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Protecting human rights defenders in Council of Europe member States

Report¹

Committee on Legal Affairs and Human Rights

Rapporteur: Mr Egidijus VAREIKIS, Lithuania, Group of the European People's Party

Summary

The Committee on Legal Affairs and Human Rights reaffirms its support for the work of human rights defenders. Nearly 20 years ago, the United Nations adopted a Declaration on Human Rights Defenders and more than 10 years ago, the Committee of Ministers adopted a Declaration on Council of Europe action to improve their protection.

However, the number of reprisals against human rights defenders has recently been on the rise. Many of them have been subject to judicial or administrative harassment, smear campaigns and criminal investigations launched on dubious charges, often related to alleged terrorist activities or purportedly concerning national security. Some of them have been threatened, physically attacked or arbitrarily arrested. Others have even been assassinated.

Member States should refrain from any acts of reprisal against human rights defenders and protect them against attacks by non-State stakeholders. They should also uphold their fundamental rights. The Committee of Ministers could take a number of measures to strengthen the protection of human rights defenders, in particular by establishing a platform similar to the one put in place for journalists and by setting up a mechanism for reporting cases of intimidation of human rights defenders who co-operate with the Council of Europe.

1. Reference to committee: [Doc. 14000](#), Reference 4202 of 22 April 2016.



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A. Draft resolution²

1. The Parliamentary Assembly recalls its [Resolutions 1660 \(2009\)](#) and [1891 \(2012\)](#) on the situation of human rights defenders in Council of Europe member State and its [Resolution 2095 \(2016\)](#) and [Recommendation 2085 \(2016\)](#) on strengthening the role and protection of human rights defenders in Council of Europe member States. It pays tribute to the invaluable work of human rights defenders for the protection and promotion of human rights and fundamental freedoms. Human rights defenders are “those who work for the rights of others” – 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 or others.
2. Nearly 20 years ago, on 9 December 1998, the General Assembly of the United Nations adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (United Nations Declaration on Human Rights Defenders). Moreover, on 6 February 2008, the Committee of Ministers adopted its Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities. Both documents reaffirm that the responsibility for promoting and protecting human rights defenders lies first and foremost with States.
3. The Assembly notes that in the majority of Council of Europe member States, human rights defenders are free to work in an environment conducive to the development of their activities. Nevertheless, it notes that over the past few years the number of reprisals against human rights defenders has been on the rise. New restrictive laws on NGO registration and funding have been introduced. Many human rights defenders have been subject to judicial, administrative or tax harassment, smear campaigns and criminal investigations launched on dubious charges, often related to alleged terrorist activities or purportedly concerning national security. Some of them have been threatened, physically attacked, arbitrarily arrested, detained or imprisoned. Others have even been assassinated. As a result, the space for human rights defenders’ action is becoming more and more restricted and less safe.
4. The Assembly condemns these developments and reaffirms its support for the work of human rights defenders, who often put at risk their security and life for the promotion and protection of the rights of others, including the most vulnerable and oppressed groups (migrants, refugees and members of minorities – national, religious or sexual), and in order to combat impunity of State officials and corruption. It particularly deplores the fact that some of the most serious attacks on human rights defenders, including murders, abductions and torture, have still not been effectively investigated.
5. The Assembly therefore calls on member States to:
 - 5.1. respect the human rights and fundamental freedoms of human rights defenders, including their right to a fair trial and their freedoms of expression and assembly and association;
 - 5.2. refrain from any acts of intimidation or reprisal against human rights defenders and protect them against attacks or harassment by non-State actors;
 - 5.3. ensure that human rights defenders have access to effective domestic remedies with respect to violations of their rights, especially those related to their work;
 - 5.4. conduct effective investigations into all acts of intimidation or reprisal against human rights defenders, and especially cases of assassinations, physical attacks and threats;
 - 5.5. ensure an enabling environment for the work of human rights defenders, in particular by reviewing legislation and bringing it into line with international human rights standards, refraining from organising smear campaigns against defenders and other civil society activists and firmly condemning such campaigns where organised by non-State actors;
 - 5.6. encourage human rights defenders to participate in public life and ensure that they are consulted on draft legislation concerning human rights and fundamental values, as well as that concerning regulation of their activities;
 - 5.7. refrain from arbitrary surveillance of human rights defenders’ online and other communications;
 - 5.8. facilitate the granting of emergency visas, residence permits or asylum to human rights defenders who are at risk in their own countries and provide them with temporary refuge, if need be;

2. Draft resolution adopted unanimously by the committee on 22 May 2018.

5.9. evaluate the sufficiency in practice, as measured by concrete results, of their efforts taken to protect human rights defenders since the adoption of the United Nations Declaration on Human Rights Defenders and the Committee of Ministers' Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities.

6. The Assembly welcomes and encourages parliamentary initiatives such as that by the German *Bundestag* providing for individual parliamentarians to look after cases of threatened human rights defenders.

B. Draft recommendation³

1. Referring to its Resolution ... (2018) on protecting human rights defenders in Council of Europe member States, the Parliamentary Assembly recommends that the Committee of Ministers:
 - 1.1. continue its dialogue with human rights defenders, in particular by holding regular exchanges of views with them, in the framework of the work of its subordinate bodies;
 - 1.2. establish a platform, similar to the Platform for the protection of journalism and the safety of journalists, for the protection of human rights defenders, or another mechanism for monitoring and reacting to cases of reprisals against human rights defenders in Council of Europe member States, as also called for in [Recommendation 2121 \(2018\)](#) on the case for drafting a European convention on the profession of lawyer;
 - 1.3. establish a mechanism for regularly reporting on and reacting to cases of intimidation of human rights defenders co-operating with Council of Europe bodies, and especially of lawyers representing applicants before the European Court of Human Rights;
 - 1.4. streamline its work in this area through better co-ordination with the Council of Europe Commissioner for Human Rights, the Conference of International Non-Governmental Organisations, the Secretary General, the Registry of the European Court of Human Rights and the Assembly;
 - 1.5. adopt without delay the Declaration of the Committee of Ministers on the need to strengthen the protection and promotion of the civil society space in Europe, as prepared by the Steering Committee for Human Rights (CDDH);
 - 1.6. organise a high-level seminar to mark the 10th anniversary of the Committee of Ministers Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities and the 20th anniversary of the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms of 9 December 1998, as recommended by the CDDH;
 - 1.7. strengthen its co-operation on the protection of human rights defenders with other international organisations, in particular the European Union, the Organization for Security and Co-operation in Europe (OSCE) and the United Nations.

3. Draft recommendation adopted unanimously by the committee on 22 May 2018.

C. Explanatory memorandum by Mr Egidijus Vareikis, rapporteur

1. Introduction

1.1. Procedure

1. On 22 April 2016, the Bureau of the Parliamentary Assembly decided to refer the motion for a resolution “Protecting human rights defenders in Council of Europe member States” to the Committee on Legal Affairs and Human Rights for report. On 21 June 2016, the committee appointed Mr Yves Pozzo di Borgo (France, EPP/CD) as rapporteur. Following his departure from the Assembly, I was appointed his successor as rapporteur on 12 December 2017. On 23 January 2018, the committee held a hearing with the participation of Mr Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, Ms Anna Rurka, President of the Conference of International Non-Governmental Organisations of the Council of Europe, and Mr Konstantin Baranov, member of the board of the International Youth Human Rights Movement, Russia. On 14 March 2018, the committee held another hearing with the participation of Mr Hugo Gabbero, Deputy Director, Observatory for the Protection of Human Rights Defenders, International Federation for Human Rights (FIDH) (Paris, France), and Ms Natalia Prilutskaya, Researcher, Russia team, Eastern Europe and Central Asia Regional Office, Amnesty International (London, United Kingdom). On 25 April 2018, the committee held an exchange of views with Mr Michel Forst, the United Nations Special rapporteur on the situation of human rights defenders.

