



Программа Европейского союза «Европейский инструмент содействия демократии и правам человека»

Persecution on Human Rights Defenders and Human Rights NGOs at the Post-Soviet Area: Key Tendencies 2011 - 2013



Проект финансируется
Европейским союзом



Проект реализуется
Центром гражданских свобод

**Persecution on Human Rights
Defenders and Human Rights
NGOs at the Post-Soviet Area:
Key Tendencies 2011 - 2013**



Издание подготовлено при финансовом содействии
Европейского союза

Содержание настоящего документа является исключительно ответственностью
Центра гражданских свобод и ни при каких обстоятельствах не может рассматриваться
как отражающее позицию Европейского союза

Content

INTRODUCTION.....	4
SURVEY METHODOLOGY AND REPORT STRUCTURE.....	8
PART 1. PERSECUTION OF HUMAN RIGHTS DEFENDERS	
CHAPTER 1. LIFE VIOLATIONS.....	13
1.2. Disappearances	16
CHAPTER 2. HEALTH VIOLATIONS (ATTACKS, BEATING)	17
Chapter 3. TORTURES, INHUMAN OR DEGRADING TREATMENT	25
3.1. Tortures and degrading treatment during arrests, detention and investigation	26
3.2. Degrading treatment in detention	30
Chapter 4. CRIMINAL PROCEEDINGS	32
4.1. Unfounded initiation of criminal proceedings	33
4.2. Criminal sentencing with deprivation of liberty	41
4.3. Criminal sentencing without deprivation of liberty (fine, conditional sentence).....	51
Chapter 5. ADMINISTRATIVE PROCEEDINGS	55
5.1. Arbitrary detention.....	56
5.2. Fining.....	58
5.3. Administrative arrest	63
5.4. Other forms of administrative pressure.....	68
Chapter 6. OTHER FORMS OF DEPRIVATION OF LIBERTY	70
6.1. Restriction of freedom to move.....	71
6.2. Attempts of compulsory psychiatric treatment.....	73
Chapter 7. CHANGES WITH DEFAMATION.....	74
Chapter 8. DEATH THREATS AND THREATS OF SERIOUS PHYSICAL HARM.....	78
Chapter 9. DISCREDITING.....	83
Chapter 10. HARASSMENT / PRESSURE ON RELATIVES OF HUMAN RIGHTS DEFENDERS.....	88
Chapter 11. PROPERTY DAMAGE	91
Chapter 12. OTHER RESTRICTIONS ON HUMAN RIGHTS DEFENDERS` ACTIVITIES....	92
12.1. Searches and interrogations	93
12.2. Tax inspections.....	96

12.3. Dismissing, intimidation on being dismissed and dropping out of professional unions	98
12.4. Blocking access to the web-sites	100
12.5. Threats of extradition	103

PART 2. ENVIRONMENT FOR HUMAN RIGHTS NGOS: LEGISLATION AND ATTITUDES

Legal Framework for NGOs.....	106
Azerbaijan	109
Armenia.....	114
Belarus.....	116
Georgia.....	121
Kazakhstan.....	124
Kyrgyzstan.....	126
Moldova.....	127
Russia.....	129
Tajikistan.....	139
Turkmenistan	143
Uzbekistan.....	145
Ukraine	147

INTRODUCTION

Human rights defenders are the particular group whose freedom of activity is the direct indicator of the general level of respect to human rights in the state.

Due to specific of their work on promotion and protection of human rights the human rights defenders often became a target for threats, attacks and harassment. Recognizing this fact, the United Nations in the year 1998 adopted a document that became to be known as a Declaration on Human Rights Defenders¹.

Although this document is not legally binding itself, it gathers the provisions of other documents which possess such force (Conventions and Covenants directly related to the rights of human rights defenders). There is indicated in the Declaration a direct responsibility of states to adopt such different steps as may be necessary to ensure that the rights and freedoms of those, who take advantage of the right to protect human rights, are fulfilled. Among others, the Declaration asserts such rights as: right to promote and protect human rights; freedom of expression; to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights; right to know, seek, obtain, receive and hold information about all human rights right to complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights; right to be protected internationally. In the year 2000 the UN Special Rapporteur on the situation of human rights defenders (Special Representative of the Secretary General) had been established to support implementation of the Declaration on Human Rights Defenders.

According to this Declaration, human rights defenders are those who "promote and strive for the protection and realization of human rights and fundamental freedoms" individually and in association with others.

The term "human rights defenders" cannot mean only the representative of non-government (human rights) organizations. The human rights defenders should not be treated as some sort of special legal category and should not have any special privileges that distinguish them from other people; but in the case of offenses committed against them because of their activities, human rights defenders should be given special guarantees of protection. Besides, protection of human rights defenders means at the same time protection of survivors of human rights violations by giving them possibility to be heard and keeping their contacts with the organizations working to protect their rights.

The lineament of the human rights defenders is their commitment to values they promote. There are different people among them, but all human rights defenders respect the universality and the indivisibility of human rights. They share the point of view that all people, regardless of their gender, race, nationality, religion, sexual orientation, etc., should enjoy all the rights. Human right activists are those *who promote and protect human rights peacefully and with no violence*² (marked by editors).

¹ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms adopted by the Resolution of General Assembly, [A/RES/53/144](#) on December 9, 1998;

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>

² http://www.hfhrpol.waw.pl/uzbek/ru/index.php?option=com_content&view=article&id=76:2009-12-04-11-06-56&catid=36:teksty-o-prawach-czowieka-i-demokracji

Gathering and disseminating information, advocacy and the mobilization of public opinion are often the most common tools used by human rights defenders in their work. They work at democratic transformation in order to increase the participation of people in the decision-making that shapes their lives and to strengthen good governance. They also contribute to the improvement of social, political and economic conditions, the reduction of social and political tensions, the building of peace, domestically and internationally, and the nurturing of national and international awareness of human rights³.

It is clear that independent human rights activities are possible only under condition when at least minimal standards of the freedom of speech and access to information, right to meet or assemble peacefully are fulfilled. The barriers for human rights activity appears when these freedoms are unfairly limited and consequently human rights defenders necessarily meet pressure and different forms of intervention in their work by government.

The human rights defenders should be able to implement their activities on protection of human rights and fundamental freedoms, guaranteed under the national law and protected internationally, regardless of the twists and turns of political struggle and the domestic political context. Such pattern allows other civic groups, such as volunteer, environmental, children's, service organizations, etc., to function normally as well.

The human rights activity is an important factor for prevention of social conflicts as well; it is one of the forms for suspense diminishment and it is an impact for setting dialog between the government and society. The authorities, who do not realize this issue and rely on force to resolve conflicts together with drift from the law, risk bringing the situation to the social upheavals, accompanied by ever-increasing levels of aggression and violence.

Besides of the Declaration on Human Rights Defenders, mentioned above, this function of human rights defenders is recognized by number of international human rights instruments that foresee a scope of guarantees for human rights activity. At the regional level there is a Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities⁴.

There are specific protections provided to human rights defenders, including the rights:

1. To seek the protection and realization of human rights at the national and international levels
2. To conduct human rights work individually and in association with others;
3. To form associations and non-governmental organizations;
4. To meet or assemble peacefully;
5. To seek, obtain, receive and hold information relating to human rights;
6. To develop and discuss new human rights ideas and principles and to advocate their acceptance;
7. To submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may impede the realization of human rights;

³ Human Rights Defenders: Protecting the Right . Facts Sheet No29. - Office of the United Nations High Commissioner for Human Rights to Defend Human Rights – p. 5 // <http://olddoc.ishr.ch/hrdo/documents/FactSheet29.pdf>

⁴ <https://wcd.coe.int/ViewDoc.jsp?id=1354413&Site=DC>

8. To make complaints about official policies and acts relating to human rights and to have such complaints reviewed;
9. To offer and provide professionally qualified legal assistance or other advice and assistance in defence of human rights;
10. To attend public hearings, proceedings and trials in order to assess their compliance with national law and international human rights obligations;
11. To unhindered access to and communication with non-governmental and intergovernmental organizations;
12. To benefit from an effective remedy;
13. To the lawful exercise of the occupation or profession of human rights defender;
14. To effective protection under national law in reacting against or opposing, through peaceful means, acts or omissions attributable to the State that result in violations of human rights;
15. To solicit, receive and utilize resources for the purpose of protecting human rights (including the receipt of funds from abroad)⁵.

However, the obstacles to human rights activities remain a constant in our reality. Thus, for example, several high-profile murders have been admitted in Russia in the years 2004 – 2009; friends and relatives of those killed, as well as the international human rights community primarily are linked these murders to their human rights activities. These cases showed extremely high vulnerability of human rights defenders in the region, as well as the actual absence of the effective mechanisms of protection and this have provoked a wide public debate. Moreover we can say that the level of governmental pressure increases step by step in the year 2013.

The current situation requires to be reflected as soon as possible and has to be improved by immediate actions on support of the human rights community. Consisting the most typical and significant episodes of pressure on human rights defenders and human rights NGOs connected to their human rights activity in so-called states of new democracy (which we include Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine to), this report is presented as a tool for analysis and planning. In addition, a group of authors prepared general recommendations aimed at correcting the situation and preventing its aggravation.

The experts from the following organizations were joined to prepare this report:

- Center for Civil Liberties, Ukraine
- Belarusian Helsinki Committee, Belarus
- The Human Rights Center of Azerbaijan
- Multinational Georgia Public Movement, Georgia

⁵ Human Rights Defenders: Protecting the Right . Facts Sheet No29. - Office of the United Nations High Commissioner for Human Rights to Defend Human Rights – pp. 20-21 // <http://olddoc.ishr.ch/hrdo/documents/FactSheet29.pdf>

- Armenian Helsinki Association, Armenia
- "Promo-LEX", Moldova
- Initiative group, former Association of Young Lawyers "Amparo", Tajikistan
- Human Rights Center "Citizens Against Corruption, Kyrgyzstan
- Moscow Helsinki Group, Russia
- International Network - Youth Human Rights Movement

SURVEY METHODOLOGY AND REPORT STRUCTURE

Report goal is to analyse the factors of external and internal pressure which cause decreasing of the potential of human rights defenders and human rights NGOs in region and decreasing of the effectiveness of advocacy campaigns and educational activities in the field of human rights and fundamental freedoms.

In this case the **objectives**, which were chosen by the authors and partners, are:

- To analyse the overall trends on interference to professional activity of human rights defenders and human rights NGOs in the region;
- To track these trends in particular countries and groups of countries;
- To determine the level of countries' compliance with the provisions of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, as well as other international obligations in this area;
- To assess the threats for human rights defenders in the region and the degree of freedom for human rights activities;
- To formulate recommendations aimed at reducing the potential harm from the already applied incidents of pressure and preventing this kind of incidents in the future;
- To indicate the range of opportunities for direct assistance to human rights defenders and possibilities of protection in the most critical situations;
- To define space for actions of international solidarity of civil society in the region for the protection and support of human rights defenders.

Geographically the report represented by the states of the Eastern Partnership of the European Union (Azerbaijan, Armenia, Belarus, Georgia, Moldova, Ukraine), states of the Central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan) and Russia.

The report covers the **time period** of the year 2012, but a number of cases had started far before and have got their progress in 2012; the report also includes some of the cases that occurred in 2013 while working on the report draft – these cases are particularly significant and they show the continuation of the old or the beginning of the new negative tendencies.

During the preparation of the report, we decided to use a broad interpretation of Article 1 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. Thus, talking about human rights defenders we mention activists of civil society, representatives of non-governmental organizations, trade unionists, lawyers and journalists, whose work is directly related to defence of human rights and fundamental freedoms in their countries.

At the initial stage of the report drafting the authors used the experience of partner NGOs in such kind of studies. In particular, the Moscow Helsinki Group and the Youth Human Rights Movement, which regularly publish reports on the situation of freedom of human rights work in Russia. Therefore, working out on the index of the possible pressures on human rights defenders the project experts have used the index of these organizations as a basic point.

Index of Threats and Pressures Towards Human Rights Defenders and Human Rights NGOs.	
1.	Life violations: 1.1. murder; 1.2. disappearing.
2.	Health violations (attacks, assault and battery).
3.	Tortures and degrading treatment: 3.1. tortures and degrading treatment during arrest, detention and investigation; 3.2. degrading treatment in detention.
4.	Criminal proceedings: 4.1 unfounded initiation of criminal proceedings; 4.2 criminal sentencing with deprivation of liberty; 4.3 criminal sentencing without deprivation of liberty (fine, conditional sentence).
5.	Administrative proceedings: 5.1. arbitrary detention; 5.2. fining; 5.3. administrative arrest; 5.4. other forms of administrative pressure.
6.	Other forms of deprivation of liberty: 6.1 restriction of freedom to move; 6.2 attempts of compulsory psychiatric treatment.
7.	Charges with defamation.
8.	Death threats and threats of serious physical harm.
9.	Discrediting.
10.	Harassment / pressure on relatives of human rights defenders.
11.	Property damage.
12.	Other forms of pressure: 12.1. searches and interrogations; 12.2. tax inspections; 12.3. dismissing, intimidation on being dismissed and dropping out of professional unions; 12.4. web-sites blocking; 12.5. threats of extradition.
13.	Restrictions on human rights defenders' activities 13.1 arbitrary paralyzing NGO's inspections; 13.2 searches and other investigative measures; 13.3 shadowing s and eavesdropping; 13.4 attempts of raider attacks to the NGO; 13.5 unfounded dissolution of the NGO; 13.6 rejection of registration / re-registration / modification of the statutory documents;

13.7	arbitrary fines;
13.8	eviction from offices (including a sudden increase in the rent, refusal to renew the lease agreement);
13.9	office damage;
13.10	seizure /deleting of NGOs' documentation;
13.11	seizure NGOs' equipment;
13.12	other obstacles to human rights NGOs' activity.

It be noted that initially the more wide range of the potential threats and pressures was supposed to be worked with, but not all the indicated threats and damages during had been registered during the period covered by the report. However, the tool itself - full classified index - will be used by the partner organizations for the monitoring of the situation in future and will be replenished, if necessary.

The report is structured accordingly to the classified index. Thus, cases with description of pressures to human rights defenders are presented in the Part 1, and cases related to human rights NGOs and general situation on freedom of human rights activity in selected countries.

The authors of the report used, primarily, data afforded by the project partners⁷. The reason was that local NGOs which are constantly working with cases of human rights violations in their countries and often become a subject to pressure from the government themselves, are informed better about the real situation. Besides, they have access to the data which are not mentioned in the media, and their staff is able to keep track of the cases in their native language. Partner organizations were required to structure the cases according to the following scheme: description of the situation with names, dates, and links to sources of information; reaction of the authorities to the incident; reaction of the international community; possible actions aimed to improve the situation of human rights activist or NGO.

However, the authors of the report faced with the first problem at the beginning: not all the countries in the region were covered by partner organizations. So there were no partners in Kazakhstan, Turkmenistan and Uzbekistan. Therefore, the materials provided by the organizations, were supplemented by information from open sources: the media, the Internet, reports within the Universal Periodic Review before the UN Human Rights Council, NGO shadow reports to the Committee on Human Rights, analytical materials of international organizations specializing at the protection of human rights defenders and monitoring. Sources of information are mentioned in the report body under the references and links.

The total number of cases of pressure on individual human rights defenders gathered in the report, is demonstrated clearly by the following table. Often there were noted several forms of pressure in one case, so it was indicated in the different parts of the report. Detailed cases descriptions are presented in Part 1 of the report.

⁷ Information on Project Partners see p. 152

	Azerbaijan	Armenia	Belarus	Georgia	Kazakhstan	Kyrgyzstan	Moldova	Russia	Tajikistan	Turkmenistan	Uzbekistan	Ukraine
Life violations								1	1		1	1
Health violations	1	1		1	2	1		1	2			3
Tortures and degrading treatment	2		1		1	2					3	
Criminal proceedings	9		1		2		3	3		2	4	3
Administrative proceedings	2	2	4	2	2	3	1	3			5	2
Other forms of deprivation of liberty		1				3						1
Civil claims for defamation	1				2				1			
Death threats and threat of serious physical harm		2			1	4		4		1		1
Smear campaigns	2	3			1		1			1		
Threats / pressure to relatives of the human rights defenders					1						2	
Property damage		1			1	1		1				
Other forms of pressure	2	1	7		1	2	1	2	1	1		2

Data heterogeneity does not mean that level of pressure in some countries is higher. It is clear that not all existing facts of pressure are described in this report. There are such factors as lack of an

informational openness in some countries or lack of possibility to work with cases in the national language. Besides, an activity of human rights defenders does not share widely to the public in the countries where human rights work meets lots of threats and where human rights defenders are discredited in the eyes of society. This is why the number of fixed facts of pressure is low there. We can admit a different level of human rights activity in different countries and take into consideration the purely geographical reasons, such as size of the country area, population and, of course, number of human rights defenders.

An additional source of information for this report has been a poll with the representatives of the partner NGOs. We asked them to evaluate how the international protection mechanisms for human rights defenders are applied in general and how the freedom of human rights activity is ensured by the domestic law. These data were used within drafting the description of the situation with human rights NGO in the countries of the region (i.e. Part 2 of the report).

Authors of the report and project experts have worked up a list of common challenges and number of recommendations based on the gathered and structured information. The recommendations are directed to improve the situation and prevent the enlargement of the negative trends of pressure to human rights defenders in the region. The conclusions and recommendations are presented in the final part of the report.

PART 1. PERSECUTION OF HUMAN RIGHTS DEFENDERS

CHAPTER 1. LIFE VIOLATIONS

General tendencies

Described cases are coherent to the fulfilment by the governments their obligations towards guaranteeing the right to life. States have a positive obligation under international human rights law not just to desist from the actions which can cause deprivation of life, but also ensure safety to the person who is threatening and this fact became known. Besides, the governments are obliged to ensure prompt and effective investigation into the murders and disappearances.

Such kind of recommendations is regularly made towards Russia (region of Northern Caucasus), Tajikistan and Uzbekistan. Recently Ukraine joined to these countries. It has to be admitted that The European Court for Human Rights had gave judgments for Russia and Ukraine regarding to violence of the right to life towards the human rights activists. Continued appearance of the facts of violation of the right to life towards human rights defenders means that level of execution of European Court of Human Rights judgments and observance of an international obligation in the field of human rights by these countries is not sufficient.

Murders and disappearance of human rights activists, even if there are rare exceptions, require review of approach to assessing the safety of human rights activity in each country. Besides, the periodic risk assessment on increasing of such cases is required in each country separately.

In this Chapter we present the following number of cases by country:

Country	Number of cases
Russia	1
Uzbekistan	1
Ukraine	1

1.1. Murders

General tendencies

Murders are common for the criminal world as a means of problems solving. But there is not just a crime when a human rights defender is murdered and the government is involved in the murder directly or indirectly. And it is not just a crime when the aim is to force a human rights defender into keeping silence and to frighten the others. The fact of murder of human rights defender itself is the most brutal pressure to all civil society; it means that level of respect to human rights in the country is getting down and it makes the human rights activists and those who they protect more vulnerable towards the government.

In the year 2012 murders related to the professional activities of human rights defenders were continued. Three cases are included into this report. A well-known advocate who defended crime suspect in the case of cooperation with illegal armed groups, a defender of the rights of farmers and entrepreneurs and an ecological activist became the victims. All these activists were involved into resonance cases and unmasked governmental actions. The governments either were an accessory to the murders or did not make any active measures for their effective investigations. The connection of the murder to the professional activities of human rights defenders have not been considered during the investigations, despite the crime conditions and evidences of survivors' colleagues indicated this clearly. It can be argued in favour of accusing the government in violating the right to life in the following cases.

It has to be noted that a list of countries where the murders of human rights defenders took place had been increased. Together with traditionally problem regions –Northern Caucasus and Uzbekistan – where the human rights activities are constantly associated with significant threats to life and health, in the reporting period we see Ukraine that was quite safe for human rights activities before: the general level of the freedom of human rights activity in Ukraine have been higher in the past and such kind of threats as murders of human rights defenders were not registered during the long period.

Description of cases

January 20 2012, Makhachkala, Republic of Dagestan, Russia

Omar Sagidmagomedov – a lawyer of the City Bar Association "Caucasus"

Omar and his relative – Rasul Kurbatov – were murdered by the power agents. According to the official version of law enforcement bodies, power agents tried to stop a driven by Sagidmagomedov car for a check, however, Kurbanov, who was in the car as a passenger, opened fire at power agents. The latter opened fire in response and shot dead both of them. A Kalashnikov gun with a lot of ammunition and an F-1 grenade was found on the dead men.

Colleagues and relatives of Omar Sagidmagomedov have challenged the official version of the circumstances of the lawyer's death. The lawyer emphasizes in his statement, that exactly after the murder official news pieces appeared on official state informational websites saying that the murdered lawyer is exactly a member of the city board of lawyers "Caucasus", even though the name of the Board was not specified in his ID. Moreover, the Bar members claim that they have photo and video materials, which refute the investigators' story⁸.

The lawyer believes that the murder is related to Sagidmagomedov's occupation. *"The murder was committed by the security agencies' officers in an attempt to intimidate all the lawyers dealing with the cases of legal assistance to those accused of membership in illegal armed groups. An*

⁸ <http://www.kavkaz-uzel.ru/articles/202117/>

attempted act on our colleague, Konstantin Mudunov, took place recently. I believe that there is a real threat for the lives of all the lawyers dealing with cases of this kind”, he states⁹.

July 25, 2012 Tashkent region, Uzbekistan

Akromkhodja Mukhitdinov – *an activist of the Human Rights Alliance of Uzbekistan, defended farmers and entrepreneurs, had been involved into monitoring of child labour at the cotton plantations.*

At about 20.30 in the evening Akromkhodja was invited outside my three locals and he went with them to the village center. There, Mukhitdinov was attacked by these men, who beat and insulted him. And then suddenly someone from the people around stabbed him with a knife. Akromkhodja had lied near the shop until the ambulance arrived and died on the way to hospital.

Mukhitdinov's colleagues have no doubt that the murder was linked to his human rights activities. He recently won a case in defence of farmers from Yangiyol district who got their illegally seized lands back.

According to the "Fergana" Informational Agency, Akromkhodja Mukhitdinov claimed about tapping his phone and observing his home from the cars parked not far away. When members of the Human Rights Alliance of Uzbekistan were going to pickets and gave advance notice to the government about it, Akromkhodja Mukhitdinov has been blocked at home all the time.

Prosecutor's office of the Yangiyol district started an investigation. Four suspected person have been detained but three of them were discharged in a short time¹⁰.

August 4, 2012, Dnipropetrovsk, Ukraine

Volodymyr Goncharenko – *an environmentalist, publisher of the "Eco-Security" newspaper, Chairman of a Ukrainian social movement "For the Rights of Citizens to Environmental Security".*

On July 27th, 2012 Volodymyr Goncharenko gave a press conference revealing that 180 tons of dangerous chemical and radioactive industrial waste had arrived at the city of Kryvyi Rih (Dnipropetrovsk area) without control of local authorities and police¹¹.

On August 1st the activists was brutally beaten when he was stopped in his car on the road. There were not any witness of the crime. Despite the serious head trauma he had suffered, Volodymyr managed to get home and explain what had happened to him, but later lost consciousness and died in hospital two days later.

Despite of the press-conference and other unmasking information about intimidation and not taking consideration to opinions of human rights activists who are convinced that murder is related

⁹ <http://www.memo.ru/2011/04/13/doc.pdf>

¹⁰ http://www.uznews.net/news_single.php?lng=ru&sub=&cid=3&nid=20547

¹¹ <http://www.khpg.org/pda/index.php?id=1344144010>

to the professional activities of the environmentalist, police strongly declines this version. The investigators mention road accident or commercial business as a cause of the incident. The relatives of Goncharenko say that he did not have any commercial business at all.

1.2. Disappearances

General tendencies

Disappearance, i.e. situations when a person lost suddenly and there was no news about him for a long time, is traditionally associated with the murder of those who disappeared. These facts are mentioned above. Thus, the situation of illegal detention may be considered as disappearance when a person is not able to inform the family what happened, as well as when he or she does not have an access to a lawyer for a long time or when other procedural violations take place. In such a situation a person remains under the total control of the state power agents and there is a risk of tortures or life violations towards him or her. Hiding the information about detainees the government violates the fundamental rights and makes the proving of officers' malpractice more complicated.

In the case below a disappearance is clearly related to the activist's work. It has an intimidate nature and is aimed to stop human rights defender's activity. We can say about disappearance of Salim Shamsiddinov – a human rights defender from Tajikistan. There was not any information about his destiny more than 15 days at the time of writing. Low activity of the government on investigation of this case together with lack the safety of human rights defender, as before he was beaten by unknown assailants should be mentioned as well. In this case we disturb not only about a destiny of the human rights defender but about his life.

Description of cases

March 15, 2013, Khalton Province, Tajikistan

Salim Shamsiddinov – a leader of the Uzbek community in Khalton Province

On March 26th the international human rights organization Amnesty International has expressed concern over the disappearance of Salem Shamsiddinov¹². Human rights defenders do not rule out that it may have been "a politically motivated abduction" and call on their followers to exact on the authorities of Tadjikistan to promptly investigate the disappearance of Salim.

"Local sources have linked this attack to media interviews that Salim Shamsiddinov had given, claiming that Tajikistan's government was pursuing nationalistic policies" – says human rights NGO in its concern. Amnesty International indicates that at the time he went missing, Salim Shamsiddinov was preparing to talk to the press again on issues about discrimination against ethnic Uzbeks in the Khatlon region.

If Salim Shamsiddinov is in state custody, human rights defenders demand on the government to ensure that he has immediate access to his family, legal representation of his choice and any medical assistance he may require. Amnesty International reminds that Shamsiddinov was severely

¹² <http://www.amnesty.org/en/library/asset/EUR60/002/2013/en/0d5756a8-06fb-4e6a-a2d7-4fd9ca98764b/eur600022013en.htm>

beaten on 5 May 2012 by a group of men on the street, opposite the Khatlon Department of the State Committee for National Security building, what local media have informed about¹³.

Recently the leader of the opposition Social-Democratic Party has told the media that the disappearance of Salim Shamsiddinov appears to be politically motivated, and is connected with Salim Shamsiddinov's active participation in a lobbying group to change the laws on the presidential election and his call for ethnic Uzbeks in Tajikistan to vote for Rahmatillo Zoirov in November's presidential elections¹⁴.

CHAPTER 2. HEALTH VIOLATIONS (ATTACKS, BEATING)

General tendencies

Cruel attacks for human rights defenders up to knife and gunshot wounds are still a threatening tendency. Activists dealing with resonance cases, such as corruption and arbitrariness of police or government, are mainly victims of attacks. As practice shows, beatings and attacks are often an intermediate to pressure for human rights defenders, which starts from threatens and finishes on defender's death or disappearance (similar to case of Tajik human rights defender Salim Shamsiddinov)

6 cases where journalists were bitten during discharging of their professional duties had been fixed. These journalists collected and recorded significant information which they plan to share with society. Moreover, in some cases described, journalists were attacked and beaten at the street or at home. Attacks had been done by unknown persons and in the majority of cases were brutal and threatened to journalists' life. There were often threats connected to resonance publications or journalists' investigations before attacks.

Regarding to human rights defenders it is important to notice they have been attacked by unknown persons as a rule. However there are facts fixed when activists were beaten by police officers, sometimes during detention. Moreover, several attacks take place in policemen's' visual field, but they did not intervene or ever blocked medical aid for those suffered.

So it is not a surprise that the investigation by law enforcement agencies of the cases presented was held at the inadequate level: rejections to initiate criminal cases, charges of victims of attacks in making disorder, lighter qualification during the investigation of crime that the circumstances require and absence of any legal proceedings were fixed. Like as in the cases of murder and disappearance of human rights activists, it is clear that the lack of proper investigation of attacks to human rights defenders is followed by attitudes that human rights activities are the acts endangering life. Besides, a sense of helplessness before the arbitrariness of power in society is instilled and this is caused the total passivity of the society in matters of protection of their rights and interests.

Among the 12 cases described below, most of all - 3 cases – are concerned to Ukraine, 2 - Tajikistan and Kazakhstan, and one case in each of other countries. We do not assert that this is a full list of factors. Often we were not able to get full information because of either language barriers

¹³ See Chapter Death threats and threats of serious physical harm, p.78

¹⁴ <http://amnesty.org.ru/node/2469>

or tendencies to hide such kind of information, especially in local government-controlled media. However, the fact that the number of cases in Ukraine is the highest shows that such precedents should be the subject of public debate. Moreover, this fact testifies that situation with protection of human rights defenders freedom of journalism in the country is getting worse, especially when the activity is aimed to human rights issues regarding activities of the law enforcement agencies. This is evidenced by the fact that two cases describe attacks to activists of the "Road Control" NGO, which carries out independent monitoring of the traffic police.

In this Chapter we present the following number of cases by country:

Country	Number of cases
Azerbaijan	1
Armenia	1
Georgia	1
Kazakhstan	2
Kyrgyzstan	1
Russia	1
Tadjikistan	2
Ukraine	3

Cases description

February 25 2012, Shymkent, Kazakhstan

Zharkynbek Seitenbek – a journalist and a civil activist

Around 9pm Zharkynbek opened the door in his home and had got two beats on his head from two unknown people who kept an iron stick. There was nobody around when he came back to consciousness. He covered the wound by his own and went to the hospital where the doctors gave him a diagnosis of brain concussion. Seitenbek connects this attack with series of publications about violations in the Center of temporary isolation and rehabilitation for juveniles in a newspaper "Adilet"¹⁵.

March 24 2012, Kyiv, Ukraine

Rostislav Shaposhnikov – journalist and leader of the "Road Control" NGO, which investigates and highlights illegal actions of the Ukrainian traffic police.

¹⁵ <http://www.time.kz/index.php?module=news&newsid=26107>

On March 24, at about eleven o'clock in the morning Rostislav was approaching his vehicle, the unidentified assailants rudely manhandled him into a black SUV and driven out of town to a wooded area where he was severely beaten. While he was lying at the road two bicyclists were passing by on the path near the place of this crime. They have called to the ambulance¹⁶. The same day the criminal case on "property theft," was initiated. In couple of days after publicity under public pressure prosecutors have changed the reason for criminal case initiation to robbery with violence performed by organized group. At the moment of report drafting the case had not been investigated.

Shaposhnikov convinces that police officer requested an assault because a journalist specializes in the fact-finding of the traffic police corruption and violations in 90 per cent of his human rights activities.

April 2 2012, Mykolaiv, Ukraine

Vitaliy Kosenko – journalist and activist of the "Road Control" NGO, which investigates and highlights illegal actions of the Ukrainian traffic police.

Kherson journalists of Road Control who were in Mykolaiv noticed a traffic police patrol car in the center of the city and headed over to it to take an interview of the inspectors.

While talking to them, the journalists noticed 2 half-filled-in protocols. They were filled headers and signatures placed at the bottom but it was not stated who the "violation" is and what the "violations" are.

They rang 102 and called for the traffic police officer on duty. Instead of him, an unidentified man arrived in a LADA. He started to threaten Vitaliy and then got in his car and sharply swerved in Vitaliy's direction, hitting him in the leg. He then deliberately knocked the journalist down. Vitaliy fell and hit his head on the bumper and asphalt. The traffic police standing nearby did nothing. An ambulance took Vitaliy to hospital.

The police officers shared another version of the incident. They told that a driver of the LADA saw he was filming and this was why a verbal conflict started. Trying to finish the squabble, the driver got into the car and tried to leave, but one of the members of the Road Control threw himself on the hood of the car, and then fell to the ground.

The last version has been documented but the team of investigators based on spectators' evidences¹⁷.

April 18 2012, Baku, Azerbaijan

Idrak Abbasov - an independent journalist with "Ayna-Zerkalo" newspaper and a member of the Institute for Reporters' Freedom and Safety (IRFS)

¹⁶ http://www.svidomo.org/defend_article/6201, <http://roadcontrol.org.ua/node/1402>

¹⁷ http://gromada-ks.blogspot.com/2012/04/blog-post_561.html#more

Idrak was violently beaten by security guards of the state oil company SOCAR while filming a confrontation between the SOCAR guards and the residents of the settlement near Baku which was going to be destruct. Local residents were attempting to stop the reportedly illegal demolition of their houses by SOCAR, which plans to develop an oilfield in the area. The residents were not notified about the evictions and demolition of their homes.

His brother told that several SOCAR employees grabbed the journalist's camera and started kicking him. *"He was covered in blood, his head was bleeding, and one eye was fully closed. I ran up and tried to protect Idrak, but they started beating me,"* Roman Abbasov said, adding that police blocked the local residents and did not allow them to protect a journalist. *"We called to ambulance but the police refused to let doctors reach our home. We took him to the nearest hospital by our car",* - told Roman.

Describing Idrak's condition he said it is bad. He was unconscious and foaming on his mouth. The journalist is believed to have suffered rib fractures, concussion, and potential damage to his internal organs¹⁸.

"We are appalled by this brutal attack, which left Abbasov in an alarming condition", Reporters Without Borders said. *"It is all the most regrettable as it could have been avoided if the required attention had been paid to the harassment to which Abbasov and his family have been subjected for months."*

*The authorities must take immediate and energetic action to identify and punish those responsible. Any other response would leave them shouldering a large part of the blame for this attack, which is typical of the insensitive handling of the real estate transformation under way in and around the capital"*¹⁹.

April 19 2012, Uralsk, Kazakhstan

Lukpan Akhmedyarov – a journalist with the "Uralskaya Nedelya" ("Ural Week") newspaper

The journalist was stabbed eight times and receiving three wounds from a non-lethal weapon in the early evening near his house.

Uralsk police were investigating the attack as a "hooliganism", but re-qualified a case into "attempted murder" under the public pressure later.

*"Those people were standing near the front door and waiting, - Lukpan said. They ever did not try to talk to me. I had passed them already when heard on Kazakh: "Here he is". Immediately after this they beat me. They were beating silently and cruelly. I had understood I would not deal with them"*²⁰.

The journalist thinks there is not any reason to search those assaulters. On his opinion, those who ordered are sitting in the "heavy cabinets"

¹⁸ <http://jourdom.ru/news/15021>

¹⁹ <http://www.radioazadlyg.org/content/article/24552119.html>

²⁰ <http://www.time.kz/news/archive/2012/04/25/lukpan-ahmedyarov-menya-zakazali>

Lukpan thinks the attack was a kind of revenge as for his controversial publications, as for an active public conduct. Among "uncomfortable" for government articles he mentioned an article under the title "Kith, Kin and Pull" on the topic of family connections among those serving in public administration, especially the Chief of Department of Internal Policy was described. The official was requesting 5 million Tenge (some 25.000 EUR) in moral compensation for this article. On July, Akhmedyarov was found guilty of insulting a local official and ordered to the fines²¹.

Lukpan Akhmedyarov is the 2012 winner of the Peter Mackler Award for Courageous and Ethical Journalism for the series of articles on corruption and for the article titled "Kith, Kin and Pull".²²

May 4 2012, January 23 2013, Kyiv, Ukraine

Vitaliy Lazebnik - photographer of the *Tochka.net* media.

On May 4th in the park Pobeda in Kyiv Vitaliy recorded a protest action against illegal construction works. Suddenly a person looking like a director of the park attacked him from the back and became beat Vitaliy on his head by the iron stick.

Vitaliy several times cried he is a journalist. Besides, he had a visible journalist's ID. Despite, the man continued beating.

"He crowned me about five times. Then, when he understood I am a journalist, he run to his car, Jeep. Me and my colleagues tried to stop him. I was almost run over by his car", - says Vitaliy²³.

Media trade union indicates that the offender has not been arrested yet, despite of the fact that there is a photo and video evidence and witnesses of the attack. The police officers refused to make the report and detain the attacker. The prosecutor's office has refused twice to initiate proceedings on Article 171 of the Code of Criminal Procedure (obstruction of a journalist), the police still conducts investigation under Art. 296 (hooliganism).

Moreover, on *January 23, 2013* Vitaly Lazebnik was summoned to the police department of the Kiev Dnipro police station. He is accused of beating a man while making pictures on May 2012. "*I think someone wants me to take a claim back-* said Vitaly. - *The director himself tells around I made a disorder and I ordered to beat him*"²⁴.

At the time of reporting, the General Prosecutor's Office returned the case to the investigators with the recommendation to reclassify this case under the Article 125 (trivial injury)²⁵.

May 5 2012, Khatlon region, Tadjikistan

Salim Shamsiddinov – a leader of the Uzbek community in Khatlon Province

²¹ See Chapter 7. Charges with defamation – p.74

²² <http://www.newskaz.ru/incidents/20130108/4580824.html>

²³ <http://news.tochka.net/117226-fotografa-newstochkanet-izbili-vo-vremya-semki/>

²⁴ http://mediananny.com/raznoe/22142/lzbitogo_fotografa_obviniajut_v_izbienii

²⁵ http://mediananny.com/novosti/2299497/Beij_zhurnalstov_Plati_minimalnye_shtrafy_

Salim was beaten by the group of unknown assailants near the building of the division of State Committee for National Security (GKNB). The local sources connect this attack with his interview in media where Shamsiddinov suggested that officials within the Tajik government are pursuing "nationalistic" policies. Besides, Shamsiddinov was going to make a statement on discrimination against ethnic Uzbek in the Khatlon Province in the media²⁶.

Shamsiddinov said that three unknown men attacked him not far from the building of the State Committee for National Security.

"Around 2 pm my colleague had called me and we made an arrangement. When I went through the GKNB building, a smiling athletic-looking man went towards me. In this moment I felt a beat on my head back. I remember just the first beat; there were doctors around me when I became conscious" – Shamsiddinov said.

Salim found out later that officer of the Kurgantubinsk police station went through the place of attack and scared off assailants.

Shamsiddinov also indicated he probably knows one of assailants. "They have been waiting for me and were ready to this attack. They looked like soldiers. It maybe was related to a recent interview I gave the newspaper "Millat," where I criticized Tajik government for a crisis in diplomatic relations with neighbouring Uzbekistan, - he underlined.

"What I am only surprised about is that I claimed to the police office a several days ago, but nobody interviewed me as sufferer and nobody examined the place of the attack yet. I made several calls to the police and asked who is responsible for my claim and every time I had an answer they come to me and would interview me soon", - added sufferer.

Deputy Chief of the Khatlon Province police office said that the claim of Shamsiddinov had been registered on May 5. Police is searching for the assailants.

May 7 2012, Dushanbe, Tadjikistan

***Dallaire Sharifov** – a correspondent for state TV channel, the leader of the unregistered anticorruption organization ""Step by Step".*

In the evening of May 7 the unknown people attacked Sharifov and his companions, and began brutally to beat them. As a result, Dallaire Sharifov received the serious injuries and was taken to hospital.

Currently Ministry of Internal Affairs of the Republic Tadjikistan is investigated the incident²⁷.

"Around 10 pm we went towards to Karabolo. Several men followed us. Not far from the Russian embassy I felt a strong beat on my head back. It all happened rapidly, I lost consciousness. But a moment before heard: "To the head, to the head" and that is it. I became conscious in the

²⁶ <http://www.fergananews.com/news/20421>

²⁷ http://www.toptj.com/News/2012/05/08/v_dushanbe_neizvestnye_izbili_lidera_nezaregistrovannoy_molodezhnoy_organizacii

hospital" – said Dallaire. Sharifov's friend said one unknown man restrained him while the other attacked Sharifov.

"For some time I received phone calls from coin-box telephone from unknown me persons with threats. Besides, I had received about 25-30 messages from different addresses to my e-mail; there were different Russian names and surnames there – said Dallaire. - For example, the author proposed joint him and fight with one person. I do not understand. This person is just a public figure. They even promised to assist in expelling me from the University in case of a failure of "collaboration"²⁸".

May 17 2012, Tbilisi, Georgia

Identoba LGBTI NGO

On May 17 2012, Identoba organized a peaceful march to celebrate International Day against Homophobia and Transphobia. In advance of the march Identoba wrote to the local authorities, in accordance with the applicable domestic procedure, duly informing of the route of the march, the number of participants, and their aim of holding a peaceful assembly. In addition, in light of foreseeable opposition from those opposed to rights for sexual minorities in Georgia, Identoba specifically requested that the authorities provide safeguards from violence and protection from interference throughout the march.

At 1PM the peaceful march started near the building of Tbilisi Concert Hall and was scheduled to end on Freedom Square, through Rustaveli Avenue in Tbilisi. "Identoba" has asked the police to allocate support to ensure the march was carried out without external interference. The patrol police accompanied participants at the beginning of the march.

As the march progressed participants were met by the members of the "Orthodox Parents' Union" (radical religious organization committed violence against the LGBTI activists, artists, journalists and students) who tried to stop the march. It was clear that they were mobilized and tried to break the march by verbal offenses. When the demonstrators reached the Academy of Science building, the parishioners blocked the way for the march, made a human chain and encircled the LGBT activists in a way that made it impossible for them to pass. Police distanced themselves at a crucial moment when LGBT activists were attacked by members of the, thus leaving participants unprotected. Religious extremists crushed flags and placates of the LGBTI activists. Any individuals believed to be affiliated with the LGBTI rights defenders were verbally and physically abused by radicals. Police hurried to escort LGBTI rights defenders to several municipal buses and evacuated them from the scene after they were threatened with physical assault from the counter-demonstrators. The police have reacted too late.

According to information released to the media, a few days after some of the attackers were arrested, taken to court for an administrative offense and fined. However, there are not proofs of this fact because the victims were not informed of it officially.

²⁸ <http://news.tj/ru/news/daler-sharifov-menya-izbili-po-zakazu>

Representatives of the Identoba insist that police do not fulfil their obligations, as under current law the perpetrators were to be subjected to criminal liability, while only administrative sanctions there were conferred on them.

On 27 May 2013 the Identoba submitted a complaint to the General Prosecutor's Office with a copy to Georgian Ombudsman. The Identoba claimed to start investigation based on the information received as it required the Article 100 of the Crime Procedure Code. An organization did not receive any answer yet.

