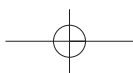
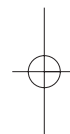
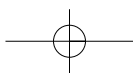
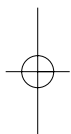
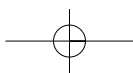


EUROPE AND THE COMMUNITY OF INDEPENDENT STATES





THE SITUATION OF HUMAN RIGHTS DEFENDERS

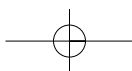
The year 2003 was marked by a new upsurge in human rights violations in this region, notably in the Caucasus and Central Asia.

The particularly high level of violence against human rights defenders in the area was not uniform however, and two trends emerged, both of which unfortunately seem to be growing worse.

Certain states, like *Uzbekistan* and *Turkmenistan*, continued to openly resort to direct police violence: this year again, human rights defenders have been under constant threat of arrest and arbitrary detention, during which they are regularly victims of torture. They and their relatives have frequently been subjected to intimidation and physical attacks as a punishment for their work.

At the same time, the large number of laws restricting freedoms of association, assembly and speech adopted in 2003 reveals a strategy of gradual neutralization and paralysis of civil society (*Russia, Uzbekistan, Belarus*, etc.). This strategy also involves an increasing number of legal proceedings against associations and their members, which can be seen as an evidence of the growing use of the judicial system to repress human rights defenders in this region. In *Belarus*, one independent human rights organization after another has been forced into liquidation and as a result, freedom of association has been progressively suppressed.

These two trends reflected an abuse of the «security-first» concept, particularly in the context of the international fight against terrorism. Accusations of «terrorism» increased this year, leading to the adoption of many restrictive laws targeting «political extremism». The wording of these laws is often vague, leaving the authorities a dangerous margin of interpretation and posing a real risk that the activities of human rights defenders will be more and more criminalized. Certain religious communities (mainly Muslim) and their defenders have been repressed on this basis, particularly in *Uzbekistan* and *Russia*. Moreover, the reference



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to terrorism in areas of conflict, such as *Chechnya*, creates further pressure on the civilian population and the rare human rights defenders operating in this region. In September 2003, the Special Representative of the president for human rights and freedoms in Chechnya, appointed by the President of the Russian Federation, accused human rights NGOs of supporting Chechen terrorists by «disseminating their propaganda via peace conferences».

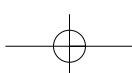
The erosion of rights and freedoms was accompanied by a strengthening of executive and arbitrary power, which became particularly obvious during electoral periods. In 2003, the principles of free and democratic elections were frequently violated in most of the countries concerned - legislative and presidential elections in *Armenia*, legislative elections in *Russia* and *Georgia*, presidential elections in *Azerbaijan* and a referendum in *Chechnya*. Tainted by irregularities, voting was also scarred by pre- and post-electoral violence, whose victims included human rights activists.

In general, access to information and free expression is strictly limited. Activists experienced great difficulty publicizing their activities and the results of their work, either because of general censorship affecting all media or because of the pressure and threats carried out during the publication of reports and newsletters.

All of these restrictions have further contributed to the fragmentation and weakening of civil society. While certain openly repressive regimes are now blacklisted by international institutions, other states are given a blank check¹.

Abuse of «security-first» concept

In *Georgia*, the parliament was scheduled to vote in December 2003 on a bill mandating «the suspension of activities, liquidation and banning of extremist organizations», approved in April 2003 by the Georgian Security Council. This bill was abandoned following the recent political changes in the country. An original bill authorizing «the suspension of activities, liquidation and banning of extremist organizations and foreign-controlled organizations» had been considered on 18th February 2003 by the Ministry of Justice. This bill was planning to give the minister the authority to close or ban any foreign-controlled organization, or any organization «acting against the country's interests», without any possibility of appeal to the national courts.



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The bill, however, did not precisely define actions «contrary to Georgian interests» nor the criteria for defining an organization as «terrorist or extremist». It should be recalled that in March 2002, the highest Georgian authorities had officially equated NGO activities with those of terrorist groups, and called for strict financial control¹. Confronted with protests and pressure from civil society and international experts, the Ministry of Security amended the bill in September 2003, eliminating the measures concerning «foreign-controlled organizations». Furthermore, Article 4 of the bill authorized the Ministry to ban any organization whose activities or statements exhibited signs of extremism, called for a new government, or constituted a threat to Georgia's sovereignty or territorial integrity. According to Article 5, after a first warning the case would be referred to the Constitutional Court and after a second warning to the Supreme Court of appeal, and the Ministry could refer the case to the court without prior notice «in case of emergency».

The Georgian bill presents similarities with the law on political extremism adopted by *Russia* in June 2002. In the absence of any clear definition of «political extremism», this law can be arbitrarily used against human rights defenders and opposition members. Individuals accused of «extremism» or «calling for political extremism» can be immediately imprisoned for five years, and organizations, trade unions and religious groups suspected of «extremism» can be closed by order of the prosecutor or any other judicial institution.

In *Moldova*, the parliament passed a law on extremist activities in March 2003. There too, application of the law is problematic because of its imprecise terminology and the absence of any clear definition of extremism. For example, «threats to the security of the Moldavian State» (Article 1-a2), «incitement to social hatred» and «attacks on national dignity» (Article 1-a7) are equated with extremist activities and could be invoked to ban the creation of new organizations, as well as the holding of demonstrations. Moreover, the media and religious groups are expressly targeted by this law (Articles 1,3,6, and 7).

Finally, in *Turkmenistan*, the assassination attempt against President Niyazov in November 2002, presented as a threat to state security, pro-

¹ See Annual Report 2002.

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voked a massive wave of arrests of political opponents and human rights defenders. For example, Mr. Farid Tukhbatullin, a human rights and environmental activist, was accused of illegally crossing the Uzbek border and participating in the planning of the assassination attempt against the president. After a four-hours trial, he was sentenced by the Ashgabat court to three years of prison. The judges also reproached him for participating in a conference organized by the International Helsinki Federation for Human Rights and the Russian organization Memorial in November 2002. Under international pressure, Mr. Tukhbatullin was released in April 2003, after being forced to write a confession and apology, which were published in all the country's newspapers. He has been living in exile in Austria since September 2003.

Defending human rights during armed conflicts

The case of *Chechnya* exemplifies the spurious use of the fight against terrorism and the difficulties faced by human rights activists in conflict areas. Three major obstacles hinder their work. First, access to the Chechen Republic is strictly limited. NGOs and journalists trying to gather information or help the civilian population, experience great difficulties gaining access to the country. On 7th January 2003, for example, German journalist Mr. Günter Wallraff was turned back at the Moscow-Sheremetyevo airport while on his way to Chechnya with the director of a humanitarian organization and the former German minister of Employment. The Russian ministry of Foreign Affairs justified this decision by stating that it was trying to prevent «a new anti-Russian smear campaign in the German media» over human rights violations in Chechnya.

Inter-governmental organizations also have limited access to Chechen territory. In 2003, the OSCE's mandate in the region was not extended after representatives of the organization expressed their desire to continue observing the human rights situation rather than limit themselves to a humanitarian role. Despite resolutions adopted in 2000 and 2001, the only UN representative able to visit Ingushetia and Chechnya was Mr. Francis M. Deng, Special Representative of the UN Secretary General on internally displaced persons, who went there in September 2003.

In addition, human rights defenders working in the field are exposed to great risks. The branch of Memorial in Grozny, whose president

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Mrs. Lida Yusupova received the Martin Ennals Award for Human Rights Defenders in 2003, for her efforts and courage, was regularly searched and its members threatened. In 2003, abductions, disappearances and assassinations continued. In May 2003, Mrs. Zoura Bitieva, known for her peace and human rights work, and three members of her family were killed at her home by a group of soldiers in uniform². For the first time on 16th January 2003, the European Court for Human Rights ruled receivable a complaint filed by six Chechen civilians against Russia; the individuals who lodged these complaints have since been subjected to constant intimidation and threats.

Peace organizations in the rest of the country also face hostility and violence. In September 2003, during their weekly demonstration against the war in Chechnya, members of Soldiers' Mothers of Saint-Petersburg were violently attacked by a group of individuals who were obviously acting on behalf of the authorities³. The Sakharov Museum in Moscow faced constant pressure by the police and authorities for hanging a banner on its facade that read «The War in Chechnya: Enough!».

In *Nagorno-Karabakh*, the dormant conflict aggravated the difficulties encountered by human rights defenders in the exercise of their work. Since the self-proclaimed independence of this Armenian-majority Azerbaijani region and despite the 1994 ceasefire, Azerbaijani and Armenian territorial claims have still not been politically resolved. Despite encouraging statements by Nagorno-Karabakh authorities, there are few or no human right organizations in the region. Concerned about legitimacy, the population practices self-censorship and does not express any criticism towards the government. In Azerbaijan, the Nagorno-Karabakh issue returned to the fore during the pre-electoral season. Those who support a peaceful compromise with Armenia are immediately accused of being «enemies of the people». In April 2003, the chairman of the Human Rights Centre of Azerbaijan (HRCA), Mr. Eldar Zeynalov, was the victim of a massive smear campaign that questioned his neutrality and claimed he was of Armenian background⁴.

² See compilation below.

³ *Idem.*

⁴ *Idem.*

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In *Turkey*, the human rights defenders who advocate for a peaceful settlement of the conflict in the south west of the country and who continue to defend the rights of the Kurdish population continue to be subjected to recurrent legal proceedings⁵.

Freedom of association and assembly

The year 2003 was also marked by the passing of several laws restricting the right to assembly and to hold meetings. Rather than risking the criticisms of the international community by openly repressing the opponents and human rights defenders, the governments of Belarus, Russia and Georgia in particular, have set up an entire legal arsenal allowing them to suspend or close down associations considered to be a hindrance while seemingly acting within the law.

In *Russia*, federal laws passed since 1995 had already paved the way for a heavy control of associations' activities. It was only between 2000 and 2002 that these laws had been strictly applied and reinforced by the adoption of new restrictive legislations. In the year 2003, this trend had been strengthened.

The amendment of Article 251 of the tax code, adopted in May 2002, which came into effect on 1st January 2003, imposes a 25% tax on NGOs' incomes, which deprives them of a large share of their resources and significantly reduces their means of action. According to the law on «charitable activities» adopted in 1995 and re-examined in 2002, associations defending human rights do not feature in the list of cultural and social activities exempted from tax. If the authorities consider that the activities of associations listed by this legislation do not compete with the state's area of competence, on the other hand, they claim a stranglehold on the protection of human rights. Various NGOs have thus found been denied registration because the terminology of «human rights protection» appeared in their name. According to the Department of Justice, this label is superfluous as the protection of human rights is the responsibility of the State...

In addition, a new bill on the right to assembly and demonstration has been approved by the government on 21st March 2003. This bill

⁵ *Idem.*

plans to subject all meetings to a prior authorisation. As the deadline for requesting this authorisation is very short, and the procedure rather complex and demanding strict criteria for participation and location, it will potentially allow authorities to prohibit any kind of demonstration if adopted by the Duma. For instance, meetings close to administrative buildings, schools as well as embassies and premises of international organisations are prohibited, without any precision provided on the control perimeter, which is a decision left to the discretion of authorities.

In *Belarus*, spring 2003 was marked by the beginning of a huge campaign of liquidations of NGOs dealing with human rights protection under lame excuses. The strict application of legislations in the domain of registration has allowed authorities to suspend the activities of many associations quite legally. Decree n° 13 signed by President Lukashenko in April 2003 prohibits NGOs from representing individuals during civil trials and therefore deprives the population of a significant recourse against the arbitrariness of Power.

In *Turkmenistan*, a new bill on «citizens' associations» accepted by the government in August 2003 subjects NGOs to a tight control from the authorities. The government from then on is able to order the liquidation of an association after two warnings for minor bureaucratic reasons. Furthermore, the bill gives the government substantial power to interfere in the activities of associations, authorising it, for instance, to send representatives to meetings and conferences held by civil society. On the other hand, this bill strictly prohibits «interference of NGOs in activities of the country's institutions».

In *Uzbekistan*, the constraints on freedom of assembly apply to local associations as well as big international institutions. In May 2003, the annual conference held by the European Bank for Reconstruction and Development (EBRD) was jeopardised by the non-access to the premises of the Conference - a hotel in Tashkent - which had previously been reserved for the occasion. Furthermore, on 5th December 2003, the seminar on death penalty organised by the Association of Mothers against Torture and Death Penalty, where several diplomats and representatives of international organisations were expected to participate, was cancelled. The manager of the premises where this meeting was supposed to be held was put under enormous pressure by the authorities and the Minister of Foreign Affairs recalled that the Association was not registered.

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In addition, the decree of the Council of Ministers requires all the media to re-register in the beginning of 2004. For the first time, this requirement has been extended to NGOs' publications. This breaches the terms of the national legislation, which specifically authorises the free publication of newsletters. Since the law on mass media, passed in May 2002, had already severely restricted freedom of the press, the population is now losing one of the only independent sources of information. The ministerial decree also applies to electronic media which until then were loosely supervised and thus gives the authorities a tight control on everything that is published in the country.

Finally, a new legislation passed in December 2003 requires all inter-governmental organisations and foreign NGOs to «re-register» with the ministry of Foreign Affairs, which until then was the only institution to manage these registration requests, and with the ministry of Justice before 1st March 2004.

The new legislations have reinforced the movement aimed at clamping down all civil initiatives. In the absence of parliamentary intermediaries, human rights defenders remain subjected to a reinforced and increasingly arbitrary executive power.

Besides the passing of these restrictive laws, replacing members of the Board of directors of an existing organisation with persons close to the government without any preliminary consultation, is another means of hampering the free exercise of freedom of assembly. In August 2003, VTsIOM, a polling agency in Russia, was informed that the election of a new board, which would be in charge of designing new strategies, would take place. However, VTsIOM members have been able to reform a new association, the Analytical Service VTsIOM (VTsIOM-A) in September. In *Kyrgyzstan*, the Kyrgyz Committee for Human Rights (KCHR) was victim of this type of ploy for the second time since 1999. In September 2003, the Department of Justice registered a new board which arbitrarily dismissed the legally elected president, Mr. Ramazan Dyrlydaev. Even though several international institutions and organisations, including the Observatory, did not recognise the new KCHR and its managers, Mr. Dyrlydaev's and his collaborators' work has been severely paralysed since these events.

Marginalization and criminalization of civil society

Attacks, Violence and reprisals

The attacks and direct violence against human rights defenders have established a regime of terror in some countries of Central Asia and the Caucasus, which marginalises and criminalises civil society.

Direct pressures, in the form of threats, physical attacks or torture, arrests and arbitrary detentions, are especially blatant in *Uzbekistan*, *Azerbaijan* and *Kyrgyzstan*. In addition to the attacks targeted at the defenders themselves, one of the most striking features of this repression is an extension to threats and attacks aimed at their close relatives. In *Azerbaijan*, members of Mr. Eldar Zeynalov's family were severely beaten by their neighbours in April 2003 following the smear campaign orchestrated by the authorities against Mr. Zeynalov⁶. In *Uzbekistan*, members of the Alimov family, close relatives of Mr. Norboye Kholzigitov, president of the Ichtikhan section of the Human Rights Society of Uzbekistan (HRSU), were arrested in January 2003 with a deceptive motive in mind, after Mr. Kholzigitov made public statements on human rights violations in this region.

