
**INTERNATIONAL
HELSINKI
FEDERATION FOR
HUMAN RIGHTS**

HONORARY CHAIRMAN

Yuri Orlov

EXECUTIVE DIRECTOR

Aaron Rhodes

DEPUTY EXECUTIVE DIRECTOR

Brigitte Dufour

ADVISORY BOARD (CHAIR)

Karl von Schwarzenberg

EXECUTIVE COMMITTEE

Holly Cartner

Bjørn Engesland

Vasilika Hysi

Krassimir Kanev

Ferenc Köszeg

PRESIDENT

Ulrich Fischer

VICE PRESIDENT

Srdjan Dizdarević

TREASURER

Stein-Ivar Aarsæther

Wickenburgg. 14/7, A-1080 Vienna, Austria; Tel +43-1-408 88 22; Fax 408 88 22-50
e-mail: office@ihf-hr.org – internet: <http://www.ihf-hr.org>
Bank account: Bank Austria Creditanstalt, 0221-00283/00, BLZ 12000

**Central Asia:
Human Rights Groups Facing Increasingly Restrictive Legislation**

February 2006

International Helsinki Federation for Human Rights (IHF)

www.ihf-hr.org

The IHF has consultative status with the United Nations and the Council of Europe.

MEMBER AND COOPERATING* COMMITTEES IN:

Albania – Armenia* - Austria – Azerbaijan - Belarus – Bosnia-Herzegovina – Bulgaria – Canada – Croatia – Czech Republic – Denmark – Finland – France – Georgia* - Germany – Greece – Hungary – Italy – Kazakhstan – Kosovo – Kyrgyzstan – Latvia – Lithuania – Macedonia – Moldova – Montenegro – Netherlands - Norway – Poland – Romania – Russia – Serbia – Slovakia – Slovenia – Sweden – Switzerland – Ukraine* – United Kingdom – United States – Uzbekistan*

COOPERATING ORGANIZATIONS: THE EUROPEAN ROMA RIGHTS CENTER – HUMAN RIGHTS WITHOUT FRONTIERS – MENTAL DISABILITY ADVOCACY CENTER

I: Introduction

Central Asian republics are increasingly restricting human rights activity through the adoption of new legislation, a trend that raises concerns about the possibility for NGOs to survive in an already hostile and obstructive environment.

While Uzbekistan and Turkmenistan have well-established records of repressive actions towards human rights and civil society organizations, the IHF is concerned that other Central Asian states might follow suit. A recent announcement by the Kyrgyz Minister of Justice, ordering the investigation of all foreign-funded NGOs for national security reasons, has been condemned by the international and national human rights communities. Last year in Kazakhstan, the Constitutional Council dismissed draft legislation - primarily aimed at restricting the actions of international NGOs in the country and curbing the influx of foreign funding to domestic NGOs- as being incompatible with the Kazakh Constitution. Some fear that following the adoption of new Russian legislation on NGOs, this draft legislation will be resurfaced in Kazakhstan. In late 2005, the Tajik government presented a new draft law on NGOs, which strengthens control over NGOs, in particular those that receive funding from abroad. The discussions on the draft bill are still pending.

If the above-mentioned draft legislation were enacted or announced investigations fully implemented in the other Central Asian states, these countries would be embarking on a risky path following the steps of their much-condemned neighbours. It would also have profound negative consequences for human rights, democracy and freedom in these states and in the region.

With this brief report, the IHF wishes to address this serious problem and calls upon all Central Asian states to comply with their international human rights commitments and obligations, in particular regarding freedom of association and the functioning of non-governmental organizations. The IHF also urges national authorities to take immediate measures to ensure that all legislation, in particular laws regulating the activities of non-governmental organizations, is consistent with international standards.

As OSCE participating States, all Central Asian countries have committed to uphold the principles of freedom of association enshrined in OSCE commitments, and in particular in the Copenhagen and Moscow Documents. Paragraph 43 of the 1991 Moscow Document states that participating States “will facilitate the ability of [non-governmental] organizations to conduct their national activities freely on their territories; to that effect they [the participating States] will welcome NGO activities”. In addition, paragraph 10.4 of the Copenhagen Document specifically states that NGOs have the right to “unhindered access to and communication with similar bodies outside their countries and with international organizations (...) and to solicit, receive and utilize (...) voluntary financial contributions from national and international sources”. Moreover, as all Central Asian states are signatory states to the International Covenant for Civil and Political Rights (ICCPR), they have a legal

obligation to ensure that freedom of association (as established by article 18) is guaranteed for all at all times.

