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## Committee on Legal Affairs and Human Rights Situation of human rights defenders in Council of Europe member States

### Revised information note

General Rapporteur: Ms Alexandra Louis, France, Alliance of Liberals and Democrats for Europe

#### 1. Introduction

##### 1.1. Procedure

1. Further to the report by Mr Egidijus Vareikis (Lithuania, EPP/CD) on “Protecting human rights defenders in Council of Europe member states”,<sup>1</sup> the Committee on Legal Affairs and Human Rights, at its meeting in Strasbourg on 26 June 2018, proposed appointing a general rapporteur on the situation of human rights defenders. Following a debate on Mr Vareikis’s report,<sup>2</sup> the Parliamentary Assembly ratified the terms of reference of the general rapporteur on 8 October 2018. At its meeting in Strasbourg on 9 October 2018, the committee appointed Mr Raphaël Comte (Switzerland, ALDE) as the first general rapporteur on this question. Following Mr Comte’s departure from the Assembly, I was appointed as his successor at the committee meeting of 30 January 2020 and was then appointed for a second term of office during the committee meeting of 25 January 2021. This document is based on Mr Comte’s information note of June 2019, which has been declassified<sup>3</sup> and is intended to outline the current situation of human rights defenders in Council of Europe member States. At its meeting held by videoconference on 22 March 2021, the committee considered its previous version<sup>4</sup> and held a hearing with the participation of Ms Mary Lawlor, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights, and Mr Nils Muiznieks, Director for Europe, Amnesty International, former Council of Europe Commissioner for Human Rights.

##### 1.2. Relevant issues

2. The committee and the Assembly have been monitoring the situation of human rights defenders in a targeted and specific way since 2006.<sup>5</sup> For the Assembly, human rights defenders are “those who work for the rights of others”, i.e. individuals or groups who act, in a peaceful and legal way, to promote and protect human rights, whether they are lawyers, journalists, members of non-governmental organisations (NGOs) or others.<sup>6</sup> Their right to take action to promote and protect human rights was first confirmed in the [United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#) of 9 December 1998 (hereafter, the “UN Declaration on Human Rights Defenders”). This Declaration, which states that “[e]veryone has the right, individually and in association with others, to promote and strive for the protection and realisation of

\* Document declassified by the Committee on 27 January 2022.

<sup>1</sup> [Doc. 14567](#), 6 June 2018.

<sup>2</sup> The debate was held on 26 June 2018. Following the debate, the Assembly adopted [Resolution 2225 \(2018\)](#) and [Recommendation 2133 \(2018\)](#).

<sup>3</sup> AS/Jur (2019)31 declassified, 26 June 2019.

<sup>4</sup> AS/Jur (2021)03 Rev declassified, 30 March 2021.

<sup>5</sup> [Doc. 10985](#), 27 June 2006.

<sup>6</sup> [Resolution 2225 \(2018\)](#), 26 June 2018, paragraph 1.

human rights and fundamental freedoms at the national and international levels” (Article 1) and which stipulates that States must adopt measures to ensure this right (Article 2, 2.), reinforces the importance of states protecting it. At Council of Europe level, this was followed on 6 February 2018 by the adoption by the Committee of Ministers of the [Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities](#).

3. The right to defend others’ rights is itself based on the fundamental rights recognised and protected by the European Convention on Human Rights (“the Convention”), such as freedom of thought, conscience and religion (Article 9), freedom of expression (Article 10) and freedom of assembly and association (Article 11). In this regard, human rights defenders deserve particular attention, since violations of their rights, threats and violent acts against them are indicative of the general situation of human rights in the State concerned or a deterioration thereof.<sup>7</sup>

4. Accordingly, responsibility for the protection of human rights defenders rests first and foremost with national governments. Council of Europe member States are therefore under an obligation to create an environment conducive to the activities of human rights defenders and to end all forms of intimidation and reprisals against them.<sup>8</sup>

### 1.3. *My terms of reference*

5. Given that they refer to the definition of a “human rights defender” contained in the UN Declaration on Human Rights Defenders, my terms of reference, as proposed by the committee and approved by the Assembly, authorise me to address matters relating to cases of intimidation and reprisals suffered by human rights defenders, and to serious obstacles to their action in Council of Europe member States (e.g. murders, physical and psychological violence, arbitrary arrests, judicial and administrative harassment, smear campaigns and restrictions on their freedom of movement). Therefore, at least once a year, I shall report to the committee on the information I have collected and the action I have taken. In addition, I have been given responsibility for monitoring the activities of the various bodies and institutions of the Council of Europe and other international organisations dealing with issues relating to human rights defenders; representing the committee and the Assembly vis-à-vis the latter; making statements and calls for action in my capacity as general rapporteur or suggesting that the committee do so, and monitoring what follow-up has been given to previous Assembly resolutions and recommendations in this area. Since I was first appointed, I have already made several statements, in particular on the situation of defenders in Turkey, often jointly with co-rapporteurs of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee).

## 2. Council of Europe work on the protection of human rights defenders

6. Four reports on the situation and protection of human rights defenders in Council of Europe member States have been produced by the Assembly.<sup>9</sup> They have highlighted the reprisals faced by human rights defenders in certain Council of Europe member States, such as physical and psychological violence, arbitrary arrests, judicial and administrative harassment, smear campaigns and even murder or abduction.<sup>10</sup> In particular, in [Resolution 2095 \(2016\)](#), the Assembly expressed serious concern about acts of reprisals against human rights defenders in Azerbaijan, Russia, Turkey and Georgia.<sup>11</sup> The Assembly’s most recent resolution on this subject – [Resolution 2225 \(2018\)](#) – expresses its concern at the increase in the number of acts of reprisals against human rights defenders, but does not mention any specific Council of Europe member State. However, Mr Vareikis’s report (on which the resolution is based) focuses on individual cases of persecution, primarily in Azerbaijan, the Russian Federation and Turkey.

7. In [Recommendation 2133 \(2018\)](#),<sup>12</sup> based on the same report by our committee, the Assembly called on the Committee of Ministers to give some thought to and take action on what could be done to strengthen

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<sup>7</sup> See the [Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities](#), 6 February 2008.

<sup>8</sup> [Resolution 2225 \(2018\)](#), see footnote no. 4, paragraph 2.

<sup>9</sup> *The situation of human rights defenders in Council of Europe member states*, [Doc. 11841](#), 24 February 2009; *The situation of human rights defenders in Council of Europe member states*, [Doc. 12957](#), 11 June 2012; *Strengthening the protection and role of human rights defenders in Council of Europe member states*, [Doc. 13943](#), 11 January 2016; *Protecting human rights defenders in Council of Europe member states*, [Doc. 14567](#), 6 June 2018.

<sup>10</sup> *Ibid.*

<sup>11</sup> [Resolution 2095 \(2016\)](#), 28 January 2016, paragraph 4.

<sup>12</sup> Adopted by the Assembly on 26 June 2018.

the protection of human rights defenders. It suggested setting up a platform to this end, supporting the work of the Commissioner for Human Rights, implementing the proposal for a contact point in the Private Office of the Secretary General of the Council of Europe (a mechanism for regularly reporting on and reacting to cases of intimidation of human rights defenders co-operating with the Organisation), adopting a declaration on the need to strengthen the protection and promotion of the civil society space in Europe, and organising a seminar to mark the 10<sup>th</sup> anniversary of the [Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities](#).

8. The Committee of Ministers replied to this recommendation in December 2018.<sup>13</sup> It shared the Assembly's concerns regarding reprisals against human rights defenders, welcomed the appointment of the general rapporteur on the situation of human rights defenders and supported the work of the Commissioner for Human Rights, by ensuring that the latter had sufficient financial and human resources. The Committee of Ministers considered that the Secretary General should provide further information on the implementation of his proposed contact point. However, it is regrettable that the Committee of Ministers did not decide to set up a platform for the protection of human rights defenders, as proposed in paragraph 1.3 of [Recommendation 2133 \(2018\)](#). Nor did it respond to the Assembly's recommendations concerning regular exchanges with human rights defenders, better co-ordination between Council of Europe bodies and strengthening co-operation with other international organisations (paragraphs 1.1, 1.5 and 1.8 of the recommendation).

9. Nevertheless, the fact that the protection of human rights defenders was one of the priorities of the Finnish Chairmanship (between November 2018 and May 2019) is to be welcomed. During that chairmanship, a Workshop on the civil society space was organised by the Steering Committee for Human Rights (CDDH) in Strasbourg on 29 November 2018. In addition, on 28 November 2018, the Committee of Ministers adopted [Recommendation CM/Rec\(2018\)11 on the need to strengthen the protection and protection of civil society space in Europe](#). This recommendation underscored the key role played by human rights defenders in "independently promoting the realisation of all human rights", recognised and valued their work, deplored the violations and abuses of their rights and reasserted that States were under a "positive obligation to actively protect and promote a safe and enabling environment in which human rights defenders can operate safely without stigmatisation and fear of reprisals". The appendix to the Recommendation further contains a number of practical recommendations to Council of Europe member States aimed at protecting and protecting civil society space.

10. Moreover, further progress has been made in the Council of Europe. A conference on the role and position of NGOs in the Council of Europe was held in Warsaw on 22 March 2019. In addition, at the 129<sup>th</sup> session of the Committee of Ministers in Helsinki on 17 May 2019, the Committee of Ministers adopted a decision on the "need to strengthen the protection and promotion of civil society space in Europe". In this decision, it agreed to "examine further options for strengthening the role and meaningful participation of civil society organisations (...) in the Organisation", to "further strengthen the Organisation's mechanisms for the protection of human rights defenders, including the Secretary General's Private Office procedure on human rights defenders" and to "invite the Secretary General to explore the possibilities of inviting the relevant human rights NGOs to a regular exchange". This decision is therefore to be welcomed, as it is in line with the Assembly's previous recommendations on the need to establish mechanisms for the protection of human rights defenders and to strengthen the participation of civil society mechanisms in the activities of the Organisation's bodies. The Secretary General of the Council of Europe is currently working on concrete measures to implement this decision<sup>14</sup> In her 2021 Annual Report, she stresses the importance of the Organisation's action to support the role and diversity of civil society, including human rights defenders, and expresses concern that "(...) actions aimed at or having the effect of restricting or even suppressing NGO activities or silencing human rights defenders have come to form the most widespread pattern over the past four years in the Council of Europe member states, although swift interventions by Council of Europe bodies did persuade some governments to abandon such initiatives".<sup>15</sup>

<sup>13</sup> [Doc. 14772](#), 5 December 2018.

<sup>14</sup> See her report "Multilateralism in 2020", pp. 14-17.

<sup>15</sup> "State of democracy, human rights and the rule of law. A democratic renewal for Europe", p. 50.

