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In many OSCE participating States today, non-governmental organizations are operating in an insecure and hostile environment. Especially organizations that criticize and challenge government policies, such as human rights NGOs are met with suspicion and mistrust and denounced as “unpatriotic,” “traitors,” “national enemies” and the like. These groups are also the main targets of repressive laws that restrict the opportunities of NGOs to receive funding (especially but not only foreign funding), obtain legal status, and conduct their activities in unimpeded ways. We would like to use this opportunity to highlight a number of examples that illustrate this worrisome trend, which ultimately reflects fear of pluralism, open debate and accountability among those in power.

Implementation of the notorious 2012 “foreign agents” law has had a seriously chilling impact on NGOs in **Russia**. Hundreds of NGOs across the country have been subjected to intrusive inspections and dozens of groups (including leading human rights groups and their leaders) have faced warnings and crippling legal cases for refusing to adopt the stigmatizing label of “foreign agents.” While President Putin has stated that the law may need to be amended, enforcement currently continues uncurbed, with a series of trials under way. The election watchdog Golos was the first NGO to be closed down, but is expected to be followed by others. The law requires NGOs to register as “foreign agents” if they receive foreign funds and engage in “political” activities, an extremely broadly defined term that implementing authorities have deemed to apply to core activities of human rights NGOs, such as monitoring and reporting about violations; organizing public discussion events and advocacy campaigns, and providing legal assistance to victims of violations.¹ Other recent Russian laws have also contributed to an increasingly hostile climate for NGOs, e.g. by allowing for the suspension of NGOs that receive funds from US-based donors and carry out “political” activities, re-criminalizing defamation, broadening the definition of treason so it may apply to international advocacy and banning propaganda of so-called non-traditional sexual relations.

While widely criticized by national and international experts, Russia’s “foreign agents” law has served as inspiration for lawmakers elsewhere, including most recently in **Kyrgyzstan**, a country that compared to others in the same region has been characterized by a more enabling environment for civil society. At the

beginning of September, two members of parliament put forward a draft law, major provisions of which are identical to those of the Russian law. This draft law also requires NGOs that receive foreign funds and engage in broadly defined “political” activities to register and use the label of “foreign agents” and appears primarily aimed at the same category of groups that has been the main target in Russia, i.e. human rights NGOs and other groups that are inconvenient for those in power.² Following the stir that the draft law created, Kyrgyz President Atambaev stated on 18 September that he thinks that this law is “not needed” and indicated that he may use his veto should it be adopted.³ However, at this time, the draft law remains under discussion.

Previously, among others, a parliamentary deputy in **Kazakhstan** used the example of the Russian law to propose an outright ban on NGOs that receive foreign grants.⁴ While this proposal did not receive any wider support, the fact that it was made was a disturbing indication of the kind of negative and suspicious attitudes that independent NGOs face also in this country, where pro-government media have covered the issue of foreign grants received by NGOs in the context of national security.

In **Azerbaijan**, legislation adopted at the beginning of 2013 further restricted funding opportunities of NGOs. NGOs may now be fined up to about 15,000 EUR and have their property confiscated if they receive donations of over 200 EUR without concluding a formal grant agreement and registering it with the government. The law prohibits any cash donations of sums higher than the set amount, a provision that particularly affects the country’s around 1,000 unregistered NGOs that cannot open bank accounts. As has also been the case in Russia and Kyrgyzstan, the new regulations have been argued to be aimed at enhancing transparency and accountability of NGOs. However, existing legislation already imposed wide-ranging reporting obligations on NGOs and the new regulations were adopted in the context of a worsening climate for NGOs, manifested e.g. in media smear campaigns and obstruction of the work of human rights groups. For example, the Human Rights Club has been unable to obtain registration for more than two years, and a complaint to court filed by it has been dismissed. The Azerbaijan Human Rights House remains closed after being suspended in 2011 for allegedly violating a requirement to sign a government agreement as the basis for its work.

