Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13943
11 January 2016

Strengthening the protection and role of human rights defenders in Council of Europe member States

Report[1]
Committee on Legal Affairs and Human Rights
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Summary

The Committee on Legal Affairs and Human Rights pays tribute to the work of human rights defenders and recalls that responsibility for their protection lies first and foremost with States. In recent years, the situation of human rights defenders has become precarious in certain States. Azerbaijani and Turkish activists have been arbitrarily arrested and, in certain instances, convicted, while Russian NGOs face impediments to their work due to the implementation of legislation on "foreign agents". Activists from certain other countries are often subject to judicial or administrative harassment and to smear campaigns in the media; this is particularly the case of those who work on sensitive issues, such as the rights of minorities or the fight against corruption and impunity of State officials.

Member States should refrain from acts of intimidation of and reprisals against human rights defenders. It is proposed that the Committee of Ministers take a number of measures to enhance the protection of human rights defenders, such as establishing a platform, similar to that created for journalists, and publicly and regularly reporting on individual cases of repression.

1. Reference to committee: Bureau decision (follow-up to Resolution 1891 (2012)), Reference 3885 of 29 June 2012.

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A. Draft resolution[2]

1. The Parliamentary Assembly recalls its Resolutions 1660 (2009) and 1891 (2012) on the situation of human rights defenders in Council of Europe member States, the Committee of Ministers' Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities, of 6 February 2008, and its Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe.

2. The Assembly pays tribute to the invaluable work of human rights defenders for the protection and promotion of human rights and fundamental values.

3. The Assembly stresses that the responsibility for protecting human rights defenders lies first and foremost with States and that in some circumstances States may also be held responsible for the action of non-State actors aimed at intimidating human rights defenders and for failing to carry out effective investigations into such action.

4. The Assembly notes that in the majority of Council of Europe member States human rights defenders are free to work in an environment conducive to the development of their activities. However, it is deeply concerned about increased reprisals against human rights defenders in certain member States, including Azerbaijan, the Russian Federation and Turkey. The Assembly is particularly worried about the situation in annexed Crimea and in other territories outside the control of State authorities. It notes that restrictive legislation on registration, funding, especially foreign funding, or on anti-terrorist measures is used to restrict human rights defenders' activities or even to arbitrarily arrest them, to bring serious criminal charges and to condemn them to long prison sentences. The Assembly condemns these practices and supports the work of human rights defenders, who put at risk their security and personal life for the promotion and protection of the rights of others, including those from the most vulnerable and oppressed groups (migrants and members of national, religious or sexual minorities) or to combat impunity of State officials, corruption and poverty.

5. The Assembly also deplores the fact that some of the most serious attacks on human rights defenders, including murders, abductions and torture, have still not been properly investigated. When human rights defenders themselves become targets of oppression, this sends a devastating message to those counting on their help.

6. The Assembly therefore calls on member States to:

6.1. refrain from any acts of intimidation of and reprisals against human rights defenders, and in particular from physical attacks, arbitrary arrests and judicial or administrative harassment;

6.2. ensure an enabling environment for the work of human rights defenders and effective protection against acts of intimidation and reprisals against them, and conduct effective investigations into any such acts in order to effectively fight against impunity;

6.3. refrain from adopting laws that impose disproportionate restrictions on defenders' activities and that limit their access to funding, including foreign funding, or repeal such legislation;

6.4. ensure that human rights defenders are included, where possible, in the legislative process concerning human rights and fundamental values;

6.5. refrain from conducting smear campaigns against human rights defenders and condemn such campaigns conducted in the media or by other non-State actors;

6.6. refrain from placing human rights organisations and their members under unlawful surveillance;

6.7. take awareness-raising measures to promote knowledge about human rights defenders' work and its recognition by society;

6.8. actively support the development of vibrant civil societies and promote rather than restrict international contacts and co-operation at this level;

6.9. show solidarity with organisations and individuals that defend human rights by designating, in their relevant foreign missions, diplomats specifically responsible for keeping in contact with human rights defenders.

2. Draft resolution adopted by the committee on 8 December 2015.

B. Draft recommendation[3]

1. Referring to its Resolution … (2016) on strengthening the protection and role of human rights defenders in Council of Europe member States, the Parliamentary Assembly recommends that the Committee of Ministers:

1.1. enhance its dialogue with human rights defenders, in particular by holding regular exchanges of views with them in the framework of the work of its subordinate bodies;

1.2. co-ordinate its work on this subject with the Council of Europe Commissioner for Human Rights, the Conference of International Non-governmental Organisations (INGOs) and the Assembly and hold regular exchanges of information with the Registry of the European Court of Human Rights on reprisals against lawyers;

1.3. establish a platform, similar to that created for journalists, for the protection of human rights defenders;

1.4. publicly and regularly, and a least once a year, report to the Assembly on cases of intimidation of human rights defenders co-operating with Council of Europe bodies, and in particular lawyers representing applicants before the European Court of Human Rights, and representatives of civil society co-operating with the Council of Europe monitoring bodies and the Commissioner for Human Rights;

1.5. reflect on other ways and means of strengthening the protection of human rights defenders against acts of intimidation and reprisals coming from State and non-State actors;

1.6. step up its co-operation on the protection of human rights defenders with other international organisations, in particular the European Union, the Organization for Security and Co-operation in Europe (OSCE) and the United Nations.

3. Draft resolution adopted by the committee on 8 December 2015.

C. Explanatory memorandum by Ms Reps, rapporteur

1. Introduction

1. My mandate as rapporteur stems from the Bureau decision to follow up on the Parliamentary Assembly's Resolution 1891 (2012) on the situation of human rights defenders in the Council of Europe member States. On 19 March 2013, the Committee on Legal Affairs and Human Rights appointed me rapporteur, following the departure from the Assembly of the previous rapporteur, Mr György Frunda (Romania, EPP/CD). The Bureau also decided that I should take into account, in my report, issues raised in two motions for a resolution: "The situation regarding human rights activists in Estonia"[4] and "The protection of independent experts co-operating with the Council of Europe".[5]

2. On 24 June 2013, the committee authorised me to undertake fact-finding visits to Armenia, Azerbaijan and Georgia. Thus, from 21 to 29 November 2013, I carried out visits to these three countries, where I met several human rights defenders and other representatives of civil society, representatives of the authorities, including ministers, fellow MPs, ombudspersons and other high officials and representatives of other international organisations (the European Union, the Organization for Security and Co-operation in Europe (OSCE) and the United Nations). The findings of these three visits were presented to the committee on 28 January 2014 in my "Information memorandum about the situation of human rights defenders in the South Caucasus region (Armenia, Azerbaijan and Georgia)".[6] On the same occasion, the committee held an exchange of views with Mr Gerald Staberock from the Organisation Mondiale contre la Torture (OMCT), which is, along with the Fédération Internationale des Ligues des Droits de l'Homme (FIDH), the co-founder of the Observatory for the Protection of Human Rights Defenders ("OBS" or "the Observatory"). On 1 October 2015, the committee held a hearing with the participation of two experts; Ms Souhayr Belhassen, Honorary President, FIDH, Paris, and Mr Andrew Anderson, Deputy Director, Front Line Defenders, The International Foundation for the Protection of Human Rights Defenders, Dublin.