1.2. Relevant issues

2. The committee and the Assembly have been monitoring the situation of human rights defenders since 2006.⁴ Three reports have been produced on this subject in the intervening period: in 2009, by Mr Holger Haibach (Germany, EPP/CD) and in 2012 and 2015, by Ms Mailis Reps (Estonia, ALDE).⁵ The Assembly has adopted three resolutions – [1660 \(2009\)](#), [1891 \(2012\)](#) and [2095 \(2016\)](#) – and two recommendations – [1866 \(2009\)](#) and [2085 \(2016\)](#). As previous rapporteurs have already noted, human rights defenders may be defined as “those who work for the rights of the others” – individuals or groups who act, in a peaceful and legal way, to promote and protect human rights, whether they are lawyers, journalists, non-governmental organisations (NGOs) or others.⁶ Their right to take action to promote and protect human rights was reaffirmed in the [United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms](#) of 9 December 1998. (“UN Declaration on Human Rights Defenders”), which confirms 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 stipulates that States have to adopt measures to ensure this right (Article 2.2). As stressed by the United Nations Special Rapporteur on the situation of human rights defenders during the exchange of views with the committee on 25 April 2018, the definition included in this document shall be interpreted broadly and shall cover, *inter alia*, lawyers, journalists, civil society activists, bloggers and whistle-blowers. In the Council of Europe, the [Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities](#) was adopted by the Committee of Ministers on 6 February 2008. The right to defend others’ rights is itself based on such fundamental rights as freedom of thought, conscience and religion, freedom of expression, and freedom of assembly and association, all of which are embodied in the main international human rights legal instruments, including the European Convention on Human Rights (ETS No. 5, “the Convention”).

3. My predecessors’ reports have drawn attention to the reprisals with which human rights defenders are threatened in certain Council of Europe member countries: physical and psychological violence, arbitrary arrest, judicial and administrative harassment, smear campaigns and even assassinations and abductions. They have also expressed concern about official or media harassment of activists concerned with such sensitive issues as minority rights, combating corruption or the impunity of State officials. Moreover, the murders of certain human rights defenders have not been the subject of any proper investigations.

4. See [Doc. 10985](#). The term “defenders” will be used interchangeably with the expression “human rights defenders” in this report.

5. The situation of human rights defenders in Council of Europe member States, [Doc. 11841](#) of 24 February 2009, The situation of human rights defenders in Council of Europe member States, [Doc. 12957](#) of 11 June 2012, and Strengthening the protection and role of human rights defenders in Council of Europe member States, [Doc. 13943](#) of 11 January 2016.

6. Paragraph 4 of Ms Reps’ second report, [Doc. 13943](#).

4. In its resolutions, the Assembly has paid tribute to the work of human rights defenders and has made it clear that responsibility for their protection falls first and foremost to national governments. In certain situations, States may also be held responsible for acts committed by non-State individuals and bodies to intimidate defenders and for failing to conduct rigorous inquiries into such acts. The Assembly has urged member States to create an environment conducive to the activities of human rights defenders and to end all forms of intimidation and reprisals against them.

5. In its [Resolution 2095 \(2016\)](#) on strengthening the protection and role of human rights defenders in Council of Europe member States, the Assembly expressed great concern about the growing number of cases of reprisals suffered by defenders in Council of Europe member States, particularly Azerbaijan, the Russian Federation and Turkey. On the same day, it also adopted its [Resolution 2096 \(2016\)](#) “How can inappropriate restrictions on NGO activities in Europe be prevented?”, in which it expressed concern about the worsening situation of civil society in certain member States, particularly following the enactment of restrictive legislation on the registration, functioning and financing of NGOs.⁷

6. The motion for a resolution on which this report is based is fully consistent with the Assembly’s previous work in this field. The signatories express their serious concern about cases of intimidation of and reprisals against human rights defenders in certain member States and urge the Assembly to explore further avenues to enhance their protection. They also note that activists working on sensitive issues, such as the rights of minorities, the fight against corruption or impunity of State officials, are harassed by the authorities or the media. Like Ms Reps,⁸ the signatories state that the Council of Europe lacks a unified and efficient mechanism for protecting human rights defenders, even though many of them are its long-standing partners and provide invaluable information about the human rights situation in their countries. The signatories believe that the Assembly needs to respond to cases of persecution and intimidation of human rights defenders and look for ways of strengthening their protection within member States and the Council of Europe. What makes this even more regrettable is the fact that the United Nations has appropriate monitoring machinery and that the European Union grants substantial financial assistance to numerous human rights activists via the [protectdefenders.eu](#) monitoring platform. This consortium of 12 NGOs, including Reporters without Borders and the International Federation of Human Rights, has established an index of alerts system to reflect the seriousness of reported cases and a compendium of threats faced by defenders. Therefore, this report will focus on new cases of reprisals against human rights defenders in Council of Europe member States and on the action taken by the Organisation’s bodies to improve their protection. Since our committee colleague Mr Yves Cruchten (Luxembourg, SOC) is working on a related topic in connection with his report on “New restrictions on NGO activities in Council of Europe member States”, I have made every effort to ensure that our activities are co-ordinated and to avoid any duplication.

2. Action taken by the Council of Europe in response to Assembly [Recommendation 2085 \(2016\)](#)

7. In its [Recommendation 2085 \(2016\)](#) and based on Ms Reps’ second report, the Assembly recommended that the Committee of Ministers take a number of steps to strengthen the protection of human rights defenders: 1) enhance its dialogue with human rights defenders; 2) co-ordinate its work on this subject with the Council of Europe Commissioner for Human Rights, the Conference of International Non-Governmental Organisations and the Assembly and hold regular exchanges of information with the Registry of the European Court of Human Rights; 3) establish a platform, [similar to that created for journalists](#), for the protection of human rights defenders; 4) report publicly and regularly to the Assembly on cases of intimidation of human rights defenders co-operating with Council of Europe bodies; 5) reflect on other ways and means of strengthening the protection of human rights defenders against acts of intimidation and reprisals coming from State and non-State actors; 6) step up its co-operation with other international organisations active in this field; 7) consider revising the mandate of the Commissioner for Human Rights, giving him or her powers to deal with individual cases of persecution of human rights defenders; and 8) conduct a comprehensive evaluation of the implementation by member States of its 2008 Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities. In its [reply to this recommendation](#), dated 10 April 2017, the Committee of Ministers responded positively to most of the Assembly’s proposals, although at the same time pointing out that domestic law was the legal framework within which activities of human rights defenders should be conducted and that it was States’ responsibility to protect them.

7. See the report on this subject by Mr Yves Cruchten (Luxembourg, SOC), [Doc. 13940](#) of 9 January 2016.

8. *Ibid.*, paragraph 47.