11. It should also be borne in mind that since 2015, the issue of inappropriate restrictions on the activities of NGOs in Council of Europe member States has already been the focus of three reports written by our committee.<sup>16</sup> In its latest resolution on this subject – [Resolution 2362 \(2021\)](#) of 27 January 2021<sup>17</sup> – the Assembly expressed concern that since its most recent resolution on this issue of June 2018 ([Resolution 2226 \(2018\)](#)) “(...) the civil society space continues to shrink in several Council of Europe member States, particularly in the case of NGOs working in the field of human rights”, including because of the implementation of restrictive legislation criticised by Council of Europe bodies, and that certain NGOs are subject to smear campaigns and their activists suffer threats and reprisals.<sup>18</sup> It also expressed concern over the impact of restrictive measures taken due to the Covid-19 pandemic and noted that they are having an adverse effect on the functioning of civil society.<sup>19</sup> In conclusion, the Assembly urged Council of Europe member States, among other things, to “refrain from adopting new laws which would result in unnecessary and disproportionate restrictions or financial burdens on NGO activities” and “ensure an enabling space for civil society, in particular by refraining from any harassment (judicial, administrative or tax-related), negative public discourse, smear campaigns against NGOs and intimidation of civil society activists”.<sup>20</sup>

### 3. Recent trends in the situation of human rights defenders in Council of Europe member States

#### 3.1. General situation

12. As has been stated, the committee’s previous rapporteurs expressed concern about the increasing adverse environment for human rights defenders in Council of Europe member States. In addition, the recent reports of the European Union’s Fundamental Rights Agency (FRA) (whose geographical mandate currently encompasses the 27 member States of the European Union as well as North Macedonia and Serbia) mention attacks on, and harassment of, human rights defenders, including negative discourse intended to delegitimise and stigmatise NGOs, which are among the factors that are now hamstringing civil society’s activities.<sup>21</sup> According to data from the NGO consortium ProtectDefenders.eu, in 2019, 44 offences committed against defenders in European and Central Asian countries were reported to it. The figure for 2020 was 60; the majority of them were cases of judicial harassment (40 cases) and physical violence (12 cases).<sup>22</sup> In 2021, 121 offences committed against human rights defenders (including 71 cases of judicial harassment, 26 cases of detention and 17 cases of physical attacks) were reported in Europe and Central Asia. Activists working in the field of civil and political rights were worst targeted (in 100 cases), but some cases of reprisals also affected activists working for economic, social and cultural rights (in 10 cases), “women’s/gender” issues (in 6 cases) and “sexuality-sexual orientation, gender identity, and gender expression”/LGBTI related” rights (in 3 cases). Among the victims, men were affected more than women (approximately 40,5% as compared with 38%<sup>23</sup>). Those most affected were NGO activists or members of grassroots groups (in 63 cases), lawyers (in 23 cases), journalists (in 16 cases) and other activists including union workers (in 9 cases each). In view of these data and the findings contained in the Assembly’s previous reports, I will briefly present the latest developments in this field, in particular in Azerbaijan, Russia and Turkey. It should be pointed out that the civil society situation in these three countries was outlined in my report on “Restrictions on NGO activities in Council of Europe member States” of December 2020,<sup>24</sup> and in the above-mentioned [Resolution 2362 \(2021\)](#), the Assembly

<sup>16</sup> See the two reports by our former fellow committee member Mr Yves Cruchten (Luxembourg, Socialists, Democrats and Greens Group) of December 2015 ([Doc. 13940](#) of 8 January 2016) and May 2018 ([Doc. 14570](#) of 7 June 2018) and my report of December 2020 “Restrictions on NGO activities in Council of Europe member States”, [Doc. 15205](#) of 6 January 2021.

<sup>17</sup> Based on my report, see above. Previously, the Assembly had adopted [Resolution 2096 \(2016\)](#) and [Recommendation 2086 \(2016\)](#) “How can inappropriate restrictions on NGO activities in Europe be prevented?” on 28 January 2016, and then [Resolution 2226 \(2018\)](#) and [Recommendation 2134 \(2018\)](#) “New restrictions on NGO activities in Council of Europe member States” on 27 June 2018, based on the two reports by Mr Cruchten.

<sup>18</sup> Paragraph 4 of the resolution.

<sup>19</sup> Paragraph 7 of the resolution. These issues will be further examined in a forthcoming committee report on “The impact of the Covid-19 restrictions for civil society space and activities”, for which I have been appointed as rapporteur. See motion for a resolution by the Committee on Legal Affairs and Human Rights, [Doc. 15273](#) of 21 April 2021.

<sup>20</sup> Paragraphs 10.5 and 10.10 of the resolution.

<sup>21</sup> FRA, [Challenges facing civil society organisations working on human rights in the EU](#), report, January 2018, pp. 7-13; [Civic space – experiences of organisations in 2019. Second Consultation](#), 2020, and [Protecting Civic Space in the EU](#), 2021, p. 53.

<sup>22</sup> [Raising awareness](#), Protectdefenders.eu as of 5 January 2022.

<sup>23</sup> The ProtectDefenders.eu Index of Alerts refers to the following categories: “man and N/A”, woman, LGBTI, “minority member” and “none”.

<sup>24</sup> *Op. cit.*, paragraphs 17-25.

expressed concern over the application in these countries of restrictive legislation which has previously been criticised by Council of Europe bodies.<sup>25</sup>

13. It should also be noted that in the UN, at its 40<sup>th</sup> session in March 2019, the Human Rights Council adopted a resolution on "[Recognising the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development](#)".<sup>26</sup> This resolution highlights the growing role of defenders working for the right to a healthy environment and the reprisals to which they have been subjected. Moreover, the UN special rapporteurs on the situation of human rights defenders issued reports concerning specific issues relating to this subject: "Human rights defenders operating in conflict and post-conflict situations"<sup>27</sup> and "Final warning: death threats and killings of human rights defenders".<sup>28</sup>

### 3.2. Selected examples

#### 3.2.1. Azerbaijan

14. On several occasions, the Assembly has expressed concern over the alarming situation of human rights defenders in Azerbaijan due to the heavy constraints in which these activists, who are often stigmatised, are forced to operate.<sup>29</sup> In addition, the situation of political prisoners in that country – including political and social rights activists – has been examined by a fellow member of our committee, Ms Thorhildur Sunna Ævarsdóttir (Iceland, Socialists, Democrats and Greens Group) in her report "Reported cases of political prisoners in Azerbaijan"<sup>30</sup> and in [Resolution 2322 \(2020\)](#) and [Recommendation 2170 \(2020\)](#) of the Assembly, which were adopted on 30 January 2020 and based on this report. In the Resolution, the Assembly concludes that there can "[...] no longer be any doubt that Azerbaijan has a problem of political prisoners and that this problem is due to structural and systemic causes".<sup>31</sup> As of September 2021, there were 122 political prisoners in Azerbaijan, according to the report of the human rights Union "For Freedom of Political Prisoners of Azerbaijan", which bases itself on the Assembly's definition of a "political prisoner".<sup>32</sup>

15. Some improvements have been seen with the early release of the investigative journalist Afgan Mukhtarli (arrested and abducted in Georgia in 2017) after he had served half of his six years imprisonment on bogus charges, and that of Fuad Ahmadli, a blogger and Popular Front (APFP) activist, who was freed after spending four years in prison for political reasons.<sup>33</sup> Despite this, there are still several regrettable cases of reprisals against political opponents.<sup>34</sup> In addition, at least three journalists and bloggers who have criticised the authorities are still in prison, including Polad Aslanov (sentenced to sixteen years' imprisonment in November 2020 on charges of "treason"<sup>35</sup>), Araz Guliyev and Elchin Ismayili (who are still serving custodial sentences).<sup>36</sup>

<sup>25</sup> Paragraph 4 of the resolution.

<sup>26</sup> A/HRC/40/L.22/Rev.1, 20 March 2019.

<sup>27</sup> [A/HRC/43/51](#), by the former special rapporteur Mr Michel Forst, examined by the Human Rights Council at its 43<sup>rd</sup> session, February-March 2020.

<sup>28</sup> [A/HRC/46/35](#), by the current special rapporteur Ms Mary Lawlor, examined by the Human Rights Council at its 46<sup>th</sup> session, February-March 2021.

<sup>29</sup> See [Resolution 2184 \(2017\)](#) on the functioning of democratic institutions in Azerbaijan and [Resolution 2185 \(2017\)](#) "Azerbaijan's Chairmanship of the Council of Europe: what follow-up on respect for human rights?", which were adopted on 11 October 2017. See also the reports of the Monitoring Committee (co-rapporteurs: Mr Cezar Florin Preda and Mr Stefan Schennach), [Doc. 14403](#), 25 September 2017, and our committee (rapporteur: Mr Alain Destexhe), [Doc. 14397](#), 18 September 2017, and [Resolution 2226 \(2018\)](#) "New restrictions on NGO activity in Council of Europe member States", *op. cit.*, which is based on Mr Cruchten's report, [Doc. 14570](#), *op. cit.*

<sup>30</sup> [Doc. 15020](#) of 18 December 2019.

<sup>31</sup> Paragraph 10 of the resolution. See also the rapporteur's document on the follow-up to the said resolution; AS/Jur (2021)12 declassified, 17 June 2021.

<sup>32</sup> [Rights defenders count 122 political prisoners in Azerbaijan](#), Caucasian Knot, 2 September 2021.

<sup>33</sup> Human Rights Watch, [World Report 2021: Azerbaijan](#).

<sup>34</sup> One example is the case of Tofiq Yagublu, a prominent politician from the opposition party Musaval, who was sentenced to four years and three months' imprisonment for hooliganism in a trial allegedly marred by numerous irregularities; in September 2020, he was released and placed under house arrest on health grounds. There is also that of Agil Humbatov, a member of the APFP who was committed to a psychiatric hospital after posting a video criticising the handling of the pandemic by the authorities on Facebook and 10 years of imprisonment after the provocation from Yemen Mamedov, or that of Niyamaddin Ahmadov, who has been imprisoned for 13 years for unreasonable charges of financing terrorism. *Ibid* and Azeri Watchdog – Reporting on Human Rights in Azerbaijan, [Detained opposition activist held incommunicado for nine months](#), 18 January 2021.

<sup>35</sup> This sentence handed down at first instance was confirmed on appeal in February 2021.

<sup>36</sup> Human Rights Watch, see footnote no. 32.



As of April 2021, Oktay Gulaliev, an activist who had investigated torture cases in Azerbaijani prisons, still remained in coma; in 2019, he had been hit by a car. According to some sources, he had been denied medical assistance for 17 hours following his accident.<sup>37</sup> Subsequently, the Heydar Aliyev Foundation (presided by the First Lady, Mehriban Aliyeva) had organised and paid for his transfer to the American hospital in Istanbul, where he had received complex medical care. Furthermore, activists belonging to the Talysh minority - Fakhraddin Abbasov and Elvin Isayev - have also been detained and sentenced as a result of their activities and critical attitude towards the authorities.<sup>38</sup> Although an amnesty was decreed in April 2020 for 260 prisoners in order to avoid the spread of Covid-19 in prisons, according to Amnesty International, activists, journalists and other critics of the authorities were not among those who were released.<sup>39</sup> In December 2021, the Assembly's rapporteurs for the monitoring of Azerbaijan, Stefan Schennach (Austria, SOC) and Richard Bacon (United Kingdom, EC/DA) expressed their serious concern about the state of health of Saleh Rustamov, activist of the Azerbaijani Popular Front Party (APFP), who had been sentenced to 7 years and 3 months in prison in 2018 following the trial considered by human rights activists as unfair. They were informed that Mr Rustamov, who had been on hunger strike for many days, was placed in a solitary confinement and not provided with adequate medical assistance.<sup>40</sup> According to the information provided by the Azerbaijani delegation, the sentence handed down to Mr Rustamov had been reduced to seven years and one month in prison following a Supreme Court decision of September 2019. It said that he had received appropriate medical care during his hunger strike, which he had discontinued on 16 December 2021, and his life was no longer in danger.

