



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



Strasbourg, 17 September 2013

CommDH(2013)17
Original version

HUMAN RIGHTS AND THE SECURITY SECTOR

Round-Table with human rights defenders
organised by the Office of the Council of Europe Commissioner for Human Rights
Kyiv, 30-31 May 2013

REPORT

Opening

1. On 30 and 31 May 2013 the Office of the Commissioner for Human Rights of the Council of Europe (“the Commissioner”) held a Round-Table in Kyiv on human rights and the security sector. The theme of the event corresponds to issues which had been raised during previous Round-Tables with human rights defenders, in particular the one organised in Strasbourg in 2011.¹
2. Round-Table participants included human rights defenders from the Council of Europe area (including Armenia, Azerbaijan, Georgia, Republic of Moldova, Russia and Ukraine), human rights defenders from Belarus, an expert presenter from Poland, as well as representatives of the Office of the Commissioner, the Rapporteur on human rights defenders and a member of the Secretariat of the Parliamentary Assembly of the Council of Europe (PACE), and the OSCE Office for Democratic Institutions and Human Rights (OSCE ODIHR).
3. The event’s discussions were structured as follows: an overview of human rights issues related to the security sector (including army, police, security and intelligence services); an assessment of the present situation and work environment of human rights defenders in Eastern Europe and the South Caucasus; and a session on ways to enhance human rights compliance by the security sector.
4. The event contributed to reinforcing links and co-operation between human rights defenders and the Commissioner, as well as among defenders themselves. The Commissioner wishes to express his sincere gratitude to those who participated in this Round-Table and made valuable contributions from their professional experience and fields of expertise.
5. Prior to the first discussion session, there was a presentation on human rights issues stemming from the activities of security and intelligence services based on the experience of Central and Eastern European countries – now part of the European Union - and with a particular focus on the case of Poland. Reform of security structures (security and intelligence services as well as the military) was a key aspect of the democratic transformation in the 1990s, entailing the introduction of control and oversight over them, as well as changes in personnel and vetting laws. The process was not smooth and sometimes led to “unbridled lustration” including for political purposes.
6. The issue of control over wiretapping and surveillance measures becomes increasingly important because of their ever wider use. In some countries, these measures are subject to complex legislative regulation and express authorisation from a court; however, in practice courts grant authorisation in the vast majority of cases. Little information exists about whether the data collected through wiretapping and surveillance measures is actually used in concrete criminal proceedings, thereby raising questions about the true purpose and scope of these measures. In practice, individuals do not have access to data obtained through wiretapping and surveillance which concern them.
7. Access to billing information – i.e. data retained by telecommunication companies in relation to mobile phone connections – can be used extensively, without court control, which gives rise to abusive use of this data, for example in the case of investigative journalists. The use of new technologies (GPS, internet, etc.) by security and secret services for operational control purposes should also be more precisely regulated. Security agencies have exerted pressure on businesses, e.g. internet companies, as well as on foreigners so that they cooperate.
8. Security and intelligence services have resorted to abusive arrests, illegal entrapment, and illegally-obtained witness testimony; they have also used secret services archives for political purposes.

¹ [Human rights defenders in the Council of Europe area, Round-Table organised by the Office of the Commissioner for Human Rights of the Council of Europe, 27-28 October 2011, CommDH\(2012\)21, see paragraph 54.](#)

9. In addition, security agencies in many countries have been complicit with abuses in the context of CIA anti-terror operations, in particular when the countries concerned were hosting CIA secret detention facilities. Investigations of human rights abuses in this area have met with serious obstacles. In the case of Poland, an official investigation started in 2008 and is still on-going.
10. Freedom of information laws – in particular provisions related to access to public information – have been used to obtain data from secret services. Experience has shown that a certain amount of information can be disclosed to serve the general interest without endangering public order or national security. Polish human rights defenders engaged in litigation in this field and managed to obtain public information such as: details of CIA-associated planes and border guard controls; statistical data on wiretapping and surveillance measures from various structures; cost of the crown witnesses programme; and on the use of GPS technology as a method of surveillance.
11. Even where security and intelligence services operate under democratic supervision and legal regulations appear to be generally satisfactory, human rights violations can still occur in daily operations. Power struggles among different secret services can also result in violations. It is therefore essential that control and oversight mechanisms work properly, i.e. that courts are adjudicating cases of abuse in an independent and impartial manner. In reality, however, courts tend to be reluctant to exercise proper control over the daily operations of security and intelligence services (e.g. on surveillance measures and pre-trial detention).
12. The involvement of the security sector in political processes remains a major problem in some states. Those in power may use security and intelligence services to target or discredit critics and political opponents. At the same time, control over the security sector exercised by politicians, mainly through parliamentary committees, may lack impartiality and be diluted by political compromise. However, interest and scrutiny from NGOs and the media can have a positive impact on reforms.

