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Committee on Legal Affairs and Human Rights

Situation of human rights defenders and whistleblowers in Europe

Revised information note

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1. Summary

1. The last Information Note on the Situation of Human Rights Defenders was published immediately before the full-scale invasion of Ukraine by the Russian Federation.[1] This note therefore addresses the enormous impact that the war has had on human rights defenders. In occupied territory of Ukraine, there are reports that the Russian authorities and armed forces have consistently and disproportionally targeted human rights defenders, for their role in documenting and communicating evidence of human rights atrocities committed by Russian forces. This includes reports of killings, torture, abductions, and lengthy prison sentences on spurious grounds. Within both Russia and Belarus, a wide range of legislative reforms have criminalised every kind of dissent against the government or the war, punishable by heavy prison sentences. This has facilitated an enormous wave of repression against activists, journalists, and lawyers. The situation of human rights defenders in occupied parts of Ukraine and within Russia is addressed in section 3.1; whilst the situation of human rights defenders in Belarus is addressed in section 3.2. The persecution in these territories has also highlighted the need for member and observer States of the Council of Europe to support human rights defenders from abroad – in particular, by paying close attention to their requests for visas, asylum, and settlement in order to escape persecution. This issue is addressed in section 4.

2. The significant pressure placed on human rights defenders in other parts of Europe highlighted in previous Information Notes has continued. The main tool of repression is the misuse of criminal law to prosecute human rights defenders, in order to intimidate and silence them. However, there are also reports of the refusal to register civil society organisations, smear campaigns, violence, and the online publication of human rights defenders' sexually explicit material online. This Information Note sets out the situation for countries of particular concern in section 3. It also highlights a series of thematic issues where human rights defenders have been affected in many different parts of Europe (section 3.6). These include the prosecution of human rights defenders working on reproductive rights; defenders seeking to protect the rights of migrants, asylum seekers, and refugees; and the issue of SLAPPs.

* Document declassified by the Committee on 12 October 2023.
[1] AS/Jur (2022) 01 Rev, 'Situation of human rights defenders in Council of Europe member States', Ms Alexandra Louis (France, ALDE), 28 February 2022.

2. Procedure and terms of reference

2.1. Procedure

3. On 8 October 2018 the Parliamentary Assembly ratified the terms of reference of a general rapporteur on the situation of human rights defenders, in order to keep this important issue high on the Assembly's agenda.[2] Since that time the Committee on Legal Affairs and Human Rights has appointed four general rapporteurs on this issue. My predecessors Mr Raphaël Comte (Switzerland, ALDE), Ms Alexandra Louis (France, ALDE), and Ms Sunna Ævarsdóttir (Iceland, SOC) produced regular information notes on the situation of human rights defenders in Council of Europe member states. At its meeting held on Wednesday 21 June 2023, the Committee on Legal Affairs and Human Rights appointed me as the fourth general rapporteur.

2.2. Terms of reference

4. The committee and the Assembly have been monitoring the situation of human rights defenders in a targeted and specific way since 2006.[3] For the Assembly, human rights defenders are "those who work for the rights of others", i.e. individuals or groups who act, in a peaceful and legal way, to promote and protect human rights, whether they are lawyers, journalists, members of non-governmental organisations (NGOs) or others.[4] Their right to take action to promote and protect human rights was first confirmed in the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms of 9 December 1998 (hereafter, the "UN Declaration on Human Rights Defenders"). This Declaration, which states that "[e]veryone has the right, individually and in association with others, to promote and strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels" (Article 1) and which stipulates that States must adopt measures to ensure this right (Article 2, 2.), reinforces the importance of states protecting it. At Council of Europe level, this was followed on 6 February 2018 by the adoption by the Committee of Ministers of the Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities. On 14 November 2022 the Committee on Legal Affairs and Human Rights agreed to include the situation of whistle-blowers in the mandate of the General Rapporteur on the Situation of Human Rights Defenders and this was approved by the Bureau of the Assembly on 28 November 2022.[5]

5. The right to defend the rights of others is itself based on the fundamental rights recognised and protected by the European Convention on Human Rights ("the ECHR"), such as freedom of thought, conscience and religion (Article 9), freedom of expression (Article 10) and freedom of assembly and association (Article 11). In this regard, human rights defenders deserve particular attention, since violations of their rights, threats and violent acts against them are indicative of the general situation of human rights in the State concerned or a deterioration thereof.[6] Council of Europe member States are therefore under an obligation to create an environment conducive to the activities of human rights defenders and to end all forms of intimidation and reprisals against them.[7]

6. Given that they refer to the definition of a "human rights defender" contained in the UN Declaration on Human Rights Defenders, my terms of reference, as proposed by the committee and approved by the Assembly, authorise me to address matters relating to cases of intimidation and reprisals suffered by human rights defenders, and to serious obstacles to their action in Council of Europe member States (e.g. murders, physical and psychological violence, arbitrary arrests, judicial and administrative harassment, smear campaigns and restrictions on their freedom of movement). Therefore, at least once a year, I shall report to the committee on the information I have collected and the action I have taken. In addition, I have been given responsibility for monitoring the activities of the various bodies and institutions of the Council of Europe and other international organisations dealing with issues relating to human rights defenders; representing the committee and the Assembly vis-à-vis the latter; making statements and calls for action in my capacity as

[2] The ratification followed an initial debate which was held on 26 June 2018, concerning the report by Mr Egidijus Vareikis (Lithuania, EPP/CD) on "Protecting human rights defenders in Council of Europe member states". Following the debate, the Assembly adopted Resolution 2225 (2018) and Recommendation 2133 (2018).
[3] Doc. 10985, 27 June 2006.
[4] Resolution 2225 (2018), 26 June 2018, paragraph 1.
[5] Synopsis of the meeting of the Committee on Legal Affairs and Human Rights held in Paris on 14 November 2022, AS/Jur (2022) CB 09.
[6] See the Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities, 6 February 2008.
[7] Resolution 2225 (2018), see footnote no. 4, paragraph 2.

general rapporteur or suggesting that the committee do so, and monitoring what follow-up has been given to previous Assembly resolutions and recommendations in this area.

7. Attacks on enemies of governments who are living abroad have become worryingly common in Europe. However, given that transnational repression was recently addressed in a report by Sir Christopher Chope, which led to the adoption of Resolution 2509 and Recommendation 2257,[8] I have not included instances of this in the present note.

8. Given the context of the illegal war in Ukraine, facilitated by escalating authoritarianism in Belarus and Russia, the scope of this document has been expanded to cover the situation of human rights defenders in Europe as a whole, rather than simply Council of Europe member states.

3. Examples of particular concern

3.1. Russia

3.1.1. Attacks on Human Rights Defenders within the territory of Ukraine

9. According to the organisation Frontline Defenders, the Russian authorities and armed forces have consistently and disproportionally targeted human rights defenders in the Russian-occupied territories for their role in documenting and communicating evidence of human rights atrocities committed by the Russian military.[9] The Ukrainian human rights organisation ZMINA reports that, between February 2022 and June 2023 there were at least 562 cases of killings, enforced disappearances, abductions, and arrests of 'active citizens' and their relatives. This included 323 public activists and volunteers, 18 journalists, and four lawyers – all of whom can be considered as human rights defenders.[10] Reported examples include journalist Oleh Baturin, who was allegedly abducted in Kherson oblast by Russian military personnel in March 2022 and released after eight days of physical and psychological violence; and Iryna Horobstova, who was abducted from her home in Kherson in May 2022 and has allegedly been transferred to Russian-occupied Crimea, without access to a lawyer or information about the charges against her.[11] Human rights lawyer Maksym Butkevych was sentenced to thirteen years' imprisonment by the so-called supreme court in Russian-occupied Luhansk, following what Amnesty International described as a "sham trial".[12] Frontline Defenders conclude that at least 50 human rights defenders and humanitarian volunteers were targeted and killed by Russian forces because of their peaceful human rights work in Ukraine in 2022.[13]

10. The harassment and persecution of human rights defenders in occupied Crimea has been ongoing since 2014 and this has continued in the period since March 2022. There has been an extensive pattern of harassment, prosecution, office raids and disciplinary measures against human rights lawyers in Crimea, particularly those defending the rights of Crimean Tatars. For example, in May 2022 human rights lawyers Nazim Sheikhmambetov, Ayder Azamatov and Emine Avamileva were detained and sentenced to administrative arrests of between five and eight days, connected to the holding of a press event that the courts concluded was "an illegal mass meeting of citizens".[14] Human rights lawyer Abdureshyt Dzhepparov was also arrested and detained.[15] Lawyers representing Crimean Tatars have reportedly faced disbarment, including Lilya Gemedzhi, Rustem Kyamilev, Nazim Sheikhmambetov and Lilia Hemedzhy.[16]

11. Independent journalists have been subjected to very harsh treatment. Journalist Irina Danilovich was reportedly abducted by Russian Federal Security Services, subjected to ill-treatment and torture, and sentenced to seven years in prison.[17]

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[8] Resolution 2509 and Recommendation 2257, adopted by the Assembly on 23 June 2023.
[9] Frontline Defenders Global Annual Report 2022, page 61.
[10] Enforced disappearances and arbitrary detentions of active citizens during the full-scale armed aggression by Russia against Ukraine, ZMINA.
[11] Frontline Defenders Global Annual Report 2022, page 61.
[12] Ukraine: Russian court upholds 13-year sentence against Ukrainian human rights defender Maksym Butkevych (amnesty.org)
[13] Frontline Defenders Global Annual Report 2022, page 61.
[14] Frontline Defenders Global Annual Report 2022, page 62.
[15] Human rights defender Abdureshit Dzhepparov released | Front Line Defenders
[16] Russia: Crimean human rights lawyers disbarred: Lilya Gemedzhi, Rustem Kyamilev and Nazim Sheikhmambetov - Amnesty International; Russian Federation/Ukraine: Further information: Human rights lawyer disbarred in Crimea: Lilia Hemedzhy - Amnesty International
[17] Frontline Defenders Global Annual Report 2022, page 61.

12. Journalist Amet Suleymanov is currently serving a sentence of 12 years' imprisonment on charges of participation in a terrorist organisation and plotting to seize power by force. The conviction was widely condemned by human rights organisations as a reprisal for Mr Suleymanov's legitimate activities, of reporting on searches and detention of Crimean Tatars following the illegal occupation of Crimea by the Russian Federation in 2014. Mr Suleymanov suffers from a range of health conditions, including a serious heart problem. Although he was initially kept under house arrest, in April 2023 Mr Suleymanov was transferred to a pre-trial detention centre. Reports over the summer of 2023 indicated that he was being transferred to a prison in a distant part of Russia, and that he has been denied access to important medical supplies. I published a joint statement with the Assembly's General Rapporteur on Political Prisoners, Sunna Ævarsdóttir (Iceland, SOC), raising our deep concern that Mr Suleymanov's life was being put in danger.[18]

3.1.2. Situation of Human Rights Defenders within the territory of the Russian Federation – summary

13. Since the illegal full-scale invasion of Ukraine in February 2022, the Russian authorities have carried out a series of authoritarian measures against all forms of dissent, including: the passing of draconian laws to limit free speech and freedom of assembly; the systematic dispersal, arrest, and prosecution of people protesting against the war; bans on critical media organisations; and the liquidation of NGOs. Given that these measures are designed to silence journalists, activists, and civil society, I conclude that there has been a full-scale assault on human rights defenders in the Russian Federation.

