



## United States Mission to the OSCE

### Session 5

#### **Rule of Law, including: Democratic lawmaking; Independence of the judiciary; Right to a fair trial**

Delivered by U.S. Head of Delegation J. Brian Atwood  
**OSCE Human Dimension Implementation Meeting**  
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The principles of justice, democratic lawmaking, independence of the judiciary – the right to a fair trial and equal treatment under the law more broadly – all are essential to the protection of human rights and fundamental freedoms and to securing foundations of democracy. All participating States have committed themselves to upholding these principles, which were elaborated in the Copenhagen and Moscow Documents and other OSCE agreements, but the policies and practices of some participating States raise serious questions about their commitment to the rule of law.

Moderator, more than 60 persons have disappeared into **Turkmenistan's** prisons, including our former OSCE colleague Batyr Berdiev. We urge the Government of Turkmenistan to respond to requests for information about the status of people being held in the prison system. For years, their families have had no verifiable information on the whereabouts or condition of their loved ones. The government has asserted that all places of detentions are open to visits, including by foreign diplomats, and that free access to all convicted persons will be provided. The United States requests that Turkmenistan make good on this pledge and provide immediate access to all prisoners who have disappeared. We welcome the recent decision by the government to allow the OSCE to visit the new women's prison in Dashoguz and encourage the government to allow other independent monitors to visit this and other prison facilities.

Civil society organizations have documented at least 98 political prisoners or detainees in **Azerbaijan**. Tragically, several activists who developed this list have seen their own names added to it, including Leyla and Arif Yunus, Intigam Aliyev, and Rasul Jafarov. In many instances, political activists have faced dubious drug, weapons, or public disorder charges. In May, the European Court of Human Rights ruled that opposition politician Ilgar Mammadov had been unjustly arrested, detained, tried, convicted and incarcerated on false charges of inciting public disorder in connection with the January 2013 riots in Ismayilli. Despite this ruling, Mammadov languishes in prison on a seven-year sentence. We are increasingly concerned that the government of Azerbaijan is not living up to its international human rights commitments and obligations in its actions against members of civil society groups. Azerbaijan will be best able to ensure its future stability and prosperity by allowing a more open society.

We have seen numerous prosecutions of activists, journalists, and opposition politicians since 2012 in the **Russian Federation**, including the case of environmental activist Yevgeniy Vitishko, sentenced to three years in jail for allegedly spray-painting a fence. The United States is concerned about the continued prosecutions of Bolotnaya Square demonstrators. In August 2014, a Russian court convicted four more protestors of rioting and violence against

police in a politically motivated trial that only increases what were already serious concerns about due process and rule of law in Russia.

The United States welcomes the release of Belarusian human rights activist Ales Byalyatski. At the same time, we reiterate our call for the Government of **Belarus** to release immediately and unconditionally all remaining political prisoners and to guarantee their full civil and political rights.

In **Ukraine**, we welcome the current Ukrainian government's efforts toward rule of law reform. An acute deficit in the rule of law during the Yanukovich administration – manifested by politically motivated trials, the lack of an independent judiciary, and widespread corruption – was a major contributor to the Ukrainian people's expression of protest in the Euro-Maidan movement, or the "Revolution of Dignity" as Ukrainians call it.

The United States welcomes the action of the Prosecutor General of **Kyrgyzstan** to open cases against more than 20 judges, prosecutors, and other law enforcement officers to investigate allegations of abuse of office. Nevertheless, we continue to be concerned about the case of human rights activist Azimzhan Askarov, who has been in prison since he was accused of involvement in the inter-ethnic violence of 2010. We strongly encourage the government to re-examine the validity of Askarov's detention or consider his humanitarian release on grounds of ill health. Mr. Askarov's case raises concerns that in the wake of the 2010 violence, widespread police abuse and biased prosecutions of ethnic Uzbeks occurred.

The United States is also concerned about the case of jailed **Tajikistani** businessman Zaid Saidov, who was arrested a month after setting up a new opposition political party in the lead-up to the October 2013 presidential election. Saidov was sentenced to 26 years in prison on December 25, 2013, and additional charges have since been brought against him. Two out of three of Saidov's defense lawyers have also now been detained under circumstances that raise procedural fairness concerns. We urge Tajikistan to release Mr. Saidov, to conduct an independent review of his case, and to allow him access to legal counsel of his choosing.

In **Uzbekistan**, international and domestic human rights organizations estimate that the government currently detains hundreds of prisoners on political grounds; some groups have asserted that the number is in the thousands. Numerous persons have not been afforded the appropriate procedural protections. My government continues to highlight the cases of Dilmurod Sayidov (Sayid), Salijon Abdurakhmanov, Akzam Turgunov, Bobomurod Razzokov, and Muhammad Bekjanov.

In **Georgia**, we are concerned by the continued investigations and criminal charges against opposition figures and the risks that politicized prosecutions would pose for Georgia's democracy. The United States continues to support Georgia's democratic development, which must include respect for political pluralism and open debate.

Based on allegations in a report by Council of Europe Rapporteur Dick Marty, the European Union established a Special Investigative Task Force in September 2011 to undertake the very difficult task of investigating individual responsibility for crimes perpetuated after the war in Kosovo ended in June 1999. The United States has strongly supported this effort, consistent with our long-standing commitment to promote justice and accountability in the former Yugoslavia, and we applaud the **EU** for its leadership in this matter. The **Kosovo** Government and Assembly, in conjunction with the EU, must now take additional steps to

establish a court to deal with these cases, and the United States strongly encourages them to do so without delay. Despite the high political sensitivity of this issue, officials in Kosovo have cooperated with the investigation and the government agreed to continue cooperation. This demonstrates a welcomed commitment to justice and the rule of law from a country that still has much work ahead to strengthen its own legal institutions. The denial of Kosovo's acceptance as an OSCE participating State is not only unfortunate; it does not serve our shared interests in promoting rule of law in the country or region.

**Serbia** has not taken sufficient action to bring to justice those responsible for a crime that occurred after the Kosovo conflict ended in June 1999 and in which United States citizens were the victims. Serbian authorities apprehended three brothers – Ylli, Agron and Mehmet Bytyqi – after the three crossed a then-unmarked border into Serbian government-controlled territory while escorting Roma neighbors from Kosovo to safety. After two weeks in prison for illegal entry, the brothers were delivered to Serbian Interior Ministry forces who then transported them to a camp in eastern Serbia, executed them, and dumped their bodies in a mass grave. Two years later, their remains were exhumed and identified. For some time now, Serbian authorities have assured the United States and the surviving Bytyqi family in New York State that action will be taken in this case. Let me urge Serbia to take this action now to demonstrate its commitment to justice as it prepares to take on the Chairmanship of the OSCE in 2015.