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**The Assault on Human Rights Defenders  
in the Russian Federation, Belarus and Uzbekistan:  
*Restrictive Legislation and Bad Practices***

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*Report by the  
International Helsinki Federation for Human Rights (IHF) to the  
OSCE Conference on Human Rights Defenders and National Human Rights Institutions*

*Vienna, 30-31 March 2006*

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

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## *Preface*

The past few years have witnessed increasing pressure on independent human rights defenders in many former socialist countries. The pressure has taken various forms, ranging from bureaucratic difficulties in getting human rights NGOs registered in order to ensure that their activities are legal, to arrests and prosecution under fabricated charges (including espionage), and in some cases to physical attacks on outspoken activists. The situation of human rights NGOs has deteriorated dramatically in the Russian Federation, Belarus and Uzbekistan, becoming increasingly reminiscent of the communist era. The process, if it is not reversed, will have profoundly negative consequences for human rights, democracy and freedom not only in these countries but also elsewhere in Eastern Europe and Central Asia.

In the face of mounting pressure and harassment, the reactions from foreign governments and international organizations have been markedly insufficient.

This report examines the situation of human rights NGOs in the Russian Federation, Belarus and Uzbekistan. It deals both with the legal background and practices in the three countries, and provides a series of recommendations on how the situation can be improved.

Much of the information contained in this report was collected using a questionnaire prepared by the office of the Special Representative of the UN Secretary General on the situation of human rights defenders and distributed by the IHF to its members, cooperating committees and partner organizations in the fall of 2005. The information the IHF received was passed on to the UN and then used for this report with the approval of the UN Special Representative. The content and conclusions of this report are, however, the sole responsibility of the IHF.

The cut-off date for information included in this report was generally mid-February 2006.

This report will be presented to the OSCE Conference on Human Rights Defenders and National Human Rights Institutions, to be held in Vienna on 30 and 31 March 2006.



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# THE RUSSIAN FEDERATION<sup>1</sup>

## 1. Introduction and Summary

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In his televised address to the nation on 26 May 2004, President Vladimir Putin emphasized the state's commitment to the main goals of "a mature democracy and a developed civil society." Yet, in the same speech he pointed out that for some NGOs operating in Russia "the priority is to receive financing from influential foreign foundations" while other "serve dubious groups and commercial interests," thereby ignoring the most serious violations of basic human rights. He continued: "And this is not surprising: they simply cannot bite the hand that feeds them."

Most human rights NGOs took the president's remarks as a warning, especially to those NGOs who receive funding from abroad, and a sign that authorities will choose to interpret human rights activities as work aimed at weakening the Russian state. The president's remarks were also largely regarded as a signal to law enforcement agencies and local authorities to actively monitor and discipline human rights activists.<sup>2</sup>

The address to the nation was a logical continuation of the developments that have been taking place since President Putin came into office in 2000. Since then, governmental policies towards human rights NGOs have gradually changed. Despite many public statements from President Putin stressing the important role of civil society in ensuring the inviolability of democratic freedoms, steps have been taken to gain more control over the activities of human rights organizations and to tie them more closely to state bodies, thereby fading the clear line that must exist between governmental structures and non-governmental human rights activities in order to secure the integrity of independent human rights organizations. These developments began notably in 2001 with the first meeting between government authorities and NGOs to discuss issues of mutual interest. Although a positive initiative, initially welcomed by human rights NGOs, later discussions have failed to fulfill almost all expectations.

A further step towards bringing NGOs under government umbrella was the signing by President Putin in September 2004 of an edict on the support of the human rights movement in Russia. While appearing to be a potentially positive initiative, the edict proved to be nothing but new tool to impose control over NGO activities.

The trend in activity against independent NGOs continued in January 2006, when the president signed into law a new, restrictive bill concerning NGOs. Soon after that, Russian authorities moved on to curb independent human right activities, implicating 12 prominent human rights organization (including the Moscow Helsinki Group), in espionage and initiated legal proceedings against one of them with the aim to close it down.

As a result of the 2003 parliamentary elections, liberal forces in the Russian Federation legislature shrank markedly. The new Duma, demonstrating overwhelming support of government policies and the president, quickly moved to adopt legislation that served to increase state control over NGOs and

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<sup>1</sup> Unless otherwise noted, based on information from the Moscow Helsinki Group (MHG) to the IHF, October 2005. Part of the information was originally published in the report *Human Rights in the Russian Federation in 2004*, by the MHG, as noted below. See also: Human Rights Watch, *Managing Civil Society: Are NGOs Next?* Briefing Paper, 22 November 2005, at <http://hrw.org/backgrounder/eca/russia1105/>; Human Rights First, *The New Dissidents: Human Rights Defenders and Counterterrorism in Russia*, 2005, at <http://www.humanrightsfirst.org/defenders/pdf/new-dis-russia-021605.pdf>

<sup>2</sup> IHF/Norwegian Helsinki Committee, *The Silencing of Human Rights Defenders in Chechnya and Ingushetia*, September 2004, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=3965](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3965).

human rights activities. Most deputies who had served as contact points and provided support to human rights defenders in the Duma lost their seats.

In the past two years particularly, authorities have stepped up pressure against critical human rights organizations. State control over their registration and funding has been intensified, with the apparent aim of encouraging the growth of organizations loyal to them, and restricting the operation of independent NGOs. Both direct and indirect obstacles to human rights work have been imposed, starting from the (often arbitrary) application of poorly formulated laws pertaining, to things such as registration, and financing. There has also been direct pressure, including physical threats to human rights defenders, detentions, arrests, searches and even abductions and killings (in the North Caucasus). Diminishing opportunities to receive objective information from the media, and deliberate efforts taken by authorities to severely restrict access to information of legitimate public interest (including access to Chechnya to independent journalists and human rights defenders) have seriously obstructed human rights work and hindered NGOs from efficiently informing the public about their activities.

While regional regulations and practices vary significantly through the 88 regions of the Russian Federation, it is the local authorities – particularly the regional branches of the Interior Ministry and other security agencies – that create the main practical problems that obstruct human rights work. In the absence of genuinely independent courts in many locations, there is often no effective remedy available to targeted NGOs and human rights defenders.

In recent years, the most notorious region has been the North Caucasus, but reports of harassment and persecution have also been received from other regions, especially from Krasnodar, Kalmykia, Tatarstan, and some cases from St. Petersburg. The taboo topic Chechnya: the most endangered human rights activists in Europe are those in Chechnya and the adjacent regions of the North Caucasus who have sought justice locally or who have submitted complaints about human rights abuses in Chechnya to the European Court of Human Rights.

## **2. The Community of Independent Human Rights Defenders**

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The Moscow Helsinki Group database includes approximately 3,000 human rights NGOs throughout the Russian Federation, but only about 300 of them have secured funding for regular operation.

Virtually all active human rights NGOs in Russia work with various horizontal networks that focus, for example, on human rights monitoring, advocacy, youth work, human rights education, and legal counseling, or who are specialized in particular areas of human rights. This nation-wide cooperation has proven efficient, which was demonstrated, in the success of the all-Russia advocacy campaign under the motto “Civil Society against Police State”. The campaign managed to hinder the introduction of a restrictive law on assemblies in 2004 until substantial amendments to the law had been made(see Peaceful Assembly, below).

The oldest and most prominent human rights NGOs include the Moscow Helsinki Group and “Memorial.”

The Moscow Helsinki Group is the oldest of Russian human rights organizations still active today and has partner organizations in all 88 Russian regions. It was established in 1976 in Moscow by Professor Yuri Orlov, following the 1975 Conference on the Security and Cooperation in Europe held in Helsinki, and with the purpose of following up the implementation of the human dimension section of the Helsinki Final Act. The group was, however, faced with serious persecution by Soviet authorities, resulting in the arrest, imprisonment and forced exile of many of its members, and a resultant winding

down of its activities. In 1989, during *perestrioka* and the following return to Russia of one of its founding members, Ludmila Alexeyeva, the operation of the group was revived. In addition to

monitoring activities, the Moscow Helsinki Group is involved in supplying regional human rights organizations with information and legal advice; supporting and defending these organizations in central and local governmental bodies; assisting to form human rights commissions under the head of the executive power of the Russian regions and supporting these commissions.

The Human Rights Center “Memorial” was established in the spring of 1989 after authorities brutally disbanded a meeting in Tbilisi - an incident that resulted in many deaths. It began initially as an historical and educational association with a significant part of its work dedicated to protecting human rights. Now “Memorial”’s regional divisions are involved in protecting human rights, specifically in vindicating the rights of former prisoners. “Memorial” concentrates its human rights activities in zones of armed conflict and on the protection of refugees and victims of discrimination and political persecution. “Memorial” has regional organizations in Voronezh, Yekaterinburg, Nizhniy Tagil, Novosibirsk, Orel, Ryazan, Tomsk, Kharkov, Chelyabinsk, Syktyvkar, Perm and other towns.<sup>3</sup>

### **3. Positive Developments**

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Positively, educational human rights programs have recently been implemented for public authorities – initially law enforcement agents and judicial professionals – and dialogue has increasingly been initiated between human rights NGOs and authorities, both on federal and regional levels.

In 2001, a Civic Forum was held in Moscow, it was the first meeting between government authorities and NGOs to discuss issues of mutual interest, including human rights topics. A similar meeting was held two years later in Nizhny Novgorod. The aim of the meetings was to create a basis for continued cooperation between the state and NGOs to promote human rights. The first discussions between NGOs and governmental bodies did not generally prove to be very efficient, however did facilitate the creation in some regions of public councils under federal structures of executive power (for example, under the Chief Department of Federal Service for Penalty Execution, Migration Service, and the Ministry of Internal Affairs). Some programs for joint actions were also worked out in the social and cultural spheres.

The presidential decree on “Additional State Support to the Human Rights Movement in the Russian Federation,” introduced in September 2004, could also potentially bring about improvements in the field of increased NGO leverage in human rights developments in Russia. It provides for the establishment of an International Human Rights Center in Russia, and the integration of human rights NGOs into the operation of consultative bodies set up by presidential representatives at the regional level.

Though on the face of it the new decree aims at the consolidation of civil society and respect for human rights, local human rights NGOs are concerned that the decree actually serves as a tool to put the NGO community under increasing control. Moreover, the very concept of “controlled democracy” as perceived by President Putin cannot accommodate independent public organizations, - as confirmed by the Moscow Helsinki Group.<sup>4</sup>

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<sup>3</sup> Human Rights Center Memorial, at <http://www.memo.ru/eng/memhrc/index.shtml>.

<sup>4</sup> Information from the MHG to the IHF, October 2005.

## 4. Remaining Problems and Regression

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### 4.1 Freedom of Association

#### Legislation

The 1993 Constitution of the Russian Federation provides for freedom of association and is generally in line with international human rights standards.

The implementation of the right to free association has considerably deteriorated in Russia since 2000. On the federal level, activities of NGOs have been hampered by the adoption in 2000-2002 of new repressive legislation on countering extremist activities and affecting in their taxation.

NGO activities are mainly regulated by the RF Civil Code, federal laws “On Non-Profit Organizations” (1996) and “On Charitable Activities” (1995). In 2002, the draft law “On Countering Extremist Activities” was rushed through the parliament and it came into force in July. The law failed to properly define “extremism” and allowed for a broad interpretation regarding “legitimate” NGO activities, such as peaceful protests. The lack of strong definition of “extremism” allowed executive and judicial bodies to increase control over organizations which conducted “extremist activities” or whose activities were not approved of by the government. The law established court procedures for the closure of such organizations (in some cases without prior notification) and allowed a prosecutor or the Ministry of Justice to suspend their activities pending the outcome of the court proceedings. The provisions of the counter-extremism law gave rise to serious concern about allowing arbitrary implementation and the Moscow Helsinki Group expressed concern that the law could be used against “undesirable” NGOs. Human rights activists also noted that already existing legislation would have been sufficient to combat violent radicalism – if only properly applied.<sup>5</sup>

Modern legislation on NGO activity was necessary, however the Law “On Amendments to Some Legal Acts of the Russian Federation” that passed both the Duma and the Federation Council in December 2005 and was signed into law in January took developments in a wrong direction: the law poses a serious threat to NGO activities. Officially introduced as a measure to fight extremism and terrorism by hindering “money-laundering” through NGOs and to “prevent financing of political activities from abroad,” the original bill was rushed through the parliament without prior consultation with human rights NGOs and independent experts. The Russian authorities insisted that the law was needed to prevent foreign governments and organizations from using NGOs to undermine Russia's security. Both human rights activists and the Russian human rights ombudsman asserted that the draft law was incompatible both with the Russian Constitution and international human rights standards Russia is bound by. Following national and international protests, some changes were made to the law before its adoption, but failed eliminate the fundamental problems with the law.