I. Overview of human rights issues related to the work of the security sector

13. Discussions in the first session focused on various types of human rights violations arising from the activities of the security sector agencies, as well as on systemic factors behind such violations.
14. Human rights violations which occur in the context of deprivation of liberty and involving possible violations of Article 3 of the European Convention on Human Rights (ECHR), e.g. during apprehension and police questioning, continue to be the most widely-reported type of abuse. A second set of human rights issues concerns security sector work aimed at following and curbing opposition political activity and criticism against the government, including through surveillance and infringement of privacy and data protection rights, or the use of entrapment. A third group of human rights offences concerns crimes committed within security structures against their own members, such as hazing and ill-treatment in the army.
15. In several countries where the security services have not undergone a substantial reform and vetting process, there is still reliance on antiquated methods and an entrenched Soviet mindset whereby the interest of the state always prevails over individual rights. Violence remains an important instrument of control, in particular in closed institutions.
16. Human rights abuses committed by security sector organs and impunity for such violations occur against a generalised backdrop of lack of rule of law. While the legislation itself may be in line with human rights standards, the latter are not upheld. In addition, in such a context, it is difficult to exercise the necessary control over the work of the security sector in areas which affect human rights.

17. In all countries discussed during the event, torture and ill-treatment are prohibited by law. However, this is often ignored and instances of torture and ill-treatment which go unpunished continue to be reported. State organs, including police, prosecutorial authorities and courts, do not act diligently to ensure effective investigation and due process, and in many cases may even pose obstacles. Inadequate characterisation of the offence under “abuse of power” provisions rather than “ill-treatment or torture” is also common.
18. The lack of effective investigation of complaints of torture remains a major issue highlighted by the European Court of Human Rights (the Court). Concerns were expressed regarding the lack of implementation of the Court’s judgments on this issue and obstacles to effective investigation at national level. Both international structures and domestic human rights defenders could be more effective in monitoring and pressing for the enforcement of the Court’s judgments.
19. Many torture cases do not lead to criminal proceedings, while others are drawn out for years in the court system. In Russia, human rights NGOs have challenged investigations conducted by law enforcement bodies, bringing evidence directly to courts. In some cases, police officers were convicted on the basis of materials submitted by NGOs.
20. According to human rights defenders, some 100 complaints of torture and ill-treatment were brought to law-enforcement agencies in Azerbaijan in 2012, none of which led to the opening of a criminal case. The number of torture-related offences may be much higher, as many cases go unreported due to a fear of reprisals; moreover, authorities often actively discourage complaints. In one such case in Armenia, a victim complaining of being subjected to torture to extract a confession received a prison sentence longer than the average imposed for the offence concerned (theft). In Azerbaijan, a lawyer publicly stating that his client was tortured by agents of the Organised Crime Unit (Ministry of Interior) has been disbarred.
21. Ill-treatment and torture in the armed forces are more difficult to deal with due to the closed and largely secretive nature of the system, which makes it harder to collect evidence or find witnesses. As for the penitentiary system, torture and ill-treatment sometimes occurs on a large scale.
22. Sometimes the legal framework itself does not envisage sufficient protection against abuse, for example in the area of provision of victim status. Under military legislation in Russia, members of the armed forces subjected to severe violence in non-combat situations are not recognised in court proceedings as victims of torture and their cases are treated under the “abuse of power” category.
23. In Armenia, the law on operative investigation activities does not provide full safeguards as to the right of a person to be informed about operative investigation activities carried out in relation to him. The recent adoption and implementation of laws affecting activities of human rights defenders, such as the law on “foreign agents” in Russia, has led to an increase in harassment of defenders by security sector organs. In some countries, laws ostensibly aimed against extremist propaganda on the internet are also reportedly used in practice to punish anti-establishment bloggers.
24. Vaguely defined and/or arbitrarily applied legal restrictions may also result in violations of internationally established fundamental rights and freedoms. In Armenia, human rights defenders’ requests for information concerning official data on non-combat deaths among military personnel meet with considerable resistance.
25. Security sector organs often perceive their role as protecting the political interests of authorities and act pursuant to the orders of the ruling political forces in the country. Proceeding from the understanding that they may employ all possible methods without running the risk of being held accountable, security sector members sometimes engage in different forms of unlawful action to limit political opposition and dissent in society. When security sector organs are guided by political interest rather than the law, a mere change of legislation or regulations is unlikely to

