



United States Mission to the OSCE

Working Session 6: Specifically Selected Topic: Independence of the judicial system, with a particular focus on accountability and integrity of judges and prosecutors

As delivered by Robert G. Berschinski, Deputy Assistant Secretary of State
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Moderator, in the 1990 Copenhagen Document, participating States recognized the need to protect the independence of prosecutors and judges. The 1991 Moscow Document further elaborated on the need to prohibit improper influence on judges. While the need for judicial independence is clearly a human rights concern, the independence of the judiciary is also a truly cross-dimensional issue. Without judicial independence, those in power know that corruption can go unchecked, and businesses fear to invest in the economy given the fragility of contracts. It is for these reasons, in addition to the protection of human rights, that participating States committed in Copenhagen and Moscow to prohibit improper influence on judges and prosecutors.

When courts become instruments for the imprisonment of those whose only crime is to disagree with their governments, there is perhaps no clearer indication of a compromised judiciary.

With these facts in mind, we continue to be troubled by the lack of appropriate procedural guarantees for those accused of involvement in the 2010 violence in southern Kyrgyzstan. We call on the Government of Kyrgyzstan to reevaluate these cases and judgments in order to ensure that all trials in the country are conducted in a fair and impartial manner.

In Uzbekistan, a pattern of last-minute extensions of prison sentences, generally for extremely minor, unsubstantiated violations of prison rules, has been imposed on human rights activists, notably Azam Farmanov and journalist Muhammad Bekjanov. Politician Murad Juraev, imprisoned since 1995, has had his prison term extended five times in this manner.

With respect to Belarus, we welcome the release from prison of Mikalai Statkevich and five other prisoners, and we reiterate our call for the Government of Belarus to restore the political rights of these six and other former political prisoners.

In just a few years, problematic trials in Baku – characterized by spurious charges, lengthy pre-trial detention, and proceedings often closed to independent press and nongovernmental trial monitors – have silenced many of Azerbaijan's independent voices. NGOs estimate the authorities are holding at least 80 people in connection with their exercise of human rights and fundamental freedoms, including Leyla and Arif Yunus, Intigam Aliyev, Rasul Jafarov, Ilgar Mammadov, and Anar Mammadli.

In Russia, those who reveal fraud or corruption, who write about the destruction and theft of natural resources, or who challenge the views of the government have been targeted for prosecution and worse. My delegation calls on the Russian Federation to release prisoners held on politically motivated charges, including Krasnodar environmentalist Yevgeny Vitishko and the remaining imprisoned Bolotnaya Square protest defendants. We deplore the politically motivated

detentions in Russian-occupied Crimea of people perceived to be disloyal to the occupying authorities, including Ukrainian activist Oleksander Kostenko and Tatar leader Akhtem Chiigoz. Similarly, the sentencing of certain foreign nationals on baseless charges, including Estonian Eston Kohver and Ukrainians Oleh Sentsov and Oleksander Kolchenko, and the continued detention of Ukrainian Nadiya Savchenko, are clear miscarriages of justice. Each one was kidnapped in his or her country of citizenship, transferred to Russia against his or her will, and subjected to politically motivated charges.

The mirror image of Russia's prosecutorial overreach at home is Moscow's blocking of justice measures at the UN. We deeply regret that Russia was the only country among the fifteen members of the United Nations Security Council to veto a proposal to establish an international tribunal for the prosecution of those accused of downing Malaysian Airlines flight 17 in eastern Ukraine. The United States believes firmly that those who carried out this unspeakable crime should not remain unidentified and unpunished.