



Human Rights and Justice Advocates at Serious Risk in the OSCE Region -- An Appeal from the Civic Solidarity Platform

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We, members of the Civic Solidarity Platform (CSP), are alarmed that the environment for civil society has seriously deteriorated in many OSCE participating States since the last HDIM and that civil society representatives who criticize repressive government policies and defend human rights and the rule of law face intimidation and harassment across the region. We are particularly concerned about individuals who have been arrested, criminally prosecuted and imprisoned following unfair trials because of their engagement in support of core OSCE values. We would like to use this opportunity to raise a number of cases of serious concern to us. However, the cases mentioned do not represent an exhaustive list; many other civil society representatives also face intimidation and harassment across the OSCE region for speaking out against injustice, human rights violations and arbitrary actions of authorities.

In **Azerbaijan**, a new wave of arrests of critical voices has been carried out in recent months. Among those arrested is well-known blogger **Mehman Huseynov**, who was sentenced to two years in prison on charges of defaming police in May 2017 after he exposed police abuse.¹ In another recent case, journalist **Afgan Mukhtarli** was abducted in Georgia in May 2017, only to resurface in Azerbaijani custody, where he has since been held in pre-trial detention on multiple charges. **Mehman Aliyev**, director of the country's last remaining independent media outlet – the *Turan News Agency*, is also currently in pre-trial detention on tax evasion and related charges, similar to those previously used against other critical voices.² The *Turan News Agency* has been forced to suspend its activities. Despite the releases of a number of human rights defenders, journalists and activists in Azerbaijan since late 2015, many others who have been wrongly imprisoned in previous years remain behind bars. The case of opposition activist **Ilgar Mammadov** is emblematic: the authorities have persistently failed to release him, although the European Court of Human Rights ruled three years ago that he had been deprived of his liberty because of his criticism of the government, in violation of the European Convention on Human Rights.³

Valentina Cherevatenko from Women of the Don became the first NGO leader in **Russia** to face criminal charges over non-compliance with the notorious “foreign agents” law. In July 2017, she was informed that the charges against her had been dropped. While this announcement was welcome, the threat of criminal prosecution of NGO leaders remains as long as the “foreign agents” law is in place. Currently close to 90 NGOs feature on the government-maintained list of “foreign agents” against their will, while some 70 other groups have been removed from the list after being forced to close down or stop receiving foreign funding. In early September 2017, the SOVA Centre for Information and Analysis and its director **Alexander Verkhovsky** learned that charges have been filed against them for violating the law on so-called undesirable organizations because of two links to donors listed as such organizations, which were posted on the centre's website.⁴ A conviction

could result in heavy fines. In another problematic development, a growing number of activists and common citizens have been charged under Russia's broadly worded anti-extremist legislation after posting information challenging government policies on online platforms.⁵ Several participants in peaceful anti-corruption protests held across Russia earlier this year were arrested on charges of allegedly using violence against police: some of them have already been sentenced to imprisonment, while other cases are pending.

Critics of Russia's unlawful annexation of **Crimea** also face persecution. For example, Crimean Tatar activist and human rights defender **Emir Huseyn Kuku** remains in pre-trial detention on charges of membership in a banned group,⁶ while Crimean journalist **Mykola Semena** is on trial for allegedly calling for violating Russia's territorial integrity.⁷ **Ilmi Umerov**, the deputy head of the Mejlis of the Crimean Tatars and another outspoken critic of Russia's annexation of Crimea, has been charged with separatism and involuntarily confined in a psychiatric hospital.⁸

A series of human rights defenders, civil society activists, trade union leaders, journalists, social media users and other critical voices have recently faced criminal charges in **Kazakhstan**. The case of activists **Max Bokayev** and **Talgat Ayan** is illustrative of this crackdown: they were sentenced to five years in prison in November 2016 because of their involvement in peaceful land reform protests.⁹ The UN Working Group on Arbitrary Detention recently concluded that they were detained in retaliation for their exercise of freedom of expression and assembly and called for their release.¹⁰ In another case that has been widely criticized, trade union leaders **Nurbek Kushakbayev** and **Amin Yeleusinov** were charged with criminal offenses and imprisoned after participating in a peaceful hunger strike to protest the closure of an independent trade union.

Freelance journalist Saparmamed Nepeskuliev, who had reported on corruption and other issues, remains in prison in **Turkmenistan** after being given a three-year sentence on charges of narcotics possession in August 2015. Pro-democracy activist **Gulgeldy Annaniyazov** has been held in incommunicado detention since 2008 when he was sentenced to 11 years in prison after being arrested for allegedly crossing the border illegally. The UN Working Group on Arbitrary Detention has declared the detention of both men unlawful.¹¹ As documented by civil society groups¹², dozens of individuals imprisoned following politically motivated trials remain disappeared in the country.

