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Freedom of Assembly and Association and the Role of Civil Society in the Protection of Human Rights in Kazakhstan, Turkmenistan and Uzbekistan¹

This year Kazakhstan, Turkmenistan and Uzbekistan are celebrating their 20th anniversaries as independent countries. With the fall of the Soviet Union in 1991, these countries embarked on a transition process, with great hopes for what it would bring in terms of democracy, freedom and respect for human rights. However, the transition path has proved to be far from as straight and simple as many imagined and wished at the time. Today serious problems remain in all three countries with respect to the implementation of fundamental rights, such as freedom of expression, assembly and association, as well as the opportunities of civil society to contribute to the promotion and protection of human rights. In this intervention, our organizations would like to highlight major concerns in these areas, using recent examples to illustrate broader trends.

In **Kazakhstan**, civil society groups that are critical of the authorities are, as a rule, denied the right to hold assemblies on different pretexts or only allowed to gather at the outskirts of cities. Unsanctioned protests held by such groups are often dispersed, and participants are detained and fined or sentenced to administrative arrest for up to 15 days.²

During the last few months, thousands of oil workers have been striking and protesting in the Mangistau region in western Kazakhstan, demanding fair pay and work conditions and the right to carry out independent labor union activities without interference. Actions taken by the authorities in response to these protests give rise to concern in light of international human rights and labor standards.

The strikes have been deemed illegal by court, and hundreds of striking workers have been fired since May. Numerous protest meetings held by striking workers have been dispersed, sometimes with the use of force, and participants have been arrested and fined for holding unsanctioned assemblies. Leading figures in the strike movement have faced intimidation and harassment. Two independent trade union activists have been convicted on criminal charges that appear politically motivated and aimed at stifling their legitimate and peaceful efforts to assist workers to promote their rights. While Akzhanat Aminov was given a one-year suspended prison sentence on charges of violating the procedure for organizing assemblies³, Natalia Sokolova received a harsher sentence on additional charges:

- *On 8 August 2011, a local court in the city of Aktau convicted lawyer Natalia Sokolova of organizing unsanctioned assemblies and inciting social hatred (under articles 334 and 164 of the Criminal Code) and sentenced her to six years in prison. She was also barred from practicing law for three years after her release.*

The charges against Sokolova were brought in June at the initiative of the management of the joint Chinese-Kazakh oil company Karazhanbasmunai after she addressed and provided legal advice to workers from this company, among others on the issue of disparities in wages between Kazakh and foreign workers. The court followed the arguments made by company representatives and deemed that Sokolova had incited social hatred by encouraging the workers to struggle for equal rights. According to her husband and legal representative, video recordings that could have been used in her support were not admitted as evidence and her motions to summon witnesses were denied.

An appeal hearing in the case began in the Mangistau District Court in mid-September and was under way at the time of writing. Prior to being criminally charged, Sokolova was first fined and later sentenced to eight days' administrative arrest for speaking before protesting workers.

The legal cases against Sokolova and others have further increased resentment on the part of the protesting workers and added to their demands. The following is an example of a disproportionate response by authorities to a protest:

- *On 5 June 2011, some 500 workers from Karazhanbasmunai staged a protest in Aktau. They wanted to call for the release of Natalia Sokolova, who was then held in pre-trial detention, and the reinstatement of striking workers who had been fired. After gathering at the city's bus station, they set out toward the offices of the state regional administration. On their way there, they were, however, stopped by police, who dispersed the protest, detained participants and reportedly beat some of them. Police also attempted to confiscate photo and video cameras from journalists who were present. About 30 people were brought to court the following day and fined for participating in an unsanctioned assembly.*

