



REGIONAL WORKSHOP ON IMPLEMENTING HUMAN DIMENSION COMMITMENTS AND ENHANCING THE ROLE OF CIVIL SOCIETY IN THE WORK OF THE OSCE

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JOINT NGO RECOMMENDATIONS ON ENSURING PROTECTION OF HUMAN RIGHTS DEFENDERS AND RESPECT FOR FREEDOM OF ASSOCIATION IN CENTRAL ASIA

This document is presented by the following Central Asian organizations: Kazakhstan International Bureau for Human Rights and Rule of Law, Nota Bene (Tajikistan), Turkmen Initiative for Human Rights (based in exile in Austria), Human Rights Movement Bir Duino – Kyrgyzstan and International Human Rights Association Fiery Hearts Club (Uzbekistan, based in exile in France) together with International Partnership for Human Rights (Belgium).

Overview of major concerns in the region

Independent human rights groups and defenders operate in an insecure environment in Central Asia. Across the region human rights groups and defenders are the targets of restrictive legislation and policies, negative political rhetoric and media propaganda, as well as intimidation and harassment. The recent developments in Ukraine and the overthrow of those in power there following the so-called Euromaidan protests have given rise to concerns that the Central Asian authorities may further step up pressure against human rights defenders and others critics of the regime, including by labelling them as “fifth columns” and the like.

As previously, the situation for civil society is particularly alarming in **Turkmenistan and Uzbekistan**, whose authorities continue to promote government-controlled organizations, while impeding independent civil society activity. The few independent human rights NGOs that exist in Uzbekistan as a rule carry out their work without compulsory state registration and are in an extremely vulnerable position e.g. with respect to obtaining funding for their work. In Turkmenistan, no independent human rights group is currently registered or able to operate openly at all. Earlier this month a new law on freedom of association was adopted in this country. While our organizations have not yet had the chance to carefully analyze all

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provisions of this law, a first review by us of the **text of the law recently posted by the government** shows that basic problematic provisions from the earlier law have been retained. Such provisions include a prohibition on unregistered NGO activity, inhibitive rules for registration (e.g. an organization must have at least 400 members in order to gain registration as a national-level organization and be allowed to carry out activities in different parts of the country), and provisions granting wide powers to the authorities to monitor and control the activities of NGOs.

In a well-documented pattern, civil society representatives who speak up about human rights problems in Turkmenistan and Uzbekistan face wide-ranging persecution, such as threats, surveillance, denials to travel abroad, dispersals of small-scale pickets, summoning and questioning by police, and arrest and imprisonment on fabricated charges. At least two dozen human rights activists, journalists and opposition figures remain in prison in Uzbekistan. There are **serious concerns** about their health and well-being due to alleged torture and ill-treatment and deplorable prison conditions, and some of them have been held for ten years and more. A number of well-known human rights defenders from these two countries have been forced to flee abroad. Even exiled defenders have faced intimidation and harassment, e.g. defamatory attacks, attacks on their websites, legal cases brought against them in absentia, and retaliatory measures targeting their relatives. The Turkmen government has repeatedly sought to prevent the participation of exiled civil society representatives in OSCE human dimension meetings.

In **Kazakhstan**, a trend of growing suspicion toward NGOs has recently been observed. NGO registration is also compulsory in this country, while authorities enjoy wide discretion to deny such status, as well as to close down groups for alleged violations. A new Criminal Code and related laws that are currently being considered in the country contain provisions that will **further restrict freedom of association** if adopted. Among others, the new draft Criminal Code re-classifies leading, participating in or financing unregistered or banned associations as criminal (rather than administrative) offences; prohibits “unlawful interference” in the activities of state agencies by members of public associations without clearly defining this term; and characterizes leaders of public associations as a separate category of offenders and provides for stiffer penalties for them than for other individuals for a number of crimes, such as extremism related ones. Human rights activists fear that the new provisions will be used to harass NGOs and their members, as well as to hamper their activities. In a number of recent cases, human rights activists have **been subjected to** punitive action by authorities, such as apparently politically motivated criminal charges and forced psychiatric treatment.

