

L'OBSERVATOIRE

pour la Protection des Défenseurs des Droits de l'Homme

THE OBSERVATORY

for the Protection
of Human Rights Defenders

EL OBSERVATORIO

para la Protección
de los Defensores de Derechos Humanos

**OSCE HUMAN DIMENSION IMPLEMENTATION MEETING
WARSAW – SEPTEMBER 2005**

**Contribution of
The International Federation of Human Rights (FIDH)
And the World Organisation against Torture (OMCT)**

**Within the framework of their joint programme
The Observatory for the Protection of Human Rights Defenders**

**On the point in the agenda:
Freedom of assembly and association**

Un programme de la FIDH et de l'OMCT - An FIDH and OMCT venture - Un programa de la FIDH y de la OMCT

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The FIDH and the OMCT, within the framework of their joint programme, the Observatory for the Protection of Human Rights Defenders, would like to draw the attention of the members of the OSCE to the persistence of serious violations of human rights perpetrated against human rights defenders in the member countries of the OSCE, by the national authorities or by private groups. The Observatory is also alarmed by the strengthening of legislative arsenals and by the use of judicial systems to restrict the freedoms of association and of peaceful assembly in some countries (Belarus, Russian Federation, Uzbekistan).

The methods of repression affect the majority of the rights contained in the UN Declaration on Human Rights Defenders (DDDH)¹. In particular they are aimed against the right to peaceful assembly (article 5.a), the right to form non-governmental organisations, associations or groups (article 5.b), the right to gather and disseminate information relating to human rights (article 6), the right of defenders to an effective remedy (article 9), the right to receive funding to promote human rights (article 13). These repressive methods constitute a violation of the obligation of States to take all necessary steps to ensure the protection of human rights defenders (article 12).

1/ Physical attacks / Aggression

In the **Russian Federation**, Mr Vladimir Schnittke, president of the association Memorial, in St Petersburg, was attacked on 11 December 2004. He was struck on the head with a club and suffered severe concussion. Mr Schnittke had already been the victim of a similar attack in August 2003.

In addition, on 18 February 2005, some strangers arrived at Memorial's Research Centre in St Petersburg, on the pretext of an urgent message from Memorial in Moscow. Mr Emanuil Polyakov, an employee of the organisation, opened the door and three men rushed in and beat him unconscious. He was found the following morning in a critical state and taken to hospital.

On 21 July 2005, in **Serbia-Montenegro**, Mr Tatomir Lekovic, a lawyer working with the Humanitarian Law Center (HLC), was attacked in Kragujevac by an unknown assailant. This attack, from which he received serious injuries to his head and body, was very probably linked to his work with the HLC, in particular his investigatory work into establishing responsibility for war crimes committed by Serbian forces in Kosovo. Before this attack, Mr Lekovic had been harassed and threatened by some members of the police, who were allegedly implicated in war crimes or other criminal matters.

On 30 July 2005, Mr Dragutin Vidosavljevic, a lawyer of the Committee for Human Rights in Leskovac, was insulted in the street by a local police officer, Mr Goran Velickovic, who told him he was "going to slit his throat", and ordered him to "go back home". Mr Vidosavljevic tried to go into a shop, but was prevented by the police officer who grabbed him by the neck and hit him in the face.

2/ Serious threats / Defamation

In **Azerbaijan**, in the beginning of 2005, Mrs Arzu Abdullayeva, chairperson of the Helsinki Citizen Assembly (HCA) in Azerbaijan and co-president of the International HCA, was followed by unknown individuals. She also received anonymous death threats. On 9 April 2005, a stranger came to the office of the HCA in Baku asking to see her on the pretext of an appointment with her. An unknown man also went to her house and asked for her.

At the end of March 2005, Mrs Leyla Yunus, a member of the Institute for Peace and Democracy, discovered that her name was on a list of the secret services and that she "should be careful". At the same time, she was the target of a defamation campaign, along with Mr Eldar Zeynalov, president of the Human Rights Centre of Azerbaijan (HRCA), on the pro-government television channels *Lider TV*, *ATV* and *Space TV*. In particular both were accused of supporting terrorists, after their repeated public criticism of the detention of political opposition leaders, mainly to representatives of the Council of Europe.

