

THE OBSERVATORY

for the Protection of Human Rights Defenders

L'OBSERVATOIRE

**pour la Protection des défenseurs des droits de
l'Homme**

EL OBSERVATORIO

**para la Protección
de los Defensores de Derechos Humanos**

OSCE HUMAN DIMENSION IMPLEMENTATION MEETING WARSAW

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**Written contribution of
The International Federation of Human Rights (FIDH)
and
The World Organisation Against Torture (OMCT)**

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

**Under working session 3 of the agenda on "Freedom of assembly and association"
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The International Federation of Human Rights (FIDH) and the World Organisation Against Torture (OMCT), within the framework of their joint programme, the Observatory for the Protection of Human Rights Defenders, wish to draw the attention of the Organisation for the Security and Cooperation in Europe (OSCE) to the deteriorating situation of human rights defenders in some OSCE Participating States.

First of all, the Observatory wishes to deplore the continuing crackdown on the independent civil society in some OSCE Participating States, a crackdown fuelled and strengthened amongst others by recent geopolitical developments in the OSCE area.

All along the year 2008, the *Russian Federation* continued to rely on restrictive laws and measures in relation to freedom of association, thus making it easier to control independent civil society. The Observatory is also particularly concerned with the fact that almost two years after the assassination of the independent journalist and human rights activist Ms. **Anna Politkovskaya**, the enquiry has not led to any satisfactory result. The Observatory reiterates its deep indignation, and calls for impartiality and transparency throughout the investigation that is currently taking place, so that those responsible for the assassination as well as those who planned it be brought to justice and sanctioned according to law.

Freedoms of assembly and peaceful gathering were also flouted, as for example in *Kyrgyzstan*. Further, some defenders were or have continued to be arbitrarily detained or subjected to judicial harassment (*Azerbaijan, Belarus, Georgia, Kyrgyzstan, Russian Federation, Turkey, Uzbekistan*) while the authorities failed, in a number of cases, to protect human rights defenders when threatened or attacked by non-State actors (*Bosnia-Herzegovina, Georgia, Russian Federation, Serbia*).

In front of the increasing amount of blatant violations of OSCE commitments by some Participating States, the Office for Democratic Institutions and Human Rights (ODIHR) established a Focal Point for Human Rights Defenders and National Human Rights Institutions, in response to recommendations made to the OSCE at the March 2006 Supplementary Human Dimension Meeting.

The Observatory, which has been working towards the establishment of a protection mechanism for defenders for several years, considers the Focal Point as an important tool that will be able to keep the issues faced by human rights defenders on the forefront. However, the Observatory wishes to insist on the necessity to develop the activities of this body so that it be able to react promptly in front of urgent issues arising in a number of countries, in complementarity with OSCE missions on the ground and with other relevant mechanisms of protection of human rights defenders that have been developed over the past years within the United Nations, the European Union, the Council of Europe, the Inter-American Commission on Human Rights and the African Commission on Human and People's Rights.

Restrictions to freedom of association

In the *Russian Federation*, on January 15, 2008, the Prosecutor's office of Ingushetia lodged a suit against the Voice of Beslan, which gathers mothers of victims of the 2004 Beslan school-hostage taking, in the Nazran District Court for "extremist activities". The charges fall under Russia's 2007 amended Law on extremism, which broadens the definition of extremist activities to include "slander of public officials" and "humiliating national pride".

These charges are linked with a statement made by the Voice of Beslan on November 30, 2005, accusing President Putin of refusing to launch an independent investigation into the battle ending the siege that killed many hostages in September 2004. In December, a North Ossetian court ordered the organisation to close down, claiming that Ms. **Ella Kesaeva**, the co-chair of the organisation, was not its leader and that a former member who claimed to be the leader of the group should replace her. That ruling was subsequently annulled by the Russian Supreme Court. Nevertheless, on January 20, 2008, the house of a woman who gave testimony in court to support the Voice of Beslan in the framework of these judicial proceedings had been searched by members of the Federal Security Service (FSB) in order to "establish evidence of illegal arms possession". During the search, the woman had been warned by the FSB officers that she should "not even communicate with the Voice of Beslan".