14. The intensification of authoritarianism in the Russian Federation has been set out extensively by Ms Sunna Ævarsdóttir (Iceland, SOC) in her Introductory Memorandum on 'The arbitrary detention of Vladimir Kara-Murza and the systematic persecution of anti-war protestors in the Russian Federation'.[19] I will therefore not repeat here Ms Ævarsdóttir's authoritative survey of the repressive legislative changes in Russia and their practical application since February 2022, including the outrageous persecution of Vladimir Kara-Murza. I will focus on the cases and issues not already mentioned by Ms Ævarsdóttir.

3.1.3. Misuse of criminal law and media regulations; torture and police violence

15. Andrey Pivovarov is an activist and former director of Open Russia, a civil society organisation promoting democracy and human rights. In July 2022 he was sentenced to four years in prison, on charges of leading an "undesirable organisation".[20]

16. Echo of Moscow is an independent commercial radio station, which was regularly critical of the Russian government. In March 2022 the Prosecutor-General's Office took it off the air, after the station broadcast information "calling for extremist activities, violence, and premeditated false information" concerning the war in Ukraine. The Board of Directors then voted by majority to liquidate the radio channel and website.[21] *Novaya Gazeta* is a Nobel Prize Winning media organisation and one of the oldest newspapers in Russia covering human rights issues. On 5 September 2022, the Basmanny District Court of Moscow stripped *Novaya Gazeta* of its print media licence.[22] On 15 September 2022, the Supreme Court also revoked the licence of the organisation's website, so that it was no longer available in Russia.[23] In June 2023 the Prosecutor General designated Novaya-Gazeta Europe as an undesirable organisation.[24]

17. Ilya Yashin is a Russian opposition politician, with a long record of activism and criticism against the ruling government.[25] On 9 December 2022 he was sentenced to eight years and six months' imprisonment, for spreading "false information" about the Russian army.[26]

18. Evan Gershkovich is a 31-year-old journalist, who was working for the Wall Street Journal in Russia. Mr Gershkovich was arbitrarily arrested by the Russian Federal Security Service in Yekaterinburg on 29 March 2023, whilst working on a story about the Wagner military group.[27] Mr Gershkovich faces charges of espionage

[18] PACE rapporteurs raise concerns over health of imprisoned Crimean Tatar journalist Amet Suleymanov (coe.int)
[19] AS/Jur (2023) 13.
[20] Russia: Political Prisoner Feared Forcibly Disappeared | Human Rights Watch (hrw.org).
[21] Ekho Moskvy, One Of Russia's Last Independent Broadcasters, Closes Amid Government Crackdown (rferl.org)
[22] Russia Revokes Novaya Gazeta Newspaper Print License – The Moscow Times.
[23] Russia revokes independent Novaya Gazeta's website license – DW – 09/15/2022.
[24] Russia outlaws critical news outlet as 'undesirable' in continued crackdown on dissent | AP News.
[25] BBC NEWS | Europe | Russian youth on political barricades (archive.org).
[26] Ilya Yashin: Kremlin critic jailed for eight and a half years, in latest blow to what's left of Russian opposition | CNN.
[27] Russia arrests US journalist Evan Gershkovich on spying charge – BBC News.

that could lead to 20 years' imprisonment. His appeal against pre-trial detention was rejected by the Lefortovo District Court on 23 May 2023. On 12 June 2023 a call for Mr Gershkovich's immediate release was made by Mariana Katzarova, Special Rapporteur on the situation of human rights in the Russian Federation and Irene Khan, Special Rapporteur on the right to freedom of opinion and expression.[28]

19. Oleg Orlov is the co-chair of the prominent Russian human rights group Memorial. He is a Nobel Peace Prize co-laureate and accepted the Sakharov Prize for Freedom of Expression on behalf of Memorial. He has been charged with "public actions aimed at discrediting the use of the Armed Forces of the Russian Federation", after writing a blog entitled, "Russia: they wanted fascism, they got it". If found guilty, he faces up to three years' imprisonment. The case against Mr Orlov has been heavily critised by the Parliamentary Assembly of the Council of Europe's General Rapporteur for Political Prisoners Thórhildur Sunna Ævarsdóttir (Iceland, SOC); Commissioner for Human Rights Dunja Mijatović; and the UN Special Rapporteur on the situation of human rights in the Russian Federation, Mariana Katzarova.[29]

20. Opposition leader and anti-corruption activist Alexei Navalny continues to be imprisoned and has suffered additional convictions since February 2022. Jacques Maire (France, ALDE), PACE rapporteur on Navalny's poisoning, expressed his dismay at the additional prison sentence sought by the Russian authorities in early 2022.[30] In March 2022 Mr Navalny was given a nine-year sentence on charges of fraud and contempt of court, following which he was transferred to a high-security prison.[31] Amnesty International described the trial as a "sham".[32] Following multiple reports of extended isolation and alleged poisonings, about 500 Russian doctors signed an open letter to President Vladimir Putin requesting that the prison authorities stop "abusing" Mr Navalny.[33] In her capacity as rapporteur for follow-up on the implementation of Resolution 2446 (2022) on "Reported cases of political prisoners in the Russian Federation", Sunna Ævarsdóttir (Iceland, SOC) published a statement in November 2022 expressing concern regarding Mr Navalny's permanent solitary confinement.[34] On 4 August 2023 Mr Navalny was sentenced to a further 19 years in prison under a special regime, during a closed hearing in a penal colony. He was sentenced on six counts of trumped-up charges of "extremism", including inciting and financing extremism, creating an illegal NGO, the rehabilitation of Nazi ideology, and inciting children to dangerous acts. In her capacity as General Rapporteur for political prisoners, Sunna Ævarsdóttir (Iceland, SOC) strongly condemned the new sentencing, calling for the Russian authorities to provide Mr Navalny with regular access to legal advice, visits from his family and others, appropriate medical assistance and all necessary safeguards.[35] In my view, Mr Navalny's ongoing imprisonment is an outrage that should be condemned in the strongest possible terms.

21. In August 2023, Grigory Melkonyants, co-chairman of the election-monitoring group 'Golos', was put into pre-trial detention and had his home searched. According to reports, he is accused of "running an undesirable organisation".[36]

22. In addition to the misuse of criminal law against anti-war protestors, there are widespread reports of torture and police violence as a tool to quash dissent. For example, the day after Artyom Kamardin participated in a poetry reading to protest Russia's war in Ukraine, police allegedly raided his home, attacked and threatened to rape his girlfriend, and beat Mr Kamardin himself. Human Rights Watch have highlighted a range of other cases where such violence has been alleged.[37]

[28] Russia: Gershkovich's arbitrary detention is an attack against independent journalism, say UN experts | OHCHR.
[29] Ukraine war: Oleg Orlov faces jail time for criticising Putin's war – BBC News; Rapporteur expresses concern over harassment and trial of Russian human rights defender Oleg Orlov and others who oppose Russia's war of aggression (coe.int); Oleg Orlov's trial is a travesty of justice – Commissioner for Human Rights (coe.int); Russia must drop charges against Oleg Orlov, Nobel Prize-winning "Memorial" leader: UN expert | OHCHR.
[30] PACE rapporteur dismayed by 13-year sentence sought for Alexei Navalny (coe.int).
[31] Russia Navalny: Putin critic given nine-year jail sentence in trial branded 'sham' – BBC News; Alexei Navalny moved to infamous maximum security prison, says aide – POLITICO.
[32] Russia: Navalny facing possible 15-year jail term in 'sham' trial set to take place in prison | Amnesty International UK.
[33] Alexei Navalny: Concern grows for health of jailed Putin critic – BBC News.
[34] PACE rapporteur expresses concern over Alexei Navalny's conditions of detention (coe.int).
[35] PACE's General Rapporteur for political prisoners strongly condemns Alexei Navalny's recent sentencing (coe.int)
[36] Russian Election Monitor's Co-Leader Ordered Into Pretrial Detention (rferl.org)
[37] Russian Police are Torturing Anti-War Activists | Human Rights Watch (hrw.org).

3.1.4. North Caucasus

23. The North Caucasus continues to be an area of particular concern for the safety of human rights defenders. In Resolution 2445(2022), the Assembly noted that human rights defenders in the region "*risk persecution, torture and even losing their lives for expressing their opinions*" and that neither they nor their relatives were safe in the North Caucasus, anywhere in the Russian Federation, or even abroad.[38] One example is the case of journalist Elena Milashina and human rights lawyer Alexander Nemov. They arrived in Grozny early on 4 July 2023, in order to attend a court hearing in the case of Zarema Mussaeva. Ms Mussaeva was allegedly being prosecuted because she was the mother of two public critics of Ramzan Kadyrov. During the taxi ride from Grozny airport to the city, Ms Milashina and Mr Nemov were stopped by armed men in balaclavas, who dragged them from their car, threatened to kill them, and severely beat them. They also poured bright green antiseptic solution over Ms Milashina's head and shaved off her hair. The perpetrators allegedly said that the attack was in retaliation for the work of Ms Milashina and Mr Nemov on the case of Ms Mussaeva. Later that day, Ms Mussaeva was found guilty and sentenced to five-and-a-half years in prison (in the absence of her lawyer). The Council of Europe Commissioner for Human Rights, Dunja Mijatović, called the attack "*an appalling act of violence that shows contempt for human dignity*".[39] I firmly agree.

3.1.5. Liquidation of civil society organisations

24. Immediately prior to the full-scale invasion of Ukraine, the authorities of the Russian Federation started the liquidation of the International Memorial Society and Memorial Human Rights Center, which are among the best-known human rights organisations in the country. The suppression of civil society organisations has continued since then. In April 2022, Russian authorities revoked the registration of 15 foreign NGOs and foundations, forcing them to shut their offices in Russia, including Human Rights Watch and Amnesty International.[40] The authorities also blocked the website of OVD-Info, a human rights project focusing on freedom of assembly. In 2023, the courts evicted the Sakharov Center from its premises under the foreign agents' law,[41] and liquidated the oldest human rights organisation in the country, the Moscow Helsinki Group.[42] In March 2023 police raided the homes of nine board members and staff of Memorial, which had continued to operate in an ad hoc manner after its formal liquidation.[43] In April 2023 the authorities also liquidated "Sova", a think-tank working on xenophobia and extremism.[44] In August 2023, the Sakharov Center was also liquidated.[45]

3.1.6. LGBT+ Rights

25. In addition to targeting anti-war dissent, the Russian authorities have also noticeably increased crackdowns on activities that promote LGBTI rights. Since 2013, it has been an administrative offence to promote "non-traditional sexual relations" to children. However, this criminal law was significantly expanded with new legislation passed in November 2022. This criminalised the promotion of "LGBT propaganda" to adults as well as children, effectively introducing a blanket ban covering all public information or activities. Individuals can be fined up to 400,000 roubles and organisations 5m roubles for "propagandising non-traditional sexual relations". [46] In July 2023, new legislation established sweeping news measures to target the rights of transgender persons, including bans on gender reassignment surgery, the changing on gender in official documents and public records, and the adoption of children by transgender people.[47] This draconian legislation significantly escalates the stigmatisation experienced by LGBTI persons in Russia, who were already under an enormous amount of pressure.