16. The situation of women human rights defenders is even more worrying. In March 2021, Gulnara Mehdiyeva, one of the organisers of a march on the occasion of the 2021 International Women's Day (IWD) in Baku, which had been dispersed by the police, was subjected to an online smear campaign and harassment which the Ministry of Internal Affairs refused to investigate; earlier, her private conversations had been recorded and leaked on her Facebook account.<sup>41</sup> On 8 March 2021, another organiser of the IWD march, Rabiyya Mammadova, was abducted in Baku by three men apparently working for the Main Organised Crime Department and then driven to a police station, before which she was physically attacked. The incident resulted in partial deafness and numerous injuries of Ms Mammadova.<sup>42</sup> In July and August 2021, women's rights activists protested in Baku because of police's inaction in cases of domestic violence; some of them had been subsequently arrested and detained for a short period of time.<sup>43</sup>

17. In addition, repression targeting human rights defenders is being witnessed in the form of restrictions on the right to protest and freedom of assembly. The legislation on this subject, which is couched in broad terms, is often interpreted by local authorities as giving them licence to prohibit demonstrations or prosecute or even threaten demonstrators.<sup>44</sup> Demonstrations are still banned in the centre of Baku. In February 2020, the police also arrested over a hundred opposition supporters as they gathered to protest against alleged parliamentary election fraud. Before the unauthorised demonstration began, the police kept several activists in their homes and then took them to remote regions some 200 to 300 kilometres from Baku, where they left them.<sup>45</sup> In July 2020, the police also arrested at least 70 people who had demonstrated in the centre of Baku over the military conflict with Armenia and broken into the Parliament buildings, causing material damage.<sup>46</sup>

18. The work of human rights defenders is also being threatened by restrictive legislation on NGOs and amendments passed since 2014. In this regard, the processes of registering and receiving foreign grants have been made significantly more complex and have made it very difficult for human rights NGOs to operate.

<sup>37</sup> [Azerbaijan: 11 deaths in custody and other serious human rights violations in the 'Terter Case'](#), OMCT, 13 April 2021.

<sup>38</sup> Amnesty International, *Azerbaijan Authorities Must Release Talysh Activists*, 8 June 2020. According to Amnesty International, Fakhraddin Abbasov was sentenced to 16 years' imprisonment in February 2020 (at first instance) for "treason", "calls for insurrection" and "incitement to ethnic hatred". According to the information supplied by the Azerbaijani authorities, in October 2020 Elvin Isayev was sentenced at first instance to eight years' imprisonment, in part for "disobeying a state official" and "calls to riot"; this judgment was confirmed on appeal in February 2021.

<sup>39</sup> Amnesty International, *Azerbaijani Authorities Must Halt Crackdown on Dissent and Incarceration of Activists in Conditions Prone to the Spread of Covid-19*, 27 May 2020.

<sup>40</sup> [Azerbaijan: PACE rapporteurs concerned about the state of health of activist Saleh Rustamov, 10 December 2021.](#)

<sup>41</sup> [Smear campaign against woman human rights defender Gulnara Mehdiyeva](#), Frontlinedefenders, 5 March 2021.

<sup>42</sup> [Woman human rights defender Rabiyya Mammadova abducted and attacked](#), Frontlinedefenders, 18 March 2021.

<sup>43</sup> [In Azerbaijan women's rights activists protest outside the Ministry of the Interior](#), Global Voices, 3 August 2021 and [Azerbaijani women's rights activists detained, beaten up in police department](#), Jam News, 05 August 2021.

<sup>44</sup> For more information, see: *Mid-term Report – Review of the implementation of recommendations UPR 2018 by Azerbaijan*, Election Monitoring and Democracy Studies Centre.

<sup>45</sup> Human Rights Watch, see footnote no. 32.

<sup>46</sup> Amnesty International, *Azerbaijan: End Brutal Crackdown on Opposition Activists*, 5 August 2020.

Foreign donors are required, among other things, to obtain approval from the Ministry of Justice in order to give grants.<sup>47</sup>

19. The situation of barristers or other lawyers specialising in human rights or involved in cases featuring a political dimension likewise gives cause for great concern. Since 2005, over a dozen lawyers have been disbarred<sup>48</sup> and over twenty have been on the receiving end of reprisals from the Azerbaijani Bar Association (ABA) and the authorities.<sup>49</sup> In November 2019, Shahla Humbatova, who at the time was the lawyer representing the activist and blogger Mehman Huseynov, had her lawyer's licence suspended and the Azerbaijani Bar Association (ABA) instituted disciplinary proceedings to have her disbarred.<sup>50</sup> On 5 March 2021, the Administrative Tribunal of Baku pronounced a decision along these lines. On 5 May 2021 the ABA decided to readmit her. In March 2020, the lawyer Elchin Mammad, a fervent human rights defender and president of the organisation of the Social Union of Legal Education of Sumgait Youth (SULESY), was arrested by the police after publishing a critical report on the human rights situation in Azerbaijan. In October 2021, he was sentenced to four years' imprisonment for "theft resulting in serious damage" and "illegally buying and possessing firearms accessories", as the police had allegedly found jewellery and ammunition in his office.<sup>51</sup> In June 2021, he was transferred to the Central Penitentiary hospital as he had lost a significant amount of weight and had trouble walking and swollen legs.<sup>52</sup> On 9 October 2021, the Surakhani District Court dismissed his request to replace the imprisonment with either a suspended prison sentence or other alternative sentences, thus ignoring his deteriorated health condition.<sup>53</sup> On December 9, 2021, the Court of Appeal of Baku confirmed this decision. A few days earlier, Mr Mammad had suddenly been transferred to pre-trial detention centre No. 1 in Kurdakhani, which is severely overcrowded.<sup>54</sup>

20. In 2020, the European Court of Human Rights ("the Court") passed three judgments – *Namazov v. Azerbaijan*<sup>55</sup>, *Aslan Ismayilov v. Azerbaïdjan*<sup>56</sup> and *Bagirov v. Azerbaijan*<sup>57</sup>, concerning the disbarment of lawyers. In *Namazov v. Azerbaijan* it concluded that Azerbaijan had violated Article 8 of the European Convention on Human Rights (ETS no. 5, "the Convention") (right to respect for private life) because of the disbarment in 2011-2013 and 2015 of the applicants, two famous lawyers who defended political opposition figures and were committed to the defence of human rights.<sup>58</sup> In the case of *Aslan Ismayilov*, it found a violation of the right to a fair trial (Article 6 of the Convention) owing to the disbarment, in 2013-2014, of the applicant, a civil society activist who was critical of the authorities. In all three cases, the Court held that the domestic court decisions were not based on relevant grounds<sup>59</sup>. The execution of these three judgments is currently being examined by the Committee of Ministers, which, when last examining the cases in September 2021, expressed concern over the delay in the provision of information by the Azerbaijani authorities as regards the individual and general measures<sup>60</sup>. Where the individual measures were concerned, the Committee of Ministers asked that proceedings against the applicants be re-opened<sup>61</sup>. The Azerbaijani delegation has informed me in the meantime that MM Namazov and Bagirov could gain readmission to the ABA by retaking their lawyer examination. As for the general measures, the Committee of Ministers invited the Azerbaijani authorities *inter alia* to "consider taking measures to ensure that domestic law provides for specific grounds which could serve as a basis for exclusion from ABA" and to "put in place sufficient safeguards to prevent

<sup>47</sup> See [Council of Europe must urge Azerbaijan to improve situation for human rights defenders](#), European Human Rights Advocacy Centre (EHRAC), July 2020.

<sup>48</sup> EHRAC and Middlesex London University, *Azerbaijani Human Rights Lawyers who have been disbarred, suspended or criminally prosecuted*, January 2021, p. 7.

<sup>49</sup> For more information, see *Mid-term Report – Review of the implementation of recommendations UPR 2018 by Azerbaijan*, Lawyers for Lawyers and The Law Society of England and Wales.

<sup>50</sup> EHRAC and Middlesex London University, *op. cit.*, p. 6. See also [Disbarment of Shahla Humbatova and Irada Javadova overturned](#), Lawyers for Lawyers, 6 May 2021.

<sup>51</sup> See the FIDH [Urgent Appeal](#) of 15 October 2020: *Azerbaijan: Sentencing and ongoing arbitrary detention of Mr. Elchin*.

<sup>52</sup> [Deteriorating health conditions of Elchin Mammad](#), OMCT, 16 June 2021.

<sup>53</sup> [Denial of mitigation of sentence of Elchin Mammad](#), FIDH, 22 October 2021.

<sup>54</sup> [Azerbaijan: Denial of the commutation of sentence for Elchin Mammad](#), FIDH, 16 December 2021.

<sup>55</sup> Application no. 74354/13, judgment of 30 January 2020.

<sup>56</sup> Application no. 18498/15, judgment of 12 March 2020.

<sup>57</sup> Applications no. 81024/12 and 28198/15, 25 June 2020.

<sup>58</sup> In the case of *Bagirov v. Azerbaijan*, the Court also held that this measure breached Article 10 of the Convention (freedom of expression). Furthermore, the decision of the ABA presidium to suspend the lawyer from practising for one year was held contrary to Articles 8 and 10 of the Convention as it was not "prescribed by law"..

<sup>59</sup> In *Namazov* (paragraph 51) and *Bagirov* (paragraphs 84 and 102), the Court also noted that the sanction imposed on the applicant was disproportionate to the legitimate aim pursued.

<sup>60</sup> CM/Del/Dec(2021)1411/H46-4, decision adopted at the 1411<sup>th</sup> meeting (DH) (14-16 September 2021), paragraph 2.

<sup>61</sup> *Ibid*, paragraph 3.

undue disciplinary action against lawyers in the exercise of their professional duties and that disciplinary proceedings are carried out in line with Convention and Council of Europe standards (...)"<sup>62</sup>. The abuse of disciplinary action in respect of lawyers handling sensitive cases was also criticised by the Council of Europe Commissioner for Human Rights, Dunja Mijatović, in a report following her visit to Azerbaijan in July 2019.<sup>63</sup>

21. In recent years, the European Court of Human Rights has found breaches of the Convention in several cases concerning the arbitrary arrest and detention of political opposition figures, civil society activists, human rights defenders and critical journalists, often in tandem with infringements of their freedom of expression or assembly.<sup>64</sup> In September 2020, it found several breaches of the Convention in a case concerning the pre-trial detention in 2014 of a renowned journalist, Rauf Mirgadirov, who had been charged with and then convicted of high treason.<sup>65</sup> Nine other judgments also found breaches of Article 18 taken in conjunction with Article 5 of the Convention based on misuse by the authorities of criminal law provisions in relation to arrest and detention for purposes not permitted by the Convention.<sup>66</sup> In one of these judgments – *Aliyev v. Azerbaijan*<sup>67</sup> – the Court held that there was “a troubling pattern of arbitrary arrest and detention of government critics, civil society activists and human-rights defenders through retaliatory prosecutions and misuse of criminal law in defiance of the rule of law”. The Court therefore called on Azerbaijan to take general measures to “focus on the protection of critics of the government, civil society activists and human-rights defenders against arbitrary arrest and detention. The measures to be taken must ensure the eradication of retaliatory prosecutions and misuse of criminal law against this group of individuals and the non-repetition of similar practices in the future”.<sup>68</sup> The overturning of the criminal convictions of Ilgar Mammadov and Rasul Jafarov by the Plenum of the Supreme Court of Azerbaijan on 23 April 2020,<sup>69</sup> and those of Rashad Hasanov, Zaur Gurbanli, Uzeyir Mammadli and Rashadat Akhundov on 19 November 2021<sup>70</sup> which acknowledges the moral damage suffered as a result of their illegal arrest and detention, pursuant to judgments delivered by the Court, are a step in the right direction. Nevertheless, the convictions of the other applicants who were detained for similar reasons are still in force and the Committee of Ministers is continuing to consider this issue as part of its supervision of the enforcement of the Court’s judgments.<sup>71</sup>

22. In October 2021, the Court delivered its judgment in the case *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*,<sup>72</sup> which concerned judicial orders against the applicants, a human-rights NGO and its chairman (a human rights lawyer), pending the investigation into a criminal case brought against a number of NGOs in 2014 for alleged financial irregularities. It found, amongst others, a violation of Article 1

<sup>62</sup> Ibid, paragraphs 5 and 6.

