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Members of the Parliamentary Assembly of the Council of Europe

22 January 2016

Dear Assembly Member,

Serious deterioration of human rights in Azerbaijan, the Russian Federation and Turkey

Ahead of next week's session of the Parliamentary Assembly of the Council of Europe, Amnesty International would like to bring to your immediate attention the serious deterioration of human rights in Azerbaijan, the Russian Federation and Turkey. We have also outlined a number of key recommendations to the Assembly and to the member states concerned.

2015 witnessed the rapid deterioration of the respect for human rights in Azerbaijan, the Russian Federation and Turkey. We would like to express particular concern regarding the rights to freedom of expression, peaceful assembly and association as well as the escalation of violence in the south-east of Turkey.

We urge you to ensure that the debates on the protection and role of human rights defenders in Council of Europe member states, and the prevention of inappropriate restrictions to civil society are driven by human rights considerations. As described in our briefing below, people in Azerbaijan, the Russian Federation and Turkey are being denied their rights to freedom of expression, association and peaceful assembly as a result of their governments' increasingly repressive tactics.

In Turkey, security operations being conducted under round-the-clock curfews in the south-east are putting the lives of tens of thousands of people at risk and are beginning to resemble collective punishment. Any measures that the Turkish authorities take on security must comply with their human rights obligations.

All too often, some member states have openly disregarded Council of Europe membership commitments and the obligations ensuing from the European Convention for the Protection of Human Rights and Fundamental Freedoms, at the risk of rendering them void. The authority of the Assembly, as a guardian of human rights, democracy and the rule of law on behalf of 800 million Europeans, is at risk. The Assembly's credibility relies on it taking a stronger unified stance in its condemnation of, and demand for action on human rights violations. Member states, for their part, must in turn cooperate and engage in constructive dialogue with the Assembly.

Amnesty International therefore calls on the Assembly to hold Azerbaijan, the Russian Federation and Turkey to account for their failures to respect and protect human rights. In particular, we call on the Assembly to:

- Intensify the monitoring of and dialogue with Azerbaijan, the Russian Federation and Turkey, by conducting frequent visits to those countries to address serious human rights concerns, in particular those related to freedom of expression, association and peaceful assembly;

- Conduct an investigation into the serious allegations of gross violations of human rights in the south-east of Turkey;
- Support the adoption of the draft Resolution and draft Recommendation on “Strengthening the protection and role of human rights defenders in Council of Europe member States” and the draft Resolution on “How to prevent inappropriate restrictions on NGO activities in Europe?”;
- Appoint a general rapporteur on the situation of human rights defenders in particular to support individuals at risk;
- Intensify the monitoring of the execution of judgments, through the holding of regular hearings with member states and calls for the full implementation of the judgments of the Court. In particular, call on Azerbaijan to urgently implement *Ilgar Mammadov v. Azerbaijan*, and release Ilgar Mammadov without delay as per the decisions and interim resolutions of the Committee of Ministers.

I wish you a successful Winter Session and look forward to the outcome of your discussions.

Yours sincerely,



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Amnesty International briefing:

Serious deterioration of human rights in Azerbaijan, the Russian Federation and Turkey

Azerbaijan

Despite its obligations as a member state of the Council of Europe and a state party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Azerbaijan has consistently failed to comply with its obligations to respect the rights to freedom of expression, association, peaceful assembly and to a fair trial. In June 2015, the Assembly called on Azerbaijan to “put an end to systemic repression of human rights defenders, the media and those critical of the government, including politically motivated prosecutions; allow for effective judicial review of such attempts; and ensure that the overall climate can become conducive to political pluralism” (Resolution 2062 (2015)). Since then, Amnesty International has been witnessing further serious human rights violations in these areas.

Freedom of association

Leading human rights NGOs in Azerbaijan remain unable to resume their work as a result of the freezing of their assets and ongoing harassment, including the criminal prosecution of their members. Several NGO leaders remain in prison while others have been forced into exile due to fear of persecution. International human rights monitors were barred and expelled from the country. Amnesty International and Human Rights Watch delegates remain unable to visit Azerbaijan after they were refused entry and expelled on arrival, as were several international journalists, during the European Games and in the period leading up to parliamentary elections.

Freedom of expression

At least 18 government critics - including prominent human rights defenders - remain behind bars on fabricated charges, and the figure is much higher according to Azerbaijani human rights groups. These include journalists, lawyers, NGO leaders, and political activists. Virtually all mainstream media remain under effective government control; independent outlets are increasingly few and face constant harassment. Independent journalists and activists have faced reprisals, both in the country and abroad. Relatives of exiled media workers who continue to work from abroad for independent media outlets face harassment and intimidation, including arrests under questionable criminal charges.

Freedom of peaceful assembly

Peaceful street protest is effectively prohibited anywhere in central Baku, and only allowed in designated, typically remote areas and requires prior permission from the authorities. Several peaceful protest actions held in 2015 and this year were prevented or dispersed by police using excessive force.

