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## Committee on Legal Affairs and Human Rights

# Situation of human rights defenders in Council of Europe member states

### Information note

Rapporteur: Mr Raphaël Comte, Switzerland, Alliance of Liberals and Democrats for Europe

#### 1. Introduction

##### 1.1. Procedure

1. Further to the report by Mr Egidijus Vareikis (Lithuania, EPP/CD) on “Protecting human rights defenders in Council of Europe member states”,<sup>1</sup> the Committee on Legal Affairs and Human Rights, at its meeting in Strasbourg on 26 June 2018, proposed appointing a general rapporteur on the situation of human rights defenders. Following a debate on Mr Vareikis’s report,<sup>2</sup> the Parliamentary Assembly ratified the terms of reference of the general rapporteur on 8 October 2018. At its meeting in Strasbourg on 9 October 2018, the committee appointed me as the first general rapporteur on this question.

##### 1.2. Relevant issues

2. The committee and the Assembly have been monitoring the situation of human rights defenders in a targeted and specific way since 2006.<sup>3</sup> For the Assembly, 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 (NGOs) or others.<sup>4</sup> 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 for states to protect the right of defenders. At regional level, in particular at Council of Europe level, this was followed on 6 February 2008 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](#).

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\* Document declassified by the Committee on 26 June 2019.

<sup>1</sup> [Doc. 14567](#), 6 June 2018.

<sup>2</sup> The debate was held on 26 June 2018. Following the debate, the Assembly adopted [Resolution 2225 \(2018\)](#) and [Recommendation 2133 \(2018\)](#).

<sup>3</sup> [Doc. 10985](#), 27 June 2006.

<sup>4</sup> [Resolution 2225 \(2018\)](#), 26 June 2018, paragraph 1.

3. The right to defend others' rights is itself based on the fundamental rights recognised and protected by the European Convention on Human Rights ("the Convention"), 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 may give an indication of the general situation of human rights in the State concerned or a deterioration thereof.<sup>5</sup>

4. Accordingly, responsibility for the protection of human rights defenders rests first and foremost with national governments. 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.<sup>6</sup>

### 1.3. *My terms of reference*

5. 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 the 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 appeals in my capacity as 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.

## 2. Recent Council of Europe work on the protection of human rights defenders

6. Four reports on the situation and protection of human rights defenders in Council of Europe member States have been produced by the Assembly.<sup>7</sup> They have highlighted the reprisals faced by human rights defenders in certain Council of Europe member States, such as physical and psychological violence, arbitrary arrests, judicial and administrative harassment, smear campaigns and even murder or abduction.<sup>8</sup> In particular, in [Resolution 2095 \(2016\)](#), the Assembly expressed serious concern about acts of reprisals against human rights defenders in Azerbaijan, Russia, Turkey and Georgia.<sup>9</sup> The Assembly's most recent resolution on this subject – [Resolution 2225 \(2018\)](#) – expresses its concern at the increase in the number of acts of reprisals against human rights defenders, but does not mention any specific Council of Europe member State. However, Mr Vareikis's report (on which the resolution is based), focuses on individual cases of persecution, primarily in Azerbaijan, the Russian Federation and Turkey, and also, to a certain extent, in France, Greece, Hungary, the Republic of Moldova, Serbia, Spain and Ukraine.

7. In [Recommendation 2133 \(2018\)](#),<sup>10</sup> based on the same report by our committee, the Assembly called on the Committee of Ministers to give some thought to and to take action on what could be done to strengthen the protection of human rights defenders. It suggested setting up a platform to this end, supporting the work of the Commissioner for Human Rights, implementing the proposal for a contact point in the Private Office of the Secretary General of the Council of Europe (a mechanism for regularly reporting on and reacting to cases of intimidation of human rights defenders co-operating with the Organisation), adopting a declaration on the need to strengthen the protection and promotion of the civil society space in Europe and organising a seminar to mark the 10<sup>th</sup> anniversary of the [Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities](#).

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<sup>5</sup> See the [Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities](#), 6 February 2008.

<sup>6</sup> [Resolution 2225 \(2018\)](#), supra note 4, paragraph 2.