In **Uzbekistan**, several activists and journalists have been released since October 2016; however, many more remain behind bars, including human rights defenders **Ganihon Mamathanov**, **Fakhriddin Tillaev** and **Azam Farmonov** and journalist **Yusuf Ruzimuradov**, to mention only a few. Lawyers **Buzurgmehr Yorov** and **Nuriddin Mahkamov** received prison sentences of over 20 years in **Tajikistan** last autumn after providing legal assistance to defendants in politically sensitive cases, and Yorov's sentence has since been extended on additional charges. The UN Special Rapporteur on freedom of opinion and expression has stated that their cases "raise serious concerns about the Government's commitment to due process and independent legal mechanisms".¹³

The life sentence of human rights defender **Azimjan Askarov** was upheld at a re-trial, based on the flawed 2010 investigation of his case, in **Kyrgyzstan** in January 2017. The authorities of the country failed to release him and quash his conviction, as called for by the UN Human Rights Committee in its 2016 decision on the case.¹⁴ Journalist **Ulugbek Babakulov** is facing charges of inciting inter-ethnic hatred because of an article about aggressive nationalism against ethnic Uzbeks published in May 2017. He has fled the country out of fear of politically motivated imprisonment.¹⁵ Human rights defender **Cholpon Djakupova** and journalists **Narynbek Idinov** and **Dina Maslova** have been ordered by court to pay huge sums in compensation to the president for allegedly defaming him.¹⁶

Henadz Fiadynich and **Ihar Komlik**, representatives of an independent trade union that was involved in wide-scale peaceful protests against so-called social parasitism legislation in **Belarus** earlier this year, have been charged with tax evasion on grounds similar to those on which human rights defender Ales Bialiatski was previously imprisoned.¹⁷ Komlik is in pre-trial detention, while Fiadynich has been ordered not to leave his home city. Activist **Dzmitry Paliyenka** is currently behind bars since the two-year suspended sentence he was given after participating in a peaceful cycling protest in 2016 was changed into a real prison sentence in April 2017, and activist **Mikhail Zhemchuzhny** continues to serve the 6.5-year prison sentence he was given in 2015 following an unfair trial. Ihar Komlik, Dzmitry Paliyenka and Mikhail Zhemchuzhny have all been declared political prisoners by Belarusian human rights NGOs.¹⁸ A criminal investigation is still under way against more than a dozen Belarusian opposition activists because of an alleged plot to use armed violence during the mass protests in February-March 2017¹⁹, to which the authorities responded with heavy-handed tactics and the arbitrary detention of hundreds of people.²⁰

In the **Transnistrian region of Moldova**, human rights defenders continue to be subjected to intimidation and harassment in relation for their criticism of the policies of the separatist authorities.²¹ Members of the Promo-LEX Association have been barred from entering Transnistria because of a criminal case on allegedly threatening the region's security that separatist security services announced had been opened against the organization in 2015.²²

During the crackdown unleashed by the **Turkish** government following the failed July 2016 coup attempt, dozens of journalists, lawyers, human rights defenders and political activists have been detained. In a case that has caused widespread dismay, eight representatives of civil society groups and two foreign digital and information security consultants were detained at a human rights training in July 2017 and subsequently charged with terrorist-related offenses. These include **Özlem Dalkıran** (Helsinki Citizens' Assembly), lawyer **Nalan Erkem** (Helsinki Citizens' Assembly), **İlknur Üstün** (Women's Coalition), **İdil Eser** (Amnesty International Turkey director), **Veli Acı** (Human Rights Agenda Association), lawyer **Günal Kurşun** (Human Rights Agenda Association), **Nejat Taştan** (Equal Rights Watch Association) and **Şeymus Özbekli** (Rights Initiative), as well as **Ali Gharawi** and **Peter Steudtner** (foreign consultants).²³ Nejat Taştan and Şeymus Özbekli were released pending trial in late July, but are subject to a travel ban. The others remain in custody.

We are also seriously concerned that individuals who stand up for human rights, justice and the rule of law in the OSCE region have increasingly been subjected to other forms of pressure, aside from politically motivated arrest and prosecution. For, example, **Arayik Papikyan**, **Mushegh Shushanyan** and **Nina Karapetyants** from the Helsinki Association of **Armenia**, as well as other independent lawyers working on high-profile cases in this country have faced harassment and obstruction in the performance of their professional duties, including disciplinary proceedings that potentially may result in disbarment.²⁴ In **Ukraine**, activists who fight against corruption, advocate for environmental and land rights, promote LGBT rights or work in the conflict zone in Donbas have been subjected to threats and various forms of pressure, including criminal investigations. Complaints about harassment filed by them typically receive little attention by authorities.²⁵