Opposition activists who have supported demands made by protesting oil workers have also faced harassment. On 16 August 2011, Zhanbolat Mamai, leader of the youth club *Ryh pen til* and member of the opposition movement People's Front, was arrested at the airport in Aktau.⁴ In a trial closed to the media and public, he was sentenced to 10 days' administrative arrest for conducting an unsanctioned assembly when addressing a crowd of protesting workers in Zhanaozen four days earlier. These workers have been protesting on an ongoing basis since July this year, with different public activists speaking before them at different times. On 17 August 2011, three activists from Kazakhstan's Socialist Movement were detained when protesting the conviction of Natalia Sokolova outside the Almaty office of the ruling Nur-Ortan party. They were also penalized with administrative arrest.⁵ On 1 September 2011, two activists from the People's Front movement, who had addressed a meeting of protesting workers, were brutally beaten up by unknown perpetrators in Aktau. An investigation was opened into the case, but has yet to produce results.⁶

While the activities of unregistered public associations are banned in Kazakhstan, registration applications are sometimes rejected on what appear to be arbitrary grounds. For example, in August 2011, the opposition Union of Patriotic Youth was denied registration allegedly because three other associations already were registered under that name. The same month the independent trade union Zhanartu's application was turned down on the grounds that its statutes did not explain how changes or additions could be made, although the statutes in fact covered this point. Access to independent

information on human rights and other controversial issues is restricted by the periodic blocking of websites containing such material. Most recently this happened to the popular blog and social networking site Live Journal.⁷

Another major concern is that leading human rights defender Yevgeniy Zhovtis remains behind bars:

- *Zhovtis, the Bureau's founding director, is serving a four-year prison sentence for accidentally killing a pedestrian with his car. This sentence was handed down in a September 2009 trial fraught by procedural irregularities.*⁸

On 2 August 2011, the parole commission at the colony in North-East Kazakhstan where Zhovtis is held denied his application for early conditional release. The commission pointed out that he has received three reprimands while serving his sentence and argued, inter alia, that he has not "embarked upon the path of correction", "repented" or "showed interest in engaged in socially useful activities". The reprimands have been given to Zhovtis on doubtful grounds for a) declining to work in the prison as safety engineer, an occupation for which he lacks adequate training and skills; b) watching TV outside the allotted time during the world championships in soccer; and c) taking out food from the prison cafeteria, although this had been agreed with prison officials because of illness. Two of the reprimands were no longer in force when the commission met, and the third was due to expire shortly thereafter. The other arguments used by the commission appear absurd and untenable when taking into account that the offense for which Zhovtis was imprisoned was an accident, he has apologized and reconciled with the victim's family and he has remained active in his area of expertise during his imprisonment, e.g. by providing legal counsel to other prisoners on a pro bono basis.

Zhovtis was earlier denied parole in January this year. He has the right to re-apply only in another six months.

The environment for civil society remains extremely repressive in **Turkmenistan** and the rights to freedom of expression, assembly and association continue to be seriously curtailed. While only registered NGOs are allowed to operate legally in Turkmenistan, the less than 100 public associations that currently are registered⁹ are either directly government-controlled or work on non-sensitive issues such as youth, sports or cultural programs. No independent human rights NGOs are registered in the country and no international human rights organizations are allowed to work there.

Access to independent information about human rights developments from abroad is also seriously restricted in Turkmenistan because of tight control of the use of Internet and foreign media. In an apparent attempt to further limit opportunities to obtain independent information from sources outside the country, the president recently re-launched a drive to dismantle satellite dishes from residential buildings because they allegedly spoil the appearance of buildings.¹⁰

Representatives of civil society who speak up about human rights problems and challenge government policies are intimidated and harassed by security services. They and their relatives are, for example, held under surveillance, threatened, interrogated, arrested, charged with crimes, and black-listed from traveling abroad. Among those who have been banned from leaving the country is Bisengul Begdesenov, a Kazakh community leader who in May this year was given a five year suspended prison sentence on fraud and bribery charges believed to be motivated by his civic engagement. Following this ruling, his passport was confiscated. Another black-listed person is Umida Dzhumabaeva, a civil society activist who was stopped at the border in July 2010 when she was on her way to visit friends in Kazakhstan. Her inquiries to migration and national security authorities as to why she is not allowed to travel abroad have not resulted in any response.¹¹

Targets of harassment have also included civil society activists in exile, such as TIHR, which is based in Austria.