<sup>7</sup> *The situation of human rights defenders in Council of Europe member states*, [Doc. 11841](#), 24 February; *The situation of human rights defenders in Council of Europe member states*, [Doc. 12957](#), 11 June 2012; *Strengthening the protection and role of human rights defenders in Council of Europe member states*, [Doc. 13943](#), 11 January 2016; *Protecting human rights defenders in Council of Europe member states*, [Doc. 14567](#), 6 June 2018.

<sup>8</sup> *Ibid.*

<sup>9</sup> [Resolution 2095 \(2016\)](#), 28 January 2016, paragraph 4.

<sup>10</sup> Adopted by the Assembly on 26 June 2018.

8. The Committee of Ministers replied to this recommendation in December 2018.<sup>11</sup> It shared the Assembly's concerns regarding reprisals against human rights defenders, welcomed the appointment of the general rapporteur on the situation of human rights defenders and supported the work of the Commissioner for Human Rights, by ensuring that the latter had sufficient financial and human resources at her disposal. The Committee of Ministers considered that the Secretary General should provide further information on the implementation of his proposed contact point. However, it is regrettable that the Committee of Ministers did not decide to set up a platform for the protection of human rights defenders, as proposed in paragraph 1.3 of [Recommendation 2133 \(2018\)](#). Nor did it respond to the Assembly's recommendations concerning regular exchanges with human rights defenders, better co-ordination between Council of Europe bodies and strengthening co-operation with other international organisations (paragraphs 1.1, 1.5 and 1.8 of the recommendation).

9. Nevertheless, the fact that the protection of human rights defenders was one of the priorities of the Finnish Chairmanship (between November 2018 and May 2019) is to be welcomed. During that chairmanship, a workshop on the civil society space was organised by the Steering Committee for Human Rights (CDDH) in Strasbourg on 29 November 2018. In addition, on 28 November last, the Committee of Ministers adopted [Recommendation CM/Rec\(2018\)11](#) on the need to strengthen the protection and promotion of civil society space in Europe. This recommendation underscored the key role played by human rights defenders in "independently promoting the realisation of all human rights", recognised and valued their work, deplored the violations and abuses of their rights and reasserted that States were under a "positive obligation to actively protect and promote a safe and enabling environment in which human rights defenders can operate safely without stigmatisation and fear of reprisals". The appendix to the Recommendation further contains a number of practical recommendations to Council of Europe member States aimed at protecting and promoting civil society space.

10. Moreover, further progress has been made in the Council of Europe. A conference on the role and position of NGOs in the Council of Europe was held in Warsaw on 22 March 2019. In addition, at the 129th session of the Committee of Ministers in Helsinki on 17 May 2019, the Committee of Ministers adopted a [decision](#) on the need to strengthen the protection and promotion of civil society space in Europe. In this decision, it agreed to "examine further options for strengthening the role and meaningful participation of civil society organisations (...) in the Organisation", to "further strengthen the Organisation's mechanisms for the protection of human rights defenders, including the Secretary General's Private Office procedure on human rights defenders" and to "invite the Secretary General to explore the possibilities of inviting the relevant human rights NGOs to a regular exchange". This decision is therefore to be welcomed, as it is in line with the Assembly's previous recommendations on the need to establish mechanisms for the protection of human rights defenders and to strengthen the participation of civil society representatives in the activities of the Organisation's bodies. As general rapporteur, I will be keeping a close eye on the implementation of this decision.

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

#### *3.1. General situation*

11. As has been stated, the committee's previous rapporteurs expressed concern about the increasing adverse environment for human rights defenders in certain Council of Europe member states. According to data from the NGO consortium [ProtectDefenders.eu](#), in 2018, it received 80 reports of violations of the rights of defenders in European and Central Asian countries. For the year 2019 (up to 12 June), the total number was 27; the majority of these cases were judicial harassment cases and those most affected were activists working in the field of civil and political rights. In view of these data and the findings contained in the Assembly's and the committee's previous reports, I would like to continue the work of my predecessors and briefly present the latest developments in this field, in particular in Azerbaijan, the Russian Federation and Turkey.