In many countries in the region, human rights defenders continue to be attacked and smeared by government officials and pro-government media, who accuse them of using foreign grants to influence politics and destabilize the situation in their countries. Rhetoric of this kind is commonly used in countries in the post-Soviet region, but has also increasingly been seen in European countries, for example in **Serbia** and in **Hungary**, where such arguments were used to justify the recent adoption of legislation requiring NGOs that receive foreign grants to register and label themselves as foreign-funded organizations.²⁶

Recommendations

We call on all OSCE participating States to implement the OSCE Guidelines on the Protection of Human Rights Defenders, which are based on OSCE commitments and universally recognized human rights standards that the participating States are bound to respect. In particular, they should:

- Ensure that no one is subjected to arbitrary arrest, criminalization, unwarranted legal proceedings or any other forms of misuse of judicial authority for acts related to their human rights engagement (OSCE Guidelines, article 23).
- In the event that criminal charges are brought against them, ensure that human rights defenders are granted a fair trial before a competent, independent and impartial tribunal, in full accordance with international standards (OSCE Guidelines, article 36).
- Ensure that human rights defenders who are deprived of their liberty are always treated in accordance with international standards, without discrimination of any kind and without being singled out for selective treatment to punish them (OSCE Guidelines, article 34).
- Refrain from engaging in smear campaigns, negative portrayals or the stigmatization of human rights defenders and their work and take proactive steps to counter discrediting of human rights defenders (OSCE Guidelines, article 37).
- Take action, through their diplomatic missions, to support human rights defenders at immediate risk of arbitrary detention, imprisonment and persecution in other states; and raise threats, arbitrary arrests and other serious human rights violations against human rights defenders through appropriate means with the states concerned, for example, in high-level meetings or at international forums (OSCE Guidelines, articles 98 and 99).
- Whenever required, facilitate the issuance of emergency visas and relocation support for individual human rights defenders to allow them to promptly leave the country where they are at risk and to ensure effective protection of their family members (OSCE Guidelines, article 100).

We would also like to remind the OSCE participating States, as well as OSCE institutions of the recommendations set out in the Hamburg Declaration on Protecting and Expanding Civil Society Space, which was adopted by the participants in the OSCE Parallel Civil Society Conference held in Hamburg in December 2016.²⁷ Some of the key recommendations in this declaration include:

- The ODIHR should restore its focal point for human rights defenders and establish an expert panel on the protection of human rights defenders.
- The ODIHR should study the implementation of the Guidelines on the protection of human rights defenders by participating States in cooperation with civil society, using reports and information from such organizations.
- OSCE Chairmanships should prioritize the protection of civil society space and the security of human rights defenders, similarly to several successive chairmanships.
- OSCE actors should more systematically work with other inter-governmental organizations on the protection of civil society space and the security of human rights defenders.
- OSCE cooperation programmes should feature human rights conditionality. The benchmarks used should include implementation of UN Human Rights Committee views and European Court of Human Rights judgments issued in cases of persecution of civil society activists and human rights defenders.

Signed by the following CSP members:

Article 19, UK
Association of Ukrainian Human Rights Monitors on Law Enforcement
Austrian Helsinki Association - For Human Rights and International Dialogue
Barys Zvozkau Belarusian Human Rights House
Bulgarian Helsinki Committee
Center for Civil Liberties, Ukraine
Center for the Development of Democracy and Human Rights, Russia
Center for Participation and Development, Georgia
Citizens' Watch, Russia
Crimea SOS, Ukraine
Crude Accountability, US
DRA/German-Russian Exchange, Germany
Fair Trials, UK
Helsinki Association for Human Rights of Armenia
Helsinki Citizens' Assembly – Vanadzor, Armenia
Helsinki Committee for Human Rights in Serbia
Helsinki Committee of Armenia
Helsinki Foundation for Human Rights, Poland
Humanrights.ch, Switzerland
Human Rights Information Center, Ukraine
Human Rights Monitoring Institute, Lithuania
Human Rights Movement: Bir Duino-Kyrgyzstan
Institute for Reporters' Freedom and Safety, Azerbaijan
Institute "Respublica", Ukraine
International Partnership for Human Rights (IPHR), Belgium
Italian Coalition for Civil Liberties and Rights (CILD)
Kazakhstan International Bureau for Human Rights and the Rule of Law
Kharkiv Regional Foundation "Public Alternative", Ukraine
Kosova Rehabilitation Centre for Torture Victims
Legal Policy Research Center, Kazakhstan
Macedonian Helsinki Committee
Moscow Helsinki Group
Netherlands Helsinki Committee
Norwegian Helsinki Committee
Promo LEX Association, Moldova
Protection of Rights without Borders, Armenia
Public Association "Dignity", Kazakhstan
Public Foundation *Golos Svobody*, Kyrgyzstan
Public Verdict Foundation, Russia
Solidarus, Germany
SOVA Centre for Information and Analysis, Russia
Truth Hounds, Ukraine/Georgia
World Organisation Against Torture (OMCT)
ZARA, Austria

