

L'OBSERVATOIRE

pour la Protection des Défenseurs des Droits de l'Homme

THE OBSERVATORY

for the Protection
of Human Rights Defenders

EL OBSERVATORIO

para la Protección
de los Defensores de Derechos Humanos

OSCE HUMAN DIMENSION IMPLEMENTATION MEETING WARSAW – OCTOBER 2004

Contribution by

**The International Federation for Human Rights (FIDH)
and the World Organisation Against Torture (OMCT)**

In the framework of their joint programme

The Observatory for the Protection of Human Rights Defenders

Under the item on the agenda:

Freedom of assembly and association

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

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The FIDH and the OMCT, in the context of their joint programme, the Observatory for the Protection of Human Rights defenders, welcome the setting up, at the end of December 2003, of a programme on freedoms of association and peaceful assembly within the Community of Independent States (CIS), within the Office of Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Co-operation in Europe (OSCE).

The Observatory would like to draw the attention of members of the OSCE to the persistence of serious violations of human rights perpetrated against defenders in this region, on the part of national authorities or private groups. The Observatory is also worried about the strengthening of the legislative arsenal which aims to limit the exercise of freedoms of association and peaceful assembly in some countries, such as the Russian Federation, Belarus and Uzbekistan.

The methods of repression used affect the majority of rights set out in the United Nations' Declaration on Human Rights Defenders (DDDH)¹. They are aimed most specifically against the right to peaceful assembly (article 5.a), the rights to form non-governmental organisations, associations or groups (article 5.b), the right to collect and distribute information relating to human rights (article 6), the right of defenders to an effective remedy (article 9), the right to receive financial resources for the promotion of human rights (article 13). These repressive methods constitute a violation of the duty of States to take all measures necessary to ensure the protection of human rights defenders (article 12).

Extra judiciary killings

In the **Russian Federation**, on 16 January 2004, the body of Mr Aslan Sheripovich Davletukaev, a volunteer of the Russo-Chechen Friendship Society (SART), was found near Gudermes, **Chechnya**. His body bore traces of torture and mutilation. Mr Davletukaev had been taken from his home on 10 January 2004, in the village of Avtury in the Shali region, by armed men.

On 20 June, Mr Nikolay Girenko, head of the Commission of Minority Rights of the Scientific Union of St Petersburg, President of the Ethnical Minority Rights, one of the most important anti-racist organisations in St Petersburg, was murdered at his home by unidentified men. The murderers have still not been identified.

Attacks on NGOs and assaults against defenders

On 26 March 2004, in **Serbia-Montenegro**, the office of the Helsinki Committee for Human Rights in Belgrade, was searched by military police following the issue of a warrant by a magistrate. Copies of the Book *Military Secret* which contains reports of sessions of the Supreme Military Court for the period 1999-2000 on the activities of the government of the Federal Republic of Yugoslavia against the opposition were removed.

On 27 June 2004, Mrs Svetlana Djordjevic, author of the book «Reports from Kosovo», which depicts violations of human rights perpetrated by the police in 1998 and 1999 in this province, was assaulted in her home in Vranje, Serbia-Montenegro. A stranger injected her with a substance and threatened to kill her unless she denied what she had written. She was taken, unconscious, to hospital. Since then, Mrs Djordjevic has continued to live under extremely precarious conditions, the police officers responsible for her protection being the same officers who are accusing her of treason.

On 26 September 2004, in **Bosnia-Herzegovina**, the offices of the Helsinki Committee for Human Rights, based in Sarajevo, was burgled. Many documents relating to the Committee's enquiry into violations of human rights were removed. The President of the office, Mr Branko Todorovic, had received death threats in February 2004 principally after denouncing the lack of political will on the part of the minister in arresting persons suspected of war crimes.

On 12 July 2004, in **Ingushetya, Russian Federation**, police officers entered the offices of SART without a warrant. More than twenty armed men carried out a search and confiscated computers and documents.

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

In addition, the Centre of Human Rights of Kazan (KCHR), **Tatarstan**, was attacked on 27 May 2004. This attack followed numerous acts of harassment against the KCHR following the publication of two reports on torture in Tatarstan in May 2004.