8. Turning to the Assembly's proposals, the Committee of Ministers acknowledges the need for closer dialogue with human rights defenders (point 1) and co-operation with other intergovernmental institutions and organisations (point 6). The Committee of Ministers is willing to give further consideration to the question of closer co-operation between the various Council of Europe bodies (point 2), and notes that protection of human rights defenders is one of the priorities of the Conference of INGOs' Action Plan for 2015-2018 and that the latter has set up a working group on human rights defenders under the auspices of its Human Rights Committee. Regarding the establishment of a specific platform (point 3), the Secretary General will shortly put forward proposals in relation to the feasibility of a mechanism for protecting human rights defenders, taking account of the financial implications in the Programme and Budget and the need to avoid any duplication with existing initiatives. In this context, the Committee of Ministers will also consider the request for an annual and public report to the Assembly on cases of intimidation of human rights defenders (point 4). In May 2017, the Secretary General decided to establish a procedure for protecting defenders co-operating with the Council of Europe and he has created a "focal point" for that purpose; the principle of such a mechanism had already been announced in his 2016 report on the ["State of democracy, human rights and the rule of law"](#).

9. In response to the Assembly's request for it to reflect on other ways and means of strengthening the protection of human rights defenders (point 5), and to assess the implementation of the Committee of Ministers' 2008 declaration (point 8), the Committee of Ministers instructed the Council of Europe's Steering Committee for Human Rights (CDDH) to prepare a report on the impact of member States' legislation on the situation of human rights defenders. The CDDH adopted this report at its 87th meeting (6-9 June 2017) and published it in July 2017.⁹ This document highlights the need to protect human rights defenders who are persecuted on account of their activities, which are often critical of the authorities in power. Special attention should be paid to judicial harassment and misuse of criminal law, arbitrary detention and invasions of privacy concerning defenders of the rights of particularly vulnerable groups, such as women and lesbian, gay, bisexual, transgender and intersex (LGBTI) people.¹⁰ The CDDH is now working on a [preliminary draft Declaration of the Committee of Ministers on the need to strengthen the protection and promotion of the civil society space in Europe](#), which will be adopted by the Committee of Ministers in the course of 2018.

10. In connection with the Assembly's proposal to revise the mandate of the Commissioner for Human Rights (point 7), the Committee of Ministers has accepted the latter's opinion "that it is not necessary to change the mandate of his institution at this stage as it already allows him to conduct important actions for the protection of human rights defenders that he deems appropriate, including intervening on individual cases". The (former) Commissioner considered that his institution had various tools that enable him to assist defenders who face threats, including the right to intervene as a third party in cases pending before the European Court of Human Rights, his exchanges with member States' authorities, his thematic and country reports, his public statements (including those on social networks) and his regular consultations with defenders.¹¹

11. In its [Recommendation 2121 \(2018\)](#) on the case for drafting a European Convention on the profession of lawyer, the Assembly expressed its concern about that fact that harassment, threats and attacks against lawyers continue to occur in many Council of Europe member States and are even increasing in some of them. The report by our colleague Ms Sabien Lahaye-Battheu (Belgium, ALDE) on which this recommendation is based examines in detail the situation of lawyers in Azerbaijan, the Russian Federation, Turkey and Ukraine,¹² so I will only refer to some specific cases of reprisals against human rights lawyers in those countries.

3. Recent trends in the situation of human rights defenders in the Council of Europe member States

3.1. General situation

12. Since Ms Reps' last report of December 2015, human rights defenders across Europe have been facing a rising number of threats. In his 2016 report on the ["State of democracy, human rights and the rule of law"](#), the Council of Europe's Secretary General, Mr Thorbjørn Jagland, referred to worrying developments, in

9. CDDH(2017)R87 Addendum IV, Analysis of the impact of current national legislation, policies and practices on the activities of civil society organisations, Human Rights defenders and national institutions for the promotion and protection of Human Rights, 13 July 2017.

10. *Ibid.*, paragraphs 151 and 158-170.

11. Appendix to the Committee of Ministers' reply to [Recommendation 2085 \(2016\)](#) (comments of the Commissioner for Human Rights), see the 2016 report on the ["State of democracy, human rights and the rule of law"](#) (p. 66).

12. [Doc. 14453](#).

particular acts of reprisal suffered by human rights defenders.¹³ On 4 April 2017, the Commissioner for Human Rights, Mr Nils Muižnieks, drew attention to “a clear trend of backsliding in several European countries in the area of freedom of association, particularly in respect of human rights organisations and defenders”.¹⁴ According to [Protect Defenders](#), in 2017, 738 violations against defenders across the world were reported (including 92 cases of killing and 54 of other physical violence). In Europe and Central Asia, 117 violations were reported, including two cases of killing and six of other physical violence; these figures refer only to cases that were actually reported to that organisation. In 2018, 41 incidents have been reported (as at 26 April 2018). During the exchange of views with the committee, the United Nations Special Rapporteur on the situation of human rights defenders stressed that he received almost 4 000 complaints from defenders every year. With a view to examining these negative trends, I shall focus here, though not exhaustively, on recent cases concerning the three countries analysed in detail in Ms Reps’ last report, namely Azerbaijan, the Russian Federation and Turkey, and on a number of other member States, namely France, Georgia, Greece, Hungary, Malta, the Republic of Moldova, Serbia, the Slovak Republic, Spain and Ukraine.

3.2. Selected examples

3.2.1. Azerbaijan

13. Since Ms Reps’ last report and [Resolution 2095 \(2016\)](#), some human rights defenders in Azerbaijan who have co-operated with the Council of Europe and the Assembly rapporteurs, namely Intigam Aliyev, Khadiya Ismayilova and Rasul Jafarov, have been convicted for activities linked to their role as human rights defenders.¹⁵ Following a visit to Azerbaijan on 22 September 2016, the United Nations Special Rapporteur on the situation of human rights defenders, Mr Michel Forst, issued a statement expressing alarm about the penalising and heavily constrained environment in which human rights defenders, who are often stigmatised, are forced to operate. He also called for more effective protection for certain particularly vulnerable groups, notably journalists and lawyers.

14. On 3 March 2017, Mehman Huseynov, a popular blogger and journalist highly critical of the government, was sentenced to two years’ imprisonment for defaming the police, after complaining of the use of excessive force by the police when they arrested him in January 2017. This conviction, which is now final, has been roundly condemned by civil society and the European Union. On 28 April 2017, the blogger, Mehman Galandarov, was found hanged in his cell in Baku detention centre No. 1. He had been arrested in February 2017 after attempting to spray-paint a political slogan on a statue of the former President of Azerbaijan, Heydar Aliyev, in Baku. According to certain [sources](#), the arrest was also connected with Mr Galandarov’s statements of support for a prisoner of conscience on his private Facebook account. Leyla Yunus, Director of the Institute for Peace and Democracy, and her husband have suffered unprecedented judicial harassment since 2014. As someone well-known for her active support for human rights and political prisoners, she was awarded the French *Légion d’Honneur* in 2013. After being sentenced to imprisonment, she and her husband were released on urgent medical grounds and have since sought refuge in the Netherlands. Nevertheless, on 17 May 2017 the Baku Court of Appeal ordered their forcible return to Azerbaijan.¹⁶ Similarly, on 29 May 2017, Afghan Mukhtarli, an Azerbaijan journalist who had sought exile in Georgia to escape repression, was abducted in front of his home and taken by force back to his country of origin, where he was remanded in custody. This event raises concerns about the level of protection afforded to numerous human rights defenders who have fled Azerbaijan to take refuge in Georgia.¹⁷ On 12 January 2018, Mr Mukhtarli was sentenced to six years in prison, after the Balakan district court found him guilty of illegal border crossing, smuggling and violently resisting a law-enforcement official, charges that he strongly denies.¹⁸ Recently, before the presidential election of 11 April 2018, some opposition activists, who had been calling for a boycott of the early presidential election, were sentenced to administrative detention. A female activist, Fatima Movlanli, was reported missing following the rally of 26 March 2018 in Baku, but was later released having been held in custody by the police for several hours.