yield results. Ultimately, in some countries the security sector is perceived by the wider population as a source of threat rather than security, which is extremely detrimental to a democracy.

26. Arbitrary arrests and detention are sometimes used as a means to harass and intimidate opposition activists, dissenting journalists and human rights defenders. In 2012 police detained one of the leading members of the Joint Mobile Group of Committee Against Torture in Chechnya. Multiple cases of selective and politically-motivated arrests were recorded in Azerbaijan² and Belarus throughout 2012. Monitoring of court cases against opposition party activists conducted by human rights defenders in Georgia revealed that search and seizure were conducted on the basis of operative information which was unclear and inaccessible to the defendant. Procedural safeguards were not respected during arrest and detention.
27. Police resorted to excessive force to disperse peaceful opposition protests in Baku ahead of the Eurovision song contest in May 2012. In Russia, riot police used disproportionate force against protesters in Moscow in May 2012. Moreover, in that case (“Bolotnaya square case”) the injured demonstrators were accused of using force against police. In Georgia, police forcibly dispersed peaceful demonstrations on several occasions since 2007, leading to 4 deaths in 2011. In all of these instances, no effective investigations have taken place. On the contrary, some members of the security sector responsible for human rights violations, such as those involved in the April 2009 violent post-election clashes in Chisinau, have received career promotions. This sends a powerful signal of impunity. Many victims have not sought to complain and have not benefited from adequate rehabilitation and care.
28. In some countries, security sector organs also carry out extensive surveillance of political opponents for blackmailing and extortion purposes. The disclosure of illegally obtained surveillance video and audio recordings in Georgia indicated the large scale of such activities in the country. In those cases where surveillance is authorised by a court, sessions are as a rule closed. In the context of a judiciary which is not fully independent and impartial, this raises additional concerns with respect to the effectiveness of court control.
29. In some cases, senior political figures provide the necessary justification for inaction by police, prosecutors and courts in the face of clear indications of police misconduct. In a speech before the Police Academy on 2 July 2007, the President of Azerbaijan stated that none of the policemen involved in dispersal of rallies in 2005 would be held accountable, regardless of calls from international organisations.³
30. Violations by police and security forces are even more prevalent in the context of counter-terrorist operations. Human rights activists and lawyers continue to raise concerns about unlawful killings, forced disappearances, and ill-treatment perpetrated under the banner of counter-terrorist operations in different parts of the North Caucasus. Moreover, it has been alleged that some of the counter-terrorism operations marked by human rights abuses have been organised in response to staged threats. In Chechnya, there have been reports of cases of fabricated charges against individuals for involvement in illegal armed groups. The implication of prosecutorial organs, together with the lack of civic control over anti-terrorist activities of police and secret services, make this phenomenon difficult to counter.
31. Hazing and mistreatment in the armed forces is a longstanding problem notably in Russia, Armenia and Azerbaijan. Violent bullying is considered as a major factor contributing to suicides, and acts of torture and murders are alleged on a regular basis. Corruption in the army has been identified as one of the causes of harassment. Members of the armed forces in Georgia have

² See [the Report by Nils Muižnieks Commissioner for Human Rights of the Council of Europe Following his visit to Azerbaijan from 22 to 24 May 2013](#).

³ See the [Report on functioning of democratic institutions in Azerbaijan of the PACE Monitoring Committee](#) Doc. 11627 , 6 June 2008

reportedly been obliged to undergo tests involving extremely strenuous physical exercises amounting to inhuman treatment, with a view to compelling their renunciation of benefits foreseen in their contract such as housing or alternative compensation. The closed nature of the army and the political imperative of preserving the army's image, particularly in countries involved in "frozen conflicts", make it difficult to properly investigate violations.