12. It should also be noted that in the UN, at its 40th session last March, the Human Rights Council adopted a [resolution on recognising the contribution of environmental human rights defenders to the enjoyment of human rights](#), environmental protection and sustainable development.<sup>12</sup> This resolution highlights the growing role of defenders working for the right to a healthy environment and the reprisals to which they have been subjected.

<sup>11</sup> [Doc. 14772](#), 5 December 2018.

<sup>12</sup> A/HRC/40/L.22/Rev.1, 20 March 2019.

### 3.2. Selected examples

#### 3.2.1. Azerbaijan

13. On several occasions, the Assembly has expressed concern about the alarming situation of human rights defenders in Azerbaijan due to the heavily constrained environment in which these activists, who are often stigmatised, are forced to operate (see [Resolutions 2184 \(2017\)](#) on the functioning of democratic institutions in Azerbaijan, [2185 \(2017\)](#) on “Azerbaijan’s Chairmanship of the Council of Europe: what follow-up on respect for human rights?”,<sup>13</sup> and [2226 \(2018\)](#) on “New restrictions on NGO activities in Council of Europe member states”).<sup>14</sup> In addition, the situation of political prisoners - including political and social activists - in that country is currently being monitored by our committee chair, Ms Thorhildur Sunna Ævarsdóttir (Iceland, SOC), who is the rapporteur on this subject.<sup>15</sup>

14. An improvement in the situation of human rights defenders can be seen with the conditional release in March 2019 of Mehman Huseynov, a blogger and human rights defender,<sup>16</sup> who had been detained since March 2017 on defamation charges, following the publication of a series of articles revealing cases of alleged corruption and torture committed by the security forces. His release followed a massive gathering of Azeri citizens calling for the release of the young human rights defender, and also a hunger strike by Mr Huseynov and 20 other Azeri human rights defenders in protest against politically motivated prosecutions.<sup>17</sup> However, he remains prohibited from leaving the country, as are other human rights defenders who have been detained in recent years (including investigative journalist Khadija Ismayilova and lawyer Intigam Aliyev). In addition, on 16 March, the authorities released 400 prisoners, of whom about 50 people are considered to be political prisoners,<sup>18</sup> including four NIDA activists, Ilkin Rustamzade, Giyas Ibrahimov, Bayram Mammadov and Elgiz Gaharam. Last April, Bayram Mammadov was placed in administrative detention for 30 days and claims to have been beaten by the police during his detention.

15. However, despite this progress, there are still problems. Several lawyers working in defence of human rights, including those of political opponents or activists, have been disbarred (Yalchin Imanov, who dealt with cases of torture) or disciplinary proceedings have been initiated against them (Elchin Sadigov, Fariz Namazli and Shahla Humbatova, Mehman Huseynov’s lawyer). Elchin Sadigov, a lawyer representing the journalist Afgan Mukhtarly (arrested and abducted in Georgia in 2017) and the politician Nemat Panahly, claims that his correspondence to the European Court of Human Rights (“the Court”) was withheld by the postal services. The Azerbaijani authorities ban opposition rallies in central and strategic areas of Baku and arrest activists, including lesbian, gay, bisexual and transgender (LGBTI) activists. The failure of the Azerbaijani authorities to investigate the circumstances surrounding the death in prison in April 2017 of blogger Mehman Galandarov<sup>19</sup> is rather disturbing; according to the prosecutor, who dismissed the case, Mehman Galandarov hanged himself in prison.<sup>20</sup> Furthermore, last May, human rights defender Ogtay Gulaliyev was threatened by the prosecutor with criminal proceedings because of his activities in denouncing human rights violations in the country.

16. In recent months, the European Court of Human Rights has found violations of the Convention in several cases involving human rights activists or journalists. Examples are the case of *Mammadov and others v.*

<sup>13</sup> Adopted on 11 October 2017. See, respectively, the reports of the Monitoring Committee (co-rapporteurs: Mr Cezar Florin Preda and Mr Stefan Schennach), [Doc. 14403](#), 25 September 2017, and of our committee (rapporteur: Mr Alain Destexhe), [Doc. 14397](#), 18 September 2017.

<sup>14</sup> Adopted on 27 June 2018, see the report of our committee (rapporteur: Mr Yves Cruchten), [Doc. 14570](#), 7 June 2018.

