



**2014 OSCE Human Dimension Implementation Meeting, Working Session 5,
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Unfair trials used to clamp down on dissent in countries of the former Soviet space

In this statement we want to draw your attention to the issue of unfair trials in countries of the former Soviet Union. We acknowledge that concerns surrounding unfair trials are not unique to these OSCE participating States, but also merit attention in other parts of the OSCE region.

All OSCE participating States including former members of the Soviet Union have committed themselves to upholding the OSCE Human Dimension Commitments, including those relating to the right to a fair trial. In addition, all countries of the former Soviet Union are parties to the International Covenant on Civil and Political Rights (ICCPR). By ratifying or acceding to the ICCPR they have committed themselves, inter alia., not to subject anyone to arbitrary arrest or detention; to provide all necessary safeguards to ensure that detainees are treated with humanity and respect for the inherent dignity of the human person; and to guarantee that all persons are equal before the courts and tribunals and that trials are conducted fairly by a competent, independent and impartial tribunal established by law.

However, when last reviewing the implementation of obligations under the ICCPR and other international human rights treaties in recent years, UN treaty bodies such as the UN Human Rights Committee expressed concern about the lack of independence of the judiciary in **Armenia** (2012), **Azerbaijan** (2009), **Belarus** (2011 and 2014)¹, **Kazakhstan** (2011), **Kyrgyzstan** (2014), **Moldova** (2009), **the Russian Federation** (2009), **Tajikistan** (2013), **Turkmenistan** (2012), **Ukraine** (2013) and **Uzbekistan** (2010).² In its concluding observations to many of these countries the Human Rights Committee highlighted that the independence of the judiciary was undermined by persistent corruption within the criminal justice system and by the involvement of the executive branch in decisions on promotion, suspension and dismissal of judges, as well as disciplinary actions against judges.

A weak judiciary that is open to pressure from the executive branch is unable to protect the rights of defendants, let alone ensure that government critics are treated fairly by the courts.

Indeed, in recent years in many former Soviet countries many of those expressing opinions critical of the authorities have been subjected to arbitrary detention and imprisonment after unfair trials. In many cases justice has been applied selectively, solely targeting those who hold opposition views, those who are critical of government policies or who are perceived to pose a challenge to the state. In many cases charges have been fabricated solely to punish people for peacefully exercising their rights to freedom of expression, assembly, association, religion or belief.

We are aware of scores of cases of human rights defenders, dissidents, opposition politicians, lawyers, independent journalists and bloggers, and religious activists who have been targeted to punish them for expressing opinions critical of the authorities or perceived to pose a threat to the government. In the former Soviet space there are numerous documented cases of political prisoners.

¹ In 2011 the UN Committee against Torture reviewed Belarus' implementation of its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and expressed concern about the lack of independence of the judiciary. The most recent concluding observations issued by the UN Human Rights Committee with regard to Belarus date back to 1997. Most recently, the Report of the Special Rapporteur on the situation of human rights in Belarus, dated 22 April 2014, expressed concern "at the lack of independence of the judiciary, which is inconsistent with an environment necessary for the exercise of human rights."

² In relation to Georgia (2014) the Human Rights Committee did not raise concern about a lack of independence of the judiciary. It did, however, make recommendations on fair trial principles, for example, in relation to jury trials and the plea-bargaining system.

Many of them have been imprisoned solely to punish them for peacefully exercising their human rights such as their rights to freedoms of expression, assembly, association or their freedom of religion, conscience or belief and many have been convicted following unfair trials. In many cases detainees have been held incommunicado or with limited or no access to defence lawyers, independent medical practitioners and family members. Many have been subjected to torture or other ill-treatment in custody. There have also been reports from some countries that relatives of political prisoners have been subjected to undue pressure.

Given space limitations we cannot give a comprehensive overview of fair trial concerns and individual cases of political prisoners across the former Soviet space. However, we would like to draw your attention to a number of case examples from several countries that are indicative of a general tendency to use the criminal justice system in order to crack down on dissent.

In **Armenia** several government critics have been imprisoned following trials that were not conducted in line with international fair trial standards. The human rights group Helsinki Citizens' Assembly – Vanadzor reports that there are 16 political prisoners in Armenia, including defendants that are currently being tried in cases with political overtones. One of them is **Shant Harutyunyan**, a political opposition leader. Starting on 31 October 2013, he and other Karabakh War veterans protested in Freedom Square in Yerevan for several days calling for a “revolution.” The authorities claimed that the group was planning to occupy the building of the Presidential Administration by force. The protestors clashed with riot police on 5 November and Shant Harutyunyan was apprehended along with 37 other protestors. Shant Harutyunyan was reportedly beaten in custody by senior police officials and no investigation was opened into the allegations. He and 13 others were charged with “hooliganism“, including Harutyunyan’s underage son. Shant Harutyunyan and others detained in this case were not allowed any family visits for the first two months of when they were taken into custody. On 21 November, a court ordered that Shant Harutyunyan be transferred to Nurabashen Psychiatric Clinic to conduct a forced psychiatric examination. There were allegations that his 24-day-long stay at the Psychiatric Clinic was a punitive measure and an attempt to revive the use of psychiatry for silencing dissent. After the psychiatric examination concluded that Shant Harutyunyan was sane, he was transferred to a pre-trial facility. Shant Harutyunyan’s trial started on 12 June 2014 and is currently ongoing.