These direct attacks were accompanied by professional sanctions which undermine the economic and social situation of the defenders and their close relatives. In *Kyrgyzstan*, the brother of Mr. Ramazan Dyrlydaev, president of Kyrgyz Committee for Human Rights (KCHR) lost his job this year. His daughter, whose husband was made redundant in 2002, has been unemployed for four years. In *Uzbekistan*, the secretary of HRSU in Zarbdor was forced to publicly denigrate the president of this section before resigning in December 2003, so that his daughter could be employed again. In *Azerbaijan*, several people who have signed a petition calling for the President's resignation have been made redundant, as well as their close relatives⁷.

These reprisals are also often aimed at sanctioning the broadcast of information on human rights, thus isolating the human rights defenders from the rest of the population. In *Bosnia-Herzegovina*, following the publication of a report exposing the abuses of law enforcement officials,

⁶ *Idem.*

⁷ *Idem.*

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Mr. Mladen Milicanin, president of the Citizens' Association in Milici received several threats urging him to suspend his activities. On the 26th March 2003, he was brutally attacked and beaten by a group of individuals. His injuries have left him handicapped⁸.

Judicialisation of repression

The significant increase of judiciary procedures against human rights defenders is one of the characteristic features of repression in this region.

In many countries, trials are totally made up, as in *Kazakhstan* or *Uzbekistan*. Two human rights activists and journalists, Mr. Serguei Duvanov (Kazakhstan) and Mr. Ruslan Sharipov (Uzbekistan) were respectively condemned to three and a half years and four years of prison after being accused of raping minors. They had both exposed the acts of corruption in their country. In a letter written in prison and addressed to the General Secretary of the United Nations, Mr. Kofi Annan. Mr. Ruslan Sharipov has drawn up a damning list of tortures inflicted on him during his detention.

In *Turkey*, in spite of positive legislative reforms adopted within the context of its application to the European Union, these new measures remain weak in their implementation. The defenders fighting for the rights of the Kurdish population, exposing the situation in prisons as well as the violent actions carried out by the police, are regularly prosecuted. Some of them are subjected to dozens of legal proceedings each⁹.

Electoral context

The run-up to elections is very a tensed situation which favours the criminalisation of human rights defenders, who are then often accused of being «troublemakers» or «enemies of the people». The authorities tend to liken them to political opponents and thus to silence them. In Armenia for instance, where no human rights defender had been arrested since 1998, Mr. Arthur Sakunts, coordinator of Helsinki Citizens' Assembly (HCA) in Vanadzor, was condemned to 10 days of administrative detention for organising a public meeting about the presidential

⁸ See International Helsinki Federation for Human Rights.

⁹ *Idem*.

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elections which took place on 5th March 2003, though this meeting, which had been prohibited by the local authorities, was finally not even held.

After the election of Mr Ilham Aliev to the presidency of *Azerbaijan* on 15th October 2003, several deputies close to power called upon the government to take measures against human rights defenders on television. As for the Deputy president of the parliamentary Commission on Human Rights, she asked for their exile. Mid-January 2004, 128 people, 100 of whom are defenders, have been imprisoned following the unrest in Bakou on 16th and 17th October. It should be noted that most of them were arrested far after these events. The first trials were expected to start end of January 2004.

In *Georgia*, several violations have been noted during the legislative elections on 2nd November 2003. Human rights defenders who exposed them were under extreme pressure, especially in the Autonomous Republic of Adjara, where several observers were arrested, as for instance Mr. Giorgi Mahvenieradze, a representative of the Georgian Young Lawyers Association¹⁰.

International and regional mobilisation

United Nations

Mrs Hina Jilani, Special Representative of the United Nations Secretary General on Human Rights Defenders, asked for an invitation from the Albanian, Belarusian, Turkish and Uzbek authorities. The only affirmative response she has received so far is from Turkey. Though Mrs. Jilani was to visit the country beginning of December 2004, this visit was however cancelled a few days before her departure, with no later date being set. Mrs. Hina Jilani made a visit to the ex-Republic of Macedonia from 26th to 30th January 2003 upon an invitation by the authorities of this country.

During the 59th session of the Commission on Human Rights, a resolution was passed on 16th April 2003 on the human rights situation in Turkmenistan. The Commission expressed its grave concern «at the

¹⁰ *Idem.*

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suppression of independent media and freedom of expression, at attempts to restrict access of the international media and at restrictions to seek, receive and impart information». The commission called upon the government of Turkmenistan to remove restrictions on NGO's activities and the activities of the main organised forces, particularly those involved in human rights or civil society. It «called upon the Special Rapporteurs [...] on freedom of opinion and expression [...] and the Special Representative of the UN Secretary General on human rights defender to seek invitations from the government of Turkmenistan to visit the country».

The Commission also passed a resolution on human rights in Belarus, stating its concern «about persistent reports of harassment of non-governmental organisations, opposition political parties and individuals engaged in opposition activities and independent media». It also urged the government «to release journalists and other individuals detained for politically motivated reasons and to cease harassment of non-governmental organizations and political parties» and to cooperate fully with all the mechanisms of the Commission on Human Rights, including through extending invitations to «[...] the Special Rapporteur on freedom of opinion and expression and the Special Representative of the Secretary-General on human rights defenders».

European Union

The European Parliament has this year paid more attention to the issue of protection of human rights defenders, as reflected in the increasing number of resolutions and interventions - taking position on specific defenders' cases for instance.

The European Parliament has this year adopted several resolutions aimed at protecting human rights defenders who are being threatened.

In its resolution of 13th February 2003¹¹, focusing on human rights in Kazakhstan and Central Asia, the Parliament specifically asked for Mr. Sergei Duvanov's immediate release and denounced the conditions of his trial.

¹¹ P5_TA(2003)0064.

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In its resolution of 23rd October 2003¹² on Turkmenistan and Central Asia, the Parliament condemned the acts of harassment against human rights defenders in the region and asked the «Turkmen authorities to allow non-governmental organisations and civil society activists to carry out their peaceful activities free from harassment and persecution and to register and operate freely». In this same resolution, the Parliament urged the Uzbek government to «end the climate of persecution and fear affecting human rights activists, to respect the principles of freedom of speech and expression and to release Mr. Ruslan Sharipov immediatly».

In its resolution of 3rd July 2003, following the visit of the *ad hoc* delegation of the Parliament in Chechnya from 15th to 17th July 2003, it asked for the release of Mr Arjan Erkel, a member of Médecins Sans Frontières (MSF), abducted while conducting his activities.

Finally, the European Parliament condemned the attacks against the offices of the Human Rights Association of Turkey (IHD) in a resolution passed on 15th May 2003¹³, and expressed «its support for the activities and campaigns to raise public awareness, conducted by the IHD and by other Turkish human rights organisations». The Parliament also urged «the Turkish government to take concrete measures to prove its commitment to respecting human rights and to review its legislation with a view to guaranteeing the protection of democracy, transparency and human rights in Turkey».

Besides these resolutions supporting individuals or specific countries, the Parliament also dealt with the theme of human rights defenders and civil society in a broader sense.

The Parliament's annual report published on 16th July 2003 thus reported the will of the institution to reinforce the «links and contacts with the NGOs» and was «concerned with situation of the human rights defenders who are themselves often victims of human rights violations».

In its resolution of 4th September 2003¹⁴ on human rights in the world, the Parliament noted that «the human rights situation in the

12 P5_TA-PROV(2003)0467.

13 P5_TA(2003)0218.

14 P5_TA(2003)0375.

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Middle East, North Africa and in parts of Asia was further aggravated in the name of 'combating terrorism', and that «clampdowns upon freedom of expression and assembly, and the intimidation of human rights defenders proliferated». In addition, the parliament called for the setting up of human rights working parties who would collaborate closely with representatives of civil society and NGOs. It also highlighted «the important role of defenders and their need to be protected» especially when they act as witnesses for international institutions.

Finally, on 11th June 2003, the European Parliament organised a hearing around the theme «defending the defenders» in which the Observatory participated. Following this hearing, the Observatory insisted on the need for the European Parliament to join forces in order to protect the defenders and to support their activities. The Observatory insisted that priority must be given to the creation of a working party, which would follow individual cases identified and treated by the parliament. The working party could also ensure a better coherence amongst the different initiatives of the European Parliament such as the Sakharov Prize, Passport to freedom, resolutions on human right defenders and the various activities of the Committees of the Parliament,...

The Observatory has asked the European Union that the issue of human rights defenders and freedom of assembly be systematically included in its external relations, that the European Commission delegations in the third countries work in close cooperation with the delegations of member states to ensure their mobilization in terms of forces and their support to defenders. It also asked that the member States adopt the national measures of protections of human rights defenders, for example through the resolutions of national parliaments. In this respect, the Observatory favorably accepts the parliamentary motion, which was presented on 25th November 2003, entitled «protection of human rights defenders under threat».

This joining up of forces by the Parliament must though find an echo among the other institutions' policies. Regrettably, the annual report of the European Union, adopted by the EU Council on 13th October 2003, once again features the topic of human rights defenders in the last position in its list of priorities. In this context, the declarations of the Irish Presidency (from 1st January to 31st June 2004) give hope of a reversal of this situation. Indeed, the Irish Presidency claimed its desire to work towards the elaboration at an European scale of an

institutional instrument aimed at defending the defenders in the context of EU's external relations.

Finally, it is to be underlined that the EU favorably accepted Mrs. Hina Jilani's report during the 59th session of the Commission on Human Rights, and requested for the protection of «judicial space necessary for the defenders to undertake their activities». During the session, all the EU member states have furthermore co-promoted a resolution project, presented by Norway and passed without any votes, expanding the mandate of the Special Representative of the UN Secretary General on Human Rights Defenders for another three years.

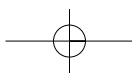
Organisation for Security and Co-operation in Europe (OSCE)

The Observatory intervened during the OSCE Implementation Meeting on Human Dimension, which took place in Warsaw from 6th to 17th October 2003, to denounce the numerous violations of the defenders' individual and collective rights in the OSCE zone. The Observatory specifically asked for a regional monitoring and follow-up mechanism, which would be mandated to appeal, question and respond to the States, as well as assess the legislations relating to freedom of assembly.

The Observatory welcomes the decision of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to set up a specific programme on freedoms of assembly and association within the CIS zone. This programme plans specific types of monitoring intended for organisations within civil society, aims at collecting information on provisions and applications of laws relating to freedoms of assembly and association. This program, which extends over the period of 2004-2005, has a budget of 75,000 euros.

European Bank of Reconstruction and Development (EBRD)

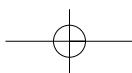
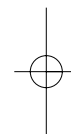
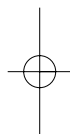
In March 2003, the EBRD established a list of human rights criteria in the context of its national strategy for Uzbekistan. More specifically included in these criteria are the registration and the free operation of independent groups of civil society. The bank gave the government a one year deadline to implement these objectives.



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Civil Society

The Observatory participated in the second platform of human rights defenders, organized by Frontline from 10th to 12th September 2003 in Dublin. This conference brought together 119 human rights defenders from 72 countries, including Mrs. Hina Jilani and Mr. Bertrand Ramcharan, acting High Commissioner for Human Rights. This seminar has particularly allowed the reinforcement of the human rights defenders' network across the world.



HUMAN RIGHTS DEFENDERS HARASSED

ARMENIA

Interference with the freedom of association and demonstration¹⁵

On 13th March 2003, following the second ballot of the presidential elections of 5th March 2003, Mr. **Arthur Sakunts**, local coordinator of the Helsinki Citizens' Assembly (HCA) in Vanadzor, and editor of the newspaper *Civil Initiative*, announced his intention to organize a public information meeting about the election proceedings. This meeting was forbidden on March 14th by decree of the mayor, claiming security reasons. Such decrees however, had already been invalidated on several occasions by the Court of Appeal, considering that they constituted an infringement on the freedom of speech and diffusion of information.

On 14th March, HCA premises in Vanadzor were broken into and the office set on fire. The fire was rapidly confined.

Mr. Arthur Sakunts was arrested by local authorities on 15th March. He was arraigned immediately without the presence of his lawyer. Mr. Sakunts was sentenced by the Court of First Instance to 10 days of imprisonment on the basis of article 182 of the Code of Administrative Offences (disobeying the orders of police authorities) in relation to the organisation of the 14th March meeting. However, as this meeting did not take place, the reference to article 182 is groundless.

¹⁵ See Open Letter of 28th March 2003.

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Between the months of February and March 2003, nearly 200 people were arrested on the basis of this same administrative code. This occurred during peaceful demonstrations organized by the political opposition to protest against the way elections were being conducted. Although most of these people were quickly released upon payment of a fine, about fifty others received detention sentences.

Mr. Sakunts, who is the first human rights defender to be sentenced in Armenia since 1998, was released on 25th March after serving his time. Thanks to international pressure, he was treated in accordance with the law and suffered no ill treatment. He introduced an appeal against the decision of the Tribunal of First Instance. The Court of Appeal having rejected the procedure and confirmed the decision of 25th March, Mr. Sakunts appealed before the Supreme Court of Appeals on 18th April 2003. The court rejected this appeal on 23rd May.

The HCA premises, in the middle of reconstruction after the events of April 2003, were once again vandalized during the night of 4th May 2003 by a group of individuals who forced the front door and broke the windows.

The police had concluded that the 14th March fire in the HCA offices was due to an electrical short-circuit. On 31st March, Mr. Sakunts requested that the public prosecutor open an in-depth investigation. Ministry of Justice experts noticed traces of gasoline in the offices and concluded that the fire was set with criminal intent.

A first complaint against person or persons unknown was lodged on 16th May in relation to this fire, and a second one on 19th May, concerning the 4th May attack. The two dossiers were closed on 16th and 19th June respectively, for lack of information.

Finally, as of March 2003, HCA was cut off from the help of the media in diffusing its information. Until then, not only regional journalists, but also the national radio and television stations allowed HCA members to participate in their programs, broadcast reportages, or organize debates to keep the population informed of their activities. No official explanation was provided to HCA concerning these restrictions, which began just after the release of Mr. Sakunts, at the height of the election campaign. For several months, HCA had to carry out a public sensitisation and information campaign. By early January 2004, this campaign seemed to have borne fruit, and the HCA regained access to the media.

Attacks, threats, and harassment against Mr. Eldar Zeynalov and Mrs. Leyla Yunus¹⁶

Mr. **Eldar Zeynalov**, president of the Human Rights Centre of Azerbaijan (HRCA) and Mrs. **Leyla Yunus**, director of the Institute for Peace and Democracy, became victims of attacks and acts of harassment in April 2003.