3. The committee also authorised me, on 24 June 2013, to carry out a fact-finding visit to the Russian Federation, but due to the current political situation and the Russian Delegation's general refusal to receive Assembly rapporteurs, such a visit could not take place. However, thanks to numerous contacts with Russian and international non-governmental organisations (NGOs), I have been quite well-informed about the situation in this country. Moreover, the recent restrictions imposed on the activities of Russian and Azerbaijani NGOs have been followed by our committee colleague, Mr Yves Cruchten (Luxembourg, SOC), rapporteur on "How to prevent inappropriate restrictions on NGO activities in Europe?".[7]

2. Recent and current reprisals against human rights defenders in Council of Europe member States

4. My rapporteur mandate is a continuation of the work carried out by the previous rapporteurs on this subject – Mr Holger Haibach (Germany, EPP/CD)[8] and myself[9] – and focuses on the situation of "those who work for the rights of the others" – individuals or groups who act, in a peaceful way, to promote and protect human rights, whether they are lawyers, journalists, NGOs or others. The findings of the reports of my predecessor and myself of respectively 2009 and 2012 showed that in some Council of Europe member States, namely Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Russian Federation, Serbia, Turkey and Ukraine,[10] human rights defenders had been confronted with a number of specific "obstacles" or even a generally hostile environment. In my previous report, I pointed out a number of types of reprisals against them and impediments to their work: attacks on their physical and psychological integrity, arbitrary arrest and detention, unfair trials, including criminal prosecutions on trumped-up charges, administrative obstacles (in particular concerning the registration process of human rights associations), public defamation, restrictions on their freedom of movement and on access to funds as well as illicit pressure on legal representatives of applicants before the European Court of Human Rights ("the Court"). I also noted that those

4. Doc. 13427, Reference 4036 of 7 April 2014.
5. Doc. 13619, Reference 4090 of 17 November 2014.
6. AS/Jur (2014) 3 declassified.
7. Doc. 13940.
8. Situation of human rights defenders in Council of Europe member States, Doc. 11841. See also Assembly Resolution 1660 (2009).
9. Situation of human rights defenders in Council of Europe member States, Doc. 12957.
10. Ibid., paragraph 6.

working on sensitive issues such as fighting impunity for serious crimes committed by State officials, exposing corruption, or defending the rights of lesbian, gay, bisexual and transgender (LGBT) persons, migrants and members of national or ethnic minorities, were targeted particularly often.[11]

5. Since the adoption of Assembly Resolution 1891 (2012), which was based on my previous report on this subject, the situation of human rights defenders has considerably deteriorated in Azerbaijan and the Russian Federation. Concerns were also raised about the arrests of several human rights lawyers in Turkey and the wave of inspections of NGOs in Hungary[12] (the latter problem will be examined in more detail by my colleague Mr Cruchten). Although I am not in a position to consider all alleged cases of reprisals against human rights defenders in all Council of Europe member States, I will try to pinpoint the most serious ones, on the basis of information received from civil society (and in particular from the Observatory for the Protection of Human Rights Defenders) and the Council of Europe Commissioner for Human Rights. But as a matter of urgency I shall focus on recent developments in Azerbaijan, the Russian Federation and Turkey. As regards other member States, in the last two years, the Observatory for the Protection of Human Rights Defenders have reported some individual cases of reprisals against human rights defenders in Greece, the Republic of Moldova, and "the former Yugoslav Republic of Macedonia" and I will also refer to those cases.[13]

6. I also intend to reflect on how we in the Council of Europe and the Assembly can help improve the protection of human rights defenders. What national and international mechanisms could be put in place in order to allow human rights defenders to escape unfair prosecutions (in their countries of origin)? What type of assistance could be granted to families of prosecuted human rights defenders? Could intergovernmental organisations do more to ensure an "early warning" in cases of prosecution, to better exchange information or to grant international protection? Should they establish a mechanism of protection of those who co-operate with them by providing first-hand information on human rights abuses? These are examples of questions that are to be posed in this context and on which the Council of Europe should reflect without delay.

7. As regards the motion for a resolution on "The situation regarding human rights activists in Estonia", it focuses on the situation of Mr Andrei Zarenkov, who is a politician and activist of the Russian-speaking community; in January 2014, he was arrested on charges of corruption, but in March 2014 he was released. In view of the political nature of Mr Zarenkov's activities and in view of the fact that the proceedings are still pending, I do not find it appropriate to examine his situation in the context of human rights defenders. Concerning the motion on "The protection of independent experts co-operating with the Council of Europe", I will come back to this issue in the framework of my proposals concerning the improvement of the protection of human rights defenders.

3. The situation in the South Caucasus, with a special focus on Azerbaijan

8. Following my visits to the three Caucasian countries (Armenia, Azerbaijan and Georgia) in November 2013, I concluded that the situation of human rights defenders was very different in each of them. The findings of these three visits are available in my "Information memorandum about the situation of human rights defenders in the South Caucasus region (Armenia, Azerbaijan and Georgia)", which has been declassified.[14] While Armenian and Georgian activists enjoyed considerable freedom to carry out their activities (despite some incidents of intimidation,[15] especially against activists dealing with the rights of minorities and LGBT people[16]), the situation of their counterparts in Azerbaijan was very difficult, due to the ongoing crackdown on civil society. Since then, the situation has become much worse.

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11. Ibid., paragraph 7.
12. See, for example, "Commissioner expresses concern over NGOs in Hungary", 24 July 2014.
13. See, "Urgent interventions" on the website of the Observatory.
14. *Supra* footnote 6.
15. As regards Armenia, Human Rights Watch reported in September 2015 about the beating after a protest in Yerevan of a political activist, Mr Smbat Hakobian (Armenia: Activist Brutally Beaten), and Front Line Defenders (in August 2015) about judicial harassment of a human rights lawyer, Mr Tigran Hayrapetyan (Update: Armenia-Criminal case against human rights lawyer terminated). See also CommDH(2015)2 of 10 March 2015, Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to Armenia, from 5 to 9 October 2014.
16. As regards Georgia, the European Court of Human Rights has recently delivered a judgment, in which it stated that the Georgian authorities had failed to protect a 2012 march for the rights of LGBT persons in Tbilisi from the violence coming from the counter-demonstrators (violations of Article 3 taken in conjunction with Article 14 and of Article 11 taken in conjunction with Article 14 of the Convention); *Identoba and Others v. Georgia,* Application No. 73235/12, judgment of 12 May 2015.

9. As indicated in my information memorandum of January 2014, Azerbaijani human rights defenders faced fabricated charges leading to long-term imprisonment, violent repressions in detention facilities including ill-treatment, torture or death, and threats and physical attacks against themselves and members of their families. In addition, there were continuous and systematic hindrances to the enjoyment of related fundamental rights such as the rights to freedom of expression (various forms of intimidation of journalists and bloggers, limited access to information through restrictions on opposition media, provisions on defamation incompatible with international standards, etc.), freedom of assembly (various restrictions on holding of rallies) and freedom of association (due to restrictive and arbitrary NGO legislation). One of the best-known cases of repression against human rights defenders was that of Hilal Mammadov – a scientist and editor-in-chief of the *Tolyshi Sedo* newspaper (a Talysh minority newspaper) sentenced in 2012 to five years' imprisonment for drug-related crimes and spying for Iran. His predecessor, Professor Novruzali Mammadov, died in 2009, having served two and a half years of his 10-year sentence. The cases of both activists are now pending before the European Court of Human Rights.[17]