Amnesty International calls on Azerbaijan to:

- Stop the harassment, intimidation and persecution of political activists, journalists, and civil society representatives, including human rights defenders, and their relatives, and ensure that they are able to carry out their legitimate activities without fear of threat of reprisal, obstruction and persecution;
- Abolish the excessive legal restrictions and administrative hurdles faced by NGOs, and allow the organizations that were arbitrarily targeted to continue or resume their lawful activities, including by immediately unfreezing their assets;
- Allow delegates from international human rights organisations to access Azerbaijan to conduct their human rights work and monitoring in the country, without hindrance;
- Immediately and unconditionally release all persons imprisoned under trumped-up charges solely for peacefully exercising their right to freedom of expression and peaceful assembly;
- Investigate all reported instances of false charges being fabricated against political and civil society activists, including human rights defenders, journalists, and their relatives, and bring those responsible to justice;
- Ensure a fair trial for all individuals who face prosecution in Azerbaijan;

- Respect the right to peaceful assembly for all individuals in Azerbaijan, in particular, allow peaceful protests to be carried out without undue restrictions;
- Ensure that any use of force by police, including during public assemblies, is necessary, lawful and proportionate;
- Fully implement the judgments of the European Court of Human Rights, in particular *Ilgar Mammadov v. Azerbaijan*, and release Ilgar Mammadov without delay as per the decisions and interim resolutions of the Committee of Ministers ([CM/ResDH\(2015\)156](#); [CM/ResDH\(2015\)43](#));
- Fully implement Resolution 2062 (2015) of the Parliamentary Assembly.

Russian Federation

The commemoration of the 20th anniversary of its membership of the Council of Europe on 28 February should provide the impetus for the Russian Federation to honour its Council of Europe commitments, particularly by fully cooperating with the Assembly and implementing the binding judgments of the Court.

Yet, 2015 witnessed further notable deterioration of the human rights situation in Russia. On 15 December, President Putin signed a new law under which the Constitutional Court can pronounce the European Court of Human Rights' and other international courts' decisions "unimplementable" if they "violate" the Russian Constitution's "supremacy".

The rights to freedom of expression, association and peaceful assembly were among those particularly affected throughout the year, including by means of abuse of existing anti-extremism legislation, aggressive application of recently introduced restrictive laws, and the general atmosphere that encouraged smearing, intimidation and harassment of government critics and independent civil society activists, discrimination of religious minorities and persecution of their members.

Abuse of anti-extremism legislation and persecution of government critics

There are a growing number of cases of criminal prosecution against those who criticize the government online, including in social media and closed online communities. Rafis Kashapov, an activist from Naberezhnye Chelny, Republic of Tatarstan, was convicted and sentenced to three years' imprisonment in September 2015. He was found guilty of "inciting national hatred or enmity, as well as humiliation of human dignity" (Art. 282) and "public calls for actions directed at violating territorial integrity of the Russian Federation" (Art. 280.1 of the Criminal Code) for his posts on social media criticizing Russia's treatment of Crimean Tatars in Crimea. The latter crime was introduced in the Criminal Code in 2014 and has been used to silence critics of Russia's occupation and annexation of Crimea. Natalya Sharina, director of the state-run Library of Ukrainian Literature in Moscow, was detained on 28 October 2015, also under Art. 282, because a number of books classified as "extremist" were purportedly found in a pile of un-catalogued literature in the library. She is currently under house arrest and facing up to two years in prison. On 30 November, a court in the city of Taganrog, in Rostov Region, found 16 members of the local community of Jehovah's Witnesses guilty of organizing and participating in a banned "extremist organization" (Art. 282.2).

In January 2016, government critics and other dissenting voices, including prominent human rights defenders Igor Kalyapin and Lev Ponomarev, the Editor-in-Chief of radio station Echo Moskvy Aleksei Venediktov, and political activist Ilya Yashin, were the subject of a string of thinly veiled threats originating from the political leadership of Chechnya. The assassination of journalist Anna Politkovskaya in 2006 and the abduction and murder of Chechen human rights defender Natalia Estemirova in 2009 were preceded by similar threats. The federal authorities had conspicuously failed to investigate those threats and ensure that those who had been threatened, attacked and harassed due to their work in defending human rights in Chechnya were protected. The federal Russian authorities should promptly, effectively and impartially investigate the past and the latest string of threats and attacks, and ensure that all those responsible are brought to justice.

Further curtailment of the right to freedom of peaceful assembly

Despite constitutional guarantees on the right to freedom of peaceful assembly, legislation increasingly curtails this right. Public assembly is not allowed without express, prior permission by the authorities. Failure to secure it is punishable by hefty fines and up to 30 days of detention for the first two times. Furthermore, Article 212.1 of the Criminal Code, introduced in July 2014, makes it possible to impose criminal sanctions against an individual if they have been prosecuted under the Administrative Code for violating the law on public assemblies more than twice in a period of 180 days. This not only represents an assault on the right to peaceful assembly but also in effect means that protestors are prosecuted twice for the same offence – in violation of the principle of double jeopardy. This new provision has now been put into use, with one peaceful street protester, Ilgar Dadid, convicted and sentenced to three years in prison, and other protesters facing criminal prosecution.