II: Developments on NGO legislation

Recent developments regarding NGO legislation in each of the Central Asian countries (Uzbekistan, Turkmenistan, Kazakhstan, Tajikistan and Kyrgyzstan) are developed in this section.

Uzbekistan:

Uzbekistan has now consolidated its position as one of the most repressive and authoritarian regimes in the OSCE region. Civil society in particular has suffered from a massive clamp down of its freedom of association, expression and assembly. Repressive actions targeted towards civil society and human rights organizations have only increased after the Andijan massacre. The authorities systematically monitor, interfere and close down international and national non-governmental organizations working in Uzbekistan.

Recent amendments made to the Criminal Code and the Code on Administrative Liability of Uzbekistan (which entered into force on 1 January 2006) have further restricted the liberty of NGOs and represent a step towards the criminalization of the informal (unregistered) exercise of freedom of association. These amendments establish sanctions (including fines and administrative arrest for up to 15 days) for the employees of foreign and international NGOs who carry out political and funding activities which might be deemed beyond the mission of the organization. Additional sanctions are also foreseen for registered NGOs, when authorization has not been previously sought for an event or when the authorities are denied access to an event being organized by the NGO.

This legislation does not, however, only affect registered NGOs as sanctions have also been established for non-registered NGOs, which constitute the bulk of non-governmental organizations working in Uzbekistan. These organizations, often refused registration by the authorities on a systematic basis, find themselves obliged to work outside of the protection of the law. The above-mentioned amendments only compound this situation by establishing sanctions (including fines and administrative arrest for up to 15 days) for anyone advocating participation in the activities of non-registered NGOs or groups or simply for violating NGO regulations. Under this new law, even minor infractions will incur steep fines, providing a strong disincentive to any potential civil society activist.

These amendments will undoubtedly further restrict the liberty of non-governmental organizations working in Uzbekistan, and will further endanger those working to promote the existence of civil society in the country. For a list of human rights defenders at risk in Uzbekistan please refer to the IHF's web page.

Turkmenistan:

The situation of human rights organizations in Turkmenistan is that there are no registered independent human rights organizations in the country. Approximately 90 non-governmental organizations are officially registered in Turkmenistan (primarily related to the ecology, sports, etc), but very few are able to carry out independent activities. This situation has remained relatively unchanged since November 2002, after a government crackdown on NGOs following an alleged attempt on President Niyazov's life and legislative changes in 2003.

Legislation adopted in October 2003 further limited the freedom of association as it added additional steps to the registration procedure for NGOs. It also established administrative penalties for those unregistered organizations carrying out activities. Certain acts by human rights defenders, such as publishing the result of any monitoring activity, can now be considered slander against the state; those convicted will face punishment for having committed treason against the Motherland.

This legislation, in addition to the climate of absolute fear which reigns in Turkmenistan, has resulted in the near-total lack of human rights activity in the country. All activities carried out by non-registered organizations are considered illegal and the few human rights defenders who continue to work do so at high personal risk and under permanent surveillance by the authorities. Registering an NGO is extremely difficult as the support of the relevant ministry (e.g. Ministry of Education, Justice, etc) needs to be sought, and is but rarely given; in practice all independent NGOs are denied registration. Financial support from foreign donors has also decreased in the past years to almost meaningless amounts, as has international outcry. The Turkmen authorities continue to conduct wide-ranging repressions against their citizens and civil society, using fear and the law as their main tools.

Kazakhstan:

In Kazakhstan, civil society groups, in particular international NGOs, have been subject to growing pressure in the wake of the recent revolutions in Georgia, Ukraine and Kyrgyzstan. The authorities have stepped up their efforts to monitor the activities of NGOs and have initiated tax audits and various inspections of more than 30 local and international organizations operating in the country.