Legislation in force in **Belarus** requires NGOs to register foreign funding with the government, which may refuse to grant such registration, and to use foreign funding only for approved purposes. Violations of these rules may result in criminal penalties. Most human rights NGOs in the country cannot lawfully receive any funding since they have been denied or deprived of legal status, which means that they cannot operate bank accounts, and since the conduct of activities on behalf of unregistered groups also may result in criminal liability. It was these repressive policies that forced well-known human rights defender Ales Bialiatski to receive funds from international donors through his private bank accounts in Poland and Lithuania to sustain the human rights work of his organization, Viasna, which has been de-registered by the authorities. As punishment, he was convicted to four and a half years’ imprisonment on trumped-up tax evasion charges and remains in prison to this day. The case against Bialiatski is symbolic of the unrelenting crackdown on independent human rights NGOs and activists in Belarus.

Similarly to in Belarus, legislation in several other post-Soviet states also bans the conduct of activities on behalf of unregistered NGOs, while authorities enjoy wide discretionary powers to deny legal status to inconvenient groups, such as those dealing with human rights related issues. This is the case, among others, in Kazakhstan, Uzbekistan and Turkmenistan. In **Uzbekistan**, only one actively operating human rights NGO is registered and other groups carry out their work without legal status, rendering them extremely vulnerable e.g. with respect to receiving funds for their work. In **Turkmenistan**, no single independent human rights group is currently registered or able to operate openly. A number of human rights groups from these two countries are based in exile as their leaders have fled abroad because of persecution. Even exiled NGOs have been subjected to harassment. For example, due to her efforts to

draw attention to corruption under the Karimov regime, the head of the France-based Uzbek exile NGO Fiery Hearts Club was the target of derogatory statements and a police investigation initiated by the president's daughter and then UN ambassador in Geneva Gulnara Karimova.⁵ The Austria-based Turkmen Initiative for Human Rights has repeatedly been subjected to cyber attacks believed to have been perpetrated by the Turkmen security services in an attempt to obstruct its independent coverage of developments in Turkmenistan.

In the current situation, where intensified attacks on human rights NGOs are being witnessed in different parts of the OSCE region, there is reason to fear that a growing number of groups and activists from other countries may also be forced to seek exile abroad.

Another matter of continued concern is legislation that allows for closing down NGOs on unsubstantial grounds. For example, **Tajikistan's** law on public associations contains a broadly worded provision under which NGOs may be liquidated for violating any national law or for "systematically" carrying out activities contrary to their own statutes. In what has been assailed as politically motivated decision, one of the country's most prominent human rights NGOs, Young Lawyers' Association Amparo was liquidated by court in late October 2012 for allegedly failing to notify the authorities about an address change, acting outside the region where it was registered, operating a website without required permission and conducting trainings without a proper license. The group denied these alleged violations, saying that they were all groundless. The decision, which was upheld on appeal, was believed to be retaliation for Amparo's work, in particular its activities to raise awareness about human rights abuses in the army.

Recommendations

To the governments of Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Turkmenistan and Uzbekistan in view of the concerns raised in our statement:

- Ensure that any legislation affecting NGOs does not place unnecessary, disproportionate or discriminatory restrictions on the right to freedom of association and related fundamental rights. Reject draft legislation that does not meet these requirements and repeal or revise problematic legislation in force in accordance with the recommendations made by international human rights bodies and experts.
- Protect and uphold the right of NGOs, including those based in exile, to carry out their activities without intimidation, harassment and undue interference; and refrain from imposing excessive controls and unreasonably heavy reporting requirements on NGOs that are not justified and necessary for reasons of transparency and accountability, put NGOs – or some categories of NGOs – in a discriminatory position compared to other groups, and have the effect of seriously obstructing the work of NGOs.
- Respect the right of human rights groups to solicit, receive and utilize resources for their work, in accordance with the UN Declaration on Human Rights Defenders, as well as the resolution on protecting human rights defenders (A/HRC/22/L.13) that was adopted by the UN Human Rights Council in March 2013.
- Abolish regulations that establish burdensome, inhibitory and discriminatory requirements and procedures for NGOs to access and use funding, in particular foreign grants, and/or that prohibit or criminalize human rights activities undertaken on the basis of such funds.