<sup>63</sup> CommDH(2019)27, 11 December 2019, paragraphs 92-96.

<sup>64</sup> See my predecessor’s declassified introductory memorandum, AS/Jur(2019)31, *op. cit.*, paragraph 16.

<sup>65</sup> *Mirgadirov v. Azerbaijan*, application no. 62775/14, judgment of 17 September 2020. The Court found breaches of Articles 5§1 (two), 5§4, 6§2 and 8 of the Convention.

<sup>66</sup> *Rasul Jafarov v. Azerbaijan*, application no. 69981/14, judgment of 17 March 2016; *Mammadli v. Azerbaijan*, application no. 47145/14, judgment of 19 April 2018; *Rashad Hasanov and Others v. Azerbaijan*, application no. 48653/13+, judgment of 7 June 2018; *Aliyev v. Azerbaijan*, application no. 68762/14+, judgment of 20 September 2018; *Natiq Jafarov*, application no. 64581/16, judgment of 7 November 2019; *Ibrahimov and Mammadov v. Azerbaijan*, application no. 63571/16, judgment of 13 February 2020; *Khadija Ismayilova v. Azerbaijan (No. 2)*, application no. 30778/15, judgment of 27 February 2020 and *Yunusova and Yunus v. Azerbaijan*, application 68817/14, judgment of 30 July 2014. On 18 February 2021, the Court passed a judgment finding a breach of Article 5§3 and Article 18 taken in conjunction with 5§3 of the Convention in a case concerning the pre-trial detention between 2013 and 2014 of the applicants, students and activists from the NIDA movement: *Azizov and Novrozlu v. Azerbaijan*, applications no. 65583/13 and 70106/13.

<sup>67</sup> *Aliyev v. Azerbaijan*, *op. cit.*, paragraph 223.

<sup>68</sup> *Ibid.*, paragraph 226.

<sup>69</sup> In the case of Ilgar Mammadov – following the issuing, by the Committee of Ministers, for the first time, of infringements proceedings under Article 46 § 4 of the Convention. See Final Resolution CM/ResDH(2020)178 adopted by the Committee of Ministers on 3 September 2020, as well as the Addendum to the report by the Assembly’s Committee on Legal Affairs and Human Rights on “The implementation of judgments of the European Court of Human Rights”, rapporteur Mr Constantinios Efstathiou (Cyprus, SOC), [Doc. 15123 Add.](#), 26 November 2020.

<sup>70</sup> On 19 November 2021, the Plenum of the Supreme Court, in the light of the judgment passed by the Court in the case of *Rashad Hasanov and others*, quashed the four applicants’ convictions in this case, discontinued criminal proceedings against them and awarded them compensation for unlawful arrest and detention. Accordingly, the Committee of Ministers decided that no other individual measure was required in respect of the applicants Rashad Hasanov, Zaur Gurbanli, Uzeyir Mammadli and Rashadat Akhundov, and it adopted Final Resolution [CM/ResDH\(2021\)426](#) at its 1419<sup>th</sup> meeting, 30 November – 2 December 2021 (DH).

<sup>71</sup> See also the decision adopted at its 1419<sup>th</sup> meeting, 30 November – 2 December 2021 (DH) meeting: [CM/Del/Dec\(2021\)1419/H46-4](#).

<sup>72</sup> *Democracy and Human Rights Resource Centre and Mustafayev v. Azerbaijan*, application Nos. 74288/14 and 64568/16, judgment of 14 October 2021 (not final yet).



of Protocol No. 1 to the Convention (protection of property) in respect of both applicants as concerned the freezing of their bank accounts, and two violations of Article 2 of Protocol No. 4 to the Convention (freedom of movement) on account of travel bans imposed on Mr Mustafayev by the prosecuting authorities and by the domestic courts. Moreover, it considered that the purpose of the restrictions on the applicants' rights had been to punish them for their work in the area of human rights and to prevent them from continuing their activities (violation of Article 18 taken in conjunction with Article 1 of Protocol No. 1 in respect of both applicants and in conjunction with Article 2 of Protocol No. 4 in respect of Mr Mustafayev).<sup>73</sup> On 2 December 2021, the Court delivered another judgment – *Election Monitoring Centre and Others v. Azerbaijan*<sup>74</sup> – concerning the attempts from 2006-2008 to have the applicant association officially registered as well as its dissolution shortly after its registration (two violations of Article 11 of the Convention, enshrining the right to freedom of association). These two judgments are not yet final.

### 3.2.2. Russian Federation

23. For several years, the Assembly has been concerned about the situation of human rights defenders in Russia. The conditions in which they work have deteriorated further in recent months. Noteworthy in this context is the arbitrary arrest of the Russian opposition politician and anti-corruption campaigner Alexei Navalny on 17 January upon his return to Moscow from Germany, where he had been treated after being poisoned.<sup>75</sup> At the end of February, he was transferred to a prison colony where he is serving a prison sentence of two years and eight months, which was imposed on him following a trial that was found to have been unfair by the European Court of Human Rights.<sup>76</sup> In October 2021, Mr Navalny was awarded the Sakharov Prize for Freedom of Thought by the European Parliament.<sup>77</sup> However, I will not dwell further on Mr Navalny's situation in the light of his political activities and the fact that our fellow committee member Mr Jacques Maire (France, ALDE) has already prepared his reports on the poisoning of this Russian politician and activist,<sup>78</sup> and on his arrest and detention in January 2021.<sup>79</sup>

24. According to data reported by Human Rights Watch, on 23 January 2021 the police arrested over 3,650 people who had demonstrated in Russia against the arrest of Alexei Navalny and, more generally, corruption in the country.<sup>80</sup> Excessive use of armed force by the police in these interventions was reported, even though the gatherings had been largely peaceful. Several people, including colleagues of Mr Navalny and activists, were placed in detention before and during the demonstrations. On 22 January 2021, the lawyer Mikhail Benyash was arrested after posting a message on social media asking his colleagues to provide legal assistance to the detainees. Lyubov Sobol, a lawyer from the Anti-Corruption Foundation (FBK) created by Mr Navalny, was also arrested while speaking to journalists during a demonstration. Then, on 10 February 2021, a court in Moscow took a decision *in absentia* to place Leonid Volkov, a blogger and associate of Alexei Navalny living in Lithuania, in detention in proceedings in which he was charged with having incited minors to take part in demonstrations; later, an international warrant was issued for his arrest. Lastly, on 31 January 2021, members of the NGO Committee for the Prevention of Torture – Konstantin Gusev, Magomed Alamov, Ekaterina Vanslova, Sergey Shunin, Igor Kalyapin (winner of the Assembly's Human Rights Prize in 2011) and Timur Rakhmatulin – were arrested while observing demonstrations in support of Alexei Navalny in Pyatigorsk, Nizhny Novgorod and Orenburg<sup>81</sup>.

25. The alert was also raised over a number of bills tabled in the State Duma in November 2020 which sought to place further restrictions on the rights to freedom of association, peaceful assembly and expression by extending the legislation's scope to "foreign agents" and which were eventually adopted at the end of

<sup>73</sup> Ibid, paras 107-111.

<sup>74</sup> Application No. 64733/09, judgment of 2 December 2021 (not final yet).

<sup>75</sup> See the article [Russian Authorities Jail Poisoned Putin Critic](#), Human Rights Watch, 19 January 2021.

<sup>76</sup> See *Navalnyy v. Russia*, application no. 101/15, judgment of 17 October 2017. See also other judgments of the Court concerning oppression directed against the opposition figure: *Navalnyy v. Russia*, applications no. 29580/12 and others, 15 November 2018 and *Navalnyy v. Russia (no. 2)*, application no. 43734/14, 9 April 2019.

<sup>77</sup> [Alexei Navalny awarded the European Parliament's 2021 Sakharov Prize](#), European Parliament, 20 October 2021.

<sup>78</sup> „Poisoning of Alexei Navalny”, [AS/JUR \(2021\) 26 \(provisional version\)](#), adopted by the Committee on Legal Affairs and Human Rights at its meeting in Paris on 7 December 2021.

<sup>79</sup> [Doc. 15270](#) of 19 April 2021 and the Assembly's [Resolution 2375 \(2021\)](#) and [Recommendation 2202 \(2021\)](#) adopted on 22 April 2021.

<sup>80</sup> See the article [Russia: Police Detain Thousands in Pro-Navalny Protests](#), Human Rights Watch, 25 January 2021. According to the Russian NGO OVD-Info, the number of people was at least 4,000. Furthermore, at least 5,754 people were arrested on 31 January and 1,512 were arrested on 2 February.

<sup>81</sup> See the urgent appeal from the Observatory for the Protection of Human Rights Defenders of 10 February 2020, *Russia: Arbitrary detention of seven members of the Committee Against Torture*.

2020/beginning of 2021. I have already alerted the committee to this while preparing my report on “Restrictions on NGO activities in Council of Europe member States”. Further to my request, the committee requested an opinion from the European Commission for Democracy through Law (Venice Commission) at its meeting of 8 December 2020. It may be recalled that since 2014, NGOs receiving donations from abroad have been required to register as “foreign agents” with the Ministry of Justice.<sup>82</sup> Following the latest changes in the law (Federal Law no. 481-FZ), private individuals (including non-Russian citizens in some cases) and groups of people (associations without the status of legal entities) must now register as “foreign agents” if they engage in “political activity” in Russia and receive funding from foreign countries, on the basis of a very broad definition.<sup>83</sup> The law also obliges these people to regularly report on their activities, failing which they face a fine or a prison sentence of up to five years’ imprisonment. In July 2021, the Venice Commission adopted its opinion on the series of bills introduced to the Russian State Duma between 10 and 23 November 2020, to amend laws affecting “foreign agents”.<sup>84</sup> It concluded that the amendments violated basic human rights, including the freedoms of association and expression, the right to privacy, the right to participate in public affairs, as well as the prohibition of discrimination<sup>85</sup> and that the combined effect of the recent reforms enabled authorities “to exercise significant control over the activities and existence of associations as well as over the participation of individuals in civic life”.<sup>86</sup>

26. It should also be remembered that December 2019 saw the enactment of a law providing that any individual who receives foreign funding and creates or distributes media publications can be labelled as a media “foreign agent” (Federal Law no. 426-FZ). On 28 December 2020, for the first time on the basis of this law, five people were classified as “foreign agents”, including the famous human rights defender Lev Ponomarev, the Saint Petersburg activist Darya Apakhonchich, the editor-in-chief of the newspaper *Pskov Gubernia*, Denis Kamalyagin, and the journalists Lyudmila Savitskaya and Sergei Markelov. In 2021, the Russian authorities included on the ‘foreign agents’ list a number of investigative journalists and independent media outlets (including ‘Meduza’,<sup>87</sup> RadioFreeEurope/RadioLiberty,<sup>88</sup> ‘The Insider’;<sup>89</sup> Dozhd;<sup>90</sup> and iStories.<sup>91</sup>), the Chief editor of Sota.vision (an analytical media outlet), Oleg Elanchik.<sup>92</sup> the Institute of Law and Public Policy<sup>93</sup> (a research organisation working on human rights), the independent election monitoring group Golos<sup>94</sup> and Nobel Call<sup>95</sup> (an organisation created by nine people who were previously working in other media declared ‘foreign agents’). On 29 September 2021, the Ministry of Justice had declared OVD-Info, an independent human rights media project disseminating information about violations of the right to freedom of assembly, a “foreign agent”, thus including the group in the registry of unregistered public organisations labelled foreign agents. On 25 December 2021, without sending any official notification, Roskomnadzor, Russia’s media regulator, requested the blocking of OVD-Info’s website and also requested social media enterprises (in particular Twitter, Facebook, Instagram, Vkontakte and Telegram) to block accounts of the organisation.<sup>96</sup>

27. I am particularly dismayed by the recent dissolution of the two most influential and highly respected human rights organisations International Memorial, documenting crimes committed during the Soviet period, and Human Rights Centre Memorial, advocating for the protection of human rights in Russia, exposing abuses,

<sup>82</sup> See my report on “Restrictions on NGO activities in Council of Europe member States”, *op. cit.*, paragraph 17.