In addition, on March 20, 2008, the police raided the office of the Nizhny Novgorod Foundation for the Promotion of Tolerance and confiscated all the computers thereat. The police have also confiscated the mobile phone of Mr. **Stanislas Dmitrievskiy**, a referent of the Foundation and the Executive Director of the Finland-registered Russian-Chechen Friendship Society (RCFS). The motion to search the office of the Foundation to Promote Tolerance would have been signed by the Regional Prosecutor's office. On the same day, the police searched the homes of Messrs.

Ilya Shamazov and **Yuri Staroverov**, who had been actively involved in an investigation carried out by the Foundation on war crimes and human rights violations during the war in Chechnya.

Furthermore, in the night of April 9, 2007, the offices of the Centre of International Protection and of the “For Human Rights” movement, in Moscow, were assaulted by men in plain clothes, who broke down the iron doors and dismantled stairs connecting the floors of the two offices. At that time, Ms. **Svetlana Davydova**, a lawyer with the Centre, was working on a complaint to the European Court on Human Rights (ECHR) on a Chechen case.

On April 3, 2008, the Nazran Regional Court issued a ruling in a case initiated by the Chechen Committee for National Salvation (CCNS) to challenge an unplanned check procedure started in August 2007 by the FSB of Ingushetia and which was carried out by the State Registration Bureau on the activities of the organisation, as well as a warning against this organisation issued on December 4, 2007, on the grounds that administrative and financial documents had not been transmitted on time. The court declared that both the unplanned check and the warning were lawful, meaning that the CCNS lost the trial.

Restrictions to freedoms of assembly and peaceful gathering

Freedoms of assembly and of peaceful gathering remained widely ignored in a certain number of countries, as for instance in the Russian Federation, where, at the end of November 2007, an administrative case was opened against Ms. Kesaeva, after she participated in a rally held in Beslan on November 7, 2007, in which participants placed a signpost reading “Putin’s Course” - pointing in the direction of the destroyed school. Ms. Kesaeva was charged with “illegal mounting of a road signpost”.

In Kyrgyzstan, on December 20, 2007, Ms. **Tolekan Ismailova**, Director of the human rights centre “Citizens Against Corruption”, Ms. **Toktaim Umetalieva**, Head of the Association of Non-Governmental Organisations (NGOs) and Non-Commercial Organisations (NCOs), Ms. **Nazgul Turdubekova**, leader of the Youth Human Rights group, Ms. **Aigul Kizalakova** and Ms. **Natalia Utesheva**, members of the Youth Human Rights Group, as well as Mr. **Maxim Kuleshov**, leader of the NGO “World, Light, Culture”, were arrested along with 27 other activists from different movements, as they were peacefully demonstrating against election irregularities in the neighbourhood of the Jogorku Kenesh parliamentary building. Most of the December-20 demonstrators were placed in pre-trial custody and charged under Article 371 (disobeying policemen) and 392 (violating rules of peaceful processions and demonstrations) of the Code of Administrative Responsibility. Mr. Kuleshov was brought to the Pervomaisky police department of Bishkek, where he was denied medical check-up and access to his lawyer.

On December 18, 2007, Ms. Tolekan Ismailova had already been arrested, along with 18 other human rights defenders, including Mr. **Mirsujlan Namazaliev** and Ms. **Jibek Ismailova**, members of the Human Rights Centre “Kylm Shamy”, while peacefully demonstrating in the Old Square of Bishkek. These activists were subsequently taken to the Militia Office of the Pervomaisky District on the same day, but were denied access to their lawyers. They were charged under Article 392 of the Code of Administrative Responsibility. They were released on the same day, awaiting trial. On December 20, 2007, Ms. Ismailova, Ms. Umetalieva, Ms. Turdubekova, Mr. Kuleshov, Mr. Namazaliev, Ms. Ismailova, Ms. Kizalakova and Ms. Utesheva were tried in camera by the Court of First Instance of Bishkek, in spite of their requests to be judged in a public hearing, as provided by the normal procedure. They did not have enough time to organise their legal representation and were convicted of administrative penalties, ranging from fines to seven days’ imprisonment. All the convicted appealed the decision, and were subsequently released awaiting trial before the Court of Appeal.

