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REPORT

PERSONA NON GRATA
The CIS ban system for
human rights defenders
and journalists



NORWEGIAN HELSINKI COMMITTEE

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A. Summary

Over the past several years, six members of the Commonwealth of Independent States (CIS) have developed a common system reminiscent of the Schengen system in Europe, where individuals who are denied entry to one of the six member states automatically are denied entry to the others. The countries currently part of the agreement are Russia, Belarus, Armenia, Kazakhstan, Kyrgyzstan and Tajikistan.

Parallel with the development of this Joint System, many CIS countries have also increased the practice of “blacklisting” certain foreign nationals involved in human rights work and journalism. Such decisions are usually made by the security services of the country in question, and those who are barred in this manner are neither provided with a reason for the ban, nor given any means of appeal.

With the Joint System in place, such decisions are multiplied six-fold. Usually, bans are imposed for periods as long as 5 or 10 years, and have proven difficult or impossible to remove once in place, even when requests are made through diplomatic channels and international organizations.

In addition, most CIS countries also administer national lists of journalists and representatives of non-governmental organizations who are barred from entering the country. These lists also include citizens of other CIS countries.

These practices must be seen as attempts of the states to limit contact between human rights activists at home with their colleagues abroad, as well as to limit unwanted scrutiny and investigation of potential human rights violations.

Such actions are contrary to article 2 of the UN Declaration on Human Rights Defenders according to which states are committed to take all necessary steps to ensure that the rights of human rights defenders are effectively guaranteed. There also exist very clear OSCE provisions committing participating States to respect and facilitate the work of human rights defenders.

For journalists and representatives of international non-governmental organizations working in the sphere of human rights and democracy this system represents a potentially dramatic curb on their ability to carry out their work.

The CIS ban system has been granted limited attention by international organizations such as the UN, the Organization for Security and Cooperation in Europe (OSCE) and the EU.

Even though these organizations and individual states occasionally respond to restrictive practices of banning entry of human rights defenders and journalists, there is clearly a need for a more systematic approach to the problem. As it is today, too much depend on the efforts of the individual banned or deported to have his or her case raised.

The EU, the US as well as the OSCE and the UN clearly need to develop effective procedures and mechanisms which can respond more forcefully to these threats against international human rights activism.

B. Recommendations

The following are but a few of the steps that should be taken by different actors in order to support the work of human rights defenders and fight against restrictive policies aiming at undermining and weakening scrutiny of human rights violations. Such policies should be brought up at the highest level, bilaterally and multilaterally, in order to make clear that they run counter to international commitments and obligations in the sphere of human rights.

The 1-2 December 2010 OSCE Summit should adopt provisions reiterating in clear language that the participating States should respect the rights of human rights defenders and journalists to carry out their activities, to be protected against violence and harassment, and to be in contact with and cooperate with organisations in other participating States.

CIS countries should:

- honour their commitments as OSCE participating States to “endeavour to facilitate visits to their countries by non-governmental organizations from within any of the participating States in order to observe human dimension conditions”;¹
- stop the practice of denying entry to human rights defenders and journalists without providing a reason as to why;
- inform persons who have been banned in the manner described in this report why they were barred from entry, beyond referral to general laws on national security;
- let persons who have been banned have their case re-examined to establish whether the decision was in compliance with national and international laws. Banned persons should be provided with an option to try their case in a domestic court and court rulings should be implemented.

The OSCE institutions and meetings should:

- strengthen focus on the situation of both domestic and international human rights defenders;
- pay attention to instances of human rights defenders and journalists being denied entry into any of the participating States, and take measures to ensure that information on ongoing cases are collected and made available, for instance through the Office of Democratic Institutions and Human Rights (ODIHR) Focal Point for Human Rights Defenders;
- make the evolving practice of bans a special topic for human dimension meetings and seminars.

¹ The 1991 Moscow Document, Paragraph. 4.2.

The EU and the US should:

- improve implementation of the EU Guidelines on Human Rights Defenders;
- develop a systematic approach to cases of human rights defenders and journalists being denied entry to countries where they are working;
- always raise such cases in meetings with authorities in the respective countries, as well as to raise individual cases in the OSCE Permanent Council;
- continue to raise the cases until the country in question provides an explanation as to the reason why a particular individual was barred;
- ensure that EU heads of Mission and US Embassies include in their periodic human rights reporting information about human rights defenders being barred to their countries of accreditation;
- support the work of the UN Special Rapporteur on the Situation of Human Rights Defenders and demand that CIS countries cooperate with the Rapporteur and provide requested information in specific cases.

The UN Special Rapporteur for Human Rights Defenders should:

- actively invite non-governmental organisations to present their cases and raise them as forcefully as possible with relevant authorities;
- continue to make use of Communications to governments denying entry to human rights activists and journalists, and follow up on these when not responded to in an adequate manner.

C. Introduction

Over the past several years, an increasing number of human rights activists as well as journalists have been included on “blacklists” of people unable to travel to certain countries in the Commonwealth of Independent States (CIS) for no apparent reason other than their professional activities. Some are denied entry upon arrival, whereas others are denied visas with reference to national security concerns.

Particularly striking is the lack of available information on how this ban system actually works, how common or uncommon such cases are, in what way authorities in CIS countries seek to justify relatively extreme reactions such as deportations and travel bans imposed on human rights defenders and journalists – and what means of appeal are actually available. The reluctance of CIS countries to provide coherent information on their policy lends confusion to media reports on the subject, where terms such as “blacklisting” and “persona non grata” are sometimes used in the wrong context.

The subject is complicated by the fact that while most CIS countries to varying degrees deny entry to human rights defenders and journalists, not all are party to the so-called Joint System, which is reminiscent of the Schengen system in Europe, and which causes a ban in one country to automatically extend to other CIS countries.

The report presents some of the key issues relating to entry bans/deportation of human rights defenders in the CIS, and includes a number of examples from the past several years. It presents an overview of a system currently being developed, which may have serious consequences in terms of the numbers of human rights defenders unable to visit the region in the future.

It is important to underline that the mere inconvenience and frustration experienced by foreign representatives of non-governmental organizations who find themselves blacklisted can in no way be compared to the very real dangers that local human rights defenders are facing in several CIS countries today. Foreign human rights defenders have enjoyed excellent working conditions compared to the mortal danger many activists in the CIS live under. However, this practice may have consequences for Western activists’ abilities to cooperate with their friends and colleagues in the CIS, and must also be seen as an attempt to isolate local human rights defenders.

It is in the nature of the topic that such a report cannot be complete. Surely, there are many instances we are not aware of, and unfortunately, more instances are likely to come. Many persons also prefer their cases not to be publicly known, as they are concerned that it could cause problems for them in other countries. Also, the way in which the ban system works can only be rudimentarily pieced together, as the CIS

secretariat and authorities in CIS countries are very reluctant to provide information upon request.

The problems described in this report affect not only human rights defenders and journalists. The perhaps largest group of individuals frequently denied entry to CIS countries or deported are religious believers and missionaries. A reliable source of information on this aspect of the matter is Forum 18 News Service (www.forum18.org).

D. Background

States may reserve the right to expel or deny entry to certain individuals to their territory without explaining why. This is, in a sense, a time-honoured tradition.

Traditionally, the term *persona non grata* has been used in diplomatic relations in instances where one state expels the diplomats of another state.² The concept became part of international treaty law when it was set out in the *1961 Vienna Convention on Diplomatic Relations* and the *1963 Vienna Convention on Consular Relations*. While no official reason needs to be given when declaring a diplomat *persona non grata*, a number of different reasons may lie behind such a move, ranging from offences committed by the individual diplomat, such as interference in internal affairs through subversive activities, espionage or terrorism, or for attitudes that are not illegal per se, but that are perceived as an affront or an irritation. More commonly, diplomats can be declared *persona non grata* in situations that are not related to their own conduct, but as a reaction to worsening relations between two states.³

Today, the term is frequently used in situations where it technically does not belong – sometimes causing heated and colourful top-level exchanges. The comments of the Georgian Minister of Foreign Affairs after President Mikheil Saakashvili was announced *persona non grata* in Russia in February 2010 illustrate the controversy and confusion that seems to surround the term in modern-day politics:

“Today’s leaders in the Kremlin cannot have completed their five years of study at the Faculty of Law in St. Petersburg. They do not know the meaning of this term, and so there is little point in entering into a serious discussion about it. I advise them to return to university and finish learning now what they should have learned there 20 years ago, as well as to re-read the Vienna Convention”.⁴

Top-level officials and diplomats aside, in recent years the term has come into use outside the realm of diplomacy, especially in relation to journalists and representatives of international human rights organizations working in the former Soviet Union. Indeed, many of the individuals interviewed for this report were presented with official documents upon their deportation indicating clearly the reason for their denial as being their status as *persona non grata*.⁵

² See for instance *Belarus’ Foreign Ministry gives persona non grata list to Jonathan Moore*, <http://www.belta.by/en/news/politics?id=216903>

³ See: J. d’Aspremont, *Persona non grata* in R. Wolfrum (ed.), *Heidelberg Encyclopedia of International Law*, (Oxford University Press, 2008); Denza, Eileen, *Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations*, (Oxford, 2008).

⁴ *Georgian MFA: The Kremlin doesn’t understand the meaning of the term ‘persona non grata’ (rus)*, <http://www.georgiatimes.info/?area=newsItem&id=31014>

⁵ See examples of Deportation Acts in the following chapters.

While explicit reference is not made to the Vienna Convention in writing, such reference is frequently made by CIS authorities in informal discussions. More importantly, confusing the practice in the diplomatic community with international practices towards ordinary citizens of foreign states, CIS authorities also claim that they do not need to provide any reason as to why a particular representative of a non-governmental organization is declared *non grata*, or for how long such a ban will be imposed upon him or her:

“I inform you that you have been denied a visa because entry to the territory of the Russian Federation is closed to you. In accordance with widely held international practice, a state that refuses a foreign citizen entry to its territory is not in such instances required to inform about the basis for the decision, or how long it is valid for.”⁶

The refusal to cite a reason applies not only to visa rejections, but also when human rights defenders are deported outright. Deportations taking place outside the realm of international norms are by no means exclusive to the CIS. Indeed, the Norwegian Helsinki Committee in 2009 published a report detailing the practice of illegal deportations of asylum-seekers from the Schengen Area, and has been vocal about raising this issue with Norwegian and European authorities.⁷

However, in instances where representatives of non-governmental organizations are expelled from the CIS, authorities do not state the reason why, or provide any information on the rights of that individual. While already Kafkaesque in its application, this extended use of the *persona non grata* concept is made more unreasonable still by seemingly conscious efforts to ensure that any attempts to dispute such a decision are met with rejection.

It should be underlined that this report does not cover persons who are expelled or denied entry after clear-cut violations of domestic laws. Anyone visiting a foreign country is subject to the laws that apply there, and may be expelled when violating these. Such rules apply in the EU, the CIS and most other parts of the world. A visitor who commits a crime or fails to respect visa regulations can be barred from entering that country again for years. While visa regulations can be bothersome to the individual traveller and sometimes fraught with bureaucratic mishap, they do not represent violations of international human rights obligations as such.

6 Ambassador of Russia to Norway, Sergey Andreev, letter to Norwegian Helsinki Committee staff member, 14.10.2009

7 NHC: *Out the Back Door: The Dublin II Regulation and illegal deportations from Greece*, http://www.nhc.no/php/files/documents/Publikasjoner/Rapporter/Landogtema/2009/44836_Rapport_out_the_backdoor.pdf

1. Persona non grata: The Russian perspective

Before considering the position of some CIS authorities, that states have the right to expel representatives of non-governmental organizations without citing a reason, we should briefly consider the current attitude towards human rights organizations in some CIS countries.

At the core of the matter, most likely, lies the inherent scepticism of authoritarian states towards the work of such organizations – not only towards international organizations, but also towards domestic human rights organizations, which are frequently perceived as instruments of Western foreign policy.⁸ While human rights are recognized by the international community as universal and inalienable, some still tend to confuse the promotion of human rights with the promotion of Western agendas. Foreign representatives of non-governmental organizations are suspected of being agents of foreign states or as people who seek to destabilize CIS countries for some unclear global political purpose. Vladimir Putin's remarks during a 2007 speech in Munich left little doubt as to how organizations promoting human rights in the Russian Federation are viewed by the authorities:

“People are trying to transform the OSCE into a vulgar instrument designed to promote the foreign policy interests of one or a group of countries. (...) Decision-making procedures and the involvement of so-called non-governmental organizations are tailored for this task. These organizations are formally independent but they are purposefully financed and therefore under control. (The) OSCE is designed to assist country members in observing international human rights norms at their request. This is an important task. We support this. But this does not mean interfering in the internal affairs of other countries, and especially not imposing a regime that determines how these states should live and develop. (...) When these non-governmental organizations are financed, in essence, by foreign governments, then we see this as an instrument of foreign governments' involvement in the politics of our country.”⁹

Given the top-level attitude to non-governmental organizations in the most influential CIS country, the Russian Federation, it is perhaps not surprising that an unfortunate perception of such organizations trickles down to the police organs. Some of the instances of barring entry to human rights defenders may have been intended to send a general message to the international community that CIS countries may allow or deny entry at their own discretion. However, most often the practice is clearly linked to specific instances where the authorities themselves have been subject to criticism

⁸ See for instance HRW: *Choking on Bureaucracy: State Curbs on Independent Civil Society Activism*, <http://www.hrw.org/en/node/62400/section/1>

⁹ *Speech and Discussion at the Munich Conference on Security Policy (rus)*, http://archive.kremlin.ru/appears/2007/02/10/1737_type63374type63376type63377type63381type82634_118097.shtml

from a particular person or the organization he or she represents, particularly when that criticism is directed at the actions of the security services.

Bearing in mind that it is not the courts or the migration services that make the decision to declare human rights defenders *non grata*, but the security services themselves, these incidents cannot be seen as anything but an attempt to curb the ability of human rights organizations to research and expose violations of human rights, as committed by the very same organs that deny them entry.

In reality, the concept of national security is interpreted so broadly in these cases that it undermines rule of law. Indeed, anyone familiar with the individuals mentioned in this report will find the idea of them posing a threat to national security quite ludicrous. Furthermore, security services undermine their own national courts by expelling individuals who have been found not to be in violation of any national legislation. This is made possible by the relatively high standing security services enjoy in some of the countries, their unaccountability before the law and even disregard for it, as well as their apparent indifference to the country's international obligations and image.

In most cases, however, security services will not even bother with the legal aspects, but seek to circumvent them by denying foreigners access to a legal remedy. An important case that forced Russian authorities to provide the contours of their attitude to the issue was that of a Moldovan journalist, Natalia Morar.¹⁰ When an appeal was filed to a Moscow court in her case, a Federal Security Service (FSB) representative was called in as a witness. No reason was given as to why Morar had been denied entry to Russia. According to the FSB, their right not to provide an explanation was confirmed by documents so secret that they are not even available to the court or the lawyers. The following excerpt from the court hearing clarifies the position of the FSB on the issue:

“Do you claim that you are not obliged to provide any motive? asks the chairman of the court.

– Not obliged, says the FSB representative.

– Do you not deny that you did not provide a written conclusion based on normative judicial acts? asks another member of the court.

– We are not obliged to. These are internal documents. FSB, the Migration Service, the Internal Intelligence Service provide such information to the Border Service, so that they can enter the information into the appropriate database.

The court is satisfied.”¹¹

This case was submitted to the Russian Supreme Court, which in May 2009 concluded that it could not even be brought up for consideration. However, two of the judges at

¹⁰ See the case of Natalia Morar, in Chapter E, Russian Federation, below.

¹¹ *Rights are nothing, FSB is everything (rus)*, <http://newtimes.ru/articles/detail/4113>

the Supreme Court disagreed with the decision to reject the case. Their comments on the practice of the FSB show that opinions certainly are divided in Russia too, as to whether this can truly be considered lawful, and whether the practice is in accordance with Russia's international obligations.

