

The Problem of Political Prisoners in the OSCE Participating States

The existence of political prisoners in a number of countries in the OSCE region causes deep concern.

Definition of “political prisoners”

We use the definition of “political prisoners” enshrined in the PACE Resolution 1900 (2012)²¹. The resolution spells out that a person deprived of his or her personal liberty is to be regarded as a ‘political prisoner’ if one of the following criteria is met:

- a) if the detention has been imposed in violation of one of the fundamental guarantees set out in the European Convention on Human Rights and its Protocols (ECHR), in particular freedom of thought, conscience and religion, freedom of expression and information, freedom of assembly and association;
- b) if the detention has been imposed for purely political reasons without connection to any offence;
- c) if, for political motives, the length of the detention or its conditions are clearly out of proportion to the offence the person has been found guilty of or is suspected of;
- d) if, for political motives, he or she is detained in a discriminatory manner as compared to other persons; or,
- e) if the detention is the result of proceedings which were clearly unfair and this appears to be connected with political motives of the authorities.

In its turn, the OSCE Parliamentary Assembly, in its 2014 Baku Declaration “Helsinki +40: Towards Human Security for All”, explicitly endorsed the adoption by the PACE of a resolution confirming the definition of political prisoners²². Human rights organisations use the PACE definition as a basis of their work on the problem of political prisoners, including for drawing up lists of political prisoners in various countries.

In the OSCE region, this problem is most acute in Turkey, Belarus, Russia, Azerbaijan, Uzbekistan, Turkmenistan, and Tajikistan.

Turkey

By indirect indications, it can be concluded that there are many thousands of political prisoners in the country. This includes several dozen human rights defenders and journalists who have been imprisoned for their peaceful and legitimate activities.

The most striking examples of political prisoners are rights activist Osman Kavala and Kurdish politician Selahattin Demirtas who remain behind bars despite the rulings of the ECHR.

International human rights NGOs especially note the practice of detaining, prosecuting, and convicting on bogus and overbroad terrorism and other charges, of individuals whom the government regards as critics or political opponents. Among those targeted are journalists, opposition politicians, and activists—in particular members of the pro-Kurdish Peoples’ Democratic Party (HDP). The largest targeted group consists of those alleged to have links with the movement headed by US-based Sunni cleric Fethullah Gülen which Turkey deems a terrorist organization and holds responsible for the July 2016 coup attempt.

²¹ <https://pace.coe.int/en/files/19150/html>

²² “The OSCE Parliamentary Assembly: 113. Endorses the adoption by the Parliamentary Assembly of the Council of Europe of a resolution confirming the definition of political prisoners”. <https://www.oscepa.org/en/documents/annual-sessions/2014-baku/declaration-2/2540-2014-baku-declaration-eng/file>, page 13

Belarus

According to Human Rights Centre “Viasna” and other leading Belarusian human rights NGOs, there are at least 882 political prisoners in the country as of November 2021²³. This number has grown dramatically since the start of massive peaceful protests against rigged presidential elections in August 2020. The list of political prisoners includes human rights defenders, civic activists, journalists, bloggers, politically active businessmen, presidential campaign members, and peaceful protesters.

There are many human rights defenders among political prisoners, including members of “Viasna” Ales Bialiatski, Andrei Chapiuk, Uladzimir Labkovich, Tatsiana Lasitsa, Valiantsin Stefanovich, Marfa Rabkova, Leanid Sudalenska, and others. Many journalists ended up behind bars due to bogus charges, including Andrei Aliaksandrau, Maryna Zolatava, Yahor Martsinovich, Iryna Leushyna, Andrzej Poczobut, Katsiaryna Andreyeva (Bakhvalava), Darya Chultsova and dozens of others. Many opposition politicians, including Maryia Kalesnikava, Viktor Babaryka, Siarhei Tsikhanouski and Maxim Znak have been deprived of liberty.

Russia

According to the data of the Human Rights Centre “Memorial”²⁴, the minimal number of political prisoners in Russia is more than 420.

The victims of politically motivated deprivation of liberty include human rights defenders such as Yuri Dmitriev, Emir-Usein Kuku, Server Mustafayev, and journalists such as Rashid Maisigov and Abdulmumin Hajiyev. Political opponents of the authorities, including opposition activists Alexei Navalny, Andrei Pivovarov, Lilia Chanyшева, Andrei Borovikov, Airat Dilmukhametov and many others have been imprisoned on false charges.

Deprivation of liberty in connection with the peaceful exercise of the right to freedom of assembly has a mass character in Russia. Victims of such repression include Vladislav Egorov, Ilya Pershin, Gleb Maryasov, Roman Pichuzhin, who participated in the protests against the imprisonment of Alexei Navalny, leaders of the protest movement in Ingushetia Akhmed Barakhoev, Musa Malsagov, Ismail Nalgiev, Akhmed Pogorov, Zarifa Sautiyeva, Mals Chemurziev, Magomed Khamkhoev and Bagaudin Khautiev, and many others.

There have also been cases of imprisonment in connection with the exercise of the right to freedom of expression, often on the basis of false accusations of extremism or justification of terrorism. Examples of such persecution are Mikhail Alferov, Pavel Zelensky, Sergey Lavrov, Ivan Lyubshin and others.

