with prosecution of Human Rights Defenders, protected by international standards, and other serious human rights violations.

Netherlands Helsinki Committee
Helsinki Foundation for Human Rights