July 8 2012, Erevan, Armenia

Arman Veziryan – an activist of the Helsinki Citizens' Assembly Vanadzor Office (HCA Vanadzor)

On July 8, 2012 in front of Harsnaqar restaurant complex Ruben Hayrapetyan - an owner of the restaurant and former parliamentarian – beat monitor for the *Helsinki Citizens' Assembly* Arman Veziryan. The violence occurred during the candle-lighting ceremony within the commemoration of the 7th day after the death of Vahe Avetyan, who was killed by the security staff of Harsnakar Restaurant.

HCA Vanadzor shared a statement that strongly condemns the violence against human rights activist. There was indicated in the statement that violence *"was accompanied with particular cynicism and disrespect towards public opinion"*.

*"We believe that this incident is a consequence of an inadequate assessment given by the RA political leadership and law-enforcement bodies regarding the violence against Vahe Avetyan and his friends. Whereas: 1) The Republican Party of Armenia did not give a political assessment to the fact of violence; 2) The law-enforcement bodies did not ascertain all those who committed the acts of violence", - it is said in the statement*²⁹.

Later Ruben Hayrapetyan called Arman Veziryan and apologized to him, stating that he regretted for what he had done. Therefore Armen did not apply to court against Ruben Hayrapetyan³⁰.

June 10, 2012, Bishkek, Kyrgyzstan

Alexander Osadchenko – a human rights defender in the town of Priozersk, Central Kazakhstan asked for an asylum in Kyrgyzstan

On 10 June 2012 he was detained in Bishkek, Kyrgyzstan, by two Kazakh policemen. They put Alexander into the private car with no numbers, beat him and threatened him with murder and physical assault. He asked Kyrgyz President to give him political asylum because he is being chased

²⁹ <http://hcav.am/en/events/statement-regarding-the-violence-against-human-rights-activist-arman-veziryan-by-a-member-of-parliament-ruben-hayrapetyan/>

³⁰ <http://www.armtown.com/news/ru/zam/20120710/19353/>

in Kazakhstan for his activity. The activist's official representative Kseniya Philimonova informed about it.^{31,32}

November 24 2012, Kopeysk, Cheliabinsk Region, Russia

Oksana Trufanova – coordinator of the *Gulagu.net* project, works with the Center for Information and Law "Russian Verdict".

Oksana have been worked with cases of several prisoners at Kopeysk Correctional Penal Colony No.6 in Cheliabinsk Region.

On November 24th prisoners at Colony staged a prison upheaval. They took over the tower and demanded a meeting with cellmates, who they said were beaten and placed in disciplinary cells. Around 300 people came to the colony. They were relatives and friends of prisoners, mostly women and children, but the officials insisted they were intoxicated provocateurs.

Oksana went towards the colony talking by cell phone. At this moment riot policemen ran to the standing people where human rights activist was. Trufanova ran, but policemen hit her on the head with a rubber club soon and she fell. A police officer ordered her not to move, thus threatening that "otherwise it will be worse."

"I heard "Let's beat "- and uniformed men in black masks and with truncheons rushed to the relatives. Everyone ran, but many have been caught up. I personally was hit on the head and dumped down. I told them that I was a human rights activist, but I was told to be quiet by rude words" – told Trufanova later.

According to investigators riot police was attacked by relatives of prisoners under the walls of the colony, and a criminal case under Part 1 of Article 318 of the Criminal Code of the Russian Federation (the use of violence not dangerous to life or health against a government representative) had been initiated.

Later, in February 2013 the human rights defender was invited to the Investigation Department of the Investigation Committee of the Chelyabinsk Region, where she was examined as a witness in the case. During examination Oksana had the impression that the investigator think she is one of the possible organizers of the upheaval. There was not any information about proceedings in the case of the use of force to the human rights activist and her beating.³³

Chapter 3. TORTURES, INHUMAN OR DEGRADING TREATMENT

General tendencies

Torture, inhuman and degrading treatment or punishments are prohibited by all international human rights instruments. Moreover, freedom from torture is an absolute right and its restriction can not be justified on any ground.

³¹ <http://www.pandia.ru/text/77/279/67904.php>

³² See Chapter 5. Administrative proceeding – p.55

³³ <http://www.gazeta.ru/social/2013/02/14/4967433.shtml>

Unfortunately, the level of this freedom remains low. The human rights defenders in the region record facts of torture and different forms of ill-treatment everywhere. The defenders themselves became the victims of such treatment during arrests and detention or during the investigation when the officers pressure them to confess on crimes they did not do. Such kind of treatment is registered in prisons as well; usually the goal is to increase pressure to human rights activists.

The human rights defenders from Azerbaidjan, Belarus, Georgia, Kazakhstan, Kyrgyzstan and Uzbekistan figure in presented cases. We received messages about tortures in Turkmenistan as well, but the strong informational closure about human rights situation there did not allow us to find any warranted data or name of victims. Therefore this information was not included into the Report.

In this Chapter we present the following number of cases by country:

Country	Number of cases
Azerbaijan	2
Belarus	1
Kazakhstan	1
Kyrgyzstan	2
Uzbekistan	3

3.1. Tortures and degrading treatment during arrests, detention and investigation

General tendencies

Tortures during investigation are the main problem in the region. The tradition to get prejudicial evidence or confession of guilt by tortures and degraded treatment still is the main method of the law enforcement agencies.

Sometimes these methods are applied to human rights defenders. Documented cases of torture of human rights activists from Kazakhstan suggest an assumption that other people who participated in the events of December 2011 in Zhanaozen were subjected to torture and degrading treatment as well. This prejudices all the procedure of investigation, trial and verdicts.

Described fact is hardly surprising, since there were a number of human rights violations registered by the international human rights NGOs during the investigation of "the case of Zhanaozen".

In addition, torture lead to a breakdown of the personality, and in the case of human rights defender, it means giving up his position and activity in the future. Besides, getting confessions of criminal offenses under torture, leads to the total discrediting and marginalization of human rights community.

The general deterioration of human rights situation in Azerbaijan is just confirmed by the examples of torture against civic activists described below.

Description of cases

January - June 2012, Aktau, Kazakhstan

Rosa Tuletayeva - leader of the strike movement in Zhanaozen.

Rosa Tuletayeva had been arrested at her house in Zhanaozen on January 3, 2012. She was charged under the article which includes "organization of mass riots" and charges were related to a demonstration that took place on 16 December 2011 in the town of Zhanaozen when conflict between police, former oil workers and civilians took place.

According to the data of Prosecution's Office, at least 14 people were killed and 64 were gunshot wounded. Police investigated actions of protesters and civilians at that day, but the actions of the police and security personnel were not considered.

She is one of the leaders of the workers' strike in the oil company OzenMunaiGaz, which began in May 2011. She has also been the movement's main information contact for journalists and international organizations.

The court hearing on the December 2011 events in Zhanaozen began on 27 March 2012. On 16 April 2012, Rosa Tuletayeva testified that she was subjected to torture during her detention: plastic bags were put over her face in an attempt to suffocate her, she was hung by her hair and she was "too ashamed to disclose in front of her family and relatives" what happened to her as she was taken to different rooms by various men in civilian clothes. Rosa Tuletayeva's family members were threatened. In August 2011, her daughter was arrested and detained for several days³⁴.

On June 4th the Court of Aktau made a judgment on a case of December 2011 in Zhanaozen. Thirteen people of the 37 defendants accused of rioting were imprisoned for the term from three to seven years.

Rosa Tuletayeva was sentenced to 7 years in a penal colony on charges of "organizing mass disorder", in accordance with Art. 241, Part 1 of the Criminal Code. The appellate court changed her prison term from seven to five years.

April 2012, Sabirabad, Azerbaidjan

Ogtay Gulaliyev – a Coordinator of the Kur Civic Society, provides assistance for people affected by flooding in May-June 2010.

Ogtay Gulaliyev along with Kura personnel conducted public control over the equitable distribution of public funds allocated to compensate people affected by the devastating floods; their goal was to ensure transparency and combat corruption. On April 7th 2012 while conducting a meeting with the residents of Minbashi he was arrested by local police.³⁵ He was charged with "active resistance to authorities' legal orders" and "incitement to mass riots and to violence "³⁶.

On April 9 the Sabirabad District Court charged him with minor hooliganism under Article 296 of the Code of Administrative Offences and sentenced to 12 days administrative detention.

³⁴ See Chapter 10. Harassment / pressure on relatives of human rights defenders– p.88

³⁵ See Chapter 5. Administrative proceedings – p.55

³⁶ <http://www.kavkaz-uzel.ru/articles/198885/>

Before the process Ogtay made a call to his lawyer and reported that he was beaten by police officers at the Sabirabad Regional Police Office. *"They hit me to the head and stomach. Now I have dizziness and severe pains. I required medical treatment but they refused it. I spend a night in a small room with other four persons detained. They <police> did not even give a stool to sit on it",* - repeated his words Intigam Aliev, a president of the Legal Education Society³⁷.

June 8, 2012, Sabirabad, Azerbaijan

Ilham Amiraslanov - a member of Kura Civil Union.

Ilham Amiraslanov was arrested on 8 June 2012 – four days after group of farmers met with Kyamaleddin Geidarov, Minister for Emergencies, and Nazim Ismailov, a chief of the executive branch. The farmers were not satisfied of the reparation after the flood in 2010. Immediately after the meeting shadowing on him began.

He was kidnapped near the village of Esgerbeyli in the region of Sabirabad by police officials from the Department for Combating Organised Crime (DCOC) of the Ministry of Internal Affairs. The police officers pulled an plastic bag over his head and took him to an unknown location, which he could later identify as the Olympic Complex in Sabirabad. The human rights defender was subjected to torture and cruel, inhuman and degrading treatment while in detention, including being beaten on the head and face.

On 18 June, Ilham Amiraslanov wrote a letter to the Prosecutor General asking him to investigate the illegal activities of the police, including the planting of a weapon on him and the planting of ammunition at his home. In the letter he described in detail how he was beaten on the head, particularly around the eyes and mouth, and kicked by different police officers and verbally humiliated while in detention.

"I have been beaten by masked men and police officers in the police custody and Olympic Complex in Sabirabad as well. My head, ears and chest ail permanently. Physicians of the Prison Service and Forensic Centre documented a ruptured eardrum of the left ear. I can not sleep in the night because of the noise in the ears", – said Ilham in his statement³⁸.

On July 30 representatives of the OSCE Office in Baku visited Ilham Amiraslanov in pre-trial detention center. Amiraslanov reported that he had not received adequate medical care for the injuries he sustained when the police beat him during and after the arrest on June 8.

On 12 September, Ilham Amiraslanov was convicted and sentenced to two years imprisonment for unauthorised possession of firearms and ammunition. According to reports, the judge refused to hear the defence witnesses and did not allow the journalists present to enter the courtroom. Ilham Amiraslanov's lawyer believes that neither the investigation nor the trial were conducted objectively, that numerous human rights violations were committed during the arrest of the human rights defender and that the case was politically motivated. The lawyer announced that they would appeal the court decision. Ilham himself that he made a confession under torture³⁹.

³⁷ <http://caucasianknot.livejournal.com/10207652.html>

³⁸ <http://www.contact.az/docs/2012/Want%20to%20Say/080100006647ru.htm#.UWXLy7XkrvE>

³⁹ <http://www.frontlinedefenders.org/node/19850>

September 14, 2012, Bishkek, Kyrgyzstan

Farkhodkhon Mukhtarov – member of the Human Rights Alliance of Uzbekistan, asked about asylum in Kyrgyzstan

On September 14, the officers of the Main Investigation Department of the Ministry of Internal Affairs invaded Mukhtarov's apartment in Bishkek apartment and arrested him without a sanction.

During the arrest, the police beat him and insulted his family.^{40,41}

September 30, 2012, Dzhezak, Uzbekistan

Uktam Pardaev – leader of Jizzakh regional branch of the Independent Human Rights Association of Uzbekistan

On September 30th Uktam Pardaev had driven to the car service in Jhizzak. Rapidly three police officers said him the service is going to be closed and ordered him not to go anywhere. They did not explain why they ordered this. Moreover, they called for reinforcement. A few minute later four police officers have come. Uktam has been beaten, forcibly arrested and was withdrawn in an unknown direction.

He held for over 15 days on minor administrative charges of “hooliganism” and “resisting arrest.” Pardaev, local activists, and Human Rights Watch believe that Pardaev was most likely arrested to prevent him from monitoring the rights of children and adults mobilized to pick cotton⁴².

Uktam said before that, on his opinion, the pressure measures started when the representatives of the US Embassy visited his home because of his human rights work.⁴³

November 9, 2012, Tashkent Region, Uzbekistan

Elena Urlaeva – leader of the Human Rights Alliance of Uzbekistan

Elena Urlaeva and three residents of the city of Parkent in Tashkent region, whose relatives had been convicted of "religious extremism", tried to give a complaint to a President Islam Karimov. They came to the gates of the presidential residence in a roundabout way. *"Our relatives were illegally detained, tortured, now the government tries to charge them on November 13 in Verhnecherchiksky Criminal Court in Yangibazar"* – explained the participants of the action.

They unrolled a banner near the President's residence, and then tried to pass the complaint through the policeman on duty Islam Karimov, but they were immediately detained by the police and taken to the police office. Here they were called to talk one by one to the chief of the police office - Shaukat Mavlyanov, and then they were taken to different rooms.

⁴⁰ <http://vof.kg/?p=6771>

⁴¹ See Chapter Administrative prosecution, p.55

⁴² <http://www.hrw.org/world-report/2013/country-chapters/112566?page=2>

⁴³ <http://www.frontlinedefenders.org/ru/node/19863>

Urlaeva says that she was treated rude: *"A young policemen, who wrote the protocol, punched me strongly in the head when I refused to stand against the wall and take a picture. He roughly twisted my arms to take my camera"*. Police officers smoked Urlaeva's face and insulted her verbally. They confiscated flash cards and erase all information from her cell phone.

Three other participants of the picket had been taken to the police station in Parkent, and the next day fined administratively by the Kibrai Criminal Court⁴⁴.

3.2. Degrading treatment in detention

Events in previous years have led to the fact that a number of prominent human rights defenders are now imprisoned and are serving sentences on false charges. The governments, who initiated the prosecution of human rights defenders, try to continue pressure them through different forms of degrading treatment with prisoners. There are also additional sanctions and prohibitions towards them, sometimes they are denied to have the necessary assistance; torture aimed at breaking down their personality and the destruction of their human dignity take place as well. Even putting these people in prison, the governments recognize them as a threat to regime and try to break their spirit down.

It is important to note that all of these examples of degrading treatment towards to human rights defenders occur despite of continuous attention of the international community to their fate. The authorities do not simply ignore the voices of the international community (like recognition of these people as prisoners of conscience), but continue to put pressure on them in order to reduce their impact to the further process of human rights protection.

General tendencies

The cases of Ales Bialiatski (Belarus) and Azimjan Askarov (Kyrgyzstan) are big precedents. There are a significant number of such cases in Uzbekistan where at least 13 human rights defenders stay in prison or under investigation. This number "dilutes" an attention of the international society to the single cases.

Description by country

Belarus

In the year 2012 the pressure on Ales Bialiatski – a co-founder and Chairman of the Viasna Human Rights Centre, the vice president of the International Federation for Human Rights – was continued.

Ales Bialiatski was put to trial in November 2011. The human rights activist was found guilty of alleged tax evasion and sentenced to four and a half years in a high security prison with confiscation of property. Bialiatski's arrest caused broad international resonance. The Belarusian human rights activist is recognized as a prisoner of conscience. Amnesty International recognized Bialiatski as a prisoner of the conscience. International community, i.e. leaders of the European

⁴⁴ http://www.uznews.net/news_single.php?lng=ru&cid=3&nid=21253

Union and the USA, demand to free him. In the year 2012 Ales Bialiatski has been nominated for the 2013 Nobel Peace Prize

On November 26, 2012 Viasna Vice-Chairman, Valiantsin Stefanovich reported that administration of the penal colony Nr 2 in Babruisk tries to isolate Ales Bialiatski and reassures prisoners who communicate with him, threatened by preventing them from being released on parole. "A climate in the colony is very difficult", - Stefanovich says. Bialiatski was penalized seven times in the seven months that he spent in the penal colony. In this case he is not allowed to receive food and to meet visitors, regardless is it a short-time of a long-time visit.

Ales' colleagues are concerned about his health. Stefanovich underlined a tendency to sentence of political prisoners for a *persistent violations of regulations which foreseen additional term of imprisoning; Stefanovich is afraid this norm can be applied to Bialiatski*⁴⁵.

Kyrgyzstan

Azimjan Askarov was arrested on June 15, 2010 by agents of the police department of Bazar Korgon, South of Kyrgyzstan, for having allegedly: urged ethnic Uzbeks, along with other leaders of the Uzbek community, to take the district official, A. Artykov, hostage; ordered the blockade of the Bishkek-Osh Highway by some 500 armed protesters, and attacked police officers causing the death of one of them, Sulaimanov. On December 20, 2011, the Kyrgyz Supreme Court upheld the sentence to life imprisonment of Azimjan Askarov following obvious violations of fair trial standards.

However, in February and March 2012, two lawyers of the Human Rights Centre "Citizens against corruption", Valeryan Khalitov and Husanbay Saliyev, together with lawyer Evgenia Krapivina, collected a series of testimonies of witnesses of the events of Bazar Korgon. They interrogated local inhabitants, collected videotaped statements as well as written statements which were certified by a notary. All of the witnesses unanimously asserted that Askarov was not present on the bridge where Suleimanov was assassinated.

Askarov has been allowed to consult a psychologist since June 20, 2012, who confirmed that Askarov is affected by a number of health problems as a result of pressures exercised against him in the aftermath of his incarceration, the confiscation of his property and endless investigations into this case.

According to Dr Sandra Crosby, a consultant for Physicians for Human Rights who visited Azimjan recently, Azimjan *"has sustained severe and lasting injuries since his arrest"* almost 2 years ago. In the psychologist's report it had been noted that: *Azimjan is experiencing an overwhelming desire for a peaceful and conflict-free environment that is defined by his tiredness of stress. On the other hand, he is trying to protect his freedom and right to be free, defending their opinions. He feels frustration, resentment, but he must give in and adapt to the current conditions. He feels like a victim of circumstances. It is characterized by a pessimistic assessment of the opportunity to improve his position, he is afraid of new failures, while it's hard to go to a reasonable compromise. Naturally on this background is worsening physical condition,*

⁴⁵ <http://freealesbialiatski.posterous.com/171155539>

exacerbation of chronic diseases.

Askarov had only been allowed to benefit from the support of this psychologist for one month, as decided by the Public Service of Execution of Punishment. However, the latter requires psychological and broader medical care for a longer period, as he has also been suffering from persistent visual loss, a traumatic brain injury, and a spinal injury as a result of ill-treatments. He further requires immediate assessment of chest pain and shortness of breath, symptoms which strongly suggest a coronary artery disease which could be life threatening if not immediately treated⁴⁶.

In 2010 Askarov had been awarded the International Prize "Homo Homini" for his active work on human rights. The Prize had been given to Azimjan's son Sherzod⁴⁷.

On November 20, 2012 in the USA Azimjan Askarov had been honoured an Committee's to Protect Journalists International Press Freedom Award. The prize was awarded to four international journalists who risked their lives to cover human rights abuses and corruption⁴⁸.

Uzbekistan

Despite of several human rights defenders and journalists were released from prisons as a result of international pressure, many of them are still imprisoned because of false charges. At this writing, human rights defenders in prison for no reason other than their legitimate human rights work include: Solijon Abdurakhmanov, Azam Formonov, Mehriniso Hamdamova, Zulhumor Hamdamova, Isroiljon Holdarov, Nosim Isakov, Gaibullo Jalilov, Abdurasul Khudoinazarov, Erkin Kuziev, Ganihon Mamatkhanov, Zafarjon Rahimov, Yuldash Rasulov, Dilmurod Saidov, and Akzam Turgunov.

Several are in serious ill-health and we have received reports that at least seven have suffered torture or ill-treatment in prison. Thus, relatives of Gaibullo Jalilov after visiting him in January said that he had been tortured several times. As a result of being beaten by stick he almost completely lost his hearing ability⁴⁹.

Accordingly to the information received by the Initiative Group of Independent Human Rights Defenders of Uzbekistan, those who are discharged are ordered to write a statement that they will not be communicate with human rights defenders and journalists, so they find themselves in isolation after discharging⁵⁰.

Chapter 4. CRIMINAL PROCEEDINGS

General tendencies

Criminal proceeding of human rights defenders is widespread method of pressure to activists. In 2012 this method appeared in different forms. Cases of unfounded initiation of criminal

⁴⁶ <http://www.fidh.org/Otkrytoe-pis-mo-General-nomu>

⁴⁷ www.birduino.kg

⁴⁸ <http://www.fergananews.com/articles/7555>

⁴⁹ [http://refugee.memo.ru/C32569F200664B72/\\$ID/3CBDA0A654DCCF49442579E3008057D9](http://refugee.memo.ru/C32569F200664B72/$ID/3CBDA0A654DCCF49442579E3008057D9)

⁵⁰ http://www.iphronline.org/uploads/9/0/2/7/9027585/rus_uzb_upr_submission_oct_2012.pdf

proceedings were accompanied by detention, house arrest or a written cognizance not to leave. There were examples of sentencing to imprisonment and punishment in form of fines and conditional sentence as well.

The criminal proceeding on human rights activity often is based on charging in defamation and evidences of dependent on authorities witnesses. In several cases the investigation was accompanied by getting access to information kept by human rights defenders as poofs of human rights violations or to personal information about victims of human rights violations. We may assume that initiating the criminal proceeding the authorities tried to get access to this information.

Applying this form of persecution, the governments not only try to limit the ability of human rights defenders to be active (taking into consideration that such activity is directed to denunciation of the government), but also start an open conflict with the civil society. Human rights activists usually are well-known people, and their prosecution does not go unnoticed. In the following cases, there was a reaction of the local NGOs in the form of statements, protests and media campaigns, as well as disturbance of the international human rights community.

It should be noted that criminal proceeding of human rights defenders undermines meaning of human rights movement and stimulates negative attitudes to human rights defenders. And this is one of the goals in such kind of cases.

In this Chapter we present the following number of cases by country:

Country	Number of cases
Azerbaijan	9
Belarus	1
Kazakhstan	2
Moldova	3
Russia	3
Turkmenistan	2
Uzbekistan	4
Ukraine	3

4.1. Unfounded initiation of criminal proceedings

General tendencies

It is clear that the prosecution of human rights activist "knocks him out" his active work on human rights protection for a long time. The governments of different countries use the same method - the unjustified prosecution. Even if the defender was not charged and sentenced, the fact of investigation, often accompanied by a restriction of freedom of movement, preparing to court hearings, etc., effects significantly to diversion of resources (human, intellectual and timing) which human rights activists should bring to organize their own protection instead of regular work on

people's protection or detection and prevention crimes of representatives of power structures. The human rights activists, whose work was related to the disclosure of corruption schemes, embezzlement or incompetence of officials, became survivors of criminal proceeding as a rule. Often the pressure to human rights activists took the form of revenge of the authorities, whose crimes were uncovered by activists.

The cases of human rights defenders are accompanied by numerous procedural violations: failure to adduct evidence of defence, the lack of evidence to support the charge, the lack of an independent advocate.

Among the charges to human rights activists and lawyers who have been subjected to unfounded criminal prosecution are fraud, battering, divulging the confidence of the investigation, the distribution of pornography, hooliganism, extortion, drug trafficking, the organization of mass disorder.

It is important to note that the following cases are not completed yet and there still are threats to the human rights defenders to be sentenced and imprisoned for long terms, like in the cases of Ukrainian and Azerbaijani activists. In Moldova criminal case could be followed by ban to practise a profession. It may be that two cases in Russia refer rather to the total pressure on human rights defenders and do not aim the real proceeding.

Description of cases

2010 – 2012, Vinnytsia, Ukraine

Dmytro Groysman – a leader of the Vinnytsya Human Rights Group which is an executive partner of the UNHCR in Ukraine.

A trial on a criminal case of famous human rights defender Dmytro Groysman has been continued in the year 2012. Dmytro is accused of abusing the national emblem of Ukraine and spreading pornography for being in a blog he posted a satirical photos and videos with erotic elements⁵¹:

After two years and two months his trial was still going on; there were 67 judicial sittings at the beginning of March 2013, despite the investigation were made within two days.

On 15 October, police in Vinnytsya searched the house and office of Dmytro Groysman. Police questioned staff about their work, and confiscated over 300 items, including UNHCR files, computer discs, memory sticks and a laptop, effectively paralysing the work of the NGO. They seized the office's computers and confidential materials related to current refugee cases and two pending cases at the European Court of Human Rights.

The search was conducted under the pretext of an anti-pornography investigation into a link on Groysman's personal blog to a video of Russian politicians engaging in sexual acts that had already been widely circulated within the public domain, via YouTube, Russian television and Ukraine news sites.

⁵¹ <http://di-mur.livejournal.com/140279.html>

During the search police officers *"were happy to find... posters on promotion of safe sex issued by the German Foundation working with HIV issues"*, - wrote Dmytro in his blog.

"They need first of all an access to our computers because we have there a large number of records with victims of human rights violations. Another moment – it is just a revenge of General Nonik - a Head of the Vinnytsia police. He could have revenge because we told people about ill treatment in the Vinnytsia detention center in June 2010", Dmytro wrote⁵².

The Office of the United Nations High Commissioner for Refugees, Amnesty International and other NGOs shared their disturbance in this case⁵³.

Since January 2012, Komrat, Republic of Moldova

***Anna Aladova** – lawyer who works for the Regional Bureau of the National Legal Aid Council (NLAC). She represents victims of human rights violations, and she has represented clients in the European Court of Human Rights on several cases.*

On 23 January 2012, a regional Deputy Attorney in Komrat, in the Gagauzia region, Mr Chimpoesh, filed a criminal complaint against Anna Aladova. She was accused of fraud for allegedly misinforming the NLAC Regional Bureau regarding the services she had been providing as a lawyer. According to the Deputy Attorney, Anna Aladova was reporting to the Bureau that she was providing legal services which she had not been providing. Were these allegations true, she would have been receiving remuneration for the services illegally. This would constitute a criminal offense.

Having heard of the Deputy Attorney's intention to file a case against her, on 20 January 2012, Anna Aladova visited his office, and in a private conversation which she secretly recorded, he alluded to the fact she was being targeted for reasons other than those which he had stated in the criminal complaint, and he told her several times that she "talks too much".

Two weeks earlier, on 4 January 2012, Anna Aladova was threatened by the police officer Mr N A Tomajly, who aggressively confronted her, shouting that she talked too much and threatening to open a criminal case against her. Several weeks prior to this event, Anna Aladova filed a complaint regarding the refusal by the police to disclose the whereabouts of one of her clients who had been transferred from a prison to an unknown location. According to the human rights defender, this complaint was the reason for the threats.

On 14 February 2012, Anna Aladova filed a complaint to the General Prosecutor's Office, in which she claimed she was being harassed and illegally persecuted. In the complaint, the human rights defender demanded that the criminal procedures against her be suspended and that measures be taken against those behind the persecution. She subsequently received a response stating that there was no evidence that she was being persecuted due to her professional activities and, therefore, her complaint was rejected.

According to the Regulations for the Payment for Lawyers' Service of the National Legal Aid Council, specifically articles 11-13 of the Regulations, lawyers are obliged to submit a report on the services they provide, and the Regional Bureau of the Council then implements a verification

⁵² <http://di-mur.livejournal.com/130119.html>

⁵³ http://www.vpg.org.ua/2010/02/blog-post_8867.html

procedure regarding such reports. The lawyer receive payment only upon the verification of the report. For this reason, Anna Aladova claims that she could not possibly have falsified these reports and thus received payment for non-existing services.⁵⁴

March 12 2012, Yekaterinburg, Russia

Alexey Sokolov - leader of the NGO Pravovaja osnova (Legal Foundation) which defends prisoners' rights, an author of the documentary titled "A Factory of Tortures" about tortures in the penal colony Nr 2 in Yekaterinburg.

Aleksei Sokolov was summoned to the police officer of the local police station and said that pre-investigation on charge of beating is started against him and his wife Gulnara. The reason was a complaint of the Sokolov brother's girlfriend. Sokolov believes that all this is no accident: she played a significant role in his conviction before, when he was charged in attacks on the factory's "Uralneft" warehouse in Bogdanovich in 2001, and the warehouse of the factory "Uraltermosvar" in 2004. Sokolov's brother was accused of assault, but his partner initially testified that he did not take part in it. However, in 2009 she changed the testimony and said that Sokolov was also among the attackers. These statements laid in the basis of the charges against Sokolov. He was convicted and sent to serve his sentence in Krasnoyarsk colony.

We should also note that after Sokolov's release the police officer tried to get him back to the colony, charging that he did not come to the police during two months for so-called marks required for those who were released early. Sokolov says he is complying these requirements strictly⁵⁵.

April 2012, Sabirabad, Azerbaijan

Ogtay Gulaliyev – a Coordinator of the Kur Civic Society, provides assistance for people affected by flooding in May-June 2010.

On April 19, 2012, after having almost served the totality of a 12-day administrative detention in Sabirabad regional police⁵⁶, Ogtay was charged through a decision of the Prosecutor of Sabirabad with “active resistance to authorities' legal orders” and “incitement to mass riots and to violence against citizens” (Article 220.2 of the Criminal Code).

On the same day, a two-month detention in remand was approved by Sabirabad Regional Court. He has been taken to Kurdakhani investigative prison. The Article 220.2 of the Criminal Code foreseen up to three years' imprisonment.

By the decision of Sabirabad Regional Court Gulaliyev was released from custody in the Kurdakhani investigative prison on June 13, 2012. The hooliganism charges still stand and the police investigation is on-going⁵⁷.

⁵⁴ <http://www.frontlinedefenders.org/node/19686>

⁵⁵ <http://www.ura.ru/content/svrd/13-03-2012/news/1052140700.html>

⁵⁶ See Chapter Administrative prosecution, p.55

⁵⁷ <http://www.kavkaz-uzel.ru/articles/208076/>

May 24, 2012, Severodonetsk, Ukraine

Rimma Belotserkovskaya – leader of the Severodonetsk NGO "Pravovoje Prostranstvo" ("Space of Law"), activist of Tax Maidan and other protests.

In May 2012, the court ruled that Rima Belotserkovskaya is a person wanted by the police and she should be detained. The judgement states that she has not appeared twice at the hearing, where she is charged. The stated there were not reasonable excuse for her non-appearance to the trial.

The will be five years of criminal proceeding of Rima Belotserkovskaya soon. In 2008 Rima supported people in Severodonetsk who tried to stop the illegal construction nearby of a condominium. During the conflict, the organizer of construction used the pepper spray against Rima. But the criminal case on hooliganism filed against civic activist⁵⁸.

Initially, Rimma's case was heard in Severodonetsk court, but later it had been transferred to the Court of Rubezhnoe (the nearby town), which jurisdiction does not cover the territory of the case happened. The trial is held with brutal violations⁵⁹.

May-October 2012 and now, Chinsinau, Moldova

Andrey Nestase – lawyer, Bureau of Attorney "Andrey Nestase".

As an lawyer of the well-known businessman Viorel and Victor Tsop Andrey Nestase represents their interests in the national courts and in the European Court for Human Rights. His clients hold shares in two the largest banks and two insurance companies in Moldova. Since March 2010 there was a series of raider attacks to his clients' companies.

The businessman were abused illegally by the Center on the Economic Crimes and Corruption Prevention (CECCP) and by the Prosecutor's Office on Fight with Corruption, despite the competence of these bodies is not shared to such kinds of cases. The proceeding became when businessman had informed about the raiders attacks and named Moldavia oligarch Vladimir Plakhotniuk as a final interested person. Vladimir Plakhotniuk is a sponsor and vice-chair of the Democratic Party in Moldova and a Speaker of the Moldovian Parliament as well.

Businessman and their relatives were charged in several crimes followed by their sentence and their property (stocks) had been confiscated. Trials of these cases were hold till February 2013 and trials on raider attacks are still hold.

On May 15, 2012, in contradiction to law, Andrey Nestase had been examined in the Prosecutor General's Office within the crime case initiated on the fact of falsification of the copy of judgement on abandonment of a criminal case against Viorel Tsop as of October 16, 2001. An original document had been hidden by the prosecutor but the copy had been presented by Nestase to the trial and had been confirmed by prosecutors who worked on this case in 2001. However the court decided that the copy was false.

⁵⁸ <http://www.radiosvoboda.org/content/article/24591149.html>

⁵⁹ <http://blogs.korrespondent.net/users/blog/smm4you/a57895>

After this incident Nestase stated at the TV program that he and his clients are victims of Plakhotniuk who likely controls Prosecutor's General Office and CECCP.

Later, on July 10, 2012, CECCP registered a complaint to Nestase. He was charged on presenting false warranties on behalf of the company which was attacked by raiders.

On July 11, 2012 Nestase took his family out of Moldova and went out himself later. He came back just after the intervention of the Chief of the Moldovian Bar Association.

CECCP suspended the investigation but did not close it, despite of warranties were confirmed by the director of the company.

On October 9, 2012 the article calling to stop illegal actions against Nestase had been published in media on behalf of Bar Association. During the press-conference lawyers demanded from the Prosecutor's Office to stop such king of actions against attorneys⁶⁰.

After dismissing of the Prosecutor General the Prosecutor's Office admitted that copy of judgement as of October 16, 2001 was not false.

June 2012, Baku, Azerbaijan

Mekhman Huseinov – *photographer and youth activist, works for the Institute for Reporters' Freedom and Safety (IRFS)*

Mekhman Huseinov was detained on June 12 at the Sabayil District Police station, after having been questioned for three hours. He is accused of hooliganism in connection with an unsanctioned protest in Baku on 21 May, where the police used force against protesters and journalists reporting on the event. Mekhman Huseinov, who was at the protest to report, got his camera broken by the police, after which he had a verbal disagreement with the police. The charges against Mekhman Huseinov are connected to the verbal disagreement with the police.

Huseynov was released from detention on 13 June 2012 on the provision that he would not leave Baku while the investigation was on-going. On 20 June 2012, he was summoned by officials from the Sabail district police station and then sent to the Sabail district state medical facility where he was given a medical examination to determine whether he had been injured during the 21 May 2012 protest. Huseinov's lawyer noted that this was a due process violation as a full month had passed since the protest.

Huseinov risks a prison sentence of up to five years⁶¹.

Since June 21, 2012, Baku, Azerbaijan

Hilal Mamedov – *a consultant with the Institute for Peace and Democracy human rights NGO, chief editor of the Baku-based newspaper "Tolyshi sado" ("The Voice of Talysh"), the author of the meykhana video Ty kto takoy? Davay, do*

⁶⁰ <http://www.infotag.md/reportaje/597526/>

⁶¹ <http://www.civilrightsdefenders.org/news/statements/azeri-photographer-freed-but-still-risks-prison/>

svidaniya! which became an Internet meme both in Azerbaijan and Post-Soviet states⁶².

At approximately 10 am on 21 June, Hilal Mamedov left home to visit a relative in hospital. He called home at 11 am and said that he would be home in 30 minutes. He then disappeared. From 2 to 3.30 pm, when relatives tried to call, his mobile phone was answered by an unfamiliar male voice who said that Hilal Mamedov was under medical observation and would return home when the doctor finished examining him. At 4.20 pm his brother called from Moscow. The person who answered the phone informed him that Hilal Mamedov was under arrest, without giving any further explanations. After that, Hilal Mamedov's mobile phone was turned off.

In the evening of 21 June, 20 police officers arrived to the home of Hilal Mamedov in order to carry out a search, following which officers claim to have found a package containing 5 grams of heroin on him. They claim to have found a further 20 grams in his home.

His colleagues believe that this accusation and alleged discovery is completely unfounded, and no evidence was provided for the accusation. One of the policeman reportedly asked Hilal Mamedov's father: *"Why was your son defending Talysh people? Did he not know how it can end up?"*⁶³.

The following day, 22 June, Hilal Mamedov was brought before the Nizami District Court, which authorised a pre-trial detention for a period of three months in order to complete the investigation on possession and distribution of drugs. Mamedov's detention in the drugs case was covered widely in Azerbaijani, Russian and western media.

On June 26 Amnesty International⁶⁴, and in June 27 the Human Rights Watch⁶⁵ published urgent appeals on Hilal's arrest.

On 3 July 2012, Hilal Mamedov was charged with high treason and incitement of national, racial or religious hatred. On the following day, 4 July, the Ministry of Internal Affairs and General Prosecution office made a public statement announcing that Hilal Mamedov has also been charged with espionage on behalf of Iran. According to the Criminal Code of Azerbaijan, Hilal Mamedov may face imprisonment from ten to fifteen years or life imprisonment under Article 274 for high treason. He may also face three to five years under Article 283.2.2 for incitement of national, racial or religious hatred.

On December 24th the investigation had been completed, and the case is ready to be transferred to the court. Lawyers were not able to examine the most part of the documents. "The video materials were not given to us" – says a lawyer Khilal Bagirov. The judge did not accept a petition to stop the trial due to a lack of evidence against Mammadov but accepted a claim about ill-treatment fixed on pictures. The claim had been sent to the prosecutor of the Nizami district in Baku.

⁶² <http://rutube.ru/video/3c298902117712c350cd8256b72d79d1/>

⁶³ <https://www.frontlinedefenders.org/node/18725>

⁶⁴ <http://www.amnesty.org/en/news/release-prisoners-conscience-azerbaijan-cannot-mask-ongoing-crackdown-freedom-speech-2012-06-26>

⁶⁵ <http://www.hrw.org/es/node/108317>

On 29 January 2013, the Baku Serious Crimes Court began to hear the case of Hilal Mamedov. This hearing took place behind closed doors, following the rejection of Mamedov's request to have a public trial by Judge Azer Orujov⁶⁶. Hilal Mamedov stated that as a result, he would refuse to participate in his trial. He ordered his lawyers not to represent him but finally decided not to refuse legal representation, but rather to limit their activity because of the closed trial and the procedural irregularities in his case.

July 7, 2012, Nizhny Novgorod, Russia

Igor Kalyapin – a Chairman of leading human rights NGO Inter-Regional Committee Against Torture, working on laying open to the public the information on human rights violations by law enforcement officials in Chechnya.

Igor Kaliapin has been harassed with criminal proceedings for allegedly disclosing confidential information in his contributions to media publications in support of victims of human rights violations by law enforcement officials in Chechnya. On June 7 he was summoned for questioning by an investigator, reportedly in relation to a number of articles he had published, or contributed to, on enforced disappearances and other human rights violations in Chechnya.

It is about several publications Elena Milashina in "Novaya Gazeta" ("Kadyrov's shy guests" "Confrontation failed", "Vertical impotence", "Chechnya has to be protected"); article "Caucasian greyhound", published by Svetlana Reuter in the Esquire magazine; this article was awarded by the publishing house "An Independent Media" as the best publication of 2011. There was also "Chechen diary" by Igor Kalyapin, published in the social media⁶⁷ and at the web-site of the Committee Against Tortures⁶⁸.

These publications tell about violations of Chechen police – murders, tortures and forced disappearances, and about systematic sabotage of investigation as well. Igor Kalyapin is a representative of injured person Islam Umarpashayev in one of such cases. In 2009 Islam had been kidnapped, he was tortured and illegally detained for 4 months in the station of Chechen OMON. As a representative of Umarpashayev, Kalyapin participated in the investigation and signed a document on non-disclosure pre-investigation materials.

A member of the Russian intelligence service, the FSB, alleged that Igor Kalyapin had disclosed confidential information in these articles. Igor Kalyapin claims that he had revealed no secrets, but exposed the lack of effective investigation into the disappearances and other human rights violations and the lack of legal redress for their victims.

He is convinced that attempt to prosecute him is a form of pressure to the "Committee against Torture" with the purpose to force them stop their work on investigation crimes allegedly committed by people working with Kadyrov. *"I did not give anybody information about the investigative actions - is listed in the protocol of Kalyapin's examination. - I have repeatedly disseminated information about the circumstances which block the investigation, and about all of*

⁶⁶ <http://minval.az/view.php?id=1764#sthash.BgULbBCU.dpuf>

⁶⁷ <http://starshoy-smg.livejournal.com/4317.html>

⁶⁸ <http://www.pytkam.net/press-centr.novosti/3805/pg2>

the obstacles that arose during the investigation. However, I did not disclose either the results or the nature of the investigative actions". The investigator Igor Sobol who leads a criminal investigation on the Umarpashaev's kidnapping does not believe Kalyapin disclosed any materials of investigation as well.

The Moscow organization "Committee against Torture" believes that faced with the pressure of a systematic campaign orchestrated by high-ranking suspects, and are reminded that before with regard to lawyers 'Committee' operating in Chechnya, has repeatedly committed illegal acts.⁶⁹

This is the third attempt by the authorities to open criminal proceedings against Igor Kalyapin under the same pretext. The previous attempts failed to find any wrongdoing on his part when investigation officials looked into the relevant allegations made against him. In addition to questioning Igor Kalyapin, the investigator on the case has requested that the IRCAT provides him with detailed personal information concerning all its current and former members who have worked in Nizhni Novgorod (where IRCAT's head office is based) and Grozny (Chechnya) since May 2011.

4.2. Criminal sentencing with deprivation of liberty

General tendencies

Charging of human rights defenders in criminal cases caused their long-term exclusion from the active human rights protection. A lot of activists are not able to return to the human rights activity after they serve a term because of health conditions or total psychological depression.

Such charges discredit human rights movement in eyes of society, because the authorities present human rights defenders as swindlers, blackmailers, people who are looking to making disorders and as enemies of society in general. Criminal sentences of human rights activists cause total fear in the society and rejection of activities directed to protection of rights and interests. Youth tries not to join human rights initiatives as well. As a result, human rights activity started to be an underground one and human rights activists immigrate to the other countries.