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[38] Resolution 2445 (2022), 'The continuing need to restore human rights and the rule of law in the North Caucasus region', adopted by the Assembly on 21 June 2022.
[39] Journalist and Human Rights Lawyer Viciously Attacked in Chechnya | Human Rights Watch (hrw.org); The assault on Elena Milashina and Aleksandr Nemov is a crime that must not remain unpunished – Commissioner for Human Rights (coe.int).
[40] World Report 2023: Russian Federation | Human Rights Watch (hrw.org).
[41] Russia Designates Another Rights Organization as 'Undesirable' | Human Rights Watch (hrw.org).
[42] Human rights defenders in Russia need support – Commissioner for Human Rights (coe.int).
[43] Russia Opens New Case against Memorial | Human Rights Watch (hrw.org).
[44] The Moscow City Court orders liquidation of SOVA Center / Announcements / SOVA (sova-center.ru).
[45] Russia: Liquidation of the Sakharov Center (fidh.org)
[46] Putin signs expanded anti-LGBTQ laws in Russia, in latest crackdown on rights | CNN; Russia: Expanded 'Gay Propaganda' Ban Progresses Toward Law | Human Rights Watch (hrw.org).
[47] Russian parliament bans gender reassignment surgery for trans people - BBC News

3.1.7. Assessments by international bodies

26. In May 2022 the Assembly unanimously adopted Resolution 2446(2022), stating that it was "appalled" by the large and growing numbers of political prisoners in the Russian Federation and the "pattern of systematic repression" against opposition within the country. The Assembly called on the Russian authorities to release all political prisoners and comply with its obligations under international law.[48]

27. On 14 September 2022, the UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, reiterated her calls on the Russian Government to stop the clampdown on human rights defenders. Ms Lawlor raised concerns about the introduction of new criminal provisions to target critical voices; the expansion of laws labelling NGOs as "foreign agents" and "undesirable" organisations, leading to the dissolution of invaluable organisations; legislation deliberately targeting defenders of LGBT+ rights; the widespread detention of anti-war protestors; the restriction of social media websites; and the stripping of *Novaya Gazeta* of its licence.[49]

28. The United Nations Human Rights Council appointed Mariana Katzarova as the first UN Special Rapporteur on the situation of human rights in the Russian Federation. She began work on 1 May 2023. The Special Rapporteur's mandate was created by HRC Resolution 51/25, which cites concern over "*the significant deterioration of the situation of human rights in the Russian Federation, in particular the severe restrictions on the rights to freedom of opinion and expression, peaceful assembly and association...resulting in systematic crackdowns on civil society organizations*". The Human Rights Council also expressed its concern "*at the reported mass arbitrary arrests, detentions and harassment of civil society representatives, the deterioration of the rule of law*", and "*the mass forced shutdowns of civil society organizations and independent media outlets*" among other restrictive measures. The Special Rapporteur will present her report in September 2023 to the 54th session of the Human Rights Council and to the 78th Session of the UN General Assembly in October 2023.[50]

3.2. Belarus

3.2.1. A legislative apparatus for persecuting human rights defenders

29. In March 2023, 38 participating States of the Organization for Security and Co-Operation in Europe invoked the Moscow Mechanism concerning the situation in Belarus since 5 November 2020. The resulting report, by rapporteur Professor Hervé Ascensio, was concluded in April 2023 and made public in May 2023 ("the OSCE report"). The OSCE report concluded that, following the events of 2020, the Belarusian government passed a series of legislative reforms that significantly enhanced the capacity of the regime to carry out politically motivated repression. These introduced new offences (both criminal and administrative), increased liability for vaguely defined acts, extended the use of the death penalty, and limited freedoms of expression, assembly and association.[51]

30. In particular, the OSCE report highlighted amendments to the 'Law on Countering Extremism' made in May 2021. This introduced an excessively broad definition of "extremist activities", that included disseminating "false information" about Belarus, insulting a representative of power, or discrediting the authorities. The law was already used as a tool to target political opponents before the amendments were made – but the reforms led to many new prosecutions and increased penalties. Official lists of "extremist" materials included Telegram channels and chats, websites, media, resources of human rights organisations, songs, books, podcasts, and hashtags. The OSCE report identifies six other "extremism"-related laws adopted between 2021 and 2023,[52] which introduced additional criminal liability for very broadly defined acts and have also been used to persecute political opponents. Furthermore, the report highlighted seven laws which were amended or adopted, where new provisions restricted the freedoms of expression, association and assembly. Of particular note for freedom

[48] Resolution 2446(2022), 'Reported cases of political prisoners in the Russian Federation', adopted by the Assembly on 21 June 2022.
[49] Russia: UN expert alarmed at continued targeting of human rights defenders | OHCHR.
[50] First UN human rights expert on Russian Federation takes office | OHCHR.
[51] "Report on the serious threat to the OSCE human dimension in Belarus since 5 November 2020", report by Professor Hervé Ascensio, Organization for Security and Co-Operation in Europe, 11 May 2023. See in particular pages 3 and 4.
[52] These are: the Law "On the Prevention of the Rehabilitation of Nazism" of 14 May 2021; the Law "On the Genocide of the Belarusian People" of 5 January 2022; Law No. 165-Z "On Amending the Criminal Code of the Republic of Belarus" of 13 May 2022; Law No. 199-Z "On Amending the Criminal Procedure.
Code of the Republic of Belarus" of 20 July 2022; Law No. 242-Z to amend the law "On Citizenship of theRepublic of Belarus" adopted on 5 January 2023; and the Law "On Amendments to Codes on Criminal Liability" of 9 March 2023.

of association was a January 2022 amendment to the Criminal Code, which criminalised participation in the activities of an unregistered association. In relation to freedom of expression, amendments to the Criminal Code established liability of the owners of internet resources for disseminating prohibited information (Article 198-1); and up to 3 years' imprisonment for libel, or six years if it concerned the President (Articles 188 and 367). In regard to freedom of assembly, amendments to the Law on Mass Events of 24 May 2021 established strict limits on the procedure for authorisation of events, made individuals personally liable for unauthorised events, and prohibited journalists from reporting on unauthorised demonstrations (in addition to treating them as participants).[53]

31. The OSCE report found that the legislation had contributed to waves of arrests targeting demonstrators, lawyers, journalists, trade unionists, and political opponents. These were also facilitated by an absence of fair trial, as well as the persecution of lawyers defending defendants accused for political reasons. After Russia's illegal full-scale invasion of Ukraine in February 2022, the repression has been focused, in particular, on those opposing the war or expressing support for the Ukrainian people. The report also concluded that the Belarusian authorities' policy of arrest and detention was arbitrary and incompatible with international human rights standards. Notable issues included the use of violence to gain access to personal data, the extensive application of excessively vague criminal offences, and disproportionate punishments. The report noted that, as of 18 April 2023, there were at least 1,486 political prisoners in Belarus. There was also a wave of liquidation of associations starting in summer 2021 that led to the shutdown of nearly all independent NGOs, in addition to the blocking of access to websites of most independent media and civic initiatives.[54]

32. On 4 September 2023, President Lukashenko signed a decree that effectively barred Belarusians from renewing their passports and other important documents from outside of Belarus. Thousands of Belarusian human rights defenders and critics of the ruling regime who had previously fled the country would now be at enormous risk of government persecution if they were to return.[55]

3.2.2. Selected Examples

33. Human Rights Centre Viasna ("HRC Viasna") is one of the most important human rights organisations in Belarus, working on the development of civic society based on human rights.[56] The persecution of HRC Viasna and its members is an accurate representation of the wider situation of human rights defenders in Belarus.

34. The Chair of HRC Viasna, Ales Bialiatski, was awarded the 2022 the Nobel Peace Prize (along with Memorial and the Ukrainian Center for Civil Liberties). After over 18 months in pre-trial detention, in early 2023 Mr Bialiatski was put on trial along with his HRC Viasna colleagues Deputy Chair Valentin Stefanovich, and lawyer Uladzimir Labkovich. In March 2023 they were all convicted of smuggling and financing "actions grossly violating public order". They were sentenced to 10, 9 and 7 years, respectively.[57]

35. Maria Rabkova is a co-ordinator of the volunteer service at HRC Viasna. She worked on documenting torture and other violations during the 2020 protests in Belarus. Following two years in pre-trial detention, in September 2022 Ms Rabkova was sentenced to 15 years in prison for violating ten articles of the Criminal Code (reduced to 14 years and 9 months in February 2023).[58] HRC Viasna volunteer Andrei Chapiuk was also prosecuted with Ms Rabkova, with a final sentence of five years and nine months' imprisonment.[59] Finally, in November 2021 Leanid Sudalenka (head of the HRC Viasna office in Homiel) and Tatsiana Lasitsa (volunteer) were convicted on charges of "organising and preparing actions that grossly violated public order" (Part 1, Article 342 of the Criminal Code), and "training and preparing persons to participate in such actions, as well as their financing or other material support" (Part 2, Article 342 of the Criminal Code). They were sentenced to

[53] "Report on the serious threat to the OSCE human dimension in Belarus since 5 November 2020", report by Professor Hervé Ascensio, Organization for Security and Co-Operation in Europe, 11 May 2023. See in particular pages 3-4, 14-20.
[54] "Report on the serious threat to the OSCE human dimension in Belarus since 5 November 2020", report by Professor Hervé Ascensio, Organization for Security and Co-Operation in Europe, 11 May 2023, Executive Summary.
[55] Belarus: Decree Puts Exiled Citizens at Risk | Human Rights Watch (hrw.org)

[56] About Viasna (spring96.org)
[57] Ales Bialiatski: Nobel Prize-winning activist sentenced to 10 years in jail – BBC News.
[58] Woman human rights defender Maria Rabkova sentenced to 15 years of jail time | Front Line Defenders; Marfa Rabkova — Political prisoners in Belarus (spring96.org).
[59] #FreeViasna.

3 years and two-and-a-half years respectively (Ms Lasitsa has since been released).[60] HRC Viasna now reports having 6 of its members in prison.[61]

36. On 23rd August 2023, the Ministry of Internal Affairs declared HRC Viasna to be an extremist organisation.[62]

37. The systematic persecution of HRC Viasna is one example of many attacks on human rights defenders in Belarus. Anastasia Loika is a human rights defender working in human rights education – particularly issues arising from the "anti-extremist" legislation outlined above. Following her arrest by the Belarusian authorities, Ms Loika reported that she had been tortured with electric shocks, as well as exposed to other forms of inhuman and degrading treatment. After serving a series of short prison terms for administrative offences, in June 2023 Ms Loika was sentenced to seven years' imprisonment for "inciting racial, national, religious or other social enmity or discord".[63]

3.3. Azerbaijan

38. The current situation in Azerbaijan can be regarded as a continuation of the aftermath of a significant government crackdown carried out in 2014. This was highlighted at the time by Mailis Reps (Estonia, ALDE), rapporteur on 'Strengthening the role and protection of human rights defenders in Council of Europe member States'.[64] The crackdown on human rights defenders included fabricated charges leading to long-term imprisonment; violent repression in detention facilities including ill-treatment, torture or death; and threats and physical attacks against human rights defenders and members of their families.[65] Linked to this were systematic hindrances to the enjoyment of related fundamental rights such as the rights to freedom of expression (including intimidation of journalists and bloggers, limited access to information through restrictions on opposition media, provisions on defamation), freedom of assembly (restrictions on the holding of rallies) and freedom of association (via restrictive and arbitrary NGO legislation).

39. Since the 2014 crackdown, the pressure on Azerbaijani human rights defenders has been maintained, as noted on multiple occasions by PACE rapporteurs on the situation of human rights defenders and political prisoners over recent years.[66] Since the last information note on the situation of human rights defenders in February 2022,[67] multiple reports indicate that the government continues to engage in a bleakly authoritarian range of activities designed to silence human rights defenders and other critics. This includes many allegations of the misuse of criminal prosecutions, kidnapping, violence, and the leaking of sexually explicit material.