10. During the year 2014, there was an unprecedented crackdown on human rights organisations and defenders in Azerbaijan continued, despite the country's chairmanship of the Committee of Ministers between May and November.[18] Further restrictions on funding of NGOs were imposed through amendments to the existing legislation on NGOs[19] (despite the criticism of the Venice Commission)[20] and a number of human rights activists and long-term partners of the Council of Europe (in particular of the Commissioner for Human Rights and of our Assembly) were arrested on charges related to their NGO activities in the summer of 2014, shortly after Azerbaijan took over the said chairmanship.[21] They included: human rights lawyer Mr Intigam Aliyev (who had lodged over 200 applications to the European Court of Human Rights, 40 of which were successful and concerned violations of the right to free elections during the 2005 parliamentary elections, freedom of expression and assembly and cases of torture); Mr Rasul Jafarov, founder of the NGO "Human Rights Club"; Ms Leyla Yunus, Director of the Institute for Peace and Democracy, and her husband, Mr Arif Yunus, a historian, both also accused of "treason". Shortly beforehand, Mr Hasan Huseynli, leader of the NGO "Intelligent Citizen" and Mr Anar Mammadli, head of the Election Monitoring Centre and recipient of the Václav Havel Human Rights Prize 2014, and his colleague Mr Bashir Suleymanli had been convicted and sentenced to long prison terms (Hasan Huseynli and Bashir Suleymanli were, however, released respectively in October 2014 and in March 2015 following presidential pardons). In December 2014, investigative journalist Ms Khadiya Ismayilova was also arrested on various charges.[22] Despite concerns expressed by numerous international instances (including the Assembly's President Ms Anne Brasseur and our committee[23]) and NGOs, all these activists were given long prison sentences in the course of 2015[24] (although appeal proceedings concerning some of them are still pending). Their trials were condemned by international observers as failing to meet the standards of the right to a fair trial (with the accused being held in cages during the hearings)[25] and most of these convictions and arrests are now being examined by the European Court of Human Rights. The Commissioner for Human Rights has intervened before the European Court of Human Rights as a third party in the cases of Ms and Mr Yunus, Mr Jafarov, Mr Mammadli, Mr Aliyev and Mr Hilal Mammadov, highlighting systematic deficiencies in the area of freedom of expression and association in Azerbaijan.[26] In addition, the Committee of Ministers has followed the situation of Mr Intigam Aliyev in the context of the supervision of the cases in which he represented the applicants before the Court (namely the group of cases *Mahmudov and Agazade* and *Fatullayev,* concerning freedom of expression); at its 1230th meeting in June 2015, the Committee of Ministers "strongly deplored" the lack of information on the reasons for his conviction.[27]

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17. For more information, see, for example, the report by the OBS, Azerbaijan. Crackdown on Human Rights Defenders Intensifies as Baku Games Approach, April 2015, p.29
18. I trust that these issues will be further examined by our committee colleague Mr Pedro Agramunt (Spain, EPP/CD) in his report on "Azerbaijan's Chairmanship of the Council of Europe: what follow-up on respect of human rights?".
19. See extracts from the hearing on "How to prevent inappropriate restrictions on NGO activities in Europe", held during our committee meeting in Madrid on 30 October 2014, AS/Jur (2014) PV 07 declassified, 12 December 2014.
20. European Commission for Democracy through Law (Venice Commission), CDL-AD(2014)043 of 15 December 2014.
21. See statement by our committee of 30 September 2014.
22. For more information on the above-mentioned defenders, see report of the OBS, *Supra* footnote 17.
23. See, in particular, the President's statement of 5 December 2014, "Deep concern at the detention of Azerbaijani journalist Khadija Ismayilova", and the statements adopted by our committee on 21 and 23 April 2015 on the convictions of Rasul Jafarov and Intigam Aliyev.
24. For a detailed case study of these convictions, see the report by Freedom Now and Human Rights House Network, Breaking Point in Azerbaijan, May 2015.
25. See, for example, the report by the OBS, Azerbaijan. If you can't beat them, jail them: the case of human rights defender Rasul Jafarov, June 2015.
26. See list of third party interventions at: www.coe.int/en/web/commissioner/third-party-interventions.

11. Mr Emin Huseynov, a journalist and activist advocating freedom of expression as well as former head of the Institute for Reporters' Freedom and Safety (IRFS), went into hiding in the Swiss embassy in Baku in August 2014; in June 2015, he was transferred to Switzerland, but has been recently deprived of his Azerbaijani citizenship. Moreover, in April 2014, the authorities arrested journalist Mr Rauf Mirqadirov, who had written many articles on Azerbaijan's relations with Russia and Turkey and on the conflict in the Nagorno-Karabakh region and had co-operated with Ms Leyla Yunus on improving a dialogue between their country and Armenia. He is accused of "high treason" for allegedly "spying" for Armenia.[28] His trial started only at the beginning of November 2015. Finally, one should not forget in this context the fate of two opposition activists – Mr Ilgar Mammadov[29] and Mr Tofig Yagublu (also a journalist),[30] whose detention was found to be contrary to Article 5 of the European Convention on Human Rights (ETS No. 5, "the Convention") by the European Court of Human Rights.

12. Messrs Aliyev, Mammadli, Jafarov, Hilal Mammadov, Ilgar Mammadov, Yagublu, the Yunus spouses and Ms Ismayilova are considered as "prisoners of conscience" by Amnesty International.[31] In its Resolution 2062 (2015) on the functioning of democratic institutions in Azerbaijan, the Assembly explicitly referred to the reprisals against Messrs Aliyev, Mammadli, Jafarov, Mirgadirov, the Yunus spouses and Ms Ismayilova (paragraph 10) and called on Azerbaijan to "put an end to systemic repression of human rights defenders, the media and those critical of the government, including politically motivated prosecutions; allow for effective judicial review of such attempts; and ensure that the overall climate can become conducive to political pluralism ahead of the forthcoming elections in November 2015" (paragraph 11.1).[32]

13. Despite the adoption of the said Assembly resolution, reprisals against activists continued. On 8 August 2015, Mr Rasim Aliyev, a journalist and chairperson of the Institute for Reporters' Freedom and Safety, was severely beaten and died in hospital the following day. Although his attackers seemed to be connected to a football player whom he had criticised on Facebook, he had reported receiving threats prior to, and unrelated to, the incident with the footballer and the police had failed to provide him with protection. According to some sources, he did not receive proper health care in the hospital, despite his severe injuries, and no effective investigation was conducted into the causes of his death.[33]

14. Allegations about inadequate health conditions in prison have been widely reported,[34] especially with respect to the situation of Mr Mirqaridov[35] and the Yunus spouses. Ms Leyla Yunus suffers from sight problems, diabetes, hepatitis C and liver deterioration and her husband from high blood pressure; he fainted at the court hearing on 3 August 2015.[36] On 12 November 2015, Mr Arif Yunus was released on bail. Since 6 November 2015, he had been on a hunger strike in order to protest against the failure to provide adequate medical care to his wife. In October 2015, various media reported that Mr Ilgar Mammadov was severely beaten in prison.[37]

15. Moreover, repressions focused also on the lawyers representing the detained activists. For example, in July 2015, Mr Khalid Baghirov, who represented the Yunus couple, Khadiya Ismayilova, Rasul Jafarov and Ilgar Mammadov,[38] was disbarred by a court decision for allegedly violating professional ethics.[39] In November 2014, the third lawyer of Leyla Yunus (after Khalid Baghirov and Javad Javadov, who was

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27. Item 4 of the decision. See the website of the Department for the Execution of the European Court of Human Rights Judgments, Pending cases: Fatullayev v. Azerbaijan.
28. See report of the OBS, *Supra* footnote 17. See also Human Rights Watch, Advocacy Guide. A call for Council of Europe action on the human rights situation in Azerbaijan, June 2015.
29. *Ilgar Mammadov v. Azerbaijan,* Application No. 15172/13, judgment of 22 May 2014. The Court found amongst others that the detention of the applicant had been applied for other reasons than "bringing him before a competent legal authority on reasonable suspicion of having committed an offence, as prescribed by Article 5.1.*c* of the Convention" and found a violation of Article 18 in conjunction with Article 5 of the Convention. The case is now pending before the Committee of Ministers, which supervises the implementation of this judgment and has asked the Azerbaijani authorities for the immediate release of the applicant.
30. *Yagublu v. Azerbaijan,* Application No. 31709/13, judgment of 5 November 2015 (not final yet).
31. See in particular Amnesty International report, Azerbaijan: the Repression Games, June 2015, p. 5.
32. See report of the Monitoring Committee, Doc. 13801 (co-rapporteurs: Mr Pedro Agramunt (Spain, EPP/CD) and Mr Tadeusz Iwinski (Poland, SOC)).
33. Sport for Rights, joint statement.
34. See press release, OMCT, 10 November 2015, Azerbaijan: UN Committee against Torture to intervene to stop torture and save lives of anti-torture activists.
35. OBS, Urgent appeal of 28 October 2015.
36. OBS, Urgent appeal of 10 November 2015.
37. http://contact.az/docs/2015/Politics/101900133499en.htm#.Vlx_d5V0xaQ.
38. Human Rights House (HRH) Network, Human Rights Lawyers at Risk, 10 September 2015, p. 20.
39. FIDH, Azerbaijan: Judicial harassment of Mr Khalid Bagirov, urgent appeal of 17 July 2015.