We present 10 cases of criminal sentencing on deprivation of liberty for human rights defenders taking place in 2012. The case of 37 people, including human rights defenders, charged on incidents in Zhanaozen in December 2011 presented as well. In this case 11 people were sentenced to deprivation of liberty for the term from 3 to 7 years. Another case described is regarded to the termination of the service of sentence.

There are incitement to suicide, extortion, bribery, tax evasion, fraud, vandalism, possession of arms and organization of mass disorder among the charges. In some cases, like in Kazakhstan, the international observers were presented at the trials; in some of other cases courts went into closed session.

The cases presented are related to the most troubled countries - Turkmenistan and Uzbekistan, as well as Kazakhstan (i.e. countries of Central Asia region). There are 6 cases from Azerbaijan, where journalists had been prosecuted. The persecution of activists is connected to their activities in exposing of corruption or governments' omission on significant problems.

⁶⁹ <http://www.pytkam.net/press-centr.novosti/3806>

Description of cases

2006 – 2013, Turkmenistan

Annakurban Amanklychev and Sapardurdy Khadzhiev – civic activists and independent journalists

On February 16, 2013, Annakurban Amanklychev and Sapardurdy Khadzhiev were released from detention after seven years of imprisonment.

Amanklychev and Khadzhiev were independent journalists and worked with foreign media outlets, such as the BBC and Galaxie Presse. They were also members of the Turkmenistan Helsinki Foundation, a human rights organization based in Bulgaria that publicizes human rights violations in Turkmenistan.

Immediately prior to their arrest, Amanklychev and Khadzhiev worked on a documentary exploring then-President Niyazov's cult of personality. The documentary also addressed the failing Turkmen health and education systems.

National security officials arrested Amanklychev and Khadzhiev on June 16, 2006, and June 18, 2006, respectively. At the time of their arrest, they were accused publicly by the Minister of National Security of "trying to collect defamatory information about Turkmenistan and cause discontent among people." Yet, after several weeks of severe mistreatment in prison, they were charged with possession of illegal munitions. They then received a "trial" that lasted less than ten minutes. Soldiers prevented relatives and members of the public from entering the courtroom. Despite a lack of evidence, the three journalists were convicted for possession of illegal munitions. Amanklychev and Khadzhiev were sentenced to seven years imprisonment and their colleague Muradova – to six years.

On 14 September 2006, the family of Ogulsapar Muradova was informed of her death in custody. Following reports from relatives who "*saw a huge wound on her forehead and marks on her neck*".⁷⁰

President Berdymukhamedov rejected an appeal for pardon by Annakurban Amanklychev and Sapardurdy Khadzhiev in 2008. International and human rights organizations – UN Committee, Human Rights Watch and OSCE – made statements on their protection. In 2011 Amnesty International considered Annakurban Amanklychev and Sapardurdy Khadzhiev to be prisoners of conscience who have been jailed because of their legitimate human rights activities. The European Union proclaimed their discharging as a condition for future relations with Turkmenistan. But neither international attempts, nor ultimatums influence to their fate - Annakurban Amanklychev and Sapardurdy Khadzhiev served for seven years of unjust imprisonment.

"*Every single second Khajiev and Amanklychev spent behind bars was a terrible injustice,*" said Rachel Denber, deputy Europe and Central Asia director at Human Rights Watch. "*While*

⁷⁰ <http://takeaction.amnestyusa.org/siteapps/advocacy/ActionItem.aspx?c=6oJCLQPAJiJUG&b=6645049&aid=16180>

we're overjoyed that they're finally free, the oppressive state practices behind their jailing persist and should be addressed."⁷¹

From August 2011 till February 25, 2013, Baku Azerbaijan

Bakhtiyar Mammadov – lawyer, human rights activist

Mammadov represented several residents among the 29 families who were forcibly evicted from their homes in the capital, Baku, which were demolished in early 2012 as the government was building a performance hall for the 2012 Eurovision Song Contest. Mammadov's clients had challenged as inadequate the 10,000 AZN (US\$12,700) in compensation the government offered in exchange for their homes. In August 2011 these families have made an agreement with Mammadov on their representing in court.

In addition to representing the families in court, Mammadov filed complaints on their behalf with the prosecutor's office and the Anti-Corruption Committee alleging, among other concerns, misappropriation of funds earmarked as compensation for the evicted residents. Mammadov alleged that two million AZN (US\$2.5 million) had been allocated from the state budget to compensate evicted residents, and that as a result of the misappropriation of funds, evicted families were being deprived of their fair compensation. Immediately after this event Mammadov had been accused of blackmailing of the Chief of the Azerbaijani Navy.

Mammadov was arrested on December 30, 2011, and has been in detention ever since. He was charged with large-scale extortion (article 182.3.2 of Azerbaijan's criminal code) based on an allegation that he had attempted to blackmail the person he had accused of misappropriation. Mammadov was accused of threatening to expose documents implicating a naval officer in misappropriation unless he paid Mammadov 18,000 AZN (US\$23,000); Mammadov has denied the accusation.

Mammadov's lawyer told Human Rights Watch that the trial was delayed due in part to the naval officer's failure to respond to court summonses. The lawyer also said that the complaint was filed by third parties and that the naval officer stated in court that he has never met Mammadov.

On February 25, 2013 the Court of Serious Crimes sentenced Mammadov to a total of eight years in prison⁷².

2011 – 2012 Baku, Azerbaijan

Vidadi Isgandarov – a chairperson of the Promotion of Democracy Defence
NGO

⁷¹ <http://www.tmhelsinki.org/en/modules/news/index.php?storytopic=0&start=10>

⁷² <http://www.hrw.org/news/2013/03/04/azerbaijan-rights-lawyer-imprisoned>

Vidadi Isgandarov nominated his candidacy to Parliament elections for 7th November 2010 from Goycay election area.

Having openly criticized the conduct of the elections, Isgandarov submitted a complaint and supporting video material to the office of the prosecutor alleging ballot rigging. However, instead of investigating the allegations, he was summoned to the prosecutor's office where he was told he was being investigated for electoral violations. The case was later dropped because of lack of evidence.

He had to go out his region and moved to Baku where he fought with torture in police and represented people suffered from the construction company,

Isgandarov was arrested on 17 April 2011 for participating in opposition protests and sentenced to 15 days' administrative arrest by the Nizami District Court. On 2 May, his administrative detention ended but instead of releasing him the authorities brought criminal charges against him. The criminal charges against him related to the November 2010 parliamentary elections.

On 27 August 2011 following an unfair trial, Goychay District Court sentenced Vidadi Isgandarov to three years in prison for interfering with the 2010 parliamentary elections. He was found guilty under Articles 159.3 (obstruction of voting), 160.1 (interference with the work of election commissions) and 132 (battery) of the Criminal Code of Azerbaijan.

On November 2, 2011 and on February 14, 2012 Shekin Court of Appeal and Supreme Court relatively accepted sentence. Vidadi Isgandarov had been recognized by the Amnesty International as a of prisoner conscience

Despite of disease Isgandarov had been sent to the penal colony Nr 14 in the region with very bad climate and complications of the disease have set in. On December 27, 2012 he had been released from detention due to grant of pardon⁷³.

October 28, 2011 – March 12, 2013, Baku, Azerbaijan

Avaz Zeinalov –editor-in-chief of the “Khural” newspaper

Avaz Zeinalov was arrested on October 28, 2011, on suspicion of taking a large-scale bribe. MP Gyular Akhmedova filed a complaint against his actions. The Anti-Corruption Department received complaints on bribing the journalist from three other persons, including Sabir Tariverdiev – a director of the car market and a leader of the Azerbaijan National Statehood Party. Besides, Avaz Zeinalov was charged of failure to execute the judgments and tax evasion. On May 18, the consideration of the case on merits was started⁷⁴.

At the court hearings, held on October 2, Sabir Tariverdiev stated he did not bribe Avaz Zeinalov, but he simply *"asked him like his countryman not to write negative things about*

⁷³ <http://www.hrw.org/news/2011/08/29/azerbaijan-rights-defender-6-activists-convicted>

⁷⁴ <http://adygeia.kavkaz-uzel.ru/articles/221260/>

respectable people", and, in particular, about Elmar Veliev, ex-Chief Executive of the Evlakh District. At present, Elmar Veliev is Chief Executive of the city of Gandzha.

Meanwhile, according to the materials of the criminal case, during the preliminary investigation at the Anti-Corruption Department under the General Prosecutor, Sabit Tariverdiev gave different testimony. In particular, he said that he gave Avaz Zeinalov 2500 manats (more than 3000 US dollars) on behalf of Elmar Veliev, ex-Chief Executive of the Evlakh District to stop publishing negative articles about him in the newspaper "Khural".

In connection with that, Ramadan Khadyev, the public prosecutor, asked Sabir Tariverdiev *"to clarify"* his testimony. The defence treated that as pressure of the public prosecutor to the witness.

However, Judge Ramella Allakhverkhdieva did not respond to the comments of lawyers on *"violation of procedural rules, committed by the public prosecutor."*

After that, Sabir Tariverdiev changed his testimony several times, and he stated that he had asked Avaz Zeinalov to stop writing about Elmar Veliev and promised to give him money for that.

Avaz Zeinalov refuted the statements of both Sabir Tariverdiev and his press-secretary and said that he did not take any money and did not discuss the subject with them. According to the defendant, the testimonies of the complainant and his witness cannot be treated as evidence, since they are biased. Meanwhile, Avaz Zeinalov said that he wrote in his newspaper about evasion of the Sumgait automotive market from taxes, and Sabit Tariverdiev and his press secretary wanted to "take vengeance" on him.

Besides, Avaz Zeinalov has emphasized that yet on October 8, 2011, the National Statehood Party issued the statement, in which it applauded the confiscation of the property of the newspaper "Khural" and the ban on its publication.

Judge has sentenced to nine years in prison, finding him guilty under evasion of taxes and compulsory social payments in large scale, non-fulfilment of sentence, ruling or other act of the court, a large-scale bribe-taking and extortion by threats⁷⁵.

2011 – 2012, Ujar Region, Azerbaijan

Taleh Khasmamedov – leader of the "Law and Right" NGO, blogger

Taleh was arrested in November 2011 and on 20 April 2012 he was sentenced to four years in prison under articles 221.3 (hooliganism committed with weapons or objects used as weapons) and 315.1 (providing resistance to the police) of the Criminal Code of Azerbaijan.

The day before his arrest he was visited by two persons who presented themselves as police officers. These persons asked him to give them materials about illegal actions of police. They explained that the criminal case against Police Department in Ujar Region had been opened. Taleh gave them the materials but the next day he was arrested. He was charged criminally in hooliganism and resistance towards a public agent.

⁷⁵ <http://www.kavkaz-uzel.ru/articles/221284/>

Takeh's home and office had been searched; a computer and archives were confiscated. *"It confirms again that the police was looking for the concrete documents. He had been arrested 10 days ago but still does not have an advocate"*, - said human rights defender Ogtay Iskenderli⁷⁶.

On October 9, 2012 Court of Appeal declined appeal of human rights defender. During the trial Taleh Khasmammedov has been summoned and warned by the Ujar police, officers suggested him *"to think about mother, sister"*, - Taleh said.

Before the hearing in the Court of Appeal, Khasmammedov had shared a statement in which he said that his work is the reason of his imprisonment. He had been investigating allegations of illegal activity and abuse committed by law enforcement officials in Ujar region and had published several articles critical of the local authorities. Shortly before his arrest, he published an article in Gundam Khabar and Azadliq newspapers regarding the suicide of the 17 year-old female victim of human trafficking, in which he alleged that a criminal group operating the trafficking ring was aided by local police. He had also previously published several articles in which he alleged that local police officers have been colluding with criminal gangs operating in the area.

In October 2012 Khasmammedov was released under the presidential pardon⁷⁷.

January 2012 – February 2013, Taraz, Kazakhstan

Vadim Kuramshin – human rights defender, he is defending the rights of the people imprisoned and dealing with tortures in prisons.

He was initially arrested on 23 January 2012 in the village Korday by the officers of the Department on Combating Organized Crime after the Deputy Prosecutor alleged Vadim had attempted to extort a large bribe from him.

Vadim was going to meet after the Deputy Prosecutor of Korday district. He has represented the entrepreneur who in November 2011 applied to him with claim about the prosecutors' extortion.

But, as colleagues of Kuramshin say, he was detained by police up to two hours after he signed up an appointment with the prosecutor Kordai district.

On January 24 Vadim's apartment in Almaty was searched and a computer was confiscated. Search warrant was signed by the Prosecutor of Zhambyl district on January, 23⁷⁸.

Vadim was charged the next day after arrest, and put in pre-trial detention, during which time he maintained a week-long hunger strike to protest the case against him. He was later charged under Article 181 of the Criminal Code of the Republic of Kazakhstan, which deals with extortion. On 28 August 2012, the defender was released after the jury *reclassified the allegation against Vadim Kuramshin from "extortion" to "arbitrariness"*.

At the second time Vadim Kuramshin was arrested immediately after his speech at the OSCE Conference on torture in the prisons of Kazakhstan. This new arrest was based on a decision by the

⁷⁶ http://azeri.ru/papers/contact_az/92584/

⁷⁷ <http://hr-nis.org/node/494>

⁷⁸ <http://www.kuramshyn.org/blog/2012-01-24-133>

Appeal Panel of the Court of Zhambul region on 31 October 2012 to cancel the earlier verdict of the jury that had refused to convict him.

In the pre-trial detention facility in Petropavlovsk Vadim Kuramshin cut his veins as a protest, but his life was not in danger. On 3 November 2012, he was transported from Petropavlovsk to the detention facility in Taraz.

On December 7, 2012, he was sentenced to 12 years in a top-security prison facility along with confiscation of his property on charges of extortion⁷⁹. According to human rights activists, Vadim Kuramshin was convicted as a result of his activity as a human rights defender⁸⁰.

On February 14, 2013, the Court of Taraz upheld the condemnatory judgement against Vadim.

Vadim wrote about upcoming provocation in his blog on October 12. A certain Gulya Askeltirova, whose husband was serving a long term prison sentence in the Karaganda region, was approached by the KNB, who offered her to assist in Vadim's case. She was asked to give him a large sum of money apparently in return for solving the problems she had been following her husband's conviction. According to Gulya, the KNBers just said: *"Your job is to just stick the money in his hands; the rest we do by ourselves"*⁸¹.

March - July 2012, Zhanaozen, Kazakhstan

Participants of the demonstration on December 16, 2011

17 demonstrators were killed and more than 100 were injured on December 16 in Zhanaozen, when Kazakh police opened fire on protesting oil industry workers.

37 defendants are being tried on a variety of charges, including organizing and participating in the unrest, arson, assault on representatives of the state and looting.

*"Of the 37 defendants accused of "participating in mass riots," three were acquitted, 17 were given suspended sentences, and five were convicted but immediately pardoned. Twelve defendants received multi-year prison terms", says Alezander Mukha, a chairman of the Maugistau branch of the Kazakhstan Bureau for Human Rights*⁸².

*"Trade union activists of strike leaders were imprisoned. Those who had joined a strike occasionally and had not been active during the strike were released under amnesty or have got. suspended prison sentence" – sais human rights defender Andrey Grishin*⁸³.

Almost all of 37 defendants recall their evidences and said they were subjected to torture or cruel and degrading treatment aimed at forcing them to provide incriminating evidence. Some of them provided detailed information and identified the law enforcement officials who had used torture. Lawyers and monitors admitted procedural violation during the trial.

⁷⁹ <http://www.fergananews.com/news/19880>

⁸⁰ http://www.odfoundation.eu/ru/urgents/1201/mezhdunarodnoe_grazhdanskoe_obschestvo_apelliruet_vlastyam_kazahstana_po_delu_vadima_kuramshina

⁸¹ <http://www.kuramshyn.org/blog/2011-10-12-56>

⁸² <http://www.gazeta.ru/social/2012/06/04/4612293.shtml>

⁸³ <http://www.gazeta.ru/social/2012/06/04/4612293.shtml>

On a July 12 visit to Kazakhstan, UN High Commissioner for Human Rights Navi Pillay said an international investigation was needed to address “*unanswered questions*” including whether using live fire against unarmed demonstrators was “*necessary and proportional*.”

Despite Astana’s pledge of fair, even-handed proceedings, critics have questioned whether justice has been done, amid allegations (declared unfounded by investigators) that evidence was extracted through torture. The UNHCR’s Pillay echoed concerns, pointing to “*serious question marks over the fairness of judicial processes*.”⁸⁴

During my meetings with Kazakhstan’s authorities, I raised the issue of the arrest of opposition members, civil society and human rights activists, and lawyers, and called for transparency, the presumption of innocence, and access to legal protection. In this context, I must say that in any proceedings for Zhanaozen, full justice has not been provided,” stated Navi Pillay at the press-conference in Astana⁸⁵.

June 8 – September 12, 2012, Sabirabad, Azerbaijan

Ilham Amiraslanov – member of Kura Civil Union

Ilham Amiraslanov was arrested on 8 June 2012 – four days after group of farmers met with Kyamaleidin Geidarov, Minister for Emergencies, and Nazim Ismailov, a chief of the executive brunch. The farmers were not satisfied of the reparation after the flood in 2010. Immediately after the meeting shadowing on him began.

On September 12, Ilham Amiraslanov was convicted and sentenced to two years imprisonment for unauthorised possession of firearms and ammunition under Article 228.1 of the Criminal Code of Azerbaijan. According to reports, the judge refused to hear the defence witnesses and did not allow the journalists present to enter the courtroom.

Ilham Amiraslanov's lawyer believes that neither the investigation nor the trial were conducted objectively, that numerous human rights violations were committed during the arrest of the human rights defender and that the case was politically motivated. The lawyer announced that they would appeal the court decision.

Amiraslanov said he was tortured by the officials, who planted a gun on him and forced him to sign a false confession stating that the weapon was his.^{86,87}

June 10 2012, Yangijul, Uzbekistan

Gulnaza Yuldasheva – member of the Uzbekistan Initiative Group of Human Rights Defenders

Gulnaza Yuldasheva was detained on charges of extortion (Article 165 of the Uzbek Criminal Code).

⁸⁴ <http://www.eurasianet.org/node/65674>

⁸⁵ <http://www.newskaz.ru/society/20120712/3499926.html>

⁸⁶ See Chapter 3. Tortures and degrading treatment – p.25

⁸⁷ <http://www.frontlinedefenders.org/node/19827>

In early 2011, two of her brothers, along with two other men, were sent to Kazakhstan with promises of good work and high salaries. Upon reaching their destination, however, it is alleged that their passports were taken away, and the men were forced to work 15-hour days with only a single loaf of bread for sustenance. After several months, the men managed to return to Uzbekistan and revealed the ordeal to their sister, a human rights activist. Yuldasheva first raised the issue with government officials in May 2011 and began to conduct her own investigation to gather evidence against those involved.

In May 2011, Gulnaza turned to local law enforcement authorities with allegations about the role of local officials in these and other trafficking cases and presented documents and audio and video recordings to support her allegations. However, as no measures were taken in response to her allegations, she began submitting appeals and complaints to higher authorities, including the regional and general prosecutors, the head of the country's security services, the human rights ombudsman, and the president.

The extortion charges against Gulnaza Yuldasheva were fabricated in retaliation for her efforts to highlight suspected human trafficking cases involving local officials in the Chinaz district of the Tashkent region.

Yuldasheva was detained on 11 April after a provocation organised by police the day before. On 10 April, she was on her way to Chinaz from Tashkent after visiting her brother in hospital. The conductor of the bus she was travelling on dropped her mobile phone on the floor and damaged it. Human rights activists said that the conductor had received marked money from police worth 100,000 sums (\$35), and he was supposed to compensate her for the damaged phone with this money. This money later became a reason for police to launch a criminal case against the activist on charges of extortion⁸⁸.

Human rights defenders were denied access to monitor the trial. However, Gulnaza's lawyer who was present at the trial informed about serious irregularities. In particular, the case was reviewed in a hasty and superficial manner, and the judge rejected a petition to question a number of key defence witnesses who could have helped show the lack of credibility of the case against Gulnaza, which was characterized by major inconsistencies between the formal charges and the "evidence" presented to support them. Several prosecution witnesses retracted statements they had made during the investigation, saying that they had been pressured to provide them.

The trial was initially scheduled to begin in mid-June 2012 but was repeatedly postponed without explanation before it began only five days prior to the announcement of the verdict. On the final day of the trial, Gul'naza told her father that she had been beaten in pre-trial detention by a police officer (she did not know his name), who demanded that she "confesses" in court. She nevertheless refused to do so.

Yuldasheva was sentenced to 2 years of imprisonment but later the term was increased till 7 years. According to Gulnaza, she was threatened by local law enforcement officials to stop addressing trafficking-related issues on several occasions prior to facing extortion charges⁸⁹.

⁸⁸ http://www.uznews.net/news_single.php?lng=en&cid=3&nid=19588

⁸⁹ http://www.iphronline.org/uzbekistan_20120717_e.html

2011 – 2012, Baku, Azerbaijan

Faramaz Allahverdiev (Faramaz Novruzoglu) - correspondent for the *Nota Bene* newspaper

On August 23, the Nizami District Court of Baku completed the trial against journalist Faramaz Allahverdiev, known as Faramaz Novruzoglu. The Court found him guilty of inciting riots and illegal crossing of the state border and sentenced him to 4.5 years of imprisonment in a high security penal colony.

Faramaz Allahverdiev was convicted for calling people to riots during the action "Great People's Day" of March 11, 2011, announced in the social network "Facebook" by user "Elchin Ilgaroglu".

Besides, Faramaz Allahverdiev was found guilty of illegal crossing of the state border of Azerbaijan (Article 318.1 of the Criminal Code of Azerbaijan) in November 2010 and illegal stay in Turkey till October 2011.

Faramaz Allahverdiev has refuted the accusations and said that he is being prosecuted for publishing and posting articles on social networks and in the newspaper "Miletim" ("My Nation"). In his materials, he was investigating the facts of corruption among top-ranking officials.

He also claimed he did not use a username "Elchin Ilgaroglu" in the social networks. According to him, this fact had been confirmed neither by expertise of his personal computer, not by the one of three computers he used in the Internet-club.

Because of financial problems Faramaz Allahverdiev could not hire an independent attorney and the state one in fact took a side with the prosecution⁹⁰.

October 5, 2011, Ashgabat, Turkmenistan

Dovletmurad Yazguliev - local correspondent for the Turkmen service of the *Radio Free Europe/Radio Liberty (RFE/RL)*

Yazguliyev was arrested on September 27 on charges of inciting a relative's suicide attempt. He was found guilty and received a five-year prison sentence in early October. Members of Yazguliev's family said that the case was politically motivated.

42-year old Yazguliev was among the first to break the news of deadly arms storage explosions in the town of Abadan near the Turkmen capital Ashgabat in July. A special Turkmen government commission issued a terse report, saying that 15 people had been killed by the explosions in Abadan. Opposition reports, however, claimed that hundreds of people had died.

Yazguliev was summoned by police and warned of "consequences" if he did not stop reporting on it, the regional website Fergana News reported⁹¹.

Top managers of the RFE/RL stated that Turkmen government did not hide an angry with Yazguliev's materials about explosions in Abadan and this conviction is none other than an attempt to silence an independent reporter.

⁹⁰ <http://hr-nis.org/node/250>

⁹¹ <http://enews.fergananews.com/news.php?id=2114>

To public were allowed to the trial. After the intervention of the international society Yazguliyeu was freed by presidential amnesty in late October 2011⁹².

4.3. Criminal sentencing without deprivation of liberty (fine, conditional sentence).

General tendencies

All seven cases recorded rather argue about intimidation of human rights defenders, but not the desire to imprison them. Defenders were either fined in charge of defamation, or reduced to give a written cognizance not to leave and ruling the charge unfounded. Some sentences. There were also warnings about criminal liability on discreditation of the State.

The range of countries is remarkable: relatively problem-free Ukraine and Moldova, less stable Russia and Uzbekistan, which is traditionally criticized for persecution of human rights defenders. It is important that human rights defenders in Uzbekistan were persecuted systematically and were sentenced to heavy fines of have been granted a pardon.

There is a threat that in the case of Moldova the pressure on human rights activist Alexander Prokop will be continued in 2013 due to his opposition to the First Vice- Speaker of the Parliament of Moldova.

Case description

February 2012, Crimea, Ukraine

Zair Smedliaev - member of the Crimean Mejlis represented the Tatars at the national level

Zair was charged with a crime on disobedience to police officers during the meeting of Crimean Tatars and have been sentenced to pay a fine and received a five-month prison sentence but was freed because of time limitation passed (the meeting took place 6 years ago)⁹³.

2009 – 2012, Yekaterinburg, Russia

Dmitriy Rozhin – one of the founders and leaders of the Pravovaya Osnova (Fundamental Rights) NGO.

Dmitry faced number of problems in his activity related to criminal investigation against him which was initiated back on 23 April 2009. The criminal investigation started after a press conference where he and his colleague Andrey Sokolov told about lack of competencies in police officers of Pervouralsk and demanded removal of some police commanders.

His criminal case was initiated without conducting his interrogation and was based on the

⁹² <http://rus.ozodi.org/content/article/24371901.html>

⁹³ http://texty.org.ua/pg/news/kulch/read/26441/U_Krymu_pravoohoronci_pereslidujut_chilnogo_aktivista_Medzh_lisu

results of preliminary inquest. The events of the case, described by the law-enforcement authorities in 2009 that form the basis of his accusation took place in 2007. Back then he worked in the Sverdlovsk Bar Association and provided legal aid to different people. One of the relatives of the convicted, whose interests he represented in the Supreme Court of Russian Federation in March, 2007, two years later wrote a complaint that he did not fulfil the taken responsibilities and cheated her. In the absence of the objective data, documents and written proof, based on the simple complaint and without investigation the law-enforcement authorities initiated the criminal case against him. He gave a written cognizance not to leave Yekaterinburg.

In the beginning of March 2012 Dmitry participated at the 19th Session of the UN Human Rights Council as a member of the Freedom House delegation to the UN and came back to Russia on 10th of March (the date he had a written permission on traveling abroad), taking the plane route Geneva-Moscow-Yekaterinburg. By medical indications he was taken off the plane in the airport of Moscow and stayed in hospital there till the 16th of March, 2012.

He notified the Court about the situation (the required documents are registered in the office of the clerk on the 16th March, 2012). On the 17th of March on his arrival to Yekaterinburg he was taken to the hospital again and was discharged from a hospital only on March, 23. However on April 2 he was sentenced to changing cognizance not to leave onto custodial placement.

The employees of the temporary isolator (prison) where Rozhin was taken realized his health condition and refused to accept him, summoning an ambulance instead. Dmitry Rozhin was taken to hospital no. 1 in Yekaterinburg where he had been staying under guard and could be sent off to a pre-trial detention centre.

On May 5, 2012 Sverdlovsk Regional Court ordered to cancel Dmitry's arrest because of procedural violence made by the district court. On January 25, 2013 Dmitry had been discharged completely.⁹⁴

January - November 2012, Tashkent, Uzbekistan

Shoukhrat Roustamov- a member of the Human Rights Alliance of Uzbekistan.

In January 2012, Shoukhrat Roustamov was sentenced to pay a fine for libel in relation to his complaints about violations of the law.

On 17 June 2012, a criminal case against Shoukhrat Roustamov was opened on the basis of a libel complaint. The human rights defender was not presented with a copy of the decision to open the case, or of the complaint on the basis of which the case was opened. Later the Almazar district court in Tashkent has acquitted him, ruling that a criminal case was unfounded⁹⁵.

On 4 July, Shoukhrat Roustamov was sentenced to pay a fine for organizing a protest action against tortures near a National Security Service building.

On November 14, 2012, around 9 o'clock he had been arrested by the secure officers. This day he had to observe the trial in the Tashkent Regional Court on Crime.

⁹⁴ <http://hroniki.info/?page=news&id=12656>

⁹⁵ <http://birdamlik.info/?p=25477>

An international organization Front Line Defenders is seriously concerned about the continued harassment of Shoukhrat Roustamov and believes these measures are solely motivated by the human rights defender's legitimate human rights work in Uzbekistan, especially his involvement as a legal representative in the case of the bankrupt investment company "Shark Yulduzi"⁹⁶. On Shoukhrat's opinion, the criminal case on disappearing of the director of this company together with 9,5 billion soam, was not investigated. *"Somebody just tries to shut me up for stopping me "dig some dirt up" this case of credit union"* – Roustanov says.⁹⁷.

May – December 2012, Karshi, Uzbekistan

Gulshan Karaeva – leader of Kashkadarya region branch of the Human Rights Society of Uzbekistan (HRSU). In 2011 had been arrested and detained by police for taking pictures of schoolchildren picking cotton in the southern Kashkadarya region.

In the morning of May 19th 2012, Gulshan Karayeva left her home to go to her daughter's school and to a pharmacy. At approximately 11.30am, she entered a pharmacy located near the school and the regional courthouse, when two women approached her and started to speak loudly to her. Gulshan Karayeva asked them to go outside and talk quietly. They agreed and Gulshan Karayeva led them to a shop, the owner of which she knew. Upon arrival, one of the women received a call to her mobile phone, and the two women subsequently began to attack Gulshan Karayeva, beating her on the head. The attackers attempted to take her out of the shop, where four cars were reportedly parked. Gulshan Karayeva managed to seek help and the two women were removed from the shop.

During the night of 19 May, unknown persons sprayed the gate and walls of the defender's home, and her neighbour's home, with explicit and abusive graffiti. The graffiti included pictures of genitals, as well as insults and threats directed at Gulshan Karayeva.

On 21 May 2012, an unidentified man pursued and chased Ms Gulshan Karayeva in Qarshi, as she went to buy food for her children. She managed to escape to a nearby street where people she knew lived⁹⁸.

It is believed that the above incidents are related to Gulshan Karayeva's public statement issued on 5 May 2012, in which she declared that she had refused a proposal of cooperation put to her by the National Security Service (SNB).

Karayeva learnt on 27 September 2012 that a criminal case had been opened against her when police officers arrived in her house and took her to the town police department. She have spent four hours in the police station⁹⁹.

She is accused under two Criminal Code articles – 139 "Defamation" and 140 "Insult". The police in Karshi accused Karayeva of slandering and insulting her neighbours who injured her on May 19th, calling them "prostitutes".

⁹⁶ <http://www.frontlinedefenders.org/node/19694>

⁹⁷ http://www.uznews.net/news_single.php?lng=ru&cid=3&nid=20331

⁹⁸ <http://www.frontlinedefenders.org/ru/node/18412>

⁹⁹ <http://www.frontlinedefenders.org/ru/node/19976>

On November 27 Gulshan started receiving phone calls from the town court demanding that she should urgently appear for her trial but she refused to go without summons. On November 28 the support campaign to Gulshan started.

On 13 December she went to court but managed to enter it only at the second attempt. It turned out that she was expected there and Judge Otabek Mustafayev immediately started hearings. Karayeva pleaded not guilty and provided all the details and twists of the criminal case opened against her and said that the evidence was falsified, while the investigation was biased. After that Judge Mustafayev decided to apply an amnesty to Karayeva that was declared by the Senate of the Oliy Majlis (the Uzbek parliament) on 5 December in connection with the 20th anniversary of the Uzbek constitution.

"Given the campaign conducted against me in recent times, the court ruling looks very humane", Karayeva commented on the ruling¹⁰⁰.

June 21, 2012, Minsk, Belarus

Andrey Bandarenka – a Chairperson of the human rights NGO Platform

The Prosecutor's Office in the city of Minsk warned Andrey about the criminal liability on "effort to discredit Republic of Belarus". The warning had been connected to the appeal of Platform to the International Ice Hockey Federation called for not spending in Belarus Ice Hockey World Championship in 2014, *"until all political prisoners are released, and the repression of human rights defenders, journalists and civil society activists will stop"*¹⁰¹.

October 4, 2012, Kashkadarin Region, Uzbekistan

Hasan Choriyev – a member of the Kashkadarya Region Branch of the Human Rights Society in Uzbekistan "Ezgulik.

Hasan was charged on slandering. On June 6, 2012 he applied to Department of the National Security Service in Chirakchin district. He addressed his complaints to khoakim (representative of local government) who used community's land for his private livestock. A video confirming that information had been produced.

But the judge decided that Choriyev had still slandered local authorities by claiming they misappropriated several heads of his livestock.

Kashkadarya Region's Yakkabag District criminal court imposed a fine of 29 million sums (\$11,000) on Hasan Choriyev after finding him guilty of slander on 5 November¹⁰².

Choriyev suggested he was being punished for his son Bahodir Choriyev who now lives in the USA and heads the opposition Birdamlik movement. Moreover, Choriyev senior himself is disliked by local authorities for publicising violations of law taking place in his region.

¹⁰⁰ http://www.uznews.net/news_single.php?lng=ru&sub=&cid=3&nid=21618

¹⁰¹ <http://news.open.by/country/90833>

¹⁰² <http://en.hrsu.org/archives/1743>

February 5, 2012, Chinsinau, Moldova

Alexander Prokop – a vice-chairmen of the human rights NGO «Adjuta Cives»

On February 5, 2013 Alexander Prokop had been detained in his house in Orgeyev. Some hours later the police officially informed about the reasons of his arrest. Prokop had been arrested in connection to the criminal case opened in 2012. He was charged in using the child labour at his farm. Recently Prokop informed that he was tracked and some people harassed him murder if he continue to criticize Moldovian oligarch Vladimir Plakhotniuk.¹⁰³

Such explanation caused a series of protests of the civil society. The Adjuta Cives NGO repeatedly exposed the corrupt officials and representatives of the government despite of their political views. At the press conference before the arrest, Prokop and his colleagues demanded of Parliament to resignation of the first vice-speaker of Parliament Vlad Plakhotnyuk and some officials from the Prosecutor General's Office, National Center for Prevention Corruption, some members of the judiciary system and other senior officials of Moldova, as they are, according to human rights activists, "cover vested interests of criminals ", and the deputy speaker has a "private army" of 600 well-prepared soldiers.¹⁰⁴

As it turned out later, there was another name in the letters of caption and different legal status of Prokop as well: *"taking into consideration that there are some proofs of guiltiness of the citizen of Greece Mr Ioanis Kravaris <...>, to return Mr Prokop suspect"*.¹⁰⁵

On February 12, 2013 Alexander Prokop was cleared of all charges. But he had suffered from the hypertonia crisis in the pre-trial prison had been taken twice to the resuscitation department. In the hospital he received threats and demands to stop his activity. Besides, the Adjuta Cives registered facts of pressure on judges. Human rights defenders informed about facts of pressure at the press-conference.¹⁰⁶

Chapter 5. ADMINISTRATIVE PROCEEDINGS

General tendencies

Administrative proceedings in forms of detention, fines and administrative arrests mainly had been connected to public action and pickets. It is explained by the fact that freedom of peaceful assemblies and association is limited in the countries of the region. Interventions of authorities to the execution of the freedom of assemblies were clearly aimed to stop meeting of public action and prevent such action in the future.

In 2012 human rights defenders were subject to violence and arbitrary detention as a result of peaceful assemblies, demonstrations, protests and marches. Police arrested peaceful protesters and

¹⁰³ <http://omg.md/ru/108468/>

¹⁰⁴ <http://aif.md/2013/02/05/pravozashhitnika-aleksandra-prokopa-sdelali-rabovladelcem/>,

<http://omg.md/ru/108425/>

¹⁰⁵ <http://omg.md/ru/109307/>

¹⁰⁶ <http://omg.md/ru/108467/>; <http://omg.md/ru/108425/>

human rights defenders in different circumstances - on charges of hooliganism, disorderly behaviour, discrediting of the authorities. Actions of law enforcement officers in these cases were accompanied by a number of procedural violations, including brutal treatment of detainees, denial of access to legal aid, non-registering in the detention diary, errors in documents, taking into consideration only evidences of police officers, often the same ones who carried out the arrest.

Cases' area shows the widespread practice of administrative proceedings towards human rights defenders, civil society activists and journalists. All proceedings described were connected to the activists' work.

This Chapter presents the following number of cases by country:

Country	Number of cases
Azerbaijan	2
Armenia	2
Belarus	4
Georgia	2
Kazakhstan	2
Kyrgyzstan	1
Moldova	1
Russia	3
Uzbekistan	5
Ukraine	2

5.1. Arbitrary detention

General tendencies

The validity of the detention of human rights defenders is being questioned in all cases described. The situations presented in this section are characterized by the fact that their defendants were detained and then released after a short time without any further proceedings. Sometimes the court ruled that proceeding was unfounded.

Detentions were linked to public actions or journalistic activities in all three cases presented: picket, demonstration, posting up the banners and video-recording of the police station.

Description of cases

<i>May 20 2012, Tianeti, Georgia</i>

Gela Mtivlishvili – journalist and coordinator of the Human Rights Center (HRIDC)

On 20 May 2012, Gela Mtivlishvili was beaten by three police officers after being arbitrarily detained for almost one hour in Tianeti district police station.

Mtivlishvili was taking pictures of Tianeti district police station for one of his reports, when a plain clothed policeman approached him and requested to see his documents. Suddenly, with the aid of two other policemen, Mtivlishvili was grabbed and dragged inside the station.

During his arbitrary detention, Gela Mtivlishvili was hit on the head and kicked in the stomach. He was not allowed to call his lawyer. Eventually, police officers ejected him from the station. This enabled him finally to attend hospital for medical assistance in an ambulance.

Following a special statement made by the Georgian Ombudsman on 21 May, the Prosecutor's office opened an investigation into this matter on 31 May 2012¹⁰⁷.

As Ministry of Internal Affairs said, Mtivlishvili did not reveal his identity to the policemen and when policemen took him inside the Police Station for finding out his identity he would not leave the building until they dragged him out. Policemen did not beat him up. Police just identified him and then let him go.¹⁰⁸

September 12, 2012, Kokpety, Kazakhstan

Edyge Batyrov – independent activist

At 6am police officers came to Edyge's house. They asked him "to sign some documents", took him outside, sat into the car and drove to another city - the regional centre. Only in the car Edyge was informed he is taken to the regional police office, according to the administrative decree.

"He did not even have time to get dressed. Only pants. As there was in a T-shirt, no socks, wearing slippers, so it they took him out - says Erbolat Batyrov, a brother of Edyge. They said this is because of posters which he hung demanded justice".

It is told about posters Edyge placed at the walls of the private property. There were messages like: *"We want clear investigation of the criminal case number 10635005100007!", "No protection to Kokpekti gang! Down with corruption and drunken brawl of prosecutors and financial police!", "Down with the prosecutor Tulegenov!", "Why fraudsters work as judges?" Nazarbayev! You are the President or WHO?" etc.* He was charged on insulting the police officers because of two posters.

"It is strange that the posters were hung for a month and no reaction was. Only a month later I had been charged within a criminal case on two posters, - said Edyge Batyrov by phone. - A few months later, they (police officers - auth.) decided to take me to the regional center and to conduct a psychiatric examination. I refused the examiner. When psychiatrist was informed that I had been taken against my will, he refused to give any conclusions to the police officers without a court order".

¹⁰⁷ <http://www.fidh.org/Arbitrary-detention-and-assault-of>

¹⁰⁸ <http://www.apsny.ge/2012/soc/1338594479.php>

Edyge Batyrov did not give any testimony to investigator. Having kept up to six in the evening, he was released.

Edyge's relatives are convinced that he had been detained exactly on September 12th, not earlier or later, just for one reason: that day the regional akim Berdybek Saparbaev visited the town.

"Today akim comes with a working visit. He will meet with the public, so Edyge had been isolated and sent away "out of sight" of Mr Berdybek,"- say Batyrov's relatives.¹⁰⁹

October 27, 2011, Yerevan, Armenia

Lala Aslikyan – a human rights activist

On October 27, 2011, the — Army in Reality¹¹⁰ initiative organized a demonstration in front of the Armenian government building to protest abuse in the armed forces, to demand access to statistics about non-combat deaths of servicemen, and to encourage the authorities to conduct a proper investigation into those deaths.¹¹⁰ The police prevented the demonstration from taking place. Lala Aslikyan was arrested and detained in a police station for several hours without access to her lawyer.¹¹¹

5.2. Fining.

General tendencies

Participation of human rights defenders in different actions - like exhibitions, posting, pickets – had been followed by different forms of administrative fines (from small to 1500 euros). Attempts to record a video story of the penal colony, writing complaints to various authorities, electoral activity were followed by the same result. In these cases human rights activists were charged with disorderly conduct, disturbing public order, or with "violating of the procedure of peaceful assembly". In some cases human rights defenders avoided of fine payment because of the court's decision on unfounded case or with bar a case by statute of limitation.

In general, the observance of human rights during arrest and next trials responded to the general trends of such action in particular countries.

Description of cases

March 30, 2012, Orsha, Belarus

Valery Shchukin – member of the Belarus Helsinki Committee, well-known by his public actions

¹⁰⁹ http://www.bureau.kz/data.php?page=0&n_id=4911&l=ru.

www.guljan.org/ru/news/informblok/2012/September/2589

¹¹⁰ <http://hcav.am/wp-content/uploads/2012/04/Report-eng.pdf>

¹¹¹ <http://www.a1plus.am/en/politics/2011/10/27/lala-free>

On 30 March 2012, Mr Valery Shchukin was condemned to an administrative fine in relation to a protest held on the previous day against the trial of political activists which was about to take place behind closed doors in Orsha. Following his protest, Valery Shchukin was detained and put in pre-trial detention before being charged. Valery Shchukin is a 70-year-old human rights defender based in Vitsebsk who is particularly active in defending political and civil rights. Orsha city court fined Valery Shchukin 140,000 Belarusian rubles (approximately 13 euro) for disorderly conduct under Article 17.1 of the Code of Administrative Offences of the Republic of Belarus, and 1,050,000 BLR (approximately 99 euro) for disobeying a police officer under Article 23.4 of the Code of Administrative Offences.