3.3.1. Misuse of criminal prosecutions and violence

40. Avaz Zeynalli is the owner and chief editor of the independent news outlet Xural TV. Mr Zeynalli's work often covered allegations of human rights abuses and corruption, regularly involving a critical stance against the government. On 10 September 2022 Mr Zeynalli and his lawyer Elchin Sadykov (a prominent human rights defender) were detained on charges related to bribery, which were regarded by independent lawyers and media as politically motivated.[68] In a statement of 13 September 2022, Commissioner for Human Rights Dunja Mijatović highlighted the detention, as well as searches of Mr Sadykov's work premises, noting that the developments further aggravated the chilling effect on human rights defenders and freedom of expression in

[60] Viasna activists Leanid Sudalenka and Tatsiana Lasitsa sentenced to 3 and 2 ½ years in prison (spring96.org); #FreeViasna. (link)
[61] #FreeViasna. (link)
[62] Belarus: Viasna Human Rights Center declared an "extremist formation" (fidh.org)

[63] Belarus (outcome): Human rights defender, Nasta Loika sentenced to seven years (amnesty.ca); Belarus: Release rights defender Nasta Lojka now – ARTICLE 19.
[64] Azerbaijan: Rapporteur Expresses Concern at Human Rights Defenders Situation, 20 June 2014.
[65] AS/Jur (2014) 03, 24 January 2014.
[66] See in particular the 2018 report of Egidijus Vareikis (Lithuania, EPP/CD) (Doc. 14567) 06 June 2018, 'Protecting human rights defenders in Council of Europe member States'; and the 2020 report of Sunna Ævarsdóttir (Iceland, Socialists, Democrats and Greens Group), "Reported cases of political prisoners in Azerbaijan", which led to Resolution 2322 (2020) and Recommendation 2170 (2020) of the Assembly, adopted on 30 January 2020.
[67] AS/Jur (2022) 01 Rev, 'Situation of human rights defenders in Council of Europe member States', Ms Alexandra Louis (France, ALDE), 28 February 2022.
[68] Azerbaijan Detains a Journalist and His Lawyer, *VOA*, 13 September 2022.

Azerbaijan. Ms Mijatović stated that the detention of Mr Sadykov and Mr Zeynalli had been ordered "*in the absence of basic procedural guarantees*" and called for their immediate release.[69]

41. Sevinj Sadygova, Fatima Mövlamli, and Teymur Karimov are all journalists working for independent media outlets. On 15 February 2022, whilst they were covering a demonstration, they allege that they were detained and subjected to police brutality, whilst journalists from government-controlled media were left to cover the protest unhindered.[70]

42. Bakhtiyar Hajiyev is a well-known blogger, human rights activist, former political prisoner, and outspoken critic of the authorities. He alleges that he was abducted from the street on 21 April 2022 by four masked men; that he was beaten and forced into a car; and that the assailants filmed themselves urinating on him. Mr Hajiyev maintains that the men demanded that he admit to having been instructed to write critical posts about the Interior Minister Vilayat Eyvazov. When he denied any such instructions, Mr Hajiyev alleges that he was stripped, and the men demanded he delete his posts about the Minister as well as those about Fuad Muradov, a pro-government activist. Mr Hajiyev reported that the men threatened to rape and kill him if he continued to criticise the Minister. He was then allegedly abandoned in a remote area, where he was left bound with duct tape and blindfolded.[71]

43. On 9 December 2022, the Department of State of the United States of America announced that it was sanctioning an official in the Azerbaijani Ministry of Internal Affairs, Kerim Alimardanov, due to his alleged involvement in the torture of activists in detention in 2015 to 2016.[72]

44. Also on 9 December 2022, Bakhtiyar Hajiyev was arrested. He was detained on charges of hooliganism (relating to a dispute with a neighbour about a kitten), which are considered by independent media and civil society to be persecution for his political activities. Some members of Azerbaijani civil society alleged that part of the reason for Mr Hajiyev's arrest was his involvement in talks with Western diplomats on the sanctioning of Kerim Alimardanov.[73] Mr Hajiyev began a hunger strike whilst in detention on 9 January 2023. On 13 February, the PACE co-rapporteurs for the monitoring of Azerbaijan, Ian Liddell-Grainger (United Kingdom, EC/DA) and Lise Christoffersen (Norway, SOC), expressed profound concern over the continuing detention of Mr Hajiyev, noting that his detention was "*widely believed to be connected to his activism*". The co-rapporteurs also noted "*a troubling pattern of arbitrary arrest and detention of government critics, civil society activists and human rights defenders through retaliatory prosecution and misuse of criminal law in defiance of the rule of law*".[74]

45. Gubad Ibadoghlu is an economist and politician, who has carried out work on allegations of corruption within Azerbaijani state institutions. In June 2023 Mr Ibadoghlu started a foundation for the education of young Azerbaijanis, stating that it would be funded by donations and foreign assets confiscated from elites allegedly engaged in corruption. On 23 July 2023, Mr Ibadoghlu was allegedly violently arrested and detained. He was subsequently charged with the "production, acquisition or sale of counterfeit money by an organised group" and could face 12 years' imprisonment if convicted. The General Rapporteur on Political Prisoners for the Assembly, Ms Sunna Ævarsdóttir (Iceland, SOC), published a statement saying she was concerned that the charges against Mr Ibadoghlu resulted from his activism and were politically motivated. Noting that Mr Ibadoghlu had recently undergone heart surgery and has a number of medical conditions, Ms Ævarsdóttir also raised concerns about reports he did not have access to adequate food, that he was experiencing rapid weight loss, and that he did not have access to a doctor.[75] On 14 September 2023, the EU Parliament adopted a resolution calling for Mr Ibadoghlu's immediate release.[76]

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[69] https://www.coe.int/en/web/commissioner/-/azerbaijan-s-authorities-should-immediately-release-human-right-lawyer-elchin-sadykov-and-journalist-avaz-zeynalli-and-stop-intimidating-and-harassing.

[70] The journalists in question were: Sevinj Sadygova, a reporter at independent news website Azel.tv, Fatima Mövlamli, a reporter for independent news website Azadliq, and Teymur Karimov, chief editor at the independent YouTube-based outlet Kanal1. Source: Azerbaijani Journalists Detained, Beaten for Covering Protest, *Committee to Protect Journalists*, 15 February 2022.

[71] Activist claims to have been kidnapped over criticism of Azerbaijani minister (oc-media.org).

[72] https://www.state.gov/combating-global-corruption-and-human-rights-abuses/.

[73] Bakhtiyar Hajiyev Arrested for a Month and 20 Days, Prominent activist detained following U.S. sanctions on Azerbaijani official | Eurasianet.

[74] PACE monitors call on Azerbaijan authorities to immediately release Bakhtiyar Hajiyev (coe.int). The U.S. government also called for Mr Hajiyev's release – Calling for the Release of Bakhtiyar Hajiyev – United States Department of State.

[75] PACE rapporteur calls for immediate release of Gubad Ibadoghlu (coe.int)

[76] Texts adopted - The case of Dr Gubad Ibadoghlu, imprisoned in Azerbaijan - Thursday, 14 September 2023 (europa.eu)

3.3.2 Publication of intimate material

46. In mid-February 2023, Mr Hajiyev escalated his hunger strike by announcing he would no longer even drink water. Over the next few weeks, a series of channels promising the "exposure of Bakhtiyar" began appearing on the social media app Telegram, which independent media reported to have been created for the purpose of embarrassing Mr Hajiyev. Reports emerged on 24 February 2023 that private data from Mr Hajiyev's phone had been leaked onto Telegram. The leak included messages, nude photographs, and intimate videos involving various women. Much of the material was explicit, whilst some photographs were with women who had simply expressed support for Mr Hajiyev, but with captions to suggest they had had an intimate relationship. Many of the posts identifying the women also revealed their home addresses or contact information. Members of civil society publicly blamed the Azerbaijani government for the leak, stating that it was used to destroy Mr Hajiyev's reputation. The leak did indeed lead to a backlash against Mr Hajiyev from some members of civil society. Activists condemned the authorities' invasion of privacy of the women involved, noting that – in a culturally conservative country – their lives were put at risk by the disclosures, through suicide or honour killings. Reports indicate that at least one of the women involved went into hiding. Following the release of the materials, Mr Hajiyev stopped his hunger strike.[77]

47. In April 2023 this Committee heard evidence that a camera had been placed in the family TV set of Jamil Hasanli, chairman of opposition party the National Council of Democratic Forces, which recorded intimate content of the daughter of Mr Hasanli and her then boyfriend. The content was then published online.[78]

48. There have been reports of the 'Pegasus' surveillance tool being used widely in Azerbaijan. According to the Organised Crime and Corruption Reporting Project, 80 Azerbaijani journalists, lawyers and activists were the subject of surveillance by Pegasus. Alleged victims include many of the rights defenders mentioned in this information note: Intigam Aliyev, Anar Mammadli, Rasul Jafarov, Fatima Mövlamli, Bakhtiyar Haliyev, and Khadija Ismayilova are some examples.[79]

49. In April 2022 a report was published by Meta, the parent company of WhatsApp, Instagram and Facebook. This stated that the company had disrupted a complex operation carrying out cyber espionage in Azerbaijan, primarily targeting democracy activists, members of the opposition, and journalists. The report stated that the operation had been run by the Azeri Ministry of Internal Affairs.[80]

50. I note that the last Information Note on the Situation of Human Rights Defenders in Council of Europe states contained similar reports of the hacking of intimate content belonging to opponents of the government, and this being published online.[81]

51. Based on the information above, I conclude that the hacking and publishing of sexually explicit material is being used regularly in Azerbaijan, in order to silence human rights defenders.[82] This can have terrible consequences for all of the people involved, but I am particularly concerned by the impact it has on women.

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[77] https://www.occrp.org/en/37-ccblog/ccblog/17486-how-revenge-porn-is-used-to-silence-dissidents-in-azerbaijan; https://oc-media.org/intimate-footage-of-imprisoned-azerbaijani-activist-leaked/; https://oc-media.org/bakhtiyar-hajiyev-ends-hunger-strike-after-release-of-intimate-footage/.

[78] Statement of Ulvi Hansanli, founder and Executive Director of AbzasMedia, in a Joint hearing between the Committee on Legal Affairs and Human Rights, the Committee on Honouring of Obligations and Commitments by Member States of the Council of Europe and the Committee on Culture, Science, Education and Media, "Threats to life and safety of journalists and human rights defenders in Azerbaijan", 27 April 2023.

[79] https://cdn.occrp.org/projects/project-p/?_gl=1*1um679r*_ga*MTAyMDAwOTA2Ni4xNjg3NDQwNDY4*_ga_NHCZV5EYYY*MTY4NzQ0MDQ2OC4xLjEuMTY4NzQ0MDQ4MS40Ny4wLjA.#/.

[80] 'Adversarial threat report', Meta, April 2022, page 7 to 8: https://about.fb.com/wp-content/uploads/2022/04/Meta-Quarterly-Adversarial-Threat-Report_Q1-2022.pdf.

[81] AS/Jur (2022) 01 Rev, 'Situation of human rights defenders in Council of Europe member States', Ms Alexandra Louis (France, ALDE), 28 February 2022, paragraph 16. See also the public statement by Amnesty International, Azerbaijan: Gender-based reprisals against women must stop.

[82] https://www.occrp.org/en/37-ccblog/ccblog/17486-how-revenge-porn-is-used-to-silence-dissidents-in-azerbaijan.