13. Page 66 of the report.

14. Commissioner for Human Rights, 4 April 2017, “[The Shrinking Space for Human Rights Organisations](#)”.

15. They were sentenced to long terms of imprisonment in 2016. Even though they have since been released, their activities are still subject to other restrictions and criminal proceedings against some of them are still pending.

16. [Statement of the World Organisation against Torture \(OMCT\) and other NGOs](#), 3 May 2017, and https://eeas.europa.eu/headquarters/headquarters-homepage/22074/statement-sentencing-mehman-huseynov-azerbaijan_en, and a letter from several NGOs to Interpol, 12 June 2017.

17. [Open letter from the OMCT](#), 7 June 2017.

18. The Spokesperson of the European Union External Action Service has strongly condemned this ruling: https://eeas.europa.eu/headquarters/headquarters-homepage/38212/statement-spokesperson-sentencing-journalist-afgan-mukhtarli-azerbaijan_en.

15. The situation of civil society in Azerbaijan is also being monitored very closely by the co-rapporteurs of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and was examined by the former Chair of our own committee, Mr Alain Destexhe (Belgium), who drew up a report on “[Azerbaijan’s Chairmanship of the Council of Europe: what follow-up on respect for human rights?](#)”. In October 2017, the Assembly, in its [Resolutions 2184 \(2017\)](#) and [2185 \(2017\)](#), called on the authorities to put an end to the reprisals against activists, create an environment conducive to the activities of NGOs and repeal all laws restricting freedom of association.¹⁹

16. On 19 April 2018, the European Court of Human Rights delivered its judgment in the case *Mammadli v. Azerbaijan*, concerning the arrest and detention between December 2013 and May 2014 of the civil society activist and human rights defender, laureate of the 2014 Václav Havel Human Rights Prize. The Court found that his detention was unlawful, that it lacked judicial control and was politically motivated (violations of Articles 5.1, 5.4 and 18 of the Convention).²⁰

3.2.2. Russian Federation

17. In its [Resolution 2096 \(2016\)](#), the Assembly expressed strong concern about the so-called “foreign agents law” modifying the Russian legislation on not-for-profit organisations, which requires NGOs receiving foreign funding to register as “foreign agents”. It was also worried about the passing of the law on undesirable organisations, the implementation of which may lead to the closure of many international NGOs working in the Russian Federation. Moreover, in October 2016, the Monitoring Committee concluded that “the situation with regard to the democratic environment and space for civil society to operate and enjoy its rights to freedom of expression and association has especially deteriorated”.²¹ As at 26 April 2018, the register of “foreign agents” included the names of 76 organisations and 14 NGOs are currently considered to be “undesirable”.²²

18. On 2 June 2017, for the first time under the foreign agents law, criminal charges were officially brought against the human rights defender Valentina Cherevatenko, chair of the Women of the Don Foundation, who is particularly known for her work to promote peace between Russia and Ukraine and on the situation in the North Caucasus region. Ms Cherevatenko faced a two-year prison sentence for failing to lodge the necessary documentation to enter her organisation on the foreign agents register; however, these charges were eventually dropped on 19 June 2017.

19. In April 2017, human rights defender Semyon Simonov was detained for several hours at the police station in Volgograd and his phone and camera were searched. Mr Simonov had documented numerous cases of abuse against migrant workers involved in the construction work for Russia’s Sochi 2014 Winter Olympics; shortly before his detention, he was interviewing workers building a stadium for the 2018 FIFA World Cup. He is now accused of “trying to disrupt the World Cup”. On 3 November 2017, in Kaliningrad, Igor Rudnikow, a journalist known for exposing corruption, including in relation to World Cup constructions was beaten by the police, arrested and now faces criminal charges of “extortion”. Moreover, the OSCE-wide NGO coalition Civic Solidarity Platform (CSP) reported on a series of arrests of eight activists of the anti-fascist movement by the Russian Federal Security Service (FSB) on suspicion of involvement in a terrorist community in different regions of the country. According to the CSP, they made confessions under torture and are now facing criminal charges.²³

20. It should also be noted that the situation of human rights defenders in general in the North Caucasus, and particularly the Chechen Republic, is extremely fraught, as the Assembly has pointed out in its recent [Resolution 2157 \(2017\)](#) “Human rights in the North Caucasus: what follow-up to [Resolution 1738 \(2010\)](#)?”;²⁴ these issues are now being examined by our colleague Mr Frank Schwabe (Germany, SOC), who is drafting a

19. Report by the Monitoring Committee, “The functioning of democratic institutions in Azerbaijan”, [Doc. 14403](#) of 25 September 2017 (co-rapporteurs: Mr Stefan Schennach (Austria, SOC) and Mr Cezar Florin Preda (Romania, EPP/CD)), report by our committee, [Doc. 14397](#) of 18 September 2017, and paragraph 16.1 of [Resolution 2184 \(2017\)](#) and paragraph 11 of [Resolution 2185 \(2017\)](#).

20. Judgment of 19 April 2018 (not yet final), Application No. 47145/14.

21. Information note on the functioning of democratic institutions in the Russian Federation, [AS/Mon \(2016\) 29 declassified](#), paragraph 72. See also the [statement by the Monitoring Committee](#), adopted at its meeting of 10 October 2016.

22. <http://unro.minjust.ru/NKOForeignAgent.aspx> and <http://minjust.ru/ru/activity/nko/unwanted>.

23. Amnesty International, [Russian Federation: Further information: Russia drops case against rights defender: Valentina Cherevatenko](#), 8 August 2017; [Russian Police Violently Arrest Critical Newspaper Editor](#), 7 November 2017; Human Rights Watch, [Russian Human Rights Defender Faces Police in Court](#), 9 November 2017; and Frontline Defenders, [Tatiana Kotlyar Criminally Indicted](#) and OMCT, [Russia: Wave of violence against civic activists must be stopped](#), 12 March 2018.

24. See also [Doc. 14083](#) of 8 June 2016 (rapporteur: Mr Michael McNamara, Ireland, SOC), paragraphs 17-27.

report on “The continuing need to restore human rights and the rule of law in the North Caucasus region”. Reference should also be made to the targeting of LGBTI persons in May 2017, when LGBTI rights activists attempting to lodge a petition with the public prosecutor’s office against LGBTI persecution in Chechnya were arrested and detained by the Russian authorities.²⁵ Moreover, on 9 January 2018, the Director of the Memorial Human Rights Centre (Memorial) in the Chechen Republic, Mr Oyub Titiev, who had extensively reported about human rights abuses by local authorities, was arrested. He was held incommunicado for several hours and accused of possessing a large amount of drugs. As head of the Chechen branch of HRC Memorial, Mr Titiev had succeeded Ms Natalia Estemirova, who had been killed in 2009; the circumstances of her death have still not been properly investigated. Mr Titiev is now in detention on remand. His family members were threatened by law-enforcement authorities and have left Chechnya. One of his lawyers, Mr Aslan Telkhigov, was allegedly forced to resign from his defence and has also left the country. On 22 January 2018, Memorial’s car, being used by his other lawyer, Mr Petr Zaikin, was set on fire in Dagestan. Moreover, on 17 January 2018, the office of Memorial in Nazran, Ingushetia, was set on fire. On 28 March 2018, the head of the organisation’s branch in Dagestan, Mr Sirazhutdin Datsiev, was attacked by unknown individuals on his way to the office. These events might be considered as an attempt to silence Memorial, the only human rights organisation currently working in North Caucasus.²⁶