In **Kyrgyzstan**, NGOs have also come under renewed pressure because of recent restrictive draft laws. These include several draft laws put forward by MEPs inspired by Russian legislation: one **required NGOs** to adopt the stigmatizing label of “foreign agents” if they receive foreign funds and engage in “political” activities, a second one **significantly expanded** the definition of “treason” so as to make it applicable to human rights activities, and a third one **prohibited propaganda** of so-called non-traditional sexual relations. While none of these draft laws have advanced to the point of being adopted, they have been accompanied by negative rhetoric and highlighted the vulnerability of especially human rights NGOs. As detailed in a **recent study**, in particular NGO activists dealing with human rights issues also report facing threats and pressure because of their work, resulting in a heightened sense of insecurity among them. Human rights defender Azimjan Askarov continues to serve a life sentence handed down to him in an unfair trial for his purported role in the June 2010 inter-ethnic violence in southern Kyrgyzstan. A court decision last month to **re-open the investigation** in his case has given rise to new hopes for an impartial and thorough examination of the case, including torture allegations. This is long overdue.

In **Tajikistan**, the operating environment for NGOs is also precarious in many ways. The country's NGO legislation contains broadly worded provisions that can be applied **in a manner detrimental** to civil society organizations. Under this legislation, inspections of the activities of NGOs are routinely carried out, resulting in undue interference in the work of the targeted organizations. Inspections are often followed by warnings and legal actions against NGOs for alleged violations. NGOs may be liquidated by court for violating any national law or "systematically" carrying out activities contrary to their own statutes, and in numerous cases NGOs (including human rights groups) have been closed down without compelling evidence of misconduct. As in other countries of the region, periodical blocking of independent websites, as well as defamation suits and legal cases, attacks, and other forms of intimidation against those expressing critical views of the authorities contribute to stifling open debate on issues of public interest such as human rights issues. Human rights lawyers continue to experience difficulties in carrying out their professional activities, e.g. with respect to **enjoying unimpeded access** to clients who are held in detention.

Recommendations

Below our organizations outline a set of recommendations to the Central Asian OSCE participating states, other OSCE participating States, as well as OSCE institutions for measures to improve the protection of human rights defenders and freedom of association in the Central Asian countries, as well as to enhance cooperation in this regard.

Recommendations to the governments of the Central Asian OSCE participating States

The authorities of the Central Asian countries should:

- Ensure that legislation affecting the exercise of freedom of association and related rights is consistent with the requirements of international human rights law. To this end, they should consult with ODIHR and other international and national human rights law experts on both draft legislation and legislation in force and repeal/revise problematic provisions in accordance with the recommendations made by these.
- Abolish existing bans on unregistered NGO activity and ensure that NGOs may obtain registration in a simple, transparent, expeditious and fair procedure that does not allow for refusing registration on arbitrary grounds. Ensure that the suspension or closure of NGOs may only be ordered by court in exceptional circumstances, on the basis of compelling evidence of serious misconduct and as a last resort after NGOs have been warned and granted opportunities to rectify violations. Revise any decision where NGOs have been closed down in violation of these requirements.
- Put an end to excessive controls and undue interference in the work of NGOs, as well as to intimidation and harassment of individuals and groups who address human rights issues. Ensure that human rights groups, activists and lawyers can carry out their work without hindrance and fear; duly investigate incidents of harassment against them and hold those responsible accountable; and release all human rights defenders who have been imprisoned in retaliation for their work.
- Refrain from political initiatives and rhetoric that stigmatize and discredit human rights NGOs and defenders because of their work and do not portray or treat NGOs (local or international ones) as a

threat to stability or security. Instead, acknowledge publicly the importance of NGO efforts to promote human rights; condemn attacks on NGOs and their members; support NGO participation in decision-making at all levels; and cooperate with NGOs on improving human rights protection in law and in practice.