Supreme Court judge Vladimir Yaroslavtsev had to resign as a result of the critical comments he gave to the Spanish newspaper El Pais on the matter:¹²

“The most worrisome part is that the court is giving the FSB the right not to present evidence. The security services may limit any foreigner's right to enter the country in the interest of national security, but can you truly say that Morar is a threat to Russia's security? What happened was a trampling of the rule of law. The judges are the ones who should decide whether this decision was correct or not. Morar's case is clear evidence that the security services can do anything they want and that the courts are unable to impose sanctions on their decisions. The security organs have become the organs of power, and that's a return to Soviet times. You have to ask whether we have started to forget Stalin's repression from the 1930s.”¹³

Yaroslavtsev's colleague, Supreme Court judge Anatoliy Kononov also resigned in January 2010, officially for health reasons. However, his dissenting opinion on the decision not to consider Morar's appeal goes to the legal heart of the current practice of banning foreigners on the grounds of “national security” without providing any evidence or explanation for doing so.

“Through its arguments for rejecting the appeal of N.G. Morar, the Supreme Court of the Russian Federation actually justifies the unquestionable and uncontrolled right of the government to set up special rules and limitations for non-citizens on entering ‘sovereign territory’, which are in accordance neither with the Constitutional guarantees on individual rights, nor with international practice and understanding of the use of legal principles related to human rights. (...) The ban and what in fact is a forced and non-procedural deportation (...) disregards constitutionally founded principles (...) It is obvious that the accusation against this specific individual (...) should be based on clear and ascertainable motives, and not general references to the aim of guaranteeing the security of the state or its defence capabilities. However, neither the norm in question nor any other article in the Federal law demand concrete substantiation of decisions to deny entry to foreign citizens or stateless persons to the territory of Russia when these are based on national security or defence capabilities. They do not require such concerns to be brought to the attention of the interested parties, do not establish legal procedures for how such decisions are made, do not specify which are the

12 *Two Supreme Court judges punished for ethics violations (rus)*, <http://www.lenta.ru/news/2009/12/02/judges/>

13 *Russia is ruled by the security organs, like in the Soviet era (spa)*, http://www.elpais.com/articulo/internacional/Rusia/mandan/organos/seguridad/epoca/sovietica/elpepiint/20090831elpepiint_6/Tes

competent organs to make such decisions or even the possibility of appealing them. In fact, the right to ban foreigners and stateless persons from entry to the territory of the Russian Federation (...) is uncontrollably and unaccountably under the jurisdiction of the organs of national security and their decisions do not need to be supported by evidence, do not need to be made public and cannot actually be contended.”

Kononov concludes: “As such, these legal norms allow for unprecedented and unlimited arbitrariness and are a mockery of the basic principles of law.”¹⁴

2. A widely held international practice?

The position of authorities in Russia and other CIS countries, that the right of the security services to deny entry to foreign citizens *without explanation* is one of the basic signs of the state’s sovereignty, appears to be highly debatable. This practice does not exist in Western countries, and is also questioned by Russian legal experts.

In reality, when referring to an “international practice”, CIS authorities are referring to practice in other CIS countries, rather than to any practices recognized in Western countries. A look at the way visa rejections and expulsions due to “national interests” are handled in the Schengen area, for instance, shows that expelling foreign citizens without citing a reason is, contrary to the claims of CIS authorities, not normal practice.

According to the Norwegian Directorate of Immigration, the basis for rejecting a visa application is always explained in a formal rejection letter. Instances where someone is rejected or expelled for reasons of national security or national interests are very rare,¹⁵ but also in such instances a detailed explanation will be given:

“The basis for any decision made by the Directorate of Immigration will be stated. In cases of expulsion on the basis of national interests or national security, the reasons for the decision will be explained, as well as the legal background for the decision. Furthermore, the Directorate will detail why it finds the conditions to have been satisfied. The decision will include what specific information and

¹⁴ *Dissenting opinion of Supreme Court judge Anatoliy Kononov, 19.05.2009 (rus)*, <http://newtimes.ru/articles/detail/4746>

¹⁵ According to Norwegian authorities, the term “national security” is currently being replaced with the term “basic national interests”, which also covers areas relevant to terrorism, such as threats and actions intended to create fear in society or directed towards the civilian population. This term is wider than the one currently in use, but is still intended to thwart crime, terrorism, or disorder. Expulsion of NGO representatives is not relevant in Norway. (Correspondence with Norwegian Directorate of Immigration, 08.03.2010)

which factual circumstances indicate that national interests are threatened, and hence, why the individual is to be expelled.”¹⁶

Only in extraordinary circumstances does the law allow for the authorities to withhold information as to why someone has been denied entry or has been expelled, such as cases where a detailed explanation would reveal information that could further endanger the national security of Norway or other states.

In other words, as in the CIS, Schengen member states may refuse entry to a foreign citizen with reference to national interests. However, members of Schengen are obliged to give a *detailed reason as to why* someone might represent such a serious threat. Additionally, in Western countries refusals on grounds not related to national security, may attract criticism and lead to public debate on exaggerated restrictive practices related to foreigners from poor countries. The main reason for refusal in these types of cases is concerns that the applicant will not leave the country after the expiry of the visa period.¹⁷ Relevant to this report, in these cases immigration authorities are also obliged to state the reasons for their decision to the applicant.

A likely explanation why authorities in CIS countries refuse to provide any reasons as to why a representative of a human rights organization could conceivably represent a threat to national interests is that the explanation itself would reveal attitudes towards basic human rights principles that are not compatible with the obligations of the country. Also, it would enable deported individuals to contest the matter in court.

Furthermore, persons denied entry to CIS countries are upon request not allowed access to any information on which country included them in the database, when, why or at the behest of which organ. Again, this is not normal international practice, when compared to the rules that apply to such entries made in the Schengen Information System (SIS):

“Those registered in SIS have the right to know what information is registered and can demand that any erroneous or incomplete information should be corrected. Requests for access to, or correction or deletion of records can only be made by the person registered. A person has the right to compensation if he/she suffers

16 Correspondence with the Norwegian Directorate of Immigration (UDI), 22.02.2010. According to Norwegian law, a foreigner who otherwise is entitled to a visa may still be denied visa if he is perceived to be a threat against “Norway’s or other Schengen countries’ public order, internal security, public health or their international relations”. 2008 *Immigration Act* (Act concerning the entry of foreign nationals into the Kingdom and their presence in the realm), § 10 d.

17 In a recent controversial Norwegian case, 25 trade unionists from Iraq, Nigeria, Kuwait, Palestine, Colombia and Bangladesh were denied visa. They were invited to participate at a September 2010 Conference in Stavanger, Norway, arranged by the International Federation of Chemical, Energy, Mine and General Workers’ Unions (ICEM). According to the Immigration Service (UDI), they could not comment publicly on individual cases. However, in general they informed that 90 % of the 115 000 visa applications received annually were approved. In general the application will be handled within 15 days, while the processing of appeals may last 30 days. FriFagbevegelse (“Free Labour Movement”), 7 September 2010, <http://www.frifagbevegelse.no/internasjonalt/article5280704.ece>

a loss as a result of information registered or used in contradiction to the rules concerning handling of information in SIS.”¹⁸

By way of further comparison beyond Schengen, consider the case of Swiss citizen Tariq Ramadan, a professor and author who was denied a visa to the US on what civil groups said were political grounds. A US court’s 2007 decision to uphold the rejection of Ramadan’s visa application on the basis of information provided by US security services to the Consulate caused considerable criticism, yet the ruling did include specific grounds as to why such a decision was made. The court claimed that Ramadan had given financial donations to a charity the Bush administration later included on a blacklist of organizations supporting Hamas.¹⁹

While the 32-page ruling itself may be subject of discussion, it would seem to counter the claim of Russian authorities that there is an “international practice” of not providing reasons when denying entry on the basis of national security.

In the document detailing the reasons for his dissenting opinion in the Morar case, Kononov also raised the question of whether this really is part of a “widely recognized international practice”, as Russian authorities as well as security services in other CIS countries have repeatedly claimed:

“In justification of the right of states to make any decision related to entry and deportation of foreign migrants from the country, the Supreme Court of the Russian Federation refers to norms and principles of international law and the practice of the European Court of Human Rights. However, these references are not presented quite correctly. In fact, the decisions of the European Court of Human Rights (...) establish a whole system of guarantees of the rights of foreign citizens (and) protect the right to a fair trial and demands effective means of protection, including the possibility to present documents against deportation, demands to have the case re-examined and the right to appear before the competent organs to present one’s arguments and claims.”

In conclusion, denying entry to human rights defenders poses serious questions concerning attempts to override national law, and also run counter to long-established international and regional efforts to promote fundamental human rights and the right to monitor their implementation.²⁰

Of particular relevance is a number of documents signed by the OSCE participating States that confirm the right of persons to observe and promote the implementation of

18 <http://www.udi.no/Norwegian-Directorate-of-Immigration/Central-topics/Rejection-and-expulsion/Schengen-Information-System-SIS/#c>

19 *AAR v. Certoff*, http://www.aclu.org/files/images/exclusion/asset_upload_file33_33325.pdf

20 An overview of international provisions on the rights of human rights defenders is presented in Chapter H, *International standards*, of this report.

OSCE provisions and to associate with others for this purpose,²¹ referring specifically to human rights monitoring groups²² and underlining the major role that non-governmental organizations, religious and other groups and individuals have played in the achievement of the objectives of the OSCE.²³

Rather than to put obstacles in their way, participating states are to welcome activities by non-governmental organizations that monitor compliance with commitments in the field of the human dimension²⁴ and enhance the ability of non-governmental organizations to make their full contribution to the further development of civil society and the respect for human rights and fundamental freedoms.²⁵

As the Permanent Delegation of Norway to the OSCE put it in a 2008 statement to the Permanent Council in Vienna:

“[T]he right to defend human rights has been underlined in several CSCE and later OSCE documents. The 1989 Vienna document, the 1990 Copenhagen document, the 1990 Paris document, the 1991 Moscow document, as well as the 1999 Charter for European Security all contain provisions committing OSCE participating States to respect and facilitate the work of human rights defenders. The current restrictive legislation and practice with regard to NGOs in several participating States is, however, a challenge to the effectiveness of the NGOs in promoting human rights, democracy and the rule of law. Such restrictive policies run counter to the main values and commitments of the OSCE.”²⁶

At the international level, the most important document is the 1998 UN Declaration on Human Rights Defenders, which establishes the rights and responsibilities of the state to ensure that human rights defenders are allowed to carry out their work unhindered.²⁷

As detailed in this report, efforts contrary to these international and regional standards are made by security authorities in several CIS countries to normalize the concept of *persona non grata* as applicable to foreign human rights defenders. The practice has in recent years taken on a more systematic character in relation to citizens of countries outside the, intended to ensure that being “banned” in one CIS member state also carries the consequence of being “banned” in a number of other CIS countries. This

21 1989 Vienna Document, par. 26.

22 1990 Copenhagen Document, par. 10.3.

23 1990 Paris Document, section on “Non-governmental Organizations”.

24 1991 Moscow Document, par. 43; 43.3; and 43.4.

25 1999 Charter for European Security, para. 27.

26 <http://www.norway-osce.org/NR/rdonlyres/71D8E0B817E6405DAE526DD10EBBA946/97073/pcdel0608norwaynorwegianhelsinkicmteebishkek.pdf>

27 The full name of the Declaration is: “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Internationally Recognized Human Rights and Fundamental Freedoms”, see: <http://www2.ohchr.org/english/issues/defenders/docs/declaration/declaration.pdf>

happens without any effective means of appealing the decision, and regardless of personal links to the country.

As exemplified in this report, the states currently part of this system are:

- Armenia
- Belarus
- Kazakhstan
- Kyrgyzstan
- The Russian Federation
- Tajikistan

These attempts to redefine international norms ought to be a topic of serious interest by experts in the field. By not addressing this development in a systematic manner, the international community may also allow for the undermining of important principles established in recent decades, which is a far more disconcerting prospect than the personal trouble caused to the individuals mentioned in the following chapters.

E. National ban systems

Most states administer national databases where the names of persons who are unwanted on their territory can be included. In CIS countries, one may be barred from entering one specific country without it affecting one's possibility to travel to other CIS countries if this information is not entered into the common database system currently in development.

The practice of barring human rights defenders by including their name in a national database system has long been evident in Russia and Belarus, as well as in Uzbekistan. However, in recent years, attempts have been made to “normalize” this practice in states that traditionally have had a relatively liberal approach to foreign representatives of non-governmental organizations, placing a strain on their relations to foreign governments. This is reinforced by the fact that decisions to ban particular individuals from entering the country are made by the national security services, which often seem to operate completely outside of the norms the country otherwise adheres to.

This is a cause of embarrassment to representatives of other government organs, such as those serving in the foreign service or as representatives in Embassies or the OSCE, as they cannot deny the actions of the secret services, yet have no way of defending them in a way that will not cause considerable damage to the country's image abroad.

In this way, hard-liners in the security services have a very direct and negative effect on the relations between their country and the outside world.

1. The Russian Federation

As a key player in the CIS, Russian policies towards foreign human rights defenders and journalists potentially carry great significance across the region. Russia often takes the lead in discussions on security in the CIS, as well as in other emerging regional organizations, such as the Shanghai Cooperation Organization (SCO)²⁸ and the Collective Security Treaty Organization (CSTO).²⁹

Russian authorities admit that lists of persons who are not to be admitted to the country exist, and claim such lists “exist in most countries in the world.”³⁰ While Russian authorities do not automatically provide any legal reference when denying entry to human rights defenders, the law usually brought up when pressed to provide an answer is Article 27, point 1 of the Federal Law on Migration. This law states that

28 Member states are China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan.

29 Member states are Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan.

30 *Russian MFA admits the existence of lists of denied foreigners (rus)*, <http://grani.ru/Politics/Russia/m.172452.html>

foreigners can be denied entry if this is “necessary in order to secure the defence capabilities or security of the state, its social order or to protect the health of the population.”³¹ Beyond referral to this provision, the actual reason for the ban is never disclosed. The Russian law has also become a standard on which similar laws have been based in other CIS countries.³²

The Russian practice of creating obstacles to the work of human rights organizations through the visa system is also contrary to the spirit of cooperation on lessening visa restrictions and ongoing efforts to remove the visa regime between Russia and the European Union altogether.³³

Examples of human rights defenders and journalists denied entry to Russia due to their professional activities are numerous. The following examples concern only those who are aware that they are banned in Russia, and who have not yet confirmed whether this travel ban also regards other countries in the CIS cooperative system or the Russia-Belarus Agreement, also described below.

The case of Bill Bowring

Bill Bowring, a British professor of law specializing on human rights, who has presented a large number of cases against Russia to the European Court of Human Rights in Strasbourg, was stopped upon arrival at Sheremetyevo Airport in Moscow in November 2005. He had intended to follow the trial of Stas Dmitrievskiy of the Russian-Chechen Friendship Society.³⁴ While Bowring did hold a valid visa, it was stamped with the word “cancelled” by the border guards at the airport, and six hours later he was put on a plane back to London.

The border guards could not provide any reason as to why he was turned away, but referred to authorities higher than themselves.

Himself a lawyer, Bowring made his own efforts to bring clarity to the situation. He wrote to the FSB and the border service, asking for an explanation as to why he had been denied entry. The matter led to criticism against the border services, which were unable to provide any reason as to why Bowring had been put on a plane back to London. The situation was solved quietly, and Bowring was allowed to visit Russia again, something he has done on several occasions.

31 Federal law “On the order of exit from the Russian Federation and entry to the Russian Federation” (rus), http://www.consultant.ru/popular/outcome/85_5.html#p339

32 Examples include Article 7, Law on Migration, Kyrgyzstan (2000); and Article 22, Law on Migration, Kazakhstan (1997).

33 *Russia is willing to meet the EU half-way on the visa question, Lavrov confirms* (rus), <http://www.rian.ru/politics/20100224/210632946.html>, *To the EU without visas: Who is against it?* (rus), <http://www.interfax.ru/politics/txt.asp?id=126479>

34 *Putin’s regime fears the truth* (rus), <http://www.kommersant.ru/doc.aspx?DocsID=627412>

As a result of his problems at Sheremetyevo, Bowring also faced problems when applying for a visa to Kazakhstan soon after. However, the Kazakh Embassy agreed to permit his visit when Bowring promised that he would not attempt to travel from Kazakhstan to Russia during his stay.³⁵

Unfortunately, Bowring's case is the only one so far with a conclusive, positive outcome that you will hear about in this report.