In **Azerbaijan**, those voicing criticism of the authorities or engaging in political opposition activities are at risk of harassment, arbitrary detention and imprisonment. It has become increasingly dangerous for civil society groups to operate freely.³ Different Azerbaijani NGOs have counted between 30 and 170 political prisoners. According to a Working Group led by Azerbaijani civil society activists **Leyla Yunus** and **Rasul Jafarov**, almost 100 people have been taken into custody on politically-motivated charges or imprisoned.⁴ Among them are human rights defenders, youth activists, opposition politicians, journalists and bloggers. In July and August 2014 respectively both Leyla Yunus and Rasul Jafarov have themselves been taken into custody. Another political prisoner is **Intiqam Aliyev**, the director of the NGO Legal Education Society. Intiqam Aliyev was taken into custody on fabricated charges on 8 August 2014. Law enforcement officers searched his home and office and confiscated equipment and materials relating to his human rights work. Intiqam Aliyev provided legal support to victims of politically-motivated persecution and submitted dozens of cases to the European Court of Human Rights.

The human rights organization Viasna in **Belarus** has reported that there are currently seven political prisoners in the country. There are allegations that they have had limited access to lawyers and have been subjected to arbitrary administrative punishment and ill-treatment. Two of them are **Mykalai Statkevich**, who ran as an opposition candidate in presidential elections in 2010, and **Eduard Lobau**, a member of Young Front, the largest unregistered opposition youth organization in Belarus. Both were detained in late 2010 and, several months later, sentenced to six years of hard labour and four years’ imprisonment respectively. Mikalai Statkevich was convicted for his involvement in a mass demonstration following the contested presidential elections. Eduard Lobau was convicted of “hooliganism“ for allegedly assaulting passers-by on the day before the elections. However, an eye-

³ For further information, refer to the statement by the Civic Solidarity Platform, entitled “Stop muzzling human rights groups & advocates in Russia and Azerbaijan!“, prepared for the HDIM Working Sessions 2 and 3 on 23 September 2014.

⁴ The list of political prisoners in Azerbaijan, compiled by the Working Group led by Leyla Yunus and Rasul Jafarov, was last updated on 10 August 2014 and can be found on:
<http://www.nhc.no/filestore/Dokumenter/Land/Azerbaijan/THELISTENGLISHFINAL.pdf>

witness stated that it was in fact Eduard Lobau and his friends who were attacked. It is believed that both Mykalai Statkevich and Eduard Lobau were targeted in order to prevent them from carrying out their peaceful political opposition activities. Political prisoners who have been released continue to face restrictions, ranging from travel limitations to inclusion in law enforcement agencies' 'watch lists'. In the April 2014 Report of the Special Rapporteur on the situation of human rights in Belarus, the Special Rapporteur called "upon the authorities to release immediately and unconditionally all those imprisoned for their exercise of their political and other rights" and urged "the authorities to ensure that the rights of those political prisoners who have been released are immediately and fully rehabilitated."

In **Russia**, the authorities continue to clamp down on civil society and government critics. Journalists and civil society activists who have publicized allegations of Russia's role in the hostilities in Ukraine have been subjected to harassment, intimidation and other attacks. More than a dozen people who participated in a large anti-government demonstration at **Bolotnaya Square** in Moscow in May 2012 have been prosecuted.⁵ Prison terms were handed down on protestors on disproportionate "mass rioting" charges and charges of "violence against police officers", although most were believed to have protested peacefully. It was believed that the authorities used the trials as show-trials in order to silence dissent and send a warning to potential future protestors. The Russian human rights group Memorial has issued a list of over forty people the organization describes as political prisoners in the country.

Turkmenistan is one of the most repressive countries in the world, where virtually no open dissent and political competition are permitted. Freedoms of assembly, association and expression are not upheld; and all independent civil society activists have either been forced into exile, deep underground, or have disappeared in Turkmenistan's notorious prison system. According to the Prove They Are Alive! Campaign, there are at least **67 politically motivated cases of enforced disappearances** in Turkmen prisons, where relatives, international organizations, and society at large have not been able to obtain any information about these individuals for over a decade.⁶ Many of them are associated with the alleged assassination attempt on President Saparmurad Niyazov in 2002, and their trials were laden with procedural violations, held behind closed doors and hurried. Among those disappeared are **Boris Shikmuradov**, former Minister of Foreign Affairs and Ambassador of Turkmenistan, and **Batyr Berdyev**, former Ambassador, Representative of Turkmenistan to the OSCE and Minister of Foreign Affairs of Turkmenistan. Widespread torture practices have been documented in the notorious **Ovadan Depe prison**, where most of the political prisoners are serving their sentences and there have been allegations that some of them have died as a result of torture and harsh prison conditions.⁷ Until this day, the government of Turkmenistan refuses to disclose any information about the fates of these people.