32. Lack of rule of law is an even more serious concern in territories not under the effective control of national governments due to the unresolved legal status thereof. In such settings, national security sector agencies may engage in shadow cooperation with their de facto counterparts in the breakaway regions.
33. An independent judiciary is crucial to combating impunity in cases of violations committed by members of the security sector. However, the courts often tend to acquiesce with the prosecution (which often has broad and unchecked powers) and fail to effectively exercise their powers of judicial control. In those cases where courts do order the opening or re-opening of criminal proceedings in the face of ample evidence and prompted by public pressure, the subsequent investigation by investigative organs may again be ineffective, leading the court to conclude that there are no grounds for launching criminal proceedings.
34. Human rights defenders can play a role in exercising oversight and monitoring of the work of investigative agencies, as well as in challenging ineffective and improper investigations in concrete cases by becoming involved in gathering evidence and in following each step of the investigation process.

II. The situation of human rights defenders in Eastern Europe and the South Caucasus: concerns and responses

35. The situation and the work environment of human rights defenders in the countries discussed during the Round-Table are negatively affected by the trends described in the previous section. According to reports received by the Commissioner, abuses take the form of arrest or detention in contravention of Article 5 of the ECHR, ill-treatment, threats and intimidation, judicial harassment, defamation, abusive control and surveillance, confiscation and destruction of working materials and legal restrictions which deliberately target defenders.
36. Human rights defenders, in particular those working on "unpopular" issues (e.g. LGBT rights) are marginalised and struggle with a lack of resources. Human rights lawyers engaged in politically-sensitive cases experience intimidation and harassment. For example, the media denigrated the work of the Georgian Young Lawyers Association (GYLA) on cases connected to the August 2008 conflict and to the violent dispersal of the May 2011 demonstrations. Given the scarcity of domestic support for their activities, defenders rely mostly on international funding. Human rights defenders and organisations are often excluded from a genuine dialogue with authorities or decision-making processes in the area of human rights, including at the international level.
37. In recent years, the working environment of human rights defenders deteriorated in some countries of the region. In the Russian Federation, restrictive legal provisions in the field of public assemblies, freedom of expression (e.g. re-criminalisation of defamation, establishing a blacklist of websites, prohibition of "offending the feelings of believers", amendments to the provisions on treason) and freedom of association (e.g. amendments to the Law on Non-Commercial Organisations requiring all those receiving financial support from abroad and involved in "political activity" to be registered as "foreign agents") have been adopted, most of them hastily. Together with the recent wave of inspections, the amended laws increase the pressure on human rights NGOs and stigmatise them before the general public.⁴

⁴See "[Russia: reforms should strengthen human rights in the justice system](#)", Human Rights Commissioner's Press Release following his visit to the Russian Federation in April 2013, and the [Opinion of the Commissioner for Human Rights on the legislation of the Russian Federation on non-commercial organisations in light of the Council of Europe standards](#), CommDH(2013)15, 15 July 2013.