3.3.3. Registration of civil society organisations

52. Since the extensive crackdown on civil society organisations in 2014, the Azerbaijani government has submitted information to the Committee of Ministers of the Council of Europe claiming substantial progress in the registration of NGOs in 2021 to 2022.[83] Meanwhile, a group of five human rights organisations made a submission to the Committee of Ministers in May 2023, alleging the continuation of "*the same systematic obstacles that have been used against civil society for more than a decade*", including the inability of many NGOs to complete the registration process, onerous and arbitrary registration and reporting requirements, excessive executive control over these, and onerous requirements for international donations to be made.[84] In its 2022 "Freedom in the World Report", Freedom House concluded that in Azerbaijan "*Repressive laws on nongovernmental organizations (NGOs) have been used to pressure both local and foreign organizations, many of which have suspended operations when their bank accounts were frozen or their offices raided. Nearly all organizations or networks that work on human rights are forced by the state to operate in a legal gray zone.*"[85]

3.3.4. Non-implementation of judgments of the European Court of Human Rights

53. The threats faced by Azerbaijani human rights defenders outlined above have all been highlighted in judgments of the European Court of Human Rights ("ECtHR"). In order for these judgments to be implemented, the authorities must provide justice to the individual applicant(s) (known as "individual measures"), as well as carry out any necessary reforms to ensure that the same problem does not happen again for other members of society ("general measures"). Since February 2022, the implementation of individual measures in cases concerning human rights defenders in Azerbaijan has been sporadic. Meanwhile, implementation of the relevant general measures has been very limited. This means that the human rights violations highlighted by the judgments are likely to recur.

54. The *Mammadli v. Azerbaijan*[86] group of cases concerns human rights defenders, civil society activists, and a journalist. They were all subject to arrests and detentions that the ECtHR found to have been a misuse of criminal law, which was used to punish and silence them as a result of their legitimate work, in violation of Article 18 in conjunction with Article 5 of the ECHR. In order for the individual measures in the cases to be implemented, the applicants require *inter alia* to have their criminal convictions quashed, have any impugned criminal proceedings discontinued, and be paid compensation. In February 2022 there were nine individuals in the group whose ECtHR judgments had not yet be implemented. Since that time, only two have benefited from the necessary measures – youth activists Mammad Azizov and Shahin Novruzlu.[87] One of the other applicants, Bayram Mammadov, died in what some observers regarded as suspicious circumstances.[88] The other six applicants have still not been provided with justice. They are: civil society leaders Anar Mammadli and Intigam Aliyev; human rights defenders Leyla Yunusova and her husband Arif Yunusov; journalist Khadija Ismayilova; and finally youth activist Giyas Ibrahimov.[89] Giyas Ibrahimov was the colleague of the deceased Bayram Mammadov. He reportedly tried to set himself on fire in front of the Azerbaijani Presidential Administration but was arrested by police. Before his attempted self-immolation, Mr Ibrahimov wrote on social media, "*When freedom burns, the final solution, dreams fade away and all hope turns to dust.*"[90]

55. In order to implement general measures in the *Mammadli* group, the authorities must ensure that no further abuses of the criminal justice system take place, including by ensuring the independence and impartiality of both the prosecution and the judiciary. In its most recent review of the implementation of the group in September 2023, the Committee of Ministers welcomed reforms carried out relating to the

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[83] Communication from Azerbaijan concerning the group of cases of Ramazanova and Others v. Azerbaijan (Application No. 44363/02), 7 July 2022, DH-DD(2022)692.
[84] Communication from NGOs (European Human Rights Advocacy Centre, Election Monitoring and Democracy Studies Center, Human Rights House Foundation, Independent Lawyers Network, Legal Education Society) (04/05/2023) in the group of cases of Ramazanova and Others v. Azerbaijan (Application No. 44363/02), 17 May 2023, DH-DD(2023)616.
[85] Azerbaijan: Freedom in the World 2023 Country Report | Freedom House.
[86] (47145/14), judgment of 19 April 2018.
[87] On 30 September 2022 the Plenum of the Supreme Court of Azerbaijan, quashed the criminal convictions of the two applicants in the case of *Azizov and Novruzlu* (65583/13), judgment of 18/02/2021, and discontinued the criminal charges against them.
[88] Bayram Mammadov died in Istanbul in May 2021: https://oc-media.org/calls-for-answers-over-death-of-azerbaijani-activist-bayram-mammadov-in-istanbul/.
[89] For a summary of this group of cases, see https://hudoc.exec.coe.int/eng?i=004-56219.
[90] https://jam-news.net/former-political-prisoner-tried-to-set-himself-on-fire-in-front-of-azerbaijani-presidential-administration/.

independence of the judiciary.[91] I will be observing closely whether these reforms lead have a positive impact in practice.

56. The case of *Khadija Ismayilova v. Azerbaijan*[92] concerns a journalist known for her work on allegations of corruption against the President's family. She was sent a letter threatening her with public humiliation if she did not stop her investigative reporting. When she refused, a video featuring scenes of a sexual nature involving Ms Ismayilova and her then boyfriend, taken with a hidden camera secretly installed in her bedroom, was posted on the internet. The ECtHR ruled that the Azerbaijani authorities had never properly investigated the incident. In their most recent communication to the Committee of Ministers, the Azerbaijani authorities note that they have not found any information about the perpetrators behind the invasion of Ms Ismayilova's privacy.[93] In order to implement general measures in the case, the Committee of Ministers has, *inter alia*, invited the authorities to provide information on the creation of an enabling environment to ensure the safety of journalists against attacks from state and non-state actors.[94] In subsequent examinations, the Committee has not recorded any progress towards this goal.

57. The group *Ramazanova v. Azerbaijan*[95] includes 19 cases involving NGOs that were unjustifiably dissolved or refused permission to register by the Azerbaijani authorities. The individual measures of 13 of the cases remain pending implementation, whilst the Committee of Ministers is awaiting additional information from the Azerbaijani authorities on the implementation of general measures.[96]

58. The group of *Namazov v. Azerbaijan*[97] concerns the unlawful disbarment of three lawyers in Azerbaijan. The individual measures in two of the three cases remain pending implementation, as well as the general measures required to implement the case, which require the authorities to put in place sufficient safeguards to prevent undue disciplinary action against lawyers in the exercise of their professional duties.[98]

3.4. Türkiye

59. Following the attempted coup of July 2016, prosecutions, arbitrary detention and threats targeting human rights defenders significantly intensified in Türkiye.[99] The environment continues to be one of intense pressure. In particular, as highlighted in unimplemented judgments of the European Court of Human Rights, a wide range of laws concerning crime and terrorism have effectively criminalised very broad and vaguely defined types of speech.[100] Furthermore, in an opinion of 2017, the Venice Commission concluded that the constitutional amendments establishing a presidential system did not guarantee the separation of powers and the independence of the judiciary.[101] In October 2022, the Assembly concluded that the authorities have not been able to address and redress some of the systemic issues which seriously undermine the functioning of the justice system.[102]

60. The widespread criminalisation of certain acts of speech, combined with a judiciary that is insufficiently independent from the executive, creates an environment where individuals aiming to speak out to protect the rights of others regularly find themselves to be the subject of criminal prosecution. I am concerned that this has a significant chilling effect on the work of human rights defenders.

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[91] Decision of the Committee of Ministers at its 1475th meeting, 19-21 September 2023 (DH), concerning the *Mammadli group v. Azerbaijan* (Application No. 47145/14), CM/Del/Dec(2023)1475/H46-6.
[92] (65286/13, judgment of 10/01/2019.
[93] Communication of the government of Azerbaijan, dated 27/06/2023, DH-DD(2023)766: https://hudoc.exec.coe.int/eng?i=DH-DD(2023)766E.
[94] Decision of the Committee of Ministers concerning *Khadija Ismayilova v. Azerbaijan* (Application No. 65286/13), 1390th meeting, 1-3 December 2020 (DH), CM/Del/Dec(2020)1390/H46-3.
[95] (44363/02), judgment of 01/02/2007. For information on the implementation of this group see: https://hudoc.exec.coe.int/eng?i=004-1607.
[96] See the summary of the situation: https://hudoc.exec.coe.int/eng?i=004-1607.
[97] (74354/13), judgment of 30/01/2020.
[98] Decision of the Committee of Ministers in *Namazov group v. Azerbaijan* (Application No. 74354/13), 1451st meeting, 6-8 December 2022 (DH), CM/Del/Dec(2022)1451/H46-5.
[99] See *inter alia* the Report of the Commissioner for Human Rights of 19 February 2020 on this subject, following her visit to Türkiye from 1 to 5 July 2019.
[100] See paragraph 74 below
[101] 'Opinion on the amendments to the Constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a National Referendum on 16 April 2017', adopted by the Venice Commission at its 110th Plenary Session (Venice, 10-11 March 2017), CDL-AD(2017)005-e.
[102] Resolution 2459 (2022), 'The honouring of obligations and commitments by Türkiye', adopted by the Assembly on 12 October 2022.

3.4.1. Selected examples

61. Osman Kavala is a businessman and human rights defender, who supported a wide range of civil society organisations promoting human rights. He was arrested on 18 October 2017 and placed in pre-trial detention. In December 2019 the European Court of Human Rights ruled that there had been no evidence to support the charges against him, and that they had been brought in order to silence him and other human rights defenders. The court ordered Mr Kavala's immediate release.[103] Additional criminal charges were brought by the Turkish authorities and in April 2022 Mr Kavala was sentenced to life imprisonment, allegedly for attempting to overthrow the Government through force. Seven co-defendants were also sentenced to 18 years in prison. On 28 December 2022, the 3rd Regional Appeal Court upheld the judgment. Mr Kavala lodged proceedings at the Turkish Court of Cassation, but it upheld his conviction on 28 September 2023.[104]

62. In the meantime, In February 2022 the Committee of Ministers brought infringement proceedings against Türkiye over its failure to implement the European Court of Human Rights ruling on Kavala and referred the case back to the court. In July 2022 the European Court of Human Rights ruled that the new charges against Mr Kavala were simply a reclassification of existing facts, and that its earlier judgment had vitiated the subsequent prosecution. The judgment also found that Türkiye had failed to implement the previous 2019 judgment and had not complied with its obligations under Article 46 § 1 of the European Convention on Human Rights.[105] In April 2023 Mr Kavala marked 2,000 days of arbitrary imprisonment. In July 2023, the Committee of Ministers of the Council of Europe received an information document setting out the possible options to take in response, under Article 46 § 5 of the ECHR.[106]

63. The proceedings against Mr. Kavala have generated a public outcry among civil society actors and human rights institutions. In January 2023, the Assembly's co-rapporteurs on the monitoring of Türkiye, John Howell (UK, EC/DA) and Boriss Cilevičs (Latvia, SOC) carried out a visit in the country and met Osman Kavala in prison, encouraging the authorities to engage in and pursue a diplomatic dialogue under the auspices of the Council of Europe and its Parliamentary Assembly.[107] The European Parliament and the UN Special Rapporteur on Human Rights Defenders, Mary Lawlor, have also called on the Turkish authorities to implement the rulings of the European Court of Human Rights.[108]

64. Professor Sebnem Korur Fincancı is a forensic medical practitioner, President of the Union of Turkish Medical Associations, and an anti-torture expert. She helped develop the United Nations' reference standards on the investigation and documentation of torture cases. Professor Fincancı was arrested at her house on 26 October 2022, after appearing on a news broadcast where she called for an independent investigation into the alleged use of banned chemical weapons by the Turkish military. Professor Fincancı was charged under counter-terrorism legislation and detained pending trial. On 11 January 2023 the Istanbul 24th Heavy Penal Court sentenced her to 2 years, 8 months and 15 days' imprisonment for "making propaganda for a terrorist organisation" under article 7/2 of the Law on the Fight Against Terrorism. The court also ordered her release from prison. The sentence is under appeal.[109]