The new law tightens state control over NGOs and may seriously hamper NGO activities. The law provides for stricter registration procedures for foreign and domestic NGOs and gives the state the power to close them down. It prescribes that offices of foreign NGOs must inform the government registration office about their projects for the upcoming year, and about the money allotted for every specific project. Officials from the registration office can ban foreign NGOs from implementing projects with “the aim of defending the constitutional system, morals, public health, rights and lawful interest of other people, guaranteeing defense capacity and security of the state.” This means in practice that the law vests Russian government officials with a high level of discretion in deciding what projects, or even parts of NGO projects, comply with Russia's national interests. The government's powers, however, are not stipulated by clear legal provisions and thus leave room for

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<sup>5</sup> IHF, *Human Right in the OSCE Region: Europe, Central Asia and North America, Report 2003, Events of 2002*, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=1322](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=1322).

arbitrary interference into the activities of NGOs. Many provisions were found by Council of Europe experts to be “disproportionate.”<sup>6</sup>

The IHF is particularly concerned that this law could be used to shut down NGOs working on Chechnya-related issues, many of which are already under serious pressure (see below).

### Practices

In January 2006 a media campaign was launched to implicate 12 well-known Russian NGOs in alleged British espionage in Russia because they had received funding from the British government for activities to promote democratic developments, human rights and the rule of law. Among the NGOs were the Moscow Helsinki Group, Nishnij Novgorod Committee against Torture, the Centre for the Development of Democracy and Human Rights and the Eurasia Foundation. The campaign appeared to be a demonstration by authorities to justify the adoption of the new, restrictive law just weeks earlier. At the end of January, Russian authorities moved to close down one human rights NGO.<sup>7</sup>

- On 28 January 2006 the BBC reported that the Justice Ministry had asked a Moscow court to order that the Russian Human Rights Research Centre be shut down. The move was officially justified as a response to the NGO's failure to register any information about its activities for the last five years.<sup>8</sup>

This latest step depicts the of the past five years, as Russian authorities have been imposing increasingly strict control over the registration and funding of human rights NGOs. These developments were already causing concern that the authorities were encouraging the growth of organizations loyal to the authorities, while restricting the operation of independent ones.

Authorities at a local and regional level have a long history of harassing and pressuring human rights and other NGOs. Local departments of the Ministry of Justice arbitrarily refuse to renew the registration of a number of NGOs for illegitimate reasons or under formal pretexts. There is sufficient reason to believe that regional and local authorities have used the re-registration procedure as an opportunity to eliminate the organizations that have fallen out of their favor. Many denials of re-registration have been accompanied by illegitimate demands to remove the words “human rights protection” from the names and statutes on the grounds that this is required by the state. In some regions, arbitrary demands have been made to some NGOs to change their charters and other documents.

Other forms of pressure on NGOs include paralyzing their work by repeated financial and other checks of their activities, evictions from office premises, etc.

By law, authorities have been able to order a re-registration procedure for an NGO whose activities are under scrutiny by the Ministry of Justice.

- In 2003, Soldiers’ Mothers of St. Petersburg, a leading Russian NGOs defending the rights of conscripts and opposed to the war in Chechnya, was accused of slander, incitement to desertion and violations of its own statutes. The NGO was forced to amend its statutes twice in

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<sup>6</sup> IHF, “IHF Protests the Smear Campaign against the Moscow Helsinki Group, NGOs Face Prosecution, 25 January 2006, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4178](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4178); BBC, “Russia closer to controlling NGOs,” 27 December 2005, at <http://news.bbc.co.uk/2/hi/europe/4562278.stm>; Human Rights Watch, “G8 Must Tackle Putin on Controversial Bill,” 28 December 2005.

<sup>7</sup> IHF, “IHF Protests the Smear Campaign against the Moscow Helsinki Group, NGOs Face Prosecution, 25 January 2006, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4178](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4178).

<sup>8</sup> BBC, “Russia 'to close rights group',” 28 January 2006, at <http://news.bbc.co.uk/2/hi/europe/4658026.stm>.

order to be re-registered with the Ministry of Justice. It was also threatened with eviction by St. Petersburg Municipal Property Management Committee (KUGI).<sup>9</sup>

- The RF Ministry of Justice of Kabardino-Balkaria refused registration to the regional branch of the national movement “For Human Rights” for 18 months. The organization was registered only after interference by the Federal Ministry of Justice.<sup>10</sup>
- The operations of NGOs in the Krasnodar region have been endangered. In 2004, the following NGOs were closed down without adequate legal reasons: Vatan (of Meskhetian Turks), New Prospects, and School of Peace. Local authorities put the regional youth organization Creative Union ‘Southern Wave’ under serious pressure for conducting civil education.<sup>11</sup>
- The Krasnodar Human Right Center, which cooperates with the Moscow Helsinki Group and published with them a joint report on the human rights situation in Krasnodar in 2002, has been under constant harassment by authorities. A local court suspended the center’s activities for three years on the grounds that the report had “interfered in the activities of the state’s justice agencies” A. Vinogradov, head of the local Ministry of Justice, stated that the law “has not empowered organizations established by the public to assess the activities of state agencies and disseminate relevant information,” and that the report’s recommendations to the authorities “are beyond the competence given to public organizations.” Despite the fact that the Federal Supreme Court overruled the suspension decision four times, it took until 2004 to have a local court declare the center’s activities legal again.<sup>12</sup> The NGOs troubles were partly related to the law “On Countering Extremist Activities.”
- Human rights activists work under constant pressure in the Republic of Tatarstan. Following the publication of the report *The Law and Its Victims: Torture in Tatarstan* by the Kazan Human Rights Center on 2 April 2004, pressure against the organization started: local journalists were forced to limit the report’s distribution, the publishing house that printed the report was inspected by the police, the NGOs finances were examined, its staff members and their families were seriously harassed and threatened and a grenade was found on the doorstep of its director. On 25 May, the Ministry of Justice in the Republic of Tatarstan announced the official launch of an investigation concerning the activity of the Kazan Human Rights Center. On 27 May two masked persons forced their way into the organization’s office and smashed their computers and other equipment. Local television stations (TNV, GTRC) also showed in their programs negative information about the activities of HRC and biographies of HRC leaders.<sup>13</sup> With help of other NGOs, the Center managed to resume operation and is active again.

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<sup>9</sup> FIDH/OMCT, *Russia: Human Rights Defenders Faced with the “Dictatorship of the Law,”* September 2004.

<sup>10</sup> “Leader of the Kabardino-Balkaria Branch of the Movement “For Human Rights” Spoke About the Plans for the Future.” IA “Regnum,” 12 October 2004, at <http://www.regnum.ru>, cited by the MHG, October 2005.

<sup>11</sup> MHG, *Human Rights in the Russian Federation in 2004*, at <http://www.mhg.ru/>.

<sup>12</sup> MHG, “The Trial On Suspending Activities of the Krasnodar Human Rights Center Completed Its Work,” 21 July 2004, see <http://www.mhg.ru>; Novorossiysk Human Rights Committee (V. Karastelev, T. Karasteleva), “Systematic Violations of Human Rights in the Krasnodar Territory Undermines International Authority of Russia,” NGOBO “FRODO” IA “Regnum,” 1 December 2004, at <http://www.regnum.ru>.

<sup>13</sup> FIDH/OMCT, *Russia: Human Rights Defenders Faced with the “Dictatorship of the Law,”* September 2004, at <http://www.frontlinedefenders.org/news/1284>; MHG, “The Chronicle of Pressure on the Kazan Human Rights Center,” 2004.

## 4.2 *Right of Peaceful Assembly*

### Legislation<sup>14</sup>

Article 31 of the Constitution of the Russian Federation guarantees the right of citizens and public associations to hold assemblies, rallies, street marches, demonstrations and pickets in order to protect their political, civil, social, labor, and economic rights and interests. Any public event, such as rallies and pickets, can be banned or dispersed only if they run counter to the Constitution or threaten the public order, security or health of the people.

On 31 March 2004, however, the State Duma adopted in first reading the federal law “On Assemblies, Rallies, Demonstrations, Marches and Pickets,” which severely restricted the basic rights to peaceful assembly. The bill was submitted by the Russian government and had been prepared without any consultation with civil society. The law banned public assemblies in places directly adjacent to the Russian president’s residences, buildings of federal and regional official bodies, as well as diplomatic missions – thereby rendering virtually all public protest assemblies pointless. It obligated the organizers of public events to ensure public order and security during the events, and, although not officially requiring authorization for public events, gave local authorities too much leeway to reject notifications for public assemblies. Further, it prescribed that local authorities were obligated to be present at all public assemblies and were allowed to regulate or terminate them. Moreover, the bill was based on a number of vaguely defined terms, thus paving the way to bureaucratic abuse.

The law triggered severe criticism by the political opposition and civil society as unconstitutional and as a sign of increasing pressure from security agencies to better control civil society. A Russia-wide public campaign “Civil Society Against Police State” was launched against the bill. The joint civil society activities forced the authorities to make a series of amendments to the bill, ensuring; that a notification by organizers 10 days prior to a public event at the latest is sufficient to make an event legal, that the discretionary powers of authorities to turn down a notification or ban an event is largely eliminated, and the ban on mass events in front of most public buildings is lifted. Although many of the remaining provisions are regarded as worrisome, the version of the law that was finally adopted on 4 June 2004, was generally regarded as “acceptable.” One of the questionable provisions states that the procedure for submitting notification of assemblies is to be regulated by regional legislation.<sup>15</sup>

### Practices<sup>16</sup>

In violation of the above-mentioned provisions, over the last years it has been difficult to organize public events if the issues they intend to promote have been ill-favored by the authorities. In addition, participants of such events have been arrested by the police and charged with committing administrative offenses (e.g. “spreading slanderous leaflets against individual judges”) whenever the originally stated topic of the scheduled peaceful event was changed. Further, local and regional authorities have released an increasing number of regulations designed to place unlawful constraints on the freedom of peaceful assembly.<sup>17</sup>

As feared by human rights defenders, the implementation of the 2004 federal law “On Assemblies, Rallies, Demonstrations, Marches and Pickets” has turned out to be problematic in regional areas. As

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<sup>14</sup> Based on “Memorial” (A. Basova, A. Sokolov), “Freedom of Assembly and Association in 2004.”

<sup>15</sup> BPI, “State Duma Adopted the Bill on Assemblies, Rallies, Demonstrations, Marches and Pickets,” 4 June 2004; IHF *Human Right in the OSCE Region: Europe, Central Asia and North America, Report 2005, Events of 2004*, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4057](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).

<sup>16</sup> Unless otherwise noted, based on “Memorial” (A. Basova, A. Sokolov), “Freedom of Assembly and Association 2004.”

<sup>17</sup> IHF, *Interventions and Recommendations to the OSCE Human Dimension Implementation Meeting, Warsaw, 6-17 October 2003*.

soon as the law came into force, local authorities in various regions adopted regulations of their own, which in many areas considerably complicated the holding of public events and provided for unacceptable restrictions. Some of them, for example, prescribe that all organizers of a public event have to appear at the local government agency to have the event authorized, others require notarized signatures for the notifications, and so on. In addition, local authorities often do all in their power to hinder demonstrations, pickets and other protests that are critical of their policies and practices.