38. These developments also have the potential of negatively affecting the cooperation between human rights defenders and international organisations such as the Council of Europe, in terms of exchange of information and implementation of activities on the protection of human rights. For example, a court case has been initiated against the human rights NGO Memorial in Saint-Petersburg because of the information it provided to the UN Committee Against Torture.
39. NGOs and the media reportedly continue to be the subject of proceedings based on vague anti-extremist legislation and are harassed by the Federal Security Service (FSB). Defamation, intimidation and sometimes physical violence against human rights defenders - by state and non-state actors - continue to occur.
40. Participants reflected on the issue of “political activity”, in reference to the Law on Foreign Agents in Russia. A distinction should be made between activities which are recognised as proper to human rights work (e.g. human rights advocacy and campaigning, participation in drafting legislation, making recommendations to the authorities on policies, laws and practices, human rights monitoring, etc.) and actions of political parties aiming at gaining power. This leads to the anomalous situation – which has actually occurred - where an NGO is regarded as having conducted political activity because it successfully lobbied for the creation of mechanisms aimed at improving the effectiveness of investigations into cases of torture, in cooperation with the authorities.
41. As many human rights organisations receive funding from abroad and are regarded as falling under the ambit of the law, they are obliged to register as foreign agents, which is a stigmatising label, even if their action is to the benefit of the Russian society. For example, there were instances of a baseless smear campaign against human rights organisations by some media when inspections were being carried out. In addition to the inspections, court cases and sanctions, attacks against human rights NGOs by non-state actors have taken place (e.g. inscriptions/graffiti referring to “foreign agents” have appeared on buildings where human rights NGOs are located, activities have been disrupted, etc.).
42. The Law on Foreign Agents affects the implementation of international human rights standards which Russia agreed to uphold in the field of freedom of association and freedom of peaceful assembly. Several human rights NGOs submitted a joint application to the European Court of Human Rights in February 2013 on this subject.
43. In Azerbaijan, the situation of human rights defenders has worsened in recent years.⁵ They have been intimidated and harassed when criticising the authorities’ human rights record (e.g. when unveiling property rights abuses and corruption cases). Many have been arrested and/or fined when taking part in demonstrations critical of the authorities, pursuant to an increasingly restrictive legal framework which provides for higher penalties for participation in “unauthorised” assemblies.
44. Registration of NGOs - including international NGOs - remains problematic, and many organisations operate without registration. In addition to NGOs, inter-governmental organisations face difficulties in conducting their activities. Recently adopted legislative amendments require prior agreement by the authorities to the allocation of grants and donations above a certain level, failing which high penalties can be imposed. The country retains criminal liability for defamation, supplemented recently by specific liability for defamation on the internet. Freedom of information is limited and investigative journalists face increasing difficulties in accessing data, including in the field of economic activities and corruption.

⁵ See [the Report by Nils Muiznieks Commissioner for Human Rights of the Council of Europe Following his visit to Azerbaijan from 22 to 24 May 2013](#).

45. Participants from the region suggested that further work could be done to address the problem of politically-motivated legal proceedings, including on the basis of the 2012 PACE resolution on the definition of “political prisoner” and Article 18 of the ECHR. Human rights defenders and lawyers from different countries could engage in joint work in this respect.
46. Human rights defenders who are dealing with the current challenges to human rights, democracy and rule of law in Azerbaijan feel that there is flagging support by international actors. It is of the utmost importance that international structures adhere to a principled approach on the respect of standards in these areas, and that reports are produced on the human rights situation in the country, which can then be further used by national and international actors. For example, the Commissioner’s reports on Georgia on the issues of administration of justice and human rights issues connected to the August 2008 conflict did have an impact on the ground. Reports and information from independent human rights organisations should regularly be consulted by international structures, including Council of Europe bodies and country rapporteurs. International organisations engaged in funding and project activities should assist the work of human rights defenders.
47. In Belarus, human rights defenders experience arrest and detention, tight surveillance, abusive travel bans and selective tax inspections. Several human rights organisations continue to operate without official registration. The environment for human rights defenders becomes ever more restrictive, while security services have more power and control mechanisms at their disposal.⁶
48. Human rights defenders in secessionist areas, which are not under state control, may face a more difficult situation because of isolation and the absence of a vibrant human rights community, as well as a tighter grip from authorities de facto in charge. Control by security services may be more intense in these areas.
49. Human rights defenders often report instances of abusive control and surveillance of their work and private life by security agencies, including phone and on-line communications. In some cases, this information is being used for defaming and discrediting them both personally and in terms of their work. At the same time, police and security rarely provide protection when there are credible signs that human rights defenders are seriously threatened.
50. The absence of an effective investigation into violations against human rights defenders remains a major problem. Impunity inevitably contributes to the recurrence of violations. This is for example the case when websites of human rights NGOs are hacked and when defenders receive on-line threats. Assistance should be provided to NGOs to raise the level of information security and to counter such attacks.
51. Solidarity and cooperation among human rights defenders can play a useful role for the protection of defenders and promotion of their work.⁷ International, regional and national networks of human rights defenders are instrumental in assisting those defenders who face difficulties in their work and threats to their personal security. Organisations such as Front Line, the Human Rights House Foundation and the South Caucasus network of human rights defenders have assisted in providing protection and shelter to human rights defenders at risk and to their family members.
52. National legislation and practice should be in conformity with international human rights standards, and in particular with the UN Declaration on human rights defenders,⁸ in order to

⁶ [“Belarusian Human Rights Defenders Need Support”](#), the Council of Europe Commissioner’s Human Rights Comment, February 12, 2013.

