



MONITORING REPORT ON THE HUMAN RIGHTS SITUATION IN THE EASTERN PARTNERSHIP COUNTRIES.

This monitoring report has been prepared by the representatives of civil society organizations in EaP6 countries and their international partners¹ within the Human Rights Sub-working group of Working Group 1, Civil Society Forum of the Eastern Partnership.

The aim of the report is to ensure that detailed information regarding the actual situation on the ground in these states is available to the participants of intergovernmental meetings within Eastern Partnership, and all those interested.

This report aims to grasp the most relevant trends currently shaping the human rights situation in the six EaP countries. In order to keep the report brief, the list of issues is non-exhaustive and primary focus is put on freedoms of speech, association and assembly.

ARMENIA

Freedom of association

During the last two years, assemblies organized in this country, were either artificially inhibited or prohibited². On days when assemblies or demonstrations were to take place, roads from the regions to Yerevan were taken under control by the police without any reasonable justifications³.

- Among the most recent ones are the blockage of the rally on 15-17 February 2011 and attack on a peaceful demonstration on 3 March 2011. No measures were taken against those responsible for the attacks.
- Since 28 May 2010 the centrally situated Yerevan Freedom Square was taken under permanent control by the police without any justification and remains so until today. Neither mass actions stipulated by legislation, nor walking or simply accessing to the area is allowed.

¹ Helsinki Citizens` Assembly Vanadzor (Armenia), Election Monitoring and Democracy Studies Center (Azerbaijan), Belarusian Schuman Society (Poland), Human Rights Center (Georgia), Association for Participatory Democracy ADEPT (Moldova), Ukrainian Helsinki Human Rights Union (Ukraine) in cooperation with People in Need (Czech Republic).

² Since January 2008 until October 2, the Yerevan Municipality has received information about 164 cases of peaceful assemblies 52 out of which were rejected while 57 cases were proposed to be held in other areas.

³ Details [here](#)

Two young men were sentenced to two-year imprisonment for an attempt to hold a non-massive event⁴.

- On November 9 four activists⁵ were detained and tortured for an attempt to hold an event during a EU-Armenian seminar on the “Right to a Fair Trial and Independence of the Judiciary”. A criminal case was initiated against them.

Freedom of speech

In the 2009 annual report of Freedom House “Nations in Transit”⁶ the index of the situation of freedom of press in Armenia decreased from 5.0 to 6.0 compared to 2007 on a seven point scale. After the announcement of the state of emergency in Yerevan, the capital Armenia, on 1 March 2008, the press was and remains subject to censorship and journalists face violence, threats, harassment and impediments in distributing information⁷.

- As a result of legislative changes in 2010, articles related to freedom of speech, in particular, slander and insult, are decriminalized, but a penalty of ca. two thousand euro was introduced⁸, which is often enough to destroy a small media outlet. The Venice Commission of the Council of Europe had passed two negative conclusions on the draft law⁹.
- The law “On Freedom of Information” guarantees the citizens' right to get information, but there is no clear-cut definition for a “confidential” information list. As a result, state authorities have the possibility to reject access to information without grounded explanation.

Ill treatment, penitentiary and mental health institutions

In October 2009 HCA Vanadzor conducted a monitoring in the police stations of the Lori region and recorded that there is lack of accountability to the citizens concerning the activity of the police stations.¹⁰

- The police have not established a structure ensuring human rights protection and in providing service to society.
- No policeman was held responsible in relation to the recorded 14 cases of ill-treatment¹¹. Moreover, access to information on these cases is considerably restricted¹².

⁴ Davit Kiramijyan and Sargis Gevorgyan, see <http://www.armtimes.com/tag/3754>

⁵ Sargis Gevorgyan, Vahagn Gevorgyan, Areg Gevorgyan and Sargis Ghazzaryan, see [more](#)

⁶ Freedom House “Nations in Transit 2009”, see [more here](#)

⁷ Although from March 1 of 2008 a state of emergency was announced only in Yerevan, it was prohibited for all media and press representatives throughout RA to elucidate and disseminate information on the current state of the country under threats, harassment and pressures

⁸ <http://www.arlis.am/>

⁹ See RA Human Rights Defender's Special Report “[The Right to Freedom of Speech in Armenia](#)” published on July 7, 2010

¹⁰ HCA Vanadzor report on “The Observations held in 6 Police Departments of Lori Region” see [more](#)

¹¹ HCA Vanadzor report on “Tortures in Lori Region.” See [more](#)

¹² In 2010 inquires to the Prosecutor General, the police and the Special Investigative Service on the number of people with injuries transferred to prisons from police detention facilities, the number of reports on such cases submitted by the penitentiary institutions, and the measures taken were left unaddressed.