Arrests / Arbitrary Detentions / Legal Proceedings

On 2 April 2004, in **Azerbaijan**, Mr. Ilgar Ibrahimoglu, co-ordinator of the Centre for the Liberties of Conscience and Religion (DEVAMM), and Secretary General of the International Religious Liberty Association (IRLA Azerbaijan), was given a five years' suspended sentence for "participation in disturbing the public peace and resisting the authorities" in the electoral context. On 6 October 2004 the frontier police refused to let him board the plane he was due to take to go to the OSCE meeting on the human dimension.

In **Georgia**, defenders who denounced the irregularities noticed during the legislative elections of 2 November 2003, have suffered from serious pressure, notably in Adjara where several observers were preventing from pursuing their activity. Mr. Giorgi Mshvenieradze, representative of the Association of Young Lawyers in Kutaisi, was arrested and beaten. On 5 November 2003, he was sentenced to three months preliminary detention for acts of vandalism, resisting the forces of order and obstructing the electoral process.

In **Kyrgyzstan**, the Kyrgyz Committee for Human Rights (KCHR) is still facing legal proceedings. On 21 September 2004 the KCHR was informed that it had to pay more than 5000 US\$ off consequently to several complaints brought in 2001 and 2002 by a former member of the KCHR. This new decision seems to be designed to weaken still further the action of KCHR, whose President, Mr. Ramazan Dyrlydaev, is presently living in exile.

In **Turkey**, despite the relatively positive legislative reforms adopted in connexion with the negotiations for Turkey's entry into the European Union, the application of the new provisions is not yet well established; indeed many defenders remain subjected to legal proceedings, with the aim to sanction their freedoms of assembly and expression.

In **Uzbekistan**, the sentence of 4 years' imprisonment announced on 25 September 2003 against Mr. Ruslan Sharipov, a human rights defender and an independent journalist involved in the battle against corruption was commuted to a sentence of 2 years' hard labour on 23 June 2004.

Smear campaigns

In **Azerbaijan**, in the context of the October 2003 presidential elections, certain pro-government members of parliament appeared on television calling for "punishment" of the Human Rights defenders. The vice-president of the parliamentary standing committee on Human Rights recommended in particular that they should be sent into exile.

Following the resurgence of acts of violence in **Kosovo** in March 2004, a smear campaign was launched against the NGOs engaged in the protection of Human Rights. The Foundation for Humanitarian Law (HLC), the Committee of Jurists for the protection of Human Rights, and the Belgrade Helsinki Committee for Human Rights were described as being "non patriotic" and accused of having no compassion for the Serbian victims in Kosovo.

In the **Russian Federation**, on 7 May 2004, during a press conference, General Valerii Kraev, Head of the general directorate responsible for the carrying out of sentences at the ministry of Justice, declared that the NGOs were financed by "criminal organisations". He accused certain NGOs of de-stabilising the ministry of Justice by exerting pressure on the prison administration, and of spreading false information in the press. These declarations were made following the publication by certain NGOs of reports on the conditions of detention and ill-treatment of prisoners in Russia.

Furthermore, on 26 May 2004, Vladimir Putin, President of the Russian Federation, stated in the upper house of the Russian parliament that "the main aim of certain organisations is to get money from influential national and foreign foundations; for others, the aim is to serve groups of doubtful repute and commercial interests". These declarations are an attempt to divide the Human Rights movement in Russia, by making a distinction between the "good" and the "bad" NGOs.

Obstacles to the freedom of association

In **Belarus**, according to the minister of Justice, 51 NGOs were dissolved by court decisions in 2003. Among them, "Viasna" was closed down on 28 October 2003 on the grounds that it had violated the electoral regulations by sending observers who were not members of the association. The same applies to the "Legal Assistance to Population" organisation, dissolved on 8 September 2003, "the helping hand", dissolved on 27 November 2003, and the independent society for legal research, dissolved on 29 January 2004.