prevented from representing her in October 2014[40]) was found guilty of defamation following a lawsuit lodged by her cell-mate Ms Nuriya Huseynova, after he had denounced the physical pressure exercised by her on Ms Yunus. After that, he was expelled from the Bar association by a decision of the Bar Presidium of July 2015, which he only found out through the media.[41] Interestingly, a few years earlier, another lawyer, Mr Elchin Namazov, who had defended opposition activists, was expelled from the Bar by a court decision of September 2011.[42]

16. When arresting Intigam Aliyev in August 2014, the authorities conducted a search of his house and seized the files of over 100 cases in which he was representing his clients before the European Court of Human Rights. On 22 October 2015, the Court found in a case of one of the applicants represented by him that "the very fact that the applicant and his lawyer were deprived of access to their copy of the case file for a lengthy period of time, without any justification and without any compensatory measures, constituted in itself an undue interference with the integrity of the proceedings and a serious hindrance to the effective exercise of the applicant's right of individual petition";[43] there was therefore a breach of Article 34 of the Convention. In addition, a case lodged by Mr Intigam Aliyev himself concerning the seizure of his files is pending before the Court.[44]

17. It should also be noted that some representatives of international NGOs were not allowed to enter the territory of Azerbaijan; for example, Mr Giorgi Gogia (from Human Rights Watch), who travelled to attend the trials of some of the above-mentioned human rights defenders, was stopped at Baku airport on 31 March 2015.[45] In early October 2015, shortly before the parliamentary elections in Azerbaijan, two Amnesty International members were barred from entering the country.[46]

4. The situation of human rights defenders in the Russian Federation

18. In the Russian Federation, the environment in which human rights defenders carry out their work has considerably deteriorated following the adoption on 13 July 2012 of the so-called "foreign agent" legislation (also criticised by the Venice Commission).[47] Over 100 organisations, including those dealing with the protection of human rights,[48] have been included in the register of "foreign agents" against their will and inspections have been carried out since the beginning of 2013.[49] Some of these NGOs have been forced to close down. A complaint concerning the implementation of this law is pending before the European Court of Human Rights.[50] In addition, a new piece of legislation targeting foreign as well as international NGOs – the law on "undesirable organisations" – was adopted on 19 May 2015 and is now being scrutinised by the Venice Commission at our committee's request. The content of these laws as well as their implementation are analysed in detail by our committee colleague, Mr Cruchten, in his report on "How to prevent inappropriate restrictions on NGOs activities in Europe?".

19. There have also been other cases of administrative or judicial harassment and attacks against activists – for example against Ms Nadejda Kutepova, Head of the ONG "Planet of Hopes", fighting against nuclear power plants and advocating the revision of the system of "closed administrative units" (CATU).[51] Court proceedings on the basis of accusations of "false registration" of migrants have been instituted against Ms Tatyana Kotlyar, Chair of the Kaluga Movement for Human Rights defending the rights of migrants and the Roma community.[52] NGOs also reported pressure from tax inspection authorities on Ms Ludmila Kuzmina, leader of the Samara's regional organisation GOLOS (an election monitoring organisation which has been included in the list of "foreign agents"), who was even threatened with having to undergo a psychiatric examination.[53] Moreover, in April 2015, some observers from GOLOS were physically attacked by unknown

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40. FIDH, Azerbaijan: Ongoing judicial harassments and deprivation of her lawyers against Ms Leyla Yunus, urgent appeal of 6 November 2014.
41. *Supra* footnote 38, p. 19.
42. Ibid., p. 22.
43. *Annagi Hajibeyli v. Azerbaijan,* Application No. 2204/11, judgment of 22 October 2015 (not yet final), paragraph 78.
44. Application No. 68672/14.
45. Human Rights Watch, G. Gogia, Dispatches: 31 Hours Marooned at the Azerbaijan's Airport, 31 March 2015.
46. Amnesty International, N. Nozadze, Azerbaijan closes its doors, 8 October 2015.
47. Venice Commission, CDL-AD(2014)025 of 27 June 2014.
48. HRW, Russia: Government against Rights Groups, 10 November 2015.
49. See, for example, the opinion of the Commissioner for Human Rights, CommDH(2015)17, 9 July 2015.
50. *Ecodefence and Others v. Russia*, Application No. 9988/13.
51. 2015 OSCE Human Dimension Implementation Meeting, written contribution of FIDH and OMCT within the framework of their joint programme OBS, 23 September 2015, p. 4.
52. Frontline Defenders, Update: Russia – Upcoming trial of a migrant rights defender Tatiana Kotlyar, 8 October 2015.

individuals in a village in the Moscow region.[54] In November 2014, lawyer Arkady Chaplygin, who was working on several cases related to election fraud, was attacked and beaten by unidentified individuals in his workplace.[55]

20. LGBT and environmental activists seem to be targeted particularly frequently. The former are prevented from organising events both by the public authorities[56] and private parties (for example by hotels in which they planned to organise conferences[57]). As regards the latter, besides the above-mentioned case of Nadejda Kutepova, one should not forget about the case of 30 Greenpeace activists (from various countries) who were arrested in September 2013 for their participation in a peaceful protest against oil drilling in the Arctic on Gazprom's Prirazlomnaya offshore platform, detained for two months and accused of "hooliganism",[58] or the allegedly arbitrary detention of Mr Evgeny Vitishko, member of the Environmental Watch on North Caucasus protesting against the 2014 Olympic Games in Sochi.[59]

21. As reported by NGOs, human rights defenders and NGOs are often subject to smear campaigns in the media (see, for example, the case of Ms Kutepova) and there is very little knowledge among the general population in Russia about the role and activities of NGOs. Labelling NGOs receiving foreign funding as "foreign agents", with a highly negative connotation of being a "spy", can only generate a more negative attitude towards NGOs and their activities concerning the protection and promotion of human rights and prevent them from finding new, domestic fundraising opportunities.