On 29 March 2012, Valery Shchukin together with other observers were refused entry to the court room in Orsha where the hearing of three political activists was about to take place. In protest against the hearing being held behind closed doors, Valery Shchukin laid on the floor blocking the entry to the third floor of the building.¹¹²

March 27, 2012, Donetsk, Ukraine

Students of the city of Donetsk participated in the campaign "Police! Stop getting on youth".

Public Union named "MAMA" hold a campaign under the title "Police! Stop getting on youth". This was an action of support to students from the city of Kherson, who were persecuted by the police. In the beginning of March 2012 these students placed flyers with a stroked picture of the President of Ukraine Viktor Yanukovich. The participants of the campaign were detained in the city of Donetsk. There was a sentence in the police report: "... *being near the front door of the police office he committed disorderly conduct, namely discredited the current government represented by the President of Ukraine Viktor Yanukovich, through sharing posters with a picture of the President of Ukraine and the text below...*".

On April 10, 2012 a judge of the Voroshilov district court ordered to return the documents of this case to the police office of the Voroshilov district for further processing, because the police records did not comply with current legislation.¹¹³ Despite the fact that the case was assized, the chief of police ordered to charge one of the student and fined him.

July 1, 2012, Kyiv, Ukraine

Nazariy Boyarskiy – a lead expert of the Center for Civil Liberties, organizer of the photo exhibition "Human Rights off side"

The organizers of photography exhibition under the title "Human rights off side" were forced to dismantle it. The exhibition was to be shown to public at the time of the Euro-2012 football

¹¹² <http://www.frontlinedefenders.org/node/17912>

¹¹³ <http://gazeta.ua/articles/politics/doneckij-sud-zabrakuvav-robotu-miliciji-po-spravi-pro-antiprezidentski-listivki/431042>

championship; one of its organizers Nazariy Boyarskiy was detained with administrative proceedings instigated against him¹¹⁴.

The exhibition was a part of a campaign in support of human rights and human rights defenders. An event in support of Ales Bialiatski – a human rights defender who is currently serving a 4 and a half year prison sentence for his human rights work in Belarus – was organised to conclude the campaign.

When a group of activists prepared to the exhibition opening ceremony, the police officer prohibited them to start. He applied to the decision of the Regional Administrative Court in which the trial prohibited protests during of Euro 2012 in Kyiv downtown to one of political parties. The human rights activists have not any relations to this party and the area was not included in the list of sites where protests were prohibited.

Nazariy Boyarskiy had been taken to the police station of the Pechersk district and detained there for three hours. He was kept in the police station yard for much of this time before his detention was registered. His lawyer was not allowed to meet him.

Later, on October 31, 2012 trial charged Naraziy Boyarskiy and sentenced him to pay fine but release from fine because of time limitation passed.¹¹⁵

August 16 – October 19, 2012, Kazan', Russia

Vladimir Rubashny, German Aletkin - members of the Public Oversight Commission who found violations in penal colonies in Tatarstan

Vladimir and German recorded a video at the street near the Kazan' penal colony Nr 2. Armed staff of the penal colony came to them and asked to go far from the colony walls because it was a restricted area. Human rights activists went away for 50 meters and continued making records. After recording they went to the bus stop.

Suddenly, members of the Vladimir and German heard shouts from behind ordered them to stop immediately and saw that armed men in camouflage uniforms run towards them. The colony staff detained them and called the police. Besides, colony staff demanded to remove all video records immediately.

They held Vladimir and Herman until police car arrived. There was stated in the colony staff's report that Aletkin and Rubashny did not obey the lawful demands being in the restricted area adjacent the penal colony Nr 2.

The point is that Aletkin and Rubashny recorded a video at the street out the colony, so there could not be any restriction to use audio and video devices. Thus, demands of the colony staff were illegal.

October 19, 2012 the justice of the peace terminated the administrative case of German Aletkin, who was captured on video shooting near the colony number 2 Kazan in the absence of corpus delicti. Actions of Rubashny, who recorded comments of the colleague on a video camera,

¹¹⁴ <http://www.pravda.com.ua/columns/2012/07/3/6967917/>

¹¹⁵ On information of the Center for Civic Liberties, <http://ccl.org.ua/ru/>

were re-qualified as "Abuse of law on public control over observance of human rights in places of detention". Rubashny had been fined in 500 rubles¹¹⁶.

September - December 2012, village of Voroniany, Ostrovetski District, Belarus

***Nikolai Ulasevich** – civic and political activist*

On September 21, 2012, during the election campaign (Election of members of the House of Representatives of the National Assembly, 23th of September), Nikolai was arrested for disseminating of illegal agitation materials. After a while, the charge was changed to another - disobedience to police officers. On December 18, 2012 the trial of Nikolai finished. Ostrovetskiy District Court found the activist guilty and fined him in 40 basic units. This administrative process lasted nine hearings. According to Ulasevich, the court issued a politically motivated decision¹¹⁷.

October 20, 2011, March 2012, Yerevan, Armenia

***Vardges Gaspari** – a human rights activist*

On October 20, 2011, Vardges Gaspari was arrested during a protest at the Armenian government building that related to the continuing deaths in the armed forces and the flawed investigation of those deaths. During the protest, Gaspari stated that a former police chief was a murderer and a hooligan. Police detained Gaspari and charged him with hooliganism and assault. Gaspari was found guilty and fined 30,000 AMD (74 USD).¹¹⁸ After participating in another protest in March 2012, Gaspari was charged with disturbing public order. Four months later, the police dropped the charges.

February 28, 2012, Tashkent, Uzbekistan

***Abdullo Tojiboy-ugli** – active member of the Human Rights Alliance of Uzbekistan*

Tojiboy-ugli was detained while he set out for the President's building. He demanded Islam Karimov's intervention to ensure that gas and electricity supplies to his home were reconnected.

He was held outside the police station in Mirabad district in a cage normally used to hold police dogs where he stayed for 12 hours, and that night was ordered by a court to pay a fine equivalent to 70 times the minimum monthly wage (4,404,400 sums or around US\$1600 at unofficial rates).¹¹⁹

August 2012, Fergana Region, Uzbekistan

¹¹⁶ <http://openinform.ru/news/prison/16.08.2012/27242/>; <http://openinform.ru/news/pursuit/28.08.2012/27273/>; <http://openinform.ru/news/prison/19.10.2012/27538/>

¹¹⁷ <http://spring96.org/ru/news/60055>

¹¹⁸ <http://www.aravot.am/en/2012/10/29/124822/>

¹¹⁹ http://www.iphronline.org/uploads/9/0/2/7/9027585/final_rus_uzb_hdim_submission_sept_2012.pdf

Ergash Bobojonov has been threatened to be punished judicially for writing complaints. A case against Bobojonov on charges of libel and insult was opened by Tashlak District's police department. One of the accusations brought against the human rights activist was made because he had ignored the ban by the village of Ahshak on filing complaints.

Bobojonov sent many complaints all the same about violations and local corruption to government bodies, particularly to the president, the government and the Prosecutor-General's Office in Tashkent. Local authorities submitted information to the court that figures and facts the human rights activist mentioned in his complaints "have not been confirmed".

Bobojonov may face a fine of 100 minimum monthly wages in Uzbekistan.¹²⁰

November 2, 2012, Tashkent, Uzbekistan

Adelaida Kim – member of the *Uzbek Human Rights Alliance*

Human rights activist Adelaida Kim was detained in Tashkent on November 2 after she tried to visit Uzbek Prosecutor General Rashid Kadyrov. At 10 o'clock in the morning she came again to the Prosecutor General's Office and unfolded a placard demanding a reception, but was immediately detained by police officers who took her to the Mirzo-Ulugbek district interior directorate in Tashkent. She stayed detained for 3 hours without the official registration. She was threatened on administrative proceeding because of protest actions. She had been already punished with a heavy fine in 2008 together with other 7 human rights defenders¹²¹.

On November 3rd Adelaida tried to make an appointment with prosecution officer. However, as she said, "the prosecutors just ordered police officers not to allow the appointments". Then Adelaida wrote "I demand to observe the Constitution!" at the poster and stand with it. The prosecutors call the staff of the Department on preventing terrorism. They had come with the chief of the Department who threatened Adelaida to arrest and fine her. She had to roll the poster up and go away¹²².

December 2012 – January 2013, Grodno, Belarus

Roman Yurgel, Victor Sazonov, Vladimir Khilmanovich – regional activists of the Human Rights Center "Viasna" and Belarus Helsinki Committee

On December 10, 2012 the activists were taken photo with a picture of the arrested human rights defender Ales Bialiatski and texts of the Universal Declaration of Human Rights. The pictures were posted in the Internet. On December, 19 the police charged them in participating in the illegal public action. Three administrative cases were joined together.¹²³

¹²⁰ http://www.uznews.net/news_single.php?lng=en&cid=2&nid=20567

¹²¹ <http://ru.hrsu.org/archives/3987>

¹²² <http://www.fergananews.com/news.php?id=17589>

¹²³ <http://spring96.org/ru/news/60447>

On January 5th the human rights defenders were punished with a fine of 4,5 million Belarusian rubles (1,5 million for each activist). The hearing lasted two and half hours, there were no any witnesses or evidences presented. All accusation was based only at assumptions and at the police reports. Human rights defenders are convinced that the trial was politically motivated and say the punishment is illegal.¹²⁴

5.3. Administrative arrest

General tendencies

Administrative arrests are continuously a "preventive" measure towards human rights activities: trainings and workshops, public speeches, monitoring, legal aid. Making barriers became already a common practice for many countries and do not surprise anymore. Although in most cases the facts of punishing of human rights activists are clearly farfetched and often the police officers are the only witnesses of the "administrative fault". Like in the cases described above, administrative arrests were applied to the organizers of the protests, even though the charges had come entirely different reason.

Persons involved in the following cases have served administrative detention for a period of 3 to 15 days.

The cases described took places in Uzbekistan, Kazakhstan, Georgia, Russia and Belarus.

Description of cases

January – May 2012, Minsk, Belarus

Oleg Volchek – leader of the human rights organization *Legal Assistance to the Public*

Oleg Volchek was detained on January 27, 2012. Human rights activist was blamed, that he allegedly used obscene language. On 30 January 2012, he was charged with “minor hooliganism” (allegedly swearing in public and gesticulating) and sentenced to 4 days in detention¹²⁵. A journalist, who was tape recording during the trial, was expelled from the court room. A witness, Deputy Chief of the Central police station in Minsk Anton Shahlay said in court that Oleg Volchek was swearing in a public place. This was confirmed by another witness, a police officer as well. There were no other witnesses. Testimony of two police officers was sufficient for the court to find Oleg guilty of an administrative offense.¹²⁶

Oleg was detained on May 24, 2012 at the second time. He was standing on the street not far from his house in Minsk talking to a colleague, when three policemen in civilian clothing approached them, introduced themselves, and told him to follow them to a police precinct for “further explanation.” They did not present a warrant or official summons.

¹²⁴ <http://belhelcom.org/ru/node/18542>

¹²⁵ <http://belhelcom.org/ru/node/14650>

¹²⁶ <http://belhelcom.org/ru/node/14650>

At the Central District Precinct, the authorities charged Vouchek with “minor hooliganism,” an administrative offense, allegedly for swearing at police. At 6 p.m., after the court’s official working hours, the Central District Court in Minsk held an administrative hearing on the charges, which ended around 9 p.m. The judge found Vouchek guilty of hooliganism, under article 17.1 of the Belarusian Code of Administrative Offenses, and sentenced him to nine days in detention. Police officers were witnesses of prosecution¹²⁷.

February 29, 2012, Karabulak, Republic of Ingushetia, Russia

***Murad Yandiev** – financial manager of the human rights NGO Mashr*

On 29 February 2012, at approximately 6.20 pm, Murad Yandiev left his house in Karabulak with the intention of going to Mashr's offices. At 6.40 pm his father spoke to him by phone for the last time. From 7.00 pm, his family lost trace of him and his mobile phone has been switched off since.

On 1 March 2012, Murad Yandiev's father, Mukhamed Khandiev, filed a statement with the head of the Karabulak Police department, Mr Khmakhoev, in which he wrote 'I suspect that law enforcement representatives are involved in the disappearance of my son, and his life and health are in serious danger'.

After Magomed Mutsolgov, head of 'Mashr', contacted the head of the presidential administration, Murad Yandiev was found in the Police Department in Nazran. Magomed Mutsolgov and member of Human Rights Centre Memorial, Abubakar Tsechoev, both members of the Public Commission of Control over detention facilities, immediately went there.

Murad Yandiev was reportedly detained with three other young men in possession of 'extremist' literature. All of those detained had traces of having been beaten. When Murad Yandiev confirmed to Magomed Mutsolgov that they had been beaten up by policemen, Mr Movsar Tambiev, the head of Nazran Police Department started to threaten Magomed Mutsolgov with physical attack on himself and on his family if he disseminated this information to the media. These threats were made in the presence of representatives of the Federal Security Service (FSB), the Anti-Extremism Unit and the Secretary of the Council of Security of Ingushetia. Tabmiev also accused "Mashr" to recruit people in illegal military troops and tried to discredit the work of human rights organisations in Ingushetia. During this meeting, the human rights defenders were filmed against their will by FSB. The cameraman also filmed unidentified publications, allegedly found on the detainees, including a book that was called 'extremist', together with the reports published by 'Mashr'¹²⁸.

Members of the Public Commission of Control over detention facilities together with Murad Yandiev's lawyer were then forced to leave the Police Department. Murad Yandiev remains in detention without knowing what he is accused of. His family was left with no news for 15 hours, he was not allowed to make a phone call, and he spoke to his lawyer for the first time in the evening of

¹²⁷ <http://news.tut.by/society/291004.html>

¹²⁸ <http://www.frontlinedefenders.org/node/17585>

1 March.¹²⁹.

On 1 March 2012, the human rights defender had been condemned by judge Kotov of the Tsentralny district court of Nazran to six days of administrative detention for 'disobeying lawful orders of a police officer' under part 1 article 19.3 of the Code of Administrative Offences of the Russian Federation. Nevertheless, his relatives and colleagues were not informed about the reasons for his detention for a number of days after the sentencing. Murad Yandiev was detained in the temporary confinement facility of the Malgobeksky regional police department of Ingushetia. His lawyer was not permitted to meet with his client and his relatives were refused the right to transmit food to the human rights defender¹³⁰.

April 2012, Sabirabad, Azerbaidjan

Ogtay Gulaliyev – a Coordinator of the Kur Civic Society, provides assistance for people affected by flooding in May-June 2010.

On April 7th 2012 while conducting a meeting with the residents of Minbashi Ogtay and his colleague Mehman Aliev was arrested by local police. He was charged with "active resistance to authorities' legal orders" and "incitement to mass riots and to violence "¹³¹.

Member of the Kur Civic Society say that police had broken the workshop for representatives of local community in the village of Galagayin, planned to be hold that day. At the workshop the human rights activists plan to inform people about their rights regarding flooding suppression. The police stated about "*inadmissibility of the workshop*".

Ogtay Gulaliyev along with Kura personnel conducted public control over the equitable distribution of public funds allocated to compensate people affected by the devastating floods; their goal was to ensure transparency and combat corruption.

On April 9 the Sabirabad District Court charged him with minor hooliganism under Article 296 of the Code of Administrative Offences and sentenced to 12 days administrative detention.

May 22, 2012, Baku, Azerbaijan

Anar Geraily – activist of the civic movement NIDA and the correspondent of the website *gunxeber.com*

Anar Geraily was arrested on May 22 near the metro station "May 28", when he was distributing flyers of the international human rights organization "Human Rights Watch". There was a city plan of Baku at the flyers and places of registered human rights violations were indicated. Specifically, there was information about protests of citizens, whose houses were demolished for urban development and infrastructure constructions.

¹²⁹ See Chapter Death threats and threats of serious physical harm, p.78

¹³⁰ <http://www.frontlinedefenders.org/node/17585>

¹³¹ <http://www.kavkaz-uzel.ru/articles/198885/>

The flyers were prepared to the song contest "Eurovision 2012". Besides, Anar Geraily stuck posters devoted to the topic of human rights. Meanwhile, the young man was dressed in a white T-shirt with inscription "Sing for Democracy".

The member of the Board of the civil movement "NIDA" Uzeir Mamedli said that there was not any information about Anar Geraily after his detention during more than two days. The parents of Anar contacted the police, and they were told that he was sentenced to 10-day administrative arrest under Article 306 of the Administrative Code (violation of public order combined with disobedience to police).

Uzeir Mamedli informed that on May 23 Anar Geraily was sentenced by the Nasimi District Court without a lawyer¹³².

September 17-19, 2012, Kutaisi, Georgia

Emile Gumberidze, Irakli Iobidze, and Malkhaz Gogiava – trade union leaders

In September 2011, police broke up a lawful strike in Kutaisi, the second-largest city in Georgia. The demonstrators were protesting against poor work conditions and showing support for employees who had been dismissed for organizing a local union at a steel mill. Police officers, led by the local governor, detained several workers. Subsequently, officers were stationed at the factory to supervise workers' compliance with a non-strike policy.

Following this police intervention, on September 17, three union leaders engaged in raising awareness about the plight of unionized workers at the plant, Emile Gumberidze, Irakli Iobidze, and Malkhaz Gogiava, were arrested on drug charges and taken to a police station to undergo a drug test. Upon passing the test, the three were held on charges of "disrespecting the police" and on September 19 were sentenced to administrative imprisonment for ten days. The trial was unfair and police officers were only witnesses of prosecution.¹³³

September 25, 2012, Astana, Kazakhstan

Bolatbek Blyalov – a leader of the Institute for Democracy and Human Rights

Bolatbek was detained by the police and then arrested for 3 days. He was charged by the Administrative court of Astana with organization of illegal protest.¹³⁴

The protest aimed to protect people who were evicted from the condominium. The building was going to be destroyed and the thermal power plant is planned to build there. The compensation offered by the government was not enough to buy another apartment.

8 participants of the action were detained for eight hours. Then Bibijan Orazbayeva, the leader of the initiative group, had been noticed on administrative alert, six participants were fined

¹³² <http://hr-nis.org/node/41>

¹³³ <http://revbel.org/2011/09/klassovaya-bor-ba-v-gruzii-razgon-zaba/>

¹³⁴ <http://abiyev.kz/4395-tasmagambetov-tastama-kreativnyy-protest-astanchan.html>

and Bolstbel Blyalov was arrested for 3 days.¹³⁵

September 30, 2012, Dzhizzak, Uzbekistan

Uktam Pardaev – leader of Jizzakh regional branch of the Independent Human Rights Association of Uzbekistan

On September 30th Uktam Pardaev had driven to the car service in Dzhizzak. Rapidly three police officers said him the service is going to be closed and ordered him not to go anywhere. They did not explain why they ordered this. Moreover, they called for reinforcement. A few minute later four police officers have come. Uktam has been beaten, forcibly arrested and was withdrawn in an unknown direction.

He held for over 15 days on minor administrative charges of “hooliganism” and “resisting arrest.” Pardaev, local activists, and Human Rights Watch believe that Pardaev was most likely arrested to prevent him from monitoring the rights of children and adults mobilized to pick cotton¹³⁶.

Uktam's relatives had not any information about him after his arrest. “Despite the expiration of 10 hours nobody can tell where they have taken my brother, for what they have caught him. We have visited all pre-trial detention centres of the time maintenance of the Ministry of Internal Affairs of a city, area, anywhere it is not present. We worry about its health, its condition” – said Utkir Pardaev¹³⁷.

Uktam's relatives tried to make calls to the police, but there was not any answer. Only after midnight on October 1 Uktam's brother succeed to find the police officer of Khandzor region who said to not worry and that nothing bad would happen with Uktam. The international organization Front Line Defenders tried to call to this officer but he hung up the phone when the name of Uktam was mentioned. Officers of the Prosecutor's Office promised to inspect this incident.

In the middle of September 2012 Ukram was pursued by a white car Daewoo Nexia driven by plainclothes people. On September 8 police officers visited Uktam's neighbours and asked about his trips and contacts. On August 30 police officers visited Uktam's house and asked his mother about his phone number.

Uktam says that the pressure measures started when the representatives of the US Embassy visited his home because of his human rights work.¹³⁸

December 7, 2012, Dzhizzak Region, Uzbekistan

Saida Kurbanova – leader of the branch of the non-governmental organisation Human Rights Society of Uzbekistan (HRSU) in Pakhtakor district, Djizak region.

¹³⁵ <http://abiyev.kz/4395-tasmagambetov-tastama-kreativnyy-protest-astanchan.html>

¹³⁶ <http://www.hrw.org/world-report/2013/country-chapters/112566?page=2>

¹³⁷ Аналитический доклад о ситуации с правами человека в Узбекистане за 2012 год// <http://yangidunyo.org>, сообщение от 2/03/2013

¹³⁸ <http://www.frontlinedefenders.org/ru/node/19863>

Saida Kurbanova was arrested on 7 December 2012 by the police as a result of the testimony of the two women who had attacked her. It is reported that following the arrest, the hard disk of Saida Kurbanova's computer was confiscated.

The human rights defender was charged the same day with 'minor hooliganism' and sentenced to 15 days of administrative detention under Article 183 of Code of Administrative Offences of the Republic of Uzbekistan. Her family was unable to hire a lawyer due to financial difficulties. Since her arrest, Saida Kurbanova has been detained in the temporary detention facility of Pakhtakor police station.

On 10 December 2012 a representative of Pakhtakor police station reportedly refused to pass on a food parcel and warm clothes to Saida Kurbanova which her family had brought her. In addition, her release on 21 December 2012 is reportedly subject to her paying for the 15 days spent in the temporary detention facility¹³⁹.

5.4. Other forms of administrative pressure

General tendencies

Forms of persecution that are described in this section are related to specific of national legislation to different types of alerts and notifications aimed to prevent human rights activity. Topics: aiding to African crime (work with refugees), the organization of public meetings and ban of "extremist "human rights movie.

Description of cases

September 2012, Moscow, Russia

Svetlana Gannushkina - a Chairperson of the "Civil Support" Committee

Tver' Interdistrict prosecutor in Moscow had noticed Svetlana to administrative alert responding to appeal of the fellow member of the Public Chamber, Georgy Fedorov, who requested to inspect the activities of the Civic Assistance Committee. According to Mr Fyodorov, Civic Assistance is "importing extremist Muslims into Russia under the guise of Coptic refugees from Egypt". Within the trial the prosecutor was not able to present the results of inspection which caused abovementioned alert.¹⁴⁰

August 21 – September 7, 2012, Tiraspol, Moldova, Transdnistria

Stepan Popovsky – a Chairperson of the Republican Social Movement for the Protection of Property and Social Rights of Peasants, "Peasant Union".

On 6 September 2012, Mr Stepan Popovsky, Chairperson of the Republican Social Movement for the Protection of Property and Social Rights of Peasants, "Peasant Union", was notified by A.

¹³⁹ <http://www.frontlinedefenders.org/node/21103>

¹⁴⁰ <http://fedorov-selsky.livejournal.com/357692.html>

Orzul, a local policeman in the Transdnistria, that he had been charged with an administrative offence and that the case would be heard by the Municipal Court of Slobozia on 10 September. He has been charged with illegal organisation of public meetings.

This is not the first time Stepan Popovsky has faced such charges for his activities. On 21 August 2012, the human rights defender was notified by another policeman, D. Gibeskul, of similar charges against him. However, the policeman did not provide information on Stepan Popovsky's procedural rights and duties while notifying him of the charges. The policeman demanded that the human rights defender present himself at the headquarters of the Municipal Court of Slobozia on 23 August, where he was informed that he was accused of organising public assemblies without notifying the authorities. However, according to Article 4 of the Law of the PMR on the Organisation and Conduct of Assemblies, assemblies in specially designated closed spaces can be conducted without providing any notification.

On the morning of August 23, Gibeskul asked Stepan Popovsky to sign a new charge sheet for the alleged administrative offence, alleging that he had refused to sign the previous one in which the human rights defenders' procedural rights had been violated. Stepan Popovsky demanded that the official produce the original charge sheet, but the local policeman refused to do so.

Upon entering the judge's office, Stepan Popovsky was informed that consideration of the case against him would begin immediately in that office. The new charge sheet, brought by the policeman, was filed there and then by the judge, even though this is the duty of the policeman. Stepan Popovsky's request to have the case heard in the courtroom, and not in the office of the judge, was declined by the judge. Another request to obtain the original charge sheet from D V Gibeskul was ignored by the judge. In view of this, the human rights defender requested that the case be adjourned for five days in order to give him time to prepare his defence, but the judge only agreed to an adjournment of less than 24 hours. However, on 24 August, the judge closed the case due to the multiple procedural violations committed by Gibeskul.¹⁴¹

September 28, 2012, Bishkek, Kyrgyzstan

***Tolekan Ismailova** - Director of the Human Rights Center "Citizens against Corruption" and organizer of the International Human Rights Documentary Film Festival "Bir Duino Kyrgyzstan"*

On September 28, 2012, around 11 a.m. four representatives of the State Committee for National Security of Kyrgyzstan came to the office of the Human Rights Center "Citizens against Corruption". They announced the official warning to Tolekan Ismailova not to show the film "I am Gay and Muslim" which was scheduled for screening during the closing ceremony of the International Human Rights Documentary Film Festival "Bir Duino Kyrgyzstan. This was a judgement of the Inter-District Court of Bishkek. The expert opinion of the State Committee for Religious Affairs of the Kyrgyz Republic stated that the film "*shows signs of excitation religious hatred, humiliation and inferiority of Muslims on religious grounds*". Tolekan Ismailova appealed this decision.

¹⁴¹ <http://www.frontlinedefenders.org/node/19823>

On October 31, 2012 first court hearing took place in the case of Ismailova vs. State Committee for National Security (SCNS) at the Inter-District Court of Bishkek. During the court hearing, Ismailova applied to the international human rights standards.

On November 27, 2012 court issued a ruling on the dismissal of the case Ismailova against SCNS. The court explained its decision by stating that the official warning of the SCNC (dated September 28, 2012) is not a decision of public authority and therefore cannot be the subject of dispute in the inter-district court. Court added that the decision can be appealed to the Bishkek city court.

In a press release issued on November 28, 2012 Human Rights Center ‘Citizens against Corruption’ stated that the court violated the Code of Civil Procedure of the Kyrgyz Republic and that it does not agree with the decision of the court and intends to appeal to the Bishkek city court.¹⁴²

Chapter 6. OTHER FORMS OF DEPRIVATION OF LIBERTY

General tendencies

The negative tendency to limit human rights defenders in their freedom to move, especially abroad, appears mainly in Belarus. The forms of deprivation in this country are not connected directly to criminal or administrative proceedings and the reasons of deprivation usually are unfounded. But the fact and large scale of such actions is disturbing and there is a risk of continuation of this practice by government.

Being put into the list of persons who are not allowed to leave Belarus, human rights defenders were not able to participate in the international events aimed at developing strategies for joint action by the international human rights community on dealing with human rights situation in Belarus. Human rights defenders had to dispute the ban to go abroad instead of working on human rights promotion and protection in their country.

Other facts – sending people to mental hospitals in Ukraine and Armenia - do not give us a strong evidence of deprivation of the freedom to move by compulsory psychiatric treatment, but there are alarming trends in this area indeed.

This Chapter presents the following number of cases by country:

Country	Number of cases
Armenia	1
Belarus	4
Ukraine	1

¹⁴² <http://www.fidh.org/SROCHNOE-OBRASCHENIE-OBSERVATORII-12509>

6.1. Restriction of freedom to move

General tendencies

All cases described in this section are related to Belarus. This is an attempt of the government to limit capacity of human rights defenders, journalists and leaders of opposition to go abroad and participate in the international events, including those related to human rights situation in Belarus. Some experts say this is a response of the government of Belarus to Western countries which made lists of Belarusian officials who are responsible for human rights violations in Belarus and thus are restricted to visit these countries.

In all cases human rights defenders have protected their freedom to move.

Description of cases

March 2012, Belarus

Human rights defenders, journalists, leaders of opposition

At the beginning of March 2012, the Belarusian authorities were reportedly considering to establish a list of 108 human rights and opposition activists, with the aim of banning them from leaving the country.¹⁴³

This harsh reaction by the Belarusian authorities appears to be a direct act of retaliation following the extension by the European Union (EU) of the list of Belarusian officials falling under visa restrictions and freezing of assets in the EU. In February 2012, the EU foreign ministers indeed blacklisted an additional number of 21 Belarusian officials, bringing the blacklist total to more than 200 individuals.¹⁴⁴

On March 5 2012 about 20 persons (human rights defenders, journalists, leaders of opposition) have been temporary banned from leaving the country

On March 11, 2012, **Valiantsin Stefanovich**, Vice Chairman of the Human Rights Centre "Viasna", was banned from leaving the country by customs officers at the Belarusian-Lithuanian border point "Kamenny Loh". No explanation was given to him regarding the reasons of this denial.

On March 13, 2012, a "travel ban" was notified to **Aleh Hulak**, member of the Belarusian Helsinki Committee (BHC). The travel ban was allegedly issued on March 5, 2012 by the Migration and Citizenship Department of the Frunzenski District of Minsk, reportedly upon request of the Ministry of Justice, because of a civil suit that would have been filed against Aleh Hulak. However, when Aleh asked the Ministry of Justice for further information about this so-called lawsuit, he was told that in reality no judicial case was opened against him.

Then on March 14, 2012 in the morning, **Andrey Dynko**, Editor-in-chief of the independent newspaper "Nasha Niva", which regularly reports on human rights violations, was informed that he was on the list of citizens banned from leaving Belarus, and was forced to get off the "Minsk-

¹⁴³ http://naviny.by/rubrics/politic/2012/03/22/ic_news_112_389636/

¹⁴⁴ <http://belhelcom.org/ru/node/14865>

Vilnius" train. The border guards ordered him to return to Minsk without providing any reasons, and told him to contact the Department of Citizenship and Migration of his place of residence for further information.

On March 15, 2012, **Zhanna Litvina**, Chairman of the Belarusian Association of Journalists (BAJ), was informed that she was also temporarily banned to travel as she was going through passport control at Minsk airport, on her way to Warsaw. Her passport was reportedly stamped 'exit temporarily limited'.

On the same day, the Chairman of the Legal Commission of the BHC, **Harry Pahanyayla**, consulted the Department of Citizenship and Migration of the Department of Internal Affairs to find out whether he was allowed to go abroad, as he was planning to. After he insisted, he was told that he had indeed been banned from leaving the country on March 5, 2012, at the request of the Ministry of Justice, on the basis of a case that would have been opened against him for being in debt. However, the Ministry of Justice subsequently stated that Harry Pahanyayla was not in its lists of persons whose travelling abroad had been restricted, and no explanation about the above-mentioned debt case was provided to him.

Several other individuals have further been impeded from exiting the country since early March, including a number of opposition figures.

The reasons of banning were farfetched. Later the authorities said that they did not make such decision. Representatives of the Department of Internal Affairs explained that there was a database error and human rights activists are not banned to leave Belarus. Human rights defenders appealed the travel ban, but there were not court hearings during 5 months. Later within the trials representatives of Ministry of Internal Affairs provided information confirming that the applicants have the right to leave the country. However, the courts have refused to recognize the illegal actions of state authorities, so human rights defenders were not allowed to receive compensation for the violation of rights.¹⁴⁵

March 23, 2012, Minsk, Belarus

***Oleg Volchek** - leader of the human rights organization Legal Assistance to the Public*

From the local branch of the Department of Citizenship and Migration Oleg has got an official document notified that according the decision of the Ministry of Justice on March 5 he had been included in a list of people banned from travelling. On March 27 he had been informed that he was not included to the list of persons who were prohibited from leaving Belarus.¹⁴⁶

July 4, 2012, Minsk, Belarus

***Andrey Bandarenka** – a Chairperson of the Platform - prisoner's rights group*

Andrey had been informed that he has been placed on the “preventive register” of the

¹⁴⁵ <http://belhelcom.org/ru/node/14865>

¹⁴⁶ http://naviny.by/rubrics/society/2012/03/27/ic_news_116_390022/

Committee for State Security (KGB). On July 4, Alexander Lukashenka signed a presidential edict requiring the people on the KGB's preventive register to be added to the list of Belarusians "temporarily" banned from leaving the country¹⁴⁷.

November 8, 2012, Brest, Belarus

Raman Kisliak – human rights activist and lawyer

Raman Kisliak was detained by the traffic police as a "person hiding from administrative prosecution". It was found out that Raman Kisliak was put on the offender database by the Leninski District Police Department of Brest for failure to undergo fingerprinting.

"I was detained earlier to make me undergo fingerprinting. They even twisted my arms. I then applied to a prosecutor's office complaining about the incident. They didn't touch me for some time. I was fingerprinted this time, as otherwise I would be banned from leaving the country. It would completely block my activity," – said Raman¹⁴⁸.

6.2. Attempts of compulsory psychiatric treatment

General tendencies

Punitive psychiatry towards human rights defenders was a common practice in the former Soviet Union when mental hospitals were often used to isolate people who were potential dangers to the established order from the rest of society. However, the following two examples show that governments try to apply it now. These situations are not related to psychiatric treatment, but the psychiatric examination at the time of arrest and short-time the direction of a psychiatric hospital were registered. Both cases have caused public disturbance.

Both cases were ended relatively well, but we should pay attention to the fact of coming back to such methods again.

Description of cases

March 30, 2012, Erevan, Armenia

Ervand Karapetyan – civic activist

On March 30, 2012, Ervand Karapetyan was arrested for protesting in front of the Armenian Public Television ("H1") building. Karapetyan held posters stating that the television company had violated the law and he demanded that the station air a film on the March 1, 2008 protests. After his arrest, the police transferred Karapetyan to a psychiatric institution, where he underwent a psychiatric evaluation. A team of three doctors found that Karapetyan displayed no symptoms of a mental illness, and he was released a few hours later.¹⁴⁹ The police appeared to have no basis for

¹⁴⁷ <http://news.open.by/country/90833>

¹⁴⁸ <http://spring96.org/en/news/58979>

¹⁴⁹ <http://www.epress.am/2012/03/31/Իրավապաշտպանը-պատմել-է-ինչպես-էին-հոգ>

subjecting Karapetyan to a psychiatric evaluation.¹⁵⁰ Subsequently, the Civil Society Institute disseminated a report on the incident and requested that the government investigate Karapetyan's arbitrary detention. The organization did not receive a response from the authorities.¹⁵¹

May 16, 2012, Kyiv, Ukraine

Anatoliy Ilchenko – a civic activist, is well-known for his speeches in protection of the Ukrainian language. He has won a number of lawsuits against local officials who refused to speak Ukrainian to him.

In May 2012, Anatoliy Ilchenko was detained by police officers in Kyiv after the picketing of the Ministry of Internal Affairs. He had been taken to the police station and later he was held in the psychiatric ward, not being allowed to talk with a lawyer. Owing to the pressure of the civic society doctors did not keep him in the psychiatric hospital and let him go home in the evening.

Ilchenko arrived to Kyiv for a single picket near the Ministry of Internal Affairs. He protested against the impunity of the Security Department officer who beat him the year before in the courthouse. An ambulance had been called to the courthouse, the beats were registered but the officer was not punished.¹⁵²

Chapter 7. Charges with defamation.

General tendencies

All four cases mentioned in the section related to investigative journalism. Public officials or representatives of the pro-government media were involved in the incidents. The courts have ruled both heavy fines and verdicts of not guilty. There are not any consistent trends in the court decisions. It should be noted that in one case a journalist was not just sentenced to pay a fine, but was attacked by unknown persons and had got serious injuries. These cases show additional risk for journalists who report about topics on public interest, especially those related to corruption at the highest levels.

Another issue is proportionality of fines regarding the moral damage and real capability of the media to pay it without being forced to bankruptcy (in some cases the compensation sought was out of proportion to the damage allegedly inflicted). This issue can be a point for discussion about guarantees of the freedom of expression and the freedom of journalists' profession in these countries.

Some positive tendencies were registered but were not described in shape of cases. Thus, the Constitutional Court ruled in November 2011 that media outlets cannot be held liable for “critical assessment of facts” and “evaluation judgments,” and that courts should avoid imposing hefty fines

¹⁵⁰ <http://www.epress.am/en/2012/03/30/man-protesting-outside-state-broadcaster-detained-by-police.html>

¹⁵¹ <http://www.aravot.am/2012/04/04/55758/>

¹⁵² <http://www.expres.ua/news/2012/05/17/66467>

on media outlets, suggesting an apology or other nonmaterial compensation as an alternative¹⁵³. In other words, the Court in its decision introduced a number of legal approaches, which can guarantee the application of the above-mentioned article correspondent to its content.

The decision of the Constitutional Court had been made as a respond to Human Rights Defender of Armenia who made a request to determine whether Article 1087.1 of the Armenian Civil Code complies with the Armenian Constitution. By this Article a compensation for insult and defamation was foreseen. In 2011 the application of Article 1087.1 of the Civil Code of Armenia was a tool for legal, political and economic pressure on opposition media outlets, human rights defenders and freelance journalists.¹⁵⁴ There were 34 cases against journalists registered in the year 2011 (in compare with 4 lawsuits registered in 2010).¹⁵⁵

In accordance with the Constitutional Court ruling, the number of defamation cases dropped in 2012, with 16 complaints submitted to the courts. Monetary fines were also reduced significantly, and pending cases that were initiated in 2011 were resolved.¹⁵⁶

This Chapter presents the following number of cases by country:

Country	Number of cases
Azerbaijan	1
Kazakhstan	2
Tajikistan	1

Description of cases

April 2012, Tajikistan

Newspaper "Farazh", which published an article about a car of the head of the local-government

The Ismoili Somoni court has resumed the trial against Farazh newspaper.

The edition is accused of abuse of honour, dignity and business reputation. The appeal was filed by Faiziddin Azizov, resident of Rudaki region and head of one of Jamoats of the given region.

According to Farazh's lawyer Gulchehra Holmatova, whose services were provided by the Human Rights Bureau in Tajikistan, the appeal was filed after publication of the "*Horror in Rudaki regional court: Mercedes now costs \$22.000*" article on August 17, 2011, in Farazh newspaper.

The newspaper published materials based on court documents when last year Mercedes vehicle driven by F.Azizov hit another vehicle and was damaged. Rudaki regional court has considered Azizov's appeal and fined the other vehicle's driver \$22.000 USD.

¹⁵³ <http://www.freedomhouse.org/report/freedom-press/2013/armenia>

¹⁵⁴ On May 18 Article 135 (defamation) and Article 136 (liebeling) of the Criminal Code of Armenia were decriminalised

¹⁵⁵ <http://khosq.am/en/reports/annual-report-2011-2/>

¹⁵⁶ <http://www.freedomhouse.org/report/freedom-press/2013/armenia>

“In her article the reporter doubted the court’s decision claiming that the market price of Mercedes vehicle in Tajikistan do not exceed \$5000-\$6000 USD and, perhaps, the claimant disagreed this fact,” Farazh’s chief editor Hurshedi Atovullo has said¹⁵⁷.

Claimant believes that the newspaper and author of the article – reporter **Zevar Sharipova** – have abused his honour, dignity and caused damage to his business reputation and demanded 500.000 Somoni for moral damage.¹⁵⁸

July - December 2012, Uralsk, Kazakhstan

Lukpan Akhmedyarov – journalist with the “*Uralskaya Nedelya*” (“Ural Week”) newspaper

In 2012 Lukpan Akhmedyarov and "Uralskaya Nedelya" had been facing several lawsuit on defamation.

Head of Akim's Office (Governor) of Taskalinsk District Baurzhan Imashev and Deputy for Akim of Terektinsk District of West Kazakhstan Oblast Abzal Braliev have filed suits about protection of honour, dignity and business reputation against newspaper «Uralskaya Nedelya» (Uralsk) and journalist Lukpan Akhmedyarov. The charges originated from article “History repeats twice” which was published on July 27, 2012.

There was information survived witness of murder of famous sportsman Oralbek Kuzhageldin thirteen years ago. He has recognized three accomplices among present state officials of the oblast.¹⁵⁹

There were A. Braliev and B. Imashev, they were mentioned among them. They insisted on publication of refutation of their criminal past and recovery of totally KZT 20 000 000 as moral damage compensation. In November, 2012 the witness of this awful crime Makhambet Koneyev was put on a trial on the side of defendant. In August "Uralskaya Nedelia" was awaiting a ruling on the lawsuit brought by a member of the financial police, Arman Kojakhmetov, who was demanding 3 million tenge (approx. 18,000 euros) in damages¹⁶⁰.

During a court hearing on 17 July, Tlekkabyl Imashev filed a claim to increase the compensation demanded from KZT 5 million to KZT 10 million. The original complaint lodged by Tlekkabyl Imashev in April 2012 alleged that Lukpan Ahmedyarov's article "Kith, Kin and Pull" was defamatory. The article highlighted kinship relationships in the local administration and Tlekkabyl Imashev's name was mentioned in this context. Lukpan Ahmedyarov was unable to attend the first court hearing, which took place on 23 April 2012, a few days after the human rights defender was stabbed and shot by unknown people near his home¹⁶¹.

Lukpan Akhmedyarov is the 2012 winner of the Peter Mackler Award for Courageous and Ethical Journalism for the series of articles on corruption and for the article titled "Kith, Kin and

¹⁵⁷ <http://news.tj/ru/news/v-dushanbe-nachalsya-sud-nad-gazetoi-farazh>

¹⁵⁸ <http://www.humanrts.tj/ru/index/index/pageId/425/>

¹⁵⁹ <http://www.respublika-kaz.info/news/politics/25330/>

¹⁶⁰ <http://www.zakon.kz/4517029-s-zhurnalista-lukpana-akhmedjarova-i.html>

¹⁶¹ See Chapter 2. Health violations (attacks, assault and beatings) – p.17

August 20, 2012, Kokshetau, Kazakhstan

Oxana Matasova - journalist with the newspaper "Akmolinskie Vesti" (Akomoline News")

On August 20, 2012 Kokshetau City Court has acquitted Oxana Matasova in commission of a crime under articles 129 «Libel» and 130 «Insult» of Criminal Code of the Republic of Kazakhstan. Preventive measure in terms of recognizance not to leave was lifted.