In addition the ministry of Justice is again investigating the Belarus Helsinki Committee (BHC). Enquiries have been resumed, despite the fact that the Minsk Economic Court cancelled the decision by the Minsk tax authorities to impose a fine of 385 million roubles (approximately \$180,000) on the BHC for tax fraud concerning money received from the European Union under the technical assistance programme (TACIS), although they are exempted from tax under existing regulations.

In the **Russian Federation** a new bill on taxation and the levying of taxes was passed on its first reading on 5 August 2004. On the one hand, the bill extends to national Russian foundations the list of organisations whose grants are tax-free. This implies that funds received from donors that are not on the list are taxable, and there is every reason to believe that the list is based on arbitrary criteria. Secondly, the bill specifies that, to be entitled to benefit from the tax exemption provided by the law, NGOs must compulsorily register funds received with a special Commission set up for that purpose. In all likelihood the new measure will add to the bureaucracy, and therefore make it more difficult for the NGOs to have access to their funds, at the same time increasing scope for corruption. The bill is due for its second reading on 15 October 2004.

In Uzbekistan, several decrees seriously jeopardising the freedom of association were issued recently.

In December 2003 a decree was issued making it compulsory for the international NGOs operating in Uzbekistan to register with the ministry of Justice and the ministry of Foreign Affairs before 1 March 2004. On 14 April 2004 the Tashkent section of the Open Society Institute (OSI) was shut down by the authorities under the decree, on the grounds that the material it distributed to the Uzbek universities "discredited government policies"; the ministry of Justice had refused to renew the section's accreditation. In February 2004 a decree was issued requiring NGOs to transfer all monies received from foreign donors to the National Uzbek Bank or the Asaka bank. This means that the funds are temporarily frozen, as the NGOs wishing to collect their money first have to get government approval.

A decree that came into force on 27 May 2004 requires the NGOs defending women's rights to re-register with the government Committee for Women, which is under the vice-Prime Minister, before 1 November 2004. The decree says nothing about the modalities, nor the selection criteria for the NGOs concerned.

Lastly, on 11 June 2004, the government signed a decree making it compulsory for NGOs to obtain official approval for their publications. This text strengthens a decree issued in December 2003 requiring all NGO publications to be registered with the government.

Obstacles to the freedom of demonstration

In **Azerbaijan**, following the presidential election of 15 October 2003, many acts of violence were perpetrated by the police and pro-government hooligans groups against numerous demonstrators who were protesting about irregularities during the ballot, as well as journalists.

In **Kyrgyzstan**, on 15 April 2004, 18 persons were arrested while taking part in a peaceful demonstration in support of an imprisoned opposition party leader. They were released on the same day. The following were among them: Mrs. Aziza Abdirasulova, a member of the KCHR, who was ill-treated during her detention, and Mr. Tursunbek Akunov, a leader of the Human Rights Movement.

In the **Russian Federation**, in July 2004 the Duma passed a new law strongly restricting the freedom of demonstration. The law creates significant new obstacles to the planning and organisation of legal and peaceful demonstrations. Any request for a gathering must be submitted for approval at least 10 days in advance, and some meetings, "in the vicinity" of official buildings, schools, embassies, or the premises of international organisations are banned, without any indication of the dimensions of the "security perimeter", which is left to the discretion of the authorities.

Recommendations:

The Observatory reiterates its total support to the ODIHR programme on freedoms of association and peaceful assembly.

However, in view of the seriousness of the situation described above, the Observatory calls the OSCE to strengthen the mandate of this programme and recommends the creation of a “Focal Point” or a Special Rapporteur, whose mandate would be to:

- **react publicly and immediately to cases of violations perpetrated against defenders ;**
- **solicit, question, and answer to the States.**

This mechanism should also aim at assessing legislations relative to freedom of association.

It should finally work in close partnership with the mandate of the Special Representative of the UN Secretary General on human rights defenders, Mrs. Hina Jilani.

Moreover, the Observatory asks the member States of the OSCE to:

- **Commit to putting an end to this recurrent repression phenomenon against Human Rights Defenders,**
- **Fully recognize the major role of human rights defenders in the building of democracy and the rule of law,**
- **Conform with the provisions of the final document of Copenhagen (1990) and with those of the Declaration on Human Rights Defenders.**