- In August 2004, the governor of the Belgorod region issued a provisional statute “for the purpose of more orderly conduct of public events [...] as well as to regulate relations not covered by the Federal Law...” One of the statute’s provisions states that the organizer of a public event is obligated to notify the Belgorod government, the regional department of internal affairs or the local government agency and the appropriate internal affairs agency about the planned event. Further, the organizer must submit the name of the event, its program, location, as well as information on administrative, financial and other support for the event.<sup>18</sup> The governor of Belgorod also publicly expressed his dissatisfaction with the participation of students of the Starooskol Technological Institute in ecological rallies held in Stary Oskol in 2004, and made the director of the institute personally responsible for not preventing the protests and the students’ participation.<sup>19</sup>
- In the Kemerovo region, local authorities have created constant obstacles to the holding of any public events and warned media outlets against covering events not approved of by the authorities.<sup>20</sup>

There have also been a number of cases where participants of peaceful assemblies held in different parts of the Russian Federation have been subjected to excessive use of force by law enforcement authorities. The most serious case so far took place in Elista, the capital of the Republic of Kalmykia, in 2004.

- On 21 September 2004 an authorized demonstration against the president of Kalmykia was held on the central square of Elista. The rally was initiated by the Extraordinary Congress of the People of Kalmykia, which is composed of representatives of the political opposition. In the evening, when the event was already practically over, law enforcement officers began to forcefully disperse participants from the square. According to eyewitness accounts, this was done in a very brutal fashion. Special police troops beat peaceful demonstrators with clubs, shot at them with rubber bullets and threw light-and-noise grenades at them. They also trampled with boots on participants that had fallen on the ground, including elderly people and women. The police operation spread to other parts of the city as troops began chasing participants, leaving the city in a state of chaos until 2 a.m. The central square of Elista was blocked by the police for several days after the rally, and attempts by rally participants to continue their protests in other parts of the city were suppressed by an OMON special police unit. The organizers of the rally subsequently submitted a petition to the Russian State Duma and the prosecutor general stating that at least three people died during the incident and some 400 were ill-treated by law enforcement officers, five of them sustaining life-threatening injuries. A total of 126 people were arrested. The petition also noted that the bodies of two of those declared dead had not been handed over to the relatives and that no information about people still missing was available.<sup>21</sup> According to the public prosecutor of Kalmykia, the

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<sup>18</sup> *Human Rights Report from the Belgorod Region for 2004*, cited by the MHG, October 2005.

<sup>19</sup> *Meridian*, I. Zheleznova, “The Medal Passes By,” No. 44, 3 November 2004, cited by the MHG, October 2005.

<sup>20</sup> *Human Rights Report from the Kemerovo region for 2004*, cited by the MHG, October 2005.

<sup>21</sup> Statement of leaders of public organizations of the Republic of Kalmykia, <http://glazev.ru/print.php?article=269>, cited by MHG, October 2005.

measures undertaken by police and OMON officers were “legitimate and within the confines of the law.”<sup>22</sup>

- On 24-25 September 2005, police used unacceptable measures against participants of the protest called “Anti-Capitalism – 2005,” which took place in the cities of Nizhnii Novgorod, Dzerzhinsk, and Bor (Nizhnii Novgorod region), and partially in the city of Oryel. The rallies had been sanctioned by authorities, yet police moved to arrest their participants and ill-treated many of them. This protest event has been held over the past several years but for the first time in 2005 the police used excessive force to try and disperse it. The 2005 event was an initiative of the Russian Communist Youth Union, the Russian Communist Working Party and the National Bolsheviks Party of the RF. Investigations by the Moscow Helsinki Group into the incident established “a system of control and suppression of public and mass actions used by law enforcement agencies and bodies of the local self-government which poses a danger to society, the constitutional basis and security of the Russian state.”

### 4.3 *Freedom of Expression and the Media*

#### Legislation

The legislative basis for the protection of freedom of expression in the Russian Federation is, by and large, compatible with international human rights standards.

#### Practices

In the past couple of years, freedom of expression and the media have been shrinking quickly, with news programs becoming, according to “Memorial” increasingly reminiscent of Soviet-era programs. The process has been especially visible on television, but less so on radio and in newspapers. For human rights defenders, the decrease in independent influential media means that there are few means by which they can have their concerns disseminated and heard. However, in virtually all media two topics are clearly off-limits: criticism of high-ranking political leaders and the publication of ongoing severe human rights abuses in and on Chechnya.<sup>23</sup>

The Reporters Without Borders’ World Press Index 2005 rated the Russian Federation at rank 138 out of 167.<sup>24</sup> Yet, diminishing media freedoms appear not to worry most citizens of the Russian Federation. The results of a survey conducted by ROMIR (a sociological agency) showed that 76% believed that the mass media should be subject to censorship. A mere 19% of those surveyed were against censorship. At the same time, according to the data from another survey, only 9% were inclined to trust the information they receive from the mass media.<sup>25</sup>

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<sup>22</sup> NEWSru.com, “Kalmykian Authorities Dispel Opposition Rally in Elista, 106 People Arrested” (in Russian), 22 September 2004, cited by the MHG, October 2005.

<sup>23</sup> “Memorial” (A. Basova), “Freedom of Speech and Access to Information in 2004.”

<sup>24</sup> A year earlier Russia was at rank 140. Reporters Without Borders, World Press Freedom Index 2004 and 2005, at <http://www.rsf.org/>.

<sup>25</sup> *Vremya Novostei* (V. Dzaguto), “People Are Ready to Take Up Axe,” No. 3, 14 January 2004; *Izvestiya*. “Division of Politics, Division of Humanitarian Problems. Three Fourth of Russians Are in Favour of Censorship,” No. 4, 14 January 2004, cited in “Memorial” (A. Basova), “Freedom of Speech and Access to Information in 2004.”

The hostage-taking at the Dubrovka theatre in Moscow in October 2002 and the Beslan hostage tragedy of September 2004<sup>26</sup> clearly demonstrated the attitude of the Russian leadership to the free flow of information. Especially during the Beslan incident, authorities not only hindered access to objective information, but engaged in a disinformation campaign to conceal the full scale of the incident and important facts - including the number of victims. They gave preferential treatment to state-owned media and forced journalists into self-censorship with the threat of losing their jobs. Many reporters, journalists and human rights defenders were effectively barred from arriving in the region and collecting objective information regarding what was actually happening. All of this was done under the pretext of hindering the media from “facilitating terrorist activities.”<sup>27</sup>

Immediately following the Beslan incident, the national television channels (primarily “Channel One” and “Rossia”) started airing propaganda designed to one-sidedly justify all actions of law enforcement bodies and special services during the hostage release operation. At the same time, information regarding the actions of human rights organizations and political parties opposing the war in Chechnya were silenced. Following the raid, Russian authorities started to give official information about the incident, but only to the state-owned Russian press.<sup>28</sup> Demands to conduct an independent investigation into the Beslan events were unsuccessful. None of the three investigations that were subsequently launched turned out to be fully independent.

Even in general practice, regional and local authorities frequently resort to indirect pressure on media outlets by financially support those outlets loyal to them. A common tactic is to order enterprises and public bodies/officials to subscribe to loyal newspapers and then provide these papers access to printing services under their control, rent them their premises, and advertise in them. According to A. Simonov, president of the Glasnost Defence Foundation, the main type of censorship in Russia is the state monopoly over the means of transmission of electronic information and printing houses.<sup>29</sup>

In addition, persecution of journalists engaged in critical reporting has increased in recent years. They are denied access to information and press conferences organized by authorities, threatened, arrested under various pretexts and prosecuted for trumped-up charges, including for violations of the honor and dignity of public officials. Many are intimidated, physically assaulted and even abducted in the most dangerous areas of North Caucasus. “Uncomfortable” newspaper editors and journalists have been dismissed from their jobs under pressure from local authorities.

- Self-censorship by the owner was applied in case of Raf Shakirov, editor-in-chief of the *Izvestia* newspaper, who was dismissed following the release of a 4 September 2004 issue of the newspaper that focused critically on the Beslan incident.
- Ironically, when Alvaro Gil-Robles, Commissioner for Human Rights of the Council of Europe visited Khabarovsk in July of 2004, reporters of the opposition newspaper *Khabarovskiy Express* were not invited to a press conference held during his visit. When its editor-in-chief nevertheless turned up at the end of the conference, the State Duma deputy for

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<sup>26</sup> For details, see IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Reports 2004 and 2005*, at [http://www.ihf-hr.org/cms/cms.php?sec\\_id=46](http://www.ihf-hr.org/cms/cms.php?sec_id=46).

<sup>27</sup> Following the events at the Dubrovka theatre in Moscow, Lubov Sliska, first deputy chairperson of the State Duma, said in an interview to the *Nezavisimaya Gazeta* newspaper that authorities had to “take measures to prevent media from facilitating terrorists’ activities and to that end any means will be justifiable.... Therefore, we should not be afraid of suppressing the freedom of speech or democracy. Any temporary measures may be adopted, if only they stop the onslaught of terrorism.” Cited in “Memorial” (A. Basova), “Freedom of Speech and Access to Information in 2004.”

<sup>28</sup> “Memorial” (A. Basova), “Freedom of Speech and Access to Information in 2004.”

<sup>29</sup> *Izvestiya*, “Division of Politics, Division of Humanitarian Problems. Three Fourth of Russians Are in Favour of Censorship, No. 4, 14 January 2004.

the Khabarovsk territory immediately defended the decision of the governor not to invite this newspaper.<sup>30</sup>

A worrisome trend since 2000, has been the initiation of judicial proceedings on charges of treason, espionage, divulging state or military secrets, and similar charges, most especially against scientists who have published articles that Russian authorities have not approved of. In all of these cases, the Russian Security Service FSB has played a central role. The trials have been dragged out over years and have been riddled with violations of international due process standards, with many of the accused journalists and scientists receiving extremely long prison sentences. For the most part, the defendants had used information in their publications that had already been published by the media, or were in a position where they did not even have access to classified information. The alleged “spies” include Grigory Pasko (former submarine captain and military journalist, sentenced to four years in prison), Igor Sutyagin (sentenced to 15 years in a strict regime colony – the longest prison term imposed for high treason in Russia since Soviet times), Valentin Danilov (sentenced to a 14-year prison term, later reduced to 13 years), and Valentin Moiseyev (a diplomat, sentenced to a 12-year term in a colony with a strict regime, later reduced to 4.5 years).<sup>31</sup>

#### **4.4 Financial Restrictions**

##### Legislation

Until 2006, article 251 of the Tax Code of the Russian Federation stated that funds received by human rights organizations as grants for performing humanitarian and human rights activity were regarded as equivalent to income of commercial organizations, and were therefore subject to taxes. In practice, organizations had to pay 24% of this “profit” in taxes. Positively, this provision was lifted on 1 January 2006 as amendments to the Tax Code came into force.

However, the law “On Amendments to Some Legal Acts of the Russian Federation” adopted in the State Duma in December 2005 will likely increase state control over their financing in an unacceptable manner and severely limit foreign funding to human rights NGOs operating in Russia (see Association, above).

The Federal Law “On Charitable Activities” (No. 58666-4) provides a very limited list of activities considered to be charitable. Given that a great deal of civil society and human rights organizations’ activity does not correspond to this list, the organizations are not eligible for tax-exempt donations. By law, regional authorities also have the right to control the use of foreign funding of projects.<sup>32</sup>

##### Practices

Russian authorities used Article 251 of the Tax Code of the Russian Federation to put pressure on the Russian-Chechen Friendship Society (RCFS).

- Just before the presidential elections in Russia, on 11 March 2004, representatives of the department investigating financial crimes at the Nizhny Novgorod Region (OBEP) seized the 5,000 many circulation of the RCFS newspaper *Pravozaschita*, allegedly because of financial

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<sup>30</sup> Report on the situation with human rights in the Khabarovsk territory, 2004, cited by the MHG, October 2005.

<sup>31</sup> For details, see IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Reports 2000-2005*, at [www.ihf-hr.org](http://www.ihf-hr.org).

<sup>32</sup> IHF, *Interventions and Recommendations to the OSCE Human Dimension Implementation Meeting, Warsaw, 6-17 October 2003*.

irregularities in the operation of the printing house "Riyad-Balakhna." After this was overruled in a court decision, the newspapers were returned to the editors more than a month later, i.e. after the presidential elections. Since 2002 the RCFS and *Pravozaschita* have been inspected three times by the fiscal police, two times by the Ministry of Justice and once by the Mass Media Ministry. In August 2005, the Tax Inspection of Nizhni Novgorod brought charges against the RCFS for the failure to pay taxes for what the authorities regarded as their income (money left at year's end on their bank accounts for the implementation of projects were treated as it would be their profit) and were fined of over a million roubles (about 28,200 EUR). In early September, its co-chair was charged with tax evasion. (See also the section on North Caucasus below)

For most NGOs, insecure financing is the main problem associated with their work. Nearly all active Russian human rights organizations are dependent on foreign funding. Therefore, the implication by President Putin in his 2004 address suggested to the nation that many foreign-funded NGOs were dubious and served their own interest rendered these organizations increasingly vulnerable. Moreover, with increased measures taken against entrepreneurs critical of President Putin's policies and who sponsor civil society, the human rights community is experiencing another blow to their financial stability.