⁷ [Report of the Round-table on human rights defenders in the Council of Europe area](#), Office of the Commissioner for Human Rights, CommDH(2012)21, paragraph 83.

⁸ [Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#), UN General Assembly resolution A/RES/53/144.

ensure a favourable working environment for defenders. Human rights organisations should increase their efforts in submitting information to the Council of Europe Committee of Ministers and other bodies on the execution of judgments of the European Court of Human Rights and other relevant questions. Vigorous action should be taken to address the failings in the execution of judgments, in particular where there have been repetitive violations of the Convention.

53. National human rights structures (NHRSS) - Ombudspersons, equality bodies and National Preventive Mechanisms established under the Optional Protocol of the UN Convention Against Torture (OPCAT) - can play a stronger role in partnering with defenders in the area of human rights and the security sector.

III. Ways to enhance human rights compliance in the security sector

54. The participants underlined the importance of monitoring and oversight of the security sector in all of the countries in question. Different types of democratic oversight of security sector were discussed.
55. Parliamentary accountability is an elementary measure to prevent human rights violations. However, parliamentary control over the security sector, and in particular secret services, is virtually non-existent in many countries of the region. For instance, in Ukraine, even basic control practices like the requirement for the State Security Service to present annual activity reports before the parliament has been lifted. In Armenia, both the National Police and the National Security Service are not part of the government but enjoy a specific status of independent agencies, and as such they are not obliged to report on their activities before the parliament.
56. Annual reports on the activities of the security sector, in particular on the use of operative information, should contain information on sanctioned surveillance and other special investigative actions, as well on the number of criminal cases opened on the basis of such information. Parts of these reports should also be accessible to the public in order to increase transparency and understanding.
57. The authorities should also ensure transparency⁹ as regards financial resources allocated from the state budget to the security sector agencies.
58. Judicial control over the security sector is an essential safeguard against human rights violations, in particular where activities which take place outside public scrutiny are concerned, such as special investigative measures, including phone and video surveillance, search and seizure, or security-related investigations. The effectiveness and quality of judicial control are largely dependent on the degree of judicial independence and the integrity and competence of judges.
59. Adequate training of judges is equally important, as good understanding and knowledge of the work of the security sector is required in order to verify the compliance of a certain motion with human rights standards. Specialised judges or chambers in higher instance courts may be used to ensure better control over the above-mentioned special investigative measures. Court sessions deciding on these matters are as a rule of a closed nature; however, access to the court's decision should be ensured if not immediately, then after a specified period of time in order to allow for an analysis of court practice. More generally, civil society projects monitoring court practice can also achieve good results in identifying trends in the work of the security sector and the courts' response, but they are usually done on an ad hoc basis rather than continuously.

⁹ See Venice Commission, [Internal Security Services in Europe](#), Report adopted at the 34th Plenary meeting (Venice, 7 March 1998), CDL-INF(1998)006.