Between 20th and 23rd April, Mr. Zeynalov was in Nagorno-Karabakh accompanied by his wife, Mrs. **Zaliha Tahirova**, coordinator of Amnesty International-Azerbaijan, to attend a seminar on the management of NGOs in this region. Nagorno-Karabakh, an autonomous region of Armenian majority, is the main source of conflict between Azerbaijan and Armenia, and represents a particularly sensitive subject in every election period. It so happened that in April, the campaign for the presidential elections scheduled for October had already begun. During Mr. Zeynalov's stay in this region, the authorities launched a broad defamation campaign against him, accusing him of working against the interests of the country, and of having ethnic Armenian origins.

Thus on 22nd April 2003, during a program aired on a state-run television station, members of a pro-government organisation for the defence of human rights accused Mr. Zeynalov and Mrs. Yunus of being «enemies of the people». After broadcasting the personal address information of Mr. Zeynalov, they called on the audience to take action.

On 23rd April 2003, when Mr. Zeynalov had returned to Baku and following this televised program, about forty men attacked the HRCA office with eggs and chemicals. The assailants accused Mr. Zeynalov of treason before burning his effigy in front of the premises. When HRCA staff called the police for help, it seems that one of the officers explicitly asserted his support of this attack. Moreover, a member of the Organisation for the Liberation of Nagorno-Karabakh who participated in this assault declared that the HRCA office could be the target of a suicide attack, and made death threats against Mr. Zeynalov.

¹⁶ See Urgent Appeal AZE 001/0403/OBS 021.

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On 24th July, during a televised speech, the Minister of the Interior threatened Mr. Zeynalov with criminal charges if he continued his activities, and he repeated the accusations of treason.

On 25th April, HRCA was again attacked by unidentified individuals and members of the President's party. In view of the total failure of the police to react despite his repeated requests for protection, Mr. Zeynalov decided to hire bodyguards. On 29th April, the latter resigned, apparently under pressure from the Minister of National Security.

On 28th April, some forty members of the party of President Haïdar Aliev attacked the premises of the Institute for Peace and Democracy, and ordered the Director of the Institute, Mrs. Leyla Yunus, to leave the country. This attack had been announced in advance on television. Despite the specific request for police protection, no police officer was in place when the attack occurred.

Relatives of Mr. Zeylanov were also harassed. Several of them were required to show their marriage certificates to authorities who were attempting to prove their ethnic Armenian origins. In addition, on 28th April 2003, Mr. Zeynalov's sister-in-law and father-in-law, Mrs. Zemfira Yusif-Zade and Mr. Isakh Tahirov, 84 years of age, were severely beaten by their neighbours, who demanded that they leave the country. The police refused to ensure their protection.

It should be noted that no investigation was opened concerning the personal attacks led against Mrs. Yunus, Mr. Zeynalov or their relatives. Furthermore, on 13th May, the police officially announced the closing of the preliminary investigation into the attacks led against HRCA premises on 23rd and 25th April.

Intimidation and acts of harassment following a petition

On 23rd April 2003, the Amal Committee (committee of intellectuals) launched a petition demanding the resignation of President Haïdar Aliev. It was signed by 126 members of the Committee, including several well-known Azeri intellectuals.

Pro-government media immediately launched a vast defamation campaign against the Amal Committee and the petition signatories. During a parliamentary session on 6th May, Mr. Shahlar Asgaro, the president of the parliamentary commission of the party in power, publicly criticized and denounced the Committee's activities and its members.

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As for the signatories, they were threatened of losing of their jobs unless they publicly repudiated their participation in the petition. The board of directors of the University of Baku, for example, set up a special commission charged with the task of examining the files of professors having participated in the Amal Committee initiative. As a measure of reprisal, several of their relatives were fired, even personally threatened. The son of the poet Mr. **Musa Yaqub**, a petition signatory, was thus dismissed from his job.

Professor **Ahmad Ibrahimov**, who had also signed the petition, was dismissed from his position at the State Oil Academy. A group of prominent individuals, including Mr. **Ilqar Altay**¹⁷, members of the Federation of Human Rights Organizations of Azerbaijan, set up a Support Committee to demand his reinstatement. On 6th June, the committee members met with the dean of State Oil Academy, without any incident having been reported at the time. A few days later however, the dean stated that the delegation had vandalized his office, and lodged a complaint with the police. The members of the Committee for the Defence of Mr. Ibrahimov were accused of acts of vandalism based on article 233 of the Criminal Code. As of the beginning of January 2004, the procedure was still pending.

Intimidation and arbitrary detention during presidential elections¹⁸

Following the ballot of 15th October 2003, Mr. Ilham Aliev, son of the outgoing President Haïdar Aliev, was elected President of the Republic. Many national and international observers denounced the irregularities of this election, particularly the repeated acts of intimidation against opposition candidates. In reaction, numerous demonstrations were organized, notably in the days following announcement of the results. Many acts of violence were noted, emanating first of all from the police and pro-government hooligan groups. Several hundred people were arbitrarily arrested. The human rights defenders who had

¹⁷ See Annual Report 2002 and below.

¹⁸ See Urgent Appeal AZE 002/1003/OBS 058.

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denounced these violations and taken a stand in favour of a democratic government, were also victims of repression.

On 16th October 2003, Mr. **Azer Hasret**, president of the Journalists' Trade Union of Azerbaijan, was beaten by the police. At the time, he was recording a conference protesting against the election results that had been prohibited by the authorities.

On 17th October, Mr. **Azer Mammedov** and Mr. **Ramil Djarchiyev**, two activists from the Qazakh Human Rights Resource Center, were arrested in Qazakh. Mr. Mammedov was released a few days later, whereas Mr. Djarchiyev was still in detention at the end of December 2003, and is being prosecuted on criminal charges.

On 18th and 19th October, Mr. **Mehdi Mehdiyevn**, chairman of the Human Rights Centre in Baku, a grouping of eleven NGOs acting for the protection of human rights, was summoned by the police. Mr. Mehdiyevn having ignored this summons, police in plain clothes tried to break into his home during the night of 20th October. They threatened him with imprisonment and torture if he refused to make televised statements about the supposed «criminal actions» of opposition leaders.

On 21st October a group of police officers went to the home of Mrs. **Nushaba Mammedova**, HRCA coordinator in Gandjabasar and founder of the only independent newspaper in the *Gencebasar* region. Mrs. Mammedova was away from home at the time. The same day, her brother, a famous member of the opposition, had suffered harassment by the police, and her nephew had been arrested.

In the context of the autumn parliamentary session that began on 17th October 2003, several members of Parliament close to government circles repeatedly made public statements targeting human rights defenders. Thus, during interviews aired on pro-government television stations, the MPs Messrs. Huseynova and Muradova called on the government to take «measures against the defenders». In turn, Mrs. Rabiyyat Aslanova, vice-president of the parliamentary Commission on Human Rights, demanded «their exile». Moreover, on 22nd October, following the violent disturbances that occurred in Bakou on 16th and 17th October, the ministry of the Interior spokesman, Mr. Sadiq Gozalov, accused human rights defenders of defaming the forces of law and order.

Legal proceedings and harassment of DEVAMM¹⁹ members

On 16th October, Mr. **Ilqar Ibrahimoglu**, coordinator of the Center for the Protection of Conscience and Religious Freedoms (DEVAMM) and general secretary of the International Religious Liberty Association (IRLA) in Azerbaijan, was accused of having actively participated in the disturbances that arose in the aftermath of the presidential election. This was part of a vast smear campaign in the electronic media and pro-government newspapers. DEVAMM had taken part in the work of the democratic coalition Bizim Azerbaidjan (Our Azerbaijan), which brings together some thirty political parties and NGOs, and defends religious freedom without regard to race, sex or nationality.

On 17th October, police forces occupied the Juma Mescid Mosque of Baku in order to arrest Mr. Ibrahimoglu and Mr. **Azer Ramizoglu**, president of DEVAMM. Mr. Ramizoglu was arrested and held in police custody. He was released upon expiration of the legal three-hours time limit after being subjected to various intimidation efforts by the police. Mr. Ibrahimoglu on the other hand, was able to escape arrest and take refuge in the Norwegian Embassy of Baku from 17th to 19th October.

On 1st December, Mr. Ibrahimoglu was again arrested. On 3rd December, following a hastily conducted hearing, the District Court of Nasimi in Baku sentenced him to 3 months of preventive detention pending his trial for «disturbing the peace» (article 200-1 of the Criminal Code) and «refusing to comply with the authorities» (article 315-2).

On 4th December, the members of DEVAMM and IRLA created a Committee to protect the rights of Mr. Ibrahimoglu. The evening of that same day, the local police searched the homes of Mr. **Seymur Rashidov**, head of the DEVAMM press service, and Mr. **Shahin Gasanov**, the association's driver. As Mr. Rashidov was absent at the time, the police called him on his mobile phone and asked him to appear at the 27th police station of the Yamasal District no later than the next morning. Given the lack of any arrest warrant or official summons, Mr. Rashidov refused to go to the police station. Summoned by the Public Prosecutor on 11th December, and accompanied by Mr. Ibrahim-

¹⁹ See Urgent Appeal AZE 002/1003/OBS 058 and AZE 003/1203/OBS 068.

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oglu's brother, Mr. **Najaf Allaverdiev**, he was released after a few hours of questioning focused on committee activities.

As of early January 2004, Mr. Ibrahimoglu was still being held in the prison of Bayil, where he has been allowed visits from his lawyers as well as from representatives of OSCE and foreign embassies in Baku.

Continued harassment of Mr. Ilqar Altay²⁰

On 17th October 2003, the deputy Iqbal Agazade, leader of the Umid (Hope) party, was arrested. A Committee for the protection of Mr. Agazade's rights was established on 18th October, presided by Mr. **Ilqar Altay**. This independent legal expert has participated in many investigative missions, including that mandated by the Federation of Human Rights Organisations of Azerbaijan (FHROA) concerning the events that occurred in Nardaran²¹ in 2002. On that occasion, Mr. Altay had been harassed, before being dismissed from his position at the International University of Azerbaijan on 11th November 2002.

Mr. Altay was arrested on 18th October 2003, and then released after 5 days. He is being prosecuted for resisting the authorities.

BELARUS

Ever since the re-election of President Alexandre Lukachenko in September 2001, associations for the defence of human rights have been increasingly submitted to State control. The judicial observation mission mandated by the Observatory in October was able to observe that in 2003, yet another step had been taken towards the neutralisation of civil society, with the strengthening of a restrictive law applied to freedom of association, and the liquidation in great numbers of NGOs working for the defence of human rights.

²⁰ See Annual Report 2002.

²¹ On 3rd June 2002, the police intervened to suppress a social protest movement in the village of Nardaran, resulting in one death and twelve people wounded.

Restrictions on the rules governing associations

Registration system

In 1999, the adoption of a presidential decree «on certain measures on regulation of the activity of political parties and associations» (n° 2) deeply changed the registration system applicable to associations, until then a mere formality. All human rights organisations and associations, including those already registered legally, were obliged to use this new registration system, with its particularly restrictive measures, or risk being disbanded or banned from activity. The Republican Commission responsible for registration includes the Prime Minister, directors of the presidential administration and of the Security Council. It may examine the content, the association's tasks and working methods, and reject registration when it «does not comply with legislation». Presidential decree n° 11 of September 2003 extended the registration system to «associative unions».

For instance, on 24th December 2003, the Supreme Court of Belarus confirmed a Ministry of Justice decision to refuse registration to the Assembly of democratic NGOs, Belarus' largest associative network. Registration was applied for in 2002, then rejected in October 2003 by the Ministry of Justice on the recommendation of the Republican registration commission, on the grounds that the Assembly failed to submit its legal address to the Commission. In a hearing of 24th December, Ministry of Justice official Mrs. Natalia Kebikava stressed that several founding organisations of the Assembly had been disbanded since the registration application.

The legal address requirement is one of the system's insidious points. A large share of property is handled by the State. At the same time, private owners are pressurised by authorities not to accept this type of tenants. In reality, the authorities control access to housing, a pre-requisite to registration and re-registration of organisations. This is one of the main reasons given by the ministry of Justice in association dissolution procedures.

Monitoring of symbols used by associations is another way authorities use to restrict the creation of associations or to break up existing

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ones. The last decree on this matter, dating from 7th August 2002²² makes it compulsory for the Heraldic Council of State to validate associative logos, and for them to be registered in the State heraldic register. Failing to do so, the association will be disbanded. National symbols, particularly, were prohibited following the referendum of 1995, re-establishing the symbols of soviet Belarus.

The role of associations regarding legal representation

In light of the repression suffered by a number of opponents and the general violation of human rights in Belarus, several associations have been created to provide legal aid to the country's citizens. In April 2003, the adoption of a new presidential decree (decree n° 13)²³ restricted the right to legal assistance for associations. The decree provides that, «representatives of non-governmental organisations may only represent physical persons in civil suits in general courts if the law authorises them to represent and defend the rights and interests of members of these associations and other persons before the courts». This decree violates article 62 of the Belarus Constitution that guarantees citizens the right to legal assistance to defend their rights before a court. It also goes against article 73 of the Civil Procedure Code that restricts this right to minors, disabled or partially disabled persons, judges, investigating magistrates and public prosecutors. Commenting on this decree, the president's press service reasoned that «the representation of citizens' interests in court requires professional training».

In his speech to Parliament on 16th April 2003, President Lukachenko said that the representation of citizens' interests by NGO was detrimental to the profession of lawyers. Decree n° 12 of 3rd May, 1997 regarding the work of lawyers and solicitors obliges lawyers to «be members of a centralised State college overseen by the ministry of Justice, with the competence to authorise or refuse the right to exercise by issuing temporary licences». However, article 72 of the Civil

22 Decree n° 441 «On the formation of the Heraldry Council under President of the Republic of Belarus and some measures aimed to improve the adoption & state registration of medals, orders & official heraldic symbols».

23 «On some questions regarding civil legal procedures», See open letter to the authorities, 8th August 2003.

Procedure Code enables each party to be represented and/or aided by a «civil representative» in court; a large number of jurists therefore assist persons tried in court for civil and administrative matters, whereas criminal matters are left to lawyers.

To illustrate, on 5th September 2003, the NGO «Legal aid to the population» was disbanded by the town court (ruling confirmed by the Supreme Court on 13th October 2003) based on the Associations law and presidential decree n° 13. The association was accused of providing legal aid without a compulsory licence. The Ministry of Justice took the licence away in the spring of 2000. The NGO provided legal assistance to families of missing political opponents. Its director, Mr. **Oleg Voltchek**, represents the family of Iouri Zakharenko, former minister of Interior, who disappeared in May 1999.

Foreign assistance to NGOs

On 28th November 2003, President Lukachenko signed a decree regarding the use of foreign humanitarian aid (decree n° 24). The decree introduces measures to monitor foreign aid and stipulates that such aid may not be used «to organise political meetings, demonstrations, pickets, to prepare and distribute propaganda or to hold seminars or other forms of political work with the population». Any NGO in breach of this decree may be disbanded. The decree follows decree n° 8, adopted in March 2001, which introduced a sharp authorisation system overseen by the President for foreign financing of work undertaken by human rights NGOs, associations, independent media and political parties²⁴. The decree specifies that any form of aid must be certified for registration by the Department of humanitarian aid, under the responsibility of the President. It also provides that free foreign aid may not be used to prepare or conduct political or social events. Currently in Belarus, most associations and independent media, as well as opposing political parties are run with the help of foreign organisations and foundations.