21. The situation in Crimea deserves special attention in this context. Since its illegal annexation by Russia in 2014, several cases of arbitrary arrests, forced disappearances, forced exiles or various other forms of intimidation of people who have criticised the authorities’ actions and policies have been reported.²⁷ The authorities have particularly targeted Crimean Tatars, who are opposing Crimea’s annexation to Russia. Tatar activists are often portrayed as “extremists and terrorists”. On 11 September 2017, Mr Akhtem Chiygoz, a prominent Crimean Tatar leader was found guilty by a Russian court of having organised “mass riots” and was sentenced to eight years of prison. On 27 September 2017, another Tatar leader, Mr Ilmi Umerov, was sentenced to two years in prison on charges of “separatism”. Fortunately, following negotiations between the Russian and the Turkish authorities, both activists were allowed to leave Crimea for Turkey. Moreover, Mr Chiygoz’s lawyer, Mr Nikolai Polozov, and another lawyer representing Crimean Tatars’ leaders in court were harassed and detained.²⁸

3.2.3. Turkey

22. Following the attempted *coup d’état* in July 2016, Turkey is under a state of emergency, which was recently prolonged for the seventh time. The authorities have conducted massive dismissals in the judiciary, public administration, academia, other State institutions and the media. Numerous human rights defenders have been harassed, physically threatened, arrested and even imprisoned. In its [Resolution 2156 \(2017\)](#), the Assembly approved the establishment of a procedure to monitor the functioning of Turkey’s democratic institutions. It also called on the Turkish authorities to release all detained journalists (more than 150 at that time) and human rights defenders.²⁹ Since the adoption of this resolution, new reprisals have been launched against human rights defenders. The report of the Office of the United Nations High Commissioner for Human Rights, which was published in March 2018 and covers the period between 1 January and 31 December 2017, states that about 300 journalists and 570 lawyers have been arrested on terrorist-related offences. 380 “peace” academics who signed a petition against violence in the South-eastern part of the country were dismissed. 1 480 lawyers faced some kind of prosecution, 79 were sentenced to long-term imprisonment and 34 bar associations were shut down. Moreover, the government closed 1 719 NGOs, including human rights, humanitarian and lawyers’ associations. The report concludes that the state of emergency has facilitated the deterioration of the human rights situation in the country. In its [Resolution 2209 \(2018\)](#) “State of emergency:

25. [Amnesty International: Russia: Knee-jerk repression as LGBTI activists arrested over Chechnya petition, 11 May 2017](#).

26. See the [statement](#) I made on 11 January 2018, along with Mr Frank Schwabe (Germany, SOC), rapporteur on the continuing need to restore human rights and the rule of law in the North Caucasus region; Observatory for the Protection of Human Rights Defenders (“the Observatory”), Urgent appeal of 20 March 2018.

27. See also Assembly [Resolution 2133 \(2016\)](#) on legal remedies for human rights violations on the Ukrainian territories outside the control of the Ukrainian authorities and [Doc. 14139](#) (rapporteur: Ms Marieluise Beck, Germany, ALDE).

28. Human Rights Watch, [Crimea: Persecution of Crimean Tatars Intensifies](#), 14 November 2017; Human Rights Watch [Crimea: Crimean Tatar Leader Convicted on Spurious Charges](#), 27 September 2017; and Human Rights Watch, [Crimea: Baseless Conviction of Crimean Tatar Leader](#), 12 September 2017.

29. [Resolution 2156 \(2017\)](#) on the functioning of democratic institutions in Turkey, paragraph 27.1. On the situation of journalists, see section 4 of the Monitoring Committee report on which the resolution is based, [Doc. 14282](#) of 5 April 2017 (co-rapporteurs: Ms Ingebjørg Godskesen, Norway, EC, and Ms Marianne Mikko, Estonia, SOC).

proportionality issues concerning derogations under Article 15 of the European Convention on Human Rights”,³⁰ the Assembly concluded that Turkey’s response to the situation giving rise to the state of emergency was disproportionate on numerous grounds.

23. On 6 June 2017, Turkish police arrested Taner Kiliç, chair of the Turkish branch of Amnesty International, and 22 other lawyers.³¹ Mr Kiliç appeared in court on 9 June 2017 and was charged with membership of the Fethullah Gülen group (denoted as “FETÖ/PDY”, i.e. the “Fethullahist Terrorist Organisation/Parallel State Structure”, in Turkish official documents) for allegedly downloading a messaging app, Bylock, used by the “Gülenists”. He remains remanded in custody pending his trial and risks a long prison sentence. On 31 January 2018, an Istanbul court ordered his conditional release, but following the prosecutor’s appeal the decision was reversed by another court. The next court hearing is scheduled for 21 June 2018. Amnesty International has asked for his immediate and unconditional release, and has denounced the charges as unfounded. On 5 July 2017, the Director of Amnesty International, Idil Eser, was arrested together with seven other Turkish human rights defenders and two foreign trainers (a Swede and a German) at a seminar being held on the island of Büyükada, on the grounds that they had allegedly committed a crime on behalf of a “terrorist organisation” without being a member of it. All ten were released on bail on 25 October. The criminal proceedings against them are still pending and their case has been joined to that of Mr Kiliç.³²

24. This is not an isolated case. On 19 May 2017, Mr Levent Piskin, a lawyer and member of an association to promote the rights of LGBTI persons and of the Justice Commission of the People’s Democratic Party, was arrested on charges of “undermining the image of Turkey” and “offering support to a terrorist group”. According to the Observatory for the Protection of Human Rights Defenders (“Observatory”), the arrest took place on the very day he was supposed to defend 46 lawyers who were the victims of judicial harassment. Similarly, in April 2017, another lawyer, Mr Muharrem Erbey, was sentenced to six years and three months’ imprisonment for his alleged membership of the PKK, the Kurdistan Workers’ Party. Finally, in March 2017, Mr Raci Bilici, a teacher and Vice-President of the Human Rights Association (IHD) was arrested for “taking part in activities to prevent domestic anti-terrorism operations”. On 18 May 2017, Mr Ali Tanriverdi, president of the Mersin branch of IHD, was accused of “being a member of a terrorist organisation” and “making propaganda of terrorist organisation”; he was provisionally released from custody. In August 2017, Ms Gülseren Yoleri, president of the IHD Istanbul branch and its executive committee member, and Mr Doğan Özkan, member of its Istanbul executive board, were held in custody for three days following their participation in a protest in support of two dismissed teachers. According to the Observatory, they were ill-treated by the police during their arrest and are now accused of “making propaganda on behalf of an illegal organisation” and participating in an unauthorised demonstration. Similarly, other activists of IHD – Mr Öztürk Türkdogan, Ms Sevim Salihoglu, Ms Derya Uysal and Ms Besra Varli, who were taking part in a demonstration in Ankara – were briefly held in custody on 9 November 2017 and have been accused of violating the law on demonstrations. At the end of January 2018, several members of IHD were detained on terrorism-related charges in reaction to their social media posts criticising the Turkish military’s “Operation Olive Branch” in Afrin, northern Syria. According to Human Rights Watch, in February 2018, this also happened to over 800 people who had criticised this operation on social media, via street protests or otherwise; all are now under criminal investigations. On 30 January 2018, police searched the homes and workplaces and arrested 11 members of the Central Council of the Turkish Medical Association (TTB) on the basis of anti-terror law provisions, a few days after the TTB publicly criticised the operation in Afrin, northern Syria. The TTB members were released after seven days, but they are still under a criminal investigation.³³