- *On 18 July 2011, TIHR's website was attacked and disabled by hackers. The website has now been re-launched in a new format, but is not yet fully operational. The hackers also made publicly accessible information about users of TIHR's website, including individuals inside Turkmenistan who could be in danger for having read and commented on material posted on a dissident website. The attack was carried out through a proxy server located in Germany.*

While the hacker's identity is unknown, there is reason to believe that Turkmen security services may have been behind the attack. TIHR's website is a major source of independent information on developments in Turkmenistan and has long been viewed with discontent by Turkmen authorities. In the weeks prior to the attack, the website published a series of reports challenging the Turkmen government's account of the 7 July explosions at a weapons depot in the Turkmen city of Abadan. While many foreign media outlets used TIHR's reports in their coverage of the Abadan events, the Turkmen foreign ministry denounced this kind of unofficial information as "slanderous" and "provocative".¹²

In connection with the Abadan events, representatives of local authorities also visited TIHR head Farid Tukhbatullin's mother in her home in the Turkmen city of Dashoguz, intimidating her and asking her intrusive questions about her children. Later Mrs. Tukhbatullin has observed an unknown car parked outside her home on repeated occasions, creating the suspicion that she is being held under surveillance.

The attack on TIHR's website and the intimidation of Mrs. Tukhbatullin followed other, previous cases of harassment targeting the organization and individuals associated with it, both in- and outside Turkmenistan.¹³

There is currently no law regulating the conduct of assemblies in Turkmenistan and, in practice, the authorities suppress attempts by civil society members to stage protests.

- *In the morning of 8 June 2011, a group of about 50 people gathered outside hotel Oguzkent in central Ashgabat for a rare public protest action. They wanted to express their misgivings about the demolition of apartment buildings for the purpose of making room for a new motorway in their home district at the outskirts of the capital. However, police quickly dispersed the group and later reportedly arrested four women believed to be the organizers of the action. TIHR has not succeeded in finding out the names of these women or more details about that happened to them upon arrest. It was the first protest action of this kind known to have got off to a start since 2004.*

In what appeared to be an attempt to prevent new protests, the Turkmen government announced in late June that the country's legislation would be revised to address problems relating to the procedure of formally privatizing property. These problems have prevented residents in houses that have been demolished as part of large-scale building projects from claiming their rights and obtaining alternative accommodation or material compensation. Nevertheless, in late July, TIHR was informed that residents of apartment buildings due for demolition in the area that the protest concerned had been forced to leave their homes without being granted any alternative accommodation. They were told that they did not possess duly legalized documents proving their ownership.

The authorities of **Uzbekistan** also remain openly hostile to civil society activities. Most of the few independent NGOs that exist in the country operate without registration due to complicated registration procedures and the lack of prospects for fair consideration of their applications. Only one active human rights group (*Ezgulik*) is currently registered, while others such as IGHIRDU have to carry out their activities without legal status.

Human rights activists continue to be subjected to different forms of harassment, including surveillance, house arrests, interrogations, denial of exit visas, and defamation and other charges. More than a dozen activists remain in prison on fabricated charges and several of them have reportedly been tortured and ill-treated while serving their sentences.¹⁴ Because of the dangers of engaging in human rights activities in Uzbekistan, many human rights defenders have been forced to flee the country and now live in exile.