22. Moreover, the situation of human rights defenders in the North Caucasus raises particular concerns, as discussed during the hearings held by our committee in Strasbourg on 25 June 2013 and in Yerevan (Armenia) on 20 May 2015, in the framework of the preparation of the report by our colleague Mr Michael McNamara (Ireland, SOC) on "Human Rights in the North Caucasus: what follow-up Resolution 1738 (2010)?". I trust that this specific issue will be taken into account in his final report. It should also be pointed out that in June 2015 the office of the Joint Mobile Group, a group of NGOs supporting victims of the conflict in North Caucasus, in Grozny, was burnt and plundered by unidentified persons, following which the authorities did not conduct any effective investigation. The Committee against Torture, which is a member of this group and had been awarded the Assembly's Human Rights Prize in 2011, was registered on the list of "foreign agents". As a consequence, it decided to close down.[60] Very recently, on 6 November 2015, searches were conducted in the office and house of Mr Magomed Mutsolgov, head of the NGO "MASHR" and prominent human rights defender in Ingushetia, because he allegedly "discredited the Ingushetian authorities in the interests of the USA, Georgia, Ukraine and Syria".[61] It should also be pointed out that the murder of Ms Natalia Estemirova, leading researcher in the Grozny office of the Human Rights Centre "Memorial", found shot dead on 15 July 2009, has still not been elucidated.[62] Moreover, the Investigative Committee of the Russian Federation initiated two criminal cases against Mr Murad Musayev, a lawyer who defended the Chechen accused of the murder of a Russian colonel, on suspicion of witness tampering and interfering with the court's work.[63]

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53. European Platform for Democratic Elections, Psychiatry instrumentalised to silence election observers in the Russian Federation, 4 May 2015.
54. Ibid.
55. HRH report, *Supra* footnote 17, pp. 18-19.
56. See, in particular, the European Court of Human Rights judgment in the case of *Alekseyev v. Russia,* Application No. 4916/07, judgment of 21 October 2010, concerning violation of the freedom of assembly and the state of its implementation in the report of Mr Klaas de Vries (Netherlands, SOC) on "The implementation of judgments of the European Court of Human Rights", Doc. 13864 and Addendum.
57. OBS, Russian Federation: Discriminatory acts, including violations of the right to freedom of association and assembly, against members of the Russian LGBT Network, 21 March 2014.
58. OBS, Russian Federation: Release environmental activists now!, 4 October 2013.
59. OBS, Russian Federation: Arbitrary detention of environmental rights activist Mr Evgeny Vitishko, 21 February 2014.
60. See our committee's statement of 27 January 2015, condemning the inclusion on the list of "foreign agents" of the Committee against Torture and the Chairperson's statement of 16 December 2014 concerning the previous harassment of this organisation.
61. Front Line Defenders, Russia: Raid on home and office of human rights defender Magomed Mutsolgov, 9 November 2015.
62. OBS, Russian Federation: Five years later, human rights defender Natalia Estemirova's murderers still at large, 14 July 2014.
63. HRH, *Supra* footnote 17, p. 20.

5. The situation of human rights defenders in Turkey

23. In Turkey, many human rights activists and lawyers have been targeted on the ground of anti-terrorist legislation (Law 3713 of April 1991).This is the case in particular for members of the Human Rights Association (İHD). For example, Mr Muharrem Erbey, a human rights lawyer, Vice-President the İHD and former President of its branch office in Diyarbakır and recipient of the Ludovic-Trarieux International Human Rights Prize for 2012, was arrested on 24 December 2009 following an "anti-terrorism" police operation in Turkey.[64] He was accused of "being a member of an illegal organisation" (i.e. the Kurdish Communities Union – KCK, said to be the "urban branch" of the armed and outlawed Kurdistan Workers Party – PKK)[65] and was released only on 12 April 2014, after 1 570 days in detention. Moreover, another activist of the İHD, Mr Emirhan Uysal, and lawyer Deniz Surgut have been accused of the same charges and of "having transported and commercialised weapons".[66] Furthermore, during a police operation launched on 30 September 2015 against Kurdish political parties and NGOs in Siirt province, three İHD activists, Messrs Zana Aksu, Azat Taş and Mirza Ekin, were arrested. During the illegal raid, the police confiscated books, reports and other documents, as well as computers belonging to the İHD. On 3 October 2015, the Siirt 1 Peace Court provisionally released Messrs Zana Aksu and Azat Taş pending trial, while Mr Mirza Ekin was placed in detention and transferred to the Siirt E Type Closed Prison pending trial.[67]

24. On 28 November 2015, Mr Tahir Elçi, head of the Diyarbakir Bar Association and an eminent Kurdish lawyer and human rights defender, was shot dead in Diyarbakir (south-east of Turkey) in an exchange of gunfire between police and unidentified gunmen. A few weeks before his death, on 16 October 2015, a criminal investigation for "Making propaganda for a terrorist organisation" had been opened against him, following his statement on national television that the PKK was not a terrorist organisation but an armed political movement enjoying popular support. Amnesty International viewed the case as an overtly political attack on Tahir Elçi's right to freedom of expression, targeting him not only for his televised statement but also for his work as a lawyer and human rights defender.[68]

25. Moreover, the above-mentioned operations were preceded on 22 November 2011 by a wave of arrests of 47 lawyers who had been involved in the legal representation of Mr Abdullah Őcalan, the leader of PKK. In April 2012, 46 of them were indicted for "belonging to a criminal organisation", on the basis of recordings of the discussions they had had with him in his detention centre, in violation of the lawyer-client privilege. Some of them have been released, but the criminal proceedings are still pending.[69]

26. Another shocking case is that of the judicial harassment of Ms Pinar Selek, a writer and academic known for her work on the rights of vulnerable Turkish communities. In 1998, she was accused of causing a bomb explosion in Istanbul's Egyptian bazaar and of being a member of the PKK. She was therefore detained for two years and allegedly subjected to torture and ill-treatment, until she was provisionally released in 2000. Although the Istanbul Serious Crimes Court No. 12 acquitted her on three occasions (in 2006, 2008 and 2011), the Prosecutor repeatedly appealed those acquittals before the Court of Cassation, which quashed the first two acquittal decisions and instructed the lower court to convict Ms Selek. In January 2013, the Istanbul Serious Crimes Court No. 12 deferred to the Court of Cassation's request and sentenced Ms Selek to life imprisonment. On 11 June 2014, the Court of Cassation decided to overturn the conviction on procedural grounds and, on 19 December 2014, Ms Selek was finally acquitted by the Istanbul High Criminal Court No. 15.[70] However, the Prosecutor has again appealed against this decision.

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64. OBS, Turkey: Muharrem Erbey released after 1 570 days in pre-trial detention, 14 April 2014.
65. According to the FIDH, mainly in relation to their human rights activities which included: participation in the preparations of a workshop organised in Diyarbakır in September 2009 to discuss constitutional amendments aimed at ensuring a greater respect of minorities' rights; a statement on the rights of the Kurdish minority in Turkey before the parliaments of Belgium, Sweden and the United Kingdom; participation to the "Kurdish Film Festival" in Italy in the summer of 2009. According to the Observatory, the judicial process of Mr Erbey has been marred by significant irregularities and the fundamental rights of the accused have been repeatedly violated.
66. *Supra* footnote 52, p. 5.
67. OBS, Turkey: Police raid of the offices of the Siirt branch of the Human Rights Association (IHD) and arbitrary detention of Messrs Zana Aksu, Azat Tas and Mirza Ekin, urgent appeal of 1 October 2015 and Turkey: Provisional release of Messrs Zana Aksu and Azat Tas/ Ongoing arbitrary detention of Mr Mirza Ekin, urgent appeal of 6 October 2015.
68. Amnesty International, Turkey: End judicial harassment of lawyer Tahir Elçi, public statement of 21 October 2015. See also Human Rights Watch, Turkey: Human Rights Lawyer Murdered, 28 November 2015.
69. OBS, Turkey: Continued judicial harassment of 47 lawyers, one journalist, one legal secretary and two drivers, urgent appeal of 20 March 2014.
70. OMCT, Turkey: Justice at last! Pınar Selek acquitted after 16 years of judicial harassment, 19 December 2014.