<sup>83</sup> See FIDH, [Russia: New ‘Foreign Agent’ Legislation Will Further Undermine Civil Liberties](#), 7 January 2021.

<sup>84</sup> Opinion No. 1014 / 2020, CDL-AD(2021)027, adopted at the Venice Commission 127th Plenary Session (Venice and online, 2-3 July 2021).

<sup>85</sup> *Ibid*, para 91.

<sup>86</sup> *Ibid*, para 92.

<sup>87</sup> [Statement by the Spokesperson on labelling Meduza as “foreign agent”](#), European Union, European External Action Service (EEAS), 24 April 2021.

<sup>88</sup> This problem was raised by the US President Joe Biden at the summer summit with the Russian President Vladimir Putin in Geneva [At Summit With Putin, Biden Raises Issue Of RFE/RL’s ‘Foreign Agent’ Designation And Its ‘Ability To Operate’ in Russia](#), RadioFreeEurope/RadioLiberty, 16 June 2021.

<sup>89</sup> [Russian Media Regulator Files Case Against The Insider Over ‘Foreign Agent’](#) Labeling Fine, RadioFreeEurope/RadioLiberty, 18 November 2021.

<sup>90</sup> [Russian Justice Ministry Declares Dozhd TV A ‘Foreign Agent’](#), RadioFreeEurope/RadioLiberty, 20 August 2021.

<sup>91</sup> [Russia brands iStories a: ‘foreign agent’ in independent media crackdown](#), International Consortium of Investigative Journalists, 20 August 2021.

<sup>92</sup> [Sota.Vision editor-in-chief Oleg Elanchik was added to the register of media “foreign agents”](#), Generico.ru, 2 November 2021.

<sup>93</sup> [Russian Institute of Law and Public Policy was declared a foreign agent](#), DW, 15 July 2021.

<sup>94</sup> [Russia names Golos monitor as ‘foreign agent’ ahead of election](#), BBC News, 19 August 2021.

<sup>95</sup> [The editor-in-chief of Sota.vision and the Nobel Prize was added to the register of “foreign agents”](#), Perild, 26 November 2021.

<sup>96</sup> [Russian Federation: Blocking of the website of OVD-Info, OMCT](#), 6 January 2021.

including in the North Caucasus, and maintaining a list of political prisoners.<sup>97</sup> The liquidation of these two important organisations was ordered the Supreme Court respectively on 28 and 29 December 2021, for allegedly violating the ‘foreign agent’ laws (because of the absence of “foreign agent” marking on some of the documents published on social media), following proceedings launched by the Prosecutor General.<sup>98</sup> Both organisations intend to appeal against these decisions. During the trial, they had been accused of “distorting historical memory, especially that of the Great Patriotic War” and “creating a false image of the USSR as a terrorist state”. On 29 December, the European Court of Human Rights ordered Russia to “suspend” the enforcement of the decisions to dissolve both International Memorial and HRC Memorial, under Rule 39 of the Rules of Court. In her statement of 28 December 2021, the Secretary General of the Council of Europe considered that the liquidation of International Memorial was “devastating news for civil society in the Russian Federation”, which “appears to be moving further away from our common European standards and values”.<sup>99</sup> On 29 December 2021, the Commissioner for Human Rights also condemned the decision to liquidate both NGOs.<sup>100</sup>

28. Other civil society organisations and their members were sanctioned for non-compliance with the “foreign agent” legislation. For example, in March 2021, Alexei Navalny’s Anti-Corruption Foundation was fined for non-registration as a foreign agent for an amount of 500 000 rouble (around 6,000 EUR).<sup>101</sup> In July 2021, Semyon Simonov, the head of the Southern Human Rights Centre in Sochi, was sentenced to 250 hours of community service for his organisation’s failure to pay a fine of 300,000 Russian roubles (about 3,900 EUR) imposed in 2017 for failure to register as a “foreign agent.” He had repeatedly submitted documents showing the organisation did not have funds or property to pay the fine.<sup>102</sup>

29. In addition, several organisations and activists have been prosecuted under the 2015 law on “undesirable organisations” (Federal Law no. 129-FZ, subsequently amended).<sup>103</sup> They include Anastasia Shevchenko, the former regional co-ordinator of the *Open Russia* movement,<sup>104</sup> who went on trial on 17 June 2020.<sup>105</sup> On 18 February 2021, a court in Rostov-on-Don found her guilty of “conducting activities of an undesirable organisation” and sentenced her to four years’ imprisonment, suspended.<sup>106</sup> Another former member of *Open Russia*, Iana Antonova, was found guilty on 2 October 2020 of “involvement in the activities of an undesirable organisation” and sentenced to 240 hours of community work. On 31 May 2021, Andrei Pivovarov, a former Executive Director of *Open Russia*, was forcefully disembarked at St. Petersburg Airport and placed in detention on remand on the basis of charges of “participation in the activities of a foreign NGO considered as undesirable”.<sup>107</sup> His detention was prolonged for six more months as of November 2021.<sup>108</sup> On 1 December 2021, the Nizhny Novgorod Regional Court upheld the previous decision by the Nizhny Novgorod Soviet District Court to find human rights defender Igor Kalyapin guilty of “participating in the activities of an undesirable organisation”. Mr Kalyapin, who was the laureate of the Assembly’s Human Rights Prize in 2011 and is the chairperson of the Committee Against Torture (CAT) and of the Joint Mobile Group (JMG), investigating human rights abuses in Chechnya, considers this prosecution a consequence of his human rights work.<sup>109</sup> In addition to that, other organisations were declared as “undesirable” in 2021. These are, in particular,

<sup>97</sup> [Press briefing notes on Russia](#), OHCHR, 19 November 2021.

<sup>98</sup> [Russian Federation: Liquidation of International Memorial and the Human Rights Center “Memorial”](#), FIDH, 30 December 2021.

<sup>99</sup> [Secretary General: liquidation of International Memorial marks a dark day for civil society in the Russian Federation – Newsroom](#), 28 December 2021.

<sup>100</sup> [The liquidation of Memorial NGOs is a harsh blow to human rights protection in Russia, 29 December 2021](#).

<sup>101</sup> [Kremlin Critic Navalny’s Group Fined For Failing To Register As Foreign Agent](#), RadioFreeEurope/RadioLiberty, 05 March 2021.

<sup>102</sup> [Russia: Free Semyon Simonov and stop criminalising human rights defenders for legitimate work – UN expert](#), OHCHR, 31 August 2021.

<sup>103</sup> For more information about the implementation of this law, see my report on “Restrictions on NGO activities in Council of Europe member States”, *op. cit.*, paragraph 19.

<sup>104</sup> The *Open Russia* movement, which was founded by the opposition figure and former prisoner of conscience Mikhail Khodorkovsky and 30 foreign NGOs, was banned on account of being regarded as an “undesirable organisation” on 26 April 2017.

<sup>105</sup> See [Russia: Prisoner of conscience Anastasia Shevchenko’s trial starts](#), Amnesty International, 17 June 2020.

<sup>106</sup> Amnesty International, *Russia. Prisoner of conscience Anastasia Shevchenko convicted, given suspended prison sentence*, 18 February 2021.

<sup>107</sup> See my statement of 6 June 2021: [Statement by a rapporteur on the arrest of Andrei Pivovarov](#).

<sup>108</sup> [The Court Prolonged arrest for the oppositioner Anrei Pivovarov for half of the year](#), DW, 11 November 2021.

<sup>109</sup> [Charges against human rights defender Igor Kalyapin sustained](#), Front Line Defenders.

three German NGOs,<sup>110</sup> the Prague-based *Společnost Svobody Informace* (Freedom of Information Society),<sup>111</sup> the media outlet *Proekt*<sup>112</sup> and the International Partnership for Human Rights.<sup>113</sup>

30. Other cases of reprisals (arbitrary arrest, detention and disproportionate fines) against human rights defenders have been reported over the last few months. Many of such cases concerned persons who cooperated with Memorial. On 29 September 2020, the sentencing of its local director, historian and human rights defender Yuri Dmitriev, 64 years old, who is known for his research work and efforts to commemorate the victims of Stalinist repression, to 13 years' imprisonment drew strong reactions. He was convicted by the Supreme Court of Karelia, at second instance, of "violent acts of a sexual nature against a person under the age of 14", i.e. his adoptive daughter. The judge also referred the charges concerning "indecent assault without resort to violence against a person under the age of 16", "production of child pornography" and illegal possession of weapons back to the court of first instance for reconsideration even though he had been acquitted of these charges.<sup>114</sup> Furthermore, when Mr Dmitriev's lawyer was unable to attend the appeal hearing for medical reasons, the judge refused to postpone the hearing. On this occasion, the Commissioner for Human Rights, Dunja Mijatović, considered that Mr Dmitriev's trial had not been fair and called on the Russian authorities to end their judicial harassment of civil society in Russia.<sup>115</sup> Despite this, on 27 December 2021, two more years were added to the 13-year prison sentence (which had been confirmed by the Supreme Court in October 2021), following a judgment of the Petrozavodsk on other charges.<sup>116</sup> Moreover, in April 2021, Sergei Davidis, a member of the board of Memorial Human Rights Centre, was sentenced to 10 days of administrative detention for having retweeted a tweet on rallies in support of Alexei Navalny.<sup>117</sup>

31. In 2020, Dunja Mijatović reacted to a number of reprisals against Russian human rights defenders. She demanded the halting of criminal proceedings, against the editor Abdulmumin Gadzhiev, Yulia Tsvetkova, a women's and LGBTI rights activist, and Semyen Simonov.<sup>118</sup> She criticised the sentencing to a large fine (of approximately EUR 6,000) of the freelance journalist Svetlana Prokopyeva, who had commented on a suicide attack during a radio broadcast in 2017, which amounted, in the eyes of the Russian authorities, to "publicly justifying terrorism".<sup>119</sup>

32. Other cases of reprisals followed in 2021. For instance, in April 2021, the EU strongly condemned the raid, brief detention and interrogation of Roman Anin, editor in chief of iStories, who had conducted numerous journalistic investigations on corruption and organised crime in Russia.<sup>120</sup> In May 2021, Ivan Pavlov, a prominent human rights lawyer, director of the association of journalists and lawyers Team 29 and winner of the Moscow Helsinki Group Award, was briefly arrested and his office and residence were raided.<sup>121</sup> In June 2021, the house of human rights defender Ernest Mezak and the house of his elderly mother were searched by police officers and his IT equipment was confiscated as part of the investigation in the criminal case against him for "insulting a judge", who had fined him for his participation in a demonstration in support of Alexei Navalny.<sup>122</sup> In September 2021, Valentina Chupik, migrants' rights defender and head of the human rights organisation 'Tong Jahoni', who had previously fled her home country Uzbekistan, was arbitrarily detained at the Sheremetyevo International Airport (Moscow), illegally deprived of her refugee status and banned from entering Russia for 30 years. This occurred apparently in connection with Ms. Chupnik's investigation into

<sup>110</sup> [Designations of "undesirable organisations" by Russia must end](#), OMCT, 10 June 2021.