The President of Public Association "Center of Development of Modern Journalism", Chief Editor of the newspaper "Kurs" Marina Rybalko has filed a suit against Oxana Matasova. The charges originated from article "There is no high right to be a man" by Rinata Zhantasova, published in the newspaper "Akmolinskie Novosti" on June 23, 2011. There was information on trials, relating to high-profile case with regard to former employees of penitentiary service. Marina Rybalko thought that there was a distribution of libel and insulting in this fragment of article with regard to her. Name of journalist and title of the edition has not been mentioned in publication.

The court has considered criminal case repeatedly on May 23, 2012, in accordance with rule of judicial division for appeals of Akmola oblast. Earlier, on April 05, 2012 Kokshetau City Court has made a rule on termination of prosecution of the journalist because of non-appearance of the private prosecutor to legal proceedings. On April 13, 2012 M. Rybalko has made an appeal, related to decree of a judge.⁴⁵

October 1, 2012, Baku, Azerbaijan

Alekper Mamedov – a Chairperson of the Azerbaijan Center for Civic Control on Army

The pressure on Alekper and his family began after the press conferences about the deaths of soldiers. In particular, his statements about the kidnapping and selling the organs of dead soldiers caused dissatisfaction within the Defence Ministry.

On October 1, 2012 Chief medical examiner of the Armed Forces in Azerbaijan, head of the Centre of Forensic Medical Examination and Pathological Anatomy Rasim Aliyev filed in the Nasimi District Court against Alekper Mammadov, demanding payment of 100,000 manat for moral damages after Mamedov said that there are practice of bribing in Azerbaijan when somebody does not want to make an autopsy.

After a press-conference on February 8 Alekper made a statement about threatens to his liberty and life, he had left Azerbaijan¹⁶³.

¹⁶² <http://www.newskaz.ru/incidents/20130108/4580824.html>

¹⁶³ <http://gulustan.info/2012/12/alekper-mamedov/>,
<http://www.contact.az/docs/2013/Politics/030700030983ru.htm#.UYK207Wl73w>

Chapter 8. DEATH THREATS AND THREATS OF SERIOUS PHYSICAL HARM.

General tendencies

Threatening of human rights defenders and journalists become a disturbing trend. Threats proceeded from police or from unknown people and there is a little possibility that aggressors will be punished. But anyway, the government, after being informed about threats, is responsible to protect those who are under risk and who are threatened.

Threats posed by the third parties – non-state actors – are recognized as a danger as well. Police does not perceive such threats seriously. Meanwhile, taking into consideration an increased activity of radical groups, such threats may be a big deal in 2013 and this risk area will be increased.

Demonstrative inactivity of the police while human rights activists are injured physically is another disturbing tendency.

This Chapter presents the following number of cases by country:

Country	Number of cases
Armenia	2
Kazakhstan	1
Kyrgyzstan	1
Russia	4
Turkmenistan	1
Ukraine	1

Description of cases

February 3, 2012, Ashgabat, Turkmenistan

***Natalia Shabunts** - human rights defender, write articles for Turkmen Human Rights Initiative based in Wien*

On 3 February 2012 a blood-stained sheep's head was put on the apartment's door of Mrs Natalia Shabunts in Ashkhabad.¹⁶⁴

Natalia Shabunts is a human rights defender and one of the only journalists who covers sensitive issues and reports on human rights violations in Turkmenistan. She has recently been working on freedom of movement and travel bans imposed on different categories of the population, including civil society activists, in Turkmenistan.

On 2 February 2012, Natalia Shabunts gave an interview to Radio "Azatlyk" (Turkmen

¹⁶⁴ See pictures at: <http://chrono-tm.blogspot.com/2012/02/black-mark-burning-news.html>

Service of Radio Liberty) regarding the upcoming presidential elections scheduled to be held in Turkmenistan on 12 February 2012. The next day, she discovered a sheep's head on her door. Previously, on the evening of 31 January 2012, Natalia Shabunts found the mark of a cross in white powder on the doormat in front of her apartment. It is believed that these threatening incidents are linked to the radio interview which Natalia Shabunts gave and to the precarious political situation in Turkmenistan as the presidential elections approach. The aforementioned incidents may constitute an attempt to silence the human rights defender whose publications contradict the idyllic picture of the Turkmen reality presented by the State officials¹⁶⁵.

March 1, 2012, Nazran, Russia

Magomed Mutsolgov - human rights organisation "Mashr" ("Peace")

On 29 February 2012, the family of Murad Yandiev, accountant with human rights organisation 'Mashr' ('Peace' in Chechen and Ingush languages), reported his disappearance. On 1 March 2012, he has been found in the Police Department in Nazran.¹⁶⁶

While visiting him in detention, Magomed Mutsolgov has been threatened with physical attack by Movsar Tambiev - a Chief of Nazran Police Department. Tambiev also accused 'Mashr' to be involved in recruitment of people to illegal military troops and tried to discredit the work of human rights organisations in Ingushetia. During this meeting, the human rights defenders were filmed against their will by FSB. The cameraman also filmed unidentified publications, allegedly found on the detainees, including a book that was called 'extremist', together with the reports published by 'Mashr'. Tambiev threatened Magomed Mutsolgov with attack on himself and on his family if he disseminated this information to the media.¹⁶⁷

April 30, 2012, Shymkent, Kazakhstan

Zaure Mirzakhodjaeva – a staff correspondent of the "Vremia" ("Time") newspaper

Unknown man called Zaure by cell-phone and started threaten her. He said: *"Do not twitch and shut up! If you will have written anything else – we will bury you so no one will ever find you. We quietened many people, so be quiet and do not stir, or we crush you like a cockroach"*.¹⁶⁸

In last two months Zaure wrote several articles which, in her opinion, could provoke such aggression. There were a couple of critical articles about an akim of the South Kazakhstan District Askar Mirzakhmetov. The press-secretary of the akim reacted heavily to these articles.

Zaure informed a police about an incident. The police is looking for intruder and his boss.¹⁶⁹

¹⁶⁵ http://www.defendingwomen-defendingrights.org/turkmenistan_threats_against_natalia_shabunts.php

¹⁶⁶ See Chapter 1.2. Disappearings – p.16

¹⁶⁷ <http://www.memo.ru/d/3321.html>; <http://adygeia.kavkaz-uzel.ru/articles/202772/>

¹⁶⁸ <http://respublika-kaz.livejournal.com/2377922.html>

¹⁶⁹ http://www.time.kz/news/archive/2012/05/03/trevozhnyy_zvonok

May 21, 2012, Yerevan, Armenia

Public Information and Need of Knowledge (PINK) and Women's Resource Centre (WRC) – NGOs which protect LGBTI community

Two NGOs organized a diversity march in Yerevan to mark the U.N. World Day for Dialogue and Development. Before the march, information was disseminated through social networks and online media stating that the organizations were preparing a "gay parade". In their online statements, extremists encouraged people to go to the streets and prevent the march. They stated that the march organizers were bringing "immoral Western values to Armenia and calling it diversity". They also encouraged people to "burn the gays", "clean the country from immorality" and "send gays out of the country".

A large group of young nationalists appeared at the march. The nationalists sang patriotic songs, chanted homophobic phrases, and attacked the participants in the march¹⁷⁰. After the incident, PINK's leaders, who also had spoken out about the attack on D.I.Y., were harassed and threatened. Harassers attempted to intimidate the leaders with veiled threats about future reprisals, making statements like "Be careful, you never know what will happen to you if you don't stop your activism" and "Give up the D.I.Y. case or you will be sorry".¹⁷¹

Nationalist groups also damaged premises in which public events about LGBTI rights were held or were planned to hold.

May 31, 2012, Kabardino-Balkaria, Russia

Rustam Matsev – a lawyer and a member of the human rights organisation "Memorial" in the Republic of Kabardino-Balkaria

On 31 May, Rustam Matsev, a lawyer working in Nalchik, Kabardino-Balkaria in the Russian North Caucasus, received a death threat from a senior police official. The police officer also demanded that Rustam Matsev's client withdraw his complaint about abduction and ill-treatment by law enforcement.

Rustam Matsev is a member of the Karachaevo-Cherkessia Bar Association but also works in the neighbouring republic of Kabardino-Balkaria taking up many cases involving allegations of torture and other human rights violations by members of law enforcement agencies. His clients include individuals accused of membership in armed groups. According to Rustam Matsev, on 31 May 2012, prior to a face-to-face confrontation of one such client with a senior police official at a pre-trial detention centre in Nalchik, he was told by this official that he should stop "teaching his defendant to lie". This statement referred to Rustam Matsev's client's allegations of abduction, ill-treatment and subsequent fabrication of a criminal case against him by police. The police official demanded that Rustam Matsev's defendant withdraw his complaint and agree to be tried under the so-called "special procedure" (a closed court session in which the defendant pleads guilty, agrees to be sentenced without a full hearing and waives his right to appeal).

According to Rustam Matsev, following his refusal to facilitate this, the police official

¹⁷⁰ <http://www.a1plus.am/en/social/2012/05/21/diversity-march>

¹⁷¹ Report of the Public Information and Need of Knowledge NGO.

threatened him saying that when they conduct security operations to “liquidate” members of armed group, lawyers may be “blocked” in the same way. Matsev was also told that he should watch his back constantly when he is moving around because the police are following him and know everything about what he is doing. Rustam Matsev perceived the police official’s statements as a real threat to his life and that a criminal case could be fabricated against him.¹⁷²

September, 20, 2012, Kyiv, Ukraine

Iryna Fedoriv - STB TV channel journalist, made a series of reportages on abuses with the distribution of land plots in the Bilychanskiy forest near the Kotsyubynske settlement, Kiev Region¹⁷³.

In 2011 Iryna made a series of reportages which followed public actions against illegal constructions in Kyiv recreation zone – Bilychanskiy forest.

On 20 September Iryna received a call from an unknown man who said she interfered in the serious peoples’ business. Anonymous recommended her to spend more time with her family members because everything might happen to them. “You are covering the wrong topic,” an unknown voice told her on September 20. “Drop it. You are blocking the road for people who have multi-million interests”, she was said.

“He has underlined the he knows I have many important friends but lets me to understand they would not be near me and my family always. This is a real threat for me and my family's life and safety” – says Iryna¹⁷⁴.

September 27,2012, Bishkek, Kyrgyzstan

Tolekan Ismailova - Director of the Human Rights Center “Citizens against Corruption” and organizer of the International Human Rights Documentary Film Festival “Bir Duino Kyrgyzstan” (“One World – Kyrgyzstan”)

Tolekan Ismailova has been targeted by a smear campaign depicting her as spreading propaganda for homosexuality and destructing Kyrgyz values in relation with the film “I am Gay and Muslim”. Such accusations were spread on ELTP TV programme broadcast on October 14, 2012, as well as in a Kyrgyz newspaper.

It is to be further noted that on September 27, 2012, the festival organisers, including Tolekan Ismailova and other members of HRC CAC, had received phone calls and text messages threatening them with physical assault. The director of the cinema “Manas”, where the film was to be shown, was threatened that the building would be burnt down if the screening was not cancelled.

¹⁷² <http://www.amnesty.org/en/library/asset/EUR46/021/2012/en/a52d3224-8aa5-4160-8bf8-7425c6ec8c61/eur460212012en.html>

¹⁷³ http://www.telekritika.ua/spec_tk/pravo_sector/2011-03-18/61305

¹⁷⁴ <http://blogs.pravda.com.ua/authors/fedoriv/505c46d73e92e/>

Finally, on October 8, 2012, HRC CAC received a letter from their web hosting company warning the human rights NGO that its website might be shut down if it contained references or links to the said documentary.¹⁷⁵

October 2012, Armenia

Mamikon Hovsepyan - LGBT rights activist and President of PINK Armenia

In October 2012 Mamikon received threats when he attended the Armenians and Progressive Politics conference in the USA organized by the Armenian Revolutionary Federation (ARF) Central Committee – Eastern Region.¹⁷⁶ Due to the severity of the threats, Hovsepyan was given private security as a precautionary measure. On the second day of the conference, two members of the ARF's Western Region told Hovsepyan, who was scheduled to serve as a panellist at the conference, that he was not allowed to speak due to concern for his security. Later, Hovsepyan was told that the actual reason he was not allowed to speak during the conference was that the ARF would have institutional problems if they allowed him to serve as a panellist.¹⁷⁷

November 4, 2012, Moscow, Russia

Tatyana Lokshina - deputy head of the Moscow office of Human Rights Watch.

Tatyana said she received direct and severe threats via text messages mentioning specific details of her life, including her pregnancy.

She also said the contents of the messages pointed to the sender's constant surveillance.

"It was obvious that they were sent not from ordinary people who are able to listen to my phone, but ones are specifically listening in," she told reporters.

Lokshina added that while the messages had not been the first threats made against her, their *"level of cynicism"* was *"unprecedented."*

Lokshina, widely known as one of Russia's leading human rights experts, said she received between two and five threats per day from September 28-30. Most of the nine messages referred to Lokshina's pregnancy and her child's "uneasy 'birth.'"

"These threats demonstrate that the sender clearly was following Tanya's every move – they knew where she lived, what she was doing," said HRW director Kenneth Roth in a video address posted to the watchdog's website Thursday.

Much of Lokshina's work is related to Russia's volatile North Caucasus, and to Chechnya, where critics and human rights activists say official corruption is rampant and human rights abuses are commonplace.

Roth's statement implies the threats against Lokshina are part of a Kremlin crackdown.

¹⁷⁵ <http://www.fidh.org/Kyrgyzstan-Smear-campaign-and-12373>

¹⁷⁶ The Armenian Society of Columbia University and the ARF Western Region co-sponsored the conference.

¹⁷⁷ <http://www.ianyanmag.com/2012/10/09/progressive-politics-conference-sees-highs-and-lows/>

Roth also called for a thorough investigation into the matter. He added that the threats “*will have the opposite effect, and HRW will “redouble [their] efforts”* against the Kremlin’s alleged crackdown.

Russia's Interior Ministry said Thursday it will investigate the incident, based on a request from human rights commissioner Vladimir Lukin, according to the ministry's press service.¹⁷⁸

November 28, 2012, Cheliabinsk region, Russia

Oksana Trufanova – a coordinator of the Gulagu.net Project, She works with Russian Verdict Informational Human Rights Center

Oksana has faced with threats in time of riot in the prison the city of Kopeysk. Oksana told she had been threatened to a danger to life by her cell phone. First, one of the staff officers made her a call and later she received several SMS with threats and insults¹⁷⁹.

Chapter 9. DISCREDITING

General tendencies

In 2012 the authorities used the media to slander human rights defenders and journalists, tried to influence the public attitudes towards human rights activities and motivation of human rights defenders. Messages often had been shared through online media and social networks.

When civil society is weak and the population does not always understand the essence of human rights work, campaigns on slander and defamation against human rights NGO (like accusing them of "betraying the motherland") could have serious consequences – from stigmatization of activists to physical violence against them and death threats.

Campaign to discredit human rights defenders are held in almost all countries of the monitoring area. In this section we provide examples of discrediting human rights defenders individually. In Part 2 of the Report examples of the state policy on discrediting human rights NGOs are presented.¹⁸⁰

In this Chapter we present the following number of cases by country:

Country	Number of cases
Azerbaijan	2
Armenia	3
Kazakhstan	1
Kyrgyzstan	1

¹⁷⁸ <http://en.rian.ru/crime/20121004/176405405.html>

¹⁷⁹ <http://zeki.su/publikacii/2012/11/28153743.html>

¹⁸⁰ See information about "foreign agents" in cases of human rights NGOs in Russia.

Moldova	1
Turkmenistan	1

Description of cases

March – April 2012, Baku, Azerbaijan

Khadija Ismayilova – independent investigative journalist, regularly contributing to Radio Free Europe/ Radio Liberty’s Azerbaijani service

On March 7, 2012 Khadija Ismayilova received a letter including six intimate photographs of herself along with a threat, stating “*Whore, behave. Or you will be defamed*”. Envelopes containing the explicit images were also sent to her boyfriend, several relatives as well as a number of opposition media outlets on the same day.

Taking the decision to make the attempted blackmail public, Ismayilova posted a message on her Facebook page on March 8.

On March 9, 2012 (March 8 is not working day in Azerbaijan), the complaint on threat to journalist and invasion of privacy was submitted to the Office of the General Prosecutor and the Ministry of Internal Affairs.

A week later, on March 15, a one minute long sexually explicit video of Ismayilova with her boyfriend appeared online. It had been filmed by a camera surreptitiously installed in her apartment.

On March 17, 2012 Khadija with the group of journalists have conducted a house-check in the apartment where the secret video filming took place. When visiting the apartment, they discovered the difference in colours of plaster on the walls and found wires under the suspended ceiling of the bathroom and kitchen adjacent to the bedroom. Three slots were found under the ceiling; one transparent wire was also discovered under the suspended ceiling. The kitchen wall adjacent to the bathroom also had three holes. There were more wires in the depth of the bath, but they could not be clearly seen and reached without better light and without moving ceiling planks throughout bathroom.

When the journalist investigation group returned to the apartment next day, the apartment was not the same as it was left after the search¹⁸¹.

Khadija is convinced that the action against her has been launched because of her articles related to the business of the president of Azerbaijan’s family

“This threat is not a surprise for me. For a long time I have been doing investigative journalism, including ... [into] the family business of President Ilham Aliyev. I revealed corruption at the highest level and disclosed the mysteries of offshore business of members of the ruling family”, - Khadija says.

Ismayilova has won numerous awards for her investigative reports including RFE/RL Story of

¹⁸¹ <http://www.kavkaz-uzel.ru/articles/203185/>

the Year Award in 2011 for her expose on the commercial interests of Aliyev's daughters.¹⁸²

Since June 2012, Baku, Azerbaijan

Hilal Mammadov – consultant of the Institute for Peace and Democracy, chief editor of the newspaper "Tolyshi sado" ("The Voice of Talysh"), the author of the video "Ty kto takoy? Davay, do svidaniya!"¹⁸³.

Mammadov was arrested on June 21, 2012 and accused of possession of illegal drugs. Later he was charged with high treason and inciting ethnic hatred. Hilal's arrest on drug case was widely reported in Azerbaijani, Russian and Western media.

Azerbaijani officials do not comment Mammadov's case. Pro-governmental informational agency Trend.Az in its news in fact presented governmental position, informed that "Mammadov, for many years taking advantage of the journalistic profession, and position of head of the cultural center, since 1992 has been involved to a secret cooperation by intelligence officer of Iran Abdoli Ali Ghazali oglu and has been engaged in activities aimed at detriment of sovereignty, national security and territorial security of Azerbaijan, regularly receiving money in return"¹⁸⁴.

Mammadov itself in a day before the trial sent his statement to the media and denied all the charges calling them like fabricated and politically motivated. He underlines that his arrest is connected to the video "Ty kto takoy? Davay, do svidaniya!" ("Who are you? Come on, good bye!") which became an Internet meme both in Azerbaijan and Post-Soviet states.¹⁸⁵

September – December 2012, Atyrau, Kazakhstan

Togzhan Kizatova – leader of the "Demos" NGO

The series of articles of Galim Zagitov under the title "Togzhan of many faces" had been shared on-line¹⁸⁶ and through the list-serv. In these articles human rights defenders were named "people good-for-nothing" and were accused in sedition: "They say there is not democracy in Kazakhstan at all, and it is not enough they say about it everywhere, including and abroad; they call for changes but not by civilized means".¹⁸⁷

The author also stated that Kizatova "made an agreement on an equal footing with powerful American company" and "got the point that she can have handsome dividends working in human rights, still under the patronage of U.S. organizations but non-governmental this time".¹⁸⁸

¹⁸² <http://www.radioazadlyg.org/content/article/24250130.html>

¹⁸³ <http://rutube.ru/video/3c298902117712c350cd8256b72d79d1/>

¹⁸⁴ <http://en.trend.az/news/society/2043564.html>

¹⁸⁵ <http://www.youtube.com/watch?v=GZrGyySwmbM>

¹⁸⁶ http://www.zonakz.net/blogs/user/mnogolikaja_tokzhan_chast_3/23022.html?mode=comments,

<http://retwittka.blogspot.com/2012/11/4.html>

¹⁸⁷ <http://www.zonakz.net/blogs/user/red/24465.html>

¹⁸⁸ <http://yvision.kz/post/261557>

October 11, 2011, Yerevan, Armenia

Members of the Armenian human rights NGOs

On October 11, 2011, Gevorg Altunyan, the Director of Informational and Analytical Public Television programs and the host of the Tesankyun (Viewpoint) program on public television (H1), criticized a petition promoted by several human rights defenders. The petition demanded that Armenian President Sargsyan resign on the grounds that he has ignored evidence of torture, ill treatment, and a large number of non-combat deaths in the army. During the program, Altunyan stated that the defenders sought to commit acts of treason. Altunyan also insisted that because foreign governments fund human rights organizations, those organizations do not have the right to make political demands.¹⁸⁹

October 14, 2012, Bishkek, Kyrgyzstan

Tolekan Ismailova - Director of the Human Rights Center “Citizens against Corruption” and organizer of the International Human Rights Documentary Film Festival “Bir Duino Kyrgyzstan”

On 14 October 2012, TV channel LTR broadcast a program in which human rights defender Tolekan Ismailova was depicted as spreading propaganda for homosexuality in Kyrgyzstan and being destructive to Kyrgyz values. These accusations refer to the documentary 'I Am Gay and Muslim', which was part of the human rights film festival Bir Duyno – Kyrgyzstan (One World – Kyrgyzstan), organised annually in Bishkek with the active participation of HRC Citizens Against Corruption. The documentary was scheduled to be shown on 28 September 2012 at the Manas cinema in Bishkek. The film explores the problematic issue of gay rights in the Islamic world, taking the example of Moroccan young men who speak about their sexual and religious identity.

On 8 October 2012, the HRC Citizens Against Corruption received a letter from their hosting company warning the human rights organisation about the possibility that its website www.anticorruption.kg might be shut down if it contained references or links to the documentary 'I Am Gay and Muslim'.

On 28 September 2012, the day of the screening, the festival organisers were ordered by the Pervomaysky district court of Bishkek to ban the film¹⁹⁰

October 16, 2011, Yerevan, Armenia

Artur Sakunts, a Chairperson of the Helsinki Citizens' Assembly-Vanadzor, and ***Levon Barseghyan***, a Chairperson of the Board of Journalists' Club Asparez.

¹⁸⁹ <http://www.youtube.com/watch?v=tnSXNbkrN48&feature=plcp>

¹⁹⁰ <http://www.fidh.org/SROCHNOE-OBRASCHENIE-OBSERVATORII-12509>

On October 16, 2011, the Arajin Lratvakan (First Informative) program on public television aired a report about Artur and Levon. They had spoken out about the number of non-combat deaths that occurred in the armed forces and had demanded a fair investigation into the deaths. The television report presented a distorted picture of the activities of the organizations and the projects that they have implemented, referring to random excerpts from project descriptions and referring to them as an unreasonable waste of money and resources. The report also referred to the activists as "traitors", "grant consumers", and "foreign servants"¹⁹¹.

October 2012, Erevan, Armenia

***Public Information and Need of Knowledge (PINK) – human rights
NGO working with LGBTI-rights***

On October 18, 2012, Gevorg Altunyan, host of the Tesnakyun program on public television, discussed a survey conducted by PINK NGO on the public's perception of LGBT people. Altunyan made homophobic statements that focused in particular on those who identify as transgender. He also commented that the public's negative attitude toward LGBT people was "*obvious, thank God*", and stated that LGBT rights were threat to the survival of the Armenian nation¹⁹².

Since November 2012, Tiraspol, Republic of Moldova - Transdnistria

Vladimir Maimust – lawyer of the Moldovian Bar Association

Vladimir is the defendant of a person who was detained by Transnistrian authorities on 23 June 2012 and later died from suffocation in jail on 21 November 2012. Vladimir Maimust filed a complaint to the local Investigation Committee and to the Transnistrian leader Yevgeny Shevchuk, in which he accused the investigator of abuse of power and negligence that led to the death of his client.¹⁹³ Vladimir Maimust was later threatened by KGB agents "*to be included in the list of persons whose activity on the territory of the republic has to be undermined*" and that criminal charges can be brought against him.

A criminal case has been recently opened against Vladimir Maimust for conspiracy. If found guilty, he may face up to 12 years in prison.

During a working visit to the Investigation Committee on 11 January 2013, the human rights lawyer was beaten and injured by four men in police uniform who also tried to slip some unknown package into his pocket, accusing him of being drunk although medical expertise later confirmed that there was no sign of alcohol consumption.

¹⁹¹ <http://hcav.am/en/events/the-debate-between-the-prominent-human-rights-activist-and-the-tv-commentator-continues/>

¹⁹² <http://www.youtube.com/watch?v=vVtWk87NPIE>

¹⁹³ <http://tiras.ru/v-mire/36471-pridnestrovskiy-advokat-brosil-vyzov-prezidentu-shevchuku.html>

The lawyer believes that the threats and the fabricated criminal cases against him are directly related to his human rights work and aim to discredit him as a defender.¹⁹⁴

December 5, 2012, Turkmenistan

Farid Tukhbatullin – human rights defender, an editor-in-chief of the "Chronicles of Turkmenistan" web-site, a founder of the Turkmen Initiative for Human Rights based in Vienna.

The web-site "Chronicles of Turkmenistan" was attacked by hackers who shared there doubtful stories about human rights defenders under the title "The Chronicles of Bald's Clan." In the stories "Baldy" (Tuhbatullin) was called "*a porno-defender*", "*a grant-eater*" "*a snob and upstart*". He had been accused of collaboration with the Committee of National Security as well¹⁹⁵.

Editorial "The Chronicles of Turkmenistan" is placed in Vienna and consists of Turkmen immigrants. The web-site is funded by the human rights NGO "Turkmen Initiative for Human Rights."

Chapter 10. HARASSMENT / PRESSURE ON RELATIVES OF HUMAN RIGHTS DEFENDERS

General tendencies

The pressure on relatives of human rights defenders aimed different things. On the one hand - this is a kind of effort aimed to influence their work through threatening of their families - like blackmail. On the other hand, this is a revenge on the most prominent human rights defenders, especially when it is not possible to harm them directly - such people usually are not afraid of their own destiny because the human rights values are more important to them. Sometimes such actions are used to get admission of guilt or to prevent the sharing of information about human rights violations.

There are different forms of pressure - detention and prosecution, extortion and threats, shadowing, threatening deportation, employee layoff and prohibition to child to study at the appropriate school level. In all cases, the reason was clear: people were members of well-known human rights activists' families. In the Uzbek case we can state about the system pressure at all immediate relatives of human rights activist.

In this Chapter we present the following number of cases by country:

Country	Number of cases
Kazakhstan	1
Uzbekistan	2

¹⁹⁴ <http://www.civilrightsdefenders.org/news/statements/threats-against-human-rights-defenders-must-be-condemned-and-investigated/>

¹⁹⁵ <http://chrono-tm.2x2forum.com/t32-topic>

Description of cases

May 4-17, 2012, Uzbekistan

Adelaida Kim – member of the *Uzbek Human Rights Alliance*

Adelaida Kim's daughter Svetlana was one of the victims of a raid by Yakkasaray district tax and police officers of a wholesale textile shop of the Spring Textile Company from Turkey.

"Raiders seized part of goods and detained all workers of the shop until midnight," Kim said.

Police officers also detained her daughter even though she had already resigned from her job earlier and was in shop to pick up her salary. When officers learnt she was a Russian citizen, they seized her passport and took her to the district migration service department.

There she was told that as a foreign citizen she did not have the right to work in Uzbekistan without a licence and permission, which is why in order to get her passport back she had to pay a fine worth 150,000-200,000 sums (\$52-69)¹⁹⁶.

Svetlana's mother flatly refused to pay a fine, describing the fault-finding with her daughter as unlawful. For his part, the head of the Yakkasaray department for migration services, Yunus Hasanov, flatly refused to return the passport regardless of demands from their city and national departments. Not even a note the Russian embassy had sent to the Uzbek Foreign Ministry could help.

After all, Yakkasaray migration department officers fraudulently put Svetlana in a car, took her to the border and pushed her out into the Kazakh territory. This incident was so unlawful that border guards let Svetlana back into Uzbekistan freely despite the deportation stamp on her passport.

The prosecutor's office has found no violations in this case.¹⁹⁷

August 2012, Zhanaozen, Kazakhstan

Rosa Tuletayeva – leader of the strike movement of the oil workers followed with mass riots in Zhanaozen¹⁹⁸

The pressure from the security services of Kazakhstan in relation to Tuletayeva's children is increasing.¹⁹⁹

According to Aliya Tuletayeva, Rosa Tuletayeva's daughter, since she came back to Zhanaozen, she was constantly shadowed. She even had to address her complaints to the akim of Zhanaozen. Aliya also said that her mother was being pressured for several months. On August 2, being in the Aktau pre-trial detention center, Rosa made a call to Aliya and requested her to stop meeting with media. Tuletayeva said that a person, who tortured her, promised to do a lot of harm

¹⁹⁶ http://www.uznews.net/news_single.php?lng=en&cid=3&nid=19747

¹⁹⁷ <http://ru.hrsu.org/archives/3502>

¹⁹⁸ See Chapter 4.2. Criminal sentencing with deprivation of liberty – p.41

¹⁹⁹ <http://on.fb.me/RO3zll>

to her relatives if they do not keep silence.

Besides, two police officers came to Rosa's brother home and demanded a written statement from him saying that he would not take any action on behalf of Rosa and would not take any meetings or interviews with media.

September – October 2012, Uzbekistan

Tatyana Dovlatova – activist of the Uzbek Human Rights Alliance. She was sentenced to pay a total of 11 million sums (over \$4,000 at the black market rate) in fines and compensation of moral damage because of her interview given to the Russian TV channel Rossiya 1 on 24 April 2011 in which the human rights activist told of the life of Tashkent's pensioners. Uzbek government said her interview insulted the country's people²⁰⁰.

A granddaughter of human rights activist Tatyana Dovlatova has not been able to get enlisted into form eight since September, which the director of Tashkent's school 91 has referred to the ban by the National Security Service's (SNB) Tashkent city department.

Tatyana Dovlatova is sure that her granddaughter, 14-year-old Karina Mahsudova, is being humiliated in revenge for her human rights activity. "School 91 director Aziza Temirova honestly told me: write a complaint about me to the national SNB department, the city SNB department has got at me with their phone calls about your granddaughter," she said.

Karina's problems with enrolment in Tashkent started when she returned to Uzbekistan after studying two terms [half an academic year] in Ukraine.

According to Dovlatova, everything was fine in the beginning and Karina's documents submitted to school 91 were accepted without any problem as back as in June. On the second school day, 2 September, school director Temirova asked the girl not to come to school. When the grandmother came to the school, the director told her that there had been "a call from above" asking to send the kid to the seventh form.

Dovlatova complained to the ministry of education where a deputy minister assistant said it was a right decision "because the girl had not learnt the Uzbek language and the history of Uzbekistan for two terms in a row".

The crisis peaked one week prior to the end of the first term, on 24 October, when Temirova strictly ordered Karina to move to form seven.²⁰¹

In August 2011, police searched her home and detained her son on suspicion of selling heroin. Dovlatova claimed the charges of selling narcotics were fabricated and were retaliation for her rights work. Her request to represent her son in court was denied. On 23 December, Dovlatova's son was convicted of narcotics possession and sentenced to nine years in jail. Detention had been based on testimonies of the part-time police officer.²⁰²

²⁰⁰ <http://mreporter.ru/reports/15262>

²⁰¹ http://www.uznews.net/news_single.php?lng=en&sub=&cid=3&nid=21344

²⁰² <http://www.fergananews.com/news.php?id=17189>

Besides, Dovlatova had been unreasonably deprived of disability degree.²⁰³

Chapter 11. PROPERTY DAMAGE

General tendencies

Property damages were often accompanied by other threats and were direct responses to the activities of human rights defenders. Lack of a proper investigation by law enforcement agencies caused an impression that violence against human rights defenders would never be punished.

There are reasons to assume that the authorities were involved (directly or indirectly) to all the cases described.

In this Chapter we present the following number of cases by country:

Country	Number of cases
Armenia	1
Russia	1

Description of cases

May 8, 2012, Yerevan, Armenia

Tsomak Oganezova – owner of LGBT-friendly DIY club in downtown Yerevan.

In the early morning of May, 8 a homemade car bomb was used to vandalize DIY. The owner was informed about a fire at 05:30 am. Attackers' faces were seen clearly at the video-recorder. A few hours after the incident occurred the two attackers were detained, but parliamentarians, who are members of the Armenian Revolutionary Federation (ARF), an Armenian left-wing nationalist party, Artsvik Minasyan and Hrayr Karapetyan, allegedly paid about \$2,500 to bail the brothers out of jail.

"In the given situation, I am convinced that those youth acted the right way, in the context of our societal and national ideals. It is a different matter if certain damage has been caused, and compensation must be paid," - Minasyan said in an interview with Panorama news agency.²⁰⁴

Negative attitudes towards LGBTI-community had been formed. There were other attacks to clubs and civic activists who supported these clubs and their owners.²⁰⁵

²⁰³ <http://www.zagr.org/1100.html>

²⁰⁴ <http://news.am/rus/news/105631.html>

²⁰⁵ http://www.armenianow.com/society/38162/diy_gay_lesbian_club_bomb_attack_yerevan_reactions
http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Armenia_HRC105.pdf
<http://eaparmenianews.wordpress.com/2012/06/05/issue-105>

Hate-speech propaganda had been recorded in some media. Information about the incident in DIY Club was presented in articles under the titles like "Let's fire homosexual club" or "Should the homosexuals live".

In Armenia, where homophobia is widespread and deeply ingrained in society, lack of appropriate reaction for such incidents means a "green light" for more cruel violence against the LGBT community.

August 28, 2012, Kazan', Russia

Vladimir Rubashnyy - member of the Public Monitoring Commission in places of forced Detention in Tatarstan.

Vladimir found his car broken near his house. According to preliminary data, the estimated damage is about 100,000 rubles. He called to police. A police officer said that it was clearly done "for a reason".

Human rights activist connects the incident to his work within the Public Monitoring Commission. A day before the incident, relatives of prisoners addressed their complaints to the Investigation Committee because of tortures in the penal colony Nr 2 in Tatarstan. Vladimir informed them about tortures.

On July 30, the Kazan Human Rights Center was informed that baseball bats are used to torture prisoners of the penal colony Nr 2. Vladimir Rubashny found the item in the facility's office during their visit last week. He and his colleague photographed the bat, which bears inscriptions such as "*tranquilizer*," "*remedy for haemorrhoids*" and "*trip to the moon*".

This is why law enforcement officials started a war against human rights defenders. The Kazan Human Rights Center connects the incident with the car of Vladimir with his work in the Tatarstan's Public Monitoring Commission.²⁰⁶

Chapter 12. OTHER RESTRICTIONS ON HUMAN RIGHTS DEFENDERS' ACTIVITIES

General tendencies

It is not enough to authorities to apply just abovementioned methods of intimidation and pressure. They also use searches and interrogations on various occasions to convince human rights defenders they could be persecuted criminally. A new wide-spread trend is persecution through tax authorities. This method is widely used in Belarus, and it caused the 4,5-year detention of the well-known Belarusian human rights activist Ales Bialiatski.

The facts of pressure to the activists of the independent trade unions were registered in Belarus. Besides abovementioned tax audit, the activists and their relatives are threatened by layoff.

In this Chapter we present the following number of cases by country:

²⁰⁶ <http://openinform.ru/news/pursuit/28.08.2012/27273/>

Country	Number of cases
Azerbaijan	2
Armenia	1
Belarus	7
Kazakhstan	1
Kyrgyzstan	3
Moldova	1
Russia	2
Tajikistan	1
Turkmenistan	1
Ukraine	2

12.1. Searches and interrogations

General tendencies

Even in human rights defenders were not charged criminally in 2012, they were involved to the investigation procedure aimed to intimidate them and put them under the additional pressure. There were also different aims of searchers: to intimidate, to throw sufficient evidence for criminal prosecution, to prevent the meeting with the Commissioner for Human Rights of the Council of Europe.

The interrogations were related directly to human rights activities - investigating of human rights violations by the police (a defender was accused of forcing citizens to make such statements), human rights monitoring during the election process (the NGO was accused of posting false information posted at the website).

The procedural violations by law enforcement officers (like entry to the private property, restriction of personal freedom during interrogation, etc.) were recorded in some cases.

The methods described are common for the countries of the EU Eastern Partnership (here in Ukraine, Moldova, Belarus and Armenia) and for Russia as well.

Description of cases

January 16, 2012, Vanadzor, Armenia

Artur Sakunts - *Chairman of Helsinki Citizens' Assembly-Vanadzor*

Artur was questioned at the Lori Regional Police Investigative Department. The police stated

that they suspected that Sakunts had forced a civilian to give a statement alleging violence at the hands of the police. The police did not give Sakunts any additional information about the investigation after the interrogation. They only informed HCA-Vanadzor that the case had been closed due to lack of evidence after the organization made a formal inquiry about the proceedings.²⁰⁷

February 14, 2012, Salyan, Azerbaijan

Emil Mamedov – leader of the human rights NGO "Support to Democracy"
(the only human rights NGO in the Aran region)

Emil had been summoned to the police office in Salyan district. The villager Agil Gasimov lodged a complaint with him about sharing his pictures in the Internet and in media.

On November 18, 2011 Gasimov participated in protest of the villagers of Garabaglar regarding the termination of gas supply. A few days later Gasimov was charged criminally with resistance to police and had been to 6 months of imprisonment.

Gasimov can neither write nor read, so his relatives requested Emil to defend his rights. Gasimov came to the office of Mamedov and took indoors and outdoors pictures. A police officer asked Mamedov for written explanation and then informed that such issues are resolved in the courts.²⁰⁸

March 7, 2013, Tiraspol, Moldova, Transnistrian region

Stepan Popovsky – a leader of the Republican Social Movement for the Protection of Property and Social Rights of Peasants, "Peasant Union".

On 9 January 2013, Stepan Popovsky held a meeting where he provided legal support to local peasants. The meeting was interrupted by police officers accusing him of trespassing on a private area, although the Criminal Code of Transdnistria does not define trespassing as a criminal offense.

One week after the incident, Stepan Popovsky was informed that a criminal case had been initiated against him. He responded with a letter of complaint to the local Minister of Internal Affairs. Since then, Stepan Popovsky has been repeatedly threatened by Transnistrian region's law enforcement officers while performing his profession as a lawyer.

On 7 March, Stepan was due to meet with Nils Muižnieks, Commissioner for Human Rights of the Council of Europe. Afterwards he planned a press conference about violations of the property rights of thousands of landowners in Transdnistria. Half an hour before the meeting with Muižnieks, Transnistrian police came to search Popovsky's house. As a result, the meeting with the Commissioner for Human Rights could not take place. The search was conducted on the basis of a complaint about alleged theft.

During the search Stepan had found out that the criminal investigation opened against him on

²⁰⁷ <http://hcav.am/events/նստիկանությունը-հարցաքննություն>

²⁰⁸ Информационное Агентство «Туран», 15.02.2012 г.

18 January 2013 is reportedly linked to a dispute between Stepan Popovsky and Olga Zakharchuk over a property which she claims to have shared ownership rights of. The human rights defender has previously filed a civil case against Olga Zakharchuk, who reportedly responded by threatening to “destroy” Stepan Popovsky's life.²⁰⁹

There are strong reasons to believe that the accusations of theft are connected to his work as human rights defender, taking into account the timing of the search, the fact that he has previously been subjected to criminal proceedings in connection to his human rights activities, and that he has been repetitively threatened by Transnistrian region's law enforcement officers and subjected to a defamatory media campaign.

May 12, 2012, Odesa, Ukraine

Artem Maksimov – an active participant of ecological initiatives in Odesa and manager of the Ecological Documentary Festival. He participated in ecological protests and pickets regarded to protection of parks and squares from illegal constructions, preventing the dogs' poisoning before the EURO-2012 etc.

On May 12 police officers and officers of Security Service came to Artem's house. They presented a judgement on searching within the criminal case under Article 161(1) of the Criminal Code of Ukraine – "Violation of citizens' equality due to their race, nationality of beliefs".

According to the operative information, Artem collected Islamic literature, directed to incitement of national, racial and religious hatred. At the result of search the law enforcement officers found nothing of such kind of books. They confiscated a couple of books about Philosophy of East, an essay about Karl Marks, an invitation to the Krishnaitic holiday etc. Six computer of Artem's relatives together with all memory cards were taken away.²¹⁰

During the search the Security officer repeatedly made calls to his chief and told they were not able to find anything. It was a moment it seemed that plant is planned, but friends and lawyer did not allow to do this.

August 17, 2012, Minsk, Belarus

Taciana Reviaka – president of the Belarusian Human Rights House and a council member of the Human Rights Centre Viasna

Tatiana had been summoned to the Committee of National Security (KGB) as "a person who knows about important for security of the Republic of Belarus circumstances". The KGB officers asked Tatiana about an article "KGB intervenes into the election process in Mogiliov", posted at the web-site www.spring96.org: what were the sources of information, was Tatiana an author of the article, did she check the facts described.²¹¹

²⁰⁹ <http://www.frontlinedefenders.org/node/21992>

²¹⁰ <http://shaitman.net/2012/05/15/161-statya-kak-povod-dlya-repressiy/>

²¹¹ <http://spring96.org/ru/news/55948>

November 29, 2012 Cheliabinsk, Russia

Oksana Trufanova – coordinator of the *Gulagu.net* project, works with the Center for Information and Law "Russian Verdict".