Moreover, the acceptance of financial support from Russian businessmen by some associations has been taken as a pretext to discredit these organizations to questioning their "true motives" and to label their activities political.

- In November 2003, tax police conducted an audit of the Open Russia Foundation, founded by the former CEO of Yukos, Mikhail Khodorkovsky, which supports various civic initiatives.

#### **4.5 Direct Attacks on Human Rights Defenders**

While indirect attacks on human rights NGOs with the aim of closing them down or forcing them to wind down their activities have been reported from various regions (see the section on association, above), direct violent attacks on individual human rights defenders or NGO officers have mainly affected those who are in one way or another linked to the conflict in Chechnya and the neighboring regions. Only a few other cases have been reported in the past couple of years.

- In November 2003, the Soros Foundation's Open Society Institute came under attack. Masked men in camouflage raided the organization's office and seized computers and documents. Officially, the raid was linked to a private business disagreement, but suspicions remain that government pressure was the real motive.<sup>33</sup>
- On 24 June 2004, Nikolai Girenko, professor of ethnology, a well-known activist and an expert on minority rights, racism and xenophobia in today's Russia, was killed in his home in St. Petersburg. His academic colleagues and fellow human rights defenders believe that his murder was connected with his human rights activity, in particular in light of his anti-racism campaigning and work focusing on the "skinhead" movement. According to reports, Nikolai Girenko and many of the academics working alongside him on research on racism regularly received threats.<sup>34</sup>

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<sup>33</sup> *Moscow Times*, "Soros Institute: Politics behind Raid?" 12 November 2003.

<sup>34</sup> Amnesty International, "Russian Federation: Brutal Killing of Human Rights Defender Nikolai Girenko," 22 June 2004.

## North Caucasus<sup>35</sup>

Of all human rights defenders in the Russian Federation, those working in the North Caucasus - and those living elsewhere but dealing with issues related to Chechnya – are the most endangered. Since 2001 there has been a consistent pattern of harassment of individuals who have filed applications to the European Court of Human Rights about abuses in Chechnya or who have sought justice before Russian courts. While most attacks in the North Caucasus have taken place in Chechnya, such practices have increasingly spilled over to the neighboring republic of Ingushetia. Some of the victims have been foreigners or individuals from other parts of the Russian Federation, but most of them are locals.

Humanitarian workers and journalists were targeted in Chechnya and Ingushetia in the inter-war period (i.e., from the fall of 1996 to the fall of 1999) when a number of high profile abduction cases and killings took place. The persecution of human rights further intensified with the start of the second Chechen war in 1999, and since then, local activists have been the main targets.<sup>36</sup>

In some cases the perpetrators have remained unidentified, in a few cases Chechen criminal or insurgent groups are believed to be behind attacks, but in the majority of the cases, local or federal authorities are believed to be involved.

There are three main catalysts that have contributed to the worsening situation for human rights defenders in Chechnya and Ingushetia: Primarily, after the late President Akhmat Kadyrov established powerful and brutal local security organs in Chechnya,(with the consent and support of the federal center) there was increasing (“chechenization”)causing these security organs to be increasingly threatening the local human rights defenders community. While previously it was mainly federal forces that persecuted activists, now Chechen security forces are the ones that resort to abuse. Secondly, the abusive patterns have spread more and more to the neighboring Ingushetia and Dagestan as well as the nearby North Ossetia and Kabardino Balkaria, which were previously considered relatively safe. After Ruslan Aushev stepped down as the president of Ingushetia in 2002, the human rights and security situation worsened significantly in Ingushetia, especially with efforts to force Chechen IDPs to return to Chechnya. Local human rights defenders were increasingly targeted by the authorities following the large-scale attacks by armed insurgents in Ingushetia in June 2004, leaving about one hundred people dead..<sup>37</sup>

The final catalyst was after the 2003 election, when most influential deputies of the state Duma who had provided support to human rights defenders lost their mandates leaving local activists with little support in Moscow.

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<sup>35</sup> IHF and the Norwegian Helsinki Committee, *The Silencing of Human Rights Defenders in Chechnya and Ingushetia*, September 2004.

<sup>36</sup> While 67 counts of abuse against defenders were reported in the first years after the second war started, 74 counts of abuse were listed in the 18 months from January 2003 through July 2004. Until the fall of 2004, 13 human rights defenders had been killed, 6 “disappeared,” 4 abducted, 19 tortured or ill-treated, and 19 detained illegally while 69 counts of harassment or threats were reported. While the IHF has no statistics about abuses against human rights defenders after July 2004, it commented on a number of individual cases, where defenders “disappeared”, or were either – unofficially or officially – detained, in some cases tortured, subjected to administrative and criminal persecuted or became objects of slander campaigns in the media or even of direct threats via leaflets in their neighborhoods or telephone calls. Among the victims were: Murad Muradov, Makhmut Magomadov, Osman Boliev, Stas Dmitrievsky, Oksana Chelysheva, Ruslan Badalov, Arsen Sakalov, Larisa Temirsultanova, Khadizhat Yusupova and Laziz Vagaev.

<sup>37</sup> Examples for this are the Chechen Committee for National Salvation, which has faced increasing legal harassment for allegedly having published “extremist” press releases (legal proceedings since August 2004); the Council of NGOs, whose office was stormed by masked FSB gunmen, who ordered all men to get down on the floor, photographed all documents, cut off the telephone line and confiscated two computers (in January 2005); and the beating up of Laziz Vagaev(in August 2004).

The Russian-Chechen Friendship Society (RCFS), an NGO based in Nizhny Novgorod and Chechnya/Ingushetia, has been one of the main targets of the persecution. It works with humanitarian issues and maintains a network of “human rights correspondents” whose information is published on a website and in a newspaper. Four RCFS associates have been killed during the second Chechen war and numerous others have been harassed, arrested, abducted, and threatened. RCFS offices in various towns have been raided and inspected by different authorities on a variety of grounds, all of which seem to be clear attempts to harass the RCFS.

The long list of acts of persecution of RCFS members includes, for example, the following cases: In October 2000 Ruslan Akhmatov was killed near Karabulak, Ingushetia, a day after the police had searched the local RCFS offices without a legal warrant, confiscated office equipment and detained the RCFS leader Imran Ezhiev. A year later, in December 2001, Luiza Betergirieva died at a roadblock outside the town of Argun in Chechnya as soldiers opened fire at her car. Less than a week later, Imran Ezhiev’s brother, Akhmad Ezhiev, an RCFS volunteer, was killed in his family’s house in the village of Serzhen-Yurt, Chechnya, by a group of masked servicemen. In January 2004, Aslan Davletukaev, an RCFS correspondent, was detained by federal forces at his home in the village of Avtury, Chechnya. His mutilated body that bore signs of torture was found near Gudermes on 17 January 2004. Criminal cases were opened in connection with all of these killings, but the perpetrators remained “unidentified” despite a number of witnesses to the cases.

The head of the RCFS’s branch in Chechnya/Ingushetia, Imran Ezhiev, has been detained and maltreated on a number of occasions and abducted by local security and police officers, as well as by federal forces and unidentified armed persons.

On 14 March 2005, threatening leaflets were distributed in the neighborhood of RCFS editor Oksana Chelysheva in NizhnyNovgorod, revealing her home address, labeling her a traitor, and linking her to “terrorist activities” carried out by Chechen fighters. Similar leaflets were again distributed on 9 September 2005, this time in the home of the RCFS chair, Stanislav Dmitrievsky, threatening him and Chelysheva. Further, on 28 November 2005, unknown persons broke into the flat of the family of Dmitrievsky.

On 3 February 2006, a court imposed a two-year suspended sentence and a four-year probationary period on Stanislav Dmitrievsky for “inciting hatred or enmity on the basis of ethnicity and religion” (under article 282 of the Criminal Code) for publishing articles written by the late Chechen separatist leader Aslan Maskhadov and his envoy, Akhmed Zakayev. The articles called for a peaceful resolution of the Chechen conflict. During this four-year period, Stanislav Dmitrievskii is required to inform the authorities of any change of residence or travel plans, and will have to report regularly to the local authorities. Any violation of these conditions or a further criminal conviction could result in him being imprisoned for two years.<sup>38</sup> Dmitrievsky’s trial appears to be politically motivated.<sup>39</sup> Before this trial, FSB had tried to prosecute him for “calling for extremist activities in the mass-media” (under article 280 of the Criminal Code), but the proceedings had to be terminated due to a lack evidence. Bill Bowring, a British lawyer who was supposed to monitor the trial in November 2005 on behalf of the Bar Human Rights Committee of England and Wales (BHRC), was stopped at the Moscow airport by FSB officials and denied access to the Russian Federation.<sup>40</sup>

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<sup>38</sup> Amnesty International, “Russian Federation: Amnesty International calls for guilty verdict against Stanislav Dmitrievskii to be overturned,” 3 February 2006.

<sup>39</sup> IHF, “A Fair Trial for Stas Dmitrievsky?” 2 February 2006, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4187](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4187). See also IHF, “Legal Harassment Against the Russian-Chechen Friendship Society - An Update,” 29 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4163](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4163), and “The ‘Russian-Chechen Friendship Society’ is Under Severe Risk of being Destroyed by Russian Authorities. Its Director Stas Dimitrievsky Faces a Prison Term,” 2 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4144](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4144).

<sup>40</sup> For details, see IHF, “British Lawyer Barred From Entering Russia to Monitor Trial of the Russian-Chechen Friendship Society in Nizhny Novgorod,” 15 November 2005, [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4152](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4152).

Members of other human rights NGOs have also been targeted, including those of “Memorial.” On several occasions they have been intimidated, threatened to be killed, followed by cars, or “warned” that they are wanted by the security services or are in danger of disappearing.

Other cases include the March 2003 “disappearance” of Sulumbek Tashtamirov, head of a local human rights NGO called Sintar from Ingush police detention.

- In August 2004, the Prosecutor’s Office in Ingushetia filed proceedings against the Chechen Committee for National Salvation (ChCNS),<sup>41</sup> to suspend the organization’s activities. The alleged basis for this was a series of 12 press releases that were said to be “extremist” in content and whose publication allegedly had violated article 280 of Russia’s Criminal Code, which prohibits “public calls to carry out extremist activity.”<sup>42</sup> The Independent Council of Legal Experts, a leading legal NGO in Moscow, conducted an analysis of the press releases and concluded that they did not violate the relevant provision of the Criminal Code and fell within the scope of speech protected by the Russian constitution and the ECHR. On 25 October, the Nazran District Court ruled that the ChCNS publications in question did not have any “extremist” content, however, the prosecutor appealed the decision on 10 February 2005. The Ingush Supreme Court, however, rejected the appeal and remitted the case to the Nazran District Court for a new hearing. Court proceedings resumed in May 2005 and are ongoing as of this writing.
- On 20 January 2005, Makhmut Magomadov was kidnapped by a group of camouflaged gunmen in Grozny, held for several weeks, severely tortured, and then released on 13 February 2005 after many human rights groups had launched a campaign on his behalf. According to eyewitnesses, the armed men belonged to the pro-Russian Chechen armed forces, the so-called *kadyrovtsy*. Magomadov was apparently targeted due to his work in compiling applications for the victims of human rights abuses for submission to the ECtHR. Until December 2004, he had worked as an expert in the IHF project on “Legal Protection of Individual Rights in the Russian Federation,” which focused on training Russian lawyers and human rights activists in the use of international law. At the time of his detention, he was working on over 30 cases, mainly concerning ‘disappearances’, torture and ill-treatment, and extra-judicial executions committed by Russian security forces.<sup>43</sup>

Most recently, a human rights defender in Dagestan was detained:

- Osman Boliev, a member of the “Romashka” human rights NGO in Dagestan, was detained on 15 November 2005 at his home in Khasav-Yurt, officially on suspicion that the car he claimed he owned was actually stolen. According to information available at the time of writing, he was tortured and granted access to a lawyer only two days later. On the day he was arrested, a grenade was allegedly planted in his coat pocket, and on this , charges were brought against him under article 222 (1) of the Russian Criminal Code (“unlawful possession of weapons”). Boliev was then transferred to the pre-trial detention facility (SIZO) N5/3 in Khasav-Yurt. Soon after, the official mass media claimed that Boliev was detained as an

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<sup>41</sup> The Chechen Committee for National Salvation, with its head Ruslan Badalov, has reported extensively on abuses by Russian troops against Chechens during the conflict.