Arbitrary detentions / Judicial harassment

In February and June 2008, the Observatory welcomed the release of several human rights defenders of Uzbekistan, namely Ms. **Mutabar Tojibaeva**, Head of the human rights organisation “Burning Hearts’ Club” and the 2008 Laureate of the Martin Ennals Award, released on June 2, 2008 for “health reasons”; Mr. **Ikhtiyor Khamroev**, member of the Human Rights Society of Uzbekistan (HRSU) Djizak region branch, and Mr. **Saidjakhon Zaynobitdinov**, Head of the human rights organisation “Appeal”, former Head of HRSU Andijan region branch, respectively released on February 2 and 4, 2008, on the basis of the amnesty decision adopted by the Uzbek Senate on November 30, 2007. The Observatory was also informed that Mrs. **Umida Niyazova**, journalist for *Internews* and human rights defender, also benefited from the amnesty on February 2, 2008, and Mr. **Bakhodir Mukhtarov**, member of the HRSU Samarkand region branch, was released on November 23, 2007, a few days ahead of the entry into force of the amnesty decision.

However, the Observatory deplores the continuing detention of Mr. **Azam Formonov**, Head of the HRSU Syrdarya region branch, Mr. **Alisher Karamatov**, Head of the HRSU Mirzaabad district branch, Mr. **Nasim Isakov**, member of the HRSU Djizak region branch, arrested on October 27, 2005, Mr. **Djamshid Karimov**, member of the HRSU Djizak region branch, Mr. **Rasulev Yuldash**, member of the HRSU Kashkadarya region branch, Mr. **Zafar Rakhimov**, member of the HRSU Kashkadarya region branch, Mr. **Norboy Kholjigitov**, member of the HRSU Ishtikhan region branch, Mr. **Sattor Irzaev**, Head of the HRSU Ishtikhan district branch, Mr. **Habibulla Akpulatov**, member of the HRSU Ishtikhan district branch, Mr. **Ulugbek Kattabekov**, Head of the “Ezgulik” branch in the Zaamin district (Djizak region), Mr. **Abdurasul Abdunazarov**, Head of the “Ezgulik” branch in Angren (Tashkent region), arrested Mr. **Mamaradjab Nazarov**, Head of the “Ezgulik” branch in the Zarbdor district (Djizak region), Mr. **Karim Bobokulov**, Deputy Head of the “Ezgulik” branch of the Syrdarya region, Mr. **Mukhitdinov Dilmurod**, Head of the human rights society “Ezgulik” in the Markhamat district of Andijan region, Mr. **Salijon Abdurahmanov** a journalist in Karakalpakstan particularly known for his critical reporting of the local authorities, including law enforcement officers, and Mr. **Akzam Turgunov**, Executive Director and founder of “Mazlum” human rights centre, a Tashkent-based human rights organisation that defends the rights of political prisoners of conscience.

In *Azerbaijan*, on June 24, 2008, the Grave Crime Court sentenced Mr. **Novruzali Mammadov**, a fervent defender of the cultural rights of the Talysh people, an ethnic minority living in the south of Azerbaijan, Head of the Talysh Cultural Center, Editor in chief of the *Tolishi Sedo* newspaper, and Department Head of the Linguistics Institute of the Science Academy, to ten years in prison for “high treason”. The Court argued that Mr. Mammadov had collected “information necessary for the establishment of an administrative autonomy in the territories of Azerbaijan compactly populated by Talyshes”, and had spread a negative image of Azerbaijan abroad through appeals submitted to international organisations relating to “violations of the human rights of Talyshes”.

In *Belarus*, on May 23, 2008, three KGB officers burst into the apartment of Mr. **Leanid Svetsik**, a human rights defender from Vitsebsk. They showed him the ruling of the Prosecutor’s office for initiation of criminal proceedings for “fomentation of national and religious enmity”. The ruling describes Mr. Svetsik as a witness in a case of threats to certain citizens from the extreme-right organisation Russian National Unity. During the search, the KGB confiscated his computer and supplies, as well as printed human rights editions including the calendars which were dedicated to the 60th anniversary of the creation of the United Nations. Then, Mr. Svetsik was brought to Vitsebsk oblast KGB office and was interrogated for more than two hours by an officer. He was then handed out the writ for the next interrogation, which was set on May 28, 2008. Mr. Svetsik went back to the KGB office on May 30, as he had to wait for his lawyer from Minsk. On that day, he and his lawyer signed a paper rejecting the accusations of the public prosecutor. The procedure is now ongoing.

