



Violation of the Rights to Freedom of Peaceful Assembly and Freedom of Association of Environmental Defenders in the OSCE Region: Key Concerns and Illustrative Cases

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Despite growing awareness, including in international institutions such as the OSCE and the United Nations, about risks environmental defenders face around the world, they continue to be at grave risk for simply exercising their rights to freedom of assembly and association. Protecting their right to a clean environment has caused many environmental defenders to lose their lives, and be subject to violence, harassment, and threats from corporations and governments. As the non-governmental organization Global Witness documented in its 2018 report, *Enemies of the State?*, 164 environmental defenders around the world lost their lives.²

An alarming trend of violence and intimidation targeting environmental defenders is occurring worldwide. In spite of provisions in international law and conventions designed to protect them, environmentalists are at greater risk than ever before as governments, corporations, and hired thugs disregard the large body of international law, standards, and best practices, which defines the rights of environmental defenders.

We have identified several ways in which environmental defenders are experiencing significant pressure, reprisals, and retaliation throughout the OSCE region. These include:

- 1) the creation of onerous laws designed to pressure environmental defenders;
- 2) legal harassment using existing laws to create administrative and criminal legal difficulties for environmental defenders;
- 3) character assassination and smear campaigns in the media, including on social media; and
- 4) violence against defenders.

These reprisals are directed toward environmental defenders who are peacefully expressing their rights to freedom of peaceful assembly and association and are suffering severely for this.

Several cases from various parts of the OSCE region highlight these various types of reprisals:

1. *Adoption of onerous laws designed to pressure environmental defenders*

In the United States, legislation is being crafted in over a dozen states, which, if passed would make it a felony to peacefully protest the construction of a pipeline. Most recently, on November 20, 2019, a bill was signed into law in the state of Wisconsin making it a felony to block pipeline construction. If found guilty, a protester could be charged with a fine of up to \$10,000 and a six year prison sentence.³ This law disproportionately affects Native Americans, whose land is impacted significantly by pipeline construction not only in Wisconsin,

¹ Crude Accountability is an Alexandria, VA-based environmental and human rights NGO, working with communities in the Caspian and Black Sea regions, who battle threats to local natural resources and the negative impacts on their health. Crude Accountability is a member of the OSCE-wide NGO coalition, the Civic Solidarity Platform.

² *Enemies of the state? How governments and business silence land and environmental defenders*, Global Witness, 2019, https://www.globalwitness.org/documents/19766/Enemies_of_the_State.pdf

³ Scott Bauer, "Evers Signs Bill Making It a Felony to Trespass on Pipelines," Associate Press, US News and World Report, November 20, 2019, <https://www.usnews.com/news/best-states/wisconsin/articles/2019-11-20/evers-signs-bill-making-it-a-felony-to-trespass-on-pipelines>

but throughout the U.S. Seventeen states have enacted legislation criminalizing pipeline protests and other acts of freedom of assembly related to oil and gas infrastructure.⁴ Additionally, on the federal level, the current administration is pushing for an amendment to the criminal code, which would make it a felony offense, with a possible sentence of up to 20 years in prison, to block pipeline construction sites, even of those sites that are situated on one's own property, as in cases of eminent domain.⁵ Many of these laws were proposed and/or enacted following the Keystone Pipeline protests, which galvanized environmental defenders and water protectors around the country.

In a case that illustrates the severity of these laws and the threats presented by eminent domain in instances when pipeline construction threatens individual property rights, Ellen Gerhart, a retired special needs teacher in the state of Pennsylvania was charged with trespassing on her own property after Sunoco Logistics company began construction of the Mariner East 2 Pipeline on her land without acquisition of the necessary permits from the Pennsylvania Department of Environmental Protection. After standing in front of trees on her property in an attempt to stop the felling of trees. She was arrested and spent four days in jail; two in solitary confinement. After she was released, the pipeline company continued construction, and, tired of the constant noise, lights, and private security surveillance, Ellen decided she "had had enough." She went onto the easement and stood in front of one of the machines. She was again arrested, fined \$2,000, and given a prison sentence of 2 to 7 months. She served two months in prison, and was placed on parole for the remaining five months. The company continued to construct the pipeline, and Ellen Gerhart and her family are legally barred from entering the easement or from accessing her property from the other side of the easement. She has sued the company for destruction of wetlands on her property, and the court decision will be soon.

2. Legal Harassment using existing laws to create administrative and criminal legal difficulties for environmental defenders

In the Russian Federation, harassment of environmental defenders is part of a broader trend of suppressing independent non-governmental organizations. Creating bureaucratic red tape, refusing to authorize peaceful rallies and demonstrations, and bringing administrative and criminal charges against environmental defenders are weapons in the government's arsenal.