In the **Russian Federation**, human rights defenders operate in a climate which is particularly hostile to them; in particular they face smear campaigns, orchestrated by some representatives of the authorities and transmitted through the media. Thus, on 20 October 2005, Mr Viktor Alsknis, deputy of the Duma and member of the party, Rodina (the Motherland), publicly accused the Union of Soldiers' Mothers Committees of "weakening Russia's ability to defend itself", "being financed by the West" and of "promoting anti-military feelings". At the same time he filed a petition on 22 October 2004 before the Ministry of Justice and the Prosecutor General, on behalf of the Duma, to open an

¹ Adopted by the General Assembly of the United Nations on 9 December 1998.

inquiry into the finances of the organisation. In May 2005, the director of the Federal Security Service (FSB) declared before the Parliament that his services were preoccupied by the increasing activities of foreign governments through NGOs. He added that they were thinking of introducing proposals in order to strengthen legislation regulating the work of foreign NGOs'.

In addition, between February and April 2005, members of the Russian-Chechen Friendship Society (RCFS) were targeted by a smear campaign in the media in Nizhny Novgorod, which broadcasted comments by representatives of the public prosecutor's office of the region and of the FSB, accusing members of the RCFS of encouraging extremist activities and supporting acts of terror. On 14 March 2005, Mrs Oksana Chelysheva, editor at the Information Centre of the RCFS, was targeted in defamatory leaflets handed out to her neighbours, on behalf of an organisation called the A.P. Ivanov Patriotic Jewish Front and in which, in particular, her address appeared.

On 9 September 2005, other leaflets containing death threats and defamatory words against Mrs Chelysheva and Mr Stanislas Dmitrievsky, director and editor in chief of the Information Centre of the RCFS, were distributed in the neighbourhood of their homes, inciting the population to reprisals against them.

In **Serbia-Montenegro**, the NGOs and the media involved in defending human rights have been regularly insulted, threatened and attacked by the nationalist political parties or extreme right groups.

For example, on 11 July 2005, a star of David was painted on the name plate of the Humanitarian Law Center (HLC) along with an anti-semitic message, as well as on the premises of the Helsinki Committee for Human Rights in Serbia. In addition, the Serbian Radical Party (SRS) lodged a complaint against Mrs Natasa Kandic, executive director of the HLC, and against the editor in chief of the television channel, *B92*, after it had broadcasted an announcement by Mrs Kandic regarding the responsibility of the president of the SRS, Mr Tomislav Nikolic, for the massacre of civilians at Matic in 1991. This complaint was refused by the prosecutor's office in Belgrade.

In **Turkey**, on 19 and 21 April 2005, four leaders of the Human Rights Association (IHD) of Turkey, Mrs Kiraz Biçici, vice-president, Mrs Eren Keskin, president of the Istanbul section, Mr Doğan Genç, member of the executive bureau, and Mr Şaban Dayanan, member of the Council of the Istanbul section, received letters containing death threats at their homes and at work. These letters were signed by the Brigade for Turkish Vengeance (TIT), an armed group of ultra-nationalists responsible for the armed attack against the head office of the IHD in Ankara in 1988, during which Mr Akin Birdal, the then president of the organisation, became victim of an attempted assassination.

3/ Court proceedings/ Arrests and Arbitrary Detentions/ Mistreatment

In the **Russian Federation**, on 2 September 2005, Mr Stanislav Dmitrievsky was charged with "inciting to hatred" in a court action against the daily newspaper *Pravozaschita* (Defence of Human Rights), a joint publication of the RCFS and the Nizhny Novgorod Society for Human Rights (NNSHR), which had published two articles calling for a peaceful resolution of the conflict, by Messrs Akhmed Zakaev and Aslan Maskhadov, two Chechen separatist leaders.