<sup>15</sup> See the introductory memorandum of 22 January 2019, declassified, AS/Jur(2019)01. It mentions around 200 political prisoners.

<sup>16</sup> See, for example, the resolution by the European Parliament of 17 January 2019 on Azerbaijan, in particular the case of Mehman Huseynov, 2019/2512(RSP).

<sup>17</sup> See the [statement](#) by the Monitoring Committee’s co-rapporteurs on Azerbaijan, Sir Roger Gale and Mr Stefan Schennach of 6 March 2019.

<sup>18</sup> Listed in the introductory memorandum written by Ms Ævarsdóttir, see footnote 15. See the joint [statement](#) by Ms Ævarsdóttir, and the co-rapporteurs of the Monitoring Committee Sir Roger Gale and Mr Stefan Schennach of 19 March 2019.

<sup>19</sup> For more details, see <http://www.contact.az/>.

<sup>20</sup> <https://osce.usmission.gov/call-investigation-death-mehman-galandarov/>

*Azerbaijan*,<sup>21</sup> concerning the tragic death of the academic and editor-in-chief of a Talysh-language<sup>22</sup> newspaper, Novruzali Mammadov in August 2009 in prison, and the case of *Haziye v. Azerbaijan*,<sup>23</sup> concerning the detention in 2014 of Seymur Mashgul oglu Haziye, an award-winning journalist who worked for the opposition newspaper Azadliq and a member of the Azerbaijan Popular Front Party, sentenced to five years' imprisonment for hooliganism. The Court also ruled on the pre-trial detention and confiscation of the files of lawyer Intigam Aliyev<sup>24</sup> and the smear campaign against journalist Khadija Ismayilova and the disclosure of information concerning her private life.<sup>25</sup> In addition, the Court ruled that the pre-trial detention of the activist Ilkin Rustamzade between 2013 and 2014 was contrary to Article 5§ 1 of the Convention.<sup>26</sup>

### 3.2.2. Russian Federation

17. For several years, the Assembly has been concerned about the situation of human rights defenders in the Russian Federation and the impact on civil society of the controversial 2012 law on “foreign agents”, which obliges NGOs receiving foreign donations to register as “foreign agents” (a highly derogatory term dating from the Soviet era), and the 2015 law on “undesirable organisations”, which resulted in the closure of the Russian offices of many international donor organisations.<sup>27</sup>

18. Since the adoption by the Assembly of [Resolution 2225 \(2018\)](#), new instances of reprisals against human rights defenders have been reported. In December 2018, Mr Lev Ponomarev, Executive Director of the Moscow-based movement “For Human Rights”, aged 77, was placed in administrative detention for 16 days for supporting peaceful rallies organised to protest against the criminalising of groups of young people under anti-terrorist laws.<sup>28</sup> In February 2019, the journalist Svetlana Prokopyeva was arrested by the police for her comments about a suicide bombing in 2018 during a radio broadcast; the Russian authorities considered this to be “publicly justifying terrorism”. The police searched her apartment and confiscated her computers, telephones and files; this was condemned by the Assembly’s general rapporteur on freedom of the media and the protection of journalists, Lord George Foulkes (United Kingdom, SOC).<sup>29</sup> Recently, investigative journalist Ivan Golounov was arrested on “drug trafficking charges” which he claims were completely fabricated; during his arrest he was allegedly subjected to police violence, which was criticised by Council of Europe Secretary General Thorbjørn Jagland and Lord George Foulkes<sup>30</sup> and triggered a wave of protests in Moscow. Subsequently, more than 400 demonstrators were arrested. On June 11, Mr Golounov was released without charge.<sup>31</sup>

19. Finally, in two judgments dated 30 April 2019, the European Court of Human Rights found against Russia for having imposed restrictions in 2015 and 2017 on the applicants’ freedom of expression and freedom of assembly, both of whom were activists and bloggers and had criticised the government.<sup>32</sup>

<sup>21</sup> *Mammadov and others v. Azerbaijan*, Application No. 35432/07, judgment of 21 February 2019. The Court found that there had been three violations of Article 3 of the Convention (on account of the inhuman and degrading treatment and a failure to conduct an effective investigation), a violation of Article 2 (under the procedural aspect, on account of the failure to carry out an effective investigation into the death of Mr Mammadov), a violation of Article 5§1 (unrecorded detention) and of Article 5§3 (pre-trial detention for more than one year without proper justification).