One example is the case of **Ecodefense**, an environmental organization that, among other activities, campaigned successfully against the construction of a nuclear power plant in the Kaliningrad region. Ecodefense was entered into the Foreign Agent registry in 2014 by the Ministry of Justice, which opened 28 administrative cases against the organization for non-compliance with the "foreign agents" law. Ecodefense was unable to pay all of the fines imposed. In December 2018, the Russian authorities froze Ecodefense's bank account for failure to pay the fines and accumulated penalties.

By June 2019, five criminal cases were opened against the leader of Ecodefense, Alexandra Koroleva, all under Criminal Code article 315 (2) for "malicious noncompliance with a court's decision", carrying a sentence of up to two years in prison.⁶

Similarly, **Environmental Watch on the North Caucasus** (EWNC), an environmental NGO based in Krasnodar Krai, Russia, has endured three raids of its office in 2019 alone, as the police and security services ostensibly search the office for information related to Open Russia, an "undesirable organization," although EWNC has no connection to Open Russia. During these raids, the police confiscated equipment, including computers, flash drives, phones, and digital and paper files.

⁴ *US Protest Law Tracker*, International Center for Not-for-Profit Law, <http://www.icnl.org/usprotestlawtracker/?status=enacted&type=legislative>, accessed November 25, 2019.

⁵ *Dangerous Work: Reprisals against Environmental Defenders*, Crude Accountability, https://crudeaccountability.org/wp-content/uploads/Report_DangerousWork_compressed_for_web.pdf, 2019, p. 12-13.

⁶ *На эколога завели пять уголовных дел*, Ecodefense, 19.06.2019, <https://ecodefense.ru/2019/06/19/five/>, as cited in *Dangerous Work: Reprisals against Environmental Defenders*, Crude Accountability, op.cit., https://crudeaccountability.org/wp-content/uploads/Report_DangerousWork_compressed_for_web.pdf, p. 51

3. Character assassination and smear campaigns in the media

Veronica Coptis, the executive director of the Center for Coalfield Justice, has led her organization in Pennsylvania, USA, to peacefully organize the community to learn about the dangers of coal development and the risks to the environment. She organized both on and off-line, and as her work gained notice, she was attacked viciously on Facebook and other social media outlets. Representatives from the coal industry posted her personal address and photographs of her and her child with the caption, "This is who is stealing your jobs."⁷ In addition, Consol Energy, the company expanding the coal mine in her region, paid for a series of billboards, which were displayed around the county where the organization worked and where Coptis lived. The billboard displayed a little girl in a hardhat with the text, "No future: brought to you by Center for Coalfield Justice."⁸

In Krasnodar, Russia, on September 19, 2019, anonymous posters were plastered around the city with photographs of **Andrey Rudomakha**, coordinator of Environmental Watch on the North Caucasus, claiming that he was a pedophile and that EWNC was a predatory group going after children. The posters also included Rudomakha's home address. The majority of these posters were found in close proximity to the neighborhood school.⁹

4. Physical Violence

On July 31, 2018, **Ekaterina Gandzyuk**, a member of city council and advisor to the mayor of the town of Kherson in Ukraine, was doused in concentrated sulfuric acid outside the entrance to her home. She sustained chemical burns over more than 40 percent of her body and severe damage to her eyes. Although she was transported to the hospital in Kiev where she underwent 11 surgeries, she succumbed to her injuries on November 4, 2018, passing away at the age of 33. She had criticized local authorities and defended environmentalists opposed to logging in the region.¹⁰ Investigators, who sought Ekaterina's murderers after much public pressure, believe that the main motive behind the attack was to stop her public campaign against corruption-related logging and arson. Ekaterina herself believed that Vladislav Manger, head of the Kherson Regional Council, was the probable mastermind behind her attack, and she mentioned this in an interview shortly before her death.¹¹

Also in Ukraine, **Valentina Aksenova**, a member of the **Protect the Forest** initiative in the village of Petropavlovskaya Borshchagovka in Kiev Region, was forced to leave Ukraine following threats to herself and her family. She organized local activists to protect the forest from development of a residential complex. As she and other environmental defenders peacefully protested the proposed development, she was threatened repeatedly. Her dog was poisoned, leaflets were posted around her village describing Valentina and her fellow activists as terrorists and bandits. The family car was sent on fire twice, and on two separate occasions, crowds of people stood outside her family home throwing stones and yelling, "Death to Aksenova," "Impale Valentina on a stake!" After she received a phone call saying she should shut up or begin preparing her young son's coffin, Valentina decided that it was too dangerous for her family to stay where she was. She left the country, but continues to peacefully protest the destruction of the forest in her home village.¹²

In the United States, in 2016-2017, some of the largest peaceful environmental protests took place on the **Standing Rock Reservation** where water defenders physically obstructed oil pipeline construction. The protests lasted for ten months, and although they began peacefully, resulted in extreme violence against those who protected the land.¹³ In their efforts to protect the water supply of the Standing Rock Sioux and those

⁷ Dangerous Work: Reprisals against Environmental Defenders, *Crude Accountability*, op cit., p.79.