The case of Tom de Waal

In June 2006, well-known author and journalist Tom de Waal, who has published books on a number of conflict zones in the Caucasus, was denied a visa to Russia. He had intended to present his book on Nagorno-Karabakh to the Russian Union of Journalists. The Embassy cited security reasons, but would not explain exactly what these security concerns were. De Waal himself believed the denial to be connected to his journalistic activities, such as his reporting on the war in Chechnya. The Committee to Protect Journalists noted what has become an issue in many similar incidents, "that Russian authorities have used a law that implies the journalists represent a threat to the country, but gives no explanation as to how."³⁶

The case of Natalia Morar

A case more widely discussed in Russian-language media is that of a Moldovan citizen, Natalia Morar, who had been based as a journalist in Russia since 2002 when on 16 December 2007 she was turned back at passport control at Domodedovo Airport in Moscow. She was told that she was denied entry to the country on a decision by the Russian federal security services (FSB).

Morar returned to Chisinau, where she was informed by the Russian Embassy that she had been denied entry based on Article 27, Point 1 of the Federal Law on Migration. The real reason is thought to be articles she published throughout 2007 on money laundering and illegal political funds involving then President Vladimir Putin and other top-officials in Russia.³⁷

On 28 February 2008, Morar married journalist and colleague Ilya Barabanov, a Russian citizen. Believing that the marriage would enable Morar to enter Russia again, they flew together to Moscow a few days later. However, once again she was denied entry. Morar and her husband stayed at Domodedovo airport for two days, refusing to return to Chisinau. They were not allowed to speak to their lawyer or any journalists. On 1 March, they returned to Moldova.³⁸

35 Correspondence with Bill Bowring, 29.10.2009

36 *CPJ Urges Moscow to Revoke Ban on IWPR Editor*, http://www.iwpr.net/?p=crs&s=f&o=346924&apc_state=henpcrs

37 *Kremlin's Black Money Box (rus)*, <http://www.nazlobu.ru/press/article2455.htm>; *Diskont (rus)*, *Novoe Vremya*, 21.05.07, Issue 15, p. 6.

38 Correspondence with Natalia Morar, 10.01.2010

The Russian Ministry of Foreign Affairs commented on the matter, saying that “according to international practice, a government is not required to explain to a foreign citizen the reason for denying entry to its sovereign territory”.³⁹

Morar’s application for Russian citizenship was later declined with reference to citizenship laws, under which a person who “seeks to undermine the constitutional order of the Russian Federation” may not become a citizen.⁴⁰ In March 2008, Morar said she intended to file a complaint in the matter to the European Court of Human Rights. The current status of the complaint is unclear.⁴¹

The case of Simon Pirani

On 17 June 2008, British citizen Simon Pirani, a journalist who had been covering Russia for years and who held a multi-entry visa, was turned back upon arrival at Sheremetyevo Airport in Moscow and put on a plane back to London. At the time of his deportation, he was working on a report on the development of non-governmental organizations in Russia. The Russian Embassy later confirmed that he had been denied entry to the country based on Article 27, point 1 of the Federal Law on Migration. A letter from Pirani to the Director of the Federal Security Service, Alexander Bortnikov, requesting that a reason should be given for his denial remained unanswered.⁴² The Committee to Protect Journalists wrote to the Russian authorities, raising Pirani’s case as well as other recent examples of journalists being denied entry to Russia, but did not receive any response.⁴³

The case of Yukiko Kikuchi

Any work related to Chechnya may cause denial of entry to Russia, as Japanese citizen Yukiko Kikuchi learned in September 2008. Kikuchi, a student at Moscow State University since 2004 researching the topic of peacekeeping missions in Chechnya, set up a fund to provide medical treatment in Japan for children from Chechnya,⁴⁴ as well as being involved in non-profit work to gather financial support for the Grozny-based non-governmental organization *Save the Generation*.

On 8 September 2008, two weeks after a Japanese newspaper published an article about her work on Chechnya,⁴⁵ Kikuchi was stopped at Sheremetyevo Airport in Moscow upon her arrival from Tokyo, and denied entry to Russia. The next morning, she was deported back to Japan. The Japanese Embassy in Moscow immediately wrote

39 *The plane left without the journalist (rus)*, <http://www.rg.ru/2008/02/29/morar.html>

40 *Morar answered to the Constitution (rus)*, <http://www.kommersant.ru/doc.aspx?DocsID=1016161>

41 *Moldovan journalist to complain to European Court of Human Rights about being refused entry*, <http://www.rsf.org/Moldovan-journalist-to-complain-to.html>

42 Correspondence with Simon Pirani, 07.01.2010

43 *CPJ asks Russia to allow journalists’ entry*, <http://cpj.org/2008/09/cpj-asks-russia-to-allow-journalists-entry.php>

44 *Yukiko – a good heart (rus)*, <http://www.chechenpress.org/events/2006/07/17/02.shtml>

45 A Russian translation available at *An amazing incident, or about the Japanese threat (rus)*, <http://chechenpress.org/events/2008/10/19/1f.shtml>

to the Russian Ministry of Foreign Affairs about the matter.⁴⁶ Again, the response from the Russian Ministry of Foreign Affairs expectedly stated that Kikuchi had been denied entry to the Russian Federation on the basis of Article 27, point 1.⁴⁷

Three of the persons Kikuchi worked with were later murdered – including human rights activist Natalia Estemirova and Zarema Sadulaeva.

A large number of journalists have found themselves included on Russian blacklists after what would appear to be quite “harmless” journalistic activities, and even after being cleared of any wrong-doing by Russian courts.

The case of Pertti Veijalainen

Pertti Veijalainen, a Finnish documentary film-maker, was in Russian Karelia in 2005 together with his producer to do research for a film they were planning to make at a later date, when they were arrested by Russian police. Immediately brought to a local court, they were tried for gathering material for mass media illegally. The accusations, however, were dismissed by the judge, who found that they had not violated any law, as the two were not shooting a film yet, merely doing research.

In spite of the outcome of the trial, Veijalainen was stopped at the border when he attempted to travel to Russia again a few months later. His multi-entry visa was cancelled, and he was turned back from the border. He later filed unsuccessful applications for a new visa with the Russian Embassy in Helsinki. In spite of requests to the Embassy as well as to the Presidential Administration in Moscow, the two have never received an official explanation why they are barred from entry to Russia. They have, however, been told unofficially that the ban is valid for a period of 5 years.⁴⁸

The case of Ville Ropponen

A similar string of events befell another Finnish citizen, independent journalist and activist Ville Ropponen during a visit to Russia. Travelling with a group of freelance journalists and artists in the regions around Mari-El and Mordovia in August and September 2005, Ropponen was questioned by the FSB on three occasions over the course of one week. He was eventually put before a local court, accused of not having followed correct registration requirements. The court found that Ropponen was not guilty of these allegations, and closed the case.

Back in Finland, Ropponen discovered an article about himself on a Russian website, where a source in the FSB presented dramatic claims against Ropponen personally, claiming that “Finnish journalists working in Russia are used in a double role. (They

46 Correspondence with Yukiko Kikuchi, 02.11.2009

47 Russian Ministry of Foreign Affairs, letter to the Embassy of Japan, September 2008.

48 Correspondence with Pertti Veijalainen, 09.11.2009

collect negative materials about the situation in Russia, and at the same time, they are used by the secret services as couriers to transfer foreign currency to leaders of Finno-Ugric nationalist organizations and to give them the necessary instructions.⁴⁹

As Ropponen himself notes, “It might sound funny, but it really isn’t.”

The following year, Ropponen received a visa at the Russian Embassy in Helsinki, as he was set to participate at a conference on Finnish-Ugric writers in Petrozavodsk. In spite of holding a valid visa, he was stopped at the border and told that he was barred from entering the country. He has not been able to visit Russia since.⁵⁰

The cases of JP Kaljonen and Reetta Sironen

In the group Ropponen was travelling with, were also JP Kaljonen and Reetta Sironen, two Finnish artists working with photography.⁵¹ JP Kaljonen was also denied a visa at the Russian Embassy following the incident with the FSB. Assuming she is blacklisted along with her two friends, Sironen has not tried to apply for a visa to Russia since then.⁵²

The case of Gunnel Bergström

Gunnel Bergström, a Swedish citizen who had been living in Kaliningrad from 2004 to 2006, and who also co-authored a book on the region,⁵³ was held back in passport control upon her arrival to Kaliningrad from Riga on 27 October 2009. She held a valid multi-entry visa, issued on an invitation from the Swedish Consulate General. Passport officials informed her that she would have to return on the next plane to Riga. Bergström saw no option but to board the plane back.

In December of the same year, Bergström was informed that the travel ban would be valid for 5 years, but has not been given any explanation as to why she is denied entry to the Russian Federation. Possible reasons include her activities as a lecturer at a local university, and her involvement in seminars relating to Kaliningrad identity and its influence on democracy and development in the Baltic Sea Region.

Neither Bergström nor local media ever received any explanation from the Ministry of Foreign Affairs in the matter, and Bergström has not been able to return to Russia since the incident.⁵⁴

49 *MFA closed channel for foreign aid to Mari nationalists (rus)*, http://www.news12.info/phpscripts/news/news_details.php?id=466

50 Correspondence with Ville Ropponen, 01.11.2009

51 For examples of Kaljonen’s work, see <http://www.muu.fi/kaljonen/>

52 Correspondence with Reetta Sironen, 17.12.2009

53 *Resa i Bärnstenslandet: Reportage från Kaliningrad (swe)*, <http://www.obstinat.se/download/Obstinat-Bokent-4sidor-ISBN-91-85175-00-5.pdf>

54 Correspondence with Gunnel Bergström, 03.02.2010

Bureaucratic obstacles to visas at Embassies

While perhaps not bearing the same finality as being denied entry or deported outright, Russian authorities also seem to make use of the many options provided for by the complex Russian visa regime when it is deemed necessary to put obstacles in the way of a planned visit. While tourists face no greater hassles than do Russian citizens wishing to travel to the European Union, Russian consulates can make it practically impossible for representatives of non-governmental organizations to get a visa when they want to. The reason is that the system of invitations and visa categories do not provide for ordinary human rights monitoring as an option, leaving human rights defenders' visa applications open to interpretations that change with the political winds.

Set to travel to Moscow in February 2008 to present a new report⁵⁵ on bureaucratic obstacles to the work of non-governmental organizations in Russia, Human Rights Watch Executive Director, Kenneth Roth, ironically, was denied a visa.⁵⁶ The Russian Ministry of Foreign Affairs said in a statement that the reason was that he had applied for a tourist visa,⁵⁷ whereas HRW claimed the problem lay with the authorities and the visa agency. According to HRW, it was the first time the organization had been denied a Russian visa since the time of the Soviet Union.

Similarly, in October 2009, Secretary General of Reporters Without Borders, Jean-François Julliard, was refused a visa to attend the third anniversary of the murder of journalist Anna Politkovskaya in Moscow.⁵⁸

The Norwegian Helsinki Committee has experienced the same kind of obstacles to working in Russia. In addition to several employees being declared *persona non grata* outright, one employee, Mina Skouen, was denied a visa for a business trip in 2009 under bureaucratic pretexts of the same kind that were presented to the representatives Human Rights Watch and Reporters Without Borders. According to the Russian Embassy in Oslo, the exact numbers of Norwegian Helsinki Committee employees who have actually been blacklisted will only become clear as they turn to the Consular Office with their visa applications.⁵⁹

55 HRW: *Choking on Bureaucracy: State Curbs on Independent Civil Society Activism*, <http://www.hrw.org/en/node/62400/section/1>

56 *Russia Denies Visa to Group Leader in Days Before Report*, <http://www.nytimes.com/2008/02/21/world/europe/21russia.html>

57 *Russian MFA: The head of HRW asked for a tourist visa (rus)*, http://www.gazeta.ru/news/lenta/2008/02/21/n_1182686.shtml

58 *Reporters Without Borders prevented from going to Moscow for third anniversary of Anna Politkovskaya's murder*, <http://www.rsf.org/Reporters-Without-Borders,34650.html>

59 Russian Ambassador Sergey Andreev, letter to NHC, 28.10.2009

2. Belarus

Belarus too has a long-standing tradition of expelling representatives of organizations working on human rights and democracy – their blacklist is by some accounts the largest in the CIS region.

President Alexander Lukashenko was himself denied entry to the EU in a 2006 decision that was subsequently lifted in October 2008,⁶⁰ yet reinstated in Poland in March 2010 following a conflict regarding ethnic Poles living in Belarus.⁶¹ In a comment on the question of those barred from travel to Belarus, Lukashenko said in 2006 that blacklists are not used, but rather that “those who distort information about Belarus and in fact are working against us, will not be able to enter the country, without the use of any kind of blacklists.”⁶²

The case of a US NGO-representative

Some early instances of persons denied entry to the country include *a representative of a US organization* working on democracy building, who visited Belarus in 2001 in order to meet with democracy activists. His meetings were filmed by the security services and the footage was later used in a number of shows on national television. As a result, he was denied further entry to Belarus in 2001, 2002 and finally in 2003. While not providing any specific reason for the denial, a representative of the Belarusian Embassy in Vilnius on one occasion told him “We know who you are, and you are not ever welcome back in the Republic of Belarus.”⁶³

The case of Agnieszka Komorowska

Similarly, in 2004, Belarusian authorities also denied entry to *Agnieszka Komorowska*, a Polish citizen working for the Warsaw-based Stefan Batory Foundation.⁶⁴

The case of Helmut Kurth

On 4 November 2004, German citizen *Helmut Kurth*, director of the Friedrich Ebert Stiftung’s office for Belarus, Ukraine and Moldova, who had been travelling to Belarus on a monthly basis and held a multi-entry visa, was told that he had been included on a list of persons not allowed to enter the country and deported. Kurth had arrived in Minsk to attend a conference on the influences of Russia and the West respectively, with a presentation on the prospects of cooperation between the EU and Belarus.⁶⁵

60 *Alexander Lukashenko travel ban lifted by EU*,

<http://www.telegraph.co.uk/news/worldnews/europe/belarus/3190871/Alexander-Lukashenko-travel-ban-lifted-by-EU.html>

61 *Krakow city council declared Alexander Lukashenko persona Non-Grata (rus)*,

<http://www.rian.ru/politics/20100303/212055308.html>

62 *Lukashenko: Belarus will not establish ‘blacklists’ of EU government officials (rus)*,

<http://www.rian.ru/politics/20060414/46394502.html>

63 Correspondence, anonymous, 15.10.2009

64 *Freedom House: Nations in Transit 2005 – Belarus*, <http://www.freedomhouse.hu/nitransit/2005/belarus2005.pdf>

65 *Helmut Kurth was coolly not let into Belarus (rus)*, www.belgazeta.by/20041115.45/020300140

The German Embassy demanded an explanation from the Belarusian Ministry of Foreign Affairs in Kurth's case, but was first told that they knew nothing of the matter. Later, however, it was confirmed that Kurth had been included on the list. Asked whether the ban was a response to the EU blacklisting Belarusian government representatives accused of kidnappings, German Ambassador Martin Hecker said this could not be considered a fair case of tit for tat, as "Mr Kurth is not suspected of murder or other serious crimes".⁶⁶ The German Ministry of Foreign Affairs also asked for an official explanation on how the blacklist worked – who was on it, and for what reasons someone could be included, but received no response.⁶⁷

The case of Agnieszka Romaszewska

In 2005, *Agnieszka Romaszewska* of the Polish TV station TVP was deported upon arrival at Minsk Airport.⁶⁸

The case of Waclaw Radziwinowicz

In February 2006, in spite of holding a valid visa and accreditation card from the Belarusian MFA, Waclaw Radziwinowicz of the respected Polish newspaper *Gazeta Wyborcza* was taken off the train crossing the border to Belarus, and told that he was denied entry. Neither the border guards nor the Ministry of Foreign Affairs could explain why he was stopped, but said he had been included on a list of people not allowed to enter the country, and that he would be forcefully deported if he did voluntarily get on the returning train.⁶⁹

3. The Russia-Belarus Agreement

Exchange of information on persons that are to be denied entry has long been evident between Belarus and Russia, who also cooperate in a number of other areas through the somewhat vague Union State that has existed in a slowly developing form since 1996.⁷⁰

Although a system would seem to have been in place for a number of years, it was only in September 2006 that Belarusian and Russian authorities officially spoke of the existence of a common database of persons who would be denied entry to both countries if denied entry to one. According to a press release from the Russian and Belarusian Ministers of Interior respectively, a database of persons whose entry to the territory of the Union between Belarus and Russia is undesirable is under continuous

66 *Increased numbers of denied persons (rus)*, <http://www.ucpb.org/index.php?lang=rus&open=3568>

67 *German Ambassadors demands explanation of the reason for denial of entry (rus)*, www.charter97.org/rus/news/2004/11/10/posol

68 *Polish journalist refused entry into Belarus*, <http://www.data.minsk.by/belarusnews/022006/87.html>

69 *Polish journalist Waclaw Radziwinowicz who was deported from Belarus returned to Warsaw (rus)*, <http://www.arrests.cjes.ru/?a=968>

70 Official website: www.soyuz.by

development. The Russian minister told media in 2006 that they were “already seeing results of this work”.⁷¹

Given the close cooperation on migration matters between Russia and Belarus, it is perhaps not surprising that human rights activists who have been unjustly barred from entering one of the two countries may find themselves barred from entering the other. Given the open border agreements between Russia and Belarus, the system does not apply to CIS passport holders, but evidently does apply to citizens from outside the CIS.