65. The "Migration Monitoring Association" (also known as "GÖÇİZDER") is an NGO created in 2016 working to highlight human rights violations that have occurred in the context of forced displacement in Türkiye and which helps with the repatriation of victims. In September 2022, 23 persons associated with the organisation were arrested and charged with "membership of an armed terrorist organisation".[110] In December 2023 a first hearing in the case was held, following which four co-defendants were released pending trial (with the others remaining in detention). The human rights organisation FIDH alleged a series of violations of due

[103] *Kavala v. Türkiye* (28749/18), judgment of 10 December 2019.
[104] See the summary of the implementation of the Kavala v. Türkiye judgment on Hudoc Exec.
[105] *Proceedings under Article 46 § 1 in the case of Kavala v. Türkiye* (28749/18), Grand Chamber judgment of 11 July 2022.
[106] Decision of the Committee of Ministers in the case of *Kavala v. Türkiye* (28749/18), taken at its 1468th meeting, 5-7 June 2023 (DH), CM/Del/Dec(2023)1468/H46-35.
[107] PACE monitors for Türkiye meet Osman Kavala, PACE news, 13 January 2023.
[108] Türkiye's dismissal of European Court rulings sets dangerous precedent, Press release by Mary Lawlor, UN Special Rapporteur on the situation of human rights defenders, 31 October 2022; European Parliament Resolution of 19 May 2021 on the 2019-2020 Commission Report on Türkiye, P9_TA(2021)0243, available at Texts adopted – 2019-2020 Reports on Türkiye – Wednesday, 19 May 2021, see paragraph 36.
[109] Türkiye: UN experts call for release and end of judicial harassment of anti-torture expert | OHCHR; Woman human rights defender Sebnem Korur Fincancı sentenced to imprisonment, granted release from prison | Front Line Defenders.
[110] Türkiye: Apparent misuse of counter-terrorism legislation against HRDs working on the rights of the internally displaced – UN SR Human Rights Defenders (srdefenders.org).

process guarantees during the proceedings.[111] The UN Special Rapporteur on Human Rights Defenders, Mary Lawlor, called for the acquittal of the human rights defenders involved, stating that the case was an apparent misuse of counter-terrorism legislation to target legitimate human rights work.[112]

66. Öztürk Türkdoğan is the co-chairperson of the Turkish Human Rights Association and member of the Ankara Bar Association. In 2021 he was charged with multiple offences related to his work as the leader of a major human rights organisation. On 19 April 2022, Mr Türkdoğan was acquitted of the charge of "membership of an armed terrorist organization" and his travel ban was lifted. However, he continues to face two criminal charges. The first is for "degrading the Turkish nation, state of the Turkish Republic and institutions and organs of the state" (Article 301 of the Criminal Code), in relation to a blog published on the Human Rights Association website entitled "Stop Denying the Armenian Genocide for Justice and Truth". He also faces the charge of "insult" under Article 125/3 of the Criminal Code, in relation to a statement published by the Human Rights Association condemning a public statement made by the Interior Minister of Türkiye concerning civil society organisations. According to reports provided to the UN Special Rapporteur on Human Rights Defenders, the maximum penalty Mr Türkdoğan could face is 14 years' imprisonment.[113]

67. Taner Kılıç is a refugee rights lawyer and Honorary Chair of Amnesty's Türkiye section. In June 2017 he was detained in prison for 14 months and eventually convicted in July 2020 of "membership of a terrorist organisation" and sentenced to six years and three months in prison. At that time human rights defenders İdil Eser, Özlem Dalkıran and Günal Kurşun were also sentenced to 25 months imprisonment for "assisting a terrorist organisation". In May 2022 the European Court of Human Rights issued a judgment in favour of Mr Kılıç concerning his arrest and pre-trial detention, ruling that there had been a lack of any reasonable suspicion to justify his detention.[114] On 22 November 2022 the Court of Cassation acquitted all four human rights defenders of the charges against them.[115]

68. The "Saturday Mothers/People" is a group that aims to gather every Saturday in Istanbul, to highlight the cases of missing relatives who were the subject of enforced disappearances in the 1980s and 1990s. According to Amnesty International, at the 900th vigil of the Saturday Mothers/People in June 2022, riot police prevented an assembly from taking place, and detained two lawyers and several relatives of victims.[116]

69. Also in June 2022, Human Rights Watch reported widespread attacks and arrests of protestors at the Istanbul Pride March, including the arrest of journalists reporting on the event.[117] Similar crackdowns on Pride events were reported across Türkiye, including the firing of pepper balls by police at a student-organised march held in Ankara.[118]

70. In July 2022 the UN Committee on Elimination of Discrimination against Women raised concerns that women human rights defenders and activists are often subjected to arrest, physical assault, threats, intimidation, harassment, and freezing of assets. It urged Türkiye to ensure that women human rights defenders, lawyers and journalists can freely carry out their legitimate activities, and to protect them from violence and intimidation.[119]

71. According to Amnesty International, a wide range of journalists and other individuals were unjustifiably remanded in pretrial detention and/or were convicted of crimes, as a result of the use of free speech. These included sixteen journalists from three media outlets and the co-chair of the Dicle Fırat Journalists Association, who were temporarily remanded in pretrial detention in Diyarbakır in June 2022, accused of "membership of a terrorist organization". In April 2022 the Istanbul Regional Appeals Court also upheld the conviction and sentence of human rights lawyer Eren Keskin, who had been convicted of "membership of a terrorist

[111] Türkiye: Violations of the right to a fair trial and due process guarantees of Bilal Yıldız (fidh.org).
[112] Türkiye: Apparent misuse of counter-terrorism legislation against HRDs working on the rights of the internally displaced – UN SR Human Rights Defenders (srdefenders.org).
[113] Türkiye: Öztürk Türkdoğan facing multiple criminal proceedings (joint communication) – UN SR Human Rights Defenders (srdefenders.org); Türkiye: Acquittal and ongoing judicial harassment of Öztürk… | OMCT.
[114] Taner Kılıç (no. 2) v. Türkiye (208/18), judgment of 31 May 2022.
[115] Türkiye: Justice prevails as convictions of four human rights defenders overturned – Amnesty International.
[116] Türkiye: Police detain human rights defenders and relatives of disappeared people on Saturday Mothers/People 900th vigil – Amnesty International.
[117] Türkiye: Mass Arrests, Anti-LGBT Violence at Pride | Human Rights Watch (hrw.org).
[118] Türkiye: "Another dark day" as police use excessive force and fire pepper balls on Pride marchers – Amnesty International; Türkiye: Mass Arrests, Anti-LGBT Violence at Pride | Human Rights Watch (hrw.org).
[119] UN women's rights committee publishes findings on Azerbaijan, Bolivia, Mongolia, Morocco, Namibia, Portugal, Türkiye and United Arab Emirates | OHCHR.

organization" in relation to her role as symbolic editor-in-chief of Özgür Gündem.[120] At the time of its annual report of 2023, Human Rights Watch alleged that at least 65 journalists and media workers were in pretrial detention or serving prison sentences for terrorism offenses because of their journalistic work or association with media.[121]

72. In addition to the existing legal framework placing very tight limits on freedom of speech, new restrictions were introduced. In October 2022 the Turkish parliament debated amendments to a series of laws relating to freedom of expression. Among these were a revision of Art. 217/A to the Turkish Penal Code, that established a punishment of three years' imprisonment "for publicly disseminating false information".[122] An Urgent Opinion of the Venice Commission concluded that this amendment was not consistent with Article 10 of the European Convention on Human Rights, on the grounds that it was too vague, it was not necessary in a democratic society, and it was not proportionate to the aim pursued. The Commission was particularly concerned with the possibility of a "*chilling effect and increased self-censorship*" – particularly in light of the upcoming 2023 elections – and recommended that the amendment not be enacted.[123] The Assembly also urged the Turkish authorities not to enact the amendment in Resolution 2459 (2022).[124] The Turkish parliament nevertheless adopted the law the following day.

73. In July 2023 the FIDH-OMCT Observatory reported a wave of judicial harassment of human rights lawyers. According to reports, over 25 members of the Lawyers for Freedom Association (Özgürlük için Hukukçular Derneği – ÖHD) were subject to police raids, detention and/or arrest over a two-month period.[125]

3.4.2. Non-implementation of judgments of the European Court of Human Rights

74. The Turkish authorities have not taken the necessary measures to carry out the reforms required to implement a wide range of judgments of the European Court of Human Rights, which are highly relevant to the protection of human rights defenders. The following issues are of particular note:

74.1. Unjustified and disproportionate interferences with the right to freedom of expression and the consequent chilling effect on the speech of society as a whole. These include a wide range of laws concerning crime and terrorism, which have the effect of criminalising a very broad and vaguely defined range of speech acts carried out by people contributing to public debate.[126] Türkiye has more leading judgments of the European Court of Human Rights concerning violations of freedom of expression under Article 10 pending implementation than any other State.[127]

74.2. Failure to take steps to protect the right to life of journalists faced with real and imminent threats.[128]

74.3. A series of issues which threaten the independence of the judiciary, including the unlawful detention of judges without reasonable justification,[129] and a lack of procedural guarantees for disciplinary sanctions against judges and other measures allegedly used to punish them.[130]

74.4. Violations of the right to freedom of assembly, including the prosecution of participants and the use of excessive force to disperse peaceful demonstrations.[131]

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[120] Amnesty International Report 2022/23: The state of the world's human rights – Amnesty International, page 369 and 371:
[121] World Report 2023: Türkiye | Human Rights Watch (hrw.org).
[122] Comment by UN Human Rights Office spokesperson Marta Hurtado on Türkiye | OHCHR.
[123] Urgent joint opinion of the Venice Commission and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft amendments to the Penal Code regarding the provision on "false or misleading information", issued pursuant to article 14a of the Venice Commission's Rule of Procedure, endorsed by the Venice Commission at its 132nd Plenary Session, (Venice, 21-22 October 2022): Venice Commission:: Council of Europe (coe.int).
[124] Resolution 2459 (2022), 'The honouring of obligations and commitments by Türkiye', adopted by the Assembly on 12 October 2022.
[125] Turkey: Wave of detentions and arrests against human rights lawyers (fidh.org)
[126] Including: the Öner and Türk group, the Işıkırık group, the Altuğ Taner Akçam group, the Artun and Güvener group, and the Nedim Şener group. For a summary of the implementation of all of these cases, see: https://hudoc.exec.coe.int/eng?i=004-36806.
[127] Data drawn from the 'Hudoc Exec' database: HUDOC-EXEC (coe.int).
[128] Dink v. Türkiye (2668/07), judgment of 14 September 2010.
[129] Alparslan Altan v. Türkiye group (12778/17), judgment of 16 April 2019.
[130] Bilden v. Türkiye group (1571/07), judgment of 9 March 2021.
[131] Oya Ataman v. Türkiye group (74552/01), judgment of 5 December 2006.