Persecution is especially widespread in connection with the exercise of the right to freedom of conscience and religious affiliation. In particular, there are dozens of Jehovah's Witnesses imprisoned and hundreds of Muslims who were unjustifiably accused of participating in terrorist activities, who actually or allegedly participated in the activities of the Hizb ut-Tahrir organization.

Azerbaijan

The human rights Union "For Freedom of Political Prisoners of Azerbaijan" (UFFPPA) has listed a total of 122 persons in September 2021²⁵.

²³ <https://prisoners.spring96.org/en#list>

²⁴ <https://memohrc.org/ru/pzk-list>

²⁵ <http://www.turan.az/ext/news/2021/9/free/Social/en/7327.htm>

Seven of them are journalists and bloggers, including Afgan Sadigov, Polad Aslanov, Elchin Mamed, Bahruz Aliyev. Also, seven are classified by human rights activists as "members of opposition parties and movements." These are Niyameddin Akhmedov, Agil Maharramov, Pasha Umudov, Alizamin Salaev, Saleh Rustamov, Nijad Ibrahim and Agil Humbatov. 20 people classified as "believers".

Uzbekistan

Uzbekistan continues to imprison approximately 2,000 persons who may be considered political prisoners. They are deprived of liberty on vague and overbroad charges of "attempting to overthrow the constitutional order," possession of banned literature, or membership in banned groups in violation of the country's binding international obligations, according to recent reports²⁶.

Turkmenistan

The exact number of political prisoners in Turkmenistan is impossible to determine due to extreme isolation of the country, tight control of information by the government, suppression of any independent civic activism, and the lack of access for international observers. Criminal charges in politically motivated cases are fabricated, trials are not fair and are always held in a closed mode. In most cases, relatives do not even receive a court verdict.

The main targets of politically-motivated criminal prosecution include those whom the authorities perceive as political opponents or a threat to their unlimited power, including high-level public officials such as two former ministers of foreign affairs and former Ambassador to the OSCE, members of peaceful Islamic groups dubbed as "extremists", participants of informal networks associated with US-based Sunni cleric Fethullah Gülen, Jehovah's Witnesses, civic activists, bloggers, civic journalists, and members of the public who expressed critical views about the government policies.

Many political prisoners receive very long sentences, up to 25 years, on trumped-up charges of extremism, terrorism, plotting to overthrow the government, or corruption and abuse of power. According to the "Prove They Are Alive!" campaign, at least 162 prisoners who meet the criteria of "political prisoners" have been victims of enforced disappearances in prisons; 97 of them continue to be held in complete isolation from the outside world, some of them for as long as 19 years.²⁷

Tajikistan

As reported by Tajik and international organisations, Tajikistani authorities continue to jail government critics, including opposition activists and journalists, for lengthy prison terms on politically motivated grounds. Although there is no reliable estimate of the number of political prisoners in the country, it can be assessed to be between several dozens to more than two hundred²⁸.

An especially widespread instrument of politically motivated unlawful imprisonment is the abuse of counter-terrorism legislation.

²⁶ See "Uzbekistan's Religious and Political Prisoners: Addressing a Legacy of Repression", https://www.uscirf.gov/sites/default/files/2021-10/2021%20Uzbekistan%20Report_0.pdf

²⁷ List of the Disappeared in Turkmenistan's Prisons. November 2021. Prove They Are Alive! campaign. Planned for publication in the end of November 2021.

²⁸ See <https://bit.ly/3r3Vapy>, <https://www.rferl.org/a/tajikistan-justice-system-prisoners-qishloq/31525766.html>, and <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/tajikistan/>

Importance of the issue of political prisoners for the OSCE work

The existence of political prisoners is one of the most flagrant violations of human rights. It is an important issue requiring close attention from the OSCE, especially in such large quantities as indicated above. At present, the OSCE does not seem to be paying sufficient attention to this issue.

Political prisoners are a complex problem, each case of this kind violates a whole set of rights and freedoms in addition to the right to a fair trial.

Therefore, an adequate response to the existence of political prisoners in the OSCE region requires considering this problem not only through the prism of violation of individual rights and freedoms such as the rights to freedom of assembly and association, freedom of expression, freedom of conscience, etc., but also as an integral phenomenon requiring a consistent fight against it.

Recommendations

To OSCE executive bodies and institutions

1. Explicitly approve a common understanding of the concept of "political prisoners" within the OSCE, similar to the definition by the PACE, endorsed by the OSCE PA.
2. Start the monitoring of the situation with political prisoners as a distinct type of OSCE monitoring work.
3. Organize the preparation of regular reports on the situation with political prisoners in the OSCE region.
4. Analyze the situation with political prisoners in OSCE participating States in order to identify specific legislative norms and law enforcement practices leading to the imprisonment of political prisoners.

To the OSCE participating States

5. Repeal or amend legislative norms and end law enforcement practices that violate OSCE commitments on the basis of which political prisoners are deprived of their liberty, including overly broad anti-extremism and counter-terrorism legislation, state treason norms, calls for separatism, laws on abuse of freedom of assembly, association, and expression, etc. Release political prisoners unjustly deprived of their liberty on the basis of these norms and practices.
6. Take measures for the urgent review of criminal cases of other political prisoners where serious reasons exist to presume the use of fabricated charges, unfair trial, or clearly disproportionate punishment. Make efforts to ensure release of these prisoners using pardon, amnesty, etc.