The case of Dr Alan Flowers

An example of a travel ban in Belarus automatically extending to include the Russian Federation regards *Dr. Alan Flowers*, a British lecturer at Kingston University, who had been engaged in academic cooperation projects in Belarus since 1992, including work to promote democracy through the European Youth Parliament.

Having arrived in Minsk on a bus from Lithuania in July 2004, Flowers was informed by the security services that his presence in the country was illegal, in spite of the fact that he held a valid multi-entry business visa and that his registration documents were in order. Belarusian police wrote up a protocol stating “that Alan Flowers, while being included on the list of citizens whose entry to the territory of Belarus is denied or unwanted, entered the territory of Belarus.”⁷² Subsequently, a deportation order was also established, stating that Flowers had been included on the list by the Committee for National Security, KGB.⁷³ Flowers signed a paper confirming that he would leave the country voluntarily within 48 hours, which he did.⁷⁴

While a representative of the Belarusian Embassy in London later told the British Foreign Office that the reason for the expulsion was Flowers’ illegal entry to a radioactive area in the south of Belarus in July 2004, Flowers had seen documents showing the ban to have been initiated several months prior to this – in February of the same year. While Flowers had indeed studied the effects of the Chernobyl disaster in the region, he himself believes that a more likely cause for the ban was his involvement with pro-democracy groups. This had formerly provoked an interest from the security services, who had questioned Belarusian university staff about Flowers’ activities.

Before his departure from the country, a stamp was placed in Flowers’ passport, indicating that he would be denied entry for a period of 5 years, until 2 August 2009.

71 *Russia and Belarus established database of persons whose entry is unwanted on the territory of the Union (rus)*, <http://www.interfax.by/node/1018010>

72 *Protocol Nr. 004286*, Partizanskiy ROVD, Minsk, 29.07.2004

73 *Decision on Deportation from the Republic of Belarus*, signed officer V. V. Kuzuro, 31.07.04

74 *Declaration*, addressed to the Parizanskiy ROVD, Minsk, 31.07.2004

However, in January 2010 he was informally told that there still had been no change in terms of his particular status.

Although Flowers was not informed of his actual status until July 2004, the February 2004 decision to bar him from entering Belarus is likely to have been the cause of a rejected visa application to the Russian Embassy in London in June of the same year, as the decision had then already been entered into the computer system that affects one's status in both countries of the Union.⁷⁵

The British Minister for Europe told media in August 2004 that they were concerned about the expulsion and would continue to seek a clarification from Belarusian authorities.⁷⁶ The matter was also brought up by the Foreign Office in their 2005 human rights report.⁷⁷ However, no further clarification has come from the Belarusian side.

The cases of Bjørn Engesland and Enver Djuliman

A recent instance of the opposite – a Russian ban being extended to include Belarus – involves a Norwegian citizen working for the Norwegian Helsinki Committee, Enver Djuliman. As the head of the organization's human rights education program, Djuliman had travelled to Russia for a number of years, to organize trainings for prison staff, journalists and youth groups in North-Western Russia when he and Secretary General of the Norwegian Helsinki Committee, *Bjørn Engesland*, were unexpectedly fetched by police in their Murmansk hotel rooms on 6 December 2008 and accused of having the wrong kind of visa. The two were questioned for 4 hours, being asked about Norwegian Helsinki Committee funded projects in the Barents Region. It is worth noting that the Barents Region is a particular focus area of cooperation between the Norwegian and Russian governments, which seeks to ease visa restrictions and promote "people-to-people contacts" and "interregional exchange".⁷⁸

The Federal Migration Services claimed that neither Enver Djuliman nor Bjørn Engesland had the right kind of visa and issued fines for administrative violations. Engesland had however, during previous contact with the Russian Embassy in Oslo, informed about his travel plans, schedule and planned meetings. On that basis he was given a purpose-oriented tourism visa. Djuliman was given a multi-entry business visa. The Norwegian Helsinki Committee subsequently challenged the legality of the matter in court, and on 6 May 2009, a Murmansk court found Engesland and Djuliman not to have been in violation of any law.⁷⁹

75 Correspondence with Alan Flowers, 29.01.2010

76 *Foreign Office Concern at Prof's Expulsion*, <http://charter97.org/eng/news/2004/08/11/mid>

77 http://www.fco.gov.uk/resources/en/pdf/pdf15/fco_hrreport05_fullreport

78 For more information, see www.barentsinfo.org

79 Judge D.S. Berkovich, Pervomayskiy Regional Court, Murmansk, 06.05.2009

The police organs, perhaps not satisfied with the outcome of the court's decision, made new attempts to bar the organization's activities during Djuliman's next visit. On 2 March 2009, Murmansk police questioned him again, ordering him to end all projects in the Russian Federation and stating that a letter was being prepared in Moscow that would bar him from entering Russia for a period of 5 years.

When Djuliman returned with a representative of the Norwegian Consulate, these statements were retracted and referred to as a "misunderstanding". However, later the same day Djuliman was fined and informed that he would have to leave Russia within 24 hours or be forcefully deported. Djuliman saw no option but to leave the country.

The case was accepted for evaluation at the Supreme Court of the Russian Federation in October 2009, and on 20 November 2009, the Supreme Court upheld the decisions of the Federal Migration Service and the Murmansk District and Regional Courts, stating that Djuliman was guilty of violating the visa regime.⁸⁰ According to the Supreme Court, "the reason for his visit was indicated as 'business', while Enver Djuliman carried out civil activities during the planning of a seminar on the topic of human rights and prisons institutions, that is, he carried out activities that were not in accordance with the declared reason for the visit to the territory of the Russian Federation."⁸¹

The fact that the visa issuing authorities are well aware that both the inviting organization *Rassvet* and the Norwegian Helsinki Committee are civil society organizations, and by no stretch of the imagination could be involved in "trade and commerce", was not noted by the Supreme Court.

In September 2009, the Russian Embassy in Oslo denied issuing a visa to Djuliman, and informed him in writing that he was formally denied entry to the country. The Embassy declined to provide any legal provisions, and also underlined that they were not obliged to provide the reason why a ban had been imposed, or inform about the length of the ban.⁸² The Federal Migration Service in Arkhangelsk also confirmed that a travel ban indeed had been imposed on Djuliman, and that this ban "had not yet been removed", referring to Article 27, point 1 of the Federal Law on Migration.⁸³ In November 2009, the FSB confirmed that a ban was in place on Djuliman, but notably also on Secretary General Bjørn Engesland, who had not been involved in the second case. The letter from the FSB referred to yet another article – this time Article 26 of the Federal Law on Migration.⁸⁴

80 Supreme Court of the Russian Federation, letter to NHC, 13.10.2009

81 P.P. Serkov, Supreme Court of the Russian Federation, decision in Case No. 34-AD09-1, 20.11.09

82 Russian Ambassador Sergey Andreev, letter to NHC, 02.12.2009

83 A.V. Reklajdis, Federal Migration Service Arkhangelsk, letter to NHC, 17.09.2009

84 A.P. Ropushkin, Federal Security Service, letter to Svetlana Gannushkina, 27.11.2009

The confusion internally on the legal basis for declaring someone *persona non grata* is evident from the above-mentioned correspondences. The Embassy claims it does not need to provide any legal basis; the FSB refers to the very generic and all-encompassing Article 26 on Migration, whereas the regional department of the Federal Migration Service is the only one to at least refer to Article 27, point 1, which indeed regards matters of national security. Once again, none provide an actual reason for the ban.

Unfortunately, this case also serves as an example of the Russia-Belarus agreement, as the problems in Russia subsequently caused further problems for Djuliman in November 2009. Shortly after being informed of his status in Russia, Djuliman was stopped at Minsk International Airport upon arrival from Riga, and informed that he would not be allowed entry to Belarus. He was taken to a separate room where a border official stayed with him until he could be returned to Riga the following morning. He was presented with a copy of a deportation order, but no explanation as to the reason why he was denied entry was given.⁸⁵

4. Kyrgyzstan

A particularly dramatic increase in bans placed on human rights activists was evident in Kyrgyzstan throughout 2009, as the Bakiev-led government grew increasingly hostile towards human rights activists and journalists. Following the dramatic events in April 2010, when President Kurmanbek Bakiev fled the country and a new Interim Government took over, numerous bans were lifted and foreign representatives of non-governmental organizations formerly barred from entering the country were once again able to travel to Kyrgyzstan.

Already three days after President Bakiev left Bishkek, the new head of government, Roza Otunbaeva, brought up the matter of travel bans in a closed meeting with the Interim Government, and several foreign human rights activists were informed that they were welcome to return to Kyrgyzstan. A list of 10 specific individuals whose bans were to be considered lifted was later signed by the government, and made available to border posts both at the Manas International Airport and at the border crossing with Kazakhstan. The list included representatives of organizations such as International Crisis Group, Human Rights Centre Memorial, Norwegian Helsinki Committee and even the European Commission.

It is indicative of the nature of such measures that they had increased in Kyrgyzstan in parallel with an equally dramatic deterioration in the sphere of human rights in the country. The Kyrgyz security services did not only deny entry to Western human rights activists, but also to citizens of other CIS countries. As regards the citizens of

⁸⁵ *Refusal of entry at the border*, signed Chief of the Frontier Police Republic of Belarus, 25.11.2009

the Russian Federation and Tajikistan mentioned below, they also do not need a visa to visit Kyrgyzstan.

Following Norwegian Helsinki Committee regional representative *Ivar Dale's* deportation in October 2008,⁸⁶ a whole string of persons working on human rights and democracy, as well as journalists, were denied entry to Kyrgyzstan. This development caused considerable attention internationally. All the persons mentioned below have been able to travel to Kyrgyzstan again after April 2010, but have still not had their bans removed from the actual computer system used by the border services.

The case of Vitaliy Ponomarev

On 26 February 2009, Russian citizen Vitaliy Ponomarev of Human Rights Centre Memorial landed at Manas International Airport in the Kyrgyz capital Bishkek, but was stopped at passport control. The officer on duty, studying the information on his screen, said that Ponomarev was “political”. A higher-ranking official informed Ponomarev that he was barred from entering Kyrgyzstan, while the border guards themselves seemed curious to learn what he might have done to cause such a reaction. He was put on a plane back to Moscow, where upon landing he was also presented with an official deportation order, stating the reason as being his status as *persona non grata*.⁸⁷

Ponomarev attempted to enter Kyrgyzstan again on 22 April 2009, travelling by train from Kazakhstan. At the Kyrgyz border, officials came on the train, stating that “We will now check you against the blacklist.” The head of the border patrol showed Ponomarev the listing on the computer, saying that on 23 February 2009, he had been placed in the system as *persona non grata* until 1 March 2014 for “violations of migration laws”. As Ponomarev notes, the officials could not say exactly which violation, and could neither explain how this law could have been violated by Ponomarev since he had never been arrested or accused of any violation in Kyrgyzstan, and if the ban had been introduced at a time when he was actually in Russia.

After spending the night with the border guards, Ponomarev was presented with another deportation order, and placed on the train returning to Kazakhstan. A higher-ranking official arrived from Bishkek to oversee the deportation. The man apologized that this was necessary, and said that in his experience, this was the first time a citizen of the Russian Federation had been refused entry without it being the result of a criminal or administrative investigation. Upon arrival to Kazakhstan, the border service there also checked Ponomarev against their registry, but found nothing about him in their system. While the computer system had shown Ponomarev to be denied entry to Kyrgyzstan for a period of 10 years, the deportation order presented by the Kyrgyz side to the

⁸⁶ See chapter F on the Joint System : Instances of Extended Bans

⁸⁷ *Akt ob otkaze vo vvezde v stranu*, signed Major S. Masymkanov, 26.02.2009

Kazakh border service stated that Ponomarev was barred from entry for 5 years, for “violations of migration laws.”⁸⁸

Most observers agree that these incidents are likely to be connected to Ponomarev’s research on the October 2008 Nookat events in Kyrgyzstan and the report he published on the fates of those involved.⁸⁹ Indeed, in the beginning of March 2009, the Kyrgyz Ombudsman, Tursunbek Akun, received a letter from the head of the Kyrgyz security services, Murat Sutalinov, stating that Ponomarev had been denied entry to the country as a result of Memorial’s “unobjective” report on the Nookat events. The report documented serious human rights violations committed by the Kyrgyz security services during their investigations.

The case of Yevhen Hlibovitsky

The next instance regards a Ukrainian citizen, Yevhen Hlibovitsky, who had plans to open a media consulting company in Bishkek. Travelling by car from Kazakhstan, Hlibovitsky was stopped at the Kyrgyz border and refused entry on 30 April 2009. He was handed a denial order that did not specify the reason for him being turned away, and then walked back across to the Kazakh side of the border.⁹⁰

Hlibovitsky, who has formerly served as an OSCE media expert, believes the ban to be connected to his plans to open a Central Asian branch of his PR and media consultancy business in Bishkek. According to Hlibovitsky, he was later told via friends that the authorities had suspected him of being “a spy for the CIA”.⁹¹

The case of Viktor Kovtunovskiy

On 4 May 2009, during the run-up to the Kyrgyz Presidential elections, Kazakhstani citizen and reporter for the independent newspaper Respublika, Viktor Kovtunovskiy, was denied entry to Kyrgyzstan upon his arrival by car from Almaty. Kovtunovskiy had intended to cover the elections for the newspaper, and believes the incident to be connected to this.

Kovtunovskiy, who had in no way expected such a reaction from the Kyrgyz authorities, was told by the border guards that they had received a verbal order from their bosses, and that he would be denied entry for a period of 10 years, that is, until

88 Correspondence with Vitaliy Ponomarev, 22.10.2009.

The *Nookat events* refer to October 2008 demonstrations in Nookat, in southern Kyrgyzstan, to protest local authorities’ decision not to allow a religious celebration of Eid al-Fitr. After the protest, the police arrested dozens of people, claiming they were Islamic “extremists.” During their trial a month later, where many were sentenced over 20 years of prison at the Osh Province Court, many defendants said that they had been tortured and ill-treated in police custody. An independent commission under the ombudsman’s office documented many of their accusations. A January 2009 report by Memorial documented similar abuses.

89 Memorial: *Kyrgyzstan - Human rights violations in connection with the case of the ‘Nookat events’ (rus)*, <http://www.memo.ru/2009/01/27/2701091.htm>

90 *Akt o ne propuske cherez gosudarstvennuu granitsu Kyrgyzskoi Respubliki*, signed Mayor Kurbanov, 30.04.09.