Through her page in Facebook Oksana informed that unknown people who say they are from the prosecutor's office were trying to enter to her apartment. One of them did not present himself and went away, another said that his name is Alexander Davydov he is a volunteer.

Later this day the prosecutor made her a call and asked her to open the door. He confirmed that it was the police, not prosecutors, but he ordered them to go to Oksana. He said if she makes resistance she would be taken to the prosecutor's office forcibly.²¹²

December 19, 2012, Voronezh, Russia

Natalia Zvyagina - representative of the *Interregional Human Rights Group Voronezh/Black Earth and Transparency International*

The apartment of Natalia Zvyagina had been searched by officials from the Anti-Extremism Department from the Interior Ministry and by officers of the Investigative Committee of the Russian Federation from Moscow. The official pretext was the investigation of the high-profile case of opposition activists Sergei Udaltsov, Leonid Razvozhayev and Konstantin Lebedev who are accused of "plotting mass disorders".

The search lasted for 3 hours nothing had been confiscated. Later on the same day, Natalia Zvyagina was taken to the Investigation Department of the Voronezh region for questioning, and then released under a nondisclosure agreement with regards to that case. She was questioned by investigator Grachev from Moscow together with two officers from the Anti-Extremism Department. The questioning had finished at about 11.30 but Natalia was not allowed to leave the Investigation Department with no any reasons. Human rights defender filed a grievance which was registered in the chancellery. Police officers several times demanded from Natalia to be tested on drugs, but she refused. Around 15.00 the Natalia's lawyer had arrived and she was released.²¹³

12.2. Tax inspections

General tendencies

Human rights defenders, like all the citizens, are obliged to pay taxes, and human rights NGOs have to keep the procedures of accounting and fulfil requirements of the tax system. Fiscal bodies in commission to inspect and prosecute natural person and legal entities are one of necessity

²¹² <http://gulagu.net/news/1904.html>; http://echo.msk.ru/blog/o_trufanova/957444-echo/;
http://echo.msk.ru/blog/o_trufanova/956580-echo/

²¹³ http://yhmr.org/news/regions/voronezhskaya_oblast/v_voronezhe_proshli_obyski_u_pravozashchitnikov_i_aktivisto_v_chno

components of the state maintenance. However, there are three conditions regarded taxation in the democratic society: 1) wide sphere of autonomy for economic activity; 2) clear and transparent procedures of inspections and punishment, if necessary; 3) equal rank of all taxpayers.

The cases described below show that compliance with all three conditions is an insurmountable challenge for some governments. There are examples of fiscal pressure both on individual human rights defenders and on human rights NGOs²¹⁴. The strongest attention to fiscal discipline of human rights NGO is registered in Belarus.

Description of cases

September 27, 2012, Minsk, Belarus

Oleg Volchek – leader of the human rights organization *Legal Assistance to the Public*

The letter sent from the Ministry of Taxes and Dues to Oleg Volchek on 27 September 2012 set a deadline of 25 October 2012 for the submission of a tax declaration for the last 10 years. Oleg Volchek sent a letter to the head of the Inspection of the Ministry of Taxes and Dues for the Frunze district of the City of Minsk demanding clarification of the reasons for which he had been asked to submit a tax declaration for the last 10 years.²¹⁵

Front Line Defenders believe that the injunction to submit a tax declaration for the last 10 years may be initiated by the Belarus KGB. Such interest may be linked to the successful public campaign titled “Human Rights Defenders against torture” in which Oleg Volchek took part.²¹⁶

November 2012, Minsk, Belarus

Taciana Reviaka – president of the *Belarusian Human Rights House* and a council member of the *Human Rights Centre Viasna*

On 20 and 27 November 2012, Taciana Reviaka was questioned by a tax inspector from the Pershamayski district branch of the Ministry of Taxes and Dues' Inspection service about sums of money which she received from fellow human rights defender Mr Ales Bialiatski. Taciana has previously submitted a tax declaration covering the period from 2004 to 2010 in which no irregularities were found.

During the questioning at Pershamayski district Inspection, Taciana Reviaka learnt that the inspection had received information from Ales Bialiatski's criminal file 'from higher authorities', regarding money transfers between his bank account and Taciana Reviaka's account with a Lithuanian bank.

Taciana Reviaka acted as a witness for the defence in the criminal investigation against Ales Bialiatski. She has admitted that she received money transfers from Ales Bialiatski's bank accounts for the implementation of the HRC Viasna's human rights programs, but refused to give details on

²¹⁴ See Part II, p.106

²¹⁵ <http://www.moyby.com/news/97796/>

²¹⁶ <http://belhelcom.org/ru/node/18404>

how it was spent, quoting her right not to bear witness against herself under Article 27 of the Belarusian Constitution.

Human Rights Centre Viasna believes that the Tax inspection service is being used by the authorities to put additional pressure on members of the Human Rights Centre Viasna who have vowed to continue their defence of human rights in Belarus despite the recent confiscation of the organisation's office.²¹⁷

November 2012, Gomel, Belarus

Leonid Sudalenko – representative of the Human Rights Centre Viasna in Gomel

The tax office of the Sovetsky district in Gomel demanded a 5 years income tax bill from Leonid. His son, who was then in the army, and the wife also had to present an income and property declaration.

Leonid did not present the income tax bill. The reason was that after the same demand in 2008, information about his income had been illegally published in the local newspaper. The tax officers did not explain why they are so interested in income of Sudalenko's family and why they need the 5 years income tax bill.

On November 21, Leonid had been charged with breaking the income tax bill procedure and fined on 500 000 Belarusian rubles.²¹⁸

12.3. Dismissing, intimidation on being dismissed and dropping out of professional unions

General tendencies

There are total 4 cases described: three from Belarus and one from Azerbaijan. All cases from Belarus describe pressure on the leaders of independent trade unions, which are successful in protection of rights of workers. dismissing, intimidation on being dismissed and similar actions regarding relatives of human rights defenders are kind of pressure indeed. There are quite effective measures, because dismissed leader of the trade union is not able to contact with workers all the time.

Case from Azerbaijan is regarded to suspending lawyer from practising. This is a disturbing tendency in the region in general.

Description of cases

March - December 2012, Brest Region, Belarus

²¹⁷ <http://freealesbialiatski.posterous.com/170161420>

²¹⁸ <http://belhelcom.org/ru/node/18451>

Gennady Pavlovsky – activist of the independent trade union branch on Mikashevichy-based “Granit” plant

Anatoly Litvinko – secretary of the BNP unit

Mikalai Karyshau – deputy head of the trade union branch on Mikashevichy-based “Granit” plant

Gennady Pavlovsky, who had worked for 20 years at the Mikashevichi-based company for extraction of building stone – the Republic's Unitary Production Enterprise (RUPE) "Granit" – as a driver of the BelAZ truck. In this way the workers are punished for an attempt to form a unit of the real trade union (the BNP). Oleg Stakhaevich, the head of the BNP primary organization, told Radio Liberty that Pavlovsky was fired for absenteeism, despite the fact that he had presented an invitation, according to which he was summoned to the police.

"However, this reason was found invalid; even special agencies were engaged, which even made a localization of telephone conversations. And in this way they tried to prove his absenteeism and the decision to sack him. It was done despite the fact that workers wrote a letter in support of Gennady, which was signed by more than 90 people. For his 20 years of work, he had not a single disciplinary punishment," said Stakhaevich.²¹⁹

On December 17, 2012 **Anatoly Litvinko** informed that administration pressures him and we supposed to be dismissed. Almost every day the representatives of administration demand explanatory notes after which he is rebuked. This could be a reason for dismissing.²²⁰

The contract with Anatoliy's wife Liudmila was not prolonged in 2012. She tried to find another job but all the efforts became unsuccessful when HR departments found out the reason of her dismissing from "Granit".²²¹

On March 14, 2012 Mikalai Karyshau was told in the HR department a labour contract would not be prolonged with him.²²²

August 24, 2011 — January 2012, Baku, Azerbaijan

Khalid Bagirov – lawyer

On August 24th, based on the assessment of the Bar of Lawyers' Discipline Commission, the Bar decided to suspend Khalid Bagirov from practising for a period of one year. The meeting of the Bar of Lawyers' was held without him there. This decision comes hot on the heels on the appeal of Baku City General Police Office Chief Rafig Abbasov. "As you know, I defended rights of Elvin Asgarov, who was allegedly beaten to death by the employees of Police Department Nr 25 of Nizami District Police Office on January 13th, 2011. The Chief of Baku City General Police Office, Rafig Abbasov, claimed in his appeal to the Bar of Lawyers that I libelled police employees, and demanded me punished," said Bagirov.

²¹⁹ http://praca-by.info/eng/art.php?sn_nid=4617

²²⁰ <http://spring96.org/ru/news/59987>

²²¹ <http://spring96.org/ru/news/59987>

²²² <http://spring96.org/en/news/50729>

Baku City Police Office Chief Rafig Abbasov filed a lawsuit against Bizim Yol reporter Haji Zeynalov and lawyer Khalid Bagirov under Article 147.2 (libeling a person with a grave crime). He cites the March 1 2011 articles by Haji Zeynalov: “Those arrested need a baton rather than a lawyer” and “Lawyer Khalid Bagirov offers to hold protests with this slogan,” claiming that the articles were slanderous. According to him, in the second article, the author claims that citizen Elvin Asgarov was beaten to death at Police station Nr 25 of Nizami District Police Office. The Yasamal District Court cited the plaintiff’s absence from the hearing without a sanctioned excuse, and the lack of a warrant of attorney on the part of the plaintiff’s attorney. The Judge ruled to reject the lawsuit.²²³

12.4. Blocking access to the web-sites

General tendencies

Freedom of media, including human rights ones, continued to be limited during 2012. Access to web-sites was blocked often and journalists were harassed. Decriminalisation of defamation and liable in some countries (Armenia) had been a step towards freedom of expression, but still there is criminal proceeding for defamation in many countries.

The authorities try to limit and regulate free Internet traffic followed by censorship in Internet. Recently blocking of the web-sited “because of a technical problem” and hacker attacks to the NGOs web-sites were recorded. Besides, interference to the working process and editorial policy of the television channel had been recorded in Kazakhstan.

Description of cases

February 14, 2012, Kyiv, Ukraine

Road Control – NGO, which investigates and highlights illegal actions of the Ukrainian traffic police. Photo- and video-reports are posted at the web-site www.roadcontrol.org.ua.

In February 2012, the website or the Road Control was closed down as a result of a claim filed by Hennadiy Hetmantsev, a traffic inspector, accusing the site of the defamation of his honour, dignity and professional reputation..²²⁴

There were two pieces of video material entitled “Cobra Traffic Police prohibited Road Control from using a restroom”²²⁵, ” from 1st of August and "Inspector of the Traffic Police Mr

²²³ <http://regionalhumanrights.org/?p=225>

²²⁴ <http://www.telekritika.ua/news/2012-02-14/69564>

²²⁵ <http://roadcontrol.org.ua/node/1082>

Hetmantsev does not want to talk to the Road Control anymore"²²⁶ from 29th of August 2011, as well as the commentaries under them.

As reported, on 10 February Judge Olha Salamon from the Desnyansky District Court in Kyiv issued a ruling temporarily closing the entire website over Hetmantsev's defamation suit.

There was immediate outcry and serious alarm with the implications of such a move clear and highly disturbing. MP Volodymyr Pylypenko wrote to the Head of the High Council of Justice, Vadim Kolesnichenko from the Party of the Regions demanding that a check be made as to whether the judge who issued the ruling did not act in breach of oath. He suggested that the High Council should decide whether the measure taken was proportionate and whether the closure or blocking of websites fell within the jurisdiction of courts of that level.

On 17 February the same judge revoked her previous ruling.

June 12, 2012, Tajikistan

Asia-Plus Media Group and other Internet media

According to information received, 14 local Internet providers received an official letter from the Communications Service under the Government of Tajikistan to restrict access to the www.news.tj website "because of a technical problem". The Asia-Plus news agency afternoon evening received verbal explanation why the authorities issue the order to block access to its website www.news.tj (www.asiapus.tj). The Communications Service head Beg Zuhurov told Asia-Plus Tuesday afternoon that access to the Asia-Plus website was blocked after it published some readers' comments. According to him, the comments contained libel and insult against the country's high-ranking state officials.²²⁷

In beginning of March, authorities ordered internet providers to block access to independent local and international news and social networking sites on several reasons. Following the publication of a critical article, the government blocked the Russian analysis site zvezda.ru. Three news sites that subsequently published the article were also blocked, as was Facebook, following user discussions deemed overly critical of the government.

In July and August, armed clashes in Gorno-Badakhshan prompted authorities to restrict, and at some points completely shut down, internet and telephone communications. News sites including the independent news site Asia Plus, as well as the BBC, RIA-Novosti, [Lenta.ru](http://lenta.ru), and [Centrasia.ru](http://centrasia.ru) that reported on the violence were blocked. Access to YouTube was also blocked after videos of demonstrations were posted.

Despite the absence of a clear definition of libel under Tajik law, state telecommunications chief Beg Zuhurov announced in July the formation of a "citizens' organization" to monitor online publications and websites for insulting or libellous content.²²⁸

The representative of the international organization Article 19, Rebecca Vincent indicated that the closure and restriction of the access to sites occurs in complex and sensitive political

²²⁶ <http://roadcontrol.org.ua/node/1124>

²²⁷ <http://news.tj/en/news/beg-zuhurov-explains-why-he-ordered-block-asia-plus-website>

²²⁸ <http://www.hrw.org/world-report/2013/country-chapters/112564?page=2>

moments. She said: *"There have been reports of blocking and filtering of critical websites in Azerbaijan at crucial and sensitive political moments, including allegations that these measures occurred following informal communications between state agents and ISPs. If true, such actions would constitute a clear attack on freedom of expression. International human rights standards stipulate that: The mandatory blocking of a website should always be ordered by a court; Court orders should always be limited in scope"*.²²⁹

On September 6, 2012 at the OSCE Permanent Council Nr 923 in Vienna, European Union made a statement on Tajikistan. EU recalled to the OSCE Representative on Freedom of the Media, Dunja Mijatović's statement of 27 July when she noted that *"blocking is a restriction on free media and, most importantly, deprives citizens of their right to know, to receive and impart information about the developments in their own country"*.²³⁰

The EU called on the Tajik authorities to lift these restrictions to allay any misunderstandings that inevitably emerge when access to information is restricted²³¹.

February 2012, Turkmenistan

***Turkmen Initiative for Human Rights (TIHR)** – an independent NGO followed to Helsinki Group of Tajikistan. The members had to escape from Tajikistan because of life damages.*

On 2 February 2012, the "Chronicles of Turkmenistan" website was attacked by unknown hackers and remained offline for nine days. Turkmen Initiative for Human Rights (TIHR) believes that this attack was intended to prevent it from posting critical coverage on the 12 February Turkmen presidential elections. While the website was down, TIHR continued to publish information on its blog and Twitter.

The TIHR website had previously been subjected to two attacks that similarly disabled it for several days. The first one of these took place on 29 September 2010.

TIHR chairman Farid Tuhbatullin believes that it was provoked by the critical comments he made about Turkmen President Berdymukhamedov's policies in an interview he gave to the Kazakh satellite TV channel K+ shortly before the attack. After publishing a number of articles on the July 2011 explosions at the Abadan weapons depot, which the Turkmen authorities tried to cover up, the website was again attacked and disabled for several days²³².

On December, 5 hackers posted pornographic pictures with faces of the TIHR members on the site's homepage.²³³

²²⁹ <http://nov.docdat.com/docs/index-26062.html>

²³⁰ <http://www.osce.org/fom/92477>

²³¹

http://eeas.europa.eu/delegations/vienna/documents/eu_osce/permanent_council/2012/pc_923_eu_on_tajikistan.pdf

²³² <http://www.osce.org/odihr/94000>

²³³ See Chapter 9. Smear campaigns – p.83

September 28, 2012, Almaty, Kazakhstan

Workers of the TV channel "Almaty"

More than 60 workers of the television channel "Almaty" (in particular, journalists, directors, video engineers and cameramen) wrote a letter of resignation from October 01, 2012.

The main reason of mass dismissal – is an interference of Press Secretary of Akim (Governor) of Almaty Sergei Kuyanov to creative process and editorial policy of the television channel.

For an example, writer of item was warned to akimat (district administration) for publication of a material, relating to statement of politician Peter Svoik on language problem in Kazakhstan. A journalist should write explanatory note upon a request of Sergei Kuyanov.

Also, he called him on the carpet for review on owner of the detached house, who placed the bar on the whole territory and collected payment for fare.

Workers of television channel «Almaty» applied for general director of the television channel to restrict interference in their activity and should organize a meeting with press secretary. S. Kuyanov has refused to meet with the staff. After that, they submitted an application of employment termination.

The Assistant of General Director of Television Channel «Almaty» Kayirat Baltabay has told about it to representatives of the foundation «Adil Soz», who submitted an application of employment termination earlier. It was connected with interference of press secretary of akim (governor) to editorial creative activity. The First Deputy Director of Television Channel «Almaty» Serik Sarybayev, who runs the production of television programs for Kazakh-speaking audience, he agreed with him.²³⁴

October 8, 2012, Kyrgyzstan

Human Rights Center "Citizens Against Corruption"

On October 8, 2012 Human Rights Center "Citizens Against Corruption", received a letter from their web hosting company warning the human rights NGO that its website might be shut down if it contained references or links to the documentary "I am Gay and Muslim".

Before the documentary "I am Gay and Muslim", scheduled on the human rights film festival Bir Duyno - Kyrgyzstan (One World – Kyrgyzstan), was considered as encouraging "inter-religious hatred"²³⁵ and in that context Tolekan Ismailova has been targeted by a smear campaign.²³⁶

12.5. Threats of extradition

General tendencies

Asylum seekers (Kazakh and Uzbek human rights defenders applied for an asylum in

²³⁴ <http://www.internews.kz/newsitem/28-09-2012/19883>

²³⁵ <http://www.fidh.org/SROCHNOE-OBRASCHENIE-OBSERVATORII-12509>

²³⁶ See Chapter 5.4. Other forms of administrative pressure – p.68

Kyrgyzstan) were persecuted in 2012. According to the Convention relating to the Status of Refugees, no refugee should be returned in any manner whatsoever to any country where he or she would be at risk of persecution. We can say that in both cases arrest for extradition were reasons of detention.

The risk of refoulement to their countries, including possibility of kidnapping, currently remains. Moreover, in one case, human rights defender had been arrested jointly by law enforcement authorities of the country of origin and Kyrgyzstan. This fact increases the risk of further extradition, and later – risk to life and safety of human rights defenders.

Description of cases

July 10, 2012, Bishkek, Kyrgyzstan

Alexander Osadchenko – a human rights activist from the city of Priozersk in Kazakhstan seeking political asylum in Kyrgyzstan

Alexander Osadchenko has been illegally detained in a pre-trial facility in Bishkek, Kyrgyzstan, since his arrest on 10 June 2012 by Kazakh policemen. In August Osadchenko appealed to the President of the Kyrgyz Republic to grant him political asylum in connection with the persecution at home for his human rights activities. It is reported by his lawyer Ksenia Filimonova.

On August 3, 2012 About 30 activists protested near the Prosecutor's General Office to support Alexander. They demanded to release Alexander from the pre-trial detention center and grant him asylum in Kyrgyzstan.²³⁷

On August 8 his arrest had been prolonged till September 10. Kyrgyz government considers Alexander's application about granting the asylum.

Alexander Osadchenko is a human rights defender in the town of Priozersk, Central Kazakhstan, investigating cases of corruption and acting as a legal representative of citizens in the local courts. Prior to his arrest, he was dealing with cases related to social and economic rights of local citizens, including the non-payment of retirement fees as well as other cases related to corruption by the local authorities. After the incidents in Zhanaozen the pressure to Alexander had been increased, like to other activists fighting with the government,

On 28 July 2010, the Priozersk Police Investigative department had decided to launch a criminal investigation against the human rights defender. He was accused of presenting falsified documents in the court as legal representative in a civil case, under Article 348 (Falsification of evidence) and Article 24 (Preparation for a crime and an attempted crime) of the Criminal Code of Kazakhstan. Later Supreme Court has discharged Alexander.²³⁸

September 14, 2012, Bishkek, Kyrgyzstan

²³⁷ <http://rus.azattyq.Org/archive/news/20120803/360/360.html?id=24665649>

²³⁸ <http://www.pandia.ru/text/77/279/67904.php>

On September 14, 2012, members of the Main Investigative Branch (MIB) of the Ministry of Internal Affairs (MIA) conducted a raid into Mukhtarov's apartment in Bishkek, broke down his door and arrested him without warrant. During his arrest, Farkhodhon was reportedly beaten by the police and members of his family were verbally abused.

During his custody at the local police station, the police accused Farkhodhon of being a fugitive and stated that he would be immediately deported to Uzbekistan. They reportedly told him that they would transfer him to the pre-trial detention facility of the MIA Counter Terrorism Section pending his deportation. The same day, investigators of the MIB of the MIA searched his apartment and seized documents and electronic devices, including a laptop computer, USB keys and a video recorder, with no legal authorisation.

He was finally released on the same day, after Tolekan Ismailova, Director of “Citizens Against Corruption”, an FIDH member organisation in Kyrgyzstan, intervened in his favour. The police reportedly tried to extort money from him for his release.

However, Farkhodhon was not able to return to his home as police officials had in the meantime changed the locks of his apartment. On September 21, 2012, when Mukhtarov tried to retrieve his belongings at the Regional Department of Internal Affairs, he was told that they had been sent to the State Committee of National Security and that he was a “terrorist” and “extremist” according to the Department’s information.

In October 2009, Farkhodhon Mukhtarov was sentenced to five years’ imprisonment on trumped-up charges of “fraud” and “bribery”. After 16 months, on the eve of a visit of the U.S. Secretary of State Hillary Clinton to Uzbekistan, the imprisonment sentence was commuted to forced labour and he was released on December 1, 2010. Farkhodhon Mukhtarov then flew Uzbekistan with his family to seek asylum in Kyrgyzstan.²³⁹

²³⁹ <http://www.omct.org/human-rights-defenders/urgent-interventions/uzbekistan/2012/09/d21962/>

PART 2. ENVIRONMENT FOR HUMAN RIGHTS NGOS: LEGISLATION AND ATTITUDES

Generalities

Human rights NGOs work in the environment which is shaped by quality of legislative regulation for NGOs and by attitudes towards human rights defenders in society; such attitudes are often heavily influenced by the state policy. In this Part of the Report we will examine examples of both groups of factors in each country.

In the legislative aspect of the strongest influence to the environment for NGOs have regulations in the following fields:

1. registration of NGOs
2. autonomy of NGOs, including possibility to use different sources of funds, as well as tax and administrative procedures for NGOs
3. participation in decision-making and law-making.

Legal Framework for NGOs²⁴⁰

1. Registration

Freedom of association makes no distinction between formal and informal groups and is applicable to both types. The State has the duty not to interfere with individuals who seek to exercise their freedom of association. NGOs should be allowed to exist and carry out activities without having to register if they so wish. On the other hand, associations have the right to register as legal entities and to be entitled to the relevant benefits. The founders of an association are free to decide whether or not to register their NGO with the competent authorities in order to obtain legal status. Defenders should have the right to form groups in order to carry out legal activities, without the obligation to register as legal entities, in accordance with ICCPR Article 22 and Article 5 of the Declaration on Human Rights Defenders.

The insistence of some governments that all groups must register is evidence of their desire to systematically control all NGO activities and screen groups that are likely to criticize their human rights record. This criminalisation is one of the most disturbing trends and has the greatest impact on defenders.

The requirement to register, coupled with the ban on carrying out a broad range of activities and extremely harsh penalties, results in associations being considerably vulnerable in many countries. This repressive environment obviously has an extremely dissuasive effect on the creation

²⁴⁰ Information at: <http://legislationline.org/ru/topics/country/52/topic/1/subtopic/18>; <http://www.icnl.org/> had been used.

of new NGOs.²⁴¹

2. Autonomy, tax and administrative procedures

Freedom of associations means guarantees of independence for each NGO. Associations should be assisted in the pursuit of their objectives through various forms of support such as public funds, exemption from income and other taxes or duties on membership fees, funds and goods received from donors or governmental and international agencies, income from investments, rent, royalties, economic activities and property transactions, as well as incentives for donations through income tax deductions or credits.

By persecution connected to the foreign finance sources, the authorities impose constraints that violate the provisions of the right to freedom of association and prevent the emergence of human rights NGOs. They cause a great many to disappear. By disqualifying these NGOs, the authorities deprive them of the basic conditions for the fulfilment of their right to solicit, receive and use funding, whether its source is local or foreign.²⁴²

Access to funding is essential for the right to freedom of association: if individuals were to be denied access to the resources necessary to carry out activities and to operate the organisation, the right of freedom of association would become void and devoid of intent and essence.

The funds raised by registered NGOs (which are legal persons governed by private law) belong to them and are to be considered private funds. Any different provision, notably provision that the funds of an association are to be considered as public funds, amounts to establishing state control over the association and are therefore incompatible with freedom of association. State control over NGOs' funds is not the appropriate way to protect the interest of NGOs members and the public from possible wrongdoings by the NGO's management: such protection is to be afforded through adequate reporting obligations, transparency requirements and the possibility to apply to independent and impartial courts.

Unjustified strict fiscal and administrative procedures towards NGOs are examples of illegal practices aimed to destruct the basis of the freedom of association. This is clearly seen when the NGOs which dared to criticize the government have been shut down.

3. Participation in decision-making and law-making

Right to participation in decision-making and law-making is an important mechanism of democracy. Clear and transparent procedures of participation are the underline principles of this right.

Non-governmental organisations should be able to contribute to matters of public debate and, in particular, to the development of the law and policy at all levels, whether local, national, regional or international. This contribution should be facilitated by the establishment of mechanisms that enable non-governmental organisations to have dialogue with, and to be consulted by, public

²⁴¹ OBS Annual Report 2013: Violations of the right of NGOs to funding - from harassment to criminalisation, p. 29 <http://reliefweb.int/report/world/obs-annual-report-2013-violations-right-ngos-funding-harassment-criminalisation>

²⁴² OBS Annual Report 2013: Violations of the right of NGOs to funding - from harassment to criminalisation, p. 40 <http://reliefweb.int/report/world/obs-annual-report-2013-violations-right-ngos-funding-harassment-criminalisation>

authorities at all levels of government, as well as by ensuring that those organisations have timely access to all relevant official information. All dialogue should be a two-way process and, in particular, proposals by non-governmental organisations for changes in policy and law should not be seen as inadmissible or unlawful.

Non-governmental organisations should always be consulted about proposals to amend laws and other rules which are concerned with their status, financing and operation. They should also be able to comment publicly and any consultation should occur at a stage in the development of law and policy that allows for the possibility of taking account of the views expressed by non-governmental organisations.

Attitudes in society connected to the state policy

The absence of the discriminatory practices both towards freedom of association and organizations' activity appraisal are important in this aspect.

Domestic legislation and governmental policy should not include any prohibitions based on the identification of members of the association, work methods and the nature of the rights they protect.

Discrimination may be related to the types of NGOs. In some countries, the law prohibits organizations to work in some areas, such as human rights, election monitoring, the LGBT rights, reproductive rights, the rights of migrants, ethnic and religious minorities, etc.

In the followed chapters we present a short description of the domestic legislation on NGOs, including human rights NGOs, and examples of pressures on human rights NGOs in different countries. To identify harassed practices we used an Index of Threats and Pressures presented in the Methodology of this Report. We also identified the following kinds of persecution:

	Azerbaijan	Armenia	Belarus	Georgia	Kazakhstan	Kyrgyzstan	Moldova	Russia	Tajikistan	Turkmenistan	Uzbekistan	Ukraine
Arbitrary inspections paralyzing NGO's work			✓					✓	✓			
Searches and other investigative measures			✓					✓				
Shadowing s and eavesdropping								✓				
Unfounded dissolution of the NGO			✓					✓	✓			
Rejection of registration / re-registration / modification of the statutory documents			✓						✓	✓		
Arbitrary fines												

	✓		✓									
Evictions from the office (including jump in rent prices, rejection of the rent agreement prolongation)	✓		✓					✓				
Office damage		✓										
Seizure of documents			✓					✓				
Seizure of equipment								✓				
Other obstacles	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓

Note: frequently seeing "other" obstacles are:

- defamation and libeling in media (Azerbaijan, Armenia, Russia);
- harassment towards representatives of some subcultures and NGOs which protect them (Georgia, Turkmenistan, Ukraine);
- different restrictions (restriction to participate in events of NGOs in Tajikistan, ban of Special Reporters in Uzbekistan) etc.

Azerbaijan

Registration

Registration remains a challenge for NGOs. It is very difficult to register as either a domestic or foreign NGO in Azerbaijan. In addition, Azerbaijani NGOs have difficulty complying with financial reporting requirements. Many NGOs have limited capacity to comply with such requirements and are under threat of being punished for non-compliance.²⁴³

The most commonly observed problems and violations of the law that have occurred during the registration procedure of the NGOs are: lack of any final decision (either on registering or refusal to register) of the Ministry of Justice; requirement of submitting extra documentation, not required by law (copies of passports, employment history records of the founders); exceeding of deadlines for registration or refusal to register (from 2 – 3 months up to 1-2 years); repeated requests for corrections in documents, etc.

On March 19, 2012 the new "Rules for the State Registration on non-commercial organizations and Educational Institutions" were adopted. An exhaustive list of reasons for denial of registration of a legal entity, including an NGO had been provided. The permissible grounds for denial include the following: when another organization has been registered under the same name; when documents submitted for registration of an NGO contradict the Constitution, the Registration Law, and other Azerbaijani laws; when the goals, purposes and forms of activities of the NGO contradict legislation; or when an NGO does not correct all deficiencies in its submitted registration documents within 20 days after the Ministry of Justice returns them.

²⁴³ http://www.osi.az/index.php?option=com_content&task=view&id=91&Itemid=453

Registration is available only in the capital Baku, which creates problems for NGOs that are founded in rural areas, as they must travel to Baku to apply for registration and/or submit missing documents.

Autonomy, tax and administrative procedures

NGOs in Azerbaijan are obliged to register all grant agreements on the governmental structures. On February 15 2013, the National Assembly of Azerbaijan adopted amendments to some legislative acts of the country, which are aimed at tightening the financial control over the activities of civil society institutions.

The amendments provide for new types of fines ranging from 500 manats (about 640 US dollars) to 15,000 manats (about 19,100 US dollars) for any NGOs' failure to provide information about grant agreements, received donations and other funds received without grant agreements, and received cash. The funds being the subject of the offence will be confiscated²⁴⁴. This is important for government because many NGOs in Azerbaijan are not registered because of government's restriction, but still receive grants from the international donors.

Furthermore, according to changes to the Law on Grants and Administrative Code in February 2013, receiving any financial or material aid that is not a donation without a grant contract is punishable by the confiscation of the unregistered grant or assets from the recipient NGO. In addition, such NGOs will be subject to a fine of 8,000-15,000 manats (\$10,200-19,100), and NGO managers will be subject to fines of 2,500-5,000 manats (\$3,185-6,370). These penalties apply to local NGOs as well as to representative and branch offices of foreign NGOs. According to another amendment, religious structures, non-governmental organizations (foundations, unions), political parties and representatives of foreign organizations can not receive donation without a grant agreements or an official decision on granting.

New Law on Non-Governmental Organizations provides the government with another means to crack down on civil society.

On March 14, 2012 Parliament passed a law on amendments to the Criminal Code of the Republic of Azerbaijan which introduced a new chapter concerning the liability of legal entities, including non-governmental organizations. According to the new provisions, criminal liability can be applied to legal entities for criminal acts of its officials committed "in favour of a legal entity or in order to protect its interests, (article 99-4.1)." Furthermore criminal law measures can be applied to legal entities for the commission of crimes of trafficking, forced labour, false entrepreneurship, money laundering, intentional usage of criminally obtained funds and other property, terrorism financing, computer information related crimes (including unauthorized access, creation of malicious software), abuse of official powers, receiving bribes, paying bribes, improperly influencing officials (clientelism), official fraud, disseminating confidential information on victims of trafficking, dissemination of information of fight with money laundering or terrorism financing. The following penalties can be applied to legal entities:

- Fines reaching 200,000 AZN or fivefold amount of the damage caused (or revenue

²⁴⁴ <http://www.kavkaz-uzel.ru/articles/220195/>

obtained) by the criminal activities;

- Special confiscation of property;
- Deprivation of the right of a legal entity to be engaged in certain activity; or
- Liquidation of a legal entity.

These provisions will enter into force once the relevant changes are introduced into the Code on Execution of Penalties and Criminal-Procedure.²⁴⁵

Lack of clear definitions in the legislation opens a possibility for government to make a pressure on NGO, including human rights ones, through fiscal mechanisms.

The Tax Code provides that “charitable organizations” are exempt from the profits tax, except with respect to income received from entrepreneurial activities. There is, however, no procedure for obtaining the status of charitable organization; hence it is practically impossible to take advantage of this exemption. No laws in Azerbaijan address the “charitable organization” status as defined in the Tax Code. In addition, no objective procedures exist in the Tax Code or elsewhere for identifying an organization as “charitable” on the basis of its intended and/or actual activities. As a result, it is quite difficult to determine with any certainty which NCOs might be eligible for this benefit, or how an NCO might go about claiming the benefit. It is equally unclear whether an organization must conduct only charitable activities in order to qualify for this status, or, alternatively, whether any NCO that conducts charitable activities (in addition to other non-charitable activities) may qualify.²⁴⁶

Participation in decision-making and law-making

The National Action Plan on Protection of Human Rights in the Republic of Azerbaijan adopted in 2011 has to be an instrument for increasing “*the process of human rights protection to a qualitatively new level, developing new cooperation strategy at universal and regional levels and establishing the relations of partnership between the State and civil society*”²⁴⁷. However the practice contradicts to these declarations.

Attitudes in society

Smear Campaigns against donors and NGOs granted

In Azerbaijan, the media often describe NGOs that receive funding from abroad as foreign agents. For example, in 2011-2012, pro-government media such as Yeni Azerbaijan and Merkez ran a smear campaign against the Institute for Reporters’ Freedom and Safety – RATI after the latter received a warning from the Ministry of Justice for alleged violations of the Law on NGOs. In particular, the media accused RATI of using its funding to conduct anti-State activities and to finance mass protests, such as for example the “Sing for Democracy” campaign launched in the

²⁴⁵ <http://www.icnl.org/research/monitor/azerbaijan.html>

²⁴⁶ http://www.icnl.org/research/journal/vol11iss3/art_1.htm

²⁴⁷ <http://en.president.az/articles/4089>

context of the Eurovision Song Contest held in Baku in May 2012.

The authorities have continued to create and foster a contrived link between NGOs and political interests in order to depict defenders as subversives, criminals or traitors. In June 2012, the newspaper *Yeni Azərbaycan* published an article entitled "*Foreign sources and traces of criminal funding for AXCP*" (Azerbaijan Popular Front, one of the main opposition parties). The article published the names of several NGOs that it claimed had donated more than 800,000 USD in 2011-2012 to AXCP. These included the NGO Free Person, the Azerbaijan Lawyers' Association, the Azerbaijan Foundation for the Development of Democracy, the Centre for the Observation of Elections and Democracy Education, the Public Social Union of Strategic Research and Analytical Investigation, and the NGO Support of Free Economy. Two days later, the same newspaper published an article entitled "The Soros Foundation is the mainstay of the fifth column", in which it described the beneficiaries of the Open Society Institute (a Soros-funded Foundation) as an "*anti-Azerbaijan network*".²⁴⁸

On March 15 the chief of the Presidential Administration Ramiz Mehdiyev made accusations against foreign NGOs in non-core activities and interference in the internal affairs of Azerbaijan, financing the opposition and attempts to destabilise the situation in the country.

A day before the news about an impending revolution was announced at the web-site of the "For Human Rights" NGO by Eynulla Fatullayev in a sensational article pictured by the copy of transmissions on the private bank account of Alex Grigoriev's, head of NDI's Azerbaijan agency.²⁴⁹

It is important to note that activities aimed monitoring of elections and relevant educational events had been stopped on March 7, 2011 after a change of the rules for branches of foreign organizations in Azerbaijan. It has been restored only in September 2012.

Institute for Reporters' Freedom and Safety (IRFS)

IRFS notes that the state media has published three separate articles libelling IRFS: 25 January, in "*Yeni Azərbaycan*", the print outlet of the ruling party, 01 February, in "*Azərbaycan*", the newspaper of Azerbaijan's parliament and 3. 7 February, in "*Mərkəz*" newspaper, run by MP Gular Ahmadova.

These articles falsely accuse IRFS of acting in radical opposition to state interests, including misappropriating grant money to fund the political opposition, and inciting and organizing protests. This material constitutes a smear campaign on the part of the above print outlets, which are disseminating information that violates ethical standards, fails to quote sources, and does not seek comment from the opposite side.

In addition, the Ministry of Justice has recently issued a warning to IRFS citing the dissemination of "biased" information via www.nakhchivan.org.az and the failure to report changes

²⁴⁸ [OBS Annual Report 2013: Violations of the right of NGOs to funding - from harassment to criminalisation, p. 62](http://reliefweb.int/report/world/obs-annual-report-2013-violations-right-ngos-funding-harassment-criminalisation)
<http://reliefweb.int/report/world/obs-annual-report-2013-violations-right-ngos-funding-harassment-criminalisation>

²⁴⁹ <http://news.day.az/politics/390244.html>, <http://haqqin.az/news/4379>

in its chairmanship to the Ministry. However, IRFS has not made any changes to its founding documents. Nor does the Ministry have the authority to threaten IRFS concerning its website content. As for the alleged bias, this is exclusively the jurisdiction of the courts. Ministry of Justice employees have acted beyond their remit by issuing a warning to IRFS regarding the <http://www.nakhchivan.org.az> website.

IRFS is concerned that this smear campaign and the ungrounded warnings from state institutions may be followed by physical harassment of or provocation against IRFS staff.

IRFS believes that the intensification of pressure from the ruling establishment is primarily driven by IRFS's involvement in the Sing for Democracy campaign, which was launched to support human rights in Azerbaijan ahead of the 2012 Eurovision Song Contest.

Within the Sing for Democracy campaign, IRFS has been issuing updates both locally and internationally regarding the freedom of expression situation in Azerbaijan, calling on the Azerbaijani authorities to show greater respect for this fundamental freedom.²⁵⁰

Since the middle of 2011 IRFS unsuccessfully tries to implement the project "Hot Line". Ministry of Communication network refuse them short 3-digital phone number which journalists could use in case of emergency.

Denial of premises for events (Election Monitoring and Democracy Studies Center)

The Park Inn Hotel broke its commitment to rent its premises to the Election Monitoring and Democracy Studies Center shortly before the agreed date²⁵¹. The Forum entitled "Possibilities for democratisation of the law and politic situation before the Presidential elections on October 16, 2013"

On March 18, 2013 a photo exhibition "Support to Human Rights Defenders in Azerbaijan" launched in Khatai Arts Center was shut down shortly after opening. The expo that opened at 11am in the morning was cancelled with the demand of Center management. Manager of the Center demanded to remove the pictures claiming that the center management was unaware of their content and it contradicts to her understanding of human rights.²⁵²

Arbitrary fines

Azerbaijan Ministry of Finance fined the non-government organizations which did not submit the annual financial report according to Rule of submit, form and content of annual financial report of non-governmental organization.

The Ministry of Finance noticed 1742 NGOs. Among them – Open Society Institute which stopped its activity in Azerbaijan in December 2011.

The Ministry of Justice demands to register all grant agreements and their translation into Azerbaijani. Notaries often refuse registration because many of grant agreements between donors

²⁵⁰ http://www.ifex.org/azerbaijan/2012/02/13/irfs_statemen/

²⁵¹ http://www.ifex.org/azerbaijan/2013/02/07/statement_mood_darkens/

²⁵² <http://www.youtube.com/watch?v=tUUQRCxGcuU>

and NGOs are sent by e-mail.²⁵³

Armenia

In Armenia laws of general applicability regulate the formation and activities of human rights organizations. The rights and responsibilities are the same for all such organizations, regardless of the type of activity that an organization performs.

There are three legislative acts which regulate non-governmental sector in Armenia: Law on Public Organisations (2001), Law on Charity (2002), Law on Foundations.

Registration

At least two founding physical persons (founders) shall conclude an agreement, which shall specify the procedures for joint actions prior to state registration of the organization and the conditions for handing over their properties to the organization.

Most of NGOs are registered within Law on Public Organizations, which foresees a registration in the Ministry of Justice. Foundations and charity associations may be registered in the State Register Department, which is a part of the Ministry of Justice.

A public association may register with the state and acquire the status of a legal entity in accordance with the Civil Code, which also defines the rights and responsibilities of registered public legal entities.²⁵⁴ If a public association does not register with the state (for example, in the case of an initiative group formed to protect human rights), legislation does not define any rights and responsibilities for that organization. But there is no obligation to register the NGO – they may work without state registration.

There are not any demands about re-registration of NGOs in the Armenian law.

Autonomy, tax and administrative procedures

All NGOs can use foreign funds. There is not a law about grants in Armenia and no any special mechanism for funding from the foreign sources. Just some aspects of such operations are regulated by tax law²⁵⁵. Thus, several donor organizations made agreements with Armenian government on VAT exemption for NGOs.

Since 2007 the discussion about bill on volunteers takes place in Armenia. Volunteers are a critical part of a human rights organization's work, particularly when an organization operates with limited human and financial resources. Under Armenian legislation, any service for a public organization is subject to the legal regulations applicable to employer-employee relationships and requires "*relevant reimbursement*" i.e., a salary. If a salary is not paid, then the organization may be

²⁵³ <http://en.apa.az/news.php?id=170733>

²⁵⁴ Republic of Armenia Law "On Public Organizations", Article 3; Republic of Armenia Civil Code, Article 52

²⁵⁵ Republic of Armenia Law "On Public Organizations", Article 17

liable for taxes and for violating the administrative code. As a result, it is difficult for organizations to account for the volunteers involved in their activities, and organizations' volunteer programs are not formalized.