- In April 2010 Vahan Khalafyan died at Charentsavan Police Department where he was being interrogated. The Police claimed that it was a suicide from stab wounds, but the forensic examination revealed the statement to be ungrounded. As a result one police official was sentenced to a 8-year and the other to a 2-year imprisonment, but not for committing a murder but for instigating a suicide.
- The RA Legislation does not define medical examination after detention. A person is examined only when there is obvious physical injury, which creates possibility of abuse. Furthermore, even in cases of noted physical injury they are not recorded¹³. Penitentiary institutions are overcrowded and the living conditions of the convicted contradict both the International Standards and the Armenian Penitentiary Code (e.g. food is brought only once a day) as stated in the 2006 report by the Committee for Torture Prevention¹⁴.
- The Armenian law does not define the minimal standards of food, sanitary/ hygienic conditions and treatment. The sanitary conditions of those institutions are especially low¹⁵ The average staff of assistant nurses and nurses in mental health facilities lack specialized training and their working conditions are poor. The monitoring of mental health institutions reveals abuse of patients, who are often engaged in physical work.

Armed Forces

In 2009, there were forty-two death cases during eleven months according to the data provided by the Military Prosecutor's office.¹⁶ The data on death cases in the army is incomplete.

As a result of the absence of civil control over armed forces, the information on the number of murders, the reasons for the murders, is restricted by the law “On State and Official Secret” and the orders of the Minister of Defense. An effective, objective, and thorough investigation is not conducted and no one is held liable for those deaths¹⁷.

AZERBAIJAN

Elections and electoral legislation

The OSCE ODIHR found that during the Parliamentary Elections, conducted under the amended Election Code on 18 June 2010, “the fundamental freedoms of peaceful assembly and expression were limited and a vibrant political discourse facilitated by free and independent media was almost impossible. A deficient candidate registration process, a restrictive political environment, unbalanced and biased media coverage, disparity in access to resources to mount an effective campaign, misuse of

¹³ 2009 Report of the Monitoring Group at RA Police Custody 2009, pages 132-148, [here](#)

¹⁴ Report to RA Government on the Visit to Armenia <http://www.cpt.coe.int/documents/arm/2007-47-inf-eng.htm>

¹⁵ HCA VAnadzor www.hcav.am Monitoring of all mental health facilities in Armenia in 2009

¹⁶ Details [here](#)

¹⁷ http://khosq.com/article/2008/07/03/mataghisi_gortci_hakaphastark, http://khosq.com/en-us/article/2008/07/03/mataghisi_gortci_hama%D5%BCot_teghekanqe

administrative resources as well as interference by local authorities in favor of candidates from the ruling party created an uneven playing field for candidates¹⁸.

- According to amendments to the Election Code, adopted by the Parliament in 2010, election campaign period was shortened from 75 days to 60 days and allocation of state funds to the registered candidates to conduct election campaign was abolished.
- the recommendations of the OSCE/ODIHR and Venice Commission of Council of Europe on the improvement of the Election Code (including changes and additions adopted on 18 June 2010) should be properly addressed by the government.

Freedom of assembly

In the last 5 years freedom of assembly has been severely restricted.

- The executive authorities did not permit any peaceful rally to be held in the city center in Baku. Political parties attempted to hold rallies and pickets 9 times in 2010 and 4 times in 2011. However, these events were not permitted by the Baku City Executive Authority and were dispersed by the police with mass detention of the participants.
- Between 11 March and 17 April during 4 protests more than 200 participants were detained, 15 of them were charged with “organizing mass disorder” for their participation in the protests in Baku. Local human rights defenders reported that the detained have been beaten by police and remanded in custody after closed hearings on the basis of no or very little evidence, without having been granted access to a lawyer of their choice.
- Regional public-policy department of local executive authorities illegally requires permission of the Presidential Administration for the NGOs to conduct events and otherwise forcefully disperses the events. For example, Civil forums 2010 in Jalilabad, Sumgayit, Sabirabad, Mingachevir and Shaki).
- Together with political activists detained in the first 3 months of 2011, more than 70 persons remain imprisoned or in jail, who have been arrested on political grounds since 1993 (members of political parties, political activists, religious people, former ministers and their relatives and Eynulla Fatullayef, the chief-editor of „Daily Azerbaijan” newspaper).
- Arrests of members of the Islamic party continue. They are charged with attempts of forcible seizure of power and possession of weapons. The persecution of Islamists began after the leader of the Islamic party, Movsum Samedov, condemned the head of state.
- Christophel Schtrassel, who was appointed a special rapporteur on political prisoners in Azerbaijan on 2010 Spring session of PACE, has not been able to get a visa to the country and prepare the report.

Freedom of association

One of the obligations that Azerbaijan undertook while joined the Council of Europe is the simplification of registration procedure of the NGOs. Despite the absence of the requirement of state registration, unregistered NGOs are severely limited in their actions, while obtaining the registration remains troublesome.