74.5. Detention of persons without reasonable suspicion that they have committed an offence.[132]

3.5. Greece

75. Sarah Mardini was born in 1995 and grew up in a suburb of Damascus. She was passionate about swimming and started to compete for the national team. During the Syrian civil war, Ms Mardini's family home was destroyed. Following this, in August 2015 Ms Mardini and her sister Yusra fled Syria. However, in the Aegean Sea between Türkiye and Greece, the motor of their boat stopped working and the vessel began to take on water. There were a total of 20 migrants on board a boat designed for a maximum of 8 people. Sarah Mardini and her sister Yusra jumped into the water to try to pull the boat to safety. After three-and-a-half hours they succeeded and reached the island of Lesbos. In 2016 Ms Mardini returned to Greece to volunteer for Emergency Response Centre International, an NGO providing emergency response and humanitarian aid to migrants and others. There she contributed to protecting the rights of migrants in accordance with Article 2 of the ECHR, through search and rescue services, patrolling the coast, spotting vessels in distress and providing assistance to people. Ms Mardini was often the one to calm refugees, saying "*they feel better because I am a refugee just like them*".[133]

76. In August 2018 Ms Mardini was arrested along with an NGO colleague, Seán Binder. Ms Mardini and Mr Binder were subsequently charged with offences including facilitating people smuggling, facilitation of illegal entry, violation of State secrets and espionage. After spending three months in pre-trial detention, they were released pending trial. 22 other members or former members of their NGO were also charged. Some minor charges were dismissed in January 2023, but the felony charges remain (including human trafficking).[134]

77. This is one example of a wide range of reports of criminal prosecutions being started into rights work in Greece relating to migrants and asylum seekers. I am concerned that, in an effort to deter migration, the Greek authorities are effectively criminalising altruism towards a particular vulnerable group.

78. The Council of Europe Commissioner for Human Rights, Dunja Mijatović, has critiscised the "*hostile environment*" faced by human rights defenders in Greece. This includes the ongoing criminalisation of individuals assisting refugees, asylum seekers and migrants, cumbersome NGO registration procedures and undue pressure on journalists.[135]

79. The United Nations Special Rapporteur on Human Rights Defenders, Mary Lawlor, conducted a country visit to Greece in 13-22 June 2022. Her full report was published on 2 March 2023.[136] Ms Lawlor concluded that human rights defenders are generally free to conduct their work in Greece and that, overall, it is a safe country for them.[137] However, this is not the case for human rights defenders protecting the rights of migrants, asylum-seekers and refugees. Ms Lawlor found that defenders working in these areas had been "*subjected to smear campaigns, a changing regulatory environment, threats and attacks and the misuse of criminal law against them to a shocking degree*".[138] As a result of the measures taken against them, she found that human rights defenders and NGOs working in the field of migration have cut back their operations or decreased their visibility – and in some cases volunteers have ceased operations altogether.[139] Ms Lawlor recommended the adoption of a specific law to recognise and protect human rights defenders, as well as awareness-raising, education and political support.[140]

[132] Akgun v. Türkiye (19699/18), judgment of 20 July 2021.
[133] Syrian refugee uses swimming skills to rescue others | UNHCR; 'Former Syrian Refugee Yusra Mardini on the Olympics & United Nations | Vogue'.
[134] 'Visit to Greece – Report of the Special Rapporteur on the situation of Human Rights Defenders, Mary Lawlor', 2 March 2023, Fifty-second session of the UN Human Rights Council, paragraphs 79 to 82.
[135] Greek authorities should reverse the trend undermining the work of human rights defenders and journalists – Commissioner for Human Rights (coe.int).
[136] 'Visit to Greece – Report of the Special Rapporteur on the situation of Human Rights Defenders, Mary Lawlor', 2 March 2023, Fifty-second session of the UN Human Rights Council.
[137] *Ibid.*, paragraph 19.
[138] *Ibid.*, paragraph 114.
[139] *Ibid*., paragraph 91.
[140] *Ibid*., paragraph 22 to 24.

3.5.1. Criminalisation of human rights defenders

80. Many reports were made to Ms Lawlor of the police opening criminal investigations against individuals working to protect the rights of migrants and refugees, then leaking the details of the investigation to the press.[141] This allowed the authorities to intimidate individuals and organisations to try to pressure them away from their work, even in the absence of a trial. One example is a criminal investigation carried out by the National Intelligence Service and the Counter-Terrorism Service, targeting 35 individuals working with four different NGOs. They were reportedly accused of forming and joining a criminal organisation, violation of State secrets, espionage, and violation of the immigration code. Although the investigation was announced in a press release in 2020 – with further details leaked to the press – none of those under investigation have been formally notified or charged.[142] Another example is a criminal investigation being carried out against the Spokesperson of the Greek Helsinki Monitor, Panayote Dimitras, and Tommy Olsen, the founder of the Norwegian NGO Aegean Boat Report. Both have been involved in documenting alleged pushbacks by the Greek authorities. Ms Lawlor notes that Mr Dimitras received a court summons concerning the facilitation of entry and of forming and joining a criminal organisation; whilst Mr Olsen has not yet been notified of the substance of the investigation by the Greek authorities.[143] In some cases, even simply receiving information about people in distress at sea has led to criminal charges, as this is considered illegal information and equated to people smuggling.[144]

81. Ms Lawlor noted that the international and regional instruments designed to counter the smuggling of human beings stipulate that there should be no criminalisation of activities carried out for non-profit purposes (including humanitarian purposes). Although Greek legislation does provide for the humanitarian exemption, Ms Lawlor found that this is not consistently applied by the police, prosecutors and the courts.[145]

3.5.2. Smear campaigns against human rights defenders

82. In addition to the criminalisation of individuals carrying out rights work with migrants, asylum seekers and refugees, Ms Lawlor also raised concerns about smear campaigns experienced by individuals working in this area. She cited the case of human rights defender Isasonas Apostolopoulos, who was labelled as a traitor after raising concerns about actions of the Hellenic Coastguard during a hearing in the European Parliament. His evidence was condemned as “slander” by the spokesperson for the Government of Greece and the Deputy Prime Minister. This was followed by negative coverage in Greek media outlets and then death threats on social media.[146]

83. There are also concerns that anti-money laundering prosecutions are being used to intimidate rights defenders, through the use of smear campaigns. Ms Lawlor publicly raised an alleged example of a money laundering investigation against Panayote Dimitras, which has once again been leaked to the press without a formal notification to the person involved.[147] There have also been leaked reports about anti-money laundering investigations against the NGO ‘Human Rights 360’.[148] Ms Lawlor has noted that such leaks are commonly used to smear human rights defenders.[149]

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[141] ‘Visit to Greece – Report of the Special Rapporteur on the situation of Human Rights Defenders, Mary Lawlor’, 2 March 2023, Fifty-second session of the UN Human Rights Council, paragraph 76.
[142] ‘Visit to Greece – Report of the Special Rapporteur on the situation of Human Rights Defenders, Mary Lawlor’, 2 March 2023, Fifty-second session of the UN Human Rights Council, paragraph 83.
[143] *Ibid*., paragraph 89.
[144] ‘Visit to Greece – Report of the Special Rapporteur on the situation of Human Rights Defenders, Mary Lawlor’, 2 March 2023, Fifty-second session of the UN Human Rights Council, paragraph 78.
[145] ‘Visit to Greece – Report of the Special Rapporteur on the situation of Human Rights Defenders, Mary Lawlor’, 2 March 2023, Fifty-second session of the UN Human Rights Council, paragraph 77.
[146] *Ibid*., paragraph 87.
[147] Mary Lawlor UN Special Rapporteur HRDs on Twitter: "2/3 Media reports also suggest that Panayote is being investigated by the anti-money laundering authority. Panayote himself has received no notification of any such investigation, frustrating his access to remedy. Leaks of such investigations are commonly used to smear #HRDs." / Twitter. See also publication from Human Rights Watch: Greece: Smear Campaign Against Rights Activist | Human Rights Watch (hrw.org).
[148] Human Rights 360 to be probed by prosecutor | eKathimerini.com.
[149] Mary Lawlor UN Special Rapporteur HRDs on Twitter: "2/3 Media reports also suggest that Panayote is being investigated by the anti-money laundering authority. Panayote himself has received no notification of any such investigation, frustrating his access to remedy. Leaks of such investigations are commonly used to smear #HRDs." / Twitter.

3.5.3. Registration issues

84. In July 2020 the Expert Council on NGO Law of the Council of Europe Conference of International NGOs published an opinion finding that legislative changes concerning the registration of NGOs made in 2020 were vague, disproportionate, inconsistent with the principle of legality, and inconsistent with Articles 8 and 11 of the ECHR. The opinion predicted that the legislation would have a chilling effect on civil society participation.[150]

85. In the country visit report of the UN Special Rapporteur on Human Rights Defenders, Ms Lawlor noted that progressively stringent registration requirements for NGOs and individuals had produced a chilling effect on civil society. She concluded that a series of legislative measures, beginning in 2019, had severely impinged on the right of freedom of association of human rights defenders active in the areas of asylum and migration.[151] In addition to the registration issues faced by organisations working in the asylum and migration field, Greece has a longstanding problem with the registration of associations representing certain minorities, which is reflected in the continued non-implementation of groups of judgments from the European Court of Human Rights.[152]

3.5.4. Freedom of the press and migration

86. Ms Lawlor has noted that journalists reporting on pushbacks and refugees have faced a number of difficulties. Some have reported surveillance, including the use of predatory malware and wiretapping. Journalists travelling to landing sites have reported on the confiscation and/or checking of their equipment, and, in some cases, requests to delete photos. She cited the case of Norwegian photographer Knut Bry, who was arrested on Lesbos for espionage in March 2022. Ms Lawlor also noted the example of a photojournalist who offered asylum-seekers water when they arrived in Lesbos in November 2020. Although his only contact with the migrants was to offer them water, the journalist was charged and sentenced to 14 months in prison for facilitating illegal stay in the country and disobedience. Although the sentence was later overturned on appeal, all his work was confiscated.[153]

3.6. Georgia

87. I was concerned by how close Georgia came to adopting Russian-style "foreign agents" laws which were proposed in parliament in February 2023. Such legislation would have required individuals and organisations to register with the Ministry of Justice as "agents of foreign influence" if they received at least 20% of their funds from abroad, along with onerous reporting requirements following registration and significant fines for failures to register. This would have significantly interfered with the work of human rights defenders, given that the vibrant civil society and media scene in Georgia is supported with the help of foreign aid. In June 2022 the European Court of Human Rights had held that the Russian version of these laws violated the European Convention on Human Rights, highlighting that they would have a chilling effect on the funding of civil society work.[154] In a joint statement, around 400 non-governmental organizations and local media claimed that the adoption of the bills in Georgia would amount to an attack "*not only the independent civil society organizations and the critical media, but the people of Georgia themselves*".[155] The bills were also criticised by the United Nations Office in Georgia,[156] the Council of Europe Commissioner for Human Rights,[157] and the

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[150] 'Opinion on the Compatibility with European Standards of Recent and Planned Amendments to the Greek Legislation on NGO Registration', CONF/EXP(2020)4, Expert Council on NGO Law of the Conference of INGOs of the Council of Europe, 2 July 2020. In particular, see the conclusion, paragraphs 103 to 109.

[151] See 'Visit to Greece – Report of the Special Rapporteur on the situation of Human Rights Defenders, Mary Lawlor', 2 March 2023, Fifty-second session of the UN Human Rights Council, paragraph 39: "*The additional registration requirements, which built on pre-existing restrictions in place since 2018, introduced further requirements, specifically for NGOs working in the areas of asylum, migration and social inclusion, purportedly to promote their accountability. In particular, in 2020, Law No. 4662/2020 and Law No. 4686/2020, as well as the Joint Ministerial Decision 3063/2020, subsequently replaced by Joint Ministerial Decision 10616/2020, introduced progressively stringent requirements for NGOs and individuals working in those fields, producing a chilling effect on civil society.*"

[152] See in particular the groups *Bekir-Ousta and Others v. Greece* (35151/05), judgment of 11 October 2007; and *House of Macedonian Civilization and Others v. Greece* (1295/10), judgment of 9 July 2015.

[153] 'Visit to Greece – Report of the Special Rapporteur on the situation of Human Rights Defenders, Mary Lawlor', 2 March 2023, Fifty-second session of the UN Human Rights Council, paragraphs 105 to 113.