91 Correspondence with Yevhen Hlibovitsky, 15.10.2009

2019. Reference was made verbally to the Kyrgyz law on migration, but he was not presented with any kind of official document regarding the refusal to let him enter the country.⁹²

The case of Marina Sabitova

Travelling together with Kovtunovskiy on this day was another citizen of Kazakhstan, Marina Sabitova. She was also denied entry and informed that the ban was valid for 10 years. Whereas Kovtunovskiy was hard pressed to see any reason why he should be barred from entering the country, there were signs that this could happen in Sabitova's case. While not a human rights activists per se, Sabitova has been involved in democracy building in Kazakhstan for a number of years, and has considerable experience as an election observer all over the CIS and beyond. As a political advisor to Kazakhstani Social Democratic Party, she was set to offer advice to the opposition in Kyrgyzstan.

Sabitova's telephone conversations with Kyrgyz opposition leader Omurbek Tekebaev had been tapped by security services, and while the conversations themselves proved nothing but plans for completely legitimate cooperation between Sabitova and Tekebaev, the security services later leaked full transcriptions and audio files of these conversations to a Russia-based website specializing in "compromising materials",⁹³ as well as banning Sabitova from entering the country for a period of 10 years.⁹⁴

Following US Editor John Ronalds' denial of entry in September 2009,⁹⁵ deportations of human rights activists from Kyrgyzstan continued with two more incidents involving citizens of other CIS countries later in the year.

The case of Bakhrom Khamroev

On 18 November 2009, Russian citizen Bakhrom Khamroev of Human Rights Centre Memorial was arrested by the security services in Osh. He had arrived in Kyrgyzstan to follow up on Memorial's research on the Nookat events after the deportation of his colleague, Vitaliy Ponomarev.

Khamroev had spent less than a week in Kyrgyzstan, planning to interview relatives of those arrested in the Nookat case in the South of the country, when he was arrested by the Kyrgyz security services in Osh. While in custody, Khamroev, an ethnic Uzbek, was repeatedly threatened with violence and that he would be handed over to Uzbek security services, which supposedly were on their way to Kyrgyzstan from Andijan to pick him up. He was denied access to the Russian Consulate, and all his notes and

92 Correspondence with Viktor Kovtunovskiy, 09.12.2009

93 *Phone taps of discussions between chairman of social party of Kyrgyzstan Ata-Meken and political scientist from Kazakhstan Marina Sabitova (rus)*, http://www.compromat.ru/page_27695.htm

94 Correspondence with Marina Sabitova, 19.11.2009

95 See chapter F on the Joint System : Instances of Extended Bans

photographs were confiscated by the security officers. They eventually decided to deport Khamroev to Russia. On 19 November, he was put on a plane from Osh to Moscow.⁹⁶

The case of Nigina Bakhrieva

A last incident involves a citizen of neighboring Tajikistan, human rights expert Nigina Bakhrieva, who was stopped upon her arrival from the Tajik capital Dushanbe at Manas International Airport on 2 December 2009. Bakhrieva had come to Bishkek on the invitation of the organization Voice of Freedom in order to hold trainings on monitoring of closed detention centres for staff members of Kyrgyzstan's Ombudsman's office.

At passport control Bakhrieva was asked whether she had experienced any problems with "the organs" when she last visited Kyrgyzstan in September of the same year. She answered that she had met with no problems of any kind. She was then informed that a ban had been placed on her, and that she would be denied entry to the country for a period of 10 years. A document to that effect was written up, noting Bakhrieva as *persona non grata* and that she was "Denied entry to the country".⁹⁷ She was not given any indication of the reason for imposing such a ban on her. Bakhrieva was then led back to the same airplane she had arrived on, which took her back to Dushanbe.

Bakhrieva believes the ban was connected to her trainings on UN human rights mechanisms, which she has been involved with since 2004. She has held several trainings for Kyrgyz lawyers, teaching them how to file individual complaints to the UN High Commissioner for Human Rights (UNHCHR) on human rights violations. Although Bakhrieva herself has never herself filed such complaints, some of those attending her trainings later filed complaints in cases related to the Nookat events.⁹⁸

As numerous times before, local human rights organizations published a press release expressing outrage at the actions of the security services, noting that "the security services are now also persecuting citizens of friendly states, putting Kyrgyzstan in an embarrassing position in front of the civilized international community."⁹⁹

After the regime change in April 2010, the Joint System (detailed below) seems to cause problems for the current government's decision to lift bans on foreign human rights activists. While many have been presented with official documents from the Kyrgyz government that their bans have been lifted, as of today the bans still remain in the computer system and have not been technically removed. This causes problems

96 For a full summary of events in English, see *Norwegian Helsinki Committee: Impunity for Kyrgyz security services? Details of the arrest of Memorial employee*, <http://www.nhc.no/php/index.php?module=article&view=894>

97 Deportation act, presented to Bakhrieva.

98 Correspondence with Nigina Bakhroeva, 23.12.2009

99 *Kyrgyzstan's human rights defenders do not understand why their Tajik colleague was denied entry to the country (rus)*, <http://www.centrasia.ru/newsA.php?st=1260128580>

upon arrival and departure, as the border services must first confirm with the security services per telephone that a specific individual is no longer to be considered *persona non grata*. The matter has been raised with the Kyrgyz government, but remains unsolved.

5. Uzbekistan and Turkmenistan

The two most repressive governments in the former Soviet Union, Uzbekistan and Turkmenistan, are not part of the Joint System.¹⁰⁰ However, the situation for foreign human rights defenders in these two countries is particularly serious, as they operate with national systems that are even more restrictive.

Turkmenistan is a matter apart, as the country does not allow independent human rights activists to visit the country. Some did hope that this situation would improve after the death of President Saparmurat Niyazov in 2006, especially after the speech made by the new President Gurbanguly Berdymukhamedov at Colombia University in September 2007, where he underlined that the days when international non-governmental organizations were denied access to the country were over.¹⁰¹ However, these promises proved to be just that – promises.

In September 2009, a wide range of prominent international organizations working in the sphere of human rights and transparency appealed to the international community and business sector to raise the issue of access to Turkmenistan with relevant authorities.¹⁰² Yet, as of today, none of these organizations have been permitted to visit the country. Indeed, the only international organization operating in the country, *Doctors Without Borders* (MSF) left in December 2009, stating that Turkmen authorities gave them little choice but to stop their activities.¹⁰³

According to Nazhot, a human rights group based in Uzbekistan, a new list of persons denied entry to Turkmenistan was implemented on the order of President Berdymukhamedov on 1 August 2010. Although the names of the individuals on the list were not released, it is known that it included 132 representatives of international organizations, 296 representatives of non-governmental organizations (including Turkmen organizations based outside the country) and 73 journalists.

Among the international organizations were Amnesty International, Soros Foundation/Open Society Institute and Human Rights Centre Memorial, as well as the Vienna-based Turkmen Initiative for Human Rights.

100 See chapter on Cooperative Systems.

101 *Turkmenistan: President Says Press, NGOs Operate Freely*, <http://www.rferl.org/content/Article/1078780.html>

102 *A Call for Access to Turkmenistan*, www.nhc.no/php/files/documents/land/Turkmenistan/2009/A_Call_for_Access_to_Turkmenistan_IV.pdf

103 *MSF closes programs in Turkmenistan after 10 years*, <http://doctorswithoutborders.org/press/release.cfm?id=4128&cat=press-release>

Among Westerners included in the list, were citizens of the United States (31), the European Union (34), Germany (11), Norway (6) and Canada (3).¹⁰⁴

Since the Andijan massacre in May 2005, Uzbek authorities have taken a zero tolerance stand towards international organizations, and most of those who operated in the country prior to the events were forced to leave.

The case of Igor Rotar

One instance shortly after the Andijan massacre regards Russian citizen Igor Rotar, who was working for the Norway based Forum 18 news service at the time, and who was detained upon his arrival at Tashkent International Airport on 13 August 2005. Rotar spent as long as two days at the airport, insisting that he be allowed to speak to either a Russian consular officer, or to a representative of the US Embassy in Tashkent, in order to contact Norwegian authorities who were not covered by an Embassy in the country. Having received a request from Forum 18 News Service, a representative of the US Embassy arrived to the airport five times, but was not allowed to speak to Rotar even through the glass behind which he was being held.

The border service tried to convince Rotar to buy a ticket to Moscow himself, and return voluntarily, something that he refused to do. After two days at the airport, the Uzbek authorities finally gave up, and wrote up the documents for an official deportation, after which Rotar was returned to Moscow. He was never given any reason for his being denied entry, but believes himself it was connected to his work for Forum 18, which reports on violations of religious freedoms in a number of countries, including Uzbekistan.¹⁰⁵

The cases of staff from Human Rights Watch

One organization, Human Rights Watch, has tried hard to keep some kind of presence in Uzbekistan, but its representatives have repeatedly been hindered in their work and subsequently deported.

*A Russian citizen representing Human Rights Watch, and who had been living and working in Uzbekistan for some time, left the country briefly on 18 July 2008 for a business trip, and received a phone call the following day from a person who identified himself as a representative of the Ministry of Interior. The HRW representative was told that he would not be able to return to Uzbekistan due to national security concerns. He would also not be able to return to the country to collect his personal belongings from his apartment.*¹⁰⁶

104 *The president forbids entry and exit to persons included on the black list (rus)*, <http://www.ferghana.ru/news.php?id=15276&mode=snews>

105 Correspondence with Igor Rotar, 03.11.2009

106 Correspondence with former HRW representative, 29.12.2009

Another *consultant with HRW*, a Georgian citizen, was stopped at Tashkent International Airport on 21 July 2009 upon her arrival from Moscow. It was her third visit to Uzbekistan, and although she had had no problems entering the country previously she was now stopped at the border checkpoint when her personal details were entered into the computer system, and asked to step aside. She was brought to a separate room where she waited for an hour or two until she was escorted to a plane to go back to Moscow. The security services at the airport would not provide any explanation as to why she was being denied entry, but provided a document simply stating that she was not allowed to enter Uzbekistan. Representatives of the Georgian Embassy in Tashkent did come to the airport to try and clarify the situation, but the HRW representative had already been deported. The explanation given to the Embassy staff was that the person in question was *non grata*.

Upon her return to Moscow, the HRW representative was questioned by Russia's Federal Security Service (FSB) about her political views and her consultancy work for HRW. Her passport was kept by the security services for over an hour, before tickets were organized for her onward journey to New York.¹⁰⁷

The case of BBC reporter

Similarly, following a critical article on human rights in Uzbekistan published after a previous visit, a reporter working for the BBC was told he was “barred indefinitely” when he turned to the Embassy of Uzbekistan in Washington DC for a visa in 2008.¹⁰⁸

6. Ukraine and Georgia

There have been instances where Russian citizens have been barred from countries outside of the CIS in a similar manner as described elsewhere in this report. These instances appear to be largely connected to political tensions between Russia and Ukraine, as well as the armed conflict between Russia and Georgia over the break-away republics of South Ossetia and Abkhazia.¹⁰⁹

No Russian human rights defender has been barred, but some journalists representing Russian media outlets have been.

The cases of Vladimir Mamontov and Maxim Shevchenko

One example involves Vladimir Mamontov, editor-in-chief of Izvestia newspaper, and Maxim Shevchenko from Russian Channel One, who were denied entry to Georgia in September 2009. The two arrived at Tbilisi Airport on a flight from the Armenian

107 Correspondence with former HRW representative, 10.12.2009

108 Correspondence with anonymous, 11.01.2010

109 Although Ukraine was one of the three founding countries and ratified the CIS Creation Agreement in December 1991, Ukraine did not choose to ratify the CIS Charter and is not a member of the CIS. Georgia withdrew its membership in 2008; in effect from 18 August 2009.

capital Yerevan, intending to participate at a conference on the conflicts in the Caucasus. Georgian authorities, who consider it illegal for Russian citizens to visit Georgian territory by entering the break-away republics from the Russian side of the border, cited their previous visits to Abkhazia as the reason for the denial.¹¹⁰

Upon their deportation, they were presented with a deportation act, the reason given as “The presence of the individual is a threat to the social order, security of Georgia or a threat to the health, basic rights and legal interests of citizens of Georgia”. A furious Mamontov described the details of the incident in a lengthy article in *Izvestia* upon his return. According to Mamontov, he has never visited Abkhazia or South Ossetia, although Shevchenko has. In their opinion, the ban was imposed in order to prevent constructive dialogue on the topic of the conflict over South Ossetia.¹¹¹

The cases of representatives from Moscow State University

Another recent example involves two representatives of Moscow State University, who were withheld at Tbilisi Airport in December 2009, and forced to return to Russia.¹¹² A press release from the Presidential administration stated that “According to our information, these persons are in close cooperation with the Russian special services and are actively supporting occupation of Georgian territories. Georgia is open for Russian tourists, Russian businessmen, artists, sportsmen and ordinary citizens.”¹¹³

Travel bans and deportations have long been used as a diplomatic tool during times of uneasy relations between Ukraine and Russia. Over the past years, lengthy discussions have been held between the two countries on the topic, often through statements in the media. According to the Ukrainian Ministry of Foreign Affairs, “every country makes its own decisions on unwanted individuals that it considers a threat to the country’s national security”.¹¹⁴

The issue eventually became so troublesome that the two countries in 2007 agreed to completely delete their respective non-grata lists in an attempt to finally settle the matter: “We will allow Russian citizens who have been included on the so-called lists of unwanted persons to enter the territory of Ukraine. The Russians agree on the principle of equality and will also allow entry.”¹¹⁵ However, instances have also been noted after this agreement was made.

110 *Two Russian journalists barred from Georgia entry*, <http://www.civil.ge/eng/article.php?id=21419>

111 *Georgia is ruled by insolent and lying people (rus)*, <http://www.izvestia.ru/obshestvo/article3132655/>

112 *Georgia shuts door on Russian academics*, <http://rt.com/Politics/2009-12-01/scientists-denied-entry-georgia.html>

113 *Russian ‘spies’ denied from Georgia entry*, <http://www.civil.ge/eng/article.php?id=21743>

114 *Ukraine will not consider Russia’s suggestions on persons non grata (rus)*, <http://korrespondent.net/ukraine/events/190195>

115 *Ukraine cancelled the persona non grata lists for Russians (rus)*, <http://for-ua.com/ukraine/2007/06/22/155758.html>

The case of Sergey Taran

Following the deportation of Ukrainian political scientist Sergey Taran from Pulkovo Airport in St. Petersburg in February 2008, the Russian Ministry of Foreign Affairs issued a statement saying that the decision had been made in “full accordance with international practice”:

“We were surprised to receive the angry reaction of the Ukrainian Ministry of Foreign Affairs in this case, and their attempts to place this isolated incident to the context of Russian-Ukrainian relations as a whole. We would like to remind you that the practice of denying entry and establishing “blacklists” of unwanted persons is not the choice of the Russian side. The actions of our Ukrainian partners give us sufficient example of this. In December 2007, Moscow was informed in a note from the Ukrainian Ministry of Foreign Affairs that Russian political scientists A. Dugin and P. Zarifullin were barred from entering Ukraine for a period of one year. (...) We encourage our partners in Ukraine to take up a more constructive and responsible position.”¹¹⁶

Taran’s own views on the matter were presented in an article in *Ukrainskaya Pravda* following his deportation.¹¹⁷

The case of Igor Belokoptev

A Russian journalist, Igor Belokoptev from the TV-channel *Rossiya*, was denied entry to Ukraine on 18 September 2009. According to media, Ukrainian security services had imposed a ban on Belokoptev due to his having spread “untruthful information and propaganda about Ukrainian citizens”, but did not specify further what this meant. At *Borispol* Airport in Kiev, Belokoptev was informed that he would be barred from entering Ukraine for a period of five years.¹¹⁸ Another article suggested that the ban could be connected to a film Belokoptev made on the August 2008 war in South Ossetia, claiming that Ukrainian citizens participated in the war on the side of the Georgian forces.¹¹⁹

These instances are not part of the overall picture of CIS-wide bans as such. Rather Georgian and Ukrainian authorities appear to use entry denials as part of the diplomatic signals to the Russian Federation. In Georgia’s case, this is obviously related to the conflict with the Russian Federation over South Ossetia and Abkhazia.