In *Georgia*, Mr. **Sabir Makhietiev**, one of the most active election observers of the Public Movement “Multinational Georgia” (PMMG), was arrested on April 23, 2008 by law enforcement authorities in Marneuli, where he was involved in pre-election monitoring prior to the forthcoming parliamentary elections scheduled to take place on May 21, 2008. Prior to this event, Mr. Mekhtiev had been subjected to a series of attempts aimed at exerting pressure by representatives from the local branch of ProCredit Bank, where he subscribed a loan of 4,000 Georgian Lari (1,781.33 euros) in 2004, probably in order to persuade him to cease his human rights activities. On April 24, 2008, the Marneuli District Court fixed a two-months detention period as preventive punishment.

In the *Russian Federation*, on June 17, 2008, Mr. **Shakhman Akbulatov**, Ms. **Zarema Mukusheva** and Ms. **Milana Bakhaeva**, members of the Memorial human rights centre, were arrested and detained, allegedly for “filming a building pertaining to the Solnidchny State agricultural group”, located in the village of Goyti (Urus-Martani region), which used to be the police department of the village where several persons were reportedly arbitrarily detained, sometimes incommunicado.

Policemen accused them of collecting “information in view of transferring it to separatist websites and to sites critical of the party in power”. One of the policemen accused them of “working for Wahabbites” and asserted that it was because “they were giving data to Islamists that his fellow policemen were regularly killed”. One of them even suggested to “shoot” them all. The threat of execution was repeated in another room.

Furthermore, Mr. Akbulatov et Ms. Mukusheva were photographed and the policemen also searched the groups’ vehicle, although they had no mandate to do so.

Mr. Akbulatov, Ms. Mukusheva, and Ms. Bakhaeva were finally released on the same day. However, Mr. Akbulatov and Ms. Mukusheva were forced to sign a written statement describing their activity that day, and their film material was destroyed.

In *Turkey*, on January 23, 2008, Mr. **Ethem Açıkalın**, Chairperson of the Human Rights Association (*İnsan Hakları Derneği* - IHD) branch in Adana, was arrested in Adana and accused of “being a member of an illegal organisation”

and “making propaganda of an illegal organisation”. These charges are related to Mr. Ethem Açıklan’s participation in a press conference organised on December 17, 2007 by the Front for Rights and Freedoms of Adana (*Adana Haklar ve Özgürlükler Cephesi*) in order to denounce the assassination on December 10, 2007 of Ms. Kevser Mızrak, reportedly a member of the Revolutionary People’s Liberation Party/Front (*Devrimci Halk Kurtulus Partisi - Cephesi* - DHKP-C), in Ankara. Ms. Mızrak was allegedly killed by police forces. During the press conference, a document was read, denouncing extrajudicial executions and calling upon the security forces to prevent such human rights violations.

Furthermore, on March 3, 2008, the Yargitary (Appeal Court) upheld a decision of the Bingöl 2 Criminal Court, which had sentenced Mr. **Ridvan Kizgin**, board member of the IHD headquarter office and former Chairperson of the Bingöl Branch of IHD, to two years and six months of imprisonment on October 7, 2005. This sentence had been issued following the release by Mr. Kizgin of a report in which he denounced the killing of five persons in a village in Bingöl in 2003. Mr. Kizgin is currently detained in Bingöl detention centre. The Observatory was further informed of two other cases against him that are pending before the Appeal Court for “insulting a State agent” as well as for “insulting Turkishness” and violating Article 301 of the Turkish Penal Code¹.

Slandering, threats and assaults against human rights defenders

In 2007, several human rights defenders continued to be harassed in some OSCE Participating States, through, *inter alia*, slandering and assaults. The following cases confirm the determination of both State and non-State actors to silence human rights activists, as well as the failure and the lack of political will of the State authorities to identify the aggressors and to bring them to justice, in violation of Article 12.2 of the UN Declaration on Human Rights Defenders adopted by the UN General Assembly on December 10, 1998.