<sup>42</sup> Article 280 of the Criminal Code states: “1. Public calls to carry out extremist activity are punishable by a fine of up to 300,000 rubles or the salary or other income of the guilty party for a period of up to 2 years, arrest for a period of 4 to 6 months or imprisonment for up to 3 years. 2. Acts carried out with the use of the mass media are punishable by imprisonment for up to 5 years with the suspension of the right to hold certain offices or carry out certain activities for up to 3 years.” See: Human Rights First, “Russian Counter-Terror Law Threatens Chechen Human Rights Group”, 22 September 2004,

[http://humanrightsfirst.org/defenders/hrd\\_russia/alert092204\\_terror\\_law.htm](http://humanrightsfirst.org/defenders/hrd_russia/alert092204_terror_law.htm)

<sup>43</sup> IHF, “Chechen Human Rights Lawyer Still Missing,” 1 February 2005, and “Abducted Chechen Human Rights Lawyer Makhmut Magomadov Reappears,” 13 February 2005, at <http://www.ihf-hr.org>.

“insurgent.” The IHF believes that the charges against Boliev are fabricated. “Romashka” has initiated litigation in the case of Israilov, who was kidnapped by the Khasav-Yurt GOVD on 19 October 2004. Boliev prepared and sent this case to the ECtHR.<sup>44</sup>

NGOs and individuals dealing with the Chechnya issue even outside the North Caucasus have also been targeted:

- On 23 February 2004, Lev Ponomaryov (executive director of the Movement for Human Rights), and Nikolai Khramov of the Transnational Radical Party, as along with approximately eleven other people were detained by police forces during a meeting held in central Moscow to oppose the conflict in Chechnya and to commemorate the anniversary of the mass deportation of the Chechen people from Chechnya to Kazakhstan. Ponomarev and Khramov were later fined for organizing the event.
- On 16 April 2004, the Moscow lawyer Stanislav Markelov was attacked in the metro by a group of young men who beat him and left him unconscious in the wagon. His money was not stolen but his lawyer’s card and some of the case files were taken from his bag. Markelov has been involved in a number of high profile court cases dealing with abuses in Chechnya. The local Department of the Internal Affairs refused to register his complaint about the incident and the perpetrators remained at large.
- The Moscow-based journalist Anna Politkovskaya has worked with the Chechnya crisis since 1999 and written many articles critical of the official Russian policies regarding Chechnya. As a result, she has been threatened and harassed on several occasions. She has been detained and interrogated by the federal forces, she has received threatening e-mails and her editor has been summoned to the military intelligence for questioning and also threatened. While in Chechnya, Politkovskaya has been brought twice to the house of Ramzan Kadyrov where each time Kadyrov has verbally harassed and threatened her.<sup>45</sup>

Community leaders in Chechnya and heads of IDP camps in Ingushetia have also faced persecution for speaking out and cooperating with human rights defenders.

- On 29 January 2004, Natalya S. (alias), a resident of the Satsita tent camp in Ingushetia, met with a delegation from the Presidential Human Rights Commission and claimed that pressure was exerted by the Chechen Committee for the Return of Refugees and the local heads of administration on the IDPs to force them back to Chechnya. She was later threatened by the camp leadership but still refused to return to Chechnya. The police then detained her husband for allegedly having assaulted a high-ranking city official and was released only after Natalya S. had signed an application to return to Chechnya. Her husband claimed that he had been beaten while in custody.

Given the current reign of impunity and violence in Chechnya and Ingushetia, few people dare to file complaints about abuses by federal or local servicemen because a complaint will produce hardly any results and will only lead to reprisals for having made the complainants. The only possibility to submit complaints is to file them with the European Court of Human Rights (ECtHR) – an act that often turns out to be life-threatening.

- On 21 May 2003 Zura Bitieva, an ECtHR applicant, was killed, according to witnesses along with her husband Ramzan Iduev, her son and her brother, by a group of masked federal soldiers. A one year-old child was left alive but with its mouth taped. Zura Bitieva was a well-

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<sup>44</sup> IHF, “Dagestan: Open Letter Regarding the Unlawful Detention and Fabrication of a Criminal Case Against Human Rights Lawyer Osman Boliev,” 5 December 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4165](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4165).

<sup>45</sup> See *Novaya Gazeta*, No. 43, 21 June 2004, cited by HMG, October 2005.

known anti-war activist who had spent one month at an infamous federal detention facility in Chernokozovo. She had submitted an application to the ECtHR relating to torture and maltreatment she suffered there.

- On 2 April 2005, armed and camouflaged men speaking unaccented Russian abducted Said-Khusein Elmurzaev and his son Suleiman Elmurzaev from their houses in the village of Duba-Yurt. On 8 May 2005, the dead body of Said-Khusein Elmurzaev was found in the Sunzha River near the village Ilyinska (Groznskiy District). Elmurzaev had filed an application with the ECtHR after the body of his son, Idris, was found on 9 April 2004 at the outskirts of the Serzhen-Yurt among eight other mutilated bodies.<sup>46</sup>
- In the night between 29 and 30 December 2005, Mekhti Mukhaev, an ECtHR applicant, was illegally detained. A criminal case was fabricated against him based on a confession obtained through torture. On 14 and 16 January 2005, Russian federal forces conducted a mop-up operation in the mountain village Zumsoj (Itum-Kale district), as a result of which four local residents were put on helicopters and taken away: Shirvani Nasipov, Magomed-Emin Ibishev, Vakha Mukhaev and his 16-year-old son Atabi Mukhaev. The four men remained “disappeared.” In August 2005, their relatives, with legal assistance from “Memorial,” filed an application to the ECtHR, which has already been registered and will be processed with priority according to article 41 of the court.

Even Chechen families living abroad, who have submitted application to the ECtHR have received threats against them or their remaining relatives in the Russian Federation.

## **5. Conclusions and Recommendations**

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The government of the Russian Federation has clearly failed to protect human rights defenders working on its territory - a violation of article 12.2. of the Declaration on Human Rights Defenders. What is more, in many cases, Russian officials of various level of government, (including the federal), have been either directly involved in abuses against human rights defenders or condoned such abuses. Furthermore, courts of the Russian Federation have largely failed to fulfill their duty as an independent branch of power to protect individuals against abuses by the federal, regional and local authorities.

In regards to Chechnya and the adjacent regions, it is clear that human rights defenders are increasingly at risk. It is also clear that state agents are responsible for most of the attacks on human rights defenders in that region.

The international community has failed to adequately address the Russian Federation’s persecution of human rights defenders. Its response to the human rights crisis in Chechnya has been generally oblique and inadequate, and it has allowed the Russian government to remove human rights abuses in Chechnya from the international agenda.

The IHF therefore recommends that *the government of the Russian Federation should take prompt measures to stop the persecution of human rights NGOs and individuals activists - especially those dealing with the crisis in Chechnya. To this end, it should*

1. Take steps to reform federal legislation on registration and taxation of NGOs with a view to amend all provisions that provide for discretionary powers to authorities to restrict the freedom of association and the activities of human rights NGOs. Revoke the law “On Amendments to

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<sup>46</sup> Memorial, 25 May 2005.

Some Legal Acts of the Russian Federation” published on 17 January 2006 and coming into force in three months’ time as it violates international freedom of association standards;

2. End and publicly condemn arbitrary administrative and legal measures targeting human rights NGOs, as well as physical and verbal harassment and intimidation of their members, and further ensure that all alleged abuses are thoroughly investigated by independent bodies, the results published, and violations adequately remedied;
3. Insist that regional and local authorities abide by the federal laws that guarantee the right to peaceful association, and freedom of expression in the media, in line with the Constitution of the Russian Federation and international human rights standards, and take efficient measures against those authorities who prevent others from exercising this right;
4. Refrain from interfering with the legitimate activities of all NGOs and media outlets;
5. Develop and implement a task-oriented and effective program on federal, regional and local levels to make use of the potential and intellectual resources of independent human rights NGOs for the purpose of reforming human rights related legislation and providing constitutional human rights guarantees;
6. Publicly express support for the work of human rights NGOs and stress the importance of their work in a democratic society;
7. Conduct thorough and effective investigations into all cases of alleged use of excessive force by the police and other security bodies against participants at rallies and other public assemblies, and prosecute all security agents who have resorted to abuses;
8. Guarantee journalists, human rights activists and other individuals free access to information of legitimate public interest, including free access to the territory of Chechnya;
9. Start a meaningful cooperation with the Council of Europe, UN treaty bodies and special mechanisms - including the immediate issue of an invitation to the Special Representative of the UN Secretary General on the situation of human rights defenders to visit the country.

*In addition, with regard to the North Caucasus, the government of the Russian Federation should:*

10. End and publicly condemn harassment of victims of human rights abuses who speak out on their fate or seek justice; guarantee the security of witnesses and applicants to the European Court of Human Rights; ensure that all alleged abuses are thoroughly investigated by independent bodies, the results published, and the situation adequately remedied;
11. Renew the mandate of the Organization for Security and Cooperation in Europe (OSCE) Assistance Group to Chechnya, with an added emphasis on the monitoring human rights and protection of defenders.

*The Chechen armed opposition groups should:*

12. Respect all provisions of the four Geneva Conventions.

*The UN, OSCE, Council of Europe and the EU should:*

13. Demand that the Russian Federation fulfills its obligations under international law to protect human rights defenders;

14. Consider a means of protecting persecuted local defenders, including special measures of temporary resettlement in emergency cases - as per the newly issued EU Guidelines on Human Rights Defenders;
15. Take immediate measures to protect ECtHR applicants, including early warning and rapid response in emergency cases concerning persecution of witnesses and resort to temporary resettlement in emergency cases;
16. Collect, in a systematic fashion, information about violations of human rights and humanitarian law (including attacks on human rights defenders), for a future process aimed at restoring accountability in Chechnya, as demanded by the Parliamentary Assembly of the Council of Europe's Resolution 1323 (2003);
17. Establish a mechanism in the Office for Democratic Institutions and Human Rights (ODIHR) for example that takes responsibility for early warnings and rapid response in emergency cases concerning persecution of human rights defenders.
18. Remind the Russian Federation of the need to re-establish the OSCE Advisory Group to Chechnya with a strengthened mandate concerning the monitoring of the human rights situation, including cooperation with, and protection of, the local human rights defenders.
19. Encourage the Russian government to issue a standing invitation to the U.N. Special Representative for Human Rights Defenders.
20. Express strong support for the human rights work of independent NGOs in Russia, and make clear in bilateral relations with Russia that a crackdown on human rights work will have serious repercussions for Russia's relationships with other governments;
21. Repeatedly emphasize the importance of a strong and independent civil society for the proper functioning of a democratic state, and encourage the government to promote the development of civil society;
22. Express deep concern about the crackdown on NGOs that work on human rights in the context of the Chechnya conflict, and urge the Russian government to end this crackdown;
23. Continue to support financially and otherwise the work of civil society groups in Russia;
24. Insist on independent investigation by independent bodies into all alleged unacceptable interference in NGO activities and harassment and intimidation of human rights defenders and persons who have filed applications with the European Court of Human Rights;

# BELARUS<sup>47</sup>

## 1. Introduction and Summary

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Belarus remains the worst country in Europe in terms of their respect for the rule of law, democracy and human rights. The government imposes excessive restrictions on freedom of expression, association and the media, and violates the right to peaceful assembly. Fair trial standards are repeatedly violated by the courts and the unsolved “disappearances” of the past remain uninvestigated. President Aliaksandr Lukashenka keeps the country in a tight, authoritarian grip. The next presidential election is due in March 2006 but the short pre-election campaign only adds to the myriad of reasons why objective monitoring by civil society is especially necessary in order to assure compliance with international standards.