Ongoing onslaught on freedom of association

Freedom of association has also been under increasing government onslaught. The Ministry of Justice keeps a register of “organizations performing the functions of foreign agents”, which includes over 100 NGOs, compelling them to put the stigmatizing “foreign agent” label on all their publications and observe onerous reporting requirements. Failure to do so results in hefty fines for the NGO and its leaders. The Human Rights Centre Memorial joined a list of many other heavily penalized NGOs when it was awarded a fine of over Euro 4,000 in September 2015. The organization was also accused by Ministry of Justice “experts”, following a regular inspection, of “undermining the foundations of the constitutional system” and “calling for the overthrow of the current government and change of the political regime”. The ground for these accusations was criticism by Memorial’s members of the Bolotnaya Square trials and of Russian policies in Ukraine.

A new law was passed in May 2015 authorizing the Prosecutor’s Office to designate any foreign organisation as “undesirable” on the grounds of posing a “threat to the country’s constitutional order, defence or state security” with the immediate effect of rendering its presence, and any activity on its behalf, unlawful. Four foundations that had provided funding for human rights work and other activism in Russia have since been declared “undesirable”.

Discrimination of the LGBTI community

Discrimination against Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) individuals continued to be widely reported, and their rights to freedom of expression and peaceful assembly consistently violated. In April 2015, unidentified assailants attacked the office of the LGBTI organization Maximum in Murmansk, in the Murmansk Region. A criminal case was opened and promptly closed, on the grounds of the absence of the elements of crime. Earlier, the NGO had been added to the “foreign agents” register.

Amnesty International calls on the Russian Federation to:

- Resume cooperation with the Parliamentary Assembly, fully implement the judgments of the European Court, and refrain from and repeal any initiatives, including legislative initiatives that contravene Russia's obligations under the ECHR and in connection with its membership of the Council of Europe;
- Review anti-extremism legislation in line with international law and standards to ensure that it does not breach the rights to freedom of expression and association;
- Ensure the right to freedom of peaceful assembly of all persons within its jurisdiction without discrimination in accordance with international human rights law and standards and the Russian Constitution, and in particular abolish Article 212.1 of the Criminal Code;
- Repeal the “foreign agents law” and ensure that NGOs in Russia are able to do their work without hindrance, harassment, stigmatisation or reprisals;

- Promptly, effectively and impartially investigate the past and the latest string of threats and attacks against political and civil society activists, including human rights defenders, and ensure that all those responsible are brought to justice;
- Ensure that LGBTI individuals are able to exercise the right to freedom of peaceful assembly and expression without discrimination and fear of violence, and ensure that all allegations of crimes perpetrated on the basis of the actual or perceived sexual orientation or gender identity are effectively investigated, and that those responsible are prosecuted according to international human rights standards.

Turkey

After inconclusive parliamentary elections in June and the collapse of the fragile peace process between the state and the armed Kurdistan Workers' Party (PKK) in July, the human rights situation in Turkey markedly deteriorated. The outbreak of violence between the Turkish armed forces and the PKK took a heavy toll on the lives of civilians in the predominately Kurdish east and south-eastern provinces, including women, young children and the elderly. Urban centres in the region became the site of armed clashes between the armed Revolutionary Patriotic Youth Movement (YDG-H), the youth wing of the PKK, and state security forces, which intensified in mid-December along with a mass deployment of troops.

In towns and cities where security forces have mounted operations against the YDG-H, the local authorities have imposed extended round-the-clock curfews, confining residents to their homes. The authorities state that the curfews are required in order to enable "the capture of members of the separatist terrorist organization [PKK] and to protect the security of the people and their property". Curfews announced in mid-December in Sur (Diyarbakır province), Cizre and Silopi (Şırnak province) are ongoing, with only a two-hour break on 12 January in the district of Sur. Over 200,000 people live in the affected areas and some are unable to access food, medical care and face severe electricity and water shortages. At least seven soldiers and police officers and more than 70 unarmed residents, some due to alleged sniper fire from security forces, have been reported killed in Sur, Cizre and Silopi. As the Commissioner for Human Rights noted, "the methods employed in this fight [against terrorism] have to respect the human rights guarantees enshrined in international standards".

The detention on 15 January of 19 academics and the investigation opened against 1,128 academic signatories to a petition calling for peace and criticising Turkish military operations in the south-east represents a serious assault on freedom of expression. Accused of making propaganda for a terrorist organisation under article 7/2 of the Anti-Terrorism Law and under article 301 of the Penal Code (insulting the Turkish nation), the signatories have also received death threats on social media, and have been compared to terrorists by President Recep Tayip Erdoğan.

Amnesty International calls on Turkey to:

- Ensure that affected residents in curfew areas are able to access food, water, health care and other essential services;
- Restrict the intentional use of lethal force to situations where it is strictly necessary only as the absolute last resort when no other means are available to prevent the loss of another life or serious injury;
- Ensure that people speaking out against human rights abuses are not subjected to threats, criminal investigation and other forms of harassment;
- Repeal Article 301 of the Penal Code and amend Article 7/2 of the Anti-Terrorism Law so that it only prohibits advocacy of incitement to violence.