<sup>22</sup> The Talysh are an indigenous Iranian ethnic group who speak an Iranian language and live in certain northern regions of Iran and southern regions of Azerbaijan

<sup>23</sup> *Haziye v. Azerbaijan*, Application No. 19842/15, judgment of 6 December 2018. The Court found a violation of Article 5§1 (unlawfulness of detention) and 5§3 (failure to justify the need for pre-trial detention) of the Convention.

<sup>24</sup> *Aliyev v. Azerbaijan*, Applications Nos. 68762/14 and 71200/14, judgment of 20 September 2018. The Court found violations of Articles 3, 5§1 and 5§4 (relating to the pre-trial detention of the applicant) and 8 (relating to the confiscation of his files). It also found a violation of Article 18 combined with Articles 5 and 8, as the measures taken against the applicant had aimed at silencing and punishing him for his activities in defence of human rights and had not pursued any of the legitimate purposes accepted under the Convention.

<sup>25</sup> *Khadija Ismayilova v. Azerbaijan*, Applications Nos. 65286/13 and 57270/14, judgment of 10 January 2019. The Court found violations of Articles 8 and 10 of the Convention.

<sup>26</sup> *Rustamzade v. Azerbaijan*, Application No. 38293/16, judgment of 7 March 2019 (not final).

<sup>27</sup> See [Resolution 2226 \(2018\)](#) and [Doc. 14570](#), see footnote 14.

<sup>28</sup> See the urgent appeal by the Observatory for the Protection of Human Rights Defenders (“the Observatory”) of 11 December 2018, [Russian Federation: Sentencing and arbitrary detention of Mr Lev Ponomarev, Executive Director of the “For Human Rights” movement](#). Initially the court hearing the case had ordered 25 days’ administrative detention.

<sup>29</sup> [Rapporteur calls on Russian authorities to drop charges against journalist Svetlana Prokopyeva](#), 21 February 2019.

<sup>30</sup> See their respective statements of [8 June](#) and [11 June](#).

<sup>31</sup> <https://www.theguardian.com/world/2019/jun/11/ivan-golounov-russian-police-drop-charges-against-journalist>

<sup>32</sup> *Kablis v. Russia*, Applications Nos. 48310/16 and 59663/17, and *Elvira Dmitriyeva v. Russia*, Applications Nos. 60921/17 and 7202/18, judgments of 30 April 2019 (not final). The Court found violations of Articles 10, 11 and 13 of the Convention and, in the case of Ms Dmitriyeva, Articles 5 and 6.

20. The situation is extremely fraught in the North Caucasus, and especially the Chechen Republic, as the Assembly pointed out in [Resolution 2157 \(2017\)](#) on “Human rights in the North Caucasus: what follow-up to [Resolution 1738 \(2010\)](#)?”;<sup>33</sup> these issues are now being examined by our colleague Mr Frank Schwabe (Germany, SOC), who is drafting a report on “The continuing need to restore human rights and the rule of law in the North Caucasus region”. In this context, the case of Mr Oyub Titiev, who in 2018 received the Vaclav-Havel Human Rights Prize awarded by the Assembly for his activities as head of the Memorial NGO office in Chechnya, is worth particular mention. On 18 March 2019, he was sentenced to four years’ imprisonment in a penal colony following the discovery by the law enforcement authorities of drugs in his car in January 2018.<sup>34</sup> He claims that the drugs were placed in his car “without his knowledge”. According to several NGOs, including Human Rights Watch, this conviction was handed down for “political reasons”; it is alleged that the charges are brought against “any activist who criticises” the Chechen government.<sup>35</sup> On 10 June, the Russian judiciary decided to release Mr Titiev on parole.<sup>36</sup>