- The law on State Registration of 2004 prolongs the period of registration procedure for an NGO to 90 days and requires it to register with the Central Office of the Ministry of Justice. The commercial organizations only need to undergo a three day registration with the tax office.
- According to the law, NGOs with no state registration are allowed to function, but the absence of legal status prevents NGOs from paying salaries and taxes, opening bank accounts, buying property or filing a complaint.
- According to *the Law on Non-Governmental Organizations*, if a non-governmental organization receives more than three warnings within a year, it can be liquidated by the court. The scope of warnings ranges from the attempt to overthrow the government to the change of legal address, and each is considered a sufficient ground for a warning. For example, on 14 May 2008 the registration of Election Monitoring Center was revoked by Baku district court on basis of claim Ministry of Justice. In 2010 two NGOs – Law and Development Center, and Democracy Learning Public Association have got groundless warnings from Ministry of Justice.
- In 2007-2009, the European Court of Human Rights issued 5 judgments against Azerbaijan on violation of Article 11 on the right to freedom of assembly and association of the Convention on Human Rights and Fundamental Freedoms)¹⁹. The cases were solved afterwards.

Freedom of speech

Frequent arrests of journalists, recent changes to the legislation and banning local and international media outlets suggest that freedom of speech in Azerbaijan is practically non-existent.

- The Supreme Court has followed the verdict of the European Court of Human Rights on the immediate release of an imprisoned journalist Eynulla Fatullayev. But on 29 December 2009 during a search of the his cell 0.22 grams of heroin was allegedly discovered on the journalist's clothes and shoes. On 6 July 2010, Garadagh District Court sentenced Fatullayev for two and half years.
- A considerable impediment for the development of the freedom of speech is the absence of the Law on Defamation. Notwithstanding the efforts of local and international organizations, adoption of the law on Defamation is being delayed. The draft prepared by by local media

¹⁹ Public Union Assistance to the Human Rights Protection of the Homeless and Vulnerable Residents of Baku, Journalist Research Public Union, Individuals and Environmental Public Union, Azerbaijan Lawyers Forum, Society for Protection of the Nature.

organizations was submitted to the parliament and but was not discussed during recent parliamentary sessions.

- According to the amendments of 2010 to the Law on “Mass Media”, with the exception of operational search cases, conducting audio-video recording or taking pictures of a person by journalists without the knowledge and/or despite objections of that person is prohibited.
- From 1 January 2009 the government has banned the broadcast of Voice of America, Radio Liberty and BBC radio stations on FM frequencies, leaving only state regulated electronic media available.
- During the past 5 years, murderers of Elmar Huseynov, Editor-in-chief of “Monitor” magazine, have not yet been captured and punished. – has there been an investigation? Was it stopped?

Judiciary system and access to legal help

More than 2400 complaints were submitted to the European Human Rights Court (EHRC) between 2001-2011 years suggesting that Azeri are forced to look for justice outside the country. Lack of the principle of separation of powers, legality, transparency of the appointment procedures, belonging of all authorities to executive power and lack of public self-government bodies of judges do not allow to establish independent judiciary in Azerbaijan.

- The Minister of Justice is also the Chairperson of the Judicial legal Board which makes appealing to different judiciary institutes ineffective. So in all cases, where founders of NGOs applied to the Supreme Court, Ministry of Justice, Judicial Council and other competent bodies with the request to begin disciplinary proceeding about judges for their arbitrariness, were turned down.
- There are no regulations determining principles and rules for participation in public hearings and procedure for complaining in the case of violation of regulation.
- There is no public access to all court decision.
- According to universally accepted standards, there is one advocate for every 1.500-2.000 persons. As of November 2004 in Azerbaijan there were 358 advocates (one for every twenty five thousand men). It is estimated that now this figure has risen to one lawyer for every 15-16 thousand men in the country. Among the reasons for such low percentage, human rights activists stress the absence of normal legal basis regulating acceptance to Bar Association, indefinite oral interview procedures based mostly on subjectivism, low level of the advocate profession, anti-democratic environment in Bar Association seriously affect to the amount of the persons intended to be members of this organization. This situation makes effective representation of citizens in courts impossible.

BELARUS

Presidential election

On 19 December 2010, the last day of the Presidential election²⁰, the situation with human rights in Belarus worsened dramatically. A peaceful demonstration was violently dispersed. During the protests windows and doors of the Parliament were broken, with the present police remaining indifferent to the incident. Several Presidential candidates tried to prevent people from breaking the glass (video recording available), some of the activists, drawn to responsibility in the case, were not even close to the Parliament or even not on that square at all. However, the incident is viewed by the government as “mass riots”, often presented in the media as an attempt of overthrowing the government, drafted and ordered from abroad, and serves as grounds for mass repressions of opposition and civic activists:

- Over 700 participants of the demonstrations were arrested
- 38 people were charged with “organization of mass protests” (including seven ex-presidential candidates) with four activists already convicted to three to four years of imprisonment
- There were 165 cases of searches in the offices and homes of political activists, human rights defenders and journalists offices
- Several thousands citizens were interrogated in connection with their participation in the protests
- Reported torture of the arrested
- Pressure on lawyers defending the demonstrators, including the withdrawal of licences in at least six cases.