6. The situation in other member States of the Council of Europe

27. Human rights activists also face problems in other Council of Europe member States. In particular, concerns have been raised as regards their situation in the Transnistrian region of the Republic of Moldova, where, in 2013-2014, certain human rights activists were persecuted by the administration (for example Mr Stepan Popovschi), accused of inciting hatred towards the authorities (for example Mr Nicolae Buceatchi and Ms Luiza Dorosenco) or even physically attacked (for example lawyer Vladimir Maimust).[71] Promo-lex, a human rights organisation working for the development of NGOs in this region, was described as "subversive" by the Transnistrian *de facto* administration. According to the FIDH and OMCT, in 2014, the local *de facto* parliament launched a draft law on "foreign agents" that specifically targeted civil society organisations working on election monitoring and receiving funding from abroad. The draft bill was adopted in the first plenary reading back in November 2014 but was subsequently put on hold.[72] Concerns were also raised regarding the access of human rights defenders to this region, following the ban imposed on Mr Alexandru Zubco.[73]

28. Access to post-conflict territories for human rights organisations is another issue which has been invoked by civil society representatives with respect to Ukraine: Crimea and eastern Ukraine.[74] Following his visits to the country, the Commissioner for Human Rights noted several incidents of intimidation and harassment of human rights defenders in Crimea[75] and he pointed out the limited access of major humanitarian organisations to the Donetsk and Luhansk regions.[76]

29. Besides the problems mentioned in respect of Armenia, Georgia and the Russian Federation, attacks and acts of harassment against activists or lawyers defending the rights of minorities, and in particular LGBT persons' rights, have also been reported in other member States, in particular in Greece,[77] Serbia[78] and "the former Yugoslav Republic of Macedonia".[79]

30. In Hungary, certain NGOS have been subjected to a campaign of defamation; for example, in the spring of 2014, the Prime Minister himself accused the NGOs receiving funds from the European Economic Area (EEA) States of being "political activists", which was later refuted by the Norwegian Minister of Foreign Affairs. Some NGOs receiving such funds and dealing with, amongst others, human rights, the rights of women or combating corruption, were subjected to relentless inspections, although according to the auditors of the Financial Mechanism Office (running the EEA grants), the NGO funding programme was implemented properly in Hungary.[80]

31. Another issue of concern is that of electronic surveillance, in particular by the Government of the United Kingdom,[81] over the activities of human rights organisations such as Amnesty International or Human Rights Watch, as revealed by Mr Edward Snowden at the hearing which took place before our committee on 8 April 2014, in the framework of the preparation of the report by Mr Pieter Omtzigt (Netherlands, EPP/CD).[82]

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71. FIDH, Transnistria: concern on the situation of human rights defenders, joint open letter of 12 December 2014.
72. *Supra* footnote 52, p. 4.
73. *Supra* footnote 71.
74. See, for example, Crimea Human Rights Group, Monitoring review of the human rights situation in Crimea, September 2015, p. 11.
75. CommDH(2014)19 of 27 October 2014, Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit in Kyiv, Moscow and Crimea from 7 to 12 September 2014, paragra ph 42.
76. CommDH(2015)23 of 3 November 2015, Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Ukraine from 29 June to 3 July 2015, paragraphs 48-52.
77. OBS, Greece: Police harassment of lawyer Electra Koutra, urgent intervention of 13 June 2013, and Greece: Ongoing judicial harassment against human rights defender Mr Panayote Dimitras, urgent intervention of 30 January 2014.
78. Front Line Defenders, Dispatches 2014, p. 10; CommDH(2015)14 of 8 July 2015, Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Serbia from 16 to 20 March 2015, p. 19.
79. OBS, Macedonia: Open Letter: Concern on the situation of the LGBTI community in the Former Yugoslav Republic of Macedonia, open letter of 11 November 2014.
80. *Supra* footnote 52, p. 4.
81. Front Line Defenders, UK Government spying on Amnesty International threatens human rights defenders.
82. Doc. 13734.

7. The recent work of the Council of Europe, and in particular of the Commissioner for Human Rights

32. Before further exploring ways to improve the protection of human rights defenders, I intend to look at the recent activities of the Council of Europe and other international instances devoted to this issue. Within the Council of Europe, the Committee of Ministers recently held a thematic debate on "Freedom of assembly and association: current challenges and the response from the Council of Europe" and I hope that the outcome of this debate will soon be made public.

33. In April 2015, the Council of Europe launched an Internet platform aimed at protecting journalism and promoting the safety of journalists. Via the platform, five partner organisations – Article 19, the Association of European Journalists, the European Federation of Journalists, the International Federation of Journalists and Reporters Without Borders – issue alerts concerning threats to media freedom and bring them to the attention of the Council of Europe's institutions. So far,[83] 101 alerts concerning 25 member States have been posted: 31 concerned physical attacks against journalists and 11 killings.

34. The Assembly and our committee have also dealt with the issue of whistle-blowers, who might sometimes also be human rights defenders. My committee colleague Mr Pieter Omtzigt has recently examined this issue in detail.[84]

35. Much is being done in this respect by the Commissioner for Human Rights and in its Resolution 1891 (2012), the Assembly strongly supported his work.[85] Although he has no specific mandate to follow individual cases, the Commissioner expressed concerns regarding attacks on individual human rights defenders in various member States on several occasions, during his country visits or in his written comments, reports and other documents. Since the adoption of this resolution, several round tables with human rights defenders have been organised by the Commissioner for Human Rights.[86] On 5 October 2012, the Office of the Commissioner organised a round table in Paris on the protection of migrant rights in Europe with the participation of human rights defenders from 15 member States. On 19 December 2012, the Commissioner published a "Human Rights Comment" on "Restrictions on defenders of migrants' rights should stop", in which he raised concerns about the defamation, threats, verbal and physical attacks, administrative sanctions and judicial harassment used to deter defenders from working with migrants. He pointed out that human rights defenders should have access to places where migrants were deprived of their liberty, encouraged national human rights institutions to support their work and Council of Europe member States to adhere to the letter and spirit of the 1998 United Nations Declaration on human rights defenders. He also urged national authorities to end impunity for violations against defenders who protect migrants, by carrying out effective investigations into all such incidents.

36. On 30 and 31 May 2013, I took part in another round table organised in Kyiv (Ukraine) by the Office of the Commissioner – on human rights and the security sector. About 20 defenders from seven countries (Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova, the Russian Federation and Ukraine) participated in the event, which was aimed at assessing human rights issues, including abuses, stemming from the work of the security sector (for instance in the framework of counter-terrorism activities or if political opponents and civil society actors are targeted). Human rights defenders from certain countries (mainly Azerbaijan and the Russian Federation) indicated that their working environment had deteriorated, mainly due to the adoption of more restrictive legislation, increased harassment or problems in accessing foreign funding.[87]

37. On 22 September 2015, the Commissioner for Human Rights issued a comment entitled "Remove obstacles to the work of women's rights defenders", following a round table organised by his Office in Vilnius (Lithuania) in July 2015. In his human rights comment, the Commissioner enumerated numerous challenges that women's rights defenders encounter in their work: restrictive legislation and repressive practices against civil society (Azerbaijan and the Russian Federation); smear campaigns, audit and inspections against several women's rights organisations benefiting from the EEA NGO Fund (Hungary); labelling as "gender ideology promoters" of groups challenging patriarchal values and sexist stereotypes (for example in Armenia, where

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83. As at 30 November 2015.
84. Improving the protection of whistle-blowers, Doc. 13791; see also Assembly Resolution 2060 (2015) and Resolution 2073 (2015).
85. See paragraph 7 of the resolution.
86. For more information on his activities on human rights defenders, see: www.coe.int/en/web/commissioner/human-rights-defenders.
87. See also CommDH(2013)17 of 17 September 2013, Human rights and the security sector. Report of the round table with human rights defenders, organised by the Office of the Council of Europe Commissioner for Human Rights (Kyiv, 30-31 May 2013).

women's rights organisations and defenders were violently targeted in 2013 during the discussion and adoption of the Law on Equal Rights and Equal Opportunities between Women and Men); defamation campaigns or other measures of intimidation (for example in Ireland, against groups working on abortion issues); impunity for such actions; risk of experiencing gender violence, including through the increasing use of hate speech (for example against members of the NGO Women in Black in Serbia); limited access to funding due to austerity measures (for example for shelters for women victims of violence run by NGOs); not being consulted on relevant policies and laws by the authorities or not being considered as equals by fellow human rights defenders. Moreover, according to the Commissioner, "in some countries, independent activists feel overshadowed by NGOs which are close to the government – the so-called "GONGOs" (Government-Organised Non-Governmental Organisations)". I do think, however, that this remark refers to all independent human rights defenders and not only to women activists. The Commissioner for Human Rights also proposed specific measures that could be taken to address the issue of threats to the work of women's rights defenders at international and national level, such as the ratification and implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210, "Istanbul Convention") and the reaffirmation and implementation of national and international obligations to end discrimination and human rights violations based on gender, by all Council of Europe member States.