²⁴ On this subject, see *Belarus: A caricature of autocracy. Civil society in a stranglehold*. Observatory international investigation mission, September 2001, p. 16.

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The institution of state associations

In parallel to the procedure to limit the freedom of associative work, Belarus authorities have introduced a process to encourage associations that are loyal to the State, such as the Republican Youth Union, which benefits from advertising on television and which actively participates in the youth ideology programme. On 30th July 2003, President Lukachenko issued a decree (n° 335) on State republican associations, creating a new status for «associations aimed at meeting significant objectives defined by the State». It is therefore probable that Belarus leaders profit from the dissolution of State-resistant associations by replacing them with docile associations that can benefit from administrative or financial advantages from the State. As repressed human rights activists protest, these new associations may well exploit information collected during inspections of disbanded associations' premises.

Dissolution procedures

Until 2001, associations could be disbanded for three reasons (Associations Law):

- if their activities advocated «a change to the Constitution by violent means, violated the integrity and security of the State, incited propaganda of war, violence, racial, national and religious hatred, or if they were detrimental to the physical and mental health of citizens» (art. 3);
- if the association receives a written warning twice in one year (art. 29);
- if, upon registration, the association's founders are in breach of the Associations law (art. 29).

Since the amendments to Art. 29 of the Associations law of 1994 (n° 213-3) were adopted on 26th June 2003, associations may be disbanded on a court ruling if the «association has at any time been in breach of the legislation on gatherings». This decision followed a series of measures taken since 1997 to drastically limit the freedom of meetings and pacific gatherings for NGO²⁵. According to the amendment to the law

25 See *Belarus: A caricature of autocracy. Civil society in a stranglehold*. Observatory international enquiry mission, September 2001, p. 23.

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on gatherings adopted 4th December 2003, an application must be made to authorities for the organisation of any gathering of any form no later than 15 days before the date of the event. Organisers may not organise any publicity before official authorisation is given, i.e. no later than five days in advance. The amendment also introduces strict limitations as to the place of gathering, and establishes prohibited perimeters around official or public buildings. Local authorities are entitled to modify the time and place of the event and, in several cases, they reject the application arbitrarily. The measures taken result in a number of offences. For example, those participating may be charged with taking part in an unauthorised gathering, of obstructing the work of the police, using unauthorised symbols or chanting anti-president slogans. Since the amendment was adopted, highway costs, costs for maintaining order and for emergency services - firemen, hospitals - are borne entirely by the organisers. In light of the heavy estimates presented to them, many organisations are unable to pay.

Massive liquidation of NGOs

On 17th June 2003, the NGO «Civil Initiatives» was disbanded, among other reasons, for distorting its name and unjustified use of equipment donated. The association filed a complaint to the United Nations Commission on Human Rights following its disbandment.

On 9th July 2003, the Varuta resource centre in Baranovitchi was disbanded after two warnings from the Ministry of Justice for using an abbreviation of its name on internal documents and using the word «organisation» rather than «association» on its headed paper. Varuta provided assistance in the publication of bulletins, journals and magazines. It developed training and education programmes.

On 31st July 2003, the regional court of Vitebsk ordered the dissolution of the Kontur youth initiative centre on the grounds that its head office address had changed since August 2000 and no longer corresponded to the address shown on the association's registration form. The court also based its decision on the fact that Kontur used foreign financial help without the appropriate authorisation.

In August 2003, the Helsinki committee received a warning from the Ministry of Justice for use of headed paper and a stamp failing to comply with the statutes of the association.

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On 9th October 2003, the Supreme Court of Belarus ordered the dissolution of the «Women's answer» association for violating the regulations on the use of its legal registration address.

The same day, the court also disbanded the Belarus fund Cassiopeia on the request of the Ministry of Justice, following warnings concerning an incorrect legal address (registered in private premises) and the use of wrongly headed paper.

On 16th October 2003, the Supreme Court of Belarus disbanded the Lutskevitch brothers fund for breaking the registration law (incorrect address and stamp).

The Minsk Independent Association of Juridical Research received two warnings issued by the ministry of Justice on 10th July and 29th August 2003 for granting non-registered NGOs legal consultations, and for representing the interests of sued NGOs during their trial. After the Association published some articles in the newsletter of the Democratic NGOs Assembly, which was denied registration, a third warning was issued on 5th September that by law instigated a liquidation lawsuit. The Association lodged an appeal against these warnings that was dismissed by the Minsk City court on 5th November. On 29th January 2004, the court ruled the dissolution of the Association on the basis of Article 72 of the Civil Procedure Code, considering that this article forbids any legal representation of one of the parties during a trial.

On 11th November 2003, the Supreme Court requested the dissolution of the «Association of young entrepreneurs» that offered legal advice and organised training to young entrepreneurs, due to irregularities upon the association's re-registration in 1999.

On 24th November 2003, the Supreme Court ordered the dissolution of the association «The hand of support» for similar reasons.

Viasna targeted

The trial for the human rights protection association «Viasna» took place on 22nd, 23rd, 24th and 28th October 2003, following the request for the association's dissolution from the Belarus Ministry of Justice. The Observatory's representatives were able to sit in at the one-judge hearings and observe the trial.

Charges

On 2nd September 2003, the ministry of Justice referred a dissolution procedure to the Supreme Court of Belarus accusing the association:

- of submitting registration documents containing forged signatures (violation of article 13 of the Associations law, of point 3 of the Presidential decree of 26th January 1999 and of point 2 of decision n° 108 of the ministry of Justice of 15th May 1995);
- of presenting an inadequate number of members (8 instead of 10) for the regional structure of Mogilev (violation of ruling of Republican association registration and re-registration commission of 24th March 1999);
- of breaching its own statutes by not collecting membership fees and not creating a local structure in Minsk (violation of points 3.1, 4.5 and 5.1 of Viasna statutes, of article 4 of the Associations law and of article 48 of the Civil Code);
- of breaching the electoral regulation by sending non-member observers (ruling from central electoral commission of 8th September 2001);
- of seeking to legally defend non-members of the association (violation of article 72 of the civil procedure code, article 22 of the Associations law and point 2.1 of Viasna statutes).

The trial was conducted in accordance with international human rights protection standards. The defence could present point by point the arguments it had prepared.

On 28th October, the judge ordered the dissolution of Viasna and a fine of 82,500 Roubles (35 Euros), a clearly political verdict. Four of the five charges were rejected for lack of proof as to the forged signatures, for insufficient legal grounds as to non-compliance to the registration procedure and for failing to adhere to regulations regarding assistance of private persons in civil trials. The only charge accepted was therefore the breach of the electoral regulation.

After hearing the ruling, the association's chairman, **Ales Bielatski**, defence counsellors **Vladimir Labkovitch** and **Valentin Stefanovitch** and five members present to support Viasna refused to leave the courtroom. The police arrested them and they were kept in police custody. On 29th October, they were released but were fined \$ 40 to 80 for «refusal to comply» (article 166 of the administrative Code).

Viasna appealed the Supreme Court's ruling. The trial will be held in the same court, this time with several judges.

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Detention of Mr. Bandazhevski²⁶

The authorities have refused to meet the Observatory's request, renewed regularly since 3rd December 2002, to allow an international enquiry mission into the detention conditions of Mr. **Yuri Bandazhevski**.

Mr. Bandazhevski, a renowned international scientist, specialising in medical nuclear radioactivity-related research and former director of the Gomel State Institute of Medicine, revealed in his research work the harmful effects of the catastrophe in Chernobyl on the population of Belarus, contradicting official claims from authorities. He also criticised the misuse of Health Department funds, which he said should have been used for research in this area.

On 18th June 2001, Mr. Bandazhevski was sentenced to eight years of strict detention on the pretext that he sought bribes from parents of pupils at the Institute. In light of his deteriorating physical and mental health, the Observatory referred the matter to the United Nations Working Group on Arbitrary Detention.

On 7th July 2003, the United Nations Commission on Human Rights declared Mr. Bandazhevski's complaint to be admissible, on account of the Protocol option in relation to the International Pact on civil and political rights. The Commission requested that Belarus, having signed the Protocol, provide written explanations and notify it of measures taken.

²⁶ See Annual Report 2002, Press Release of 17th April 2003 and Open Letter to authorities of 8th August 2003.

Procedural irregularities during the trial of the man charged with murdering Giorgi Sanaya²⁷

On 9th July 2003, Grigol Khurtsilava was sentenced to 13 years in prison for the murder of Mr. **Giorgi Sanaya**. Mr. Sanaya was a journalist for the TV channel *Rustavi 2*, and frequently exposed the regime's corruption. He was murdered on 26th July 2001. Although Mr. Khurtsilava, a former State Security officer, pleaded guilty and denied any political motive for the murder, this version of events is doubtful. He notably asserted during his trial that he had mistaken his target and did not know who Mr. Sanaya was. It appears, moreover, that witnesses were subjected to a lot of pressure during the trial.

Harassment against TV channel *Rustavi 2* continues²⁸

In 2002, on *Rustavi 2*'s «60 Minutes» programme, Mr. Akaki Gogichaishvili, the programme's editor and presenter, exposed the corruption of the head of Georgian Railways, Akika Chkhaidze. Mr. Chkhaidze brought defamation charges.

In August 2003, the regional court of Tbilisi ruled that *Rustavi 2* should pay a million lari (nearly 450,000 euros) in damages and interest to Mr. Chkhaidze. During the trial, the journalists were not permitted to produce the evidence on which they had based their accusations.

The political changes of December 2003 enabled this decision to be cancelled.

On 29th December 2003, a rocket was fired at the premises of *Rustavi 2*. The building was damaged but no one was wounded. An anti-tank rocket launcher was found close to the TV channel's offices and a sabotage investigation was opened.

²⁷ *Idem.*

²⁸ *Idem.*

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Constraints on the freedom to demonstrate²⁹

On 17th September 2003, the Union of Environmental Protection and Animal Rights (Lobo) organized a demonstration against the construction of a new oil pipeline in the Borjomi region. The association highlighted the risks of flooding the valley and the threat posed by the pipeline to the region's ecosystem. On the orders of the governor, Gedevan Popkhadze, some 20 demonstrators were attacked and beaten by police officers.

The complaint brought by the head of the organization, Mrs. **Lasha Chkhartsvili**, came to nothing.

Constraints on the activities of the Monitoring Council of the Prison System³⁰

The Council for Public Monitoring of the Prison System was established by the Justice Ministry. It enables representatives from NGOs and the civilian community to enter prisons freely and carry out checks.

On 25th January 2003, a revolt broke out in Tbilisi's Prison 5; it was rapidly brought under control by special forces from the Ministry of Justice, but more than 30 prisoners were injured. On 28th January, representatives from the Monitoring Council were prevented from gaining access to the hospital or the prison, on the pretext that the prison authorities could not guarantee their safety.

On 3rd May 2003, a member of the Council, **Giorgi Lagidze**, and a journalist from the *Sakartvelos Respublika (Georgian Republic)* were refused entry into the young offenders' section of Tbilisi prison. When they asked for a list of the people in charge of overseeing the department, they were insulted and beaten by the director of punishments and security, Mr. Gogoshvili. Mr. Lagidze registered a complaint and Mr. Gogoshvili was dismissed from his post.

²⁹ See Open Letter to the Authorities, 21st October 2003.

³⁰ *Idem*.

Attack on the Fund of Georgian Human Rights Defence³¹

In April 2003, the offices of the Fund of Georgian Human Rights Defence in Sachkhere, were attacked by a group of unidentified individuals. The assailants stole IT equipment and a number of documents intended for the publication of a report on violent incidents perpetrated by the forces of order.

In 2003, the premises of the Sachkhere branch of the Foundation were burgled four times.

Detention and conviction of Giorgi Mshvenieradze³²

On 2nd November 2003, Mr. **Giorgi Mshvenieradze**, representative of the Association of Young Lawyers of Georgia in Kutaisi and an observer during the last parliamentary elections, led parallel vote-counting operations in Kobuleti and in the village of Dagvi in the Autonomous Republic of Adjara. During these operations, Mr. Mshvenieradze noted significant abuses of the electoral process at polling stations. When he asked members of the Electoral Commission to make a written note of these irregularities, he was beaten by officers of the regional prosecutor and then arrested.

Mr. Mshvenieradze was, at first, accused of obstructing the electoral process and the activities of the Electoral Commission, in accordance with articles 162 and 163 of the Penal Code. On 4th November, however, these charges were altered, and he was accused of acts of vandalism using «a firearm or any other object that might be used as a weapon» (article 239.3 of the Penal Code) and resisting the representatives of the forces of order and of the government (article 353); the charge of obstructing the electoral process was maintained.

On November 5th, 2003, Mr. Mshvenieradze was sentenced by the Regional Court of Kobuleti to three months preventative detention, after which he will be retried

At the end of the elections, the OSCE declared that the Autonomous Republic of Adjara was one of the Regions where irregu-

³¹ *Idem.*

³² See Urgent Appeal GEO 001/1103/OBS 063.

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larities had been most flagrant. Several NGO representatives were attacked, notably in Kobuleti, and 51 observers were prevented from carrying out their vote-counting operations under pressure from members of the Electoral Commission.

ITALY

Outcome of the prosecutions of Italian militants³³

In December 2002, the district court of Cantanzaro in Calabria ordered the release of, and the lifting of arrest warrants relating to, some twenty militants of the Rebellious South network, the alternative COBAS trade unions and n° Global, arrested in November 2002 in connection with events during the G8 Summit in Genoa in 2001. The charges against them (political conspiracy) were not dismissed and the file was sent to Cantanzaro's court of appeal. The case was heard on 24th October and 6th November 2003 and ended positively for the militants, since the court upheld the decision to free them. However, some of them have to sign a document every week at the police station. Their telephones and computers are still bugged.

At the same time, the trial has still not been held of 77 police officers charged with brutality in January 2003, in connection with the events in Genoa and, in particular, with a raid on a school.

³³ See Annual Report 2002.

Release of Mr. Sergei Duvanov³⁴

Mr. **Sergei Duvanov**, editor-in-chief of the news bulletin *Human Rights in Kazakhstan and the World*, published by the Kazakhstan-based International Bureau for Human Rights and the Rule of Law (KIBHRL), was arrested in October 2002 as he was on his way to the United States for a conference on the human rights situation in Kazakhstan³⁵.

Charged with the rape of a minor, Mr. Duvanov was sentenced to three and a half years imprisonment (based on article 20-2 of the Criminal Code) by the Karasai district court on 28th January 2003. A few days before the verdict, Mr. Duvanov had dismissed his lawyers and denounced the judges' blatant lack of independence. He appealed against his conviction.

On 28th January 2003, the OSCE criticized irregularities in the trial and the lack of prosecution evidence. They requested that the Court of Appeal should take account of these omissions when giving its verdict. Moreover, the European Parliament, in a resolution dated 13th February 2003, demanded Mr. Duvanov's immediate release.