Freedom of expression

Discriminatory economic conditions, laws restricting access to information, non-transparent and discriminatory decisions on accrediting journalists, and flawed legislation on defamation and extremism continue to hinder the development of independent and pluralistic media in Belarus.²¹

- On 26 April 2010 the Ministry of Information has applied for termination of publication of the main independent newspapers, available through state monopoly of press distribution – Nasha Niva and Narodnaya Volya. Their latest warnings concern the distribution of information on the terrorist attack of 11 April 2011.

²⁰ The OSCE/ODIHR concluded that “Belarus still has a considerable way to go in meeting its OSCE commitments, although some specific improvements were made. Election night was marred by detentions of most presidential candidates, and hundreds of activists, journalists and civil society representative”. Details available [here](#)

²¹ ["Post-election crackdown on independent media continues in Belarus"](#)

- There are sixteen journalists who are still being prosecuted for taking part in the post election demonstrations in December 2010. Three of them are still held in detention. All those who have been prosecuted continue to face the possibility of up to 15 years of imprisonment if their cases proceed to trial.
- The correspondent of the Polish newspaper “Gazeta Wyborcza” Andrzej Paczobut has been accused of defaming the President of the Republic of Belarus, after several publications in “Gazeta Wyborcza”, independent websites and his personal blog.
- Decree No. 60, which took force on 1 July 2010, covers “a wide range of spheres dealing with the Internet”²². According to the decree²³, all online access devices (computers and mobile phones), as well as all internet café users, are to be identified and registered with Internet Service Providers. The providers are obliged to store the data on the Internet use of individuals for a full year and to hand that information over to law-enforcement agencies upon request. It also requires Internet service providers to block access to any website within 24 hours of request by government regulators.
- At least eight new non-state newspapers were declined registration since February 2010 as the Ministry of Information introduced additional restrictions for registration of new media outlets, which are not provided for in the Media Law. Ten independent publications still have no possibility to be distributed through Belsayuzdruk, the state monopoly retail press distribution system, and the Belposhta subscription catalogue. Prominent independent newspapers²⁴ received several spurious warnings from the Ministry of Information, thus putting them at risk of being closed down or their production suspended at any moment.

Freedom of association

Influential NGOs continue to be denied registration, independent trade unionists still suffer discrimination, excessive force is regularly used against peaceful demonstrators, young activists continue to be targeted, and civil society remains marginalized.

- The amendments to the Law on Political Parties and the Law on Civic Associations, which came into force on 5 February 2010, create wider possibilities for denying registration on spurious grounds.
- The requirement of a legal address in a non-residential building with a commercial rent rate continues to be problematic for new and established associations alike; in a number of cases it has even forced organizations to close down²⁵. An opposition party Belarusian Popular Front has been ordered to leave their office in the centre of Minsk, which for twenty years has been

²² Chavusau, Y. (2010). Soon there will be less privacy in Belarusian Internet. *BelarusInfo Letter*, 3, 1-2.

²³ [BAJ analysis of Decree 60](#)

²⁴ “Narodnaya Volya”, “Nasha Niva”, “Salidamasc” and “Novy Chas”

²⁵ Borisov branch of the “Children in Need” NGO was forced to cease its activities in April 2009 after it could no longer pay its rent. Since April 2009, the Belarusian Popular Front, one of Belarus’ leading opposition political parties, has been struggling to renew the lease on its Minsk headquarters. The organizations have appealed several times to the local authorities without success for subsidized rent, with the latest denial issued in August 2010

the centre of cultural and political life of the capital. Activists believe that the reason for this order lies in organizing fundraising for the persecuted after the December demonstrations.

- Governmental declarations in the fall 2009 about the possibility of reviewing Article 193-1 of the Criminal Code, which criminalizes activities on behalf of a non-registered organization, have not resulted in any concrete steps. On 16 February 2011 Ales Bialiatski, Vice President of the International Federation of Human Rights and the Chair of the Human Rights Centre Viasna received a warning from the Prosecutor General's office under Article 193-1. During year 2010 several activists of a youth movement Malady Front and religious groups have received similar warnings. Since 2006, at least 18 persons have been convicted under this Article. It continues to be used to intimidate civic activists, particularly youth, and dissuade citizens from participating in unsanctioned events
- While the activity of unregistered organizations is criminalized, obtaining legal status still remains an inaccessible luxury for political and human rights organizations. Prominent Belarusian organizations get their applications turned down on spurious grounds and none of such decisions has been overruled in court.²⁶

Other human rights

Restrictions on fundamental freedoms and political reprisals against young political and civic activists, as well as religious and ethnic minorities, continue to cause concern.