25. Moreover, criminal proceedings are also pending against Ms Şebnem Korur Fincancı, president of the Human Rights Foundation of Turkey (HRTF), Mr Erol Öndergözü, Turkey representative of Reporters Without Borders, and Mr Ahmet Nesin, a journalist. In 2016, the three of them had taken part in a solidarity campaign

30. Report by our committee, [Doc. 14506](#) (rapporteur: Mr Raphaël Comte, Switzerland, ALDE).

31. Amnesty International: [Chair of Amnesty International Turkey swept up in post-coup purge](#), 6 June 2017.

32. [“Turkey: Ten human rights defenders indicted on trumped-up terrorism charges; six remain in pre-trial detention”](#), OMCT, 18 July 2017, and Amnesty International, Turkey: [Court decision to keep Amnesty Chair in jail flies in the face of reason](#), 22 November 2017. See also the statement by my predecessor Mr Yves Pozzo di Borgo, [press release](#), 8 June 2017, the [press release](#) of the Monitoring Committee’s co-rapporteurs of 13 October 2017 and the statements of United Nations experts of 13 November 2017 “Turkey: UN experts call for dropping of terror charges against leading human rights defenders” and of 16 February 2018 “Turkey: Drop terror charges against Amnesty chair Taner Kiliç, UN human rights experts urge”.

33. [Urgent appeal of the Observatory for the Protection of Human Rights Defenders](#), 9 August 2017; [9 November 2017](#); Observatory, Turkey: [Ten human rights defenders indicted on trumped-up terrorism charges; six remain in pre-trial detention](#), 18 July 2017; Human Rights Watch, Turkey: [Crackdown on Social Media Posts](#), 27 March 2018, and [Urgent appeal of the Observatory of 31 January 2018](#).

in support of the right to freedom of press, and in particular a daily Kurdish newspaper *Özgür Gündem*, which has been closed down. They are accused of “provoking the commission of an offence”, “praising the offence and the offenders” and “making propaganda for a terrorist organisation through means of press”. Mr Murat Çelikkan, journalist and co-director of Hafıza Merkezi (Truth Justice Memory Centre), who had taken part in the same solidarity campaign, was sentenced to 18 months in prison on 18 May 2017, which was criticised by the Council of Europe Commissioner for Human Rights in a [statement](#) dated the same day. Ms Eren Keskin, co-chair of the IHD, had 143 court cases launched against her in relation to her work as editor-in-chief of the said newspaper between 2014 and 2015. She was sentenced to heavy fines and 7.5 years imprisonment. The IHD has also been subject to an extensive audit by the Ministry of the Interior. Some of its members, as well as members of the HRTF, face criminal charges due to their fact-finding and monitoring reports on the curfew in eastern and south-eastern Anatolia that started in August 2015.³⁴

26. Another interesting case is that of Mr Osman Kavala, a businessman and prominent civil society leader, well-known for supporting cultural dialogue, tolerance, peace and reconciliation. On 1 November 2017, an Istanbul court ordered him arrested on charges of attempting to overthrow the government and the constitutional order in connection with the 2013 Gezi events and the 2016 failed coup.³⁵

27. Bans have been recently imposed on public activities of NGOs in Ankara advocating respect for LGBTI rights. However, reprisals against such activists are not new. In August 2016, Hande Kader, a well-known transgender human rights defender, was raped, mutilated, burnt and killed.³⁶

28. Wide media attention has also been given to the cases of some foreign journalists. Mr Mathias Depardon, a French photojournalist whose work is particularly concerned with the problems facing migrants, was arrested by Turkish police on 8 May 2017 and held in administrative detention in Gaziantep. The Turkish authorities accused him of working without a press card and suspected him of conducting terrorist propaganda for the PKK. After the French President asked President Erdoğan for Mr Depardon’s “earliest possible return” to France, he was released and arrived back on 9 June 2017. Similarly, another French journalist, Mr Loup Bureau, who had reported on the Kurdish fighters combating Daesh in Syria, was arrested on charges of “belonging to a terrorist organisation” on 26 July 2017. Following high-level interventions, he was released on 15 September 2017 and returned to France; however, he still faces criminal charges in Turkey. The German-Turkish journalist Deniz Yücel had been held in jail for a year, including nine months in solitary confinement, on charges of terrorist propaganda prior to being released in February 2018. A Finnish-Turkish journalist, Ms Ayla Albayrak, was sentenced *in absentia* by a Turkish court to more than two years in prison for terrorist propaganda. According to Reporters without Borders, several dozen reporters have been expelled from Turkey over the last two years. Turkey now ranks 155th out of 180 on the 2017 World Press Freedom Index.³⁷

29. On 12 June 2017, the European Court of Human Rights communicated the application *Sabuncu and Others v. Turkey* to the Turkish Government. This concerns the case of 10 journalists from the opposition newspaper *Cumhuriyet* (“the Republic”), well known for its critical stance towards the present government, who in October and November 2016 were remanded in custody on suspicion of committing offences on behalf of terrorist organisations and of making propaganda for them. The applicants allege violations of Articles 5 (right to liberty and security), 10 (freedom of expression) and 18 (limitation on use of restrictions on rights) of the Convention.³⁸ On 20 March 2018, the Court delivered two judgments – *Şahin Alpav v. Turkey* and *Mehmet Hasan Altan v. Turkey*³⁹ in which it ruled that the detention of the two journalists in the wake of the failed coup, which continued despite the Constitutional Court’s order to release them, was contrary to Articles 5.1 (right to liberty and security) and 10 (freedom of expression) of the Convention. While the former was released on 16 March 2018 (he is now under house arrest), Mr Altan remains in prison.

3.2.4. Other cases of reprisals against human rights defenders

30. Cases where human rights defenders have faced intimidation have also been reported in other countries.

34. Urgent appeal of the Observatory for the Protection of Human Rights Defenders, 19 May 2017, 14 April 2017, 16 March 2017, 30 June 2017 and 20 June 2017, and Report of Human Rights Joint Platform (IHOP) on “State of emergency measures: updated situation report – 2018”, p. 20.

35. Human Rights Watch, *Turkey: Arrest of Civil Society Leader Arbitrary, Punitive*, 2 November 2017.

36. Amnesty International, *Human Rights Defenders Under Threat – a Shrinking Space for Civil Society*, 2017, p. 37.

37. *Reporters without Borders press release (French)*, 9 June 2017, and <https://rsf.org/fr/actualites/loup-bureau-bientot-libre-la-fin-dune-prise-dotage-detat> and <https://rsf.org/fr/turquie>.