In **Uzbekistan**, many human rights defenders have been arbitrarily arrested, detained and physically attacked for denouncing the disproportionate use of force by the police during a peaceful demonstration in Andijan on 13 May 2005, causing the deaths of several hundreds of people. This is the case in particular for several members of the Namangan Group for Protection of Human Rights, the Ezgulik organisation, the Centre of Humanitarian Law and the Human Rights Society of Uzbekistan (HRSU). For example, Mr Saidjahon Zaynabitdinov, a member of the Group for Protection of Human Rights in Andijan, was arrested on 21 May 2005, held secretly and charged with calumny. He is still in detention to this day.

These detentions often involve mistreatment or acts of violence. For example, Messrs Ulugbek Bakirov and Fazleddin Gafurov, two members of Ezgulik, were beaten and harassed by agents of the law enforcement agencies when they were questioning the witnesses of these events.

In **Kazakhstan**, Mr Lutfullo Shamsudinov, an Uzbek lawyer who was investigating these events with Mr Zaynabitdinov, was arrested on 4 July 2005 after fleeing from Uzbekistan for fear of reprisals. He was put into custody following an extradition order from the government of Uzbekistan. He was released on 12 July 2005 and turned with his family to the United Nations Commission for Refugees Office in Almaty which assisted them to leave to a third country.

4/Obstacles to the freedom of association

In **Belarus**, a law was passed on 29 June 2005, introducing additional restrictions to freedom of association. In effect, organisations are now obliged annually to provide the registration authorities with information on their management and activities. This legislation also widens the grounds for suspending an organisation for 6 months on the decision of a judge, principally for a breach of the law on unauthorised mass demonstrations (unauthorised slogans...) or use of foreign aid.

In addition, presidential decree no. 302 passed on 1 July 2005 and which came into force on 1 December 2005, created further prohibitions against the activities of charitable foundations, by the introduction of new procedures for setting up, registering, reorganising and winding-up. This measure is also aimed at prohibiting the directors of dissolved NGOs (over 80 NGOs were dissolved since 2003, and 38 more since the start of 2005) from creating a foundation, thus preventing organisations from giving any legal framework to their activities.

In the **Russian Federation**, a trial instigated by the Ministry of Justice should open against the RCFS on 21 September 2005, aiming to close down the organisation on the grounds that it could not provide the Ministry with all the information asked during an audit. On 26 August 2005, following the decision of the office of Inspection of Taxes, the total amount of various fines for non-payment of taxes for gifts received since 2002, was deducted from the association's bank account.

On 3 June 2005, the Ministry of Justice delivered written notification of its intention to put an end to the activities of the NNSHR. This decision was based on the allegation that this organisation had not provided the documentation required during an audit of its activities in February 2005, despite a court decision in April 2005 which had confirmed that the NNSHR had fulfilled all its obligations.

In **Kyrgyzstan**, despite the political changes as a result of the July 2005 elections, the situation of the Kyrgyz Committee for Human Rights (KCHR) remains precarious. In fact, the KCHR has been deprived of legal status, since the illegal replacement in August 2003 of its board of directors, and the creation, in November 2003, of an organisation with the same name, but whose members were close to the government.

In **Uzbekistan**, on 9 September 2005, the Court of Tashkent ordered the dissolution of the organisation Internews Network, mainly for having carried out activities without the necessary authorisations, and for having used the association's logo without the consent of the Ministry of Justice. This decision was made a month after legal proceedings were instigated against two of its members, Mrs Khalida Anarbayeva, former director and now a consultant with the Internews Network bureau, and Mrs Olga Narmuradova, an accountant, for having "published information and produced videos without a licence". During the court hearing, the judge announced that Internews had "started to involve itself in the politics of Uzbekistan and the politics of the President" and this was "the reason for these legal proceedings".

In **Turkey**, the president of the Bar Association in Izmir decided, on 7 December 2004, to shut down the Association's Group for the Prevention of Torture, mainly on the grounds that the Group was receiving funds from the European Union, which he considered to be "attempting to divide Turkey", "under the banner of human rights". Moreover, on 25 May 2005, the Supreme Court ordered the closure of the organisation Egitim Sen, the biggest trade union of college and university lecturers, mainly on the grounds that one of the clauses in its bylaws providing for the "protection of the rights of individuals to education in their mother tongue and to the development of cultures", was contrary to the provisions of the Constitution of Turkey. The case continues.