8. The situation of lawyers before the European Court of Human Rights

38. As regards the situation of lawyers representing applicants before the European Court of Human Rights, States Parties are bound not to hinder the exercise of the right of individual application (Article 34 of the Convention[88]) and to co-operate with the Court (Article 38). On the basis of Rule 39.1 of the Rules of Court, the Court can "indicate to the parties any interim measure which they consider should be adopted in the interests of the parties or of the proper conduct of the proceedings", and according to the case law of the Court, non-observance of such an interim measure may amount to a violation of Article 34 of the Convention.[89] Interim measures are mainly applied by the Court in cases concerning expulsion of applicants; however, the Court also made such indications in cases concerning problems with the legal representation of applicants.[90] These procedures, however, do not seem to be efficient and speedy enough when it comes to serious intimidation of applicants' lawyers.

39. As regards the implementation of the Court's judgments finding violations, according to the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, applicants and their lawyers can submit to the Committee of Ministers written communications concerning individual measures and the payment of just satisfaction (Rule 9.1) and NGOs can make submissions also on general measures. In practice, NGOs communicate such information more and more often.

9. The recent work of the European Union, the OSCE and the United Nations

40. The European Union adopted its Guidelines on the Protection of Human Rights Defenders in 2004 and updated them in 2008; they apply only to non-EU countries. The European Union provides support for human rights defenders in those countries through different actions. EU diplomats meet regularly with human rights defenders, visit detained activists, monitor their trials, and lobby for their protection, by issuing statements on individual cases. The European Union and its member States' diplomats regularly meet with representatives of civil society and raise individual cases in bilateral or multilateral forums. Moreover, the European Instrument for Democracy and Human Rights (EIDHR) provides dedicated financial assistance to organisations providing support to the work of human rights activists. According to the EU Annual Report on Human Rights and Democracy in the World, in 2014, 15 new projects, worth more than €15 million, were launched in support of human rights defenders and added to the 150 existing projects in this area (of a total value of €120 million).[91] The European Union also provides direct, urgent financial assistance to human rights defenders at risk, through the EIDHR emergency fund for human rights defenders.[92] The latter fund allows the European

88. For example, in *Ryabov v. Russia,* Application No. 3896/04, judgment of 31 January 2008, paragraph 57, the Court stressed that the applicant should be able to communicate freely with the Convention organs without being subjected of any form of pressure from the authorities.
89. *Mamatkulov and Askarov v. Turkey*, Applications Nos. 46827/99 and 46951/99, judgment of 4 February 2005 (Grand Chamber).
90. *Öcalan v. Turkey*, Application No. 46221/99, judgment of 12 May 2005, and *X. v. Croatia*, Application No. 11223/04, judgment of 17 July 2008.
91. EU Annual Report on Human Rights and Democracy in the World in 2014, p. 63.
92. http://eeas.europa.eu/human_rights/defenders/index_en.htm.

Commission to give direct small grants of up to €10 000 per grant to human rights defenders, be it individuals or organisations, who are in need of urgent support. By the end of 2014, over 220 grants of a total value of over €1.6 million had been disbursed.[93] The European Parliament supports the work of defenders, namely through the activities of its subcommittee on human rights and the awarding of the Sakharov Prize.

41. In the last few years, the OSCE has also paid increased attention to the work of human rights defenders. Following consultations with numerous stakeholders, including the Council of Europe and human rights defenders from different countries, in June 2014, the OSCE/ODIHR published its "Guidelines on the Protection of Human Rights Defenders". On 10 and 11 June 2014, a joint Conference organised by the Swiss Chairmanship and the OSCE/ODIHR entitled "The OSCE and Human Rights Defenders: The Budapest Document 20 Years On" took place in Bern. During this conference, the OSCE/ODIHR presented its Guidelines. The Council of Europe was represented by the Commissioner for Human Rights and by our committee colleague Mr Boriss Cilevičs (Latvia, SOC), who kindly replaced me on that occasion. The above-mentioned Guidelines are based on OSCE commitments and universally recognised human rights standards; they do not set new standards or seek to create "special" rights for human rights defenders but concentrate on the protection of the human rights of those who are at risk as a result of their human rights work. Furthermore, in December 2014, the OSCE/ODIHR jointly with the Venice Commission published "Guidelines on Freedom of Association", addressed both to legislators tasked with drafting laws which regulate or affect associations and to associations, members of associations and human rights defenders, to support advocacy in this area. In addition, the OSCE/ODIHR regularly invites NGO representatives to its annual Human Dimension Implementation Meetings.

42. In the United Nations, the Special Rapporteur on the situation of human rights defenders, Mr Michel Forst, has a special mandate to follow this subject. On 28 December 2014, he published his report on this issue, for the 28th United Nations Human Rights Council session.[94] He recommended, amongst others, that States should repeal legislative obstacles to the work of human rights defenders and combat impunity and that national human rights institutions should be more engaged in protecting human rights defenders who were in danger. Moreover, on 16 June 2015, during the 29th United Nations Human Rights Council session in Geneva, a public side event on "Attacks and reprisals against human rights defenders: enhancing accountability for violations" took place. At the event, United Nations and regional intergovernmental mechanisms assessed the situation of human rights defenders and explained how they addressed obstacles to the defenders' work, also through joint initiatives. They noted with concern the shrinking space for the work of human rights activists and the persisting impunity for violations targeting human rights defenders as well as reprisals against human rights defenders who co-operated with intergovernmental organisations.[95] In his note of 30 July 2015 to the Secretary General, the Special Rapporteur on the situation of human rights defenders expressed concerns about the trends alluded in to in his reports, especially with regard to the most exposed groups of defenders: women human rights defenders, defenders of LGBT rights, of rights relating to land, defence of the environment and corporate responsibility, rights of minorities and refugees, combating corruption and impunity, those working in countries at war or beset by internal conflict, journalists and bloggers as well as human rights lawyers. He also concluded that defending and promoting human rights had become "an extraordinarily dangerous activity" in very many countries and stressed the importance of human rights education in order to ensure that society recognises the work of defenders.[96]

43. Interestingly, within the United Nations there is a system of reporting on reprisals against those co-operating with this organisation and its representatives. As established by the Human Rights Council Resolution 12/2, the Secretary General (with the help of the Office of the High Commissioner for Human Rights) annually reports to the Human Rights Council about alleged reprisals against persons referred to in paragraph 1 of the above-mentioned resolution.[97] This concerns those who: "(a) seek to co-operate or have co-operated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them; (b) avail or have availed themselves of procedures established under the auspices of the United Nations for the protection of human rights and fundamental freedoms, and all those who have provided legal or other assistance to them for this purpose; (c) submit or have submitted communications under procedures established by human rights instruments, and all those who have provided legal or other assistance to them for this purpose; (d) are relatives of victims of human rights violations or of those who have provided legal or other assistance to victims."[98]

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93. Ibid.
94. A/HRC/28/63.
95. CommDH(2015)19, 28 August 2015, 2nd quarterly activity report 2015 by Nils Muižnieks, Council of Europe Commissioner for Human Rights (1 April to 30 June 2015).
96. A/70/217, paragraphs 90-91.
97. A/HRC/RES/12/2,12 October 2009, item 8.