38. Application No. 23199/17, European Court of Human Rights press release, 8 June 2017.

39. Applications Nos. 16538/17 and 13237/17, the judgments are not yet final.

31. In Athens, **Greece**, on 6 January 2017, members of parliament and militants of the far-right Golden Dawn party violently interrupted a seminar on national minority rights organised by human rights activists. The police failed to take the necessary steps to forestall this situation and the prosecution service did not take any action on its own initiative, despite the evident shortcomings in the police response. The activist victims had to lodge the relevant complaints themselves, but on 22 December 2017, the prosecutor sent the file to the “archive of unknown perpetrators”. Moreover, on 22 March 2018, an arson attack against the Athens premises of the Afghan Community Centre, which advocates in favour of the Afghan community’s rights, was perpetrated with racist motivation by an extreme right-wing group “Krypteia”. The Centre had received death threats beforehand. In addition, on 22 March 2018, Krypteia threatened members of the Hellenic League for Human Rights (HLHR), known for its work on migrants’ and refugees’ rights, in their office in Athens. This incident is still being investigated by the police.⁴⁰

32. On 13 June 2017, **Hungary** enacted legislation on “the transparency of organisations receiving support from abroad”, which requires NGOs receiving more than €24 000 funding from abroad to re-register as “civic organisations funded from abroad” and to put this new label on all their publications. The new legislation was criticised by the Council of Europe’s European Commission for Democracy through Law (Venice Commission). A campaign, with government-funded posters, was launched against the billionaire philanthropist Georges Soros. Prime Minister Viktor Orbán and other high ranking officials have made a number of derogatory remarks about NGOs receiving foreign funding, especially from Mr Soros and the Open Society Foundation that he founded, dismissing many human rights defenders as “paid activists”. In February 2018, the government submitted to parliament a package of three draft laws called the “Stop Soros Package”, which is aimed at imposing heavy restrictions on the work of NGOs advocating refugees’ and migrants’ rights. In particular, this legislative package, which is now being scrutinised by the Venice Commission, foresees the possibility of imposing restraining orders banning individuals from an 8-kilometre zone along the borders, or third-country nationals from the entire territory of the country.⁴¹

33. **Moldovan** lawyer, Ms Ana Ursachi, is known for having been engaged in high-profile cases in defending the interests of opponents of the Moldovan oligarch and politician Vladimir Plahotniuc. In her country, she has been subjected to smear campaigns in pro-government media and went into exile in Poland.⁴² Following allegations that she had been involved in a murder that took place 20 years ago, on 29 March 2018, the central court of Chisinau granted the prosecutor’s motion to arrest her, in the absence of her lawyers, and a Red Notice was issued by Interpol at the request of the Moldovan National Central Bureau.

34. In **Serbia**, in January 2017, nine members of the Youth Initiative for Human Rights were assaulted by police in the north of the country, following a non-violent demonstration during a speech being delivered by Mr Veselin Sljivancanin, a Serbian politician convicted of torture by the International Criminal Tribunal for the former Yugoslavia. Three activists of the same organisation had also previously been assaulted in Belgrade by members of the Democratic Party of Serbia (DSS).⁴³

35. In **Ukraine**, anti-corruption activists are concerned about the adoption, on 23 March 2017, of Anti-Corruption Law No. 6172, which obliges them to submit electronic declarations of their assets in the same way as government officials or civil servants. Moreover, a series of criminal investigations has been launched against some NGOs and their leaders, namely the charity “Patients of Ukraine”, the All-Ukrainian Network of People Living with HIV/Aids, the Alliance for Public Health or the Anti-Corruption Centre. Physical attacks against two anti-corruption activists from Kharkiv, Mr Evhen Lisichkin and Mr Dmytro Bulakh, were reported respectively in September and August 2017. Moreover, Ms Iryna Nozdrovska, a human rights lawyer, was murdered. On 1 January 2018, her body was found in a river near Kyiv. The lawyer had prevented the release of a district judge’s nephew who had caused her sister’s death in a car accident in 2015, and she had apparently received numerous threats from the convicted person and his family.⁴⁴

40. [Urgent appeal of the World Organisation Against Torture, 6 January 2017 and 1 February 2018, and Urgent appeal of the Observatory of 30 March 2018.](#)

41. [Amnesty International: Hungary: NGO law a vicious and calculated assault on civil society](#), 13 June 2017, and Venice Commission, Opinion on the Draft Law on the Transparency of Organisations receiving support from abroad, [CDL-AD\(2017\)015](#), 20 June 2017; statement by two United Nations human rights special rapporteurs of 15 May 2017, “UN rights experts urge Hungary to withdraw Bill on foreign funding to NGOs” and United Nations, Human Rights Committee, Concluding observations on the sixth periodic report of Hungary, CCPR/C/HUN/CO/6 of 5 April 2018, paragraphs 53-56.

42. [The Captured State: Politically Motivated Prosecution in Moldova And Usurpation of Power by Vladimir Plahotniuc](#), Open Dialog, 22 May 2017, pp. 4-5.

43. [Urgent appeal of the Observatory for the Protection of Human Rights Defenders, 27 January 2017.](#)

36. The issue of human rights defenders defending migrants' and refugees' rights deserves special attention, as reprisals against them have intensified in some western countries in recent months. For example, in August 2017, Ms Helena Malena Garzón, a **Spanish** journalist investigating cases of trafficking in human beings and advocating migrants' and refugees' rights received several threats, including against her life, on her private email and social media accounts. Those threats were made after she gave an interview on television, criticising police actions against migrants in the enclaves of Ceuta and Melilla.⁴⁵ According to the Observatory, some **French** human rights defenders advocating migrants' and refugees' rights are subject to constant judicial harassment on the basis of Article L. 622-1 of the French Criminal Code, which criminalises any "help given to a foreigner to illegally enter, move within and stay in France" (*délit de solidarité*). This is especially the case of activists operating in the Roya valley, at the border with Italy. The Observatory for the Protection of Human Rights Defenders has been particularly concerned about the cases of Mr Cédric Herrou (a member of the NGO "Roya citoyenne", who is regularly summoned by the police and had been taken into police custody seven times), Mr Pierre-Alain Mannoni (an engineer engaged in defending migrants' rights, who was given a two-month suspended prison sentence) and Mr Raphael Faye Pico (a student engaged in helping migrants, who was given a three-month suspended prison sentence). Recently, an Amnesty International activist, Ms Martine Landry, has been accused of infringing Article L. 622-1 for having helped two minor Guineans to enter France.⁴⁶

37. Furthermore, I would like recall the recent cases of assassinations of investigative journalists Ms Daphne Caruana Galizia in **Malta** on 16 October 2017 and Mr Ján Kuciak in the **Slovak Republic** on 21 February 2018. I hope that the forthcoming work of our committee colleague Mr Pieter Omtzigt (Netherlands, EPP/CD) as rapporteur on the assassination of Ms Caruana Galizia will help to shed light on the circumstances of this tragic event.⁴⁷

4. Conclusion

38. The above examples show that human rights defenders are still suffering reprisals and intimidation and that their situation has not improved and even worsened in certain Council of Europe member States. As noted by the United Nations Special Rapporteur on the situation of human rights defenders, there has been a worrying trend of increasing attacks against human rights defenders all over the world, including several European countries. The reprisals might take different forms: killings, other acts with the use of physical violence, threats, defamation campaigns, criminalisation of certain activities, restrictions on foreign funding (such as those made through "foreign agents"-type laws), surveillance of communication, including that on social media, and various restrictions on freedoms of expression, association and assembly. According to Mr Forst, defenders defending the rights of "people on the move" are nowadays particularly at risk.⁴⁸ States should protect human rights defenders independently of whose rights they defend. At the same time, States also have the right and even the duty to uphold the rule of law – provided the laws they uphold do not themselves violate international human rights standards. The criminalisation of certain activities of defenders may therefore be contrary to international human rights standards.