Access to independent information about human rights developments in the country is limited as the websites of domestic human rights groups and international human rights sites are routinely blocked. The work of international human rights organizations in Uzbekistan is also obstructed. Most recently, Human Rights Watch was forced to close down its office after 15 years of operation. This was another serious blow to independent human rights monitoring and reporting in the country and left its human rights community in an even more vulnerable and alienated position than previously:

- *In a hearing held on 9 June 2011, the Supreme Court of Uzbekistan granted a Justice Ministry petition to liquidate the registration of the Tashkent office of Human Rights Watch. The ruling was made after only a few minutes deliberation even if no concrete evidence had been presented to support the claim that the organization had failed to meet relevant requirements under Uzbek law.¹⁵ While the representatives of a number of foreign embassies monitored the trial, human rights defenders were not allowed access to it.*
The liquidation decision, which cannot be appealed, followed years of harassment of Human Rights Watch by the Uzbek authorities. Its staff members have repeatedly been denied visas and accreditation to work in the country, with arguments such as that they “ignore national legislation”, “lack experience of cooperation with Uzbekistan” and “do not understand Uzbek culture or traditions”. Because of these problems, the organization has not had been able to maintain a regular presence in Uzbekistan since the middle of 2008.¹⁶ Initially registered in Uzbekistan in 1996, Human Rights Watch has in particular drawn the ire of the Uzbek government for its reports on abuses perpetrated during and after the 2005 Andijan events.

Existing regulations grant local authorities in Uzbekistan wide discretion to restrict or prohibit assemblies and provide for harsh penalties for violations of the procedure for organizing such events.¹⁷ The negative climate for civic and political action that prevails in the country and widespread fear among residents for the possible repercussions of voicing discontent also discourage public protests. While spontaneous pickets e.g. to protest late pension payments sometimes can take place without interference by authorities, other peaceful pickets such as those staged by human rights activists are dispersed and the activists detained, fined and harassed.

The recent case of two journalists illustrates the dangers of speaking up publicly against perceived wrongs:

- *Journalists Malohat Eshonkulova and Saodat Omonova were dismissed from the national TV and radio station Yoshlar in December 2010 after protesting censorship, corruption and unfair treatment of employees there. They had issued an open appeal on this issue and held a brief picket at Independence Square in Tashkent on 6 December 2010. The two journalists*

subsequently filed a suit against Yoshlar, arguing that they had been wrongfully dismissed and should be allowed to return to work. However, in May 2011, this suit was rejected by a local Tashkent court. The decision was later upheld on appeal.¹⁸

In order to express disappointment with the court ruling on the suit and to further attract attention to their concerns, the two journalists staged a new picket outside the president's office in Tashkent on 27 June 2011. This day is known as Media Workers' Day in Uzbekistan. The journalists wanted to use the picket to demand a meeting with President Karimov, to whom they had sent more than 50 unanswered appeals since May, and announce a hunger strike. They were, however, quickly arrested by police, brought to court and fined 2.94 million soms (about 1200 EUR) for organizing an unauthorized assembly (under article 201 of the Administrative Code). The trial was reportedly held in the absence of a defense lawyer.

The two women continued their hunger strike for more than two weeks before ending it due to serious health issues and the lack of any response from the authorities. They are now considering further possibilities to claim their rights through court, while committed to continuing their journalist activities.

Recommendations

To all OSCE participating States:

- The Astana Commemorative Declaration confirmed the principle that issues relating to human dimension commitments are matters of direct and legitimate concern to all participating States.¹⁹ In view of this principle, all participating States should make use of any opportunities to raise concerns about violations of freedom of expression, assembly and association, as well as repression of civil society with the governments of other participating States where such violations occur. They should call on these governments to take concrete and specific measures to address existing violations.