The problems resulting from the above-described situation make it clear that Belarus needs a strong local human rights defenders community to monitor and respond to current human rights problems and the lack of basic democratic protections. In reality, however, both the legislation in force and, in particular, the established practices seriously affect the whole Belarusian civil society and have led not only to a wave of threats, but also to practical liquidation of NGOs, including human rights groups. In addition, individual human rights activists are subjected to harassment as well as both administrative and criminal prosecution under various pretexts solely for their activities protected by international human rights law.

While legal restrictions have made it difficult to form NGOs, they make it extremely easy for the authorities restrict or suspend their activities. The Republican Commission on Registration decides on the “expedience” of the formation of an NGO. Closing public organizations or suspending their activities under a court ruling, (often the result of a lawsuit initiated by the Ministry of Justice), has been common practice in 2000-2005. Others organisations have been forced to wind down their activities fearing reprisals, as much typical human rights work is prohibited under law. It is, for example, impossible for Belarusian human rights NGOs to offer legal counsel in courts to people who believe that their basic human rights have been violated (unless they are the NGO’s members), which excludes a basic form of human rights activity from the NGOs’ mandates.

The situation of the Belarusian Helsinki Committee (BHC) – which remains the only legally registered independent human rights NGO that can still operate nation-wide – escalated dramatically at the end of 2005, bringing the BHC to the brink of closure on account of unjustified charges.

Belarusian human rights NGOs need urgent support from abroad, but this falls under the official list of activities ineligible for foreign funding along with other activities such as various forms of educational and political work which target the public. Moreover, all projects funded from foreign sources must be registered with Belarusian authorities – and, as a rule, such permission is not granted to an independent human rights NGO.

The recently adopted amendments to the Belarusian Criminal Code and the Code of Criminal Procedure regarding “actions aimed against a person and public security” further limit the already narrow space left for criticism in Belarus ahead of the March 2006 presidential elections. The new law adds new articles to the Criminal Code, increasing penalties for participation in civil society actions

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<sup>47</sup> Unless otherwise noted, based on information from Dzmitry Markusheuski, press secretary of the Belarusian Helsinki Committee, January 2006.

and demonstrations, and provides for increased harassment of civil society activists – further limiting the space left for independent voices to make opinions heard.<sup>48</sup>

In the past few years, the Belarusian government's cooperation with the UN special procedures under the UN Commission on Human Rights has been minimal. In 2001, the government invited to Belarus the Special Rapporteur on the independence of judges and lawyers,<sup>49</sup> and in 2004, the Working Group on Arbitrary Detention.<sup>50</sup> The reports issued by the UN rapporteurs were very critical in virtually all aspects under scrutiny, and the government played down the findings, saying they were politically motivated.

The government has not responded to two resolutions of the UN Commission on Human Rights, most recently in April 2005, which express the UN's concern that Belarusian officials were implicated in the disappearances and/or summary execution of three political opponents in 1999 and a journalist in 2000 and in the continuing investigatory cover-up of the cases.<sup>51</sup> In December 2004 the authorities turned down the request of the United Nations Special Rapporteur on the situation of human rights in Belarus, Adrian Severin, to visit the country and, as of late 2005, had failed to reply to his second request. As a result, the Special Rapporteur's 2004 report to the UN Commission on Human Rights<sup>52</sup> was based on information gathered during a fact-finding mission to neighbouring countries where he met with Belarusian members of civil society, including human rights organizations, the media, free trade unions and lawyers. The report led to the extension of the Special Rapporteur's mandate on Belarus by another year according to resolution 2005/32. Again, the Belarusian government claimed that the UN comments and reports were "politically motivated."

In 2005, the Special Rapporteur made an effort to organize a round table on the situation of human rights in Belarus in Minsk, with participation of the government, political parties, civil society organizations, human rights defenders, and international observers. However, after receiving no reaction from the Belarusian government, and given time constraints in order to be able to finalize a report for the 2006 session of the UN Commission on Human Rights, he decided to accept the invitation of the government of Latvia and organize the round table regarding Belarus in their territory. In November 2005, the Special Rapporteur visited Warsaw to study the situation concerning the Polish ethnic minority in Belarus.<sup>53</sup>

## **2. The Community of Independent Human Rights Defenders**

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Officially, the total number of NGOs in Belarus was 2,259 in January 2005. While there are about a dozen local human rights NGOs in Belarus, very few are strong enough to be able to carry out their activities nation-wide; as of the end of 2005, the only legally registered human rights organization that still carried out activities nation-wide was the Belarusian Helsinki Committee, but it, too, was facing

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<sup>48</sup> IHF/Belarusian Helsinki Committee (BHC), "Criminal Prosecution for 'Discrediting the Republic of Belarus'," 30 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4164](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164).

<sup>49</sup> See the report on his mission to Belarus: *Civil and Political Rights, Including Questions of: Independence of the Judiciary, Administration of Justice, Impunity, Report of the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, submitted in accordance with Commission resolution 2000/42*, E/CN.4/2001/65/Add.1, 8 February 2001, at <http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/571f50b9b848e6e8c1256a2300526b5c?Opendocument>.

<sup>50</sup> See the report on its mission to Belarus: *Civil and Political Rights, Including the Question of Torture and Detention, Report of the Working Group on Arbitrary Detention, Addendum, Mission to Belarus*, E/CN.4/2005/6/Add.3, 25 November 2004, at <http://daccessdds.un.org/doc/UNDOC/GEN/G04/166/25/PDF/G0416625.pdf?OpenElement>.

<sup>51</sup> E/CN.4/2005/L.32

<sup>52</sup> E7CN.4/2005/35

<sup>53</sup> The visit to Warsaw was reported, for example, by Charter 97, 23 November 2005, at <http://www.charter97.org/eng/news/2005/11/23/travel>.

the imminent threat of closure (see below). Several other NGOs have been stripped of their legal status in recent years.

There are numerous “government-organized NGOs” that are officially labelled independent but in fact serve government purposes exclusively. For example, the Belarusian Republican Youth Union (BRSM) is formally an NGO but openly serves government objectives and is funded by the state budget. Membership is compulsory to all pupils and students. BRSM members enjoy discounts from some state-run companies and, reportedly, preferences in entrance to universities. It is claimed to have more than 250,000 members.

A truly independent national human rights group is the Belarusian Helsinki Committee (BHC), which was founded in 1995 and registered with the Ministry of Justice. It has 13 regional branches and representatives in 70 additional smaller towns. The BHC is still able to carry out its activities, but, its operation is seriously threatened as a result of a yearlong harassment campaign by authorities, which has escalated in the run-up of the March 2006 presidential election.

The BHC works on the upholding of a wide spectrum of human rights covered by the Helsinki Final Act and other OSCE documents and other international instruments. It advocates human rights both with national authorities and at the international level. Its main activities include offering legal assistance to victims of human rights abuses; investigating and monitoring human rights violations in Belarus; informing the public and the international community about ongoing developments; providing training on human rights and democratic institutions; reviewing legislation and its implementation from a human rights perspective and making recommendations for legal improvements. The BHC publishes a magazine entitled *Chalavek* (The Human), cooperates with the independent media, and prepares shadow reports to intergovernmental organizations.<sup>54</sup> It is a member of the IHF since 1996.

Another large human rights organization that works throughout the country is the Human Rights Centre “Viasna” (Spring), which, lost its legal status in October 2003 (see below). This NGO has its origins in the 1996 mass rallies of the political opposition; “Viasna” was set up to assist those arrested during the demonstrations and to support their families. “Viasna” has its main office in Minsk and operates regional groups in most Belarusian cities. Its total membership is estimated at about 200 people. Since March 2004, “Viasna” has been affiliated with the International Federation of Human Rights (FIDH). It publishes a bulletin called *Prava na Volyu* (The Right to Freedom) and an annual chronicle entitled “Review of the Human Rights Situation in Belarus,” and disseminates this information through its website. Among a myriad of other that it also organizes lectures and seminars on human rights issues for a wide scale of target groups, provides legal assistance, monitors trials and observes elections.

In addition to the above-mentioned two organizations, there are a number of NGOs that are specialized in specific issues or are based on professional affiliation. For example, the Belarusian Association of Journalists (BAJ) was set up in 1995 and operates as an NGO in the field of media freedom, campaigning for freedom of expression, the right to freely receive and disseminate information and free access to information, while promoting professional standards of journalism. BAJ has members in over 160 independent and state-owned media outlets and offices in all six provinces of the country. It also trains media professionals and provides legal counsel to journalists. BAJ cooperates closely with various foreign human rights and professional organizations and publishes an annual analysis on recent tendencies and developments in the field of media rights in Belarus. It has been a member of the International Federation of Journalists (IFJ) since 1997 and of Reporters without Borders (RSF) since 2003.

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<sup>54</sup> See, for example, the BHC report to the 65<sup>th</sup> session of the Committee on the Elimination of Racial Discrimination that discussed Belarus’ fifteenth to seventeenth periodic reports (CERD/C/431/Add.9), August 2004, at [http://bhc.unibel.by/arhiv/BelarusHC\\_report\\_CERD.doc](http://bhc.unibel.by/arhiv/BelarusHC_report_CERD.doc).

The “Frantsishak Skaryna Belarusian Language Fellowship” was set up in 1989 to promote the status of the Belarusian language (especially in education) and ensure the protection of linguistic rights in general. It has about 8,000 members and had, until recently, branches in 76 locations in Belarus and abroad. The organization monitors implementation of linguistic rights and publishes and distributes books on Belarusian language and culture. It also publishes the weekly newspaper *Nasha Slova*. In the 1990s, it participated in the drafting of legislation concerning the use and status of languages.

### **3. Positive Developments**

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One of the few, formal and potentially positive improvements was the introduction of human rights courses to the curricula of secondary schools and institutions of higher education about ten years ago. In practice, however, the courses have turned out to consist only of the teaching of articles of the Universal Declaration for Human Rights and other instruments, without any practical guidance or critical monitoring on how they are implemented in Belarus. Human rights groups consider such training insufficient and inappropriate, making efforts to try to organize alternative human rights schools, but facing obstruction from the authorities.

### **4. Remaining Problems and Regression**

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#### **4.1 Freedom of Association**

##### Legislation

The constitution of Belarus vows freedom of association, yet, other legal regulations and especially discriminatory practices have seriously limited this freedom. Under the law “On Public Associations”, all NGOs need to register with the Ministry of Justice in order to operate legally – any activity of non-registered civic groups is prohibited under threat of fine or imprisonment.

The basic problem with Belarusian legal regulations is that not only laws, but also various instructions issued by ministries and state departments are all interpreted to have the force of law, and they are frequently incompatible with legal acts. What is more, they allow for broad discretion of implementation by authorities.

The law "On Public Associations" was adopted in July 2005 and came into force in October. The law compiled into one law all decrees and regulations affecting public associations that have been issued in recent years by the president or the Ministry of Justice, along with the relevant Civil Code provisions. I also established new requirements for registration and made it easier for authorities to suspend the activities of NGOs and political parties. For example, an NGO or a political party can be closed down because of a single violation of legislation regarding the organization of public events or the use of foreign financial aid.<sup>55</sup>

The new law restricts freedom of association in several ways: it prescribes that public associations have the right to implement the activities aimed at achieving the goals set forth by its statutes, rendering illegal all activities not specifically listed in their statutes and making them punishable. In addition, the law states that the rights listed in the statute are a “model” but not “all-embracing,” thus allowing for a wide leeway for interpretation by the executive. The new law also toughens the

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<sup>55</sup> Belarusian Helsinki Committee (Dzmitry Markusheuski), “Note on the Situation of Human Rights in Belarus,” July 2005.

procedure of official registration of NGOs, including human rights groups. It prohibits the use of words “Belarus,” “Republic of Belarus,” “national,” and “people” in the name of an NGO without special permit of the president of Belarus. The statutes of an NGO must include a description of its governing bodies, and a detailed presentation of the organization of its regional structures. An NGO must also draw up a circumstantial list of its members.