116 *Response of the official representative of Russian MFA M.L. Kamynin on the question of Russian media on the measures taken in relation to Ukrainian citizen S. Taran (rus)*, http://www.mid.ru/brp_4.nsf/sps/17568BA16D3AB9CCC32573E600594626

117 *Weak Russia, or Why today they are declaring a new Non Grata War (rus)*, <http://www.pravda.com.ua/rus/articles/4b1ab03b3ab1e/>

118 *Ukrainian special services do not admit Russian journalists (rus)*, http://news.km.ru/ukrainskie_speczsluzhby_ne_vpusk/print

119 *Russian MFA discusses entry ban of Russian journalist with Ukrainian Embassy (rus)*, <http://www.rusnovosti.ru/news/51080/>

Generally speaking, visiting break-away republics in the Caucasus can have consequences for travels in other Caucasian states not only for Russian citizens. Westerners who have travelled to Abkhazia and South Ossetia from the Russian side of the border have faced subsequent problems when entering Georgia proper. Similarly, many who have travelled to Sukhumi or Tskhinvali from Tbilisi have been questioned by Georgian authorities upon their return. Westerners who visit Nagorno-Karabakh by travelling from Armenia tend to avoid having any stamp in their passport or change their passport afterwards, as a stamp from the break-away republic will cause denial of entry to Azerbaijan.

However, the Georgian Minister of Foreign Affairs, Grigol Vashadze, told NHC that Georgia is not opposed to foreign non-governmental organizations working in Abkhazia and South Ossetia, and would even encourage it – regardless of which border crossing they were using.¹²⁰

The case of Serhiy Yevtushenko

A fairly rare example from Azerbaijan not related to former visits to Nagorno-Karabakh regards Ukrainian youth activist Serhiy Yevtushenko, who had played an important role during the 2004 Orange Revolution. He was denied entry to Azerbaijan upon his arrival in Baku on 17 September 2005. The instance seemed connected to a fear on behalf of Azeri authorities that Yevtushenko would try to initiate a revolution of the kind seen in Ukraine the year before.¹²¹

Neither Ukraine, Georgia or Azerbaijan are party to the Joint System, which may cause travel bans to spread to a number of CIS countries, as described in the following chapter.

120 Conversation with Mr. Vashadze, Oslo, 07.04.2010

121 *Ukrainian youth activist deported from Azerbaijan*, <http://www.rferl.org/content/article/1061462.html>

F. The Joint System

Since 2004 it has gradually become evident that a system is in development under which individuals – including representatives of non-governmental organizations and journalists - “banned” from entering one CIS member state may automatically be denied entry to a number of other CIS countries. The computerized system is reminiscent of the Schengen Information System (SIS), which ensures that an individual barred from entering one Schengen member state may not travel to other countries included in the Schengen cooperation.

While this is a purely technical development that is meant to provide information on all forms of migration issues across the CIS region, it is important to understand how the system has developed over the past few years, as it has a direct effect on the practice of blacklisting human rights defenders and journalists. Decisions made on political grounds by the security services in one country are now multiplied six-fold through the introduction of the automated system, which currently seems to be operational across Russia, Belarus, Armenia, Kazakhstan, Kyrgyzstan and possibly Tajikistan.¹²²

The Norwegian Helsinki Committee has repeatedly contacted relevant authorities in Moscow and elsewhere to obtain further information on how the Join System works, but has not received any response.

Press releases are singularly uninformative about the progress being made on the subject. The same short quote from a 2005 technical document has been used several times, the only thing changing being the individual reading the quote, and the city in which it is read. During a September 2008 meeting in Moscow, a working group tasked with developing what has been named the “Joint Database System for Citizens of Third Countries and Stateless Persons Entering the Member States of the CIS”¹²³ repeated that it would be an international automatic system for border control, in which there “continuously will be fixed facts of entry and departure from CIS countries, and personal information about foreign citizens and stateless persons”. The system would be built “on the basis of existing or developing national databases in CIS countries”, and should become “part of a larger international automatic system for exchange of information that can serve as a sub-system for use by certain categories of users.”¹²⁴ The same quote was repeated at the group’s March 2009 meeting in Minsk.¹²⁵

122 Instances of bans spreading to/from Tajikistan have not yet been recorded, although the country formally is part of the Joint System.

123 Russian : Единая система учета граждан третьих государств и лиц без гражданства, въезжающих на территории государств – участников СНГ, in this report referred to simply as “The Joint System”

124 *Establishment of a joint database system for citizens of third countries entering CIS territory is discussed in Moscow (rus)*, <http://www.for.kg/goid.php?id=71511&print>

125 *A joint database system for citizens of third countries is being established in CIS (rus)*, <http://news.tut.by/132481.html>

The CIS countries have a common goal to standardize their migration policies. Most of the measures set out in the decision on the CIS Program against Illegal Migration for the period 2009-2011,¹²⁶ signed in Bishkek in October 2008 by all member states with the exception of Georgia, Turkmenistan and Moldova, and with reservations by Ukraine and Azerbaijan, are measures that would seem relevant also in a European context. The focus is on coming to grips with migration trends, including international terrorism, drugs smuggling and trafficking.

However, some of the measures listed may have direct impact on the work of foreign non-governmental organizations and their representatives in CIS countries, when seen in the context of what is defined as a threat. Indeed, another document signed during the Bishkek summit regards information security, mentioning “informational measures taken by third countries in order to destabilize the social-political situation in CIS countries” as a viable threat – a reference likely to concern the work of Western organizations promoting human rights and democracy.¹²⁷ Furthermore, subjects of interest may include “transnational criminal groups, and commercial and non-governmental organizations and structures”.

Overlaps between national systems and the Joint System sometimes lead to a confusion of terms. As an example, Kyrgyz border services told media in 2008 that information on a specific individual had been registered in the “Automated System for Border Control (ASPK)”. The ASPK is indeed a border control system; the national system in place in Belarus. The Working Group for the Joint System did visit Belarus to study this system the same year, which might explain how the term found its way into a press release on the Joint System from the border service in Kyrgyzstan:

“This system works in all CIS countries and holds detailed lists of people who are denied entry to the territory of this or that country. Also, it includes lists of people who cannot leave the country where they reside. We don’t have exact information about which specific organ barred this person, but we do not exclude the possibility that the decision has been made outside Kyrgyzstan’s borders. The ASPK does not include explanations why such measures were taken.”¹²⁸

These efforts to develop and converge national legislation among CIS countries also include measures to “continue the work to develop national mechanisms for expulsion and/or deportation”, as well as to “specify how competent CIS organs shall cooperate in cases of administrative expulsion and/or deportation”. Again, there is nothing unusual about this in itself – but it is worth noting when realised that these discussions

126 *Decision on the Programme of cooperation between the member states of the CIS on combating illegal migration for 2009-2011 (rus)*, <http://www.cis.minsk.by/webnpa/text.aspx?RN=N90800576>

127 *Decision on the Concept for cooperation between the member states of the CIS in the sphere of securing informational security from 2008 to 2010 (rus)*, <http://www.cis.minsk.by/webnpa/text.aspx?RN=N90800574>

128 *Kyrgyz Border service on why Dale was not allowed to enter (rus)*, <http://www.bpc.kg/news/4451-14-10-08>

also have direct influence on the way foreign human rights defenders and journalists may be handled.

Information from a meeting of the CIS Council of Heads of Government in Astana on 22 May 2009 indicates that the states currently participating in the Joint System are Belarus, Russia, Kazakhstan, Kyrgyzstan, Tajikistan and Armenia.¹²⁹ It also became clear that the Federal Migration Service of the Russian Federation is responsible for administering the database on behalf of all CIS countries.¹³⁰

For member states that rarely or never impose bans on human rights defenders, the Joint System has the potential to put a strain on their relations to Western governments, who deem the practice to be unacceptable and are obliged to react via official channels. As aggressive policies towards foreign non-governmental organizations are implemented in relatively liberal states “by default” under the lie of efforts to standardize migration policies, it may also carry the long-term effect of alienating some countries from healthy cooperation with more democratic states.

1. A short history of the Joint System

The first idea of establishing a CIS-wide database stems from a decision by the Council of Heads of Governments from about 10 years back.¹³¹ It was signed by all CIS countries on 25 January 2000, with the exception of Georgia, Turkmenistan and Uzbekistan. This first document also specified that it is the responsibility of the Russian Federation to run and update the database. The actual blacklist, referred to as the “List of Forbidden People” (*Uchet 'Zapretniki'*) was to be handled by the security services and special services in the respective member states, based on information received from border services, immigration services, ministries of internal affairs, special services and other organs. The document even lists the name of the relevant organ in all individual member states – from the Federal Security Service in the Russian Federation, to the Ministry of Security in Tajikistan.

At this point, the technical basis for a computerized system may have been unavailable, as the document suggests that one possible way of exchanging information on banned individuals could be “through a periodical bulletin which is sent to relevant ministries and organs” in the CIS. Five years later, however, work was begun on a more advanced way of collecting and distributing the information.

129 *On conclusions of the meeting of the Council of Heads of State of the CIS, 22 May 2009, Astana (rus)*, <http://www.cis.minsk.by/main.aspx?uid=11518>

130 *On document projects presented for consideration at the meeting of the Council of the Heads of State of the CIS (22 May 2009, Astana) (rus)*, <http://www.cis.minsk.by/main.aspx?uid=14112>

131 *Decision on the common database of illegal migrants and persons whose entry to CIS is closed in the fight against illegal migration, in accordance with current national legislation and the regulations for exchange of information about illegal migration (rus)*, <http://www.cis.minsk.by/webnpa/text.aspx?RN=N90000024>

The actual decision to establish the Joint System was made on 3 June 2005 by the Council of Heads of Government of the CIS during one of their annual meetings, on this occasion held in Tbilisi. Notably, the decision was signed only by the representatives of Belarus, Russia, Kazakhstan, Kyrgyzstan and Tajikistan, whereas the Republics of Turkmenistan, Uzbekistan, Moldova, Azerbaijan and Armenia did not sign. However, by the time of the next meeting the following year, Armenia also joined the decision to establish a Working Group to develop the system.¹³² This would indicate that Armenia changed its position on the Joint System between 2005 and 2006, although some later news items do not specifically make reference to Armenia as being part of the process.

The document put together after the Tbilisi meeting underlined the need to strengthen state security, increase efficiency in the fight against terrorism, international crime, illegal migration and other threats and challenges.¹³³

The system would include “informal and formal information on third country nationals and stateless persons”, where third country nationals are defined as “individuals who are not citizens of one of the member states signing the agreement”.

The basic principles of the system would, among other things, be the respect for “principles and norms of international law”, including agreements made between CIS countries. It would also respect the right of all member states to form and use national databases independently, parallel with the Joint System.

Regarding the transition period until the system is implemented, the document explains that the already existing national systems serve as “autonomous blocks”, and that the Joint System will serve to integrate the information contained in these systems into one common database. After this, an unclear number of people would be able to serve as “main sources of information or correspondence” for the database – including “border control organs, customs and transport organs, ministries of internal affairs, security services, ministries of foreign affairs and other competent organs”.

A Working Group responsible for realizing the project was set up on 24 November 2006, during the next meeting of the Council of Heads of the Governments of CIS, this time in Minsk. At the time of this writing, the Working Group’s activities are coordinated by the Department for Cooperation in the Sphere of Security and Countering New Challenges and Threats, of the Russian delegation to the CIS Head Office in Minsk.

132 *Decision on the establishment of the Working Group for the development of the project of the Plan of combined work for the establishment of the Joint Database System for citizens of third countries and stateless persons entering the territory of the member states of the CIS (rus)*, <http://www.cis.minsk.by/webnpa/text.aspx?RN=N90600081>

133 *Decision on the Joint Database System for citizens of third countries and stateless persons entering the territory of the member states of the CIS (rus)*, <http://www.cis.minsk.by/webnpa/text.aspx?RN=N90500015>

The group's work is to be governed by the principles set out in the Council's 2005 decision on the Joint System, but also by international agreements and other jurisprudence already existing in this sphere. The group will study the effectiveness of the current national databases and organize a tender on the development of a Joint System. The group will be provided with necessary organizational and technical support by the Coordinating Service of the Council of Commanders of Border Services, and will meet no less than twice a year. Where the meetings take place, is up to the group to decide.

4-5 September 2008, the Working Group met in Moscow for its second meeting in order to work out a Plan for the Common Work to Establish the Joint System, where the group's members would "exchange information about available technical possibilities and basic characteristics of automated databases of foreign citizens and stateless persons in Belarus, Kazakhstan, Kyrgyzstan and Russia."¹³⁴ According to the CIS Executive Committee's press service, however, the Working Group session would also be attended by Armenia and Tajikistan.¹³⁵

During this meeting, discussions were also held on the possibility that the CIS-wide system could be based on the already existing national system in Belarus, the Automated System for Border Control (ASPK).¹³⁶

The work on the Plan was continued during the next meeting of the Working Group, at the CIS Executive Committee in Minsk 24 to 26 March 2009, as well as work on another project entitled Technical Work on the Existing Joint System and to prepare a project named Common Lists of Foreign Citizens and Stateless persons entering CIS Territory and discuss suggestions on distribution, order, establishment and administration of the Common Database. In addition, the Working Group studied the existing ASPK system already created in Belarus.¹³⁷

The Plan on the Common Work for the Establishment of a Joint System was then approved during the next meeting of the Council for Heads of State, which took place in May 2009 in Astana, upon which the Working Group met again in June 2009 in Yerevan, where the group discussed "concrete measures to be taken in order to put the plan into life".¹³⁸

134 *CIS border guards gather to work out the joint database system (rus)*, http://gpk.gov.by/ru-press_Centre-news/562.html?print=ok

135 *Citizens of third countries and stateless persons in CIS will be registered in a Joint System (rus)*, <http://www.soyuz.by/ru/print.aspx?guid=46270>

136 *CIS will have its own ASPK (rus)*, http://gpk.gov.by/ru-press_Centre-news/552.nm.v_sng_bude.html?print=ok

137 *CIS working group examines plan for a joint database system for citizens of third countries entering countries of the CIS (rus)*, <http://www.newsarmenia.ru/sng1/20090324/42046207.html>

138 *CIS experts discuss establishment of a joint database system for immigrants from third countries in Yerevan (rus)*, <http://www.belta.by/ru/print?id=389253>

According to the Russian delegation to the CIS, the Joint System is still under development. Information from national databases is still being collected, and discussions are being held with CIS countries regarding further development of the system. No system is functioning at this time.¹³⁹

However, as detailed in the next chapter, examples of bans automatically extending to other CIS countries have been numerous since around 2004, and are increasing in frequency. Although official sources claim the Joint System is not yet operative, these cases would indicate that it is at least partially in place today, and has been for a few years already.

Perhaps more accurate to say is that the system is still in development. For instance, although Tajikistan is formally part of the agreement, no example of human rights defenders being denied entry to Tajikistan as a result of information registered in another CIS member state has been recorded so far.

2. Instances of extended bans

Although the Joint System is said not to be operational yet, there have been numerous signs of automated list-sharing practices between the signatories of the Joint System for several years already. The practice seems to have come into effect around 2004. Many persons may already be included in a wider system without knowing it, because they did not attempt to travel to another CIS country after being refused entry to one member state.

The case of Pawel Kazanecki

One early example regards Polish citizen Pawel Kazanecki, who had been running the Belarusian program for the Soros Foundation for almost ten years, from 1991 until 2001. He first found that he was denied entry to Russia when he was stopped at Sheremetyevo Airport in Moscow in January 2001 and deported to Prague. While not surprised that activities related to Belarus could cause problems in neighbouring Russia due to the agreements in place between these two states¹⁴⁰, Kazanecki had not expected the same to be true when he travelled to Kyrgyzstan three years later. Upon arrival at Manas International Airport in Bishkek on 15 September 2004 he was stopped by border officials, and eventually put on a plane back to Moscow and from there, to Kiev. Kazanecki had never before visited Kyrgyzstan.¹⁴¹

This 2004 case is among the first known cases indicating cooperation between the security services on barring representatives of non-governmental organizations from

139 Telephone conversation with V.G.Jadrishenskiy, Russian delegation to the CIS, 25.11.2009

140 See chapter E, National ban systems : The Russia-Belarus Agreement

141 Correspondence with Pawel Kazanecki, 17.12.2009

entering CIS countries beyond the Russia-Belarus Agreement. Following Kazanecki's deportation, the Kyrgyz Border Guard Service held a press conference where it was stated that he had been denied entry "based on an intergovernmental agreement between former Soviet republics. The agreement requires signatory nations to deny entry to persons who have been banned in other countries."¹⁴² The Polish Ministry of Foreign Affairs reacted with surprise, as no information on such an agreement had yet been made public.