5/ Obstacles to the freedom of demonstration

In **Kyrgyzstan**, human rights defenders obtained a decision from the Constitutional Court on 14 October 2004, abolishing several clauses of the Law of 22 June 2002, in particular the obligation to apply to the local authorities at least ten days in advance for being able to hold meetings or demonstrations. However, in the town of Bishkek, a decision of the Council of Deputies on 11 January 2005, reinstated the obligation to inform the authorities ten days prior to an event.

In **Kazakhstan**, the Law on Objecting the Extremist Activities, which entered into force on 18 February 2005 after it was signed by the President of the Republic, states that the organizers of demonstrations and meetings will be held responsible for the participation of extremists. This risks to be applied arbitrarily and, in particular, may discourage the organization of meetings.

In **Uzbekistan**, on 21 June 2005, a demonstration to commemorate the victims of the "tragedy of Andijan" was organised in Tashkent. The security forces attempted to confiscate the posters of the participants and arrested about twenty people who were kept in custody the whole day without charge. On 27 June 2005 in Tashkent, plain clothes police officers prevented the holding of a demonstration against the smear campaigns in the State media, in which

the defenders were described as “national traitors” and “enemies”, and the disinformation surrounding the events of 13 May 2005 was spread.

In addition, in November and December 2004, Mr Tolib Yakubov, president of the HRSU, was subjected on several occasions to physical and verbal attacks, aimed at preventing the organisation of several gatherings against the impunity enjoyed by the local authorities in the province of Djizak. Those taking part in these gatherings were also subjected to the brutality of the law enforcement agencies.

In **Serbia-Montenegro**, on 10 July 2005, the NGO “Women in Black” organised a demonstration in Belgrade, to commemorate the 10th anniversary of the Srebrenica massacre. This peaceful demonstration was violently interrupted by a group of extremists, who hurled tear gas and insults at the demonstrators.

6/ Obstacle to the freedom of movement

On 2 April 2005, in **Azerbaijan**, Mr Ilgar Ibragimoglu, coordinator of the Centre for the Protection of Conscience and Religious Freedoms (DEVAMM), secretary-general of the International Religious Freedom Association (IRLA Azerbaijan) and director of the Institute of Human Rights and Civil Stand (IHRCS), was prevented from leaving Azerbaijan for the fifth time since August 2004. He was to have visited Geneva (Switzerland), to deliver a report on 4 April 2005 on criminal proceedings of a religious nature, at the session of the UN Commission on Human Rights (CDH).

In **Turkmenistan**, on the day before the visit by Mr Rolf Ekeus, High Commissioner for National Minorities of the Organisation for Security and Cooperation in Europe (OSCE), several NGO activists received an order from the Turkmen National Ministry for Security (MNB) not to attempt to meet with him or with those accompanying him. On 31 May 2005, while Mr Ekeus was at a reception with the President of Turkmenistan, the homes of several human rights defenders were blocked by plain clothes police and MNB agents. In particular, Mrs Nathalia Shabunts, manager of the human rights NGO “Civil Dignity”, was prevented from leaving her flat and, as a result, from taking part in an international seminar.

Recommendations:

In view of the situation, the Observatory asks the member States of the OSCE to:

- **work towards putting an end to the phenomenon of the continuous repression of human rights defenders and their organisations,**
- **recognise fully the vital role of defenders in the advent of democracy and the rule of law,**
- **comply in particular with the provisions of the final document of the 1990 Copenhagen Meeting and of the Declaration on Human Rights Defenders.**

In addition, the Observatory reiterates its complete support for the bureau of the BIDDH on the freedom of association and peaceful assembly.

However, in view of the seriousness of the violations perpetrated against defenders in the OSCE zone and the increase in attacks against the freedoms of expression, association and peaceful assembly in certain countries of this zone, the Observatory calls upon the OSCE to extend the mandate of this instrument of protection and, in particular, recommends the creation of a focal point or of a special rapporteur, authorised to approach and question the States, and also to reply to them.