The law further prescribes registration of all symbols of a public association, including its logo, badge, hymn, neckwear, etc. An additional arbitrary hurdle that impedes legal registration is, for example, a requirement that a public organization must have a “legal address,” i.e., an office in an administrative building. However, such buildings in Belarus are for the most part state-owned and are not usually rented to independent organizations.

In addition, Presidential Decree No. 302, which was passed on 1 July 2005 and came into force on 1 December 2005, created further prohibitions against the activities of charitable foundations. The decree introduced new procedures for the establishment, registration, reorganization and closure of charities. The decree was also aimed at hindering the directors of dissolved NGOs from creating a foundation, thus preventing organisations from giving any legal framework to their activities.<sup>56</sup>

The Republican Commission on Registration decides on the “expedience” of the formation of an NGO. Its members are appointed by the president and they represent the Interior Ministries, the Ministry of Justice and the State Security Committee (equivalent to the KGB). The applicants must undergo arbitrary checks and applications can be rejected without giving any legal reasoning. In addition, registration fees for NGOs are considerable by Belarusian standards: EUR 285. Under the new law, a court can (after issuing a primary warning) suspend NGO activities for up to six months for violating the law or its own charter. Moreover, a single violation of legislation on mass events and/or an infraction of the regulation regarding the receipt of foreign aid can lead to the closure of an NGO.

Adding to the already serious restrictions to associations and civil society activities, in late 2005, the Belarusian parliament passed amendments to the Belarusian Criminal Code and the Code of Criminal Procedure, increasing penalties for “actions aimed against a person and public security.” This bill was submitted to the parliament marked “urgent” and it came into force on 1 January 2006. The new vaguely worded amendments pave the way for authorities to use their discretion to broadly interpret legitimate human rights activities as illegal attempts to discredit or harm the Belarusian state.<sup>57</sup>

New Article 193-1 Belarusian Criminal Code on the “Illegal Organization of Activities of a Public Association, Foundation or Participation in Their Activities” states that organizing activities or participating in activities of organizations or foundations whose liquidation or suspension has been decided by Belarusian courts, are to be punished by a fine or arrest up to six months, or by imprisonment of up to two years.<sup>58</sup>

### Practices

Closing public organizations or suspending their activities under a court ruling, (in lawsuits initiated by the Ministry of Justice), has been common practice from 2000–2005. It has been estimated that more than 60 human rights groups have been closed down since 2000 for unacceptable reasons according international standards on the right to freedom of association. At the same time, the

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<sup>56</sup> International Federation of Human Rights (FIDH)/ World Organisation against Torture (OMCT), “Contribution of the Observatory on Freedom of Assembly and Association, OSCE Human Dimension Implementation Meeting, 22 September 2005, at [http://www.fidh.org/article.php3?id\\_article=2682](http://www.fidh.org/article.php3?id_article=2682).

<sup>57</sup> IHF/BHC, “Criminal Prosecution for “Discrediting the Republic of Belarus,” 30 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4164](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164).

<sup>58</sup> Ibid.

government has set up so-called “state public organizations” such as the BRSM mentioned above that are officially regarded as independent, but are in fact under strict state control.

In 2003, courts issued 810 written warnings to NGOs and 51 NGOs were shot down - all at the initiative of the Ministry of Justice. Almost all of the NGOs dealt with human rights issues as part of their mandate. In addition, 78 NGOs closed down of their own accord in 2003 because they wanted to avoid further problems with authorities.

In 2004, a total of 334 NGOs were subjected to investigations by the Ministry of Justice for alleged non-compliance of their activities with Belarusian legislation and/or their own statutes, and 264 were reprimanded. Fifteen national and international, and 23 local NGOs were shut down. The reasoning varied from what authorities termed a violation of their own membership procedures and member registration, to a failure to inform the authorities promptly about the changes in the official titles of the leaders, to not having have a “legal address.” Sixty-nine NGOs decided to close down themselves in 2004. Local monitors were not aware of a single case in which a court would have rejected a claim by the Ministry of Justice to shut down an NGO, a fact that casts a deep shadow also over the independence of the Belarusian judiciary and their respect for international human rights standards.

Some examples of associations closed down between 2002 and 2005 include the Independent Association for Legal Researches, the Centre of Constitutionalism and Comparative Legal Researches, the Human Rights Centre "Viasna" (see section on the Independent Human Rights Community, above), and the public association “Legal Assistance to the Population”.

- On 8 February 2005, the Supreme Court of Belarus, acting upon a case filed by the Ministry of Justice, liquidated the Public Association Belarusian Women's Movement “Revival of Homeland.”
- On 14 April 2005, the Supreme Court closed down the largest sociological institute, the public association “Independent Institute for Socio-Economic Studies.”
- On 16 February 2005, the Ministry of Justice issued a written warning to the republican public association “Frantsishak Skaryna Belarusian Language Fellowship" (TBM). The Ministry of Justice motivated its claim saying that some TBM structures used residential premises for registering their legal addresses and have thus violated the provisions of the Housing Code of the Republic of Belarus.

The BHC, as the largest nation-wide human rights organization, has accordingly been the main target of official harassment. In addition to charges brought against it for financial reasons and on the basis of foreign funding, (which brought the BHC to the edge of closure as of December 2005 (see section on Financial Restrictions, below)), other measures have been taken in the course of recent years with the aim of closing it down.

- On 16 September 2004, the Ministry of Justice filed a case in the Supreme Court for the closure of the BHC after the BHC had publicly voiced its doubt about the legality of the October referendum (which was aimed at lifting all limitations on the tenure of the President Lukashenka) and had questioned in the Constitutional Court the presidential decree on calling the referendum. The BHC was not informed about the exact charges it faced. The Supreme Court, however, returned the case to the ministry without consideration.

In January 2005, the Ministry of Justice issued an official reprimand to the BHC for allegedly having breached its own charter when dealing with membership issues of its Homel branch and when sending as observers to polling stations people who were not BHC members during the 2004 parliamentary

elections and referendum.<sup>59</sup> In addition, the ministry claimed that the Brest branch had not had a “legal address” since November 2001. Should the BHC receive another similar reprimand within a year, the ministry can ask a court to close it down. In response to this reprimand and in order to avoid its own liquidation, the BHC had to shut down its regional offices as legal entities, but continues its activities in the regions through its representatives.

## 4.2 *Right of Peaceful Assembly*

### Legislation

By law, it is only possible to hold peaceful assemblies and demonstrations when permitted by authorities, and organizers have to cover the costs for “providing for public order.”

The November 2005 draft amendments to the Criminal Code were accompanied by a regulation, according to which “education or other forms of preparation” for mass riots, or financing such actions, are to be punished by arrest of up to six months or imprisonment of up to three years. On the basis of the new article 342, training or other preparation of people for participation in group actions, which grossly violate the public order, as well as any support of such activities, can lead to imprisonment of up to two years.<sup>60</sup>

### Practices

Opposition rallies are, as a rule, not sanctioned and – if they are held at all – are dispersed by the police. Many participants are usually beaten, arrested and fined. Authorities often move even sanctioned demonstrations to suburban areas or they ban them outright.

- On 21 July 2004, during a mass demonstration of thousands of people to mark the end of Lukashenka's tenure according to the 1994 Belarusian Constitution, riot police hindered regional activists from participating in the rally. Busses carrying members of regional branches of political parties were stopped on their way to Minsk. More than 60 demonstrators were arrested, some 20 people were forcibly banished from Minsk, 26 spent a night in detention and over 20 activists were sentenced to administrative detention of up to 15 days or fined.<sup>61</sup>
- A peaceful assembly on the Freedom Day, 25 March 2005, was dispersed by the police and 25 participants were punished with administrative arrests and fines.
- On 26 April 2005, riot squad police violently dispersed the regular “Chernobyl Way” action. Dozens of detained demonstrators were accused of violating the regulations on the organization and holding of mass actions. According to procedure the arrestees were kept in cold and wet cells, 6-12 people in each one.
- In the wake of the 19 March presidential elections, which fell short of most standards of free, fair and democratic elections, thousands of people gathered in Minsk to demonstrate the election fraud. In an unprecedented demonstration of opposition to the regime during the 12-year Lukashenka era, the demonstrations had lasted five days as of the time of writing – despite massive police presence and daily arrests of about one hundred people.

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<sup>59</sup> The Ministry of Justice has used the interpretation of article 13 of the Electoral Code so as to allow only officials members of NGOs to observe the elections, not other people selected by the NGO for this purpose.

<sup>60</sup> IHF/BHC, “Criminal Prosecution for “Discrediting the Republic of Belarus,” 30 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4164](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164).

<sup>61</sup> IHF, Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004), at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4057](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).

### 4.3 *Freedom of Expression and the Media*

#### Legislation

Freedom of expression and freedom in the media is guaranteed by the Constitution and the Law on the Media, but numerous legal regulations and especially illegal practices by authorities impose serious restrictions on these freedoms. Similarly, the Law on the Media provides for access to information of public interest and importance, yet, the law is not implemented in practice. Instead, the authorities have invented new terms for the classification of information, including state secrets, internal instructions, information for service use only, etc.

The Law on the Media provides that a court can close down a media outlet after the Ministry of Information has issued two warnings to it for “violations of the law.” Moreover, the ministry is able to suspend the operation of an outlet without a court decision with other poorly defined justifications.

Criminal defamation provisions are yet another threat facing those reporting on abuses of power and other misconduct by public officials. Article 367 of the Criminal Code states that defaming the president may be punished by deprivation of liberty for up to five years, and article 368 of the code envisages a fine or up to three years of imprisonment for insulting the president.

Amendments to the Criminal Code proposed by the president, which came into force on 1 January 2006, provide for additional restrictions on freedom of expression. A new article was added to the Criminal Code, concerning “Discrediting the Republic of Belarus.” “Discrediting” in this context means “fraudulent representation of the political, economic, social, military or international situation of the Republic of Belarus, the legal status of the citizens of the Republic of Belarus or its government agencies.” Such are punishable by detention for up to six months or imprisonment of up to two years. The punishment for acts including “public appeals for seizure of power or forcible change of the constitutional system” was increased to range from six months of arrest up to three years of imprisonment. Calls addressed to foreign states to perform actions damaging the external security of Belarus, its sovereignty and territorial integrity, as well as dissemination of materials containing such appeals, shall be punished by arrest of between six months and three years. If such calls are disseminated by the mass media, the punishment will be harsher: deprivation of liberty for up to five years.<sup>62</sup>

#### Practices<sup>63</sup>

While the constitution and other laws formally guarantee freedom of expression, in practice, members of the political opposition and others who openly critical public figures, including human rights defenders, have been harassed, charged and detained for questionable reasons. Independent media outlets are suffering under increasing criminal, administrative and economic pressure. Generally, mainstream media outlets do not deal with human rights issues: only small, independent newsletters and papers published by NGOs deal with issues related to human rights and democracy. All mainstream media agencies practice self-censorship so as not to face repercussions, such as defamation charges for legitimate criticism.

In 2004-2005, the Ministry of Information punished a number of media outlets for critical reporting: *Novaja Hazerta Smarhoni*, *Navinki*, *Zgoda*, *Vremya*, *Predprinimatelskaya Gazeta*, *Vecherni Stoln*,

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<sup>62</sup> IHF/BHC, “Criminal Prosecution for “Discrediting the Republic of Belarus,” 30 November 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4164](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4164).

<sup>63</sup> Based on the *Annual Report 2005* of the Belarusian Helsinki Committee

*Regionalnaya Gazeta*, *Narodny Predprinimatel*, *Regionalnye Vedomosti*, and *Birzha Informacii* were all temporarily suspended.

- On 24 March 2005 police and unidentified individuals in plain clothes broke into the privately owned editorial office of the newspaper *Zgoda*, searched the premises and confiscated computer equipment without any legitimate reason. During the three-hour search, 17 graphic images earlier published in the *Zgoda* were taken off the walls and four computers were confiscated. The offices were sealed off, paralysing the journalists' work and the next issue of *Zgoda* could not be published.

Fearing problems with the authorities, printing houses frequently refuse to print independent newspapers and magazines or censor them under various pretexts. Likewise, shops and supermarkets refuse to sell independent newspapers and magazines because they want to avoid problems with authorities. In September 2005, the state media distribution monopoly "BelSayuzDruk" ordered newspaper stands to stop selling independent newspapers such as *Narodnaya Volya* (People's Will) and *Nasha Niva*. Another state monopoly, "BelPoshta," refuses to disseminate the independent newspapers by subscription.