An announcement from Kyrgyzstan's Coalition for Democracy and Civil Society at the time was insightful of the developments that would intensify in Kyrgyzstan from 2008 on, urging that the country should "maintain an open-door policy and avoid using the blacklists of authoritarian states", warning that such a practice in time would damage Kyrgyzstan's image abroad.¹⁴³

The case of Wojciech Jagielski

In August 2008, Polish journalist Wojciech Jagielski was stopped at the land border to Armenia when travelling from Georgia. While his photographer was allowed to cross the border, Jagielski was denied entry. Border officials told him that his name was on a "blacklist of people forbidden in all of the CIS". Jagielski himself believes the ban to be related to his coverage of the war in Chechnya, and a source in the diplomatic community later confirmed that it was Russia that had included him in the database. Jagielski confirms that he had travelled illegally to Chechnya, as this was the only way for him as a journalist to cover the war, and that he had expected that a reaction could come as a result of this.¹⁴⁴

However, the case again confirms that individuals banned in the Russian Federation may also be automatically denied entry to Armenia, and that the system spans wider than just the Russia-Belarus Agreement.

The case of Marcin Manon

The same regards a reporter for Polish television channel PTV, Marcin Manon, who upon arrival by plane in Yerevan shortly after the incident involving Jagielski was told that he was *persona non grata* in Armenia, and had to return to Warsaw. Manon too, perceived the ban as being connected with previous assignments in Russia.¹⁴⁵

142 Polish human rights activist barred from Kyrgyzstan, <http://www.rferl.org/content/Article/1054869.html>

143 Kyrgyz border guards deny Polish rights activists entry, <http://www.eurasianet.org/resource/kyrgyzstan/hypermail/200409/0013.shtml>

144 Correspondence with Wojciech Jagielski, 02.11.2009

145 RSF: Two Polish journalists denied entry to Armenia in past six days, <http://www.unhcr.org/refworld/publisher,RSF,,ARM,48aa6ffbc,0.html>

The case of Irene Stevenson

Another case exemplifying the potential wider effects that being deported from one CIS member state can have many years down the line is that of Irene Stevenson, a US citizen working for labour movement AFL-CIO's Solidarity Centre in Moscow. Stevenson, who had been living in Russia since 1989, was unexpectedly stopped in 2002 when returning to what she by then considered her home town Moscow, and deported from the country. The matter drew considerable international attention, and was the cause of lengthy diplomatic negotiations between the US and Russia and even the topic of a 2007 documentary film.¹⁴⁶

As attempts to solve the situation through diplomatic channels stalled, Stevenson relocated to Central Asia, continuing to engage in the issues of migrant workers' rights in Kazakhstan while based in neighbouring Kyrgyzstan. However, in 2005 she was denied entry to Kazakhstan with reference to the fact that Russia had included her on a blacklist. By September 2007, Kyrgyzstan followed suit, and Stevenson was told by border services upon leaving Bishkek that she would not be let back into the country. While apologetic towards her personally, Kyrgyz authorities made reference to agreements on mutual security in the CIS and the Shanghai Cooperation Organization (SCO) as the cause of the reaction towards her.

Similarly, a US citizen with wide experience from non-governmental work related to freedom of the press in former Soviet Republics found himself set for immediate deportation from Kazakhstan upon his arrival at Almaty Airport in December 2008, in spite of holding a valid business visa issued at the Kazakhstani Consulate in Paris two days before. When he inquired about why he was being denied entry, border guards suggested that his documents were not in order, or perhaps that his passport was fake. The official deportation order presented to him offered few answers; the slot "Reason for denial of entry" indicated the reason as being "Denial of entry."¹⁴⁷

Back in Paris, the Kazakhstani Consulate went to lengths to establish the reason why he had been denied entry, but eventually merely confirmed that he was on a blacklist, and that nothing could be done.

Although the incident certainly could be related to this US citizen's work in Russia, he had not been living there since 1998, and also had not been active professionally in the former Soviet Union since 2003. However, his wife had experienced similar problems the year before, as she was stopped at Pulkovo Airport in St. Petersburg upon her arrival in 2007 and deported from the country. Again, no explanation was given beyond the fact that "the computer says you're denied entry". However, a high-

¹⁴⁶ *Leaving Moscow/Pokidaya Moskvu (2007)*, <http://www.andreystankevich.com>

¹⁴⁷ *Akt o deportatsii aviapassazhira*, signed Captain A. Yatskevich, 01.12.2008

ranking official in Moscow later suggested that she had been included on the blacklist because of her work involving Kazakhstan.¹⁴⁸

If indeed one was denied entry because of the work of the other, this case also raises questions about whether individuals can be denied entry to a CIS member state based on work carried out by their spouses, or other family members.

The case of Ivar Dale

Throughout 2008 and 2009 a long list of human rights defenders and journalists were denied entry to Kyrgyzstan.¹⁴⁹ A well-documented case that exemplifies how an ill-conceived ban can automatically spread throughout the countries signatory to the Joint System is that of Ivar Dale from the Norwegian Helsinki Committee. A number of documents in the case provide an insight into how the security services operate, and how authorities use deportation when legal attempts to close down the activities of a non-governmental organization have failed.

Having established a Regional Office of the Norwegian Helsinki Committee in Bishkek in late 2006, Dale had long struggled with bureaucratic obstacles to finalizing registration of the office with the Ministry of Justice. He did, however, carry out a project in a prison colony in cooperation with the Prison Authorities (GUIN), which was under the direct jurisdiction of the Ministry of Justice. As such, the activities of the Norwegian Helsinki Committee were carried out in full openness, and in understanding with the authorities.

The Kyrgyz security services took an interest in the Norwegian Helsinki Committee's office around May 2008,¹⁵⁰ and on 9 June the office was searched by the security services (GKNB) and regular police. While the representatives of the security services declined to show identification, and indeed denied being from the security services, they did film and photograph documents in the office.

The Ministry of Internal Affairs was asked to follow up on what the security services considered "serious violations of Kyrgyz law" by the Norwegian Helsinki Committee and Human Rights Watch, who shared the office.¹⁵¹ In spite of a letter from the Deputy Minister of Justice confirming that the Norwegian Helsinki Committee was in the process of registration, and that an order had been issued to prolong the registration period for the organization,¹⁵² the Ministry of Internal Affairs ordered the office closed down and threatened to deport Dale.¹⁵³ An agreement was negotiated by the OSCE that the Norwegian Helsinki Committee office would suspend its activities until the

148 Correspondence with anonymous, 18.12.2009

149 See details of cases in chapter E : National ban systems

150 Letter from GKNB officer R. R. Khaibulin to the Kyrgyz MFA, 28.05.2008

151 Letter from GKNB officer R. R. Khaibulin to the 9th Dept of MVD, 11.06.2008

152 Letter from Deputy Minister of Justice to the 9th Dept of MVD, 11.06.2008

153 Protocol, 9th Dept of MVD, 13.06.2008

registration could be finalized, but the security services seemed set on taking the matter further.

Dale's visa application from 10 months earlier was tampered with, and sent from the office of the security services to the Ministry of Foreign Affairs as "proof" that the Norwegian Helsinki Committee had provided incorrect information upon arrival to Kyrgyzstan.¹⁵⁴ Absurdly, the words "Norwegian Helsinki Committee" had been removed using white-out ink, and the words "Tourist expeditor" had been inserted in poorly copied handwriting. As a result, the Ministry of Foreign Affairs annulled Dale's one-year visa.¹⁵⁵

The matter was rectified when the fact of the tampering was brought to the attention of the Kyrgyz Ministry of Foreign Affairs, but nonetheless, the Ministry of Internal Affairs took Dale to court under the accusation of having been working illegally in the country, and of having given incorrect information in the aforementioned visa application. Bishkek's Sverdlovsk District Court ruled that Dale had not violated Kyrgyz law, and underlined the fact that the document presented by the Ministry of Internal Affairs, as provided by the security services, appeared to be a falsification. The Court ordered that the administrative case against Dale be stopped.¹⁵⁶ The Ministry of Internal Affairs did not appeal the decision.

Despite this, the security services decided to declare Dale *persona non grata*, including him in the database system hours after his departure from the country on 17 September 2008. Upon his return to Manas International Airport from Moscow on 12 October 2008, he was informed by the border service that he would be denied entry to Kyrgyzstan. Authorities later confirmed in the media that the ban would be valid for a period of 10 years.¹⁵⁷

A representative of the Presidential Administration arrived to the airport to clarify the situation, but when it became clear that the ban had been placed on Dale by the security services, at the time closely linked to the President, his administration too were unable to resolve the matter. After 23 hours at the airport, Dale boarded a plane to Istanbul, not having been allowed to leave the airport to collect any personal belongings. The Norwegian Helsinki Committee office subsequently had to be closed down.

Following the deportation, officials claimed to have nothing to do with the matter, or blamed other government organs. A spokesperson for the Ministry of Interior, which had brought Dale to court only one month earlier, told media, "I cannot comment on

154 Letter from GKNB officer R. R. Khaibulin to the MFA, 25.08.2008

155 Letter from Director of MFA's Consular Dept to GKNB, 27.08.2008

156 Decision by Judge I.I. Gilyazetdinova, Sverdlovskiy Regional Court, Bishkek, 05.09.2008

157 *Border services: The Norwegian human rights defender I. Dale is denied entry until 2018 (rus)*, <http://www.for.kg/ru/news/74019/>

the actions of the border guards". The security services claimed not to even be aware of the matter.¹⁵⁸ The border guard services seemed to give other states the responsibility: "There is such a system as automatic border control in CIS, and he showed up in the database (...) Probably, he was following developments in the Caucasus, in Georgia – after all, there is an information war going on."¹⁵⁹

Similarly, after questions on the matter were directed to the border services and Kyrgyz secret services by current President Roza Otunbaeva during a Parliamentary hearing,¹⁶⁰ fingers were pointed at Uzbekistan as the originator of the ban. When the Norwegian Helsinki Committee's hired lawyer pointed out that the secret services were obliged to respond to such inquires,¹⁶¹ they finally did confirm to the organization in writing that they had initiated the ban, stating that "this practice is widely used by all countries in order to protect national interests, and no kind of explanation is provided."¹⁶²

The wording is reminiscent of that used in similar letters by Russian authorities.

In February 2009, the Kazakhstani Consulate in Oslo denied Dale a visa to Kazakhstan, referring to information in their computer system stating that he could not be granted entry. While apologetic, the consular officer suggested that the matter should be raised with the Kyrgyz authorities, as they were the ones to have initiated the ban. In October the same year, Dale was also denied a visa to Russia. The Russian Embassy could not provide any explanation as to why, other than that the computer system would not permit a visa to be issued. A written statement from the Russian Embassy later confirmed that Dale was denied entry to the country, and that no explanation as to the reason for the decision would be given.¹⁶³

When Dale in May 2010 attempted to enter Armenia through the land border with Georgia, the computer system at the border post also showed that an entry ban was in effect in Armenia, proving that Armenia indeed is part of the Joint System, as indicated in CIS documents. However, the incident also proved that a country may choose to "override" registered bans if there is political will to do so. Asked to wait at the border post, Dale was allowed to enter Armenia after three hours, when the border guards received a phone call from Yerevan that he should be allowed to enter the country regardless of the ban in the computer system.

158 Ivar Dale was not let into Kyrgyzstan (rus), <http://kloop.kg/blog/2008/10/15/ivar-dale-ne-byt-dopushhen-v-kyrgyzstan/>

159 The border services on why Ivar Dale was not let into Kyrgyzstan (rus), <http://www.bpc.kg/news/4451-14-10-08>

160 R.Otunbaeva: The border services do not give intelligible answers...(rus), <http://www.for.kg/ru/news/74095/>

161 Shamara Maichiev: Argumenting for rejection, the Kyrgyz side points to a typo in registration documents (rus), <http://www.bpc.kg/news/4925-11-12-08>

162 Letter from GKNB officer R. R. Khaibulin to the Norwegian Helsinki Committee, 12.12.2008

163 Ambassador of Russia to Norway, Sergey Andreev, letter to NHC, 14.10.2009

The case of John Ronald

Further signs of a wider ban system being in place came on 20 September 2009, when a US newspaper editor, John Ronald, was stopped at Manas International Airport in Bishkek upon his arrival from London and denied entry to Kyrgyzstan. Ronald, who had been invited to conduct an assessment as a Fulbright Specialist at the American University of Central Asia (AUCA) in Bishkek, had never previously visited Kyrgyzstan, and so was hard pressed to see what the reason might be for him being denied entry.

The explanation came indirectly through the questions posed by the border guards: “When were you in Belarus? What did you do there?” Ronald responded that he had indeed visited Belarus in 2005, conducting trainings for journalists in the country. The Kyrgyz border guard nodded to indicate that this was indeed the reason for Ronald’s denial of entry to Kyrgyzstan. An airline official also said that the ban covered “all of the CIS”. Kyrgyz officials presented him with an “Act of Refusal to Enter the Country”, indicating the basis to be his status as *persona non grata*.¹⁶⁴ He was then returned to London on the first flight out.¹⁶⁵

164 *Akt ob otkaze vo vezde v stranu*, signed Captain R. Maslyanov, 20.09.2009

165 Correspondence with John Ronald, 15.10.2009

G. International response

Which measures are taken to resolve a situation where a human rights defender or journalist has been denied entry in the manner described in the previous chapters greatly depends on the energy the person in question is prepared to devote to it.

Many are not aware of which channels may be used to exert pressure to have the decision reconsidered, or are unwilling to spend time on requesting such assistance. Indeed, many also believe that it is useless to try to argue with CIS authorities once such a decision has been made. The Norwegian Helsinki Committee has requested information from the UN, the OSCE and the EU, who confirm that only four cases have been formally raised at this level in recent years, all related to Kyrgyzstan under President Bakiev. As noted, Kyrgyzstan removed bans after the April 2010 events, but have not removed bans formally, meaning that non-CIS citizens banned by Kyrgyzstan prior to April are still banned from entering other Joint System member states.

1. The foreign services

In most cases described in this report, the individual concerned first contacted the authorities of his or her country, often the Ministry of Foreign Affairs. In several cases, the foreign services would then raise the issue with the country in question, requesting that the situation be solved and that further information on the matter is provided. Such diplomatic notes have been sent to CIS countries by the US, the United Kingdom, Norway, Finland, Poland and Japan, but to name a few.

Unfortunately, efforts through diplomatic channels have rarely proven to solve such issues, at least not the ones mentioned in this report. In spite of the fact that quite strong diplomatic language is used, diplomatic notes are often left without a response from authorities in CIS countries.

On 3 February 2010, the Norwegian Minister of Foreign Affairs Jonas Gahr Støre brought up the four individual cases of the Norwegian Helsinki Committee described in this report with his Russian counterpart, Sergey Lavrov, during a meeting in Moscow. Støre told media that in his opinion, “these are serious civil actors, and I will ask for an explanation as to why this is happening.”¹⁶⁶ At a press-conference following the meeting, Lavrov confirmed that they had spoken specifically about the cases of Norwegian non-governmental organizations. Lavrov told media that the Russian Ministry of Foreign Affairs would look into these specific cases, and that he

166 Støre raises NGOs’ troubles in Russia (nor), <http://www.nationen.no/Utenriks/article4840182.ece>

had promised to give a concrete response to his Norwegian colleague. A summary was also posted on an official government website.¹⁶⁷

At the time of this writing, however, the matter has not yet been solved. Rather, the Russian Ambassador to Norway told media that “my personal impression is sometimes that the Norwegian Helsinki Committee has broken the rules in order to provoke a scandal. They have worked on Russia for a long time, but pretend that they don’t know the rules.”¹⁶⁸

In the case of Ivar Dale, the Norwegian Ministry of Foreign Affairs repeatedly raised the issue with Kyrgyz authorities both in writing and during meetings, but this did not lead to a solution due to the lack of subsequent action taken on the Kyrgyz part. The matter solved itself after the April 2010 regime change in Kyrgyzstan. Kyrgyzstan has, however, still not removed Dale and several others from the Joint System database. They have merely provided a letter that can be used to pass border control in Kyrgyzstan.