21. Furthermore, again in the Chechen region, the appalling persecution of the LGBTI community, particularly in 2017, has already been a major concern of the Assembly.<sup>37</sup> On 27 June 2018, the Assembly adopted [Resolution 2230 \(2018\)](#) and [Recommendation 2138 \(2018\)](#) on the persecution of LGBTI people in the Chechen Republic (Russian Federation); in the resolution, it urged the Russian Federation to “ensure the protection of human rights defenders throughout the country, including those working on the promotion and protection of the rights of LGBTI people” and to “support the non-governmental organisations and human rights defenders helping victims and witnesses of the anti-LGBTI campaign”. Despite these appeals, a Russian human rights defender, Mr Igor Kochetkov, director of the Russian LGBTI network and defender of the rights of the LGBTI community in Russia, was openly threatened on 29 January 2019 by Mr Ali Baskhanov, a Chechen public figure (close to the government) as a result of Mr Kochetkov’s denunciation of the crackdowns in 2017 and 2018 on people belonging to the LGBTI community in Chechnya.<sup>38</sup>

22. In Crimea, individuals and groups of people opposed to the annexation of the peninsula by the Russian Federation are systematically and widely persecuted, with Crimean Tatars being particularly targeted.<sup>39</sup> Members of the Tatar community are regularly searched, arrested and charged with, among other things, violating Russian anti-extremist legislation.<sup>40</sup> In January 2019, lawyer Emil Kurbedinov, who had denounced human rights violations in the region, was disbarred.<sup>41</sup>

### 3.2.3. Turkey

23. Following the July 2016 attempted coup, the situation of human rights defenders has deteriorated significantly in Turkey. Numerous human rights defenders have been harassed, physically threatened, arrested and indeed imprisoned.<sup>42</sup> Although the state of emergency was lifted in July 2018, the situation remains worrying. Below, I will mention only a few of the most blatant examples of reprisals against human rights defenders. For example, in January 2019, I was obliged to react to the conviction of Turkish judge Murat Arslan, winner of the Assembly’s 2017 Vaclav Havel Human Rights Prize, who was sentenced to ten years’ imprisonment for “membership of an armed terrorist organisation” by a first instance court in Ankara on 18 January 2019.<sup>43</sup>

<sup>33</sup> Adopted on 25 April 2017. See also [Doc. 14083](#) of 8 June 2016, report by our former colleague from the committee, Mr Michael McNamara, paragraphs 17 to 27.

<sup>34</sup> For further details see <https://www.fidh.org/en/issues/human-rights-defenders/oyub-titiev-how-absurd-a-trial-could-get>.

<sup>35</sup> For further details see [En Tchétchénie, le responsable de l'ONG Memorial condamné à quatre ans de colonie pénitentiaire](#), 18 March 2019 (in French only). See also, the joint [statement](#) I made with Mr Schwabe on 19 mars 2019.

<sup>36</sup> [Tchéchénie : le responsable de l'ONG Memorial relâché en liberté conditionnelle](#), Le Monde, 10 June 2019.

<sup>37</sup> For further details, see [Doc. 14795](#) of 11 January 2019 (*Persecution of LGBTI people in the Chechen Republic (Russian Federation)*).

<sup>38</sup> See <https://www.frontlinedefenders.org/en/case/death-threats-sent-lgbt-rights-defender-igor-kochetkov>. See also [the Observatory urgent appeal](#) of 1 February 2019.

<sup>39</sup> <https://eeas.europa.eu/human-rights-violations-against-and-illegal-detention-crimean-tatars>

<sup>40</sup> For further details on the situation of human rights defenders in Crimea, see [https://crimeahrg.org/Crimean-Human-Rights-Group\\_Mar\\_2019\\_EN.pdf](https://crimeahrg.org/Crimean-Human-Rights-Group_Mar_2019_EN.pdf)

<sup>41</sup> See [the Observatory urgent appeal](#) of 15 January 2019

<sup>42</sup> [Doc. 14567](#), see paragraph 22.

<sup>43</sup> See [my statement](#) of 22 January 2019.