In **Uzbekistan** the space for freedom of expression and association is extremely limited. Scores of people have been sentenced to long terms of imprisonment on politically-motivated charges in unfair trials. These include human rights defenders, government critics and suspected members of Islamic movements, Islamist groups and banned parties. Many of them were allegedly tortured to extract confessions; torture remains systematic in the country's criminal justice system. They are now serving long terms of imprisonment in cruel, inhuman and degrading conditions. One such case is that of **Salidzhon Abdurakhmanov**, a human rights defender and independent journalist, who was sentenced to 10 years' imprisonment on trumped-up drug-related charges in 2008 to punish him for peacefully exercising his right to freedom of expression. No traces of drugs were found in his body, according to blood tests ordered by police. His lawyer's petition to conduct a forensic examination in order to identify any fingerprints on the bag containing the drugs that were believed to have been planted on him, was refused. Many government critics, human rights defenders and independent journalists have left Uzbekistan to escape persecution.

⁵ The report by the International Expert Commission for the evaluation of events on Bolotnaya square on May 6, 2012 in Moscow, can be found on:

http://6maycommission.org/sites/default/files/iec_report_eng.pdf The International Expert Commission was founded by civil society groups including the Civic Solidarity Platform (CSP) and experts from CSP member groups participated in the evaluation.

⁶ Prove They Are Alive! Campaign. "Prove They Are Alive! The disappeared in Turkmenistan." September, 2014, <http://provetheyarealive.org/documents/> (This link can be accessed as of 24 September 2014).

⁷ Prove They Are Alive! Campaign. "Ovadan Depe Prison: Medieval Torture in Modern Turkmenistan." September, 2014, <http://provetheyarealive.org/documents/> (This link can be accessed as of 24 September 2014).

Recommendations

We are calling on all countries in the former Soviet space that have imprisoned human rights defenders, opposition politicians, other government critics, independent journalists, bloggers, lawyers and religious activists to:

- Take all appropriate measures to ensure that all provisions of the ICCPR relating to fair trials are fully respected and that the judiciary is able to function without undue influence by the executive or legislative branches of power;
- Ensure that all those who have been imprisoned solely to punish them for peacefully exercising their rights to freedom of expression, association, assembly, religion or belief are released immediately and unconditionally;
- Ensure that all other political prisoners are retried in proceedings which meet international standards on fairness;
- Ensure that all reports of intimidation, harassment, arbitrary detention, torture or other ill-treatment, and fabrication of charges against human rights defenders and other civil society activists, dissidents and opposition politicians, lawyers, journalists and bloggers are investigated promptly, impartially and thoroughly and that the perpetrators are brought to justice;
- Ensure that human rights defenders, other civil society actors, dissidents, opposition politicians, lawyers, journalists and bloggers, and religious activists are able to carry out their peaceful legitimate activities without fear or threat of reprisal, unlawful restrictions and arbitrary prosecutions;

In accordance with the principle that issues relating to human dimension commitments are matters of direct and legitimate concern to all OSCE participating States, we are also calling on all participating States to press for the implementation of the above recommendations.

This statements has been signed by the following members of the Civic Solidarity Platform: Albanian Helsinki Committee, Analytical Center for Interethnic Cooperation and Consultations (Georgia), Armenian Helsinki Committee, Article 19 (United Kingdom), Association of Ukrainian Human Rights Monitors on Law Enforcement, Belarusian Human Rights House, Bir Duino – Kyrgyzstan Human Rights Movement, Center for Civil Liberties (Ukraine), Center for National and International Studies (Azerbaijan), Crude Accountability, Helsinki Citizens' Assembly – Vanadzor (Armenia), Helsinki Committee for Human Rights (Serbia), Helsinki Committee for Human Rights of the Republic of Macedonia, Helsinki Foundation for Human Rights (Poland), Human Rights Center of Azerbaijan, Institute for Reporters' Freedom and Safety (Azerbaijan), International Partnership for Human Rights (Belgium), Kazakhstan International Bureau for Human Rights and the Rule of Law, Kharkiv Regional Foundation Public Alternative (Ukraine), Lawyers' Committee for Human Rights – YUCOM (Serbia), Moscow Helsinki Group (Russia), Promo LEX Association (Moldova) and Public Verdict Foundation (Russia).