- Forced conscription is a method, used by the Belarusian government, of isolating young activists. Since 2008 ten²⁷ activists have been drafted to the army on political grounds. One of them, Mr. Yakavenka, was later on sentenced to one year of restricted freedom for refusing to serve in the army until receiving the notice in Belarusian language.
- The trials of activists following the Presidential elections continue and will add to the list of political prisoners in Belarus. Among other political prisoners are businessmen Mr. Asipienka, Autukhovich and Laryn guilty of "illegal actions with explosives, firearms and ammunition" and Mr. Kazlou – of "failure to act". Aliaksandr Laryn, Uladzimir Asipienka and Mikalai Autukhovich were sentenced to 5, 3 and 3 years of imprisonment respectively, and Mikhail Kazlou – to 2 years²⁸. The analysis of the evidence gives no reasons to consider it as a

²⁶ The civic organizations, whose applications for registration were turned down during the reporting period, are youth organization Malady Front (1 April 2010, third denial), the Assembly of Pro-Democratic Non-Governmental Organizations (12 February 2010, third denial), an independent trade union "Razam" (25 January 2010, third denial) and "Brestskaya Viasna" (August 2010, seventh denial). Registration was also denied to civic youth association "Maladaya Backaushchyna", the Belarusian branch of the International Helsinki Association of Human Rights, the Belarusian Christian Democracy Party, civic association "Spadchyna", civic association "Zalaty Leu".

²⁷ Ivan Mikhailau, Dzmitry Smyk, Yauhen Yakavenka, Ivan Shila, Franak Vyachorka, Dmitry Fedaruk, Andrew Tsanyatyuta, Ales Krauchenya and Eugen Skrabets and Stanislaw Ramanovich.

²⁸ The definition 'political prisoners' according to CE document SG\Inf(2001) 34\24 October 2001.

sufficient basis for a guilty verdict²⁹; Aleg Surgan (sentenced by the Oktiabrskiy Court of Vitebsk on 19 February 2010 to 6 months' detention for resisting arrest for hanging a white-red-white flag) and Siarhei Kavalenka, an activist of the Belarusian Popular Front party (sentenced by the Kastrychnitski District Court of Vitsebsk on 14 May 2010 to three years of restricted freedom for hanging a white-red-white flag on the city's Christmas tree). Siarhei Panamarou, the initiator and coordinator of regional Kletsk website and an independent newspaper "Bojkij Kleck", was accused of defamation of an official on Article 369 of the Criminal Code. Aliaksei Bondar, Mikhail Kryvau and Tatsiana Tsishkevich, who were sentenced to restricted freedom for participation in a peaceful action of entrepreneurs in January 2009, still have not been granted parole and must remain abroad for fear of criminal prosecution. Prisoner of conscience Maksim Dashuk continues to serve a sentence of restricted freedom for participation in unsanctioned demonstrations in May 2008 after his sentence was extended by 10 months until September 2010 because of an alleged violation of the terms of his restricted freedom penalty.

- Belarus continues to exercise the death penalty. The execution of Andrei Zhuk and Vasil Uzepchuk, sentenced last year, took place in March 2010, despite the fact that the UN Human Rights Committee sent requests for interim measures of protection. Two more death penalty verdicts have been announced by the Hrodna Regional Court to Andrei Burdyka and Aleh Hryshkautsou³⁰.

GEORGIA

Freedom of peaceful assembly and manifestation

After enjoying relatively unrestricted rights for manifestation after the Rose revolution in 2004 Georgian citizens start to experience limitations, backed up by recent changes in the legislation.

- On 7 November 2007, 6 May and 15 June 2009 police dispersed peaceful demonstrations with the use of excessive force and prohibited weapons. No proper investigation followed.
- Dozens of attacks and harassment of demonstrators committed by unidentified people have been documented in the course of demonstrations starting from April till July 2009 while the police remained inactive. The cases remain uninvestigated. Young demonstrators attacked the cameraman of the one of the central TV stations and were arrested.

²⁹ [Joint Statement by the International Federation for Human Rights \(FIDH\) and the Human Rights Center 'Viasna'](#)

³⁰ [Amnesty International, Belarusian Helsinki Committee and Human Rights Centre Viasna condemn new death convictions](#)

- On January 3, 2011 police officers violently dispersed the protest demonstration of the war veterans³¹ in Tbilisi. The participants of the peaceful rally were found guilty of hooliganism and disobedience to the police and fined. The judge refused to view video³² recorded during the incident which proved that there was no violation from the side of the protesters.

Restrictive legislation

In July, 2009 the parliament adopted amendments seriously undermining legal environment conducive of peaceful public protests. The amendments were adopted during an extraordinary session of the Parliament, despite the call from human rights groups to wait for the legal opinion from the Venice Commission. Among the most worrying are:

- Introduction of a blanket ban on assemblies in certain public areas (i.e. within 20 meters of the government buildings). Before the assemblies could be held at any place (including blocking the road) with the prior notice and without the prior notice in areas not affecting the traffic flow or the public life.
- Police received the right to use special means (plastic and rubber bullets, pepper gas, etc.). Georgian legislation does not expressly require that the use of force in all circumstances must be proportionate to the legitimate aim pursued.³³
- The term of administrative detention, applied even for minor hooliganism and defying police orders, was increased from 30 to up-to 90 days.
- The term of compulsory service in the reserve forces was increased from 18 up to 45 days for any male citizen up to the age of 40. There is no indication on how a person can postpone the service in the case of necessity (e.g. health issues).
- Since September 2010 the practice of “surface examination” on the basis of a “reasonable suspicion” was introduced³⁴. There are no time limits as to how long one might be subject to such procedure, the person in question does not possess any legal status and procedural rights to protect oneself, the need to draw up a search protocol is eliminated, as well as, in emergency situations, the need to obtain a prior authorization of a judge, or a prosecutor (as specifically mandated by the previous law).
- (draft law pending before the parliament) any public or private body will be obliged to collect the data about its employees, process it and send it to the inspector of the personal

³¹ Conflicts in Abkhazia and South Osetia from the 90s and veterans of the 2008 war

³² <http://www.interpressnews.ge/video.html?view=video&video=333>

³³ Article 12.3 of the amended Georgian Law on police sets the criteria for the use of special means at necessity. There is no indication on the proportionality. The only limitation that the article sets is the restriction on the use of such means against pregnant, elderly, children and people with disabilities unless they are carrying out an organized assault or an armed resistance which can not be stopped otherwise. The part 5 of the same article restricts the use of enforcement which can impose heavy injuries, is associated with the unjustified risk or is prohibited by international acts.

³⁴ Article 9 of the Georgian Law on Police.

data, a new position the draft law also envisages, with no proper guarantees³⁵ for ensuring the safety of such information.³⁶

- According to the New Criminal Procedure Code (articles 56, 57, 58)³⁷ the rights of the victim are limited, leaving the latter, and the broader public, without any procedural rights or mechanisms to be involved in the investigation and exercise scrutiny on its effectiveness.

Freedom of Expression and Media

- According to the law ‘public information must be released immediately, but no later than in 10 days.’ As a matter of rule, however, public bodies do not obey the legal requirement for immediacy, or at all do not disclose the information requested³⁸.
- Government-associated media and some representatives of the ruling party practices airing negative, unbalanced and often unsubstantiated information, defaming Georgian human rights NGOs³⁹.
- On 22 January 2010 Saba Tsitsikashvili, regional correspondent of Human Rights Center and the editor of a regional newspaper “Kartlis Khma” (Voice of Kartli) was subjected to abuse and harassment by regional security guards in Shida Kartli. No one was held responsible.⁴⁰
- On 13 March 2010, the invented story released by the TV-Company Imedi about a new war that caused panic among the Georgian population. No investigation of the violation of the journalistic ethic norms followed.
- On February 10, 2010, an investigative journalist Mr. Vakhtang Komakhidze reported receiving death threats from the authorities due to his making a documentary on the Russian-Georgian war of 2008. He got asylum in Switzerland in July 2010.

³⁵ The article 5, paragraph C of the draft law states that the data will be processed if it is necessary for fulfilling an obligation granted by the law (not specified in the Constitution).

³⁶ <http://www.humanrights.ge/index.php?a=main&pid=12343&lang=eng>

³⁷ In force since October 1, 2010

³⁸ According to GYLA research, the following Georgian state agencies left the information requests unanswered: the President’s Administration, the Ministry of Refugee and Accommodation, the Supreme Council of Justice and the Ministry of Internal Affairs

³⁹ Human Rights Priority, Georgian Young Lawyers Association, the founder of the Studio Reporter Mr. Vakhtang Komakhidze and the founder of the Public Movement Multinational Georgia Mr. Arnold Stepaniyan. . Georgian Civil Society Organisations issued a separate [statement on the smear campaign](#)

⁴⁰ <http://caucasusnetwork.org/index.php?a=main&pid=118&lang=eng>

MOLDOVA

Freedom of speech

The situation of the freedom of speech has significantly improved in 2010. Nevertheless, there are issues that raise concerns:

- The political dependence and corruption of the Broadcasting Coordinating Council (BCC), a national autonomous broadcasting regulatory authority, in issuing broadcast licenses⁴¹ and monitoring the enforcement of the Broadcasting Code by media outlets. The current procedure for appointing the BCC members allows their appointment on political criteria.
- Poor implementation of the law on access to information and the law on transparency in government decision making⁴² due to reticence and low awareness of officials and discrepancies in legislation⁴³;
- Political influence and control over the public TV channel in Gagauzia autonomy impeding the independent information and plurality, especially during the local elections in December 2010⁴⁴;
- There is a very limited freedom of speech in the separatist Transnistrian region of the country, not controlled by the constitutional authorities of the Republic of Moldova, but by separatist administration and business circles supporting it. The few independent newspapers and radio stations are subject to censorship and are intimidated and persecuted, either by administrative means and legal harassment⁴⁵, or through public defamation campaigns⁴⁶. In 2010, journalist Ernest Vardanean, arrested by the Transnistrian secret service on accusation of spying for the Republic of Moldova, was sentenced to a 15-year term.