In the *Russian Federation*, on June 27, 2008, Ms. Almaz Choloyan, the Director of the Migrant Help Centre in Nizhny Novgorod, appeared on the national TV channel *NTV* programme “Humanitarian ration”, and alleged that local human rights activists had launched a smear campaign against her. Thus, she made several accusations against NGOs in Nizhny Novgorod, specifically against the RCFS, the Nizhny Novgorod Foundation to Support Tolerance, and the Other Russia opposition coalition. She said that local human rights activists were “swindlers only interested in foreign money”.

Furthermore, Ms. Almaz Choloyan specifically named Mr. Stanislav Dmitrievsky as well as Ms. **Oksana Chelysheva**, Director of the Nizhny Novgorod Foundation for the Promotion of Tolerance.

International and foreign NGOs were also increasingly targeted by the Russian authorities. On April 8, 2008, during a meeting of the National Anti-Terror Committee (NAC), headed by the Director of the FSB, Mr. Nikolay Patrushev, the latter stated that “NGOs are the main supporters of terrorists” and that “foreign NGOs are helping international terrorists to recruit young people”. He continued by claiming that “*emissaries of foreign terrorist and extremist organisations do not limit their activities to the territory of the South Federal Circuit (the North Caucasus)*” but “*are carrying out recruiting in other parts of Russia taking advantage of social and economic problems, ethnical and religious tensions*”. The head of the FSB concluded that “*a number of foreign NGOs are providing them with informational support*”. Likewise, Mr. Aleksander Torshin, Vice-Speaker of the Russian Federation Council at the State Duma, claimed that “*foreign NGOs are often used as venues to recruit terrorists and extremists. What is really worrying is that they are recruiting young people*”. The Senator stated that “*up to a hundred anti-Russian propagandist actions like conferences, marches, seminars are held in such countries as Poland, Denmark, the Netherlands, Turkey, Baltic states and all Scandinavian states*” and that “*the official bodies of these countries are using these events to access the situation in the Russian regions*”. He also pointed out that the role of the Internet as a tool to advocate for terror had increased, and that there were 59 foreign NGOs that have been supporting Chechen terrorists. Mr. Torshin then called on working out criteria to identify such webpages, to monitor their operation at both internal and international level as well as developing mechanisms of blocking their work.

In this context of constant repression against human rights defenders and NGOs, assaults against human rights activists continued unabated. On July 25, 2008, Mr. **Zurab Tsetchoev**, a member of the “Mashr” human rights group, which supports relatives of persons who have been subjected to enforced disappearance as well as victims of

¹ The first case is related to the denunciation by Mr. Kizgin of a case of rape in Bingöl through the publication of a press release. On May 22, 2007, Mr. Kizgin had already been sentenced to six months’ imprisonment and 570 YTL by the Bingöl 2 Criminal court. He had appealed this sentencing and the case is still pending. The second case relates to the sentencing on November 14, 2006 of Mr. Kizgin and Ms. **Kiraz Bicici**, IHD Vice-president, to five months’ imprisonment, for “denigrating Turkish identity”. The sentence was later turned into a 1750 YTL fine. Both had appealed this sentencing, and the case is still pending.

torture, was abducted, allegedly by members of unidentified (reportedly federal) security servicemen, in Ingushetia. Mr. Tsetchoev is also an applicant to the European Court for Human Rights, before which he complained about the ineffective investigation of the abduction of his brother, in March 2004. On the same day, Mr. Tsetchoev was dropped by security servicemen on a road near Nazran. Mr. Tsetchoev was very badly beaten, virtually unable to move on his own. In the hospital, he was diagnosed with a broken leg, contusion of both kidneys and contusions on both arms.

On August 14, 2008, at 4.20 a.m., unidentified people assaulted the flat where Mr. Stanislav Dmitrievsky and his family live, on the first floor of a five-storied apartment building. Assaulters smashed the window pane of the living room with a silicate brick paint in red with swastikas and numerous threatening graffiti that fell down outside the flat, destroying only the outside pane. Insulting inscriptions and swastikas were also discovered on the entry door, on the kitchen window pane and on a wall of the house.