To the authorities of Kazakhstan:

- Ensure that no one who is involved in the ongoing labor protests in western Kazakhstan, or who offers support to the protesting workers is punished (through fines, arrests, criminal charges or in other ways) for the legitimate and peaceful exercise of the rights to freedom of expression, association and assembly, the right to strike, and the right to form, join and freely carry out trade union activities;
- Ensure that the appeal hearing in the case of trade union activist Natalia Sokolova is carried out in full accordance with international fair trial standards and protects the rights mentioned above. Also ensure that the case of trade union leader Akzhanat Aminov is reconsidered in a fair process that protects fundamental rights in this area;
- Promptly and thoroughly investigate all allegations of disproportionate and unlawful action by law enforcement authorities in connection with the labor protests, as well as reported cases of violent attacks on individuals associated with the protests. Bring those responsible to justice;

- Bring legislation and practice regulating the organization of assemblies, as well as the registration of public associations into full compliance with international standards on freedom of assembly, freedom of association and other fundamental rights;
- Stop blocking access to Live Journal or other websites containing information on controversial issues, and ensure that any measure taken to prevent the spread of website content deemed illegal is limited to that material and meets the full requirements of the law;
- Ensure that Yevgeniy Zhovtis' request for parole is considered in a fair and comprehensive manner, taking into account all relevant circumstances of his case, with a view to making possible a speedy release. As long as he remains imprisoned, ensure that he is treated adequately and on an equal footing with other prisoners in his colony.

To the authorities of Turkmenistan:

- Ensure that independent NGOs that so wish can obtain legal status in a fair and transparent process, and allow international organizations and foundations that promote and support human rights, the rule of law, and the development of civil society to operate in the country;
- Put an end to intimidation and harassment targeting members of Turkmen civil society who exercise their fundamental rights to express, receive and share views challenging official accounts of the state of affairs in Turkmenistan, as well as their relatives. In particular, do not restrict the right of such individuals to travel abroad, through the use of "black lists" or other similar practices;
- Ensure that TIHR can carry out its work without obstruction; no one is subjected to repression for contributing, reading or commenting on information published on the TIHR website; and local officials in Dashoguz do not pay any further intimidating visits to Mrs. Tukhbatullin, hold her under surveillance or intimidate or harass her in any other ways;
- Adopt legislation on the conduct of assemblies that is consistent with international human rights standards and refrain from suppressing and punishing the participants in peaceful public protest actions. Drop any possible charges leveled against the four women accused of organizing the June protest action in Ashgabat and release them immediately if they are still held by police;
- Protect residents' right to seek and receive information on human rights and other issues from outside Turkmenistan by refraining from measures that restrict the use of the internet or access to satellite TV and radio channels.

To the authorities of Uzbekistan:

- Enable national and international NGOs to obtain registration in an uncomplicated, fair and transparent process and promptly grant/restore registration to all human rights groups that have been denied or deprived of registration on arbitrary grounds, including Human Rights Watch;
- Allow members of civil society to carry out activities to promote human rights in the country without facing intimidation, harassment or undue interference by authorities and immediately and unconditionally release all human rights defenders who have been imprisoned on fabricated criminal charges;
- Stop blocking the websites of human rights groups and human rights portals and do not restrict the use of the internet for the purpose of obtaining or exchanging information on issues relating to the promotion and protection of human rights;
- As proposed in the recent draft National Action Program on Human Rights, adopt specific legislation governing the organization of assemblies, thereby ensuring that this legislation fully corresponds with international human rights standards. Involve civil society

representatives in the elaboration of the legislation, make use of advice offered by international experts (such as ODIHR experts), and draw on international best practice in this area;

- Also before new legislation has been adopted, ensure that civil society members can gather peacefully to express concerns and misgivings without being arrested, fined or punished in other ways.

¹ Unless otherwise noted, this intervention is based on information obtained through monitoring by Kazakhstan International Bureau for Human Rights and Rule of Law (on Kazakhstan), Turkmen Initiative for Human Rights (on Turkmenistan) and the Initiative Group of Independent Human Rights Defenders of Uzbekistan (on Uzbekistan). The intervention was compiled by IPHR.