⁸ Ibid. p. 80.

⁹ Ibid. p. 62.

¹⁰ Ibid. p. 68.

¹¹ Ibid, p.69.

¹² Ibid. p. 70-71.

¹³ Robinson Meyer, *The Standing Rock Sioux Claim 'Victory and Vindication' in Court*, The Atlantic, June 14 2017, <https://www.theatlantic.com/science/archive/2017/06/dakota-access-standing-rock-sioux-victory-court/530427/> as cited in Dangerous Work: Increasing Pressure on Environmental NGOs and Activists in the Countries of the Former Soviet Union and the U.S.,

living downstream from the river, which would be crossed by the proposed pipeline, at least 1,000 protesters were treated for chemical poisoning, hypothermia, rubber-bullet wounds, and many more serious injuries, all of which were the direct result of violence from militarized police.¹⁴ According to news reports, approximately 750 people were arrested, many were held in dog kennels.¹⁵

In 2017, *The Intercept* conducted an investigation, which revealed that “the international private security and mercenary firm TigerSwan targeted the Standing Rock movement with military-style counter-terrorism measures and led a multifaceted sweeping and invasive surveillance operation against protesters.”¹⁶ The firm collaborated closely with federal, state, and local law enforcement in at least five states.¹⁷ TigerSwan worked at the behest of Energy Transfer Partners, the company building the pipeline, to stop the peaceful assembly of the water protectors. TigerSwan, in its communications, described the water protectors as “an ideologically driven insurgency with a strong religious component” and compared the non-violent protesters to jihadist fighters, characterized them as unpredictable and menacing, thus, justifying extraordinary security measures.¹⁸

These cases are representative of the types of reprisals that environmental defenders are facing for exercising their rights to freedom of peaceful assembly, association and expression. However, they are only a handful of the many cases occurring around the OSCE region. More examples can be found in the recent publication, *Dangerous Work: Reprisals against Environmental Defenders*, published by Crude Accountability, EcoForum of NGOs of Kazakhstan, and Fracktracker Alliance.¹⁹

Crude Accountability, 2017, https://crudeaccountability.org/wp-content/uploads/CA_Report_Dangerous_Work-compressed.pdf, p. 57.

¹⁴ Sandy Tolan, *North Dakota pipeline activists say arrested protesters were kept in dog kennels*, Los Angeles Times, <http://www.latimes.com/nation/la-na-north-dakota-pipeline-20161028-story.html> (<http://linkis.com/Cl6zC>) as cited in *Dangerous Work: Increasing Pressure on Environmental NGOs and Activists in the Countries of the Former Soviet Union and the U.S.*, Crude Accountability, op. cit., p. 58, 2017.

¹⁵ Sandy Tolan, *Taxpayer-Funded Horror at Standing Rock*, The Daily Beast, 4/11/2017, <http://www.thedailybeast.com/taxpayer-funded-horror-at-standing-rock>; Standing Rock Sioux Chair on Militarized Repression & Ongoing Lawsuit to Stop Dakota Access Pipeline, Democracy Now!, 6/16/2017, https://www.democracynow.org/2017/6/16/standing_rock_sioux_chair_on_militarized, as cited in *Dangerous Work: Increasing Pressure on Environmental NGOs and Activists in the Countries of the Former Soviet Union and the U.S.*, Crude Accountability, op. cit., p. 58.

¹⁶ Alleen Brown, Will Parrish, Alice Speri, *Leaked documents reveal counterterrorism tactics used at Standing Rock to “defeat pipeline insurgencies”*, The Intercept, 05/27/2017, <https://theintercept.com/2017/05/27/leaked-documents-reveal-security-firms-counterterrorism-tactics-at-standing-rock-to-defeat-pipeline-insurgencies/>, as cited in *Dangerous Work: Increasing Pressure on Environmental NGOs and Activists in the Countries of the Former Soviet Union and the U.S.*, op. cit., p. 58.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ *Dangerous Work: Reprisals against Environmental Defenders*, Crude Accountability, 2019, https://crudeaccountability.org/wp-content/uploads/Report_DangerousWork_compressed_for_web.pdf