In the case of pressure, intimidation, or restriction on defenders' activities, general provisions in the Criminal Code and the law "On Administrative Offences" apply. These provisions fail to ensure sufficient protection for human rights defenders because they do not consider the character of threats and obstacles linked to their human rights work.

Participation in decision-making and law-making

Generally NGOs are able to contribute to matters of public debate and to the development of the law and policy; however their opinions are not always taken into consideration. Formally Armenian law does not foresee participation of NGOs in law-making.

Attitudes in society

Harassment

Politicians also directly threatened human rights organizations with reprisals for their activities, particularly during the pre-election period in 2012.

In May 2012, employees of the campaign offices of Prosperous Armenia, a political party, refused to speak with election observers from the Helsinki Citizens' Assembly-Vanadzor. The employees stated that the party was against the organization's activities and would terminate those activities if the party came to power. One employee told the observers: "*If we come to power, the first thing we will do is to deport Artur Sakunts (the Chairman of HCA-Vanadzor) from Vanadzor*".²⁵⁶

Defamation and Libel

Article 1087.1 of the Civil Code of Armenia regulates compensation for damage caused to honour, dignity or business reputation and effectively legalizes the intimidation of journalists and the media. In 2011, authorities used this legal provision to put pressure on the media, NGOs and individual defenders.²⁵⁷ The number of incidents of intimidation of journalists, particularly in the form of lawsuits, increased significantly during the year—34 lawsuits against journalists were filed in 2011, as compared to 4 lawsuits filed in 2010.²⁵⁸

In 2012, the number of lawsuits filed against media outlets decreased after the Constitutional Court adopted a broader interpretation of freedom of speech. The Court stated that individuals holding public office or other official positions should be more open to public criticism and less

²⁵⁶ <http://hcav.am/wp-content/uploads/2012/08/Elections-report-final-May-2012-Eng1.pdf>

²⁵⁷ On May 18, 2010 the Article 135 (defamation) and 136 (libel) of the Criminal Code of Armenia had been decriminalised.

²⁵⁸ <http://khosq.am/en/reports/annual-report-2011-2/>

protected from public insult, slander and criticism. As a result, it has been more difficult for public officials to justify lawsuits against journalists. As of July 1, 2012, only 6 lawsuits had been filed against journalists during the year.²⁵⁹

Funds of foreign donors

In 2012, the government attempted to create negative publicity for HRDs and publicly criticized individual activists and organizations, focusing in particular on HRDs' operating by funds from foreign donors. Government officials, parliamentarians, and media representatives relied on the notion of a national ethnic ideology to discredit defenders and questioned the origin and motivation of individuals who expressed critical views about government policies. Officials frequently stressed that preserving this national ideology within Armenia was an urgent priority for Armenian society and that citizens' actions should be in line with national interests, national security, and national traditions. This vague concept of a national ideology was used to eliminate or discredit ideas and opinions that did not coincide with the interests of the ruling party.

Office damages (HCA Vanadzor)

On April 16, 2012, at approximately 10:30-11:00, 200 citizens with posters and flags and escorted by police officers, approached the office of HCA Vanadzor.

A large group of protesters entered the office and demanded that the Organization not provide space for the Caucasus Center of Peace Making Initiatives (CCPMI) to present a screening of Azeri films in Vanadzor on April 17th. Other protesters also entered the office and started threatening and demanding an urgent response. Meanwhile the protesters began to throw eggs and rocks at the office. 2 rocks broke the windows and entered the office. One of the rocks hit an employee of HCA Vanadzor.

The police did not take any action to ensure the safety of the staff members and to prevent calls for violence and the violation of public order, even though the Organization telephoned and informed the police about the need to take action to ensure the safety of the staff members. However, no police action, regarding the unpredictable situation, was initiated.²⁶⁰

Belarus

The legislation of the Republic of Belarus and current law enforcement practices are not conducive to the development of not-for-profit organizations (NPOs); in contrast to the country's Constitution and international obligations, they significantly restrict the freedom of association.

Registration

Unregistered associations are banned from all activity in Belarus. The legal entity is

²⁵⁹ http://khosq.am/wp-content/uploads/2012/09/2-CPFE-quarterly-report-2012_eng.doc

²⁶⁰ <http://hcav.am/en/events/hca-vanadzor-statement-regarding-the-attack-on-the-organization/>
<http://humanrightshouse.org/Articles/18040.html>

recognized so just if it is registered in the governmental list-register.²⁶¹

Belarusian law bans the activity of unregistered associations and establishes criminal responsibility for the illegal organization of such associations and participation in their activities (Article 193.1, the Criminal Code of the Republic of Belarus). Such activity is punishable by a fine, arrest for up to six months, or imprisonment for up to two years. The law lists numerous grounds for denying registration and liquidating a public association.

If denied registration, the governing body of a public association may go to court. Since 2001, however, no court has allowed a claim of this kind. Furthermore, national and international public associations and foundations have no right to appeal against the decision of a court of first appearance because in their case the Supreme Court of Belarus is prescribed as the court of first appearance.

Autonomy, tax and administrative procedures

Belarusian legislation complicates the on-going activity of NPOs by restricting access to funding. In the autumn of 2011, Belarus adopted another package of changes to relevant legislation, among them criminal responsibility for violating the procedure for receiving foreign grants.

The Article 21 of Law on Public Associations **prohibits Belarusian NGOs from keeping funds in banks** and other financial institutions **on the territory of foreign states**. Before 2011 only political parties and unions were prohibited in this. At the same time the other legal entities can open bank accounts in the foreign countries if they have a permission of the National Bank of Belarus.

In Belarus, has seen repeated amendments to laws to increase state control over the activities of civil society, and in particular to limit their funding possibilities. In 2011, changes were made to the Administrative Code providing for administrative penalties to be applied to NGOs that accept foreign donations 'in violation of law', and the Criminal Code was amended, to establish **criminal liability for receiving any foreign grants or donations 'in violation of the Belarusian legislation'**.

Article 23.24 of the Code of the Republic of Belarus on Administrative Offences says that "Provision of gratuitous foreign aid by a foreign citizen or a stateless person for conduction of activities prohibited by Belarusian legislation shall entail deportation and confiscation of the aid". However, Paragraph 2 complement the objective aspect of the act: receiving, as well as storing and transferring gratuitous foreign aid so that to conduct extremists actions or other unlawful acts, or to finance political parties, unions (associations) of political parties or preparation and conduction of elections, referenda, recall of a deputy, member of the Council of the Republic of the National Assembly of the Republic of Belarus, organization or conduction of meetings, street processions, demonstrations, picketing, strikes, production or distribution of agitation materials, conduction of seminars or any other type of political and mass agitation work with the population, if such acts bear no essence of a crime, shall lead to liabilities in form of a fee amounting from 50 to 200 base

²⁶¹ Article 46 of the Civil Code of the Republic of Belarus, as of 1 July, 1999

units with confiscation of such aid, and if applied to a legal entity – a fee amounting up to 100 per cent of total cost of gratuitous foreign aid with confiscation of such aid.

The Criminal Code of Belarus establishes criminal liability for receiving any foreign grants or donations "in violation of the Belarusian legislation". Such regulations may be interpreted widely, rather than narrowly, and may result in indiscriminate persecution of any activist or civil society group that receive foreign funding.

Article 356 of the Criminal Code suggests that *"any form of other assistance to a foreign state, foreign organization or their representative in carrying out activities to the detriment of the national security of Belarus"* will constitute treason. This broad definition can be used for targeted persecution by the authorities of NGO activists and civil society leaders.

Hence, the innovation not only makes liabilities for those legal entities that deal with gratuitous foreign aid more severe. In fact, the lawmaker decided to include administrative responsibility for all types of offences that may occur when operating with gratuitous foreign aid, as described by Article 23.23 and Article 23.24. Definition of "Other unlawful acts" when combined with the broader interpretation of deliberately vague notion of "Mass agitation work with the population" provides space for rating any activity related to receiving gratuitous foreign aid as violation of the law.

Funding from abroad (gratuitous foreign aid and international technical assistance) **must be registered** with government bodies, which have authority to refuse the registration. Further, it is forbidden to use such foreign aid without registration. The law lists a number of purposes for which gratuitous foreign aid may be rendered. The President of the Republic of Belarus may approve aid for purposes not listed in the law. Enforcement practices show that a letter of support from a related ministry, agency, or local executive body may be required to register gratuitous foreign aid. The registration procedure lacks transparency. Violation of legislation on gratuitous foreign aid legislation entails administrative and criminal responsibility.

The legislation of the Republic of Belarus lists the purposes for which NGOs may receive aid from Belarusian legal entities and individual entrepreneurs. A violation of the procedure of rendering and using such aid entails administrative responsibility.

Attitudes in society

Human Rights Union "Belarusian Helsinki Committee" (BHC)

One of the largest human rights NGO (260 members), the only one registered officially. Has a network of 11 regional organizations. Activities: monitoring of elections, human rights monitoring, expert analysis on resonance cases, legal aid for people.

The tax authorities accused BHC of using a grant provided by the European Union TACIS programme without registering the foreign humanitarian aid and not paying taxes on it in accordance with the regulations of the 1999 Presidential Decree No.8. In fact international technical assistance is regulated by an international agreement between the government of Belarus and the

European Commission which state that such assistance is not liable for tax.

The BHC appealed against the request from the tax authorities and on 23 June 2004, the Minsk Economic Court overturned the request. This was supported by the appeal court and a prosecutor's review of the case.

However, on the eve of the presidential elections in 2006 the Deputy Head of the Higher Economic Court protested against the previous court decision on the case in 2004, and the council of the Higher Economic Court granted the protest. The Ministry of Taxes and Dues then confiscated property from the BHC to the value of 255 million roubles (€23,000 at the time).

On 28 August 2007 the BHC started a civil case against the Council of Ministers of Belarus in the Higher Economic Court claiming reimbursement for lost property amounting to 255 million roubles. They referred to the international agreements which stated that technical assistance from the EU is not liable for tax. Their case was closed on the grounds that the Council of Ministers is not a legal entity.

In June 2011, the Ministry of Justice issued a written warning to the BHC for "continuing violations of tax laws". On 25 February 2013, officers from the Ministry of Taxes and Duties visited the BHC office in Minsk without prior notification, and handed the head of the organization, Aleh Hulak, a warrant to seize property in payment of the outstanding tax. However, as all furniture in the office was on loan from the OSCE and the computers were all personal laptops the officials were not able to find any property in the office to confiscate.²⁶²

Human Rights Center "Viasna"

One of the largest human rights NGOs (around 200 members). Main activities: practical assistance to civic initiatives in the sphere of legal defence of citizens, research into the state of the civic society and legal defence in the Republic of Belarus, civic and human rights education, promotion of democracy and human rights. Supports to civic initiatives in the sphere of human rights

On November, 26, 2012 the property of Viasna in Minsk has been confiscated, officials took away equipment and furniture. The center's office has been in the apartment of Viasna Chairman Ales Bialiatski for 12 years²⁶³, whose property has been confiscated according to the court's decision.

During its existence the office was visited by thousands of citizens who were being given legal aid. Funds for the repressed people raised there, press conferences, meetings, trainings and seminars carried out. Viasna has been working openly, despite the absence of registration of the organization since 2003 and possible prosecution because of this.²⁶⁴

The Human Rights Centre Viasna continues to operate as an unregistered organization, but it

²⁶² <http://amnesty.org/en/library/asset/EUR49/002/2013/en/ee200280-5735-435c-b8cd-4a72add1ebf4/eur490022013en.pdf>

²⁶³ <http://ru.euronews.com/2011/11/24/belarus-jails-rights-activist-for-tax-evasion/>

²⁶⁴ <http://spring96.org/ru/news/59297>

members face continuing pressure²⁶⁵.

Informational and Educational Center "Platform"

Platform is a human rights organization that conducts monitoring and documents cases of torture and other ill-treatment in prisons and police stations, as well as supporting former prisoners.

The organization chose to register as an institute in 2011. The procedure requires the organization to register a name with the local authorities of the district where they wish to operate, and once the name is registered the founders only need to inform the local authorities of the foundation of the institute, rather than to ask permission. The only hurdle is finding a name that is acceptable; Platform presented 79 possible names for the organization before the name was approved. Many names were rejected on the grounds that other institutes had the same name.

Having predicted this problem, the chair, Andrei Bondarenko, included his name and passport details in some names, assuming that there could not possibly be another person of that name with an identical passport number, but was still told that an organization with an identical name already existed.

However, on 9 October 2012, the organization was liquidated by the decision of the Minsk Economic court for failing to present a declaration of income on time and for failing to inform the tax authorities of a change of address.²⁶⁶

In December 2012, the organization re-registered as an institute under the name of Platform Innovation.

International Public Union "Dobraya volya" ("Good Will")

Dobraya volya is an NGO offering advice and support to foster parents and adoptive parents.

The organization has existed and been registered since 1998 and has never had any difficulties with the authorities in the past. However, during 2011 and 2012 the organization made a number of complaints about violations of procedures by the Ministry of Education which has jurisdiction over adoption. The NGO also facilitated public discussions about changes to legislation concerning the rules for fostering and adoption, and sent legislative proposals to the Ministry of Education.

In June 2012, the NGO was informed by the Ministry of Justice that there had been a complaint made against the organization by the Ministry of Education. On 15 June, the Ministry of Justice issued an official warning to the NGO claiming that the organization had violated the

Law on Associations because:

a) they were using an emblem, and envelopes with an image that was not registered with the Ministry of Justice;

b) the name of Dobraya volya on the rubber stamp of the organization was written with two capital letters whereas the name as registered with the Ministry of Justice was written only with a capital "d" in the first word;

²⁶⁵ See Chapters 6.1. Restriction of freedom to move; 12.1 Searches and interrogations; 12.2 Tax inspections

²⁶⁶ <http://news.tut.by/society/321372.html>

c) the organization had an auditor rather than an auditing commission as stated in their statute;

d) they had failed to inform the Ministry of a change of address. They were asked to rectify these mistakes within a month, and Dobraya volya rectified all but two of the faults: they were unable to clarify with the Ministry of Justice which emblem had been used incorrectly, and the new rubber stamps could not be made within a month. Despite their efforts to comply with demands from the Ministry of Justice, they received a notification that a court decision would be taken in their case, and on 26 November 2012, the Supreme Court suspended Dobraya volya until they rectified the remaining mistakes. They did so and resumed their activities at the end of January 2013, but volunteer members had spent months doing nothing but attempting to comply with the requirements of the Ministry of Justice. 35 Most recently, on 20 March the NGO received a notification from the Supreme Court that the Ministry of Justice had started a civil case calling for the liquidation of the NGO²⁶⁷.

Limitations on educational activities of NGOs

Since September 2011, the Education Code has excluded NGOs from the list of organizations that are authorized to conduct adult education such as training courses, seminars and self-improvement activities. As the law does not specifically allow NGOs to carry out such activities, the authorities work on the assumption that it is forbidden.

While it may be legitimate for states to ensure that certain activities, such as teaching or training, should be done only by those with relevant skills and qualifications, such regulations should not be used as a means of denying registration to NGOs, or otherwise obstructing the exercise of freedom of association.²⁶⁸

Georgia

Registration

The Civil Code of Georgia is a core basis for the creation, registration, and operation of NGO. In 2006 and in 2009 the changes and amendments to the Code substantially altered registration and managerial regulations. Pursuant to the Civil Code currently in effect, legal entities that carry out not for profit activities, are called non-entrepreneurial (non-commercial) legal entities. Such legal persons are not any more divided into unions and foundations, like priors changes. However, non-entrepreneurial legal persons may be member-based, dependent on or independent from the members' status.

The Register of Non-entrepreneur (Non-commercial) Legal Entities shall be maintained by Public Law Legal Entity – National Agency of Public Registry, operating within the framework of the Ministry of Justice of Georgia. Registration in itself comprises both the civil and tax registrations, i. e. Civil and tax registrations take place when registering a non-entrepreneurial legal

²⁶⁷ <http://amnesty.org/en/library/asset/EUR49/002/2013/en/ee200280-5735-435c-b8cd-4a72add1ebf4/eur490022013en.pdf>

²⁶⁸ In December 2011, an NGO representing the interests of an ethnic group, the Litvins, was refused registration on the grounds that among its activities it listed training courses. Source: <http://nmnby.eu/news/analytics/4306.html>

entity. Registration requires a submission of a special registration application certified by a notary and a number of other documentation. Within 1 working day after receiving a registration application and the attached documents, the National Agency of Public Registry makes a decision on registration or refusal to register.

Until the amendments to the Civil Code of December 2006, the law provided for 2 forms of legal organization for non-profit legal persons, namely, a union and a foundation. Following amendments, non-profit persons cease to be officially categorized into these two. Nevertheless, legal entities may opt for internal organization based on membership or choose to be independent of membership (i.e. to be membership-neutral).

Autonomy, tax and administrative procedures

Existence of a non-entrepreneurial legal entity does not automatically imply the exemption from any taxes. Exemption of non-entrepreneurial legal entities from certain types of taxes is linked to the operations conducted by the entity and the sources of income.

Grants received by physical persons are exempt from the income tax. Non-entrepreneur (non-commercial) legal entity is not taxed with profit tax (income tax).

The Tax Code incorporates one of the important mechanisms stimulating charity activities. Namely, pursuant to Article 186 of the Tax Code, amounts donated to charity organizations by business entities are deducted from the total incomes of an business entity up to 8% of its annual taxable income.

As to the state control of operations of a non-entrepreneurial legal entity, it is limited to the suspension or prohibition of operations of such an entity through a decision rendered by the court in the cases prescribed by and according to established rules under the organic law of Georgia. The court may prohibit the operation of a public association that aims at bringing down the constitutional formation of Georgia or changing it through violence, encroaching on the independence of the country, infringing the territorial integrity of the state, or propagating the war, violence, or ethnic, regional, religious, or social hatred, which establishes or has already established armed formation, or which resumes carrying out entrepreneurial activities after its suspension by the court.

When a non-entrepreneur (non-commercial) legal entity is registered, but it fails to comply with terms, envisaged by law of Georgia for registration, or these terms dissolve later, the entity shall be granted 30-days period from the date of disclosure of the deficiency for the correction thereof. In the case of failure to correct the deficiency within timelines set for the correction thereof, the registering authority or/and interested person shall be required to apply to the court for the initiation of the liquidation procedure. Registration shall be cancelled only after the completion of the liquidations procedure.²⁶⁹

Participation in decision-making and law-making

Politics and human rights continue to influence each other in ways that compromise the work

²⁶⁹ <http://blacksea.bcnl.org/en/nav/15-georgia.html>

of human rights defenders. On the one hand, the government was quick to treat even balanced criticism of its human rights record as politically motivated and to accuse defenders of supporting opposition parties. On the other hand, some members of the human rights community did not necessarily distance themselves from opposition representatives eager to use human rights violations as political ammunition. Sometimes these human rights defenders employed inflammatory language in their advocacy, making it far too easy for the government to dismiss their work as politically motivated.

According to human rights defenders, the government was reluctant to listen to recommendations from civil society, instead treating input from the public and civil society as a mere formality prior to finalizing policy decisions. While this practice made it difficult to affect change, some civil society representatives also believe that human rights defenders could have improved their advocacy in order to overcome this obstacle. For instance, the reporting period saw a positive example of civil society affecting change by coming together under one banner in a concerted effort to bring constructive criticism to the government's attention.²⁷⁰

Attitudes in society

International day against homophobia

On May 17, 2012, the police failed to protect a march by Georgian LGBT and human rights NGOs through central Tbilisi in observance of the international day against homophobia. Following the start of the march, the designated police escort mysteriously drove off. Not long after, the march encountered a human chain formed by members of a loose-knit organization known as Union of Orthodox Parents, who blocked the road ahead.

The participants in this counter demonstration hurled verbal insults at the marchers who, in turn, argued back. The verbal attacks escalated into physical violence, and the police arrived only 30 minutes after the marchers, fearing for their safety, had placed the first call to the police. One marcher, who suffered a concussion from the clash, was arrested and brought to a police station only to be released soon after without any explanation.

About 15 participants in the march filed charges with the police. They all received the same reply: a letter stating that two counter demonstrators had been found guilty of administrative offenses, fined 100 lari (approximately 65 USD) each, and the case was now closed. The march organizers did not know how the counter-demonstrators or media representatives present at the scene had found out about the march, having notified only the authorities of their intentions.²⁷¹

“This Affects You Too” campaign

Several NGOs formed the campaign “This Affects You Too” in response to the controversial Law on Political Unions of Citizens that was passed in December 2011. The campaign managed to

²⁷⁰ <http://protectionline.org/2013/01/01/georgia-report-situation-of-human-rights-defenders-in-georgia-january-2011-october-2012-south-caucasus-network-of-human-rights-defenders/>

²⁷¹ <http://www.ekhokavkaza.com/content/article/24794736.html>

raise public awareness about the implications of the law and force the government to reconsider it. When the law was finally revised, many of the campaign's demands were met.

"This Affects You Too" went on to play a significant role in advocating for free and fair elections. Among other things, it pushed for "must-carry" rules ensuring that cable TV providers offered viewers access to varied media during the campaign before elections on October 1, 2012. Prior to adoption of the rules, many television providers operating outside the capital only offered access to pro-government media outlets. These rules were passed by the Georgian government in July 2012 and were set to expire on Election Day. Following the election, cable providers continued carrying a variety of news channels, even though they had no legal obligation to do so²⁷².

Kazakhstan

Registration

The legislation of the Republic of Kazakhstan uses a term of "non-commercial organization" that includes organizations with various legal forms²⁷³. Regarding to NGOs a term "public association" is used.

A public association is formed on the initiative of a group of no less than ten individuals who are citizens of the Republic of Kazakhstan²⁷⁴.

The non-commercial organizations and in particular the public associations cannot exist without state registration and without getting a status of a legal entity. Nevertheless, the state acknowledges meetings and conferences of citizens at which they adopt a charter and establish governing bodies of not yet registered associations.

The non-commercial organization can be rejected the state registration in cases if:

- the procedure for establishing legal entities is not ruled;
- the founding documents of the registered and re-registered legal entity are incompliant to the laws;
- the 2 months deadline was missed and there are no documents justifying the delay;
- the charter or the goals of the applicant organization are in contradiction with the legislation of the Republic of Kazakhstan²⁷⁵.

Autonomy, tax and administrative procedures

The state acknowledges meetings and conferences of citizens at which they adopt a charter and establish governing bodies of not yet registered associations.. However, obtaining a status of legal entity is a mandatory condition for activity of associations because establishment and activity

²⁷² Ibid.

²⁷³ Article 6 of the Law "On Non-Commercial Organizations", as of January 16, 2001

²⁷⁴ Article 10 of the Law "On Public Associations", as of May 31, 1996

²⁷⁵ Article 11 of the Law "On state registration of legal entities and registration of branches and representative offices", as April 17, 1995

of non-registered public associations is subject for administrative and criminal liability²⁷⁶. Non-commercial organizations have a right to receive financial support from abroad, which is defined in the tax legislation as a grants or sponsorship support²⁷⁷. Although, the grants may be allocated only by international organizations, which are in the list of donors, approved by the Government.

Participation in decision-making and law-making

The legislation does not grant non-commercial organizations authorities to participate in law-making activity. At the same time an authorized body developing draft normative legal act can authorize organizations to do it or involve on a contract basis other experts, scientific institutions, scientists or their collective, including foreign ones to develop this act using for those purposes allocated budget and extra budget funds²⁷⁸. Involvement of non-governmental organizations into the process of development of socially important draft laws and program documents is planned within the framework of the Program on State Support of Non-Governmental Organizations of the Republic of Kazakhstan for 2003-2005²⁷⁹.

Attitudes in society

Public Monitoring Commission (PMC) in Kostanai Region

On May 14, 2012 the Head of the PMC, Anastasia Milles, at the press-conference in Astana informed that since May 2012 she suspends her work because officers of the regional branch of the Department on Detention regularly interrupt Commission's activities and ignore its recommendations.²⁸⁰

At the same day another PMC had been created. Simultaneously completely new structure – Coordination Council of the PMC – had being created.²⁸¹

On July 26, 2012 a statement of human rights organizations in Kazakhstan had been published. They said: "A few days ago we learned that alternative PMC, supported by some NGOs, has created in Kostanai region. Creating another PMC in Kostanai region not only runs counter to the decision of the current PMC and the Coalition of NGOs in Kazakhstan against Torture to suspend the activities of a regional commission to meet the requirements of human rights defenders, but also breaks the statutory operation of only one public monitoring commission in each region.

We consider the creation of an alternative PMC a threat to human rights in the places of forced detention; such actions break the basis of human rights monitoring and provoke a conflict between different structures of civil society".²⁸²

²⁷⁶ Article 375 of the Code on Administrative Offences, as of January 30, 2001 and Article 337 of the Criminal Code, as of July 16, 1997 respectively

²⁷⁷ Articles 10 and 120 of the Code on Taxes and other Obligatory Budget Fees

²⁷⁸ Article 14 of the Law "On Normative Legal Acts"

²⁷⁹ <http://legislationline.org/ru/topics/country/21/topic/1/subtopic/18>

²⁸⁰ http://www.bureau.kz/data.php?page=0&n_id=4756&l=ru2012-07-31

²⁸¹ <http://www.time.kz/news/archive/2012/08/01/razdvoenie-usiliy>

²⁸² http://www.bureau.kz/data.php?page=0&n_id=4756&l=ru2012-07-31

Kyrgyzstan

Registration

The term “non-governmental organization” is practically not applied in the legislation. The Civil Code defines a concept of a legal entity, specifying that non-commercial organization is one of its types. Public associations belong to the non-commercial organizations having a membership.

An NGO can be created with or without registration as a legal entity. The Civil Code determines, first of all, the status of legal entity and non-formal association of citizens is based on the recognized by the Constitution right to association and can be determined by relevant agreements between citizens. In practice, however, non-registration has created problems for NGOs since the state will not formally recognize them.

The NGO registration can be rejected if the NGO violates the procedure for establishing a legal entity or if it fails to comply with the founding documents of the legal entity²⁸³. Other specific cases foreseen by Kyrgyz legislation for the rejection of NGO registration include violating Constitution in terms of breach of peace of peoples living together, propaganda and sow of social, racial, inter-ethnic and religious discord and enmity²⁸⁴.

Autonomy, tax and administrative procedures

Public associations pursuing political goals are not allowed to receive foreign funding²⁸⁵. No such prohibition is included in the Civil Code for other public associations, foundations or institutions. The Tax Code defines that a grant and humanitarian assistance are provided free of charge to non-commercial organizations by states, international, foreign and national organizations²⁸⁶.

Received by non-commercial organizations membership and entrance fees, grants and humanitarian assistance are not included into the total annual income and thus are not taxed if they used in accordance with the charter goals. Public associations profit received from charitable activity is exempt from taxes, whereas definition of charitable activity excludes receiving profit because both the services and works must be rendered free of charge on a beneficial basis or at prime cost.²⁸⁷

At the beginning of the year 2013 the bill "On counteraction to legalization (laundering) of incomes from crime and to financing of terrorist or extremist activity" had been initiated. An Article 12 of the bill, which is called "On preventive measures for non-commercial organizations", specifies that:

- financial intelligence unit conducts annual inspection of non-commercial

²⁸³ Art. 6 of the Law “On State Registration of Legal Entities”, as of 12 July, 1996

²⁸⁴ Art. 9 item 4 and Art. 16 item 9 of the Constitution of the Kyrgyz Republic

²⁸⁵ Art. 161 of the Civil Code of the Kyrgyz Republic

²⁸⁶ Art. 9 item 4 sub-items 4-2, 4-3 of the Tax Code of the Kyrgyz Republic

²⁸⁷ Art. 9 Item 4-1 of the Tax Code of the Kyrgyz Republic

organizations working on the territory of Kyrgyzstan and determines the level of the risks of existing non-commercial organization together with representatives of the non-commercial organization

- non-commercial organizations have to publish annual financial statements where incomes and expenditures are described in details; all expenditures are inspected from the point of view of goals and objectives of the non-profit organization;

- non-commercial organizations have to take measures for the identification and documenting the identity of their donors, as well as for confirming the authority and positive reputation of their beneficial owners and partner non-profit organizations (including international);

- non-commercial organizations have to present abovementioned information to State Financial Intelligence Service of the Government of the Kyrgyz Republic, the National Security Committee, and law enforcement agencies.

Participation in decision-making and law-making

The NGO sector fails to systematically participate in producing and defining strategies and plans for national, sectorial, or regional development. Examples show that NGO participation in these processes is contingent on the will of officials in government ministries and agencies. Often, the purpose of such collaboration is to create a semblance of expert appraisal of a draft piece of legislation or strategy with the involvement of NGO members. The nation lacks a mechanism for incorporating alternative viewpoints, which would enable NGOs to become real actors in the process of defining appropriate avenues for development.²⁸⁸

In the absence of legislation approved participation of NGOs in the law-making process and lobbying, such activities do not have a special status. The one possibility is foreseen in the Article 64 of the Kyrgyz Constitution which guarantees citizens the right to initiate a draft law if it is signed by 30,000 people.

Moldova

Registration²⁸⁹

There are two types of NGOs according to the Moldavian legislation: public associations and foundations that are regulated by two different laws respectively: the Law on Public Associations and the Law on foundations and the Law on Philanthropy and Sponsorship.

In accordance with art.14 (1) from the Law on Public Associations, founders of public associations can be legal persons or physical persons (citizens of Moldova as well as foreigners or persons without citizenship) being at least 18 years old. The founders of youth organizations must be physical persons – citizens of Moldova at the age of 18, under the control of already established

²⁸⁸ http://www.geo.uzh.ch/~suthieme/KG_Today_rus%20Kopie.pdf, p.34

²⁸⁹ <http://blacksea.bcnl.org/en/articles/20-registration-and-operation-of-ngos-and-taxation-of-ngos.html>

public associations. Founders of public association can also be other public associations.

Public associations can have fixed and unfixed membership. Public movements and public organizations do not have fixed membership. In accordance with art.14 (2) a public association can be founded by on the initiative of at least three people and one or several juridical entities - public associations.

The registration of Charters of all kinds of public associations (local, republican and international), is held by the Ministry of Justice.

Autonomy, tax and administrative procedures

A public association can have its productive-economic and other entrepreneur activity exclusively for the realization of objectives and goals specified in its Statute. It is allowed to use income for charitable goals, even if it is not mentioned in the Charter of the public association. An NGO can possess any patrimony (enterprises, institutions, buildings etc.) that it needs for its activity, besides the one which can belong only to the state.

Foundation shall have the right to carry out economic activity directly connected with the achievement of its statutory purposes. Any other economic activity of a foundation shall be carried out through its own enterprises which have a status of corporate body.

The law regulates that a public associations and the foundations have a right to found enterprises and economic organizations.

The income obtained from productive-economic and other entrepreneur activity of public associations cannot be redistributed between the members (participants) of these associations and should be used exclusively for implementation of goals and objectives specified by the Charter of the public association. It is allowed to use income for charitable goals, even if it is not mentioned in the Statute of the public association.

In general the taxation of NGOs is the same as the taxation for all business companies, besides the income tax on the annual profit from any kind of activity made by public association or public foundations is 0 %, no matter the benefit status of the NGOs. There is no tax on grants, received by NGOs, both in public benefit or in private benefit.

There are no limitations on foreign funding in Moldova.

Participation in decision-making and law-making

The National Participation Council (NPC) is a permanent platform for dialogue and consultation between the Government of Moldova and representatives of Civil Society. The Council was established in January 2010 and brings together 30 civil society organizations working in different areas. The activity of NPC is focused on two surpassing matters: 1) taking part in all stages of decision making and strategic planning process – drafting, monitoring, and evaluating the national development policies; and 2) establishing an institutional framework for participation and consultation at the level of the central public authorities. Currently, there are four working groups within the Council, which are focused on following fields: justice and human rights; economic

development; foreign, security and defence policy; social, education, youth and environment policies²⁹⁰.

There is the Law on Civic Control of the Observance of Human Rights in Places of Forced Detention in Moldova and Parliament regulation on approval of the National Action Plan on Human Rights for the period of 2011-2014.

Attitudes in society

Ban of the "propaganda of homosexual style of life"

During 2012, five cities have enacted bans on "propaganda" of homosexuality (which do not include any kind of administrative sanctions or fines).

On February 23, the municipal council of Balti banned any public actions by members of sexual minorities, declaring the city "a zone free from homosexual propaganda." The country's "northern capital" had been declared to be a "city without gays". The ban was a response to a planned law on non-discrimination, which "the government is trying to force" on the nation. Several other local administrations followed Balti in imposing similar bans²⁹¹.

On April 30, 2013, the parliament of Gagauzia approved a bill to forbid the "propaganda" of homosexuality, bisexuality and transgenderism as well as same-sex marriage and adoption by same-sex couples as *"unlawful activities focused and deliberate negative impact on the physical, intellectual, mental, spiritual and moral education and development of the youngest generation, designed to destroy a genotype of the Gagauz people"*. The law also stipulates that employers are allowed to refuse jobs for LGBT people, as well as interdicts parades. The bill does not include any kind of administrative sanctions or fines.

According to the text of the bill, promotion of the "homosexual lifestyle" will prohibit on the territory of Gagauzia. The authors of the bill note that under the "European integration" in Moldova, "the gay lobby" is actually starting to carry out the promotion of homosexuality.²⁹²

On May 23, 2013, despite the anti-discrimination law which prevents discrimination based on sexual orientation in employment, the parliament of Moldova passed a bill which bans the propaganda of prostitution, paedophilia and "any other relations than those related to marriage and family in accordance with the Constitution and the Family Code". The bill also included fines. The bill was signed into law on July 5, 2013 and came into effect on July 12, 2013. The law does not explicitly prohibit the "propaganda" of homosexuality, but it could be interpreted as such by the judges.

In this regard, particular concern is the security of human rights organizations working in the interests of LGBT people in Moldova. The aggressive policy of the church intervening in the state affairs can seriously damage activists' reputation, life and health.

²⁹⁰ http://cso-effectiveness.org/IMG/pdf/declaration_cnp_moldova.pdf

²⁹¹ <http://www.interfax-religion.ru/?act=news&div=44584>

²⁹² <http://xn--c1adwdmv.xn--p1ai/news/polit/1655030.html%20http://lenta.ru/news/2013/04/30/gagauz>

Russia

Registration

The Federal Law on Non-Commercial Organizations as of January 12, 1996 regulates NGOs activity in Russia.

The right to creation of an NGO can be done through the association of individuals also through the association of legal entities²⁹³.

An organization which is not a legal entity has a right to:

- freely distribute information concerning its activities;
- to hold meetings, organize demonstrations and picketing;
- to present and protect its rights, rights of its members vis-à-vis the state bodies, local self-government and other public organizations;
- to fulfil other rights in cases of direct instructions mentioned in federal legislation on special types of public organizations;
- show initiative in cases related to fulfilment of its tasks according to its charter;
- to make proposals to the state bodies and local self-government.

But without registration as a legal entity the NGO can not participate in decision making of state bodies and local self-government, create means of mass media, make publications, maintain property and be in contractual relations²⁹⁴.

Autonomy, tax and administrative procedures

Non-commercial organizations, as a rule, have virtually no restrictions on the activities they may pursue as their primary objectives including mutual benefit activities. Articles 29 and 38 of the Law on Public Associations impose burdensome reporting requirements on public associations (PAs), by requiring them to submit information about the funding and property they receive from foreign and international organizations and foreign persons to the registration authority. Articles 29 and 38 of the Law on Public Associations and Article 32 of the NCO Law authorize governmental registration authorities to engage in highly intrusive means of scrutiny of public associations and NCOs without appropriate procedural protections.

Article 23 of the NCO Law also provides the registration authority with two additional intrusive supervisory powers over the branches, representative offices, and affiliates of foreign NCOs. The government can issue a written decision banning the implementation of any existing program of a branch office of a foreign NCO. The Law does not provide any guidance with respect to the grounds on which the government may make this decision.

On July 20, 2012 the President of Russia signed a law Introducing Amendments to Certain

²⁹³ Art. 5 of the Law on Non-Commercial Organizations as of January 12, 1996

²⁹⁴ Ibid., Art. 29

Legislative Acts of the Russian Federation Regarding the Regulation of **Activities of Non-commercial Organizations Performing the Function of Foreign Agents** /joined into force on November, 21/. The law requires all NCOs to register in the registry of NCOs, which is maintained by the Ministry of Justice, prior to receipt of funding from any foreign sources if they intend to conduct political activities. Such NCOs are called "NCOs carrying functions of a foreign agent."

On July 20, 2012 the President of Russia signed a law on changes into the Code of Administrative Offences, which impose heavy fines for breaking the law about "foreign agents".

On December 19, 2012, the Duma passed in the second reading the draft of federal law № 186614-6 On Measures of Influence of Persons, Relating to Violation of Human Rights, Rights and Freedoms of Citizens of the Russian Federation. It was initiated by a large group of deputies and is designed as a countermeasure to the Magnitsky bill, which is intended to punish Russian officials that were thought to be responsible for the death of Russian attorney Sergei Magnitsky by prohibiting their entrance to the United States and use of their banking system. The present text includes restricting provisions, such as: activities of NGOs participating in political activities or implementing other activities constituting threat to interests of Russia and receiving funds from US citizens or organizations shall be suspended and their assets seized; citizens with dual US-Russian citizenship are prohibited from membership or participation in the management of Russian NGOs or registered offices of foreign NGOs that participate in political activities in the territory of the Russian Federation.

Since March 21, the Prosecutor's General Office conducts scheduled inspection of the NGOs. More than 100 NGOs in 44 regions of Russia are inspected, among them: Agora, Amnesty International, Memorial, Public Verdict, offices of Human Rights Watch and Transparency International in Moscow, Friedrich Ebert Foundation, Conrad Adenauer Foundation etc.

Another formidable legal barrier against foreign funding relates to the giving of tax-exempt grants. Foreign or international organizations wishing to make tax-exempt grants to Russian citizens or NCOs must be on a list of organizations approved by the Russian Government. Such grants may be made only for purposes specified by Russian Tax Code: for the implementation of specific programs in the sphere of education, art, culture, health care (AIDS, drug addiction, children oncology, including oncohematology, children endocrinology, hepatitis, tuberculosis) environmental protection, protection of human and civil rights, social services of the disadvantaged and vulnerable groups of citizens, as well as for holding specific scientific research.²⁹⁵

In June of 2008, the Russian Government adopted Decree #485, regarding the Government's pre-approved list of foreign grantors (hereinafter referred to as the "List"). Decree #485 contained a reduced number of approved international organizations and made clear that as of January 1, 2009, only international organizations mentioned in the Decree could remain on the List. Grants from foreign organizations not included on the List are considered taxable income for Russian recipients (20% of the grant).²⁹⁶

²⁹⁵ Tax Code of the Russian Federation, Article 149

²⁹⁶ <http://base.garant.ru/12161143/>

Participation in decision-making and law-making

In 2008 Russian President signed a law No. 76 "On the Public Monitoring of the Protection of Human Rights in Places of Detention and Assistance to Persons in Places of Detention"²⁹⁷ authorising the creation of Public monitoring Commissions (PMCs) to perform spot-checks on Russian prisons and other detention centres in order to ensure prisoners are being treated fairly and in accordance with Russian law.

The law allows members of organisations whose charter specifies protecting rights (up to two from each organisation) to submit an application to the Public Chamber to join a PMC, which members check that detainees have access to adequate food, space, medical facilities, and so on, and provide assistance to prison authorities in the enforcement of human rights. The Commissions have three main tasks: to perform inspections of detention facilities, prepare recommendations for improvement to the facility authorities and handle complaints by inmates. PMC members make inspections in pairs, and the cost of travel to the various facilities is covered by the NGO that put the member forward.

PMC can visit places of detention accordingly to their schedule or *ad hoc* if necessary. The government does not fund this activity.

Attitudes in Society

The GOLOS Association

In the year 2012 the Golos Association, an independent election watchdog organization monitoring the election have been an object of campaign on defamation in media and the tax investigation. In February 2012 regional Tax Services started to collect information illegally from the regional partners of the Association. On April 6, 2012, representatives of the Federal Tax Service informed the Association about starting the field tax check²⁹⁸.

Besides, on January 24, 2012 the company renting office space to election watchdog "Golos" demanded them to leave the premises by February 1. This is despite the current lease lasting until August 2012.

Golos director Lilia Shibanova said the pressure on Golos had not weakened, despite the Kremlin's requests to governors to avoid scandals in the upcoming election. In several regions, the Golos association was denied right to monitor voting stations and there was an investigation of organization's newspaper "Grazhdansky Golos".

Lilia Shibanova also underlined they haven't even received the account number to pay the fine for the trial they lost, where they were accused of "violations in covering the election process". The lawyers didn't know what the consequences might be if they didn't pay the fine on time.

A day before, on January 23 the Golos association announced their new "Violation map of the 2012 election", where anyone can report an election law violation during the campaign and on

²⁹⁷ <http://constitution.garant.ru/act/right/12160914/>

²⁹⁸ <http://openinform.ru/news/pursuit/05.04.2012/26647/>

voting day²⁹⁹.

Committee Against Torture and Joint Mobile Group.

Episode 1.

On January 28, 2012 the web-site of INGO "Committee Against Torture" was hacked by unknown trespassers, as a result of which a lot of web-site content was destroyed, including all descriptions of cases, but for those dealt with by the Chechen representation of the organization. The hackers also published a news article simulating a call of one of ICAT departments (Public Investigation Department). The anonyms expressed their discontent with the fact that the ICAT was allegedly paying a disproportional share of its attention to the work of the Joint Mobile Group in Chechnya, at the same time neglecting the need to address police abuse in other Russian regions.