On 11th March, the Court of Appeal upheld the verdict of the Karasai district court and confirmed Mr. Duvanov's sentence. International observers sent to attend the trial were refused access while the verdict was announced.

Mr. Duvanov was released on probation on 29th December 2003, having served two thirds of his sentence and without having been proved guilty. He was admitted the same day to the Almaty penal colony.

Kazakh penal colonies come under article 125 of the Criminal Code, and constitute a form of incarceration less strict than prison. Detainees are not locked up nor kept under guard and may move freely around the colony during the day. They may also take up a job outside the colony, or even live with their families inside the colony if permitted to do so

³⁴ See Urgent Appeal KAZ 001/0802/OBS 053.02.

³⁵ See Annual Report 2002.

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by the penal administration. On condition that they register with the administration at least four times a month, they may be given the right to reside outside the colony. In addition, detainees can receive unlimited parcels and visits.

On 29th December, at the time of Mr. Duvanov's release, his colleagues at KIBHRL had prepared all the necessary paperwork to obtain the administration's permission for him to live outside, especially in view of his poor state of health, and to resume his activities with KIBHRL. This permission was, however, refused. Moreover, in total violation of the colony's own rules, Mr. Duvanov was forbidden to use his mobile phone, and was allowed no visits whatsoever between 5th January and 12th January.

On 12th January 2004, with his health worsening, Mr. Duvanov asked to be admitted to hospital for treatment. When the wardens of the colony took him to hospital in Almaty, a doctor asked him to return the next day, because there were no free beds. As soon as he returned to the colony, Mr. Duvanov was met by an officer of the National Security Committee (KNB), who informed him that charges laid against him in July 2002 for attacking the dignity of the president³⁶ had been dropped.

On 13th January, he was getting ready to go back to the hospital when he was forbidden by the administration to leave the colony. In the face of protests from members of KIBHRL, this prohibition was finally lifted. No hospital in Almaty would agree to treat him, however, due to orders from the authorities. Mr. Evgeny Zhovtis, a member of KIBHRL and Mr. Duvanov's lawyer, immediately contacted the KNB, who said that they knew nothing about it and that they respected Mr. Duvanov's work. Mr. Duvanov, on his return to the colony, announced his intention of embarking on a hunger strike.

On the evening of 14th January, after Mr. Duvanov had again been refused permission to receive visits, the authorities announced his release. Mr. Duvanov was able to leave the colony on 15th January and resume his work at KIBHRL. He will have to register with the penal administration four times a month.

³⁶ *Idem.*

Harassment of KCHR continues³⁷

On 12th, February 2003, while the European Parliament was in session, Mr. **Ramazan Dyrlydaev**, president of the Kyrgyz Committee for Human Rights (KCHR), criticized the President of the Kyrgyz Republic. Following his declarations, the pressure exerted on Mr. Dyrlydaev and the KCHR increased significantly.

Thus, on 26th March 2003, former members of the Committee, accompanied by uniformed officers from the Ministry of the Interior and National Security, burst into the offices of the KCHR in Bishkek. The employees who were present in the offices were able to prevent them from taking away computers and files.

From 29th March to 10th April, Mr. Dyrlydaev's office and home were placed under surveillance, as were the homes of family members where he had taken refuge. On 21st April, after former members of the KCHR had accused the Committee President of embezzlement, officers from the Organized Economic Crime Unit (GUBEP) burst into the home of Mr. **Vladimir Tihonov**, member of the KCHR, and asked him about Mr. Dyrlydaev's whereabouts.

Moreover, on 13th August, in a letter signed by the Deputy Minister of Justice, Mr. Alymbaev, the Minister ordered the KCHR to file a new application for registration within ten days. The Minister, in fact, stated that certain clauses in the Committee's Charter, which had been registered in August 1999, contravened both the new Constitution adopted on 2nd February 2003 and the law concerning «non-commercial organizations», adopted on 15th October 1999.

On 25th August 2003, during a press conference which neither the activists nor the members of the KCHR board of directors attended, Messrs. Tynaliev, Mombekov and Jakishev³⁸, all three former members

³⁷ See Urgent Appeals KGZ 001/0403/OBS 020, KGZ 002/0803/OBS 044, KGZ 002/0803/OBS 044.1 and KGZ 002/0803/OBS 044.2.

³⁸ Mr. Tynaliev voluntarily left the KCHR in 2002. Messrs. Mombekov and Jakishev were dismissed.

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of the Committee, announced Mr. Dyrlydaev's dismissal from his position as president of the KCHR. Without any consultation and despite the fact that Mr. Dyrlydaev had been duly re-elected on 11th May 2003 by the active members of the association, Mr. Tynaliev was appointed president of the KCHR.

At the end of that press conference, Mr. Tynaliev violently attacked Mr. Dyrlydaev's son, Mr. **Giyaz Tokombaev**, before calling him at home and threatening to kill him. He stated that he enjoyed the support of the Solicitor General, the presidential administration and the secret services and added that, with this support, he would confiscate all of Mr. Dyrlydaev's belongings.

On 24th September 2003, the deputy minister of Justice, Mr. Alymbekov, informed the KCHR that the new board of directors, consisting of Messrs. Tynaliev, Jakishev and Bulatov, had been recognized by the minister. This newly constituted KCHR was officially registered on 28th November 2003.

Since the authorities have taken the KCHR in charge, Mr. Dyrlydaev and his colleagues have been receiving intimidating letters on a regular basis and have been the targets of recurring campaigns of defamation and harassment intended to discredit them both within the country and on an international scale. For example, during the OSCE annual conference on the implementation of human dimension, which was held in Warsaw from 6th-17th October 2003, he was publicly accused of embezzlement and corruption by the false KCHR management. On 16th November, that same false management also accused the general assembly of the Helsinki Federation for Human Rights of «covering up Mr. Dyrlydaev's fiscal fraud» by refusing to recognize the new board of directors.

The KCHR is still being threatened with legal action. On 6th October, Mr. Bulatov threatened to take legal action against Mr. **Fomenko**, a colleague of Mr. Dyrlydaev who had called the members of the new board of directors «imposters», and confiscate all of his belongings. Moreover, on 9th October, the vice-president of the new association, Mr. Mombekov, threatened to take legal action against Mr. Dyrlydaev if he did not turn over the association's belongings to Mr. Mombekov and if he persisted in using the association's name in documents intended for the international community.

In 2000, the KCHR had already been the object of similar maneuvering on the part of the authorities, who had set up a new association

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with the same name in an obvious effort to paralyze the advocates' activities.

Mr. Dyrlydaev, who lived in exile from 2000 to 2002, definitively left the country on 26th May 2003 after members of the security services confirmed that an order had been issued to assassinate him.

RUSSIAN FEDERATION

In Russia, human rights defenders are finding their position weakened as the ruling political party grows in strength and the administration mobilizes behind it. The Observatory's international mission sent in November 2003 noted that the pressures placed on associations are, on the whole, indirect, but with long term consequences for the spread of activism, as well as for public perception and financial support. These pressures may be increased, as an example to all associations, when human rights defenders criticize federal or regional authorities.

Indirect constraints on the actions of human rights defenders

Recent years have seen an increase in the number and variety of associations in Russia. Almost 400,000 associations are registered nationwide³⁹, yet human rights associations remain few in number and appear to be subjected to increased government monitoring.

Uncertainties about cooperating with the government

Since his election as President of the Russian Federation, Mr. Vladimir Putin has engaged in a policy of rapprochement between the government and human rights groups. A civic forum, bringing together defenders and political representatives, was held in Moscow in 2001, and in Ninji Novgorod from 23rd to 25th October 2003. These presidential initiatives have served to create deep divisions within the

³⁹ For the sake of comparison, there were around a million associations in France in 2002.

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movement, between supporters and opponents of such cooperation. On the whole, the civic forums have proved disappointing for the human rights groups that took part, who point out that there have been no definite outcomes. Similarly, controversy surrounds the role played by the Human Rights Commission to the President, headed by Ella Pamfilova. This Commission, made up of several respected representatives of human rights organizations, exists to convey the associations' requests to the government. Its influence on government policy, however, remains limited, with government departments (particularly those concerned with enforcement) refusing to cooperate with human rights defenders.

Fiscal pressures: a Sword of Damocles

The modification of article 251 of the tax code, signed by Vladimir Putin in May 2002 and brought into effect on 1st January 2003, constitutes a real fiscal sword of Damocles for organizations. In effect, it imposes a tax of some 25% on all their resources (contributions being classed as profits), from which non-profit organizations had previously been exempt. These new fiscal rules do not apply, however, to associations in the fields of art, culture, scientific research and training. Lobbying to have human rights work added to the list of non-taxable activities was unsuccessful in 2003.

This new legislation puts human rights organizations in a particularly precarious position. Unable to pay the tax, organizations and donors find themselves outside the law, thrust into a shadowy economy and fearing prosecution or the threat of closure if the law is rigidly enforced.

An unfavourable political context: the loss of parliamentary intermediaries

The elections of 7th December 2003 saw the heavy defeat of opposition parties, in particular the liberal Yabloko Party, which had had brought Sergei Kovaliov, one of Russia's most ardent defenders of human rights, to parliament. This has robbed human rights groups of parliamentary intermediaries to promote universal standards and principles for the protection of human rights. The new Duma will be in place until 2007.

Control of the media : a debased image

Human rights organizations are also indirectly affected by state control of the media. Their activities go unreported, when they are not

publicly disparaged. In Moscow and Saint Petersburg, alternative media still exist, (notably the *Novaia Gazeta* newspaper), but the rest of the country has no access to pluralistic information. This lack of representation in the media has long term repercussions on the associations' image, and may explain the problems they have in recruiting new members and volunteers.

Direct attacks on human rights groups

*NGOs targeted*⁴⁰

Association of Soldiers' Mothers of Saint Petersburg. In a letter to the Justice Minister dated 20th January 2003, the Leningrad district military prosecutor, Igor Lebed, demanded an investigation into the activities of the Association of Soldiers' Mothers of Saint Petersburg. Mr. Lebed accused the association of defamation and 'incitement to desert', amounting, he argued, to a «call to crime». He denounced the disparity between the association's activities and its statutes, in particular its monitoring of enrolment conditions and the publicizing of enquiry reports. The staff of the organization were unaware of this letter until after the investigation had begun, and they were not informed of proceedings. Mrs. Kaznacheeva, head of the investigation and of the department of the Justice Ministry that deals with associations, demanded the personal files of soldiers defended by the organization.

On 23rd June, the ministry insisted on a review of the statutes for the purposes of a new registration, on the pretext that the association's name did not appear in its entirety on its official documents and that its statutes contravened the law on social groupings and non-profit making organizations. On 26th June, the Soldiers' Mothers presented a new version of the Statutes, which was rejected for registration by the Justice ministry on 13th August. In June 2003, the ministry also informed the association that a hotel was about to be constructed in the building where it rented offices. Although no other tenant received this information, the staff was asked to find new premises.

On 14th June 2003, the head of the Nachimov military school, Mr. Bukin, began legal proceedings against the Soldiers' Mothers of

⁴⁰ See Press Release 15th September 2003.

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Saint Petersburg, and against the newspaper *Smena*, which had published information supplied by the association concerning the physical and psychological torture of pupils. Mr. Bukin demanded two million roubles (about 67,000 euros) in damages and interest for defamation. Yet these acts of torture had already been acknowledged by the admiral of the Russian fleet, Mr. Kuroedov, who had stated that the officers responsible had been punished. The trial opened on 22nd September, and the next hearing is scheduled for 21st January 2004.

The Soldiers' Mothers of Saint Petersburg continue to work and organize weekly information seminars for young draft evaders, as well as peaceful demonstrations against the war in Chechnya. During one of these demonstrations, on 11th September 2003, the procession was violently attacked by a group of individuals. Their banners were ripped up and one of the women demonstrating was savagely beaten. The attackers fled on the orders of a man who was watching the scene from a distance. It appears that he announced to someone on his mobile phone, 'We're leaving; we've won.'

Memorial – Saint-Petersburg. On 14th August 2003, a young man came to the office of the Memorial Association in Saint-Petersburg⁴¹ and asked to meet members of the anti-fascist commission, claiming that his sister had been murdered by a right wing group. The commission's staff were not there at the time, so the young man returned later in the day with another individual. The two men threatened an employee, Mrs. **Anna Chmygara**, with hammers, then tied her up, gagged her, locked her in a cupboard and cut the telephone line. The two attackers then burst into the office of Mr. Schnitke, head of the organization, telling him that they belonged to the Committee for the Defence of Budanov, a committee that no one had heard of⁴². Mr. Schnitke and another employee were also bound, gagged and locked in a cupboard, the attackers claiming that they had booby-trapped the door. They then stole Mr. Schnitke's computer, his two mobile phones, his diary and address book. Before fleeing, the two men left a note demanding the

41 See Urgent Appeal RUS 001/0803/OBS 042.

42 Colonel Budanov is a Russian officer who was imprisoned for the kidnap and murder of a young Chechen girl in 2000.

release of Colonel Budanov. The three members of the Memorial were only freed later that day, thanks to the help of a visitor who then called the police.

Even though the assailants took no money and no computers except for Mr. Schnitke's, the press office of the Interior ministry (MVD) declared that this attack was an ordinary burglary, with no political motive. Memorial pressed charges and, faced with police inaction, employed private detectives who were able to identify one of the assailants, Vladimir Goliakov, and have him arrested on 26th September.

On 29th October, friends of Mr. Goliakov organized a press conference in his defence at the Press Centre, where they distributed copies of a letter of support from a member of the Duma, Viktor Ilioukhine, known for his nationalist sympathies.

Subsequently, a commander in the FSB (ex-KGB, Federal Security Service) was searched during an anonymous prison visit to Goliakov and found to be bringing him a list of names of people who could supply him with an alibi. There have been no repercussions in the wake of this incident.

Goliakov's trial for theft of equipment and assault on staff at the Memorial is due to take place soon.

The Russian Centre for Public Opinion and Market Research (VTsIOM). This Centre has, for 15 years, been the country's most reliable source of public opinion surveys. Since January 2003, it has been subjected to various sorts of administrative harassment. In August 2003, its members were informed that there would soon be an election for a new board of governors, with responsibility for naming a new executive director and drawing up new policies. The President of the Centre, **Yuri Levada**, and the rest of the staff were not consulted, nor were they invited to participate in this procedure. On 9th September, most of VTsIOM's 90 researchers refused to work for the reconstituted organization and founded an independent agency under Mr. Levada. Analytical VTsIOM (VTsIOM-A) has been registered with the Ministry of Justice as a non-profit making organization.