24. Furthermore, the trial against the chair of the Turkish branch of Amnesty International, Mr Taner Kiliç and the director of Amnesty International, Ms Idil Eser, along with nine other human rights defenders, all accused of “belonging to a terrorist organisation”, is still ongoing after almost two years.<sup>44</sup>

25. Mr Osman Kavala, a businessman and prominent civil society leader, who in 2013 supported the protest movements in Gezi Park, has been in pre-trial detention since 1 November 2017. He is accused, *inter alia*, of attempting to overthrow the government and the constitutional order.<sup>45</sup> In March and May last, the Constitutional Court dismissed requests for his release. On 16 November 2018, 20 people were arrested in connection with the investigation concerning Mr Kavala and the demonstrations in Gezi Park. The following day, they were all released except for Mr Yiğit Aksakoğlu, an academic and member of an NGO working in the field of early childhood; however, he was released later following a first hearing that was held before the Istanbul High Criminal Court on 24 and 25 June 2019.

26. Moreover, there are continuing reprisals against academics who had criticised law enforcement operations in the south-east of the country by signing a call for peace in 2016. According to Amnesty International, at least 529 people have been charged with “propaganda in support of a terrorist organisation”. In December 2018, the former President of the Central Council of the Turkish Medical Association (TTB), Professor Gençay Gürsoy, was sentenced to two years and three months in prison, while Professor Şebnem Korur Fincancı, President of the Human Rights Foundation of Turkey (HRTF), was sentenced to two years and six months in prison. Last March, activist Professor Zübeyde Fusun Üstel’s appeal against her conviction of one year and three months in prison was dismissed by the appeal court. Criminal proceedings are also under way against Mr Osman İşçi, Secretary General of the Human Rights Association (IHD), an activist for other NGOs and a trade unionist, who had been dismissed from his academic position in 2017 on account of his work for the protection of human rights.

27. In addition, Ms Şebnem Korur Fincancı is also charged with “propaganda in support of a terrorist organisation” in criminal proceedings instituted following her participation in 2016 in a solidarity campaign in support of the right to freedom of the press and, in particular, the Kurdish daily *Özgür Gündem*, which has meanwhile been closed down.<sup>46</sup> The former editor-in-chief of that newspaper, Ms Eren Keskin, who is also co-chair of the IHD, was recently sentenced to three years and nine months’ imprisonment for the same offence (at first instance). It should be noted that 143 legal proceedings have been initiated against her.<sup>47</sup>

#### 3.2.4. Other cases of reprisals against human rights defenders

28. Cases where human rights defenders have faced intimidation have also been reported in other countries. According to the Observatory for the Protection of Human Rights Defenders (the “Observatory”), defenders of migrants’ and refugees’ rights are subject to reprisals in Spain<sup>48</sup> and Italy.<sup>49</sup> Amnesty International reports that this is still the case in France, particularly in the Calais region,<sup>50</sup> and in Croatia.<sup>51</sup> The Observatory has also reported cases of judicial harassment and smear campaigns against human rights defenders working to uphold the right to a healthy environment in Armenia.<sup>52</sup>

29. In **Spain**, the criminal trial against Mr Jordi Cuixart, president of the Omnium Cultural association, raises several issues. Omnium Cultural,<sup>53</sup> founded in 1961 under the Franco dictatorship, is an association that promotes civil and cultural rights in Catalonia. Mr Cuixart was arrested in October 2017 following events related to the referendum on the independence of Catalonia on 1 October 2017. He has been in pre-trial detention since 16 October 2017. He is being tried by the Supreme Court in the trial of the twelve Catalan political and social activist leaders. His lawyers claim that the trial is political in nature and that Mr Cuixart should not be tried by the Supreme Court, which has jurisdiction to try elected officials and not activists like him. Mr Cuixart is accused of sedition, rebellion and criminal conspiracy to organise a peaceful demonstration

<sup>44</sup> Amnesty International, [Turkey: Judicial farce must end with acquittal of human rights defenders](#), 20 March 2019.

<sup>45</sup> An internet support site has been set up for: <http://www.osmankavala.org/en>

<sup>46</sup> [Observatory urgent appeal](#) of 4 January 2019.

<sup>47</sup> [Observatory urgent appeal](#) of 28 May 2019.

<sup>48</sup> [Observatory urgent appeal](#) of 7 February 2019.

<sup>49</sup> [Observatory urgent appeal](#) of 13 May 2019.

<sup>50</sup> Amnesty International, [France: Police harassing, intimidating and even using violence against people helping refugees](#); 5 June 2019. This problem was already mentioned in the report by Mr Vareikis, see paragraph 36.