All cases relating to Russia remain unsolved.

2. The EU

The European Union does not yet have a *systematic* approach to the issue of travel bans imposed on human rights defenders in the CIS. It has, however, reacted to some instances of deportations. It brought up the four cases of human rights activists being deported from Kyrgyzstan officially in the OSCE Permanent Council, its statements being posted on the OSCE website. The EU has also brought up these cases bilaterally during human rights dialogues.

The EU has also raised the issue of access to Uzbekistan for non-governmental organizations wanting to participate in a conference in Tashkent and instances of Uzbek and Turkmen human rights defenders barred from leaving their own country.

Importantly, the EU has developed wide reaching guidelines on human rights defenders, stating that “[s]upport for human rights defenders is already a long established element of the European Union’s human rights external relations policy”.¹⁶⁹

In spite of the EU Guidelines on Human Rights Defenders and some examples of reactions to deportations, EU officials confirm that a systematic approach to the issue

167 Working visit to Russia of the Minister of Foreign Affairs of Norway, J. Støre, Moscow, 03.02.2010 (rus), <http://www.parlcom.ru/index.php?p=MC83&id=31840>

168 Will not admit the Norwegian Helsinki Committee (nor), <http://www.dagbladet.no/2010/04/23/nyheter/helsingforskomiteen/menneskerettigheter/utenriks/innenriks/11401984/>

169 Ensuring Protection – European Union Guidelines on Human Rights Defenders, page 1, <http://www.consilium.europa.eu/uedocs/cmsUpload/GuidelinesDefenders.pdf>

of travel bans does not yet exist. According to the European Commission, they intend to continue raising such incidents and are interested in efforts to coordinate further work on the issue.¹⁷⁰

3. The OSCE

Also the OSCE lacks a *systematic* approach to the issue. The organization describes its own approach as somewhat “random”, relying on the efforts that the barred individuals themselves devote to having their cases brought up. However, the OSCE claims to be very much interested in the topic, and encourages human rights defenders barred in this manner to provide the OSCE with information.¹⁷¹

The four instances of deportations of human rights defenders from Kyrgyzstan described above were brought up through the Permanent Council of the OSCE in Vienna, being the first of their kind to be brought up in this forum.

Specifically, the Permanent Delegation of Norway to the OSCE brought up the deportation of Ivar Dale from Kyrgyzstan, expressing “disappointment” and stating that Norway “hope and expect these issues to be solved soon in a satisfactory manner”.¹⁷² The statement was supported by the United States Mission to the OSCE, who said such actions led to “an environment of fear and mistrust” and asked Kyrgyzstan to “reconsider”.¹⁷³ The European Union, under French presidency, also joined the statement, noting the deportation “with concern” and requesting further information.¹⁷⁴

The Kyrgyz delegation promised to look into the matter, but never returned with further information.¹⁷⁵

Following the dramatic increase of deportations of human rights defenders from Kyrgyzstan throughout 2009, the European Union, now under Swedish presidency, brought up the issue again on 10 December 2009. Describing four recent cases (Bakhrieva, Khamroev, Ponomarev, Dale), the EU expressed concern “about a worrying trend in Kyrgyzstan to obstruct the work of human rights defenders”, urging Kyrgyz authorities to “end harassment of human rights defenders, allow them

170 Correspondence with the European Commission, 26.02.2010

171 Correspondence with OSCE/ODIHR, 02.03.2010

172 *Statement by Norway to the Permanent Council, 16.10.2008*, http://www.osce.org/documents/pc/2008/10/34439_en.pdf

173 *Statement by the USA to the Permanent Council, 16.10.2008*, http://www.osce.org/documents/pc/2008/10/34434_en.pdf

174 *Statement by the EU to the Permanent Council, 16.10.2008*, http://www.osce.org/documents/pc/2008/10/34404_en.pdf

175 Correspondences with OSCE representatives throughout 2008/2009.

to enter the country and ensure that independent engagement for human rights is possible.”¹⁷⁶

This time, Kyrgyzstan responded promptly by describing the generally good working conditions for non-governmental organizations in the country, but did not address these four cases directly, except to say that Bakhrieva formally had not been invited by the Ombudsman’s office, but rather by the organization Voice of Freedom.

Other cases mentioned in this report have unfortunately not been raised at this level.

4. The United Nations

The *UN Special Rapporteur on the Situations of Human Rights Defenders* is a UN mechanism mandated to report on the situation of human rights defenders worldwide. Among other things the Rapporteur can bring up instances of deportations of human rights defenders. The procedure, however, requires a complaint to be filed by the individual in question or by someone on his or her behalf. Therefore only a limited number of cases have been brought up via this system. While the complaints procedure is quite simple, it is likely that many are unaware of the possibility this mechanism offers, and perhaps exactly how to submit a complaint.

In the case of the deportation of Norwegian Helsinki Committee’s representative from Kyrgyzstan, the Special Rapporteur *Margaret Sekaggya* sent two communications to the Kyrgyz government, detailing the events surrounding the office. She did not, however, receive any response from Kyrgyzstan to either of the communications that were sent in the case.¹⁷⁷

Kyrgyzstan was the only CIS country to receive a UN communication on the expulsion of human rights defenders in 2008 (the only other one was Israel). The reason was not that such deportations did not occur in other countries in that period, but rather that those deported from Kyrgyzstan raised the issue with the UN on their own initiative. While the Special Rapporteur should be complimented on her willingness to raise these cases, the following excerpt hints at the challenges faced:

“The Special Rapporteur regrets that at the time of the finalization of the report, the Government (of Kyrgyzstan) had not transmitted a reply to any of her seven communications sent during the reporting period. Similarly, no replies have been received in the previous reporting cycle either. She considers response to her

176 EU statement to the Permanent Council, 10.12.2009, http://www.delvie.ec.europa.eu/en/eu_osce/eu_statements/2009/December/PC%20no.785%20-%20EU%20on%20HR%20defenders%20in%20KYR.pdf

177 For a more detailed account, see *Kyrgyzstan ignores UN on NHC travel ban*, <http://www.nhc.no/php/index.php?module=article&view=816>

communications as an important part of the cooperation of Governments with her mandate, and urges the Government to respond to the concerns raised by her.”¹⁷⁸

In December 2009, the Special Rapporteur also raised the case of Nigina Bakhrieva with the Kyrgyz authorities. She has not yet received a response to her inquiry.

178 *Report submitted by the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, 04.03.2009, <http://www2.ohchr.org/english/issues/defenders/docs/A.HRC.10.12.Add.1.pdf>*

H. International standards

During the past decades there has been a growing awareness both about the vital role of human rights defenders in promoting human rights and about the fact that they often are targets of human rights violations themselves. Consequently, a number of initiatives have been taken, both at the international level and at regional levels to increase protection of human rights defenders. Several states have also made protection of the rights of human rights defenders a priority in their human rights policies.

1. The 1988 UN Declaration on Human Rights Defenders

On December 9, 1998 the United Nations adopted the “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms”, commonly known as the Declaration on Human Rights Defenders.

The Declaration specifies how the rights contained in the major human rights instrument apply to human rights defenders. It is the first UN instrument to emphasize that everyone has the right to promote, protect, and defend human rights. Its definition of human rights defenders is rather broad, including “those individuals, groups and organs of society that promote and protect universally recognized human rights and fundamental freedoms”. The definition encompasses professional as well as non-professional human rights workers, journalists, lawyers, volunteers and anyone else carrying out peaceful human rights activities.

The Declaration outlines specific duties of States to guarantee the rights of human rights defenders as well as the responsibility of everyone with regard to defending human rights. It is considered to be a pragmatic text that applies well established rights to the situation of human rights defenders.

The rights protected under the Declaration are the ones most often challenged by governments. They include the right to meet peacefully; to form, join and participate in non-governmental organizations, associations and groups; and to communicate with non-governmental organizations as well as with inter-governmental organizations, both at national and international levels, individually and in association with others.

Human rights defenders have the right to receive and disseminate information, and to draw public attention to human rights issues. They are entitled to develop and discuss new human rights ideas, advocate their acceptance, and to submit proposals and criticize government bodies and agencies. Furthermore, they have the right to an effective remedy, the right to offer legal assistance and other assistance in defence of

human rights, the right to observe trials, the right to unhindered access to international monitoring mechanisms, the right to effective protection under national law, the right to participate in peaceful activities publicizing human rights violations and to be protected against violence or adverse discrimination. The Declaration underlines the right of human rights defenders to receive funding and other resources.

States have a responsibility to implement and respect all the provisions of the Declaration. In particular, States have the duty to protect human rights defenders against any violence, retaliation and intimidation as a consequence of their human rights work. The duty to protect is not limited to actions by State bodies and officials but extends to the actions of non-State actors, including corporations, “fundamentalist” groups and other private individuals.

The Declaration is not, in itself, a legally binding instrument, but it articulates a series of principles and rights that are enshrined in other international instruments that are legally binding. The Declaration was adopted by consensus by the General Assembly, and therefore represents a strong commitment by states to abide by it.

In 2000 the UN Commission on Human Rights established the mandate of the Special Rapporteur on the Situation of Human Rights Defenders to support the implementation of the Declaration. However, as illustrated in the previous chapter, when states are unwilling to cooperate with the Special Rapporteur there is nothing else the Rapporteur can do but to report on it.

2. The European Union Guidelines on Human Rights Defenders

In June 2004 the European Union adopted its own Guidelines on Human Rights Defenders. The Guidelines were reviewed in 2006 and a new version was adopted in 2008.

The Guidelines are based on the principles and definitions contained in the UN Declaration on Human Rights Defenders. According to the European Commission, support to human rights defenders is, and has for a long time been, one of the major priorities of the EU external policy in the field of human rights. The purpose of the Guidelines is to provide practical suggestions for enhancing EU action in relation to human rights defenders.

These include requesting EU missions to monitor and report periodically on the situation of human rights defenders. Possible EU action can be condemnation of threats and attacks against human rights defenders, as well as public statements where human rights defenders are at serious risk. EU missions are also given the task to support and protect human rights defenders on the ground. Actions include sharing

information on and maintaining contacts with human rights defenders, providing visible recognition to human right defenders through appropriate publicity, visits or invitations, and attending and observing trials of human rights defenders.

In its contacts with third countries, the EU will, when deemed necessary, express the need for all countries to comply with relevant standards protecting human rights defenders. For example, when EU officials are making country visits, they should meet with human rights defenders as well as raising individual cases of human rights defenders with local authorities as an integral part of their visits.

In political dialogues between the EU and third countries, the human rights component of that dialogue should include the situation of human rights defenders and individual cases.

The EU Guidelines also seeks to provide support to human rights defenders through development programs, for example by financial support to capacity building and public awareness campaigns, by encouraging the establishment of national bodies for the protection of human rights, by assisting in the establishment of networks of human rights defenders, and by ensuring that human rights defenders in third countries can access resources from abroad.

3. Relevant OSCE commitments

Several other regional organizations have established special mechanisms to protect human rights defenders. In 2001, the Inter-American Commission on Human Rights established a Human Rights defenders Unit. In 2004, The African Commission on Human and Peoples' Rights appointed its first Special Rapporteur on human rights defenders.

Of special relevance for the topic of this report is the role played by the OSCE to support and provide protection for the rights of human rights defenders. All countries that are part of the Joint System detailed in this report and are participating States of the OSCE. One of the countries, Kazakhstan, even chairs the organization in 2010.

Provisions on the rights “to contribute actively, individually or in association with others, to the promotion and protection of human rights and fundamental freedoms” are to be found in several OSCE documents.¹⁷⁹ According to the 1990 Copenhagen Document, the OSCE participating states commit themselves “to ensure effectively the rights of the individual to know and act upon human rights and fundamental freedoms, and to contribute actively, individually or in association with others, to their promotion and protection” (Par. 10).

179 The Quotation is from the 1989 Vienna Document, 13.5.

The Copenhagen Document details some of the fundamental rights of human rights defenders in committing the OSCE participating States to:

- respect the rights “to seek, receive and impart freely views and information on human rights and fundamental freedoms, including the rights to disseminate and publish such views and information” (10.1)
- respect the rights “to study and discuss the observance of human rights and fundamental freedoms and to develop and discuss ideas for improved protection of human rights and better means for ensuring compliance with international human rights standards” (10.2)
- “ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups” (10.3)
- “allow members of such groups and organizations to have unhindered access to and communication with similar bodies within and outside their countries and with international organizations, to engage in exchanges, contacts and co-operation with such groups and organizations and to solicit, receive and utilize for the purpose of promoting and protecting human rights and fundamental freedoms voluntary contributions from national and international sources as provided for by law” (10.4)
- respect “the right of the individual to seek and receive assistance from others in defending human rights and fundamental freedoms, and to assist others in defending human rights and fundamental freedoms.” (11.2)

Related to the issues described in previous chapters of this report, a passage of the 1989 Vienna document seems in particular relevant. Paragraph 26 commits the OSCE participating States to “...respect the right of persons to observe and promote the implementation of CSCE provisions and to associate with others for this purpose. They will facilitate direct contacts and communication among these persons, organizations and institutions within and between participating States and remove, where they exist, legal and administrative impediments inconsistent with the CSCE provisions. ...”

There exists, however, even clearer OSCE language expressing a commitment of State authorities to facilitate and support non-governmental organizations promoting and monitoring human rights cross-border. The 1991 Moscow Document in plain language states that the participating States of the OSCE should “endeavour to facilitate visits to their countries by non-governmental organizations from within any of the participating States in order to observe human dimension conditions” (Par. 4.2).

Also the 1999 Istanbul Summit reiterated the important role of non-governmental organizations, and according to the so-called Charter for European Security the heads of states of all OSCE participating States pledge themselves “to enhance the ability of non-governmental organizations to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms.” (Par. 27).

4. Need for better protection mechanisms

As is clear from the above overview, there is no shortage of international provisions committing state authorities to respect, protect and even facilitate the work of human rights defenders. However, there are needs of efficient international mechanisms able to address the widespread harassment and persecution experienced by human rights defenders in many parts of the world.

The Norwegian Helsinki Committee has voiced these needs over the years in several contexts, like asking for protection mechanisms at the European level of human rights defenders, as well as of applicants and their families, involved in documenting cases brought to the European Court on Human Rights.

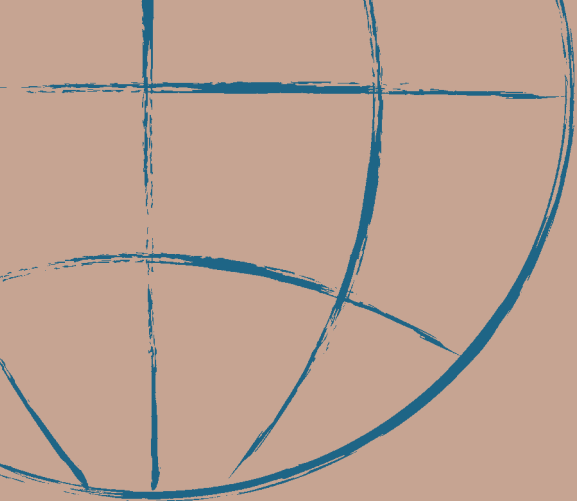
This report focuses on international human rights defenders and journalists involved in human rights monitoring or research in CIS countries. It detects a trend that these types of activities are increasingly made difficult by bans on entering the country. It also shows that there already exists an evolving *joint* system, meaning that a ban of entering one country automatically becomes a ban of entering other countries that are part of the system.

On this background, international and regional organizations should consider to devote more resources on protection efforts for human rights defenders, including international human rights defenders being banned from entering CIS countries.

These mechanisms should as a minimum include:

- efficient gathering and presentation of information on individual cases;
- analysis of key elements in the cases and on trends of imposing bans; and
- public support for the rights of human rights defenders and journalists in specific cases.

Since banning entry of human rights defenders and journalists sometimes is portrayed as part of normal policies in Western countries, there is clearly a need for Western politicians and leaders to speak out clearly against these practices and explain that this is not the case.



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