- Stop obstructing open public debate on issues of common interest, such as human rights issues, e.g. by blocking independent websites and using defamation suits or other legal cases as a means to silence critics.
- Take concrete steps, in accordance with guidelines and recommendations adopted by UN bodies, the ODIHR and other international human rights mechanisms, to create and maintain an enabling environment for civil society.
- Accept requests for visits by the UN Special Rapporteur on Human Rights Defenders and the UN Special Rapporteur on Freedom of Association and Assembly, which have been pending for years (Turkmenistan and Uzbekistan); provide full cooperation on the realization of visits by these rapporteurs that have been agreed in principle (Kazakhstan and Kyrgyzstan); issue standing invitations to the two rapporteurs (all Central Asian countries).

Recommendations to other OSCE participating States

In accordance with the principle that issues relating to human dimension commitments are matters of direct and legitimate concern to all OSCE participating States, participating States from outside Central Asia should:

- Raise concerns about the situation of human rights groups and defenders (including individual cases) in a prominent and consistent way in bilateral and multilateral contacts with the Central Asian governments. Use all available avenues to promote meaningful reforms on freedom of association and other fundamental rights by these governments and link enhanced cooperation with these governments to the implementation of such reforms.
- Support the ODIHR in its efforts to provide expertise and practical assistance to the governments of the region on ensuring compliance with international human rights standards protecting freedom of association and related rights, as well as to promote protection and capacity-building of human rights groups and defenders, including in particular young activists.
- Continue to visibly communicate solidarity to human rights groups and defenders working in the Central Asian countries, including at the highest political level, and to channel support to them for their invaluable work on promoting human rights. This should include support for the engagement of human rights groups from the region with OSCE institutions and international human rights mechanisms.
- Keep close contacts with Central Asian human rights defenders based in exile and take appropriate measures to facilitate and support the efforts of these defenders to promote human rights in their native countries. Thoroughly investigate incidents of harassment targeting exiled activists.

Recommendations to the whole OSCE community and OSCE institutions

- The OSCE participating States should support the ODIHR initiatives underway to develop guidelines on freedom of association and the protection on human rights defenders and commit themselves to working for the realization of these once they have been adopted – both at home and in other participating States.
- High-level representatives of OSCE participating States and OSCE institutions should use every opportunity to affirm the positive and vital role of NGOs in the realization of international human rights standards and commitments and take a stand against any attempts by the authorities of individual OSCE countries to question the legitimacy and credibility of the work of NGOs.
- OSCE field offices and embassies of OSCE participating States should maintain close and regular contacts with human rights groups and defenders on the ground; speak up in their support when relevant; and attend trials, conduct prison visits and demonstrate support to human rights defenders at risk in other ways. They should consistently implement applicable guidelines, such as the EU and Swiss guidelines on human rights defenders and identify contact persons on their staff to whom human rights defenders can turn for assistance in urgent cases.
- The ODIHR, OSCE chairmanships and other OSCE institutions should continue to engage in close cooperation with civil society on issues related to freedom of association and other fundamental freedoms and maintain the good practice of holding civil society consultations such as the current ones and those held in the context of developing the new ODIHR guidelines mentioned above.
- The OSCE participating States and OSCE institutions should at all times uphold the right of civil society representatives to participate in OSCE human dimension events and to freely convey their views to their own governments, as well as to other governments at such events, in line with the commitment made by the OSCE states community in this regard.
- The OSCE should establish the mandate of a special OSCE representative to address and visibly raise issues relating to the situation of human rights defenders in the region, in close cooperation with the ODIHR and other relevant international mechanisms such as in particular the UN Special Rapporteur on Human Rights Defenders. The ODIHR should be granted additional resources for initiatives on the protection of civil society, enabling it to further step up efforts in this area.
- The OSCE participating States and OSCE institutions should support projects to promote security of human rights groups and defenders at risk in the OSCE countries, covering both physical and psychological aspects of security, as well as the creation of conditions for the safe conduct of human rights work at the local level. This should include support for initiatives of regional civil society cooperation on these issues.
- The OSCE participating States should further strengthen their capacity – individually and jointly -- for rapid response in cases when human rights defenders are urgently in need of assistance. This should be done in coordination with international mechanisms and programs already existing in this area, such as the newly created EU one.