10. NGOs helping human rights defenders at risk: the example of Front Line Defenders

44. During the hearing before the committee on 1 October 2015, Mr Anderson from Frontline Defenders presented ways in which his organisation supports human rights defenders. Front Line Defenders operates a Security Grants Programme, aimed at providing timely and efficient financial assistance to defenders at risk. In 2014, the largest number of the total of 48 emergency and security grants (for amounts up to €7 500 each) awarded in Council of Europe member States (out of 411 given globally) were given to human rights defenders and their families in Azerbaijan, the Russian Federation and Ukraine. They were used, for example, to install security equipment in the homes or offices of human rights defenders. A CCTV camera system and secure doors may well have saved the lives of staff members of the Joint Mobile Group in Grozny during the attack on their office. Moreover, financial support was given to Ms Khadija Ismailova and her family prior to her imprisonment. Front Line Defenders also has a 24/7 emergency hotline operating in five languages and, in 2014, it facilitated the temporary relocation of 125 human rights defenders, seven of whom came from Council of Europe member States. The organisation also organised security training for human rights defenders in Ukraine (including in the east) on how to continue to work in the context of armed conflict. In response to States using surveillance to undermine the work of human rights defenders, training was also being offered on digital security, so as to enhance human rights defenders' capacity to make their communication and data storage more secure. In addition, Front Line Defenders was engaged in advocacy and campaigning on individual cases, and in raising awareness of the legitimacy and importance of the work of human rights defenders, whom States were trying to defame and stigmatise.

11. Ways to protect human rights defenders and promote their role: conclusion

45. According to the United Nations 1998 Declaration on human rights defenders, there are two main defining criteria for human rights defenders, namely that they work peacefully and that they do so in the defence of the internationally recognised human rights of others. Human rights defenders can easily be identified on the basis of their commitment and dedication to the cause and genuine human rights defenders continuously take a strong stance for the protection of human rights in their countries. Defenders, like all human beings, enjoy the protection guaranteed by the European Convention on Human Rights. Thus, member States should refrain from any acts of intimidation of and reprisals against human rights defenders and ensure an enabling environment for their work and protection against any acts of intimidation and reprisals. They should also promote a human rights culture in their societies and condemn smear campaigns aimed at denigrating the defenders' work.

46. The current situation of human rights defenders in many Council of Europe member States is very precarious. I am particularly worried about the situation of Azerbaijani human rights defenders, as most of our partners – including people whom I met during my fact-finding visit to Baku (such as Ms Leyla Yunus), in Strasbourg during our sessions or at the round tables organised by the Commissioner for Human Rights (such as Mr Rasul Jafarov, Mr Intigam Aliyev or Ms Khadiya Ismayilova) – are still behind bars and serving long sentences. But I am also concerned about the "foreign agents" and "undesirable organisations" legislation in Russia, which targets many long-standing partners of the Council of Europe and aims to shut down human rights organisations; as their activities mainly depend on foreign funding, it is highly probable that in view of the lack of domestic funding prospects, these NGOs will no longer be able to pursue their work. Stigmatising NGOs as "foreign agents" is not only a way of targeting such organisations but it is also an attempt to silence their own citizens, by discouraging them from getting involved in civil society and by creating a negative image of the organisations. Besides these developments, I would also like to express my dismay about the developments in Turkey, where many human rights lawyers and activists were arrested on charges related to alleged "terrorist" activities, solely because of their work on human rights or on Kurdish issues. Moreover, cases of harassment of defenders, especially of those dealing with politically sensitive issues or defending vulnerable or minority groups, have also been reported in some other member States.

47. Other international organisations have established ways to support the work of human rights defenders and/or to conduct a regular dialogue with them. For example, the European Union provides considerable financial assistance, the OSCE/ODIHR invites them to their annual Human Dimension Implementation Meetings, the United Nations have a special rapporteur on the situation of human rights defenders and a system of annual reporting about cases of reprisals. In view of the foregoing, one could hardly say that the Council of Europe has any established mechanism to protect human rights defenders against reprisals. The sole possibility to lodge a complaint to the European Court of Human Rights or to address submissions to the

98. See also A/HRC/14/19 of 7 May 2010, Report of the Secretary-General on co-operation with the United Nations, its representatives and mechanisms in the field of human rights.

Committee of Ministers in the context of the implementation of Court judgments is certainly not sufficient. As regards ways of exchanging of information with defenders, there is a patchwork of formal (for example, through the Conference of INGOs or the Commissioner's Office) and informal mechanisms (for example, our – Parliamentary Assembly members' – meetings with defenders), but still these ways of conducting a dialogue with civil society are piecemeal and are not co-ordinated at the internal level.

48. In these circumstances, I am convinced that the Council of Europe should do more to protect human rights defenders and to have regular exchanges with them. It could, for example, establish a platform for the protection of human rights defenders, following the example of the recently established platform for the protection of journalists. Many of our NGO partners would certainly be interested in adhering to such a mechanism and providing updated information on cases of intimidation of human rights defenders. Moreover, I am of opinion that the Council of Europe should provide for a mechanism to protect experts who co-operate with its institutions and bodies: representatives of civil society co-operating with the Council of Europe monitoring bodies, the Commissioner for Human Rights and the Assembly, and lawyers who represent applicants before the European Court of Human Rights. The Committee of Ministers could thus create a procedure for publicly and regularly reporting on cases of intimidation of such persons.

49. Such action should also be supported at the national level. Member States should be more outspoken on cases of reprisals against human rights defenders and crackdowns on civil society, as well as on restrictive legislation limiting freedom of association, and in particular access to foreign funding. They should support activities by NGOs such as Front Line Defenders and even initiate them, by setting up a programme of visiting imprisoned human rights defenders, providing medical assistance for them and supporting their relatives as well as by giving greater visibility to the fate of human rights defenders. Granting asylum or other protection status for defenders at risk should also be a priority in cases of serious persecution clearly related to their human rights activities.

50. Moreover, we as parliamentarians should do our best at the national level to grant human rights defenders adequate protection. We should also make use of their experience and knowledge, by allowing them to take part in the legislative process, where appropriate, and strongly condemn acts of intimidation of defenders and reprisals against them.

51. The Assembly has been using its "parliamentary diplomacy" to raise such cases and to promote the rights of defenders, also through the hearings organised in committees or at the side events during part-sessions. Like the European Parliament, which awards the Sakharov Prize, the Assembly awards yearly the Václav Havel Human Rights Prize. I would like to express my satisfaction about the fact that in 2015 this prize was awarded to Ms Ludmila Alexeeva, a veteran human rights defender from Russia. However, I am of the opinion that the Assembly should do more. In my capacity as rapporteur on this subject, I have tried to react to the most flagrant violations of the rights of human rights defenders through my own public statements or by proposing that the committee adopt them. However, I was not in a position to follow all difficult cases due to time constraints and the lack of resources. Therefore, I propose that the committee appoints a general rapporteur on the situation of human rights defenders on the basis of Rule 50.7 of the Rules of Procedure of the Assembly. The general rapporteur could follow closely individual cases and maintain regular working relations with other Council of Europe bodies, including the Commissioner for Human Rights, and international organisations, such as the European Union, the OSCE and the United Nations, as well as present the work of the Assembly relating to them.

52. To conclude, too many human rights defenders are paying a high price for their work and the Council of Europe's institutions and member States should pay greater attention to their plight.