In *Serbia*, on February 21, 2008, Ms. **Nataša Kandić**, the Executive Director of the Humanitarian Law Centre (HLC), was victim of unidentified persons who threw a flare at the doorstep and the door of the HLC office, causing damage, subsequent to the protest that took place in Belgrade against the independence of Kosovo. Even though HLC had asked the police to provide security for the HLC office in prevision of the demonstration, not a single police officer could be seen either during or after the protest².

In *Bosnia-Herzegovina*, on July 22, 2008, around 2 p.m. an unknown man called the office of the Helsinki Committee for Human Rights in Republika Srpska and said that “huge amounts of money have been given for the assassination of Mr. **Branko Todorovic**, Executive Director of the Helsinki Committee for Human Rights in Republika Srpska, and his family as he has permanently heavily criticised powerful persons from the police and the prosecutors office”. In order to show the seriousness of this threat, the man listed many details and situation showing that he has carefully followed Mr. Todorovic and his family since couple of months. On July 27, 2008, Mr. Todorovic received another threat.

In *Georgia*, on September 1, 2008, Mr. **Saba Tsitsikashvili**, journalist and the Human Rights Centre (HRIDC) Coordinator for the Shida Kartli region, was physically and verbally assaulted in the village of Karaleti (Shida Kartli region) by Messrs. Lado Vardzelashvili, the Shida Kartli Governor, and Zurab Chinchilakashvili, Deputy Governor, while covering a demonstration against the Russian occupation. Mr. Chinchilakashvili started to become aggressive towards Mr. Tsitsikashvili after August 29, 2008. On that day, Mr. **Ucha Nanuashvili**, HRIDC Executive Director, along with several other employees of HRIDC, including Mr. Tsitsikashvili, visited the Kombinitis Dasakhlebia hosting internally displaced people (IDPs) originating from the Georgian-Ossetian conflict zone. They wanted to find out what were the living conditions of IDPs two weeks after the bombing. It turned out that the Gori inhabitants who had returned from Tbilisi had no shelter, and had been left to sort out their problems themselves. Messrs. Nanuashvili and Tsitsikashvili took two homeless IDPs to the regional administration to talk with officials in charge of IDPs, and then met Mr. Zurab Chinchilakashvili.

Recommendations

In view of the situation, the Observatory urges OSCE Participating States to:

- **Guarantee in all circumstances the physical and psychological integrity of human rights defenders in the OSCE Participating States;**
- **Put an end to the continuous repression of human rights defenders and their organisations;**
- **Fully recognise the vital role of defenders in the advent of democracy and the rule of law;**
- **Review their national legislation to conform with international and regional human rights instruments, in particular regarding freedoms of association and assembly;**
- **Comply with the provisions of the final document of the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension, of the Conference for Security and Co-operation in Europe (CSCE) and of the Declaration on Human Rights Defenders, adopted on December 9, 1998 by the United Nations General Assembly;**
- **Support and implement all recommendations brought to them from the March 2006 Supplementary**

2 These events occurred in a context in which, on February 19, 2008, Mr. Ivica Dačić, a member of the Serbian Socialist Party (SPS), was advocating the banning of all political parties and NGOs that recognised Kosovo as independent. He specifically singled out Ms. Nataša Kandić, who attended the ceremony declaring independence at Kosovo's Parliamentary Assembly on February 17, 2008. On the same day, the SPS would also have filed a criminal complaint against Ms. Kandić for “inciting others to compromise the territorial integrity of Serbia”.

Human Dimension Meeting on Human Rights Defenders;

- Comply with the provisions of the resolution titled “Strengthening OSCE engagement with human rights defenders and national human rights institutions”, adopted by the OSCE Parliamentary Assembly in Kiev on July 10, 2007;
- Take into account the suggestions of commitments listed in the Report submitted to the OSCE Ministerial Council in response to MC Decision No. 17/05 on Strengthening the Effectiveness of the OSCE;
- Strengthen the Focal Point in order to provide it with a mechanism of alert, giving it the ability to address individual cases, by interacting with OSCE missions on the ground and with other relevant mechanisms of protection of human rights defenders that have been developed over the past years within the United Nations, the European Union, the Council of Europe, the Inter-American Commission on Human Rights and the African Commission on Human and People’s Rights.



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