Freedom of assembly

The overall situation with the freedom of assembly in Moldova is generally good, though the discriminatory practices of local public authorities in enforcing the Law on public assembly⁴⁷, and the failure of law enforcement bodies to ensure the safety of the participants, undermine the achievements

⁴¹ During 2010, the BCC was constantly accused by the media NGOs and opposition media of favouring the governing party/ies in issuing/withdrawing broadcast licenses.

⁴² The monitoring of the access to information conducted in 2010 revealed that only 34.5% of public information requests have been satisfied by public authorities, See [Monitoring study by Access-Info Association, Chisinau 2010](#).

⁴³ The Law on transparency in the decision-making process (2008) contains certain vaguely worded and equivocal provisions and lack of direct sanctions for public authorities not complying with the law's requirements.

⁴⁴ [Media Monitoring in the Election Campaign for the Early Parliamentary Elections of November 28, 2010](#).

⁴⁵ In April-May 2010, the editor chief of the Transnistrian public TV channel "Pervii respublikanski" and his colleagues-supporters were dismissed for the critics against the activity of TV channel management. In May 2010, the newspaper "Russkii Proriv" was closed after being sentenced for defamation of a local lawyer and obliged to pay a fine of almost 100 000 USD. In 2010, the journalist Ernest Vardanean was arrested by the Transnistrian secret service on accusation of spying for the Republic of Moldova and sentenced to a 15-year imprisonment.

⁴⁶ [Promo-Lex](#), Research paper "Human rights in Transnistrian region of Moldova", Chisinau 2007,

⁴⁷ According to the law, no permits for holding public meetings are required; the organizers should only notify the authorities about the upcoming meeting. However, the public authorities could prohibit the meeting that is likely to incite to national, racial, ethnic and religious hatred, or undermine the national security etc.

in the sphere⁴⁸. The Parliament delays the passing of the anti-discrimination law due to the strong criticism from religious organizations against the sexual orientation provision in the law. The Government withdrew the bill from the Parliament for electoral reasons and plans to put the improved draft on parliamentary agenda after the June 5, 2011 local elections.

The freedom of assembly is severely restricted in the Transnistrian region. The permits for holding public meetings are rarely issued, and mainly to groups that support the Transnistrian administration or for anti-Moldovan protests.

Depredating treatment while in pre- and post-trial detention

Ill-treatment remains a widespread problem although the number of registered cases of abuse has slightly decreased as compared to the 2009⁴⁹.

- Most often cases of ill-treatment occurs in the police custody (pre-trial detention facilities), although abuses during the formal detention are registered either. According to a recent survey⁵⁰, 4 out of 10 detained men in police custody experience physical abuse or maltreatment. No proper investigation follows the complaints.
- No policeman involved in human rights abuses (ill-treatment and torture) during and after the April 7, 2009 protests has been convicted⁵¹.
- In many cases of allegations of police abuse, forensic examination is carried out with delays and its quality is often questioned by victims.⁵² Forensic doctors tend to record only visible injuries, neglecting psychological trauma as well.
- The forensic doctors remain in need of special training on medical documentation of torture, according to adopted standards and Istanbul Protocol.⁵³ The State Forensic Institute continues to be under equipped. No amendments for allowing the forensic examination by private doctors have been made to the law, despite international recommendations⁵⁴.
- Both prisons and pre-trial detention facilities fall far short of meeting international standards (hygienic conditions and alimentation, restricted access to health care and lack of medication as well as risk of contamination with tuberculosis and other diseases).

⁴⁸ The gay pride parade was prohibited for the third year in a row in May 2010 by the Court of Appeal under a complaint submitted by Chisinau municipal administration. The Chisinau City Hall cancelled the authorization issued to the opposition Party of Communists to organize protests on June 12-13, 2010.

⁴⁹ According to the Center for Human Rights of Moldova's (local Ombudsman office) reports on observance of human rights, during 2010 the Center received 422 complaints for violation of right to life, liberty and security of person as compared to 536 complaints filed in 2009. The report are available (only in Romanian) [here](#).

⁵⁰ See 2010 Victimization and Public Confidence Survey. Key Findings, Implications and Recommendations, Soros Foundation – Moldova, p.35, launched on 14 December 2010, www.soros.md.

⁵¹ The only 3 policemen that have been charged with torture used against the protesters during and after the April 7, 2009 riots have been absolved on April 27, 2011.

⁵² The interview with Veronica Mihailov and Olesia Doronceanu, Public defenders, Public Defender Office, Chisinau, held on 9 March 2011.

⁵³ *The Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, available at <http://bit.ly/9teRvM>.

⁵⁴ See [The Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment](#), Manfred Nowak, Mission to the Republic of Moldova, 12 February 2009, (A/HRC/10/44/Add.3) p. 11, para. 67, 90;

- According to the EU-Moldova Action Plan signed in 2005 (objective 4), the responsibility for the pre-trial detention facilities had to be transferred from the Ministry of Interior to the Ministry of Justice. The same recommendation was made by CPT in 2009⁵⁵, but no steps have been taken in this regard so far.