² For more information on this issue, see contribution by Kazakhstan International Bureau for Human Rights and Rule of Law, International Partnership for Human Rights and the Netherlands Helsinki Committee to the UN Human Rights Committee for its review of Kazakhstan under the International Covenant on Civil and Political Rights (ICCPR) at its 102nd session in July 2011, at <http://www.iphronline.org/news.html?60> (in Russian at <http://www.iphronline.org/news.html?59>)

³ Aminov was sentenced by an Aktau court on 17 August 2011. He has represented protesting workers at Ozenmunaigaz, a subsidiary of the national oil and gas company KazMunaiGaz based in the city of Zhanaozen.

⁴ When he was arrested Mamay had just arrived by plane from Moscow, where he attended a meeting in support of the striking oil workers in Kazakhstan. In Aktau he was planning to meet with strikers.

⁵ Dmitriy Tihonov and Arman Ozhaubaev were sentenced to five day's administrative arrest and Zhanna Bajtelova to 14 days' administrative arrest.

⁶ Azamat Zhaksygaliev and Marlan Esil'baev were attacked by unknown perpetrators, who were using brass knuckles, as they exited the People's Front office in Aktau at around 10 pm on 1 September 2011. Both men had to be hospitalized for the injuries they sustained.

⁷ This site was blocked following a July decision by an Astana court, which considered that the site had spread information containing terrorism and extremism propaganda. No evidence of this was presented and no previous request was made to the managers of the site to remove such content. The site had previously been blocked in late 2008 to late 2010. For more information, see «Блокировка доступа к LiveJournal нарушает конституционные права граждан, считает фонд «Адил соз»», 23 August 2011, at <http://www.adilsoz.kz/news/blokirovka-dostupa-k-livejournal-narushaet-konstitucionnye-prava-grazhdan-schitaet-fond-adil-soz/>

⁸ For more details on this issue, see recent joint letter sent to President Nazarbaev by 78 NGOs, 1 August 2011, at http://www.bureau.kz/data.php?n_id=3320&l=en, and joint statement by seven human rights NGOs on human rights defenders in Central Asia, 30 September 2011, at <http://iphronline.org/news.html?34>

⁹ According to information from the Turkmen authorities, in late November 2009, a total of 91 public associations were registered. See par. 686 of report on the implementation of the ICCPR submitted to the UN Human Rights Committee by the Turkmen state party, February 2010. This report is available at <http://www2.ohchr.org/english/bodies/hrc/hracs102.htm>

¹⁰ See TIHR Newsletter, 13 September 2011, <http://www.chrono-tm.org/en/archives/60>

¹¹ For more info on these and other cases see contribution by Turkmen Initiative for Human Rights, International Partnership for Human Rights and the Netherlands Helsinki Committee to the EU-Turkmenistan Human Rights Dialogue held on 8 July 2011, at <http://www.iphronline.org/news.html?57>

¹² The statement is available at <http://www.turkmenembassy.ru/?q=node/243>

¹³ See appeal by International Partnership for Human Rights, the Netherlands Helsinki Committee and the Norwegian Helsinki Committee, 14 October 2011, at <http://iphronline.org/news.html?38>

¹⁴ For a list of imprisoned human rights defenders and information about their cases, see <http://www.hrw.org/news/2011/05/12/uzbekistans-imprisoned-human-rights-defenders>.

¹⁵ See Human Rights Watch comments, 10 June 2011, at <http://www.hrw.org/node/99772>

¹⁶ See Human Rights Watch statement, 15 March 2011, at <http://www.hrw.org/news/2011/03/15/uzbekistan-government-shuts-down-human-rights-watch-office>

¹⁷ See contribution by the Expert Working Group to the UN Human Rights Committee's review of Uzbekistan under the ICCPR at its 98th session in January 2010, at <http://www2.ohchr.org/english/bodies/hrc/hracs98.htm>

¹⁸ «Узбекские тележурналистки проиграли иск в суде», 19 July 2011, at http://www.uznews.net/news_single.php?lng=ru&sub=&cid=3&nid=17466

¹⁹ Par. 6 of the declaration, at <http://summit2010.osce.org/sites/default/files/documents/444.pdf>