Sakharov Museum. On 18th January 2003, six men from the Pyzhi Orthodox Church burst into the Centre for Peace, Progress and Human Rights in Moscow. On the pretext that the Museum's exhibition entitled, «Beware, religion» was an affront to their faith, they vandalized the artworks before being arrested by the police. They were immediately

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released. Following a resolution of the State Duma dated 2nd September, legal proceedings began against the Museum, based on Article 282 of the Criminal Code («incitement to racial and ethnic hatred») and for causing an affront to the Orthodox Church. The prosecutor had the artworks seized and ordered the setting up of a commission of experts - none of them art specialists - to examine them. The Museum's curator, **Harutioun Zulumyan**, has since been subjected to frequent harassment and was forced into hiding for some time. On 25th December, the investigator for the Moscow prosecutor's office, Iou Tsvetkov, accused the artists and organizers of «incitement to hatred» and of attacking the dignity of certain religious groups. If convicted, the exhibition's organizers face substantial fines and three-year suspended prison sentences, or up to three to five years imprisonment if the court decides that the «crime» has been committed by an «organized group».

In May 2003, the Sakharov Museum received repeated visits from police representatives telling them to take down the banner hanging over its façade, saying «End The War in Chechnya!». The Museum, however, refused to give in to this pressure and retained the banner.

Then, on 2nd-4th October 2003, the Sakharov Museum tried to organize a festival of documentary films about Chechnya. The Moscow cinema which was due to host the festival backed out on 1st October, and it could only be shown to a limited audience in a small screening room in the Museum.

Chechnya: a forbidden topic⁴³

Since the conflict began, access to Chechnya and Ingushetia has been all but forbidden to aid organizations, journalists and international NGOs. The few, local human rights NGOs who attempt to work in Chechnya find themselves in an extremely precarious situation, subjected to daily pressures⁴⁴.

⁴³ See OMCT Report: «Chechnya, no means to live : an appraisal of violations of economic, social and cultural rights», November 2003.

⁴⁴ *Idem*.

The Coalition on the Interregional Public Movement for the Defence of Human Rights and Freedoms.

Members of this Coalition, a Russian-Chechen association based in Grozny, have been subjected to very serious persecution since 2002. Mr. **Gusigov Khac-Mohammed** disappeared on 7th August 2002 and Mr. **Djabrailov Khampacha** on 10th April 2003. The association and their families still have no news of them. On 13th January 2003, a group of Russian soldiers searched the organization's premises and arrested Mr. **Uctalkhanov Kazbek**. The Coalition had to pay bail of \$ 500 to obtain his release. Freed on 20th February, Mr. Kazbek reports that he was subjected to inhuman and degrading treatment, and repeatedly tortured. Mr. **Murstalier Okhazur Khazaevich** was arrested on 28th November 2002 and found dead on 3rd April. He had been shot. Shortly before his death, witnesses saw him at a checkpoint on the outskirts of Grozny, under the guard of Chechen soldiers working for the Russian forces.

The case of Zura Bitieva

Mrs. **Zura Bitieva**, a famous human rights activist, publicly opposed both the first and second wars in Chechnya. The authorities, who accused her of hiding Russian deserters and putting them in contact with their families, had her arrested in April 2000 and continued to threaten her regularly thereafter. In February 2003, Zura Bitieva had joined an organization of women demanding the opening up of mass graves in the village of Kapustino in the Naur district, and she had publicly criticized the referendum of 23rd March. Her family had also been repeatedly harassed; in March 2003, her elder son and her brother were accused of possession of illegal drugs by police in Chervlennaya. During the investigation, Mrs. Bitieva was able to prove that the drugs had been planted by the police themselves. Her son and brother were, nevertheless, given one-year suspended prison sentences in April 2003.

During the night of 21st-22nd May 2003, Zura Bitieva and three members of her family were murdered in their home. Eleven soldiers from an unidentified military group first burst into the house of a neighbour, seizing her passport before gagging her and interrogating her about her identity. Realizing that she was not Mrs. Bitieva, the soldiers ran off with her passport, which was subsequently found near Mrs. Bitieva's body.

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Zura Bitieva, her husband and her brother were tied up and gagged with adhesive tape before being shot in the head, and her younger son was suffocated with a pillow. Mrs. Bitieva's elder son was sleeping in the house next door. Woken by the sound of gunfire, he saw uniformed men leaving his mother's house. Thinking that she had been re-arrested, he thought it best to hide. A few minutes later, two soldiers inspected the bedroom by torchlight and left again, saying, «There's no one here any more». After the soldiers had gone, Mrs. Bitieva's son found the four bodies. His one-year-old son, who slept in his grandmother's bed, was found alive, tied up and gagged.

The Information Centre of the Society of Russian-Chechen Friendship

In March 2003, **Imran Ejiev**⁴⁵, head of the Information Centre of the Society of Russian-Chechen Friendship (SRCF) in the Northern Caucasus and regional coordinator of the Helsinki Committee in Moscow, carried out an investigation in the Chali region for the SRCF's annual report into the human rights situation in Chechnya. He was also doing some research for OMCT into economic, social and cultural rights in Chechnya for a presentation, in November 2003, to the United Nations Committee on Economic, Social and Cultural Rights.

On 15th March, Mr. Ejiev was kidnapped between the town of Chali and the village of Serjen'-Yourt. According to the eye-witness account of Mr. **Zaour Saitovich Kharipov**, an SRCF correspondent who used to accompany Mr. Ejiev on his assignments, two cars forced their vehicle off the road. A group of men, armed and wearing masks, demanded their identity papers. After checking Mr. Ejiev's passport, they made him get into one of their cars and then fled. He was found on 19th March, near the village of Berkat Yurt in the Chechen Republic, bearing the obvious signs of a beating.

On 19th October 2003, Mr. Ejiev was again arrested by Russian armed forces at the border between Chechnya and Ingushetia. While he was passing through a checkpoint into Chechnya with **Khamzat Kuchiev**, a colleague from the SRCF, a group of visibly drunk soldiers

⁴⁵ See Urgent Appeals RUS 001/0303/OBS 012 and RUS 001/0303/OBS 012.01.

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stopped their vehicle and took them into their office. They announced that their job was to arrest all human rights activists, especially members of the RCFS, who were accused of 'discrediting the army during sensitive military operations'. When Mr. Ejiev commented on the fact that they were drunk, he was arrested and tied up. Mr. Kuchiev alerted other people who were passing through the checkpoint, who mounted a spontaneous demonstration outside the office, and Mr. Ejiev was released after less than an hour.

Over the last two years and more, Imran Ejiev has been frequently and arbitrarily arrested and detained by the authorities⁴⁶.

Memorial - Grozny

On 5th December 2003 the Martin Ennals Foundation announced that Mrs. **Lida Yusupova** was the winner of the 2004 Martin Ennals Award for Human Rights Defenders (MEA)⁴⁷. Mrs. Yusupova is a lawyer and for the last three years has been in charge of the office of the Russian human rights organization, Memorial, in Grozny⁴⁸. She devotes herself to gathering testimonies from victims who are brave enough to go to the association's office. She visits the scenes of violent acts, massacres and forced disappearances. She also accompanies victims in their dealings with the Russian security services and the army, and gives legal assistance to those who try, not without difficulty, to obtain justice. The award will be presented to her at the session of the UN Commission on Human Rights in April 2004.

⁴⁶ See Annual Reports 2000 and 2001.

⁴⁷ The Martin Ennals Award for Human Rights constitutes a unique collaboration between ten major international human rights organizations. The jury members of the Martin Ennals award are: Amnesty International, Defence for Children, German Diakona, Human Rights Watch, HURIDOCS, International Alert, the International Commission of Jurists, the International Federation of Human Rights Leagues, the International Service for Human Rights and the World Organization Against Torture, which is also the headquarters of the Martin Ennals Award.

⁴⁸ See Annual Report 2002.

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Regional difficulties: the case of Krasnodar⁴⁹

Outside Chechnya and Ingushetia, the situation of human rights defenders is dependent on the regional powers. Things are especially difficult in the region of Krasnodar. **S. Gannouchkina** states that the authorities in this region, «constantly adopt local laws that contradict federal legislation» and that «those in power in Krasnodar harass associations». Three of the region's associations have been the subject of closure proceedings. On 8th December 2003, the court in the town of Novorossiysk (Krasnodar Region) demanded the closure of the Peace School foundation on the pretext that only one of the three founders still worked there. The Ioujnaia Vol'na association also came under pressure, but was able to maintain its activities thanks to the mobilization of associations throughout Russia. Finally, the Krasnodar Centre for the Defence of Human Rights, headed by Mr. **Rakovich**, was the subject of suspension proceedings.

Release of Grigory Pasko⁵⁰

Mr. **Grigory Pasko**, military correspondent for the *Journal of the Russian Fleet (Boeyava Vakh)*, was sentenced to four years in prison for high treason, following revelations about the dumping of nuclear waste in the Sea of Japan in 1997. This sentence was confirmed at appeal by the military chamber of Moscow's Supreme Court on 25th June 2002.

On the basis of an amnesty for «light sentences», Mr. Pasko was conditionally released for good behaviour on 23rd January 2003, having served two thirds of his sentence.

⁴⁹ See «Alternative NGO Report on Observance of ICCPR by the Russian Federation», Moscow 2003. This very detailed report lists numerous cases of harassment in this region.

⁵⁰ See Annual Report 2002.

Law on Association⁵¹

A number of amendments to the Turkish Law on Association n° 2908 of 6th October 1983, which contains numerous restrictive provisions, were passed in 2003. These amendments were drafted as part of the 4th, 5th and 7th «reform or harmonization packages», and passed on 2nd January, 21st March and 30th July respectively in the context of Turkey's application for membership of the European Union.

The amendment to article 6 states that apart from official correspondence, associations can now use other languages than Turkish. The amendment to art. 16 states that legal entities can now be members of associations. The amendment to art. 44 revokes the obligation for associations to submit their press releases and «declarations» to the authorities for approval; however, administrative bodies can still confiscate publications. The amendment to art. 10/1 standardizes the time for which an application for registration must be examined by the governor's office and the Interior ministry, changing it to 60 days (it was previously 30 days for examination by a governor and 90 days by the ministry); and the amendment to art. 38 extends the range of activities of students entitled to belong to associations to include art, culture and science. Finally, the amendment to art. 31 revokes the minimum residence obligation for people wishing to set up an association. This amendment particularly facilitates the creation of branches.

These amendments mainly constitute a favourable change in Turkish legislation on freedom of association. The reforms were also accompanied by amendments to sections of the Criminal Code often used to obstruct the activities of human rights advocates, especially as regards freedom of expression. For example, art. 159 of the Criminal Code, which prohibits «insults towards the Republic, the legal personality of Parliament, the Government, Ministers of State, the armed forces and security forces and the legal personality of the courts» has been amended to allow greater freedom of opinion and expression; in parti-

⁵¹ *Idem.*

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cular, the minimum penalties for the offence of insult have been reduced. Art. 312/2 of the Criminal Code, which prohibits «incitement to hatred and enmity», states that in future this offence will only be punished if such incitement constitutes a threat to public order, and the penalty for the offence has been reduced. Finally, art. 7 of the Anti-terrorism Act, which prohibits propaganda in favour of an illegal organization, states that in future this offence will only be committed in the event of incitement to use «terrorist» methods.

However, despite this legislative progress, prosecutions of human rights advocates are still numerous in practice. They are still prosecuted and convicted under art. 159 for criticizing the army, police, etc. and there has been an increase in the use of art. 169 of the Turkish Criminal Code which prohibits «aid and assistance to an illegal organization». During the last two years, a number of human rights advocates, political and trade union leaders have been prosecuted under this section for «aid and assistance to an illegal organization» because they criticized the widespread use of F-type prisons and the conditions under which political prisoners are held in custody.

IHD and its members targeted*Ankara headquarters and section*

*Search of IHD's Ankara premises*⁵². On 6th May 2003, the headquarters of the Human Rights Association of Turkey (IHD) and the offices of the Ankara branch of the IHD were raided by the special anti-terrorism forces accompanied by the prosecutor of the Ankara State Security Court. The police seized computer equipment, and files and registers held by the Association.

The prosecutor informed members of staff that the operation was performed by order of the Security Court, in the course of a preliminary investigation and prosecutions for «aiding an illegal organization» (art. 169 of the Criminal Code).

The raid took place when members of the IHD had just participated in the 28th session of the UN Committee against Torture (2nd-

⁵² See Press Release of May 6, 2003.

5th May 2003), during which a member of the Turkish delegation had challenged the validity of the questions posed by the Committee's Rapporteur relating to harassment of human rights advocates in Turkey.

Most of the computers and files seized during the raid were returned to IHD after examination by the Anti-terrorism Department, except for the address book of IHD's chairwoman **Feray Salman**, and some files.

At the end of 2003 the preliminary investigation was still continuing.

*Proceedings against 46 members of IHD board of directors*⁵³. On 5th May 2003, the 46 members of the IHD board of directors who were prosecuted for «possession of prohibited documents» (Article 526/1 of the Criminal Code), following a raid conducted on the headquarters' premises by the Police in January 2001, were sentenced to three months in prison and a fine of 36 million Turkish pounds by the Ankara n° 1 Criminal Court of Peace. That same day, their prison sentence was commuted to a fine of 249,130,000 Turkish pounds for each of the defendants.

*Proceedings against the members of the Ankara section executive office*⁵⁴. Since 11th January 2001, proceedings were commenced against the members of the executive office of the IHD section in Ankara for «supporting an illegal organisation» (Art. 169 of the Criminal Code), in connection with the activities of the IHD subsequent to the events that occurred in the prisons in December 2000. After several postponed hearings, the IHD members were acquitted on 21st October 2003.

*Bingöl section*⁵⁵

On 5th July 2003, when the Bingöl division (South-Eastern Turkey) published its bi-annual report, Mr. **Ridvan Kizgin**, president of the IHD Bingöl division, presented the conclusions to this report during several press conferences, that put forward the matter of renewed violations to human rights, in particular the ill treatment and acts of harassment by the police forces and the gendarmerie.

On 8th July, an individual, posing as the commandant of a regiment in the gendarmerie of the province, called Mr. Kizgin on his mobile

⁵³ See Annual Report 2002.

⁵⁴ *Idem*.

⁵⁵ See Urgent Appeal TUR 001/0703/OBS 032 and Annual Report 2002.

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telephone, and asked him to present himself at the gendarmerie camp. This person also demanded that Mr. Kizgin publish a disclaimer in the press on his claims about the forces of law and order. The following day, in another telephone call, the same individual reiterated to him that the commandant wanted to see him. Mr. Kizgin refused to hand himself over to the gendarmerie and publicly condemned the methods used by the authorities. The IHD immediately denounced this situation before the Prime Minister, the ministers of the Interior and of Foreign Affairs, as well as before the Command of the gendarmerie and the parliamentary Commission on human rights.

Since its creation on 12th April 2001, the members of the IHD Bingöl division have been under permanent pressure from the local authorities. At the end of 2003, Mr. Ridvan Kizgin was the subject of 29 inquiries and lawsuits. In 2002, Mr. Ridvan Kizgin and Mr. **Fevzi Abkulut**, division secretary, were arrested after participating as observers in a press conference organised for the Kurdish party HADEP. Detained for two months, they were prosecuted on the grounds that they were said to be infringing law n° 2911 on demonstrations⁵⁶. At the end of 2003 the trial was still pending.