39. In view of the increasing number of reprisals against human rights defenders, the Assembly should once again recall member States' obligations to protect defenders and to respect their human rights and fundamental freedoms. This concerns not only the rights related to their participation in public life (freedoms of expression, assembly and association enshrined in Articles 10 and 11 of the Convention), but also the prohibition on arbitrary detention and the right to a fair trial, especially in the context of numerous proceedings launched against defenders in relation with alleged terrorist or other charges. The Assembly should call on States to stop those reprisals, to protect defenders against attacks by non-State actors and to conduct effective investigations into such abuses. States should review their legislation in line with international human rights standards and the United Nations Declaration on Human Rights Defenders, and especially repeal laws

44. Commissioner for Human Rights, [Commissioner Calls on Ukrainian authorities to revise the anti-corruption legislation that might negatively affect NGOs and journalists](#), letter to the Ukrainian authorities of 2 May 2017, and Observatory for the Protection of Human Rights Defenders, [Ukraine: Open letter to the Ukrainian authorities: Stop Prosecution of Anti-corruption Activists](#), 8 November 2017, and <https://www.nytimes.com/2018/01/09/world/europe/ukraine-nozdrovska-murder.html>.

45. [Urgent appeal of the Observatory for the Protection of Human Rights Defenders](#) (in Spanish), 25 August 2017.

46. Observatory for the Protection of Human Rights Defenders, [France: Note conjointe: Vers une politique assumée de criminalisation des défenseurs des droits des migrants?](#), 24 October 2017 and Amnesty International, [Une de nos membres poursuivie pour «délit de solidarité»](#), 15 December 2017.

47. "Daphne Caruana Galizia's assassination and the rule of law, in Malta and beyond: ensuring that the whole truth emerges", motion for a resolution, [Doc. 14479](#).

48. Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/37/51, 16 January 2018.

which facilitate repression or reprisals. They must ensure an environment conducive to human rights defenders' activities and their participation in public life. States should also facilitate the granting of emergency visas, residence permits or asylum to human rights defenders who are at risk in their own countries and provide them with temporary refuge, if needed. Special attention should be drawn to women defenders, who are often subjected to attacks due to their work on culturally sensitive issues challenging traditional customs. National parliaments should also consult defenders on any draft law concerning the latter, or human rights and fundamental freedoms in general.

40. This year, we are celebrating the 70th anniversary of the United Nations Universal Declaration of Human Rights and the 10th anniversary of the Committee of Ministers' Declaration on human rights defenders. This occasion must be used to support Council of Europe initiatives to assist human rights defenders; the former Council of Europe Commissioner for Human Rights, Mr Nils Muižnieks, already issued [a statement on the 10th anniversary of the Committee of Ministers' Declaration on 6 February 2018](#). As proposed by the CDDH in the above-mentioned study, the Council of Europe could, for example, organise a high-level seminar to mark this anniversary and to revisit the efforts made by member States, the European Union and other international organisations (namely the Organization for Security and Co-operation in Europe (OSCE) and the United Nations) to better protect defenders.

41. Although the Council of Europe is already giving this matter detailed thought and has started to take practical measures, the measures taken so far are not yet satisfactory. Therefore, I have proposed some steps to be taken in the draft recommendation. In particular, following the example of my predecessor, Ms Reps, I would like to support the idea of establishing a platform for the protection of human rights defenders that would report new cases of reprisals in Council of Europe member States, following the example of the [Platform to promote the protection of journalism and the safety of journalists](#). The index of attacks and threats to human rights defenders held by [Protect Defenders](#) could also be a source of inspiration. Moreover, human rights defenders co-operating with the Council of Europe and the European Court of Human Rights should be afforded special attention and protection in the Organisation. The Assembly should also continue its work in this respect. Like Ms Reps, I would like to support the idea of appointing a general rapporteur of our committee on the situation of human rights defenders,⁴⁹ as this issue should remain high on the Assembly's agenda. The general rapporteur could follow closely cases of reprisals against human rights defenders, react to them and maintain regular working contacts with other Council of Europe bodies. The Assembly could also foster international co-operation between national parliaments in exchanging information on good practices concerning promotion of the activities of human rights defenders and on abuses against them. It could, for example, establish a network of parliamentarians who would be supportive of human rights defenders' work, would condemn any reprisals against them and bring the situation of defenders in other countries to the attention of their own parliaments.

42. In conclusion, more action is needed in this area in the Council of Europe. On the occasion of the above-mentioned anniversaries, the Organisation should once again pay tribute to the invaluable work of human rights defenders and commemorate those who lost their life while defending the rights of others.

49. [Doc. 13943](#), paragraph 51, *supra* note 5.

Appendix – Dissenting opinion by Mr Mustafa Yeneroğlu⁵⁰ (Turkey, FDG) member of the Committee on Legal Affairs and Human Rights

This dissenting opinion aims to respond to certain inaccurate claims in the report, which are based on subjective perspectives held by the rapporteur. Herewith we present our own perspective on these given issues

Turkey has a legal system which considers the European Convention on Human Rights (ECHR) and the case-law of the European Court of Human Rights (ECtHR) as a guide. Thus, freedom of expression, assembly and association, and right to a fair trial are safeguarded by the Constitution in accordance with the ECHR and the ECtHR.

Our Government attaches utmost importance to the maintenance of the vibrant and pluralistic nature of Turkish civil society, as well as to the work of human rights defenders. Comprehensive reform process over the last fifteen years has greatly contributed to the enabling environment for the civil society.

Proceedings against members of certain human rights organizations are not related with their activities within these organizations and are conducted in connection with criminal charges of individuals. Likewise, investigations against those who are claimed to be “journalists in prison” are not due to journalistic work but due to their acts in support or link to terrorist organizations.

Journalism cannot be used as a shield against criminal investigations. In fact, using any profession in the service of committing crimes goes against the principles of journalism as well.

Their legal rights are under protection. Judicial process is ongoing. As legal proceedings advance, certain detainees are released pending trials. Same applies for those who are referred to as “human rights defenders”.

We are faced with severe and multiple security challenges emanating from terrorist organizations (FETÖ, PKK, DHKP-C and DAESH). Effective measures are indispensable not only for security considerations, but also to protect the rights of our people and our democracy.

Today, it is a top priority in Turkey to strike a proper balance between freedoms and security needs while taking appropriate measures. As far as the State of Emergency is concerned, all measures are taken in complete transparency. Our international obligations are observed. In this regard, around 42 000 (38 000 through administrative Review Boards and more than 3 600 by way of Decrees) public employees have been reinstated to date. Around 350 private entities have also been allowed to function again. On the other hand, the Inquiry Commission on the State of Emergency Measures has been established. This Commission is entitled to take binding decisions with due process. Its decisions are also open to judicial control. It is a domestic legal remedy and recognized as such by the European Court of Human Rights.

In this context the claims in paragraphs 22 to 29 of the explanatory memorandum do not reflect the truth and originate from biased judgments. Furthermore, is unacceptable that this explanatory memorandum refers to FETÖ, the terrorist organization behind the foiled coup attempt of July 15 and which murdered hundreds of innocent civilians and injured thousands others, as “Fethullah Gülen group” and as “Gülenists”.

50. Rule 50.4 of the Assembly's Rules of Procedure: “The report of a committee shall also contain an explanatory memorandum by the rapporteur. The committee shall take note of it. Any dissenting opinions expressed in the committee shall be included therein at the request of their authors, preferably in the body of the explanatory memorandum, but otherwise in an appendix or footnote.”