UKRAINE

Since the Presidential election in February 2010 the situation with human rights in Ukraine has deteriorated.⁵⁶ Violence has become a frequent instrument to fight political opponents, journalists and the civic activists.

Freedom of expression⁵⁷

In 2010 the censorship returned to the press and TV, critical reports on the government were banned; the number of physical attacks on the critical journalists has been taken place.

- All the members of The National Council on Television and Radio were substituted in April-June 2010, so it became totally controlled by one political party.
- The newly elected Head of State Security Service is the major stock-holder of the Media Group, which among other includes seven largest TV channels (e.g. Inter TV channel).
- Kharkiv journalist and editor in chief of the newspaper “The New Style” Vasyl Klymentyev disappeared in August 2010. No proper investigation followed.
- According to the new law “On Personal Data Protection”, signed on June 2010 by the President, the mass media distribution of any personal data of a person without his or her consent will be prohibited. The definition of “personal data” is vague. There are registered facts of pressure on journalists, when they were forbidden to shoot certain materials about corruption among the higher authorities.

Ill treatment in law enforcing bodies

An acute problem that tarnished Ukraine during the last months is the unexplained deaths of several people detained in police units. During 2010 and the beginning of 2011, more than 50 people have

⁵⁵ See the Report to the Moldovan Government on the visit to Moldova carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), para.10, available at <http://www.cpt.coe.int/documents/mda/2009-37-inf-eng.htm>

⁵⁶ Cf. here different reports on new tendencies concerning human rights violations in Ukraine 2010 e.g. by Ukrainian Helsinki Human Rights Union and Kharkiv Human Rights Protection Group: <https://www.helsinki.org.ua/en/index.php?r=a2b3c6>; Reporters without Borders: http://en.rsf.org/IMG/pdf/rapport_ukraine_anglais.pdf, Amnesty International: <http://www.amnesty.org/en/region/ukraine/report-2010>, and Appeal of FrontLine Protection of Human Rights Defenders: <http://humanrightsdefenders.org/node/13371>

⁵⁷ Further in this summary we are using the Human Rights Organizations Report “Human Rights in Ukraine 2009-2010”, <http://helsinki.org.ua/files/docs/1298368505.pdf>

died in police stations⁵⁸. In 2009 twenty people died, while being detained or arrested, while in the first quarter of 2011 the number already totals to seventeen deaths (!).

- Since the introduction of the new law in November 2009 the notion of public officer as a perpetrator of a crime disappeared from the article of Criminal Code. The current version of this article does not meet the requirements of UN Convention against Torture and provides no guarantees from abuse of power by official, particularly regarding torture or ignoring their application by other persons.
- It is estimated that up to one hundred twenty people suffer from torture at law enforcement agencies. In 2009-2010 the victims of unlawful violence in the internal affairs agencies numbered to 790 000 people.

Right to fair trial

In May-July 2010 the new juridical reform was implemented. The new law makes it impossible to contest certain local courts decisions concerning administrative offences. Also, one of the main consequence of the reform is increased role of the High Council of Justice, exercising such important functions as appointment and dismissal of judges. Another worrying tendency is the corruption among the judges.

- In September 2010 four judges were replaced in the Constitutional Court, so this Court have now pro-presidential majority. The replaced judges have been known for their determined stand and disagreeable position with President in a number of cases. Due to other replacements the President and the ruling Party of Regions have now all the necessary levels under their control, so they can exert pressure on judges.
- The tendency of removing the judges for passing exonerating or too mild penalties is still the case and can be traced in the decisions in the High Council of Justice decisions. The rate of acquittals in Ukraine for many years has not exceeded 0.5% of all rulings.
- From 2005 to 2010 the average level of courts decisions, which were not executed was 60-70%.

Freedom of peaceful assembly

The possibility for people to exercise the rights for peaceful assembly has been severely limited in 2010. Among the reasons for this tendency are:

- Lack of special law, regulating the right to peaceful assembly
- Ungrounded prohibition by courts of peaceful assemblies
- Introduction of various restrictions of the right to peaceful assembly by local authorities
- Pressure on activists and organizers of peaceful actions

⁵⁸ See Kharkiv Human Rights Protection Group (KHRG) Open Letter to the President. / See also the Ukrainian Helsinki Human Rights Union.

- Use of force by militia to stop peaceful assemblies, in particular of opposition and those, which are protesting on social topics.
 - Only during the first hundred days since the new government there were more than 350 media reports on abuse of power from militia during peaceful assemblies.
 - On 27 April 27 2010 during a protest action near the Parliament on the ratification of agreements with Russia, 43 participants got serious injuries as a result of a crackdown on the demonstration.
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The issues mentioned in this report do not form an exhaustive list and we will appreciate any suggestions or comments, which could make the document more useful to the international community. You can reach us via email at tavarystva.schumana@gmail.com