<sup>111</sup> [Russia: Statement by the Spokesperson on continued crackdown on the civil society](#), EEAS, 01 July 2021.

<sup>112</sup> [Proekt is first Russian media outlet to be declared "undesirable"](#), Reporters without borders, 19 July 2021.

<sup>113</sup> [IPHR regrets designation as "undesirable organization" in Russia](#), International Partnership for Human Rights, 13 August 2021.

<sup>114</sup> See FIDH, [Urgent Appeal](#) of 2 October 2020.

<sup>115</sup> See [Statement of the Commissioner for Human Rights](#) of 30 September 2020: *The authorities should end continuous judicial harassment of human rights defenders*.

<sup>116</sup> [After two acquittals, Russia finds more compliant judges to pass 15-year sentence against historian of the Terror Yury Dmitriev](#), Kharkiv Human Rights Protection Group, 28 December 2021.

<sup>117</sup> For more details see [Russia: Conviction and arbitrary detention of Sergei Davidis](#), FIDH, 29 April 2021.

<sup>118</sup> In relation to Semyen Simonov, a preliminary statement had already been released: [Statement of the Commissioner for Human Rights](#) of 20 July 2020: *Commissioner calls on Russian authorities to drop charges against human rights defender Semyen Simonov*.

<sup>119</sup> Commissioner for Human Rights, *The Russian authorities should remedy the long-standing problem of undue restrictions to freedom of assembly, freedom of expression and press freedom*, 6 July 2020.

<sup>120</sup> [Statement by the Spokesperson on the actions against investigative journalist Roman Anin](#), EEAS, 11 April 2021.

<sup>121</sup> [Judicial harassment of human rights lawyer Ivan Pavlov](#), FIDH, 12 May 2021.

<sup>122</sup> [Human rights defender Ernest Mezak facing criminal charge for insulting a judge](#), Front Line Defenders..



corruption within the Ministry of Internal Affairs.<sup>123</sup> After the European Court of Human Rights had prohibited her deportation to Uzbekistan, she relocated to Armenia.<sup>124</sup>

33. The situation of human rights defenders in the North Caucasus region, especially in the Chechen Republic, is particularly worrying. The Assembly had already pointed it out in its [Resolution 2157 \(2017\)](#) “Human rights in the North Caucasus: what follow-up to [Resolution 1738 \(2010\)](#)?”<sup>125</sup> and these issues are currently being looked into by our colleague Mr Frank Schwabe (Germany, Socialist Group), who is preparing a report on “The continuing need to restore human rights and the rule of law in the North Caucasus region”. In February 2020, the Commissioner for Human Rights expressed indignation over the attack by unknown persons on the lawyer Marina Dubrovina and the journalist Elena Milashina in Grozny (in the Chechen Republic)<sup>126</sup> and asked the Russian authorities to carry out an appropriate investigation into the circumstances of this attack. In November 2020, she also expressed concern over the disappearance of Salman Tepsurkayev, the 19-year-old chat moderator of the “1ADAT” news channel on Telegram, who was abducted by Chechen police officers in early September<sup>127</sup>. In March 2021, she also condemned the attacks, smear campaigns and intimidation against journalists of ‘Novaya Gazeta’, a well-respected newspaper that had revealed extrajudicial executions and other outrageous human rights violations committed in Chechnya over the last years.<sup>128</sup> Moreover, on 10 June 2021, women human rights defenders Svetlana Anokhina and Maysarat Kilyashanova were attacked and detained during a raid on a women's shelter for victims of gender-based violence in Makhachkala (Dagestan).<sup>129</sup>

34. In this context, it is also worrying that on 2 December 2020, Vanessa Kogan, the American director of the NGO *Justice Initiative*, who does a lot of work in relation to the human rights situation in the North Caucasus including the enforcement of the Court’s judgments on breaches of the Convention in this region, was notified of a decision on the revocation, for reasons of national security, of her permit to reside in Russia, where she has been living for 11 years. She is married to a Russian citizen, Grigor Avetisyan, who works for the same NGO and with whom she has two children. She subsequently appealed the decision to revoke her residence permit and lodged an application with the European Court of Human Rights alleging a breach of her right to family life (Article 8 of the Convention). On 11 December, the Court indicated an interim measure by asking the Russian authorities not to expel Mrs Kogan for the duration of the proceedings before it. On 2 February, it communicated this case to the authorities.<sup>130</sup> Moreover, the Court finally delivered its judgment in the case of Natalya Estemirova, a Memorial employee who had conducted investigations regarding torture and executions in Chechnya and had been kidnapped and killed by unknown persons in 2009. The Court acknowledged, inter alia, that Article 2 of the Convention (right to life) was violated under its procedural limb as the Russian Federation failed to ensure an effective and prompt investigation into her death.<sup>131</sup> The judgment is not final yet.

35. In Crimea, which had been illegally annexed by the Russian Federation, the repression of Tatar defenders continues. On 16 September 2020, Server Mustafayev, the co-ordinator of a grassroots group called *Crimean Solidarity* which was created after Crimea was annexed by Russia, was sentenced to 14 years’ imprisonment after being charged with belonging to a terrorist organisation and planning to “violently seize power”.<sup>132</sup> The Tatar human rights defender and president of the *Crimean Contact Group on Human Rights* in Yalta, Emir Usein Kuku, was sentenced on appeal to 12 years’ imprisonment on 25 June 2020 on similar charges.<sup>133</sup> On 1 June 2021, the Russian-controlled court in Simferopol sentenced *in absentia* Refat Chubarov,

<sup>123</sup> [Arbitrary detention and imminent deportation of Valentina Chupik](#), FIDH, 28 September 2021.

<sup>124</sup> [Human Rights Defender Valentina Chupik has left Russia](#), DW, 02 October 2021.

<sup>125</sup> Adopted on 25 April 2017. See also [Doc. 14083](#) of 8 June 2016, report by our former fellow Committee member Mr Michael McNamara, paragraphs 17 to 27.

<sup>126</sup> Commissioner for Human Rights, *Commissioner calls on the Russian authorities to investigate assaults against journalist Elena Milashina and lawyer Marina Dubrovina in Chechnya*, 7 February 2020.

<sup>127</sup> See the [letter](#) that she sent to Mr Alexander Bastrykin, Chairman of the Investigative Committee of the Russian Federation, on 19 November 2020.

<sup>128</sup> [Human rights abuses in Chechnya should be investigated, not covered up](#), Commissioner for Human Rights, 18 March 2021.

<sup>129</sup> [Women human rights defenders Svetlana Anokhina and Maysarat Kilyashanova attacked and detained during raid on women's shelter for survivors of gender-based violence](#), Front Line Defenders, 17 June 2021.

<sup>130</sup> Application no. 54003/20.

<sup>131</sup> [Estemirova v Russia](#), application no. 42705/11, judgment of 31 August 2021.

<sup>132</sup> See [24 September 2020: Server Mustafayev sentenced to fourteen years in strict-regime correctional colony](#), Front Line Defenders.

<sup>133</sup> See [30 June 2020: Military court of appeal upholds Emir Usein Kuku's sentence of 12 years' imprisonment](#), Front Line Defenders.

chairman of the Mejlis, the Crimean Tatar People's self-governing body, to six years in prison on politically motivated charges.<sup>134</sup> At the beginning of September 2021, the Russian authorities conducted numerous illegal searches that resulted in the arbitrary arrest and detention of five Crimean Tatar leaders, namely Eldar Odamanov, Aziz Akhtemov, Nariman Dzhelyal, Shevket Useinov and Asan Akhtemov, as well as up to 50 other people.<sup>135</sup> The case of Nariman Dzhelyal, an indigenous and minority rights defender and the first deputy head of the Mejlis of the Crimean Tatar People, deserves particular attention as he has been arbitrarily arrested and placed in detention on remand for 'sabotage'.<sup>136</sup> Mr Dzhelyal pleaded not guilty and claimed that he was prosecuted for his activism in favour of the rights of Crimean Tatars. His detention was condemned by the Assembly's President Mr Rik Daems (Belgium, ALDE),<sup>137</sup> in line with the Assembly's Resolution 2387 (2021) on "Human rights violations committed against Crimean Tatars in Crimea" of 23 June 2021.<sup>138</sup>

### 3.2.3. Turkey

36. Following the July 2016 attempted coup, prosecutions, arbitrary detention and threats targeting political opposition figures, journalists, human rights defenders and other members of civil society have intensified in Turkey.<sup>139</sup> A great many cases of reprisals were reported in 2020 and 2021. To cite just a few examples, the case of Osman Kavala, a businessman and philanthropist, is a perfect illustration of the worrying situation of human rights defenders in the country. Osman Kavala has been kept in detention without having been convicted for over three years now. Although he was acquitted at first instance on 18 February 2020 of charges concerning an attempt to overthrow the Turkish government in relation to the events in Gezi Park in 2013 (Article 312 of the Criminal Code) and was due to be released thereafter, he was rearrested on the same day on the basis of charges relating to the attempted coup in 2016 (Article 309 of the Criminal Code). On 20 March 2020, the national court ordered his release in connection with the offence referred to in Article 309 of the Criminal Code, as he had already been detained for over two years for this offence (the maximum duration of pre-trial detention is two years). However, Mr Kavala was kept in detention, because, in the interim, the Prosecutor General's Office had widened and deepened the investigation and submitted new evidence, this time of an offence under Article 328 of the Criminal Code (espionage). In October, he was formally charged with offences under Articles 309 and 328 of the Criminal Code. Two appeals disputing the lawfulness of his detention have been dismissed by the Constitutional Court (the second was dismissed on 29 December). On 22 January 2021, Istanbul Court of Appeal decided to set aside the judgment passed by the court of first instance and acquitted him of the charges under Article 312 of the Criminal Code and referred to the case back to the court of first instance for reconsideration. On 5 February 2021, Istanbul Assize Court decided to join this case with the one concerning the charges under Articles 309 and 328 of the Criminal Code and adjourned the hearing in this case until May 2021. The 13th Assize Court prolonged the detention of Mr. Kavala on 1 September 2021.<sup>140</sup> In October 2021, after ten embassies (including those of the United States, France, and Germany) had called for the release of Mr. Kavala, Turkey's President Recep Tayyip Erdogan threatened to make the ambassadors of the respective countries *personae non gratae*.<sup>141</sup> At the end of September, in October and in November 2021, the domestic court reviewed the applicant's detention and decided not to release him, on each occasion by two votes to one. The next hearing is scheduled for 21 February 2022.<sup>142</sup> This means that Osman Kavala remains behind bars, despite the judgment handed down by the European Court of Human Rights on 10 December 2019, which held that his pre-trial detention was intended to reduce him to silence and act as a deterrent for other human rights defenders (a violation of Article 18 taken in conjunction with Article 5§1 of the Convention). This judgment called on Turkey to "[...] take every measure to put an end to the applicant's detention and to secure his immediate release".<sup>143</sup> In supervising the execution of this judgment, the Committee of Ministers had already taken eight decisions and one interim

<sup>134</sup> [Statement by the Spokesperson on the sentencing of the Chairman of the Mejlis of the Crimean Tatar People](#), EEAS 03 June 2021.