- Put an end to government policies and rhetoric that stigmatize and discredit independent human rights NGOs and other NGOs that scrutinize and criticize the actions of authorities, in particular NGOs that receive grants from abroad; acknowledge publicly the legitimate and important role that human rights groups play in the promotion and protection of human rights; and take concrete steps, in accordance with guidelines and recommendations adopted by international human rights mechanisms, to create and maintain an enabling environment for human rights NGOs.
- Rescind any bans or penalties currently in place for unregistered NGO activity and ensure that NGOs may obtain registration in a simple, transparent, expeditious and fair procedure that does not grant discretion to authorities or allow for refusing or depriving NGOs of registration on arbitrary grounds. Promptly reconsider cases where NGOs have been denied or deprived of registration, or their applications have been left pending, under procedures that do not meet these requirements.
- Ensure that any sanctions imposed on NGOs for failures to observe legal requirements are proportionate to the violations committed and that the drastic measures of suspending or liquidating an NGO may only be ordered by court in exceptional circumstances, on the basis of compelling evidence of serious misconduct and as a last resort after an NGO has been warned and granted opportunities to rectify the violation. Immediately revise any decision where an NGO has been closed down in retaliation for its human rights work.

To other OSCE participating States, in particular the EU member states:

In accordance with the basic principle that issues relating to human dimension commitments are matters of direct and legitimate concern to all OSCE participating States:

- Raise concerns about legislation and policies negatively affecting human rights NGOs in a prominent and consistent way in bilateral and multilateral contacts with the governments of the countries mentioned in our statement.
- Use available arenas and avenues to insist that these governments take effective measures to address existing concerns in accordance with the recommendations listed above.
- Support ODIHR and other international human rights bodies in the implementation of their mandate of providing expertise and practical assistance to governments in ensuring compliance with international human rights standards in the area of NGO operations.
- Continue to offer solidarity and support to human rights NGOs working in the countries covered by this statement in the face of the obstacles and impediments they face in their invaluable efforts to improve respect for human rights, including through cooperation with international human rights mechanisms.
- Take appropriate measures to facilitate and support the work of exiled human rights groups based in your countries and thoroughly investigate incidents of harassment targeting these.

¹ See “Russia: List of NGOs named “foreign agents”” (updated 20 September 2013), at <http://civicsolidarity.org/article/676/russia-list-ngos-named-foreign-agents-updated-20-september>

² For more details, see “Kyrgyzstan: Russia-style NGO law poses a threat to human rights and democratization”, 18 September 2013, <http://www.iphronline.org/kyrgyzstan-csp-appeal-20130918.html>

³ See, for example, Radio Free Europe/Radio Liberty, “Atambaev says no need for ‘foreign agents’ law,” 19 September 2013, <http://www.rferl.org/content/kyrgyzstan-atambaev-foreign-agents-ngos/25111001.html>

⁴ See “Казахстанский парламентарий требует закрыть иностранные “шпионские” НКО”, 16 July 2012, <http://www.regnum.ru/news/1551793.html>

⁵ In connection with UN advocacy in Geneva, Mutabar Tadjibaeva, president of the Fiery Hearts Club, and a group of other activists went to look for the multi-million euro villa belonging to Gulnara Karimova, who has been mired in corruption allegations. Having found it, they filmed an interview with Tadjibaeva outside the gates of the villa. Following this visit, Uzbekistan’s UN delegation filed a complaint with Swiss police, accusing Tadjibaeva of “illegally encroaching” on the private property of Karimova. As a result, police opened an investigation and Tadjibaeva was summoned for interrogation. On her blog and in interviews to media, Karimova also expressed derogatory comments against Tadjibaeva and the other activists, e.g. claiming that they were “working off their payments,” thus insinuating that they had been paid to stage an action against her. Swiss police subsequently closed the case involving Tadjibaeva, concluding that the accusations against her were groundless. See also Ferghana news, “В интернете выложен видеофильм «Поиски дочери диктатора Каримова в Женеве»,” 22 May 2013, <http://www.ferghananews.com/news/20665>