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- ¹ See joint statement by 24 NGOs, Azerbaijan: Crackdown on Free Expression Accelerates With Conviction of Prominent Blogger, 3 March 2017, <https://rsf.org/en/news/azerbaijan-crackdown-free-expression-accelerates-conviction-prominent-blogger>
- ² See statement by the Institute for Reporters' Freedom and Safety, <https://www.irfs.org/news-feed/irfs-statement-the-european-union-and-the-council-of-europe-must-strongly-respond-to-the-human-rights-violations-committed-by-the-azerbaijani-authorities/>
- ³ See joint statement by members of the CSP and the Sport for Rights coalition, <http://iphronline.org/azerbaijan-time-justice-ilgar-mammadov.html>
- ⁴ See press release by SOVA, <http://www.sova-center.ru/en/announ/2017/09/d37832/>
- ⁵ See SOVA overview of cases from February 2017, at <http://www.sova-center.ru/misuse/publications/2017/02/d36413/>
- ⁶ IPHR, "Stop persecution of imprisoned Crimean Tatar activist Emir Huseyn Kuku and his family," 27 September 2016, <http://iphronline.org/stop-persecution-emir-kuku-family-20160927.html>
- ⁷ See statement by CSP members for more background information, <http://civicsolidarity.org/article/1181/repressions-russian-authorities-against-journalists-crimea-require-strong-and-clear>
- ⁸ See Human Rights Watch statement, <https://www.hrw.org/news/2016/08/26/crimean-tatar-activist-confined-psychiatric-hospital>
- ⁹ See statement by CSP members, <http://iphronline.org/kazakhstan-ruling-cs-activists-20161201.html>
- ¹⁰ Opinion No. 16/2017 of the Working Group on Arbitrary Detention concerning Max Bokayev and Talgat Ayanov (Kazakhstan), published on 27 June 2017.
- ¹¹ Opinions No. 40/2015 and No. 22/2013 of the Working Group on Arbitrary Detention.
- ¹² See <http://provetheyarealive.org/the-disappeared>
- ¹³ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on his mission to Tajikistan, published in June 2017.
- ¹⁴ IPHR statement on Supreme Court ruling on the case of Azimjan Askarov, 12 July 2016, <http://iphronline.org/kyrgyzstan-iph-Statement-sc-ruling-askarov-20160712.html>
- ¹⁵ For more information on this case, see <http://iphronline.org/kyrgyzstan-president-slams-criticism.html>
- ¹⁶ See more in this update, <http://iphronline.org/kyrgyzstan-pressure-critical-voices-mounts-ahead-election.html>
- ¹⁷ See joint statement by Belarusian human rights NGOs, <http://spring96.org/ru/news/87537>
- ¹⁸ See List of Political Prisoners, <http://spring96.org/en/news/49539>.
- ¹⁹ Viasna update, August 2017, <http://spring96.org/ru/news/87731>
- ²⁰ See more in IPHR mission report, prepared together with Truth Hounds and issued in the framework of the CSP, <http://iphronline.org/mission-report-released-human-rights-abuses-committed-belarusian-authorities-peaceful-protests-february-march-2017.html>
- ²¹ For more details, see report by Promo-Lex to the UN Human Rights Committee, August 2016, at <https://promolex.md/wp-content/uploads/2016/09/Raport-CCPR-eng-1.pdf>
- ²² This statement is available at: <http://www.kgb-pmr.com/news/370> In October 2016, Promo Lex was informed that its members will not be granted access to the proceedings in the supposed criminal case against the organization.
- ²³ See statement by CSP members, <http://civicsolidarity.org/article/1486/holding-meeting-human-rights-not-terrorist-conspiracy>
- ²⁴ See statement by CSP members, <http://civicsolidarity.org/article/1490/armenia-harassment-lawyers-working-high-profile-cases>
- ²⁵ As researched by Human Rights Information Centre (Kyiv), https://humanrights.org.ua/en/material/girshe_krivavogo_kuchmi__pravozahisniki_nazvali_nebezpechni_tendenciji_shhodo_jihnoji_dijalnosti
- ²⁶ See NGOs: We're here to stay and to continue our work, <http://www.helsinki.hu/en/ngos-were-here-to-stay-and-to-continue-our-work/>
- ²⁷ The declaration is available at: http://www.civicsolidarity.org/sites/default/files/parallel_civil_society_conference_outcome_documents_hamburg_december_2016_final.pdf