[154] Ecodefense and others v. Russia (9988/13), judgment of June 14, 2022

[155] RUSSIAN LAW IS NOT THE WILL OF GEORGIA - საერთაშორისო გამჭვირვალობა - საქართველო (transparency.ge)

[156] United Nations in Georgia, Statement on the Draft Law on Transparency of Foreign Influence, February 26, 2023

[157] Commissioner for Human Rights, Commissioner urges Georgian parliament to reject draft law "on transparency of foreign influence", Letter, Council of Europe, February 28, 2023

spokesperson for the European Union High Representative.[158] Following large demonstrations, the Georgian Parliament withdrew the draft legislation in March 2023.

88. I was also relieved to see the pardoning and release of Nika Gvaramia. Mr Gvaramia is a noted independent journalist and founder of one of Georgia's most prominent media organisations, Mtavari Arkhi. He had been convicted of a 3.5-year prison sentence in May 2022, on charges that had been widely criticised as politically motivated by international observers.[159] Georgia's President Salome Zourabichvili issued a pardon for Mr Gvaramia on 22 June 2023.[160]

89. I continue to follow closely the general environment for human rights defenders in Georgia.

3.7. Other selected examples

3.7.1. Activists working on access to reproductive rights

90. Justyna Wydrzyńska is one of the leaders of "Abortion Dream Team", a **Polish** abortion rights NGO. In March 2023 Ms Wydrzyńska reportedly became the first activist in Europe to be convicted for helping a woman get an abortion using pills. The woman in question was reportedly the victim of domestic violence and wanted to have an abortion against her husband's wishes. She had reportedly tried to travel to Germany for the procedure but had been prevented from doing so by her husband and had ordered at-home abortion tablets but worried they might not be delivered in time. When Ms Wydrzyńska sent the woman some at-home abortion pills, the woman's husband intervened and reported the incident to the police. Ms Wydrzyńska was found guilty of facilitating an abortion and sentenced to eight months of community service at 30 hours per month.[161]

91. Vanessa Mendoza Cortés is the president of the **Andorran** organization Stop Violence, which works on gender-based violence and also advocates for safe and legal abortion in Andorra. In October 2022, a judge issued an indictment against her for "crimes against the prestige of institutions", which could be punishable by a fine and criminal record. According to Amnesty International, the evidence referred to in the indictment includes the shadow report submitted by Stop Violence to the Fourth Periodic Review of Andorra of the United Nations Committee on the Elimination of Discrimination against Women (UN CEDAW). Amnesty International raised concerns that the defamation laws are being used with the purpose or effect of penalising criticism of government or public officials, violating the right to freedom of expression.[162]

3.7.2. Human Rights Defenders working on the rights of refugees, migrants and asylum-seekers

92. In addition to highlighting the situation of human rights defenders in Greece working on the rights of refugees, migrants and asylum-seekers, the UN Special Rapporteur on the situation of Human Hights Defenders, Mary Lawlor, raised concerns about the situation of human rights defenders working on these issues in **Bosnia and Herzegovina**, **Cyprus**, **Italy**, **Hungary**, and **Poland**.[163]

3.7.3. SLAPPs

93. The widespread use of strategic lawsuits against public participation ("SLAPPs") continues to be an issue of great concern. SLAPPs involve abusive litigation to prevent the dissemination of information and silence those reporting on issues in the public interest. SLAPPs continue to be used extensively against journalists and media organisations, but also activists, civil society organisations, trade unions, and whistleblowers. Environmental activists across Europe are particularly affected: for example, there are credible reports of a SLAPP case being brought against Sunčica Kovačević and Sara Tuševljak, environment activists in **Bosnia and Herzegovina** working on the protection of the Kasindolska river.[164] In a roundtable discussion

[158] European Union External Action Service, Georgia : Statement by the Spokesperson on the draft law on "transparency of foreign influence", February 24, 2023

[159] e.g. Georgia: Sentencing of pro-opposition media owner Nika Gvaramia a political motivated silencing of dissenting voice - Amnesty International; Noted Georgian Journalist Gvaramia Sentenced To Lengthy Prison Term (rferl.org)

[160] CPJ welcomes pardon for jailed Georgian journalist Nika Gvaramia - Committee to Protect Journalists

[161] Polish court finds activist guilty of facilitating abortion – POLITICO; Frontline Defenders Global Annual Report 2022, page 67.

[162] Andorra: Activist Defending Abortion Rights Faces Trial | Amnesty International UK

[163] 'Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers', Report of the Special Rapporteur on the situation of human rights defenders, 18 July 2022, A/77/178, paragraphs 1, 19, 44, 51, 74, 75, 94, 100, 109, 110, 111.

[164] Bosnia and Herzegovina: Experts appointed by the court into the case against environmental women human rights defenders | Front Line Defenders.

of human rights defenders organised by the Council of Europe Commissioner for Human Rights in October 2022, participants reported that human rights defenders had faced dozens or even hundreds of SLAPPs in Council of Europe member States, including in **Croatia**, **France**, **Hungary**, **Italy**, **Malta**, **Poland**, **Serbia** and **Slovenia**.[165]

94. I am pleased to see that efforts to address SLAPPs are ongoing. The European Union institutions are in the process of producing a directive and the Committee of Ministers of the Council of Europe is considering a draft recommendation on the issue. I am also looking forward to the draft report of Mr Stefan Schennach (Austria, Socialists, Democrats and Greens Group), who is the rapporteur for "Countering SLAPPs: an imperative for a democratic society", which is under preparation with the Committee on Culture, Science, Education and Media, with our committee seized for Opinion.

4. Protecting Human Rights Defenders from Abroad

95. Human defenders take extraordinary risks to protect the rights of others. According to the Human Rights Defender Memorial, over 400 defenders were killed across the world in 2022.[166] It is therefore incumbent on member and observer States to help human rights defenders who are at risk in other countries.

96. In particular, Russia's illegal war in Ukraine has led to a huge wave of repression against human rights defenders in Russia and Belarus. The Council of Europe Commissioner for Human Rights has urged member States to take four steps to help human rights defenders in Russia and Belarus: issue outspoken denunciations of violations against Russian and Belarussian human rights defenders; provide continuous political and practical support to human rights defenders who remain in these countries; and adopt and implement comprehensive and sustainable relocation policies to help human rights defenders settle outside of Russia and Belarus; and to grant them stable residence to facilitate their work.[167] I support the Commissioner's proposals.

97. I am particularly worried about obstacles faced by fleeing human rights defenders. The Assembly has called on member States to keep their borders open to those fleeing the Lukashenka regime,[168] and called on all member and observer States to facilitate the granting of visas and give careful consideration to requests for asylum from human rights defenders who need to leave the Russian Federation in order to avoid persecution and/or arrest.[169]

98. I am concerned that member and observer States are not doing enough on this issue. For example, a report of July 2023 from the European Union Agency for Fundamental Rights (FRA) found that only twelve European Union states had launched a dedicated national initiative for the relocation of human rights defenders (Czechia, Estonia, Finland, France, Germany, Ireland, Latvia, Lithuania, the Netherlands, Poland, Spain and Sweden). The FRA report found that human rights defenders may find it difficult to get relocation support; that it was challenging for them to access visas; and that support for longer-term stay in the EU was rare. The report indicated six ways for the EU and its member states to help support and protect human rights defenders from abroad. I urge all member and observer States of the Council of Europe to review their own practices and look at these proposals closely.[170]

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[165] 'Human rights defenders in the Council of Europe area in times of crises: Round-table with human rights defenders organised by the Office of the Council of Europe Commissioner for Human Rights, in Dublin 24-25 October 2022. CommHR(2023)2, 23 March 2023, paragraph 26.

[166] Frontline Defenders Global Annual Report 2022, page 2.

[167] Member states should provide more support to Russian and Belarusian human rights defenders – Commissioner for Human Rights (coe.int).

[168] Resolution 2499 (2023), 'Addressing the specific challenges faced by the Belarusians in exile', adopted by the Assembly on 20 June 2023, paragraph 15.

[169] Resolution 2446 (2022), Reported cases of political prisoners in the Russian Federation, paragraph 20.1.

[170] 'Protecting Human Rights Defenders at Risk: EU Entry, Stay and Support', European Union Agency for Fundamental Rights, 11 July 2023, See in particular the key findings at pages 5-7. The six proposals are: making better and more frequent use of existing flexibility in EU law; introducing and broadening existing programmes; Improving awareness about human rights defenders; considering the benefits and risks of digitalisation of and technology use in border crossing procedures; providing more adequate support during stay; and reviewing the adequacy of legal tools for supporting human rights defenders.

99. The Assembly has also called on member and observer States to refuse extradition requests for Russian nationals for offences which could be considered to be politically motivated.[171] I am aware that Sunna Ævarsdóttir (Iceland, SOC), in her capacity as General Rapporteur on Political Prisoners and in the context of her ongoing report on anti-war protestors in Russia, has written to the delegation of Kyrgyzstan in July 2023. Ms Ævarsdóttir requested that careful consideration be given to the cases of three Russian nationals resident in Kyrgyzstan who were at risk of extradition to Russia, for alleged offences linked to their opposition to the Russian government. At least one of the individuals involved was a human rights defender. I urge all member and observer States to avoid sending human rights defenders who oppose their government back into the grinder of an authoritarian machine.

100. Finally, I note that there is a growing discussion regarding the possibility of prisoner swaps with Russia/Belarus. This would involve the exchange of, for example, captured Russian/Belarusian spies, with political prisoners in Russia/Belarus who have been persecuted whilst promoting the values of the Council of Europe. I wholeheartedly support such initiatives, particularly in the cases of individuals who have a central role in leading opposition to the ruling regimes – such as Vladimir Kara-Murza and Alexei Navalnyy.

5. Conclusion

101. The above examples demonstrate that attacks on human rights defenders, including whistleblowers, have significantly intensified in occupied parts of Ukraine, in Belarus, and in Russia; and that human rights defenders have continued to suffer significant persecution in other States (most notably Azerbaijan and Türkiye). Defenders working on particular issues have suffered persecution in multiple States, particularly those working on the rights of migrants, asylum seekers and refugees; access to reproductive rights; and the environment (particularly through SLAPPs). Whilst the misuse of criminal law continues to be the most common attack faced by human rights defenders, there are also significant reports of refusals to register civil society organisations, smear campaigns, violence, and the online publication of sexually explicit material. SLAPPs are also routinely deployed to silence and intimidate human rights defenders across the region.

102. Since the last Information Note, the 2022 Nobel Peace Prize was awarded to three European human rights defenders: Belarusian human rights advocate Ales Bialiatski, the Russian human rights organisation Memorial, and the Ukrainian human rights organisation Center for Civil Liberties. Of the three winners, one is imprisoned (Ales Bialiatski), one has been formally liquidated (Memorial – though its members continue their work), and one is working in a country ravaged by war (the Center for Civil Liberties). It is vital that we continue to recognise how human rights defenders protect the values that are most important to us, often under enormous pressure. I urge member and observer States of the Council of Europe to pay close attention to findings of this Information Note – and to consider carefully how they can act to protect brave defenders and whistleblowers who work for the rights of us all.

103. Whistleblowers are under permanent attack by powerful forces in Europe. During the next period of my mandate as General Rapporteur, I intend to organise a hearing involving experts on the situation of whisteblowers to provide further information on their situation, as well as the legal best practices for protecting them.

[171] Resolution 2446, 'Reported cases of political prisoners in the Russian Federation', adopted by the Assembly on 21 June 2022.