Istanbul Section

*Harassment of Mrs. Eren Keskin*⁵⁷. Mrs. **Eren Keskin**, lawyer and former president of the IHD Istanbul division has been readmitted to the Istanbul Bar Association. She was «asked to resign» by the Association for a year and no longer had the right to practise following her sentencing on 10th April 2001 to a year of imprisonment for «separatist propaganda». This resignation took effect on 18th November 2002.

Moreover, proceedings commenced against her in July 2002 for «inciting hatred» (Article 312 of the Criminal Code), due to a speech she made in March 2002 in Germany relating to women's rights. Mrs. Keskin was acquitted on 12th September 2003. Moreover, the complaint made by Mrs. Keskin against the journalist Mr. Fathi Altayi, is still in progress before the Sisli Court of First Instance n° 3. Following her speech in Germany during which she mentioned in particular the

⁵⁶ See Annual Report 2002.

⁵⁷ *Idem*.

sexual attacks suffered by women in Turkish prisons, Mr. Altayli confirmed in a radio programme of 8th April, that he would willingly sexually assault Mrs. Keskin at the first opportunity.

Conviction of Mrs. Kiraz Biçici. The appeal launched by Mrs. **Kiraz Biçici**, representative of the IHD division in Istanbul is still pending. In November 2002, Mrs. Biçici was sentenced to forty-five months imprisonment for having supported, during an interview broadcast on Media TV, different illegal organisations, one of which was the PKK, on the subject of F-type prisons. At the end of 2003 the appeal process was still pending.

*Diyarbakir Section*⁵⁸

The members of the executive committee of the IHD Diyarbakir section remain subjected to legal proceedings based on Article 64/1 of the Criminal Code and Articles 6 and 77/1 of the law on associations stating that official papers must be exclusively rewritten in Turkish, in connection with publications in which the Kurdish letter «w» was used when writing the word «Newroz». On 28th February 2003, the Diyarbakir Criminal Court n° 3 acquitted the members of the section.

*Bursa Section*⁵⁹

The directors of the section who have been subjected to legal proceedings since 2001 before the Court of Assises were acquitted in 2003.

*Malatya Section*⁶⁰

The section that was closed for an indefinite period of time since 29th November 2000, following a decision of the Malatya Criminal Court, has been able to reopen and hold its congress.

58 *Idem.*

59 *Idem.*

60 *Idem.*

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The HRFT and its members targeted

Legal proceedings against the members of the HRFT board of directors⁶¹

On 28th July 2003, the General Directorate of Foundations commenced legal proceedings before the Ankara Civil Court of First Instance against nine members of the board of directors of the Human Rights Foundation in Turkey (HRFT). The people affected are: Mssrs **Yavuz Onen**, president, **Selim Olcer**, general secretary, **Sabri Dokuzoguz**, treasurer, and **Mehmet Vurale**, **Mustafa Cinkilic**, **Günseli Kaya**, **Sukran Irencin**, **Okan Akhan**, **Sedat Aslantas**, members.

These proceedings were instituted on the basis of a report drawn up by three inspectors who had examined the activities of the Foundation in 2001.

The members of the Foundation are formally accused of having:

- collected donations on the Internet without prior authorisation from the authorities;
- translated into English and distributed to the international community the «special report on the problem of prisons in Turkey» drawn up by the Foundation's documentation centre;
- given documents about compulsory disappearances and extrajudicial executions in Turkey to the United Nations Special Rapporteur on extrajudicial, summary and arbitrary executions, Mrs. Asma Jahangir;
- handed over dossiers concerned with F-type prisons and police operations within the prisons in December 2000 to Mr. Johannes Svoboda, Rapporteur on Turkey in the European Parliament;
- relay to the Commissioner on Human Rights of the Council of Europe an evaluation report of the human rights situation in Turkey, as well as information about compulsory migrations.

The nine members of the Foundation are being prosecuted for violation of articles 6, 7 and 8 of the law n° 2860 (1983) on the collection of donations and articles 5, 6 and 7 of its ruling (1999), also for the violation of article 2 of the appendices to the Ruling on the foundations established in accordance with the Turkish Civil Code, that provides for

61 See Press Release of 13th November 2003.

«the cooperation of foreign foundations or organisations with similar objectives requiring authorisation from the Council of Ministers».

The proceedings affect the suspension and deposition of the nine members under Article 112 of the Turkish Civil Code and articles 23 and 24 of the Ruling on Foundations.

On 12th November 2003, during the first hearing of the trial to which the Observatory sent a representative, the Civil Court of First Instance decided to postpone the hearing until 20th January 2004, taking into consideration that the information regarding the first charge of indictment on the collection of donations on the internet was insufficient.

Moreover, the General Directorate of Foundations lodged an official complaint with the Ankara Public Prosecutor's office against the same people. Should the prosecutor decide that the accusations made are valid, the proceedings will then be transferred to the criminal division.

*Legal proceedings against Dr. Alp Ayan*⁶²

The trial of Dr. **Alp Ayan**, psychiatrist and member of the Centre for the Rehabilitation of Victims of Torture in Izmir, a HRFT programme, took place in 2003. Dr. Alp Ayan was prosecuted under article 159 of the Criminal Code for «insulting the armed forces» and «insulting the ministry of Justice» in connection with the declaration made on 10th February 2001, in protest against police operations in prisons and human rights' violations in F-type prisons. On this occasion, he had denounced the inhumane and degrading treatment of prisoners, also the acts of torture inflicted on the inmates in F-type prisons. On 24th April 2003, at the hearing to which the Observatory sent a representative, the Criminal Court of First Instance considered that the amendments to article 159 had been adopted after the facts brought against Dr. Ayan, and declared the matter was not within his field of competences. The matter was referred to the Final Court of Appeal, which later decided this conflict of competences by referring the dossier to the Izmir High Criminal Court. At the hearing of 10th December, 2003, attended by a representative of the Observatory, the High Criminal Court postponed the trial of Mr. Ayan until 3rd March 2004.

⁶² See Annual Report 2002 and Press Releases of 15th April 2003 and of 15th December 2003.

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*Legal proceedings against Alp Ayan and Mehmet Barindik*⁶³

The proceedings against Mssrs Alp Ayan and **Mehmet Barindik**, executive member of the LIMTER-IS trade union, remain pending. On 10th June 2002, Mr. Alp Ayan and Mr. Mehmet Barindik were respectively sentenced to one year and one day's imprisonment and one year's imprisonment according to article 159 of the Criminal Code. The matter was therefore referred to the Supreme Court that re-evaluated the expressions used in the press release that was read by the two men, in respect of the amendments made to article 159 of 2nd August 2002. The n° 9 Criminal Chamber of the Supreme Court had cancelled the decision of the Izmir Criminal Court n° 4. At the hearing of 19th June 2003, the prosecutor asked for acquittal with the motive that the expressions used did not fall under the definition of «criticism». Nevertheless, the Court upheld the sentence of one year's imprisonment and the matter has once again been referred to the Supreme Court at the end of the hearing.

*Legal proceedings against Alp Ayan and Günseli Kaya*⁶⁴

The legal proceedings against Dr. Alp Ayan and Mme **Günseli Kaya** remained pending until the end of 2003. They are being prosecuted, along with 68 people, for having organised an illegal demonstration during the funerals of one of the victims of the violent repression in the central prison in Ankara on 26th September 1999. At the last hearing of 19th December 2003, the prosecutor of the Aliaga Criminal Court of First Instance recommended 30 of the defendants to be sentenced to 3 to 5 years imprisonment, including Dr. Alp Ayan, Mrs. Günseli Kaya and four members of the Bar Association of Izmir lawyers: Mssrs **Sevgi Binbir**, **Seray Topal**, **Zeynek Kaya** and **Erdal Yagceken**, under article 32/3 of the law n° 2911 on demonstrations concerning «attacking policemen with stones and bottles» and «opposition by violent means». The prosecutor recommended 1 to 3 years imprisonment for 26 other defendants whose lawyer, **Berrin Esin Kaya** is a member of the foundation, under article 32/1 of the same law. The hearing was postponed to 26th January 2004.

⁶³ See Annual Report 2002.

⁶⁴ *Idem*.

Mr. **Veli Lök**, surgeon and HRFT delegate in Izmir, was sentenced to a heavy fine on 13th June 2000 and took his case to the final Court of Appeal. The case was definitively closed under the law on conditional liberty (amnesty law), adopted in December 2000, on condition that he did not commit the same crime within the next five years.

Mr. **Yavuz Önen**, president of the HRFT, was sentenced to imprisonment and a fine - the prison sentence later being commuted to a heavy fine - on 27th March 2001, after his declarations in an article published in the daily newspaper *Cumhuriyet* on 19th January 2000, criticizing the proceedings against Mrs. Kaya and Mr. Ayan. He was acquitted in appeal by the Izmir Criminal Court of First Instance on 23rd September 2003. The sentence of Mr. **Filkret Ilkiz**, editor-in-chief of the newspaper, was upheld in appeal on the same day. On 24th September, the Izmir public prosecutor's office appealed to the Court of Appeal in order to cancel this verdict.

Legal proceedings against the members of the Centre for the Treatment of Victims of Torture in Diyarbakir⁶⁵

Following a raid led by the authorities on the premises of the Rehabilitation Centre for Victims of Torture set up in Diyarbakir by HRFT on 7th September 2001, Mr. **Sezgin Tanrikulu**, representative of the Centre, was prosecuted for «possession of prohibited documents» and «opening the Centre without authorisation». He was acquitted of this last charge but remained subjected to proceedings for the former. On 3rd December 2003, The Criminal Court of First Instance of Diyarbakir decided to acquit Mr. Tanrikulu.

Following this raid, proceedings were also launched on 31st May 2002 against Mssrs. **Emin Yuksel** and **Recai Aldemir**, two doctors at the Centre for «misconduct in the framework of professional obligations». On 16th December 2003, Mr. Ezmin Yuksel was acquitted. Mr. Recai Aldemir was sentenced to imprisonment, this sentence later being commuted to a fine. Mr. Aldemir appealed and the case was transferred to the Court of Appeal.

⁶⁵ *Idem.*

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Trial of GIYAV⁶⁶

The 21 founding members of GIYAV (Migration and Humanitarian Assistance Foundation) organisation, which offers economic, social, cultural and legal assistance to displaced peoples, were accused of having used, in documents published by the organisation, expressions such as: «Kurdish mother-tongue», «multi-culturalism», «displaced persons» or «practices implemented in the context of a state of emergency». They were sentenced to seven and a half years in prison under article 169 of the Criminal Code, for «supporting an illegal organisation».

Their trial started on 26th February 2003 at the Adana State Security Court, in the presence of a representative of the Observatory.

On 20th October 2003, after numerous postponed hearings, the Court acquitted the GIYAV members, in the presence of a representative sent by the Observatory. The Court also ordered that the various legal and administrative documents confiscated by the State prosecutor should be returned to the association. This acquittal followed the adoption of law n° 4928 and its article 2, passed in the context of the 6th train of legislative measures, and amending the article 169 of the Criminal Code. According to this article, references to «Kurdish mother-tongue», as well as public declarations and petitions denouncing human rights violations, are no longer subject to sentencing.

Nevertheless, seven members of GIYAV, Mssrs. **Mustafa Erdogan, Kadir Arıkan, Hikmet Özcan, Mehmet Barut, Ayse Bakaç, Remzi Erkut** and **Ömer Dogan**, all members of the board of directors when the legal proceedings started, were referred to the Mersin Criminal Court of First Instance, under article 312-1 of the Criminal Code concerning «the apology of a crime»

Trial of four lawyers of the Diyarbakir Bar⁶⁷

On 3rd June 2003, legal proceedings started against four lawyers, members of the Diyarbakir Bar association: Mssrs. **Sezgin Tanrikulu**, president of the Bar Association, **Sabahattin Korkmaz, Burhan Deyar**

66 See Press Releases of 28th February 2003 and 22nd October 2003.

67 See Press Release of 9th December 2003.

and **Habibe Deya**, were accused of «dereliction of duty» and «abuse of their legal responsibility», under articles 240 of the Criminal Code and art. 59/1-2 of the law on legal professions. According to the province governor, Mssrs Tanrikulu, Korkmaz, Deyar and Deya attempted to «obtain unwarranted compensations, by promising villagers new houses and money, when their houses had not been demolished. The four lawyers were also reproached to have seized the governor of the province in order to re-open the cases of 96 villagers, whose homes had been evacuated and burnt at Çağlayan in the Kulp district, and in Ziyaret and Uluacak in the Lice district, during the events of 1993 and 1994⁶⁸. Based on the conclusions of an inquiry conducted at his request by the gendarmerie, the governor decreed that the villagers' complaints were unfounded, and opened a judicial case against their lawyers.

The trial of the four lawyers started on 3rd October 2003 before the Diyarbakir High Criminal Court. On 5th December, in the presence of a representative from the Observatory, the Court decided to postpone the hearing until 24th December 2003. The four lawyers were then acquitted.

Legal proceedings against sixteen intellectuals for the publication of *Freedom of Thought 2000*⁶⁹

In 2001, sixteen intellectuals were prosecuted for the publication of a book entitled *Freedom of Thought 2000*, which contained sixty censored articles. Four trials were conducted against them before the Military Court of Chief Office of the General State, the Criminal Court of First Instance, the Heavy Penal Court as well as the Istanbul State Security

⁶⁸ In 1993 and 1994, the Turkish authorities launched a wave of repression against the Kurdish population living in the South and South-East of the country. Several villages were evacuated and burnt, and incidences of forced disappearances, extra-judicial executions and torture were reported. Since then, the authorities took no measures to guarantee an independent inquiry, nor for identifying those responsible and putting them before a competent and impartial tribunal. Moreover, most of the victims had to sign, under threat, a discharge confirming that they would renounce their right to compensation, and have never been able to obtain compensation for the demolition of their homes.

⁶⁹ See Annual Report 2002.

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Court. The cases in the first three courts were concluded with an acquittal. The case before the Istanbul State Security Court, for «publication of prohibited articles», «inciting hatred», «supporting an illegal organisation» and «distributing separatist propaganda» remains pending, as the Court of Appeal decided to revoke the acquittal of the intellectuals on 18th June 2001. On 19th August 2003, after several postponed hearings, the prosecutor requested 15 of these intellectuals to be acquitted by the Court, due to the abolition of article 8 of the anti-terror law and the amendments to articles 169 and 312 of the Criminal Code. They were all acquitted on 29th September 2003.

TURKMENISTAN

Harassment of Mrs. Natalia Shabunts⁷⁰

On 27th May 2003, members of the Civil Dignity NGO participated in a meeting with representatives from the Organisation for Security and Cooperation in Europe (OSCE) in Achkhabad. In the presence of Mr. Martti Ahtisaari, representative of the OSCE president for Central Asia, Mrs. **Natalia Shabunts**, president of Civil Dignity, intervened to denounce the human rights situation in Turkmenistan and the government's current nationalistic tendencies. She particularly mentioned that the principal obstacle encountered by NGOs in Turkmenistan was not finding funds, but being able to independently conduct their activities.