<sup>51</sup> Amnesty International, [Croatia: EU complicit in violence and abuse by police against refugees and migrants](#), 13 March 2019.

<sup>52</sup> [Observatory urgent appeal](#) of 24 May 2019.

<sup>53</sup> For further details, see <https://omnium.eu/en/>.

in Barcelona on 20 September 2017 and the prosecutor is demanding a 17-year prison sentence. Several NGOs have called on the Spanish authorities to drop the charges against Mr Cuixart.<sup>54</sup> On 27 May 2019, the United Nations Working Group on Arbitrary Detention (WGAD) issued an official opinion (No. 6/2019) in response to a formal complaint of arbitrary detention filed with the WGAD by three Catalan leaders, including Mr Cuixart. It found that this detention was contrary to the [International Covenant on Civil and Political Rights](#) and called for the immediate release of the three detainees.<sup>55</sup>

30. In **France**, the violence carried out by the French police against the “yellow vest” protestors is also very worrying from the human rights point of view, and particularly from the point of view of the right to freedom of assembly. More than 2,000 demonstrators have been injured during the yellow vest demonstrations since 17 November 2018 and at least ten or so people have died (run over accidentally by vehicles in the course of roadblocks).<sup>56</sup> Journalists are also subjected to police violence (truncheon blows, for example) during demonstrations.<sup>57</sup> In this connection, in March 2019, the UN High Commissioner for Human Rights, Michelle Bachelet, urged the government to investigate the use of force against the yellow vest protestors. She said that the “yellow vest” protestors were demonstrating against “what they see as exclusion from economic rights and participation in public affairs”.<sup>58</sup> The authorities’ handling of the “yellow vest” demonstrations has also been criticised by UN special rapporteurs, including the United Nations special rapporteur on the situation of human rights defenders, Mr Michel Forst<sup>59</sup> and the Council of Europe Commissioner for Human Rights, Ms Dunja Mijatović.<sup>60</sup> This issue has not yet been addressed from the perspective of the protection of human rights defenders, even though some of the actions of the “yellow vest” movement could be considered as falling within the scope of defenders’ activities. This therefore deserves special attention.

#### 4. Conclusion

31. The above examples show that human rights defenders are still suffering reprisals and intimidation and that their situation has not improved but has even worsened in certain Council of Europe member States. As general rapporteur on the situation of human rights defenders, I shall continue to pay close attention to the work of the Council of Europe and other international organisations on this issue and to alert the committee and the Assembly to new cases of violations of the rights of human rights defenders. To that end, I would ask the committee to authorise a hearing with two or three experts at one of its forthcoming meetings. In addition, I would like to ask for its authorisation to carry out a fact-finding visit to Spain and France, in the light of the new problems that have arisen there. Since another member of our committee, Ms Olena Sotnyk (Ukraine, ALDE), is working on a related topic in connection with her report on “Restrictions on NGO activities in Council of Europe member states”, I will do my best to co-ordinate our work and avoid any duplication.

<sup>54</sup> See the Amnesty International [press release](#) (in Spanish) of 7 November, the Frontline Defenders [press release](#) of 23 November 2018 and the [International Trial Watch](#) website.

<sup>55</sup> <https://1dex.ch/2019/05/un-organe-de-lonu-reclame-la-liberation-de-trois-leaders-independantistes-catalans/#.XQKF6fZuJaQ> (in French)

<sup>56</sup> As of the date of the finalisation of the [Memorandum on maintaining public order and freedom of assembly in the context of the “yellow vest” movement in France](#), Commissioner for human rights, CommDH(2019)8, 26 February 2019, paragraph 5.

<sup>57</sup> <https://www.coe.int/en/web/commissioner/-/suite-a-sa-mission-a-paris-la-commissaire-mijatovic-livre-ses-premieres-observations-sur-les-questions-de-droits-de-l-homme-liees-au-mouvement-des-gil>.

<sup>58</sup> See her [speech](#) of 6 March 2019.

<sup>59</sup> [France: UN experts denounce severe rights restrictions on “gilets jaunes” protesters](#) 14 February 2019.

<sup>60</sup> See footnote 56.