Efforts to tighten legislation regulating the activities of NGOs have also been made. Legislation adopted in 2005 for the purpose of enhancing national security and countering extremism established new grounds on which NGOs can be closed down. The activities of NGOs can, for example, be declared illegal if they are considered to contribute to "aggravating the socio-political situation" or to "stratification of society." Human rights activists have expressed concern that the vague wording of these provisions could result in arbitrary implementation unduly restricting the legitimate exercise of the right to freedom of association.

Further, two new draft laws on NGOs that were introduced in 2005 were primarily aimed at curbing the influence of international organizations and foreign funding institutions in the country. The draft laws, inter alia, made foreign funding of Kazakh NGOs subject to approval by local authorities, required that Kazakh branches of international organizations be headed by Kazakh nationals and outlawed the activities of international organizations lacking representation offices in the country. The draft laws were widely criticized at both the international and national level. In response to such criticism, President Nazarbaev submitted the drafts to the Kazakh Constitutional Council, which concluded that they were not compatible with the Kazakh Constitution and therefore should not be allowed to enter into force.

While the 2005 decision by the Constitutional Council was positive, human rights activists fear that recent developments in Russia – in which prominent NGOs have been accused of having links to foreign spies – may result in a worsened climate toward NGOs also in Kazakhstan as well as in renewed discussions about the proposals included in the 2005 draft laws on NGOs.

Tajikistan:

Following the democratic revolutions in Georgia, Ukraine and Kyrgyzstan, the Tajik authorities have grown increasingly suspicious toward NGOs that benefit from foreign funding since such groups are considered to have played a crucial role in the democratic upheavals in the region. In late 2005, the Tajik government presented a new draft law on NGOs, which strengthens control over NGOs, in particular those that are funded from abroad. The draft law grants tax and law enforcement authorities far-reaching powers to monitor the activities of NGOs and imposes new burdensome reporting obligations on NGOs. It also requires existing NGOs to re-register with the authorities within three months after the entry into force of the new law and prohibits the participation of NGOs in election campaigns. The status of foreign foundations is, further, left unclear under the draft law, pending the possible adoption of complementary legislation.

Civil society activists have criticized the draft law for establishing unreasonable restrictions on freedom of association that are inconsistent with the Tajik Constitution and international human rights law. They have also expressed resentment that the draft law, which is supposed to replace legislation enacted as recently as in 2004, was prepared in a rapid and non-transparent process that did not involve any consultation of civil society groups or allow for any broad-based public discussion.

Kyrgyzstan:

Notwithstanding the expectations created by the change of regime in March 2005 and the perception that Kyrgyzstan has the strongest civil society of all Central Asian states, the effects of Russia's actions towards NGOs are beginning to be felt here too. Of particular concern was the statement made by the Justice Minister Marat Kayipov on 24 January, in which he ordered his ministry's registration department to closely monitor the activities of NGOs receiving foreign funds in order to determine whether they constitute a threat to

national security. Minister Kayipov later clarified his statement by saying that the National Security Service would also be involved in these investigations and that, when referring to “threats to national security”, he was thinking in terms of religious extremism.

This announcement has only been compounded by an ensuing campaign launched by the media to discredit the work of NGOs by portraying them as agents or proxies of the West. Although less than a month has passed since the announcement, some NGOs have already reported that they are being pressured by state entities (e.g. tax inspectors) to provide additional information on their financial accounts. As many of the NGOs working in Kyrgyzstan depend on foreign funds for their subsistence, the number of NGOs to be investigated is potentially very high.

Unfortunately all of the above-mentioned actions look like the beginning of efforts by the current government (not unlike actions taken by previous Kyrgyz governments) to stifle the NGO and civil society movement in the country. The decision to investigate foreign-funded NGOs will have serious repercussions on the state of civil society in Kyrgyzstan and will no doubt result in NGOs having to redirect their human and financial resources from much-needed human rights work to defending themselves from the different administrative charges that might be filed against them by the authorities. If the announcement is fully implemented, a door will be opened to all types of arbitrariness vis-à-vis the functioning of NGOs in Kyrgyzstan. It will also mean that Kyrgyzstan will have followed the steps taken by some of its nearby neighbours, in particular the Russian Federation, Belarus and Uzbekistan, in taking regressive and authoritarian measures to clamp down on human rights organizations.