On 28th May 2003, Mrs. Shabunts' building stayed under the surveillance of three security services vehicles for the entire day. Around 7 p.m., when she was leaving her home to attend a dinner organised by the OSCE, four security services agents attempted to arrest her. Mrs. Shabunts managed to escape, found refuge in her apartment, and alerted her friends of the situation. The agents remained in front of her building until after 11 p.m. Mrs. Shabunts was apparently under surveillance since 26th May 2003, the date Mr. Martti Ahtisaari arrived.

70 See Urgent Appeal TKM 001/0603/OBS 027.

Since 2001, Civil Dignity has been under surveillance by the secret services, which have on numerous occasions prevented or disrupted conferences organised by Mrs. Shabunts.

UNITED KINGDOM

Inquiry into the murder of Mr. Patrick Finucane⁷¹

Mr. **Patrick Finucane**, a lawyer well-known for his work in favour of human rights, was murdered in Belfast in 1989 by members of the Ulster Defence Association (UDA), a loyalist paramilitary group.

On 17th April 2003, Metropolitan Police Commissioner Sir John Stevens issued a third inquiry report denouncing collusion between the British security forces and protestant militia, in the murders committed in Ireland in the late 1980's and the 1990's. According to Mr. Stevens' conclusions, Mr. Finucane's murder «could have been prevented», and the investigation lead by the authorities «should have resulted in the early arrest and sentencing of his killers». Two of Mr. Finucane's alleged murderers were arrested after that report, in May and October 2003, and are currently awaiting trial.

On 1st July 2003, the European Court of Human Rights issued its verdict on a complaint filed against the British government in 1994 by Mr. Finucane's widow, Mrs. Geraldine Finucane, under article 2 of the European Convention on Human Rights, which guarantees the State protection of the right to life. The Court acknowledged the obstruction committed by the police and security forces during the investigation, and ruled that the complaint of breach of article 2 was well-founded. However, it did not consider it necessary to order a new enquiry into Mr. Finucane's murder.

Another report, written by Canadian judge Peter Cory at the request of the British and Irish governments, was submitted to the Secretary of

⁷¹ See Annual Report 2002.

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State for Northern Ireland, Mr. Paul Murphy, in October 2003. Mr. Cory recommended public inquiries, but the government refused to publish his report, despite repeated requests by Mrs. Finucane's lawyer. On 21st January 2004, the High Court of Belfast granted the Finucane family leave to apply for a judicial review of Mr. Murphy's decision not to publish the Cory report.

UZBEKISTAN

Harassment against HRSU members continues⁷²*Mr. Norboye Kholzhigitov harassed and threatened⁷³*

In January 2003, Mr. **Norboye Kholzhigitov**, president of the Ichtkhan section of the Human Rights Society of Uzbekistan (HRSU), in the Samarqand region, gave an interview on *Radio Free Europe*, in which he denounced human rights violations in the region.

On 18th January 2003, a few days after this interview, Mr. Hasan Alimov, his wife and his son, close friends of Mr. Kholzhigitov, were arrested for having allegedly stolen cattle. On 20th January, Mr. Kholzhigitov attempted to meet with the official responsible for the investigation. He could only meet a police officer, and he announced his will to serve as civil counsel in this case. The police officer insulted him, replying that a thief did not need a lawyer and that he could not provide any legal aid since his organization was not registered. Mr. Kholzhigitov was only able to see Mr. Alimov's son, whose face bore the signs of rough treatment. The son stated that his father had been seriously tortured.

On 19th January, approximately ten police officers burst into Mr. Kholzhigitov's home, threatening and insulting him. In particular, the officer heading the group said: «If you don't shut up, we'll send you

⁷² *Idem.*

⁷³ See urgent appeal OUZ 001/0103/OBS 004.

far away, to a place you'll never get out of» and «Why do you think you have the right to defend human rights when your organization isn't even registered?»⁷⁴. The police officers' words were particularly violent, sowing panic among the Mr. Kholzhigitov's family members.

*Mr. Olim Tochev harassed*⁷⁵

An investigation (n° 2-59/2003) was initiated in the case of Mr. **Olim Tochev**, member of the HRSU, who was accused of beating his neighbor in Karshi. His trial was set for 14th March before the criminal court of Bakhoriston; however, on 13th March 2003, he was taken by force into a psychiatric institution. Without any medical advice prior to his hospitalization, and after being kept there illegally, Mr. Tochev was released on 15th March, thanks to the efforts of his lawyer Mr. **Bakhtior Chakhnazarov**. All legal proceedings have since been abandoned.

*Messrs. Muradov, Hamraev, Radjapov and Utamarov freed*⁷⁶

Messrs **Muradov**, **Hamraev** and **Radjapov**, all three members of the Nishan section of the HRSU, and Mr. **Utamarov**, lawyer and president of the Karakalpakistan HRSU section, were sentenced to five to nine years imprisonment on false pretexts, in September 2002. The verdicts were rendered after a four-hours hearing.

On 29th April and 4th May 2003, the HSRU organized support demonstrations, asking the Supreme Court and the Tashkent general solicitor for their immediate release, while the European Bank for Reconstruction and Development (EBRD) was holding its annual session in Tashkent. The authorities then promised to release the four prisoners, but no such action was taken following the departure of the EBRD representatives.

The HSRU organized repeated demonstrations, every day from 5th June to 23rd July 2003. Messrs Hamraev and Radjapov were released on 22nd July, Mr. Muradov on 24th August, and Mr. Utamarov was released on 4th October.

74 HRSU requests to be registered have been systematically rejected since 1992.

75 See Open Letter to the authorities dated 12th May 2003.

76 See Annual Report 2002.

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Interference with the HRSU Congress

The HRSU held its fourth congress on 2nd October 2003 at the American association Freedom's House's premises in Tashkent. During the working meeting, an elderly, handicapped woman, Mrs. Helena Arzoumanyanyan, burst into the offices and asked to take part in the congress. When those in charge informed her that she could not attend the meeting, since she was neither a member of the HSRU nor of a guest association, Mrs. Arzoumanyanyan refused to leave the premises. She only agreed to leave after the members of Freedom's House intervened. The delegates noted that a police vehicle was waiting for her in front of the building.

A few days later, Mr. **Olim Yacoubov**, son of the HRSU president, Mr. Tolib Yacoubov, was informed that a preliminary investigation had been initiated against him for beating and injuring Mrs. Arzoumanyanyan.

Despite the numerous testimonies provided by diplomats, and journalists for the *BBC*, *Deutsche Welle*, and the *Free Europe and Voice of America* radio networks, as well as from the Human Rights Watch delegates who had been invited to the congress, Mr. Olim Yacoubov is to go to trial in February 2004.

Threats and harassment following an information meeting

On 29th-30th November 2003, representatives of the OSCE and of the Uzbekistan forum for democratic forces organized a human rights information seminar for the HSRU Zarbdor division members, in the region of Dzhizaksk.

Mr. **Kourbanov**, HRSU president in Zarbdor, fulfilled all of the formalities for obtaining permission from the authorities to hold this seminar in the village of Buston. Following the orders of the security services, the regional council did not respond to his request. As a result, the seminar was held in a guesthouse. A few days later, the mayor of Buston publicly accused the owner of this guesthouse of welcoming «terrorists and wahabites».

On 11th December, an official of the general council announced that all those who had taken part in the seminar would be «punished». The next day, the Buston school's principal was ordered by the security services to summon four teachers who had attended the meeting. All four were required to provide their names and personal addresses and phone numbers, and were ordered to write a letter to the security services about the seminar and their reasons for taking part in it.

HUMAN RIGHTS DEFENDERS HARASSED

In mid-December, the daughter of the secretary for the Zarbdor HRSU, Mr. **Abdoulfaiz Baratov**, was fired from her job. The secret services then informed Mr. Baratov that his daughter would only be given her job back if he agreed to make a public statement against Mr. Kourbanov. Mr. Baratov, whose family is experiencing serious economic difficulties, resigned from his position as HRSU secretary after being forced to sign this statement. As a result of pressure from the local authorities, several members have left the association.

Interference with the freedom of movement⁷⁷

Mr. **Nicolai Mitrokhin**, member of the Russian association Memorial, has been denied access to the Uzbek territory on two occasions. This activist, who has been working on the situation of human rights in Uzbekistan for several years and who regularly denounces the practice of torture in the country, was sent back to Moscow as soon as he arrived at the Tashkent airport on 18th January 2003. He was given no explanation. When he returned to Tashkent on the morning of 22nd January, Mr. Mitrokhin was arrested as soon as he arrived at the airport. The police confiscated his passport and his airplane ticket and detained him until the evening, claiming that a meeting would be held to pass judgment on his case. Finally, he was returned to Moscow without being given any official document certifying the order to have him returned.

Interference with the freedom to demonstrate⁷⁸*Demonstration in Tashkent repressed*

On 7th March 2003, approximately 40 women demonstrated in a public square in Tashkent to denounce the torture of their husbands and sons who are being held in detention. The police intervened, blocking all exits, violently beating several women and forcing them to get into a police car. Most of these women were released a few hours later. Two of them were required to pay a bond.

⁷⁷ See Urgent appeal OUZ 001/ 0103/OBS 004.

⁷⁸ See Open Letter to the Authorities dated 12th May 2003.

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Shortly after this, a group of women, most certainly connected with the authorities, showed up and took aside three independent, foreign, radio journalists who had witnessed the women being dispersed. These women accused Mr. **Youssouf Rasoulov**, correspondent for the *Voice of America*, and Messrs. **Khousniddin Koutbitdinov** and **Mirasror Akhronov**, of *Liberté-RFE*, of beating the demonstrators, although none of the accusers was present at the time of the demonstration. The three journalists were then thrown to the ground and beaten by the men who accompanied this group. Their work equipment (recording equipment, telephones, and bags) was wrecked. The police, standing a few meters away, did nothing despite the journalists' calls for help.

Repression of a demonstration in Andijan

On 8th May 2003, some 60-70 women demonstrated in Andijan against the persecution of their husbands and children on religious grounds. The police unsuccessfully attempted to stop the demonstration on several occasions.

As they approached the Navruz stadium, the order was given to arrest all the demonstrators. The police acted with great brutality during the arrests, insulting and beating the children. Most of the women were forced into police vehicles and detained for several hours.

Harassment of Mutabar Tadjibaeva⁷⁹

In April 2003, Mrs. **Mutabar Tadjibaeva**, a freelance journalist who has taken part in OSCE missions and regularly publishes articles about the human rights situation in Uzbekistan on the internet, was subjected to a widespread smear campaign led by the authorities. Several articles published on the internet described her as an «enemy of the people» who was «working for the West».

In June 2002, after being subjected to pressures in various ways, Mrs. Tadjibaeva was held in custody for 13 days for publishing critical articles.

⁷⁹ *Idem.*

Harassment of a defender's family⁸⁰

On 28th March 2003, Mr. **Abdousamad Ergachev**, son of Abdousalom Ergachev, a lawyer known for his articles about the human rights situation in Uzbekistan, was arrested by two police officers as he was returning home with a friend.

After being beaten and insulted, the two young men were taken to the police station, but were not informed of the charges against them. During his questioning, the 17-years-old Abdousamad was violently hit on the head, and passed out. When he woke up, the police started beating him again, shouting: «Your father is an extremist», and «This is an extremist's file».

On 30th March, Mr. Ergachev and his friend were accused of stealing a suit belonging to a certain Mr. Yoldashev. They were forced to sign a document admitting the charges, although they had never seen the man before. Mr. Yoldashev himself denied the allegations. He too was threatened and suffered violence. He was found at 5 a.m. the next day in a very serious condition. Abdousamad and his friend were released the same day, also in a critical condition.

Arrest, torture and conviction of Ruslan Sharipov⁸¹

Mr. **Ruslan Sharipov**, a freelance journalist who had suffered threats and constant repression for years because of his articles denouncing human rights violations in Uzbekistan, was arrested on 26th May 2003.

Mr. Sharipov was accused of homosexuality and paying minors to have sexual relations, under articles 120, 127-3 and 128-2 of the Criminal Code. The alleged victims were also taken in for questioning on 26th May, and held in custody for 4 days. The teenagers were no doubt threatened by the police to convince them to give evidence, as Mr. Sharipov always claimed he did not know them. Two of Mr. Sharipov's assistants, Mr. **Azamat Mamankulov** and Mr. **Oleg Sarapulov**, were arrested on the same day, and released four days later.

⁸⁰ *Idem.*

⁸¹ See Urgent Appeals UZB 002/0503/OBS 025, UZB 002/0503/OBS 025.1 and UZB 002/0503/OBS 025.2.

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On his release, Mr. Mamankulov said he had been beaten and threatened during his detention, to force him to testify against Mr. Sharipov at his trial.

Mr. Sharipov was not allowed to see his lawyer until 28th May 2003, in the presence of police officers. During the interview, he declared that the officers had beaten him, put a gas mask on his face, sprayed a suffocating gas into it, and threatened to rape him with a bottle.

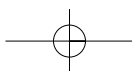
His trial began in camera on 23rd July 2003, before the Tashkent Court chaired by Judge Ganisher Makhmudov. Only his lawyer, his legal representative and his mother were authorized to attend the hearing.

On 8th August 2003, Mr. Sharipov, who had claimed his innocence since the beginning of his trial, «confessed» his crimes. He dismissed his lawyer, asked for his mother to be denied access to the court, and wrote a letter to President Karimov, requesting a pardon for the articles he had published in the past. On 5th September 2003, in a letter written in prison addressed to UN Secretary-General Kofi Annan, Mr. Sharipov revealed that he had been forced to make these confessions as a result of further physical and psychological torture and threats against his family and lawyers.

On 13th August 2003, Mr. Sharipov was sentenced to 51/2 years imprisonment for homosexuality and sexual relations with minors. He appealed this verdict.

On 28th August 2003, his lawyer **Surat Ikramov** was attacked as he was leaving a meeting with Judge Makhmudov. Four masked men wearing military uniforms dragged him out of his car, tied him up and put a bag over his head. The men took him to a park in Tashkent and beat him with sticks. Mr. Ikramov was hospitalized as a result of his injuries. A demonstration in support of Mr. Sharipov, which was planned to be held the next day, was cancelled.

On 25th September 2003, the Tashkent Court rejected the evidences presented by the defence on appeal. The charge of «inciting minors to antisocial behaviour» (article 127-3 of the Criminal Code) was withdrawn, and the court reduced Mr. Sharipov's sentence from 51/2 to 4 years imprisonment. When he appeared at the hearing, there were traces of injuries on his face, which the police claimed were the result of a car accident.



HUMAN RIGHTS DEFENDERS HARASSED

Mr. Sharipov, who was awarded the 2004 Freedom Prize by the World Association of Newspapers (WAN) on 25th November, did not benefit from the general amnesty granted by President Karimov on 22nd December.

Ruslan Sharipov decided to appeal to the Final Court of Appeal. However, the threats against his lawyers and the repeated physical and psychological attacks he has suffered in the past few months suggest that his life may be in danger. In his letter to Mr. Kofi Annan, Mr. Sharipov said he had been forced to write a farewell letter which would be used if necessary to make his death in prison appear to be suicide.

In early January 2004, he was transferred to the Tavaksai penitential colony in the Tashkent region.