<sup>135</sup> [Statement by the Spokesperson on the detention of five Crimean Tatar leaders](#), EEAS, 07 September 2021.

<sup>136</sup> For more details see [Ukraine/Russian Federation: Arbitrary detention of Nariman Dzhelyal](#), FIDH, 14 September 2021.

<sup>137</sup> [PACE President expresses concerns regarding the recent detentions of the Crimean Tatars in Crimea, 4 October 2021](#).

<sup>138</sup> Based on a report by the Committee on Equality and Non-Discrimination, rapporteur: Ms Thorhildur Sunna Ævarsdóttir (Iceland, SOC), Doc. 15305.

<sup>139</sup> See *inter alia* the Report of the Commissioner for Human Rights of 19 February 2020 on this subject, following her visit to Turkey from 1 to 5 July 2019.

<sup>140</sup> [Turkey: prolongation of detention of Osman Kavala displays contempt for human rights and the rule of law](#), Commissioner for Human Rights, Council of Europe, 2 September 2021.

<sup>141</sup> [Turkey moves to throw out US envoy and nine others](#), BBC, 23 October 2021.

<sup>142</sup> [Turkey defies European deadline to release Osman Kavala from jail](#), Al Jazeera, 17 January 2022.

<sup>143</sup> *Kavala v. Turkey*, application no. 28749/18, 10 December 2019, paragraph 240. The Court held that Turkey also violated Articles 5§1 and 5§4 of the Convention recognising the right to liberty and security.

resolution<sup>144</sup> calling on the Turkish authorities to release the applicant immediately. It now appears necessary for the Committee of Ministers to serve formal notice of its intention to commence the infringement proceedings under Article 46 § 4 of the Convention. Thus, with this purpose, it adopted a second interim resolution on 2 December 2021.<sup>145</sup> The Assembly has also condemned Mr Kavala's detention in its [Resolution 2347 \(2020\)](#) and [Resolution 2357 \(2021\)](#).

37. Furthermore, the trial against the chair of the Turkish branch of Amnesty International, Taner Kılıç, and the director of Amnesty International, İdil Eser, along with nine other human rights defenders, all accused of "belonging to a terrorist organisation", has sparked several controversies. On 3 July 2020, Istanbul High Criminal Court sentenced Taner Kılıç to six years and three months' imprisonment for "belonging to an armed terrorist organisation".<sup>146</sup> Ms Eser, Günel Kurşun, a member of the *Human Rights Agenda Association*, and Özlem Dalkıran, a member of the *Citizens' Assembly* organisation,<sup>147</sup> were sentenced to 25 months' imprisonment for "knowingly and willingly aiding an armed terrorist organisation".<sup>148</sup> These sentences were upheld on appeal, but an appeal on points of law has been lodged. In addition, the new trial of the human rights defenders Şebnem Korur Fincancı (President of the Turkish Medical Association and board member of the Human Rights Foundation of Turkey), Erol Önderoğlu (a member of the Reporters without Borders NGO) and Ahmet Nesin (journalist) began on 3 February 2021, after their acquittal of July 2019 was overturned in November.<sup>149</sup> The charges against them relate to their involvement in a 2016 campaign of solidarity in support of the right to freedom of the press and the Kurdish daily newspaper *Özgür Gündem*, which has since been shut down. Among other cases listed by the Observatory for the Protection of Human Rights Defenders ("the Observatory"), on 16 November 2020, Dr Serdar Küni, a renowned physician and human rights defender, was sentenced, after his case had been reconsidered, to four years and two months' imprisonment for "belonging to a terrorist organisation" without any hard evidence apparently having been offered.<sup>150</sup> Lastly, on 17 February 2021, the former editor-in-chief of the newspaper *Özgür Gündem*, Eren Keskin, who is also co-president of the Human Rights Association (IHD), was sentenced to six years and three months' imprisonment for the aforementioned offence (at first instance).<sup>151</sup> In June 2021, Ms. Keskin was summoned to the Prosecutor's Office on Terrorism-Related Crimes for interrogation in relation to the reading of a press statement denouncing the dismissal of the Peoples' Democratic Party (HDP) mayors back in 2019.<sup>152</sup> We point out that judicial proceedings have been lodged against her on over a hundred occasions.<sup>153</sup> In April 2021, Ömer Faruk Gergerlioğlu, a long-standing human rights defender, former MP and president of the Association for Human Rights and Solidarity for the Oppressed, doctor and columnist, was imprisoned for 2.5 years for a social media post in 2016, calling for peace.<sup>154</sup> On 20 October 2021, the Diyarbakır 9th High Criminal Court sentenced Ayşe Gökkan, the Free Women's Movement Term Spokesperson, for a total of 30 years in prison mainly for 'membership of a terrorist organisation'.<sup>155</sup> At the end of September 2021, Benan Koyuncu, a prominent physician and human rights defender who reported cases of torture and ill treatment, was dismissed from public service for 'connection, affiliation or membership to terrorist organisations' by a decision of the Ministry of Health which lacked any reasoning.<sup>156</sup> I welcome the recent acquittal, for lack of evidence, of Dr. Şeyhmus Gökalp, a physician and volunteer of the Human Rights Foundation of Turkey, who had been detained for over three months on charges of "membership in an armed organisation" and "membership in a terrorist organisation". However, I would like to stress that he should have never been arrested and detained for the crimes he did not commit.<sup>157</sup> I am also concerned about the situation of Ersin Berke Gök and Caner Perit Özen, Boğaziçi University students, who had been arbitrarily detained since 5 October 2021, for their participation in

<sup>144</sup> Interim Resolution CM/ResDH(2020)361 of 3 December 2020.

<sup>145</sup> Interim Resolution CM/ResDH(2021)432 of 2 December 2021.

<sup>146</sup> For further information regarding Taner Kılıç, see the Front Line Defenders [article](#) about him.

<sup>147</sup> Citizens' Assembly is an organisation that promotes peace, democracy and civil society in Europe. Özlem Dalkıran is also a founding member of Amnesty International in Turkey (see [here](#) for more details).

<sup>148</sup> For more details, see [10 July 2020: Four human rights defenders sentenced, seven acquitted in Büyükada case](#), Front Line Defenders.

<sup>149</sup> For more details, see the [Joint Statement](#) of Front Line Defenders, the Observatory and the Human Rights Association (IHD) of 1 February 2021.

<sup>150</sup> See the Observatory's open letter of 15 January 2021 and the [Urgent Appeal](#) of 18 March 2020.

<sup>151</sup> Urgent Appeal from the Observatory of 17 February 2021.

<sup>152</sup> [Ongoing judicial harassment of human rights lawyer Eren Keskin](#), FIDH, 9 July 2021.

<sup>153</sup> [Urgent Appeal from the Observatory](#) of 28 May 2019.

<sup>154</sup> [Arbitrary detention of Ömer Faruk Gergerlioğlu](#), FIDH, 22 April 2021.

<sup>155</sup> [Turkey: Sentencing of woman rights defender Ayşe Gökkan](#), FIDH, 4 November 2021.

<sup>156</sup> [Turkey: Administrative harassment of physician and human rights defender Benan Koyuncu](#), OMCT, 18 November 2021.

<sup>157</sup> There is also a possibility of appeal as prosecutors objected to the release of Mr. Gökalp. For more details, see [Acquittal of Dr. Şeyhmus Gökalp](#), FIDH, 25 November 2021.

the “Boğaziçi Resistance Movement”, a student mobilisation that calls for academic freedom and peacefully protested against the appointment of rectors by President Recep Tayyip Erdoğan. For the first 51 days of their detention they were kept in solitary confinement. Then they remained in the high-security Silivri prison, in Istanbul, where they were denied correspondence with their relatives and attending university exams.<sup>158</sup> The first hearing in their case took place on 7 January 2021 and, fortunately, the domestic court decided to release the two students on probation.

38. In addition, human rights lawyers are particularly targeted by the authorities. A new law on bar associations seeking to make them less independent was passed in July 2020. The Assembly’s Monitoring Committee has requested an opinion on this law from the Venice Commission, which was delivered in October 2020 and in which the Venice Commission suggested to consider alternative solutions.<sup>159</sup> In September 2020, 47 lawyers were arrested and the Turkish Court of Cassation decided to uphold lengthy custodial sentences against 14 lawyers from the Progressive Lawyers’ Association who had been involved in cases “related to terrorism”. In addition, I was also deeply saddened by the death of the eminent Turkish human rights lawyer Ebru Timtik, who had died in detention in Turkey on 29 August 2019 following a hunger strike lasting 238 days, which she waged in order to obtain a fair trial for herself and 18 other detained lawyers who were human rights defenders and members of the Progressive Lawyers’ Association. She had been sentenced to thirteen and a half years’ imprisonment for “belonging to a terrorist organisation”.<sup>160</sup> Among the Association’s members, the lawyer Aytac Ünsal has also been detained since 2017 on terrorist charges. The Turkish Court of Cassation decided in September to suspend his imprisonment on health grounds. However, Aytac Ünsal was rearrested on 9 December 2020 to “prevent him leaving the territory” according to the allegations made by the Minister of the Interior, despite the critical state of his health and the Covid-19 health crisis.<sup>161</sup> In June 2021, the Urfa’s Sixth Heavy Penal Court sentenced Sevda Özbingöl Çelik, a human rights lawyer from the Urfa Bar Association and member of the Human Rights Association, to 11 years and six months of prison for alleged ‘membership to a terrorist organisation’.<sup>162</sup> In August 2021, Abdurrahman Karabulut, a lawyer representing the Kurdish Dedeoğlu family who had been victim of a serious racist attack, was threatened and harassed on social media. His criminal complaint did not give rise to any investigation.<sup>163</sup> Moreover, in September 2021, two members of the Hakkari bar Association, Harika Günay Karataş and Tevfik Gündüz, were harassed by soldiers of the Yüksekova District Gendarmerie.<sup>164</sup> In addition to that, Lütfiye Berfin Gökkan, the lawyer defending Ayşe Gökkan (see above), was harassed by a judge in a courtroom during the trial.<sup>165</sup>

39. A report by the Observatory of Human Rights Defenders and the Human Rights Association (IDH) published in July 2020 lists the restrictions affecting the right to freedom of expression, assembly and association in Turkey.<sup>166</sup> The report states that activists participating in peaceful demonstrations have been “systematically targeted and repressed by the authorities” and charged with offences under Law no. 2911, which includes criminal provisions against demonstrators. In 2019, police officers intervened by force during 1,215 demonstrations and at least 3,980 demonstrators were placed in detention.<sup>167</sup> It is principally defenders of LGBTI+ and women’s rights, defenders of the environment or defenders who deal with the Kurdish question who suffer these reprisals. A more recent report of May 2021 confirms the deterioration of the situation of human rights defenders, civil society actors and independent voices in Turkey.<sup>168</sup>

40. Finally, the entry into force of the new law on “Preventing the financing of the proliferation of weapons of mass destruction” (Law no. 7262) of 31 December 2020 jeopardises freedom of association and the activity of human rights defenders. This is because the new law includes provisions which enable the Minister of the Interior to appoint an administrator within organisations or suspend members where the latter are prosecuted for acts of terrorism. It also makes provision for a significant increase in administrative fines for organisations which collect donations through online platforms without obtaining permission in advance.<sup>169</sup> The use of this

<sup>158</sup> [Turkey: Immediately release Ersin Berke Gök and Caner Perit Özen](#), FIDH, 6 January 2022.