60. Decisions of the European Court of Human Rights can sometimes play a role in speeding up the resolution of cases in domestic courts and also address structural shortcomings at national level. In cases where the Court has found a violation of Articles 3 and 6 of the Convention, these have served as grounds for the Supreme Court of Ukraine to reverse its rulings and overturn decisions of lower instance courts, ordering the re-opening of investigations and proceedings. The large number of decisions finding Convention violations served to confirm the systemic nature of problems, which in turn triggered the adoption of a new Code of Criminal Procedure containing a number of preventive provisions against ill-treatment. At the same time, human rights defenders from the Republic of Moldova have indicated that to date, none of the cases where the Court has found a violation of Article 3 has been properly investigated at the national level.
61. The Court has defined principles for effective investigation of complaints against law enforcement officials that relate to possible violations of Articles 2 and 3 of the Convention. Apart from prosecutorial authorities and courts, independent complaints bodies are important to ensure accountability and public trust, as well as to combat impunity for misconduct and ill-treatment by members of police and security services.¹⁰ However, separate independent complaints bodies do not exist in the countries concerned and investigations of grievances are mostly carried out by internal investigation services.
62. National human rights structures, notably Ombudsmen, are involved in the oversight of security sector activities including through monitoring of places of deprivation of liberty. Specialised ombudsman institutions, such as military ombudsmen, can also be established. Ombudsmen may be designated as National Preventive Mechanisms (NPM) under the OPCAT. In some cases these mechanisms have contributed to a decrease in abuses in the institutions monitored. However, NPMs face several challenges, and their funding may be insufficient for them to discharge their mandate effectively, having regard to the broad scope of their work with a high number of institutions to cover. The potential role that NPMs can play in monitoring additional aspects of the security sector's work remains unclear at the moment, as they are relatively new mechanisms established with the specific aim to prevent torture in places of deprivation of liberty.
63. Civil society oversight of the security sector is important in order to increase the level of information, generate an open discussion on problems identified and possible solutions, as well as to protect the rights of victims and prevent future violations. Civil society oversight can also help identify problems which cannot be tracked by the security sector itself.
64. Civil society organisations in the region have been the key actors involved in the monitoring of places of deprivation of liberty (e.g. under the authority of the police, army and national security services). Some achievements and lessons learned in the course of monitoring of places of deprivation of liberty could be used by human rights defenders when engaging in the oversight of other aspects of the work of the security sector.
65. Public monitoring groups in the form of NGO coalitions can be promoted as a good practice. In Armenia, human rights defenders are part of a public monitoring group on prisons and another one on police that have been established in cooperation with - respectively - the Ministry of Justice and the National Police. Such groups have been established in all the countries of the region and despite differences in the mandate and format, their work has been successful overall. A well-defined mandate, independent membership and regular reporting are crucial elements for the effective work of such groups. Financial long-term sustainability is an issue of concern, as civil society oversight tends to be heavily dependent on donor support and usually lacks state funding.

¹⁰ See the [Opinion of the Commissioner for Human Rights concerning Independent and Effective Determination of Complaints against the Police](#), CommDH(2009)4, 12 March 2009.

66. Civil society groups, including human rights defenders, may also work in co-operation with the Ombudsman or in the framework of an NPM, where the participation of civil society is prescribed by legislation. However, Ombudsmen, NPMs and NGOs play different roles and may not choose the same course of action in response to human rights violations. In some countries, “rapid reaction groups” have been established, which act upon information received by the Ombudsman. Such bodies have been relatively effective in providing assistance to individuals who have been arrested unlawfully. Ultimately, the question whether civil society oversight of the security sector should be organised according to larger NPM-type models or through specialised groups working in particular areas has to be further explored.
67. The creation of governmental inter-agency councils which include civil society representatives provides a possibility for exercising public oversight and even participation in the reform of the security sector, so long as civil society recommendations are indeed taken into account. In Georgia discussions with the participation of civil society in inter-agency councils have led to initiatives to amend legislation. National Human Rights Strategies or Action Plans also provide an opportunity to promote human rights in the work of security sector.
68. Freedom of information laws provide an important tool for civil society control of security sector activities, as they can be used to petition a court to order the release of information. However, this leverage may prove difficult in the face of a growing tendency to impose restrictions on the right to free access to information on the grounds of protection of information security or by expanding the range of classified information. Courts should exercise control over classification of information and restriction of public access to information. The court should check whether the decision of an institution to withhold information as classified has been done in compliance with the law, and officers denying access to information without any legal basis should be subject to penalties, in line with established international standards.
69. Participants agreed that the work of the security sector as well as of investigative bodies has not been sufficiently in the focus of the work of human rights defenders. The current trends and concerns call for an urgent and active involvement, including on the issue of control and oversight. It is, however, important to take into account the different realities and opportunities in the countries concerned. A thorough analysis of the human rights compliance of national legislation regulating the activities of security sector could be a first and immediate step.
70. It would also be advisable to produce a set of consolidated standards and good practices on different aspects of the work of security sector, including access to information, oversight and accountability. This could include the case-law of the European Court of Human Rights and domestic courts, existing standards and recommendations of the PACE and the Venice Commission, as well as a framework for implementation by relevant national authorities. Particular focus should be placed on recommendations concerning the institutional and financial organisation of the security sector. These standards could then serve as guidelines for human rights defenders as well as international organisations engaging with policy-makers in the countries concerned.
71. At the end of the discussions, the Commissioner thanked the human rights defenders who took part in the Round-Table. He underlined that the information exchanged and the trends identified constituted a useful input for his future country and thematic work on the substantive issues discussed, as well as in support of human rights defenders, in particular those in a difficult situation.