It is obvious that the author of the message used worn-out clichés of nationalist propaganda in order to disrupt trust in our organization as an NGO defending human rights irrespective of the racial, ethnical or religious status of victims and offenders. The members of the Committee consider this provocative act was aimed at discrediting the Committee Against Torture and disuniting its personnel. They said it was obvious that the attack and clumsy forgery were committed by people personally interested in ruining public investigations into police abuse³⁰⁰.

Episode 2

On June 1, 2012, in Grozny there was a picket devoted to the problem of enforced disappearance of Chechen residents. As for officials, the event was attended by Magomed Daudov, head of the Chechen President's Office and Government, and Muslim Khuchiyev, Grozny Mayor. Having talked to picket participants, the latter noticed JMG lawyers and asked them to come up and tell him who they were and where they came from.

After a short conversation Khuchiyev invited the JMG to the Grozny Mayor's Office "to get to know each other better and have a more specific talk".

The talk appeared to be a meeting with quite a number of participants, with Chechen President Ramzan Kadyrov, Head of the Chechen President's Office and Government Magomed Daudov, Grozny Mayor Muslim Khuchiyev, Head of the Chechen Investigative Administration under the Russian Investigative Committee Viktor Ledenyov, Chechen Prosecutor Mikhail Savchin, Chechen Interior Minister Ruslan Alkhanov and other high-standing officials among them. Workers of Materinskaya Trevoga and mothers whose children had disappeared were also present in the meeting.

During the meeting Chechen President Ramzan Kadyrov said, pointing to JMG members: "These guys hate Chechens. They have come here to earn money". He promised that in a short time

²⁹⁹ <http://grani.ru/Politics/Russia/Election/m.195091.html>

³⁰⁰ <http://www.pytkam.net/web/index.php?go=News&in=view&id=2223>

he will know everything about the Committee Against Torture. Kadyrov underlined that "They <human rights defenders> are taking pictures of everything and upload them to the internet to make us butt heads. They are watching, filming, today they wanted the police to disperse you with clubs, like in Spain, and then they would broadcast it in the internet". Magomed Daudov informed he learnt that some individuals were offering Chechen residents money in exchange for false statements about tortures. Head of the Chechen Investigative Administration under the Russian Investigative Committee Viktor Ledenyov said that the JMG was interfering with the investigation making various departments quarrel. Interior Minister Ruslan Alkhanov stated that the JMG was lacking required jurisdiction to engage in operative investigation³⁰¹.

Episode 3

On January 21, 2012 at the Nizhny Novgorod train station CAT lawyer Anton Ryzhov was detained upon leaving the train, he was returning from Chechnya where he had participated in the Joint Mobile Group of Russian human rights defenders. Ryzhov was taken to the police station of the Nizhny Novgorod Transport Interior Directorate, where he had his laptop and digital memory devices seized with the purpose "to find illegal items". Between 1:30 and 3:40 a.m. he was searched by operative investigator in presence of attesting witnesses, his belongings were also inspected. During the inspection the police seized his Lenovo laptop, 3 SD memory cards and 4 USB storage sticks.

On July 4, 2012 Anton had been informed about the results of the expertise. There were not any pirated programs in the notebook founded. Five months after the seizure the notebook had been returned to Anton.³⁰²

Another attempt to instigate criminal proceedings against CAT Chairman Igor Kalyapin in connection with disclosure of secrets of the investigation had been registered.³⁰³ The Committee Against Torture regards all these incidents as part of a systematic intimidation campaign inspired by high-ranking suspects.

Moscow Helsinki Group

In 2012 the story about "**spy stone**" has been continued. The accusations were made against Ludmila Alekseeva in the documentary by Arkady Mamontov, broadcasted on 23 January on Rossiya 1 television channel. It was time of discussions on falsifications during elections to Russian Parliament which have been brought to light by the human rights NGOs.

In his film Arkady Mamontov said that in December 2002 Ludmila Alekseeva "was given a US passport". *"The obligatory procedure for receiving a document of this kind is publicly taking an oath of allegiance, the essence of which is to faithfully and undividedly serve the United States of America,"* Arkady Mamontov said. He pointed out that *"it is precisely the spies who are engaged in subversive work against Russia who also work with our human rights defenders, send them money*

³⁰¹ <http://www.pytkam.net/web/index.php?go=News&in=view&id=2349>

³⁰² <http://www.pytkam.net/web/index.php?go=News&in=view&id=2218;>
<http://www.pytkam.net/web/index.php?go=News&in=view&id=2373>

³⁰³ See Chapter 4. Criminal proceedings – p.32

and create means of cover for them". "One of these means is the issuance of passports, in other words a document witnessing to the citizenship of one or another Western country", Arkady Mamontov said.

In her interview to the BBC Ludmila Alekseeva said, among other things, that she received US citizenship in 1982. This happened five years after she had left the USSR under threat of imprisonment for her human rights work. In 1990 she returned to Russia and obtained Russian citizenship. In 2002, Ludmila Alekseeva said, her US passport expired and it had been necessary to renew it.

Mamontov also said that Russian human rights defenders received money from the hands of British secret agents, and demonstrated payment documents allegedly signed by the second secretary of the British Embassy in Moscow, Mark Doe, whom Arkady Mamontov openly named as a spy in a 2006 film.

In the words of Ludmila Alekseeva, Moscow Helsinki Group actually did receive a grant at that time from a British organization that did not have any representatives in Russia. Then it was arranged that the British embassy would provide representation for this organization in Russia. All funds were delivered according to law³⁰⁴.

Komi Human Rights Commission "Memorial"

On January 18, 2012 the Chief of Federal Security Service of the Republic of Komi Alexander Kalashnikov stated that activities of the Komi Human Rights Commission (HRC) "Memorial" is inspired from abroad and aims to change the political system in Russia. He has no doubt that the main objective of the human rights defenders is to disrupt the presidential elections in Russia.

Among the *"extremist directed organizations existing in the country"*, FSB chief took (in the order listed speaker): organization "North Frontier", People's Volunteer Corps named after Minin and Pozharsky (nationalistic organization), Association "Golos" and the HRC "Memorial".

According to Alexander Kalashnikov, the activities of these organizations, *"directed from abroad, often financed by foreign non-governmental funds and is aimed at the transformation of the political system in Russia"*³⁰⁵.

On January 20 human rights defenders of HRC "Memorial" sent to Mr Kalashnikov an invitation to participate in the enlarged meeting of the "Memorial's Board, but Mr Kalashnikov had ignored this invitation³⁰⁶.

On July 12, the Syktyvkar City Court held a hearing on the lawsuit of Alexander Ostrovsky (a member of the HRC "Memorial") on protection of honour, dignity and business reputation to Federal Security Service of the Republic of Komi. The plaintiff claims to deny the part of the "official report" concerning him and moral damages compensation. However, the regional Federal Security Service did not recognize the "report" and the officials insisted that this is not the position

³⁰⁴ <http://hro.rightsinrussia.info/archive/ngos/mamontov/alekseeva>

³⁰⁵ <http://komikz.ru/news/politics/?id=5120>; <http://lenta.ru/news/2012/01/18/extreme/>

³⁰⁶ <http://www.memorial-komi.org/node/406>

of the Department, but the point of view of Kalashnikov as a private person³⁰⁷.

On December 28, 2012 one of members of the HRC "Memorial" had been called to the confidential conversation with an official from the Administration of the Chairperson of Komi Republic. During the conversation the officer required to recall the lawsuit of "Memorial" to the newspaper "Krasnoye Znamia" connected to the statement of Alexander Kalashnikov. In the other case, according to the official, members of the "Memorial" are risked *to be prosecuted criminally*.³⁰⁸

Pressure on HRC "Memorial - the strongest human rights NGO in Republic of Komi dealing with conditions in places of detention and confinement - had been continued later.

On February 1, 2013 a municipal newspaper "New North" published an open letter of Eugeny Vologon - the deputy head of the Komi Civic Chamber – to the members of the public movement "Izvatas" with requirement to examine a question of recalling of a leader of the HRC "Memorial Igor Sazhin, who they nominated to the Komi Civic Monitoring Commission. On Vologon's opinion, Mr Sazhin and Mr Mezak (both from "Memorial") *"betray and sell our country, our citizens, our soldiers and police officers, who die for order in our State and its integrity; they cynically sell and betray all of us"*. Nikolay Rochev - a leader of the "Izvatas" public movement – answered they are not going to recall Sazhin's nomination³⁰⁹.

Ingush Human Rights NGO "MASHR" (city of Karabulak, Republic of Ingushetia)

In the beginning of February 2012 members of the human rights NGO "Mashr" were shadowed by unknown persons. Thus, two cars without number places stand near the office of the organization. In the period of February 8-10, officers of the Karabulak City Police and officers of the Department on Preventing Extremism visited the office of the Mashr.³¹⁰

Human Rights House - Voronezh

Episode 1

Searches in the Human Rights House – Voronezh had been carried out twice during the year.

On December 19, 2012, following the searches of the flats occupied by Voronezh-based activists, police officers entered the offices at Human Rights House Voronezh.

Police officers in plain clothes carried out searches in the Human Rights House of Voronezh, refusing to identify them or to show a search warrant. It was later reported that a single warrant had been issued for the whole building, without mentioning any specific office of an NGO, commercial organisation or political group out of those which are operating there.

The office raided was rented by the Free Labour Confederation in the Human Rights House of Voronezh, which unites a number of human rights organisations, including the secretariat of the International Youth Human Rights Movement, the Interregional Human Rights Group, the

³⁰⁷ <http://komikz.ru/news/society/?id=7041>

³⁰⁸ <http://seringvar.livejournal.com/788096.html>

³⁰⁹ <http://7x7-journal.ru/item/16681>

³¹⁰ <http://sos-hrd.org/node/30#.UhoC5Bt8luc>

"EKOSOCIS" Foundation, Voronezh regional branch of Memorial and Golos, an NGO working on election monitoring, among others. The building also hosts the personal office of Andrey Yurov, member of the presidential Human Rights Council, and the private cabinet of attorney Olga Gnezdilova.

Police officers searched documents in one of the rooms of the Free Labour Confederation. They confiscated two hard drives, three USB drives and a personal tablet of Vladislav Besspalov, coordinator of the Association "Golos" in Voronezh region (Vladislav reported about the search in social networks). Police officers refused to allow an attorney, journalists and police called by human rights defenders in the building

During the search, the police officers violently removed Victoria Gromova, Director of the "Youth Human Rights Movement" Foundation, from one of the offices, and confiscated the phone of another activist from the human rights news agency Article 20, Liubov Zakharova, while she was commenting on Twitter on the events. The police officers also locked a number of defenders in one of the rooms.

There were not any attempts to copy files – hard discs, USB storages and computers were confiscated indeed. These devices contain private information and correspondence and their confiscations makes lots of troubles for staff and volunteers of several human rights NGOs.

Police did not make a list of items confiscated. The copy of the record of search was not presented.³¹¹

Earlier, on March 20, 2012 officers of the Special Department on Prevention Extremism made an "examination" (search in fact) of the Human Rights House. They confiscated a copy machine. The Officer Dmitriy Filimonov orally explained that *"FSB sent urgent information that extremist materials are copied on this copy machine"*.³¹²

Episode 2

Human Rights House is a target for **ultra right activists** because of its human rights educational activity (especially on promotion anti-fascism).

On November 4, 2012 right after the Russian March in Voronezh, four young men drove up to the Human Rights House Office in Voronezh. They barred the way to one of workers who went to the shop introduced themselves (*"We are from "Format-18"*) and said *"it took us a long time to get to you; we would like to ask a couple of questions."* When those who were in the Human Rights House started taking pictures of them they raised their hands in a Nazi salute and carried an imperial flag,

People from Human Rights House called to the police. The patrol came in several minutes and scared off young people who drove away fast. Police could not catch the car but remembered the numbers³¹³.

³¹¹ <http://sos-hrd.org/node/41#.UUZHYN1F4>

³¹² http://yhrm.org/news/regions/voronezhskaya_oblast/segodnya_tsentr_e_vernul_kseroks_voronezhskomu_domu_pra_v_cheloveka

³¹³ <http://article20.org/news/natsionalisty-prishli-k-domu-prav-cheloveka-v-voronezhe-s-na#.UPrIKR0yLF8>

Some episodes connected directly to so called Law about "Foreign Agents"

In 2012 discrediting of human rights NGOs became stronger because of so called law "about foreign agents". The legislation requires NGOs that receive funding from abroad and are deemed to be involved in political activity to register under a label which many Russians associate with the Cold War era of espionage and treason.

'Foreign agent' has a clearly negative connotation in the Russian context. The ability of a number of organizations to work was being affected because some local governments and beneficiaries of NGOs were unwilling or afraid to work with groups that had been or could be labelled as foreign agents. Any continuing use of the term 'foreign agent' in the legislation and practice in relation to NGOs would only lead to further stigmatization of civil society in the Russian Federation and will have a chilling effect on its activities.

It should be noted then stickers and paints "foreign agents" were placed to the buildings of the most prominent human rights NGOs a day before the law joined into force.

Episode 1

On November 21, 2012 in Moscow on the front of the building hosted **Moscow Helsinki Group** the title "Foreign agent" appeared. The unknown people also took away the sign-board "Moscow Helsinki Group" from the office the group had before, broke it down, put stickers saying "foreign agent" and bring it to the new office.³¹⁴

On November 26, 2012 GONGO "Young Guard of United Russia" (the ruling United Russia Party's youth group) prepared a press-release "Alekseeva is panhandling" with a picture of Ludmila Alekseeva, the head of the Moscow Helsinki Group, begging in the tunnel. The press-release deals with Alekseeva's appeal to raise funds for continuation of the human rights work of the MHG. In the article the "Young Guard" indirectly supports efforts against the "foreign agents". Also there is stated in the article that MHG defence "rights of criminals, spies and ever totalitarian sectarians"³¹⁵.

Episode 2

On November 21, Young Guard held an openly hostile protest near the offices of Transparency International, demanding that the anti-corruption watchdog "come out of the shadows" and register officially as a foreign agent. The movement's website invited activists to join an action it called Come Out of Twilight. Activists with flashlights should illuminate "vampires—foreign agents". The picket included some 22 activists wearing sunglasses and carrying flashlights under the motto "Night Watch". 30 minutes later a representative of the organizers brought a post-release to the office and action was over³¹⁶.

Episodes 3 and 4

³¹⁴ <http://www.mhg.ru/news/13971BF5>

³¹⁵ <http://mger2020.ru/curious/2012/11/26/41391>

³¹⁶ <http://rumol.ru/news/8681.html>; <http://lenta.ru/news/2012/11/21/memorial/>

The **For Human Rights** NGO said they found "Foreign Agent" and a heart symbol followed by "USA" sprayed in white paint outside their offices in the morning on November, 21³¹⁷.

The paint saying "Foreign agent. I love USA" appeared at the building of the **Memorial International Association** as well. Besides, unknown people pasted the stickers with the text "foreign agent" near the organization's sign-board. Oleg Orlov, the director of Memorial appealed to police on fact of vandalism. Orlov connected it with the fact that on November 21, 2012, the new law entitled "Introducing Amendments to Legislative Acts of the Russian Federation in Part Regulating Activities of Non-commercial Organisations, which Carry Functions of Foreign Agents" entered into force in Russia. A day before the Memorial and other NGOs have said they would boycott this law.

On November 28, 2012 in the night or early morning unknown people put a banner saying "At foreign agent is sitting here" at the building of the Memorial. The NGO is planning to apply to the police on fact of vandalism and entering to the private property again³¹⁸.

Tajikistan

Registration

The Constitution contains a list of different associations of citizens, including public associations, political parties, religious organizations, groups of citizens, and movements. Civil Code considers the notion of "non-profit organizations" in relation to legal entities established in the form of consumers' co-operatives, social or religious organizations, owner's funded institutions, charitable and other foundations and also in other forms prescribed by the law.

Public association of citizens shall be considered to be established from the moment of taking decision on its establishment, approval of its Charter and forming governing and control and audit bodies at the session (conference) or general meeting. Such decisions shall be effective during three months and allow submitting documents to register the organization as the legal entity. However, legal capacity of organization as the legal entity shall start from the moment of its state registration³¹⁹. In practice, citizens can establish informal unions, but the issue of their acknowledgement remains unsolved. Thus, constitutional right to unite is restricted by provisions of the Civil Code considering associations only as legal entities that automatically require their registration.

Autonomy, tax and administrative procedures

Instead of rendering direct assistance to organizations implementing socially useful programs the state provided in the Tax Code complex definitions of "charitable activity" and "charitable organization", through which it was planned to provide support of such activity, mainly, at the expense of subjects of economic activity³²⁰. The state envisaged an opportunity of rendering direct support and also deduction from taxable profit (income) at the amount of payments for charitable

³¹⁷ http://publicpost.ru/theme/id/2619/_dobroe_utro_inostranny_agent/

³¹⁸ <http://www.memo.ru/d/129219.html>;
http://lenta.ru/news/2012/11/21/memorial/?keepThis=true&TB_iframe=true&height=650&width=850;
<http://hrcmemorial.livejournal.com/136671.html>

³¹⁹ Art. 10 of the Law "On Public Associations"

³²⁰ Art. 11 and 20 of the Tax Code

purposes which do not exceed two per cents of taxable profit (income). While studying the provisions of the Tax Code it becomes evident that support depends only on the will of a part rendering assistance and is also complicated by deficiencies of legislation (For example, in accordance with paragraph 3 of Article 201 of the Tax Code it is impossible calculate VAT).

On the one hand, it is unclear how the status of “charitable organization” can be granted? What are the necessary requirements that organizations have to meet to receive payments? What is the expediency of the status without provision of real assistance? On the other hand, profit organizations need to confirm the charitable character of support or compliance of recipient to the status of charitable organization that burden the reporting documentation. Thus, support of charitable activity becomes a matter of little attraction and charitable organizations themselves (particularly, public associations and public foundations) remain, in fact, without support. Perhaps, the most tangible form of support of associations and charitable organizations is profit tax exemption of charitable transfers, membership duties and donations (Art. 129 of the Tax Code).

Participation in decision-making and law-making

The Constitution gives the right of legislative initiative to deputies of both Chambers of the Parliament (Majlisi Oli) – the members of Majlisi Milli that operates by sessions and the deputies of Majlisi Namoyandagon that operates permanently, President, Government, and also deputies of the representative body of Gorno-Badakhshan Autonomous Region, Majlis of People’ s Deputies. The right of legislative initiative do not belongs to citizens, so, citizens and groups of citizens can participate in legislative activity only indirectly – suggesting their initiatives to the subjects having the right of legislative initiative in accordance with the Constitution.

Attitudes in society

Ban on participation in educational events

Tajik Ministry of Education banned students to participate in the educational events holding by international organizations. Higher educational institutions in the country were informed them, according to the ministerial decree Nr 05/2-414 as of October 8, it contradicts to the legislation of Tajikistan when international organizations carry out conferences, workshops and training for students³²¹.

Thus initiative will make strong difficulties to NGOs holding almost all seminars and conferences with financial and technical support of international foundations and organizations.

"Civil Society" NGO

On January 10, 2013 a court in the city of Khujand ruled that Civil Society NGO must be shut down for using the wrong address in its registration documents and for failure to clearly define its leadership³²².

³²¹ http://segodnya.novostimira.com/n_3475612.html

³²² http://notorture.tj/sites/default/files/file_attach/2013/03/14/ezhegodnik_2012_dlya_pechati.pdf

Civil Society has been operating in Tajikistan for 11 years. It has been holding seminars, roundtable discussions, and training that focused on human rights, social issues, and initiating legal reforms. The organization has been discussing possible reforms of presidential and parliamentary election laws.

In November 2012 the Regional Justice Department filed a complaint with the local court asking for the liquidation of the group citing administrative violations.

There was not a real inspection of the NGO. The representative of the Department of Justice made a call to the leader of the Civil Society NGO and informed her he is in his way to the office of the NGO. The Head of the Civil Society said she was out of Khudjad and was not able to meet the inspector immediately. She also informed that an office is temporarily closed because of lack of funds. Then Representative of the Department of Justice said that this is a reason to shut up the NGO.

The next day, after a telephone conversation leader of the organization, gathering all necessary documents, went to the Department of Justice in Sughd. But the officer, called the day before, refused to see the documents and talk to her, arguing that the Department of Justice a complaint with the local court asking for the liquidation of the NGO.

On April 30 the Regional Court of Tajikistan's Sughd Province has upheld a ruling to shut down the Civil Society NGO³²³.

Association of Young Lawyers “Amparo”

The Association of Young Lawyers “Amparo” was the only non-governmental organization in Tajikistan dealing with investigates torture and serves as an advocate for the rights of army conscripts, soldiers and other vulnerable groups. It composed of more than 30 young human rights lawyers, students, journalists and human rights defenders. Amparo is also part of the Coalition against Torture, Coalition on UPR, Coalition on the Rights of the Child and Coalition of the NGOs in NIS for rights of conscripts and troopers.

In 2012 court in Khujand granted a motion by the Ministry of Justice to shut down Amparo after they carried out an audit of Amparo on 28 June 2012. The audit lasted one day, and on 29 June a legal suit was filed against Amparo on the basis that the association violated its own charter as well as the Law on Public Associations and should therefore be dissolved. A day after the audit, not giving one month to correct failures, the Department of Justice filed a motion to shut down the Amparo.

In the said motion, the Department of Justice alleged that “Amparo” had changed its legal address without re-registering with the local Department of Justice; that it was carrying out activities outside the Sughd region where it was registered; and that it conducted training sessions on human rights issues for high school students without any proper licence. All this contradicts to Tajik legislation.

³²³ <http://www.rferl.org/content/tajikistan-ngo-human-rights/24972595.html>

Another blame was that Amparo had broken its Charter by creating an official website, where "various articles" were placed. On the opinion of the Department of Justice such action is a cruel violation of the organization's Charter and the Law "On Public Associations" as well³²⁴.

The association "Amparo" never received a copy of the audit, hence it has not been able to comment on it. In addition, the lack of procedural guidelines on how the audit was conducted was raised during the hearing.

As a reaction to the complaint, more than 50 requests to the President of the Republic of Tajikistan, Prime Minister, Minister of Justice, General Prosecutor, Chairman of the Supreme Court were sent by regional, national and international organizations which urge Tajik government to put an end to any act of harassment - including at the judicial level - against Amparo and its members³²⁵.

There was the first hearing on October 23, 2012. Representatives of human rights NGOs, OSCE and Ombudsman in Khujand as well as journalists of the Asia-Plus news agency attended the trial.

On October 24, 2012 after the presentation of all the facts and evidence by both parties, a court of the City of Khujand headed by Judge Safarali Kurbonov decided to sustain a claim of the Department of Justice, close down "Amparo" and obliged its director to start the procedure of liquidation.

On January 15, 2013, the Syghd Regional Court confirmed its closure following an appeal lodged by "Amparo" on November 28, 2012 and gave one month for liquidation of the organization.

Reaction of the international society

Amnesty International had sent a message to the government of Tajikistan, European Union and the international community demanding the government of Tajikistan to follow values of freedom of expression and freedom of associations. "Part of the government attempts to restrict the right to freedom of expression and association in Tajikistan", the statement of the Amnesty International says.³²⁶ Amnesty International believes that Amparo is being punished for trying to collect and publicize information about torture and other ill-treatment of young men of conscription age and their treatment in the military.

*"A court's decision on October 24, 2012 to close a leading human rights organization in Tajikistan is a serious blow to the country's civil society and should be reconsidered in line with Tajikistan's international obligations to uphold the freedom of association", - Human Rights Watch said*³²⁷.

"Amparo plays a crucially important role in raising legal literacy and taking on topics that have historically gone unaddressed in Tajikistan," - said Hugh Williamson, Europe and Central

³²⁴ <http://nis-army.org/ru/news/pravomernost-resheniya-suda-o-likvidatsii-amyu-amparo-somnitelna>

³²⁵ <http://www.fidh.org/Tajikistan-Closure-of-the-NGO-12421>, <http://news.tj/ru/news/obshchestvennye-organizatsii-prosyat-prezidenta-ne-dopustit-nezakonnoi-likvidatsii-amyu-amparo>

³²⁶ <http://news.tj/ru/news/amnesty-international-tadzhikskie-vlasti-podavlyayut-svobodu-vyrazheniya-mneniya>

³²⁷ <http://www.hrw.org/ru/news/2012/10/29>

Asia director at Human Rights Watch. – *No one believes for a minute that the Justice Ministry went after Amparo because of charges as minor as these. The Tajik judicial and other authorities should immediately reinstate Amparo's license to operate and urgently reconsider this decision in line with Amparo's members' internationally guaranteed rights to freedom of association*"³²⁸.

On November 29, 2012, after the meeting with the President Rakhmon the EU's High Representative of the Union for Foreign Affairs told to media she brought up a question about value of strong and dynamic civil society for the country. *"It means that NGOs like the Association of Young Lawyers "Amparo", doing so important work, are significant for the state"*³²⁹.

On November 2012 four UN Special Rapporteurs expressed their deep concern about the closing of the association "Amparo" as well as about allegations received pointing to the lack of transparency and clear procedural guidelines regarding the conduct of the audit as well as significant irregularities in the auditing process itself. Moreover, they admitted they were disturbed at information received indicating that the judicial harassment and closing of the mentioned association may be linked, not only to their legitimate activities in the promotion and defence of human rights, but also to their active engagement with UN human rights mechanisms, particularly on issues related to torture and ill-treatment³³⁰.

Turkmenistan

Registration

The legislation of Turkmenistan does not use the concept of a non-government organization. The Civil Code introduces a definition of "non-entrepreneurial legal entities", created in the form of public organizations and foundations.

Not less than 5 members pursuing the common goal are necessary to establish a public organization. For a public association with an international status there is a requirement to have 500 members³³¹.

Accordingly to the Article 17 of the Law "On Public Associations", NGOs functioning without state registration are banned. Definition of a non-entrepreneurial legal entity also specifies that legal capacity of a legal entity start from the moment of state registration³³². The law "On public associations" determines the beginning of the legal capacity of a legal entity after its registration in the Unified State Registry of Legal Entities. The Criminal Code of Turkmenistan foresees punishment for "violation of the legislation on public associations", without defining of the complete corpus delicti. The Code establishes only a sanction in the form of a fine in the amount from 10 up to 30 monthly salaries or correctional labour for a period of one year or imprisonment for a period up to six months with confiscation of illegally received funds. The condition for initiation of criminal proceedings must be earlier applying to a person of an administrative

³²⁸ Ibid.

³²⁹ <http://news.tj/ru/news/amnesty-international-tadzhikskie-vlasti-podavlyayut-svobodu-vyrazheniya-mneniya>
³³⁰ [https://spdb.ohchr.org/hrdb/22nd/public - UA Tajikistan 20.11.12 \(4.2012\).pdf](https://spdb.ohchr.org/hrdb/22nd/public-UA_Tajikistan_20.11.12_(4.2012).pdf)

³³¹ Items 4 and 6 of the Rules for Registration of Public Associations

³³² Item 2 Art. 49 of the Civil Code

punishment for such violation³³³.

The UN Human Rights Committee found that the Law on Public Associations “severely restricts freedom of association,” forcing associations to “undergo cumbersome administrative processes for registration. NGOs are legally banned from carrying out any work unless they are registered, yet no independent NGO has obtained registration in the past four years³³⁴.”

Autonomy, tax and administrative procedures

The legislation allows public associations’ cooperation with international public organizations, maintenance of international contacts and relations and also conclusion of relevant agreements with involvement of the Ministry of Foreign Affairs of Turkmenistan³³⁵. However, the authorities of the Ministry of Foreign Affairs and limits of its participation in concluding the agreements are not quite clear.

The list of financing sources of the public associations includes a possibility to obtain targeted financing and earnings from foreign non-commercial and budget organizations in the form of grants. Restriction for receipt of foreign financial and other material assistance is related with preparation and conducting of elections and relates to public associations, which charters foresee participation in elections.

Projects and programs of foreign technical and other assistance are subject to mandatory registration at the Ministry of Justice. The registration requirement was introduced by the Resolution “On State Registration of Projects and Programs of Foreign Technical, Financial, Humanitarian Assistance and Grants” (adopted on November 14, 2003). The State Service for Foreign Investments under the President of Turkmenistan maintains the Unified Registry of Foreign Technical, Financial, Humanitarian Assistance and Grants.

Participation in public associations aimed at achievement of *mercenary and other immoral inducements*, and also committing of other illegal actions aimed at grave violation of rights and freedoms of citizens, legitimate interests of state bodies of power and governance are punished with a fine in the amount from 10 up to 30 average monthly salaries or correctional labour for a period up to two years or imprisonment for a period up to one year.³³⁶

Participation in decision-making and law-making

The Law does not stipulate public organizations authorities for participation in law-making activity.

³³³ Art. 223-1 of the Criminal Code

³³⁴ <http://www.hrw.org/news/2013/04/19/universal-periodic-review-joint-hrw-submission-turkmenistan-freedom-now-and-turkmen->

³³⁵ Art. 21 of the Law “On Public Associations”

³³⁶ Art. 223-1 of the Criminal Code adopted by the Law “On Making Changes and Amendments into the Criminal Code” dated October 21, 2003

Attitudes in society

Turkmenistan remains one of the world's most repressive countries, - Human Rights Watch. The country is virtually closed to independent scrutiny, media and religious freedoms are subject to draconian restrictions, and human rights defenders and other activists face the constant threat of government reprisal. The government continues to use imprisonment as a tool for political retaliation³³⁷.

There is not any human right NGOs in Turkmenistan. International structures cooperate with Turkmen human rights NGOs in exile: Turkmen Initiative on Human Rights in Vienna, Association of Independent Lawyers in Netherlands, Turkmen Helsinki Foundation on Human Rights in Bulgaria. International human rights NGOs, such as Human Rights Watch, Amnesty International, Norwegian Helsinki Committee applied to the Turkmen government several times to allow them to work in the country but every time they have been refused. In fact, Turkmenistan is the only country in the region, where the international organizations are not able to work.

In addition, the government has consistently refused access to the country for human rights monitors, including OSCE and UN special procedures, 10 of whom remain unable to carry out country visits despite repeated requests for access.³³⁸

*"At this moment Turkmenistan is an absolutely sterile area where human rights defenders either should be in far expulsion, working for other countries, or in deep underground, hiding their belonging to the human rights NGOs. The same about journalists. Until there are not possibilities for full-fledged work of human rights NGOs in Turkmenistan, no progress could be mentioned regarding human rights in this country", - says Alexandra Kulaeva, Director of the Department for Eastern Europe and Central Asia of the Federation for Human Right.*³³⁹

Homosexuality is punished with sentencing up to 2 years, so those who protect rights of LGBT people are not seeing.³⁴⁰

International Committee of the Red Cross

On April 9 Turkmenistan has allowed a Red Cross delegation to visit one of its prisons for the first time since the reclusive Central Asian nation's independence from the Soviet Union in 1991.

The Red Cross delegates, including a doctor, inspected a youth detention facility (chosen by the government of Turkmenistan). The delegation was not able to hold private meetings with inmates during either visit. The delegation had also visited the construction site of a future prison. It did not identify the penitentiaries or provide other details.

Turkmenistan's government has often been criticized by rights groups for refusing international access to inmates in its detention and prison facilities, which are overcrowded and disease-ridden.³⁴¹

³³⁷ <http://www.hrw.org/world-report/2013/country-chapters/turkmenistan>

³³⁸ <http://www.un.org/News/Press/docs/2012/hrct743.doc.htm>

³³⁹ <http://www.chrono-tm.org/2013/04/kulaeva-v-turkmenistane-situatsiya-s-pravami-cheloveka-poistine-katastroficheskaya/>

³⁴⁰ Turkmenistan and the UN Human Rights Committee: mutual disappointment // <http://newscentralasia.net>

³⁴¹ <http://www.reuters.com/article/2012/04/11/turkmenistan-prisons-redcross-idUSL6E8FB02F20120411>

Uzbekistan

Registration

The term a “non-governmental organization” is applied in the legislation of Uzbekistan as a “non-state non-commercial organization” (NNO)³⁴².

Public association is created upon an initiative of not less than five citizens. The Constitution requires obligatory registration of public associations in accordance to the order established by the law (Art. 56 of the Constitution). The Civil Code considers public association as a non-commercial organization being a legal entity, i.e. after getting registered by the state (Art. 40 of the Code). Theoretically civil legislation permits conclusion of various agreements, one of which can be an agreement between citizens on mutual obligations and rules of non-formal association. However, envisioned by the Criminal Code responsibility for organization of illegal public associations and inclination for participation in the activity of such associations makes this idea dangerous (Articles 216 and 216-1 of the Criminal Code).

Autonomy, tax and administrative procedures

Non-commercial organization activity can be suspended by the court in case of infringement of the Constitution and laws, committing activities contradicting the charter goals. The law stipulates a possibility of re-start of the activity after elimination of violations but does not specify the procedure.

In accordance with the Tax Code the taxable income (profit) of non-commercial organizations is decreased by an amount directed at charter activity. Organizations are exempt from property and land tax if they are not used for entrepreneurial activity (Item 6 Art. 31, Art. 92 and 102 of the Tax Code). Due to the fact that numerous non-commercial organizations entirely direct the attracted funds for rendering free of charge services, the provided by the Tax Code preferences do not have special importance.

All international funds should be approved by the Cabinet of Ministers Committee and should be transferred through one of two banks – bank Arkasa or the National Bank of Uzbekistan. These banks may decide to make a transfer or not. In most cases the funds remain blocked at the accounts in the state banks.

Participation in decision-making and law-making

Until 1999 public organizations were actively involved into law-making activity. Recently only the so-called “pro-governmental” organizations and governmentally organized NGOs – GONGOs enjoy such an opportunity.

³⁴² Law “On Non-State Non-Commercial Organizations” dated April 14, 1999

Attitudes in society

Human rights NGO may not work legally in Uzbekistan without the state registration. The process of registration is too complicated. Only one active human rights NGO is registered officially in Uzbekistan – Human Rights Group Ezgulik. The other NGOs work without legal status and this fact makes their work more complicated. But even Ezgulik had to shut down one of its branches because of pressure.³⁴³

Foreign journalists and representatives of international human rights organizations are frequently denied visas to visit Uzbekistan or are only granted one-entry tourist visas, which are not renewed. Human Rights Watch had to leave Uzbekistan in 2011, when the Uzbek Supreme Court made a final decision to liquidate Human Rights Watch office in Tashkent because the activities of the organization contradicted to Uzbek law.³⁴⁴

The situation is exacerbated by international isolation. It is ten years since the government allowed any UN officials access to discuss human rights issues. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment visited Uzbekistan in 2002 only after long years of repeated requests, but has been denied a follow-up visit since 2005. The Uzbek government has also repeatedly denied invitations to over 10 other UN independent experts³⁴⁵.

For the past four years, the Uzbek government has rebuffed ILO requests to gain access for its independent monitors to visit Uzbekistan to assess its compliance with its international obligations. In addition, in 2011 and 2012 the government denied visas to the Human Rights Committee of the German Bundestag, several members of which had openly expressed an interest in the issue of forced labour, and sought to visit the country during the cotton harvest.³⁴⁶

The work of the human rights defenders and NGOs has been more directly impacted by Decree Nr 15 of the Cabinet of Ministers of Uzbekistan on public gatherings and other public events from January 13 2003 that was adopted after the Islamic rebels incursions into Uzbekistan from Kyrgyzstan and Tajikistan on summer of 2001. This bylaw has mostly effected on freedom of movement, freedom of assembly and freedom of expression of Uzbek human rights defenders.

According to the Uzbek decree of 2003, public gatherings (the definition of the public events is not identified by the decree) are such events that can be organized by legal entities and citizens on different occasions and the number of participants of which exceed 100 persons. An organizer of such event must submit a written application to the local government explaining purpose of the event, program, number of the participants and venue prior to one month. The application will be considered and answered by a special commission at the local government during 10 working days. The commission will include representatives of local National Security Service, Interior department and other relevant governmental bodies. The commission is entitled to refuse if the applicant doesn't meet all requirement of the decree.

Thus, the constitutional guarantee of the freedom of citizens to assembly seems to be only

³⁴³ <http://www.hrw.org/world-report/2013/country-chapters/112566?page=2>

³⁴⁴ <http://www.hrw.org/ru/news/2011/03/14-2>

³⁴⁵ <https://civicus.org/media-centre-129/press-releases/933-uzbekistan-allow-independent-experts-access-to-prevent-persecution-say-civicus-and-expert-working-group>

³⁴⁶ <http://www.hrw.org/ru/news/2013/01/26/uzbekistan-shirokoe-rasprostranenie-prinuditelnogo-truda-na-sbore-khlopka>

declarative and strictly regulated by the executive power in Uzbekistan. Restriction of the freedom of assembly is imposed on the constitutional level and the decree on public gatherings enacted by the Uzbek government in 2003 sets even stricter rules for those citizens and groups who wish to use their freedom of assembly³⁴⁷.

Ukraine

On March 22, 2012, the Ukrainian Parliament voted to adopt a new Law on Public Associations. The Law was developed by public experts and its adoption was result of active pressure from Ukrainian non-governmental organizations, international organizations, and the diplomatic community. The new provisions governing the legal status of non-governmental organizations (NGOs), are in compliance with European standards, namely with Recommendation CM/Rec(2007)14 of the Committee of Ministers of the Council of Europe to member states on the legal status of non-governmental organisations in Europe.

Registration

The new Law on Public Associations provides for simplification of the registration procedures for public associations;

There are two procedures that have to be completed in order to establish civil or charitable organization:

- legalization of the NGO as a specific type of non-profit organization (civil or charitable organization). The competent authorities are the Ministry of Justice or local executive authorities;
- registration of the specific type of NGO as a legal entity. The competent authority is the State Registrar according to the location of the NGO, which can be only done by the executive committee of the City council or state administration

There is no obligation to register the NGO – they may work without state registration.

Autonomy, tax and administrative procedures

The new Law on Public Associations provides for the right of NGOs to pursue any lawful interest or objective (not only the interests of its members). Besides, the one form of state supervision and control (monitoring whether the NGOs are following their statutory requirements) had been abolished.

Public association can conduct activities throughout the territory of Ukraine, regardless of their place of registration.

Public association with the legal entity status can engage in entrepreneurial activities to support their not-for-profit activities, but the procedure of taxation is not clear yet.

³⁴⁷ <http://www.osce.org/odihr/38912>

Public organizations and their unions (amalgamations, associations and other types of public organizations), legalized by registering or sending a notice of establishment at the date this Law was put into force, shall not require reregistration or a new submission of documents for the notice, respectively. The charters (by-laws) of public organizations or unions of public organizations shall be harmonized with this Law within five years from the date it is put into force.

Amendments to the charter (by-laws), related to the putting of this Law into force, shall be registered without payment for registration acts within five years from the date this Law is put into force.

After registration in the State Tax Administration of NGOs as a taxpayer NGO may obtain the status of a non-profit organization for being included in the Register of non-profit organizations in the STA. If an NGO receive the status of non-profit organization, it is not taxed in income tax.

Participation in decision-making and law-making

The Ukrainian constitution provides the right of citizens to influence the decision making process through public associations. Article 38 proclaims that citizens have the right to participate in the management of public affairs. Recently the president of Ukraine launched a policy for enabling environment for Ukrainian civil society: he adopted a Strategy of Government Policy for Civil Society Development.

The Strategy clearly defines the state's obligations in terms of civil society development, includes of civil society development issues into all executive body agendas, and tasks all executive bodies with developing and implementing transparent procedures for citizen participation.

Since January 2003 the Law on Procurement has allowed all legal entities to take part in procedures for public procurement at the national or local levels. The Law also stipulates the right of civil associations to participate in the work of consultative, advisory, and other subordinate bodies, established by the State Authorities, the authorities of the Autonomous Republic of Crimea, local self-governance in order to conduct consultations with civil associations and elaborate recommendations on issues within their field of activities.

Attitudes in society

The Commissioner for Human Rights of Ukraine (the Ombudsman) Valeria Lutkovska told in the UN about the efforts of her office as regards prevention of adoption of the law about "*propaganda of homosexuality*". In turn, the UN stated that the legislative initiative has discriminatory nature and contradicts the international liabilities of Ukraine, the UN News Centre informs.

In the interview, the Ukrainian Ombudsman shared her opinion about propositions of the UNDP on strategic planning of the activity of her office. Answering the question, she told about the struggle of her office against the draft law on 'propaganda of homosexuality', which was adopted at the first reading in the Parliament of Ukraine.

"Indeed, we, together with public organizations, reacted rather quickly and drew attention of the parliament to the fact that it is possible to criminalize the actions, which are understandable –

for example, theft, murder; but what is propaganda of homosexuality? For example, as a lawyer, I do not understand what the meaning of this legal term is. As the result of the lack of understanding, I cannot predict my behaviour. Thereafter, we drew the attention of the Parliament to the fact that the principle of legal certainty shall be obviously violated, if the action, which is unclear and is not explained by the law, is criminalized,” Valeria Lutkovska told in the interview to the UN Radio in the headquarters of the Organization in New York.

Earlier the spokesperson of the Office of the UN High Commissioner for Human Rights, Rupert Colville, said during the briefing in Geneva that in case of the adoption of the law in the current form, it shall set forth fines or imprisonment for the term of up to five years. He emphasized that the proposed regulatory enactment provides for ‘anti-homosexual amendments’ to four laws, and to the Criminal Code of Ukraine. The UN Office stated that the project has obviously the discriminatory nature and contradicts the international liabilities of Ukraine as regards ensuring of the freedom of expression and information.

Valeria Lutkovska told that if the Parliament does not consider the advices of her office, she would address the President with the request to put a veto on this law.³⁴⁸

348

http://www.ihrpex.org/en/article/4398/lutkovska_may_ask_yanukovych_to_put_veto_upon_law_banning_propaganda_of_homosexuality_-_un