<sup>159</sup> Opinion No. 991 / 2020, CDL-AD(2020)029, adopted by the Venice Commission at its 124<sup>th</sup> online plenary session (8-9 October 2020).

<sup>160</sup> See the Observatory’s [Urgent Appeal](#) of 28 August 2020.

<sup>161</sup> See the Observatory’s [Urgent Appeal](#) of 8 January 2021.

<sup>162</sup> [Sentencing and continued judicial harassment of human rights lawyer Sevda Özbingöl Çelik](#), FIDH, 16 June 2021.

<sup>163</sup> [Threats and acts of harassment against human rights lawyer Abdurrahman Karabulut](#), FIDH, 20 August 2021.

<sup>164</sup> [Attack against lawyers Harika Günay Karataş and Tevfik Gündüz](#), FIDH, 08 September 2021.

<sup>165</sup> For more details, please see [Physical and verbal attack against Diyarbakir Bar Association Board Members and lawyers by police in courtroom](#), FIDH, 17 September 2021.

<sup>166</sup> For more details, read the [FIDH-OMCT Report](#) of 29 July 2020.

<sup>167</sup> *Ibid.*, p. 27.

<sup>168</sup> [Turkey: Ongoing Crackdown Poses Existential Threat to Independent Civil Society](#), FIDH-OMCT, 6 May 2021.

<sup>169</sup> For more information about the law, read the [Observatory’s Statement](#) of 15 January 2021.



legislation hinders even more the activities of human rights defence organisations, many of which have already been closed down on grounds of their alleged links with terrorism. It was condemned by the UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor.<sup>170</sup> In the light of these controversies, at my initiative, on 27 January 2021, the Committee on Legal Affairs and Human Rights requested the Venice Commission for an opinion on this law. The opinion was delivered in July 2021.<sup>171</sup> The Venice Commission concluded that the provisions relating to aid collection activities of associations could result in a serious restriction of their freedom of association<sup>172</sup> and made a number of recommendations to the Turkish authorities.<sup>173</sup>

### 3.2.4. Other cases of suspicions of reprisals against human rights defenders

41. Cases where human rights defenders have faced intimidation have also been reported in other Council of Europe member States. In **Andorra**, Vanessa Mendoza Cortés, a women’s rights activists, who campaigns for decriminalisation of abortion in Andorra, is under criminal investigation in connection to some of her public statements and, if convicted, she will face up to four years of imprisonment.<sup>174</sup> In **Armenia**, in May 2021, officers of the Investigation Department of the National Security Service of the Republic of Armenia searched the home of human rights defender Sashik Sultanyan, houses of his colleagues and an office of the Yezidi Centre for Human Rights as part of a criminal investigation for “actions aimed at the incitement of national, racial or religious hatred, at racial superiority or humiliation of national dignity”. Mr Sultanyan is also head of the Yezidi Centre for Human Rights in Armenia. Over the past year, he has been facing ongoing judicial prosecution and has had his passport confiscated by the officers of the Investigation Department.<sup>175</sup> In **Georgia**, the Tbilisi office of the Human Rights Centre was attacked during the Pride Week by an anti-LGBTI group; as a result, one civil activist was injured in the abdomen. An investigation into this incident has been opened.<sup>176</sup> In Poland, peaceful demonstrators opposed to a near-total ban on abortion pursuant to a Constitutional Tribunal judgment of 22 October 2020 were subjected to intimidation and excessive use of force by the authorities.<sup>177</sup> Over 600 journalists called on the authorities to refrain from deliberately obstructing the work of the media during these demonstrations. Furthermore, the journalist Agata Grzybowska was arrested and charged with “violating the physical integrity of a police officer” on account of having allegedly blinded a police officer with the flash on her camera. As regards **Ukraine**, a recent report of the UN Human Rights Mission states that, in Government-controlled territory, human rights defenders working on issues such as prevention of corruption, protection of the environment, and promotion of gender equality and rights of minorities (including LGBTI) continued to be targeted by attacks, threats, acts of intimidation and hate speech. In most cases, the perpetrators remain unidentified.<sup>178</sup> Between 1 November 2019 and 31 October 2021, the Office documented 14 incidents targeting 18 human rights defenders.

42. The situation of human rights defenders in other European Union member States also raises some concerns. According to the FRA’s report on “Protecting civic space space in the EU” of September 2021,<sup>179</sup> threats and attacks against human rights defenders persist in the EU. These include frequent online and offline threats and harassment (as many as 40 % of respondents to FRA’s civic space consultation 2020 report online attacks and 26 % report offline attacks), as well as vandalism of premises and property (8 %) and physical attacks (4 % of respondents).<sup>180</sup> There are high rates of underreporting (less than one in three report such attacks) and civil society organisations express frustration at how the authorities are dealing with incidents.

43. Moreover, a new worrying phenomenon – that of legal and administrative harassment through abusive prosecutions and strategic lawsuits against public participation (SLAPPs) – has been noted.<sup>181</sup> The European Parliament has recently proposed some measures to counteract the threats that SLAPPs pose to civil society

<sup>170</sup> [Turkey: Stop mis-using the law to detain human rights defenders](#), OHCHR, 09 June 2021.

<sup>171</sup> Opinion No.1028/2021, CDL-AD(2021)023cor, adopted at its 127th Plenary Session (Venice and online, 2-3 July 2021).

<sup>172</sup> *Ibid*, para 85.

<sup>173</sup> *Ibid*, para 90.

<sup>174</sup> [Andorra: Threats and judicial harassment against Ms. Vanessa Mendoza Cortés](#), FIDH, 22 October 2020.

<sup>175</sup> [Judicial prosecution of human rights defender Sashik Sultanyan](#), *Front Line Defenders*, 1 June 2021.

<sup>176</sup> [Georgia: Attack against the Human Rights Center office in the framework of the Pride Week](#), FIDH, 9 July 2021.

<sup>177</sup> See the Observatory’s [Statement](#) of 23 December 2020.

<sup>178</sup> *Civic space and fundamental freedoms in Ukraine. 1 November 2019-31 October 2021*, UN Human Rights, Office of the High Commissioner Ukraine, pp. 6-8.

<sup>179</sup> *Op. cit.*, p. 10.

<sup>180</sup> For more information on such reprisals, see *ibid*, pp. 53-57.

<sup>181</sup> *Ibid*, p. 11.

in Europe<sup>182</sup> and I believe that the Assembly should also have a look at this issue. The Committee on Culture, Science, Education and Media has recently moved a motion for a resolution in this respect.<sup>183</sup>

44. In addition, defenders of migrant and refugee rights remain likely to be subject to reprisals in many European countries, including Italy, Cyprus and France. The UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, has spoken out against the criminalisation in Italy of eleven human rights defenders who assisted migrants in the Mediterranean (including Carola Rackete).<sup>184</sup> In addition, in Cyprus, the non-governmental organisation KISA, which works to promote migrants' rights and combat racism, was struck off the Register of Associations for allegedly failing to submit audited accounts and to hold statutory and electoral assemblies since August 2020.<sup>185</sup> Its case is not an isolated one, as more than 2,000 NGOs have been threatened with dissolution by the Minister of the Interior. Moreover, it had been convicted of "defamation" and "forgery" in June 2020, and its director, Doros Polykarpou, had been arbitrarily arrested on 2 August 2019. In France, Cédric Herrou, a farmer who had helped many migrants cross the border with Italy and had been prosecuted for acts described as aiding the illegal entry, movement and stay of foreigners, was acquitted by a judgment of 13 May 2020 delivered by the Lyon Court of Appeal, excluding criminal prosecution in certain cases of humanitarian and disinterested aid and in application of the constitutional principle of fraternity. However, the Lyon Public Prosecutor's Office lodged a cassation appeal against Mr Herrou's acquittal. Once again seized of this case, the Court of Cassation, which had annulled the first conviction and referred the matter to the Lyon Court of Appeal for a retrial, must now examine the conformity of the decision rendered with the rules of law, without re-assessing the facts established by the judges who had adjudicated on the substance in this case.

45. In November 2021, the Observatory published a report, titled [Europe: Open Season on Solidarity](#), which is based on interviews conducted with NGOs and defenders from 11 European countries and provides an analysis of the patterns of criminalisation of migrants' rights defenders throughout Europe. Three patterns raise particular concern: the creation of a hostile environment, a rise in stigmatising narratives, often amounting to hate speech, against migrants and those working in their defence, and the hindering of the work of these defenders and their organisations which, in some cases, leads to their criminal prosecution. Besides the three above-mentioned countries (Italy, Cyprus and France), the report also points out to some worrying developments in Greece, Hungary, Switzerland and Turkey.<sup>186</sup>

46. Furthermore, in relation to Spain, I have also taken an interest in the situation and conditions of imprisonment of Mr Jordi Cuixart, president of the Omnium Cultural<sup>187</sup> association which was founded in 1961 under the Franco dictatorship. Omnium Cultural is an association that promotes civil and cultural rights in Catalonia. Mr Cuixart was arrested and placed in pre-trial detention on 16 October 2017 following events related to the Catalan independence referendum of 1 October 2017. In September 2019, the Supreme Court convicted him of sedition and sentenced him to nine years' imprisonment in the trial of twelve Catalan political and social activist leaders. According to his lawyers, the trial was political in nature and Mr Cuixart should not have been tried by the Supreme Court, which has jurisdiction to try elected officials and not civil society activists like him. The continued imprisonment of Mr. Cuixart was also strongly condemned by the committee on the basis of Mr Boriss Cilevičs's (Latvia, SOC) report on [Should politicians be prosecuted for statements made in the exercise of their mandate?](#)<sup>188</sup> I welcome the decision of the Government of Spain to grant pardon and release Mr. Cuixart on 22 June 2021,<sup>189</sup> shortly after the adoption of the Assembly's [Resolution 2381 \(2021\)](#) of 21 June 2021.

#### 4. Conclusion

47. The above examples show that human rights defenders are still suffering reprisals and intimidation and that their situation has not improved but has even worsened in certain Council of Europe member States, particularly Russia and Turkey. The next general rapporteur on the situation of human rights defenders should

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<sup>182</sup> *European Parliament resolution of 11 November 2021 on strengthening democracy and media freedom and pluralism in the EU: the undue use of actions under civil and criminal law to silence journalists, NGOs and civil society (2021/2036(INI))*.

<sup>183</sup> *Countering SLAPPs: an imperative for the democratic society*, [Doc. 15419](#) of 6 December 2021.

<sup>184</sup> See the United Nations [Article](#) of 8 October 2020.

<sup>185</sup> See the Observatory's [Urgent Appeal](#) of 23 December 2020.

<sup>186</sup> [Europe: New report highlights increased criminalisation against migrants' rights defenders](#), OMCT, 15 November 2021.

<sup>187</sup> To find out more, see: <https://omnium.eu/en/>.

<sup>188</sup> [Doc. 15307](#), 7 June 2021, para 74.

<sup>189</sup> [Jordi Cuixart released from prison on pardon](#), Frontline Defenders, 22 June 2021.

continue to pay close attention to the cases and thematic issues (such as SLAPPs or reprisals of migrants' rights defenders) mentioned in this document and to the work of the bodies and institutions of the Council of Europe, including in particular the Commissioner for Human Rights, the Conference of INGOs and the Venice Commission. He/she should also monitor the work of other international organisations in relation to this subject and alert the committee and the Assembly to new cases of violations of the rights of human rights defenders and all new initiatives intended to protect them.