Since October 2005, the European Union is paying the German radio channel Deutsche Welle to broadcast into the country to ensure the dissemination of independent information.<sup>64</sup>

Access to information of legitimate public importance or interest is blocked under various pretexts by vaguely worded regulations on "classified information," thereby also hindering the dissemination of information on human rights issues. Independent media outlets are, as a rule, not allowed to attend official events such as press conferences of public authorities and "public" hearings that are open to the state-run media.

- Local administrations and courts refuse to give any information to the correspondents of *Narodnaya Volya*, *Belorusskaya Gazeta*, *Den'*, *Mestnaya Gazeta*, *Hancavitski Chas*, and other independent papers.
- In 2004-2005, leaders of several public organisations (including Ales Bialiatski, Iryna Zhyhar, Siarhej Matskevich and others) were "invited" to the prosecutor's office to be questioned about the publication called *Assembly*, a bulletin of civil society activists. One of its editions was confiscated in 2004. In addition, several activists whose organisations focused on politics were summoned to the prosecutor's office and the KGB.
- In April 2005, the Aktsiabrski District Court in Minsk partially satisfied the suit brought by a US citizen, Alexander Mar, against Iryna Khalip, the deputy editor-in-chief of *Belorusskaya Delovaya Gazeta*, and the private Unitarian enterprise *Marat*. Iryna Khalip was ordered to pay 10 million Belarusian rubles (EUR 4,000) to Alexander Mar in compensation, and *Marat* 50 million rubles (about EUR 21,000). During the trial the judge did not admit a single petition of the defense. The journalist had criticized Alexander Mar for his interview with President Lukashenka and the suit was reportedly inspired by Belarusian authorities.
- In early August 2005, an article entitled "Time to Dispose of Rake" was published by the *Novaya Gazeta* with a question: "Will a revolution take place in Belarus?" The article's author, Iryna Khalip, analyzed the situation in Belarus in the run-up to the presidential campaign. Khalip concluded that the Belarusian government would be changed as a result of a street revolution. She was soon summoned to the constitutional rights department of the Prosecutor General's Office, where she was reprimanded for "a call for the destabilization of the public order and to change the constitutional regime of the Republic of Belarus using illegal methods."

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<sup>64</sup> *New York Times*, 18 October 2005.

While no one has been imprisoned under the defamation provision of the Criminal Code in the past three years, their sole existence has a chilling and retarding effect on reporting on sensitive issues. Criticism of the authorities is often interpreted as an insult, which, under article 369 of the Criminal Code, is punishable by a fine, correctional labour, or deprivation of liberty for up to three years.

- The latest cases of journalists serving sentences of deprivation of liberty are Mikola Markevich, editor-in-chief of *Pahonia*, and her correspondent Pavel Mazheika, who in 2002 finished their terms of two and a half years and two years respectively (later reduced by one year) for “slandering” the president. The paper had harshly criticized Lukashenka’s regime.
- In 2004-2005, the editorial boards and correspondents of the *Belorusskaya Delovaya Gazeta*, *Narodnaya Volya*, *Mestnaya Gazeta*, *Den’*, *Gazeta dla Vas* were reprimanded and fined for allegedly insulting Belarusian authorities.

Members of the political opposition and other critical public figures were constantly targeted, harassed and risked detention on fabricated or questionable charges.<sup>65</sup>

- Mikhail Marynich, former minister, Member of Parliament, ambassador, and presidential candidate was taken into investigative custody of the State Security Committee (KGB) on 26 April 2004 and remained there until early 2006, when he moved into prison hospital. Marynich was first charged under article 295(2) of the Criminal Code (illegal actions with firearms, ammunition and explosives), and later with additional criminal offences, including theft or damage of documents (article 377.2) and larceny committed with abuse of power by an organized group or at an especially high rate (article 210.4). On 25 August 2004, the UN Working Group on Arbitrary Detentions was denied access to Marynich. While a court dismissed the first charge, on 30 December 2004, it sentenced Marynich to five years of imprisonment with confiscation of property for alleged larceny. The BHC believes that the charges were fabricated and the real reason for Marynich’s detention appears to be his opposition activities.<sup>66</sup>
- On 15 May 2005, Siarhieï Skrabets, former deputy of the parliament, leader of the Republic faction of the parliament, and member of the BHC Council, was arrested in Minsk and taken to Brest into investigative custody. Some hours later police searched his and his parents’ flats. The Brest City Prosecutor’s Office charged him with making preparations for offering a bribe. Skrabets went on hunger strike. On 27 December, an initiative group was formed, nominating Skrabets as a presidential candidate. The group was registered by the Republican Commission on Elections and Referenda. On 16 January 2006 the Supreme Court of Belarus opened hearings in a criminal case against him. The BHC considers that Siarhieï Skrabets was persecuted for his public and political activity.

### The Internet

Access to the Internet is limited and it is provided only by *Beltelecom*, a state monopoly.

Internet sites that publish information on human rights and about the activities of independent democratic organizations are sometimes blocked. For example, the websites sites of the United Civil Party (<http://www.ucpb.org>), the BPF Party (<http://pbpf.org>), and Young Front (<http://mfront.net>) have been blocked. The BHC website was blocked during the September 2001 presidential elections. On 26

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<sup>65</sup> IHF, Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004), at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4057](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).

<sup>66</sup> Ibid.

September 2005, the website of an independent trade union movement at [www.praca-by.info](http://www.praca-by.info) could no longer be accessed.

The Minsk City Administration has reportedly issued an instruction to order Internet café staff to require identification from visitors and to keep track of people's surfing on the Internet.

#### **4.4 Financial Restrictions**

##### Legislation

Presidential Decree No. 24 of 28 November 2003 "On the Reception and Use of Foreign Gratuitous Help" increased control by authorities over foreign financial help for NGOs and political parties, restricted its use, and prescribed tougher sanctions against "wrongdoers." The list of activities ineligible for foreign funding includes typical NGO activities, such as funding different forms of educational and political work that targets the general public. All projects funded from foreign sources must be registered with Belarusian authorities. As a result, it is virtually impossible for a domestic NGO to use foreign financial aid without a special permit from the Department of Humanitarian Affairs at the presidential administration. Such permits, however, are subject to total discretion by the administration.

For violations of the decree, NGOs, political parties, funds, and foreign organizations' offices in Belarus can be liquidated and foreign citizens deported. Similar provisions were introduced to the new law "On Public Associations," which came into force in October 2005.

##### Practices

The interpretation of legal regulations concerning foreign funding has been one of the core problem in the legal proceedings against the BHC that has already stretched over several years.

From August 2003 through January 2004, the Inspectorate of the Ministry for Taxes and Collections of the Maskouski District of Minsk audited all of BHC's financial records since its foundation in 1995. While the audit confirmed that the BHC had used the funds adequately, the inspectorate nevertheless ordered the BHC to pay 155 million Belarusian rubles (approximately EUR 63,200) in allegedly unpaid taxes and penalties on grants received from the European Union TACIS Programme. The tax officials invoked paragraph 1.2 of the Presidential Decree No. 8 "On Certain Measures to Improve the Order of Receiving and Usage of Foreign Gratuitous Help" which ordered NGOs to pay taxes for funds received from abroad. Doing so they failed to take into account that TACIS programs in Belarus is regulated by an international agreement applicable under the Memorandum on Financing of 10 May 1994, under which technical assistance is exempted from taxes and customs duties. The Department for Financial Investigations of the Committee of State Control brought tax evasion charges against BHC officials in connection with the case.

On 23 June 2004, the Economic Court of Minsk cleared the BHC of charges of tax evasion, and as did a second instance court. The Supreme Economic Court (SEC) also rejected the appeal of the inspectorate, thus confirming the legality of the BHC actions. Despite this, the Department of Financial Investigations continued a criminal case against Pratsko and Rutkevich, carrying the maximum sentence of seven years in prison and confiscation of property. In December 2004, the investigator closed the case due to lack of evidence. The tax authorities lost a series of appeals against the final ruling. However, the Supreme Economic Court (SEC) First Deputy Chair Eugene Smirnou contested this ruling in late 2005, prompting a rehearing of the case by the SEC Presidium, and

obtained the reinstatement of the sanctions against the BHC.<sup>67</sup> On 20 December 2005, the SEC reversed its earlier ruling and reinstated enormous sanctions against the BHC. On 21 March 2006, Belarusian tax officials conducted an inventory of the BHC property, listing all materials and equipment owned by the organization. It remained unclear whether this was the next step toward official closure or a measure to intimidate BHC members during mass demonstrations in the wake of the flawed presidential elections.

The SEC ruling is obviously politically motivated and aimed at creating obstacles to BHC efforts to monitor the ongoing presidential campaign and other issues, and paves the way for the closing down of the last remaining human rights organization that has been active nation-wide. Moreover the new SEC ruling opens opportunities for the criminal prosecution of BHC officials who may face up to seven years in prison and confiscation of property.<sup>68</sup>

The almost non-existent opportunities for raising funds for NGO activities in Belarus, and the even more unlikely prospect of getting money from public sources, means that the legal provisions regulating financial support from abroad remain a major hurdle for the operation of independent NGOs in Belarus.

Due to provisions of the Presidential Decree No. 24 (see above), which make foreign funding of many forms of NGO activities dependent on a permit from presidential administration, most typical human rights projects cannot legally be based on foreign money - including projects aimed at raising public awareness and training activists. In practice, the presidential administration does not warrant such projects: it either turns them down or fails to deal with them.

Furthermore, all programs and projects involving foreign technical aid must be subject to registration in the Ministry of Economy. This includes, for example, funding for computers and all other office equipment. Should such programs of international technical aid be approved, they are subject to considerable tax and customs concessions. In practice, a human rights NGO critical of government practices cannot possibly get such approval.

#### **4.5 *Direct Attacks on Human Rights Defenders***

- On 16 September 2004, Hary Pahaniaila, an attorney and vice-president of the BHC, and Tatsyana Reviaka, a member of "Viasna," were arrested by unidentified individuals in plain clothes after the BHC member handed over to the Prosecutor's Office a report by a special rapporteur of the Parliamentary Assembly of the Council of Europe on violent disappearances of politicians and a journalist in Belarus, and a resolution of the UN Commission on Human Rights on the situation in Belarus. The activists were accused of violating article 172 (3) of the Code of Administrative Offences, which states that "dissemination of printed editions, produced through breaching the established order and having no publisher's imprint, the contents of which is directed at causing damage to the state and social order, rights and legitimate interests of citizens." The offence carries a fine at a rate of five minimum monthly wages and the confiscation of the "illegal" publications. Tatsyana Reviaka was fined; Hary Pahaniaila avoided the fine thanks to procedural errors by the authorities.
- In October 2004, Hary Pahaniaila was charged with slandering President Lukashenka. The prosecution based the charges on an interview that Pahaniaila gave to the Swedish TV4

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<sup>67</sup> IHF/BHC, "Supreme Economic Court reinstates enormous penalties against the Belarusian Helsinki Committee. Human rights group may be forced to close; leaders may face criminal charges," 22 December 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4169](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4169).

<sup>68</sup> Ibid.

channel, a videotaped version of which was confiscated by customs when the TV4 journalist left the country. In the interview, Pahaniaila described the due process violations that have characterised the investigations into the cases of “disappearances” that he was working on and named suspects. In February 2005, the investigator dropped all charges but the investigation was renewed later over Pahaniaila’s protest because the investigator’s decision did not clear him of guilt; Pahaniaila insists that either he or the named suspects for the “disappearances” must be punished. If found guilty, Pahaniaila could have been sentenced to up to five years in prison.

While many of the cases of harassment and persecution in Belarus manifest themselves as indirect persecution, such as legal prosecution of NGOs and their members, in the past few years there has also been direct physical attacks on individuals, particularly political opposition activists and other well-known public figures. Such cases are officially treated as “normal” criminal acts and the perpetrators are, as a rule, not found or brought to justice.

In 2002-2005, well-known public figures and intellectuals were increasingly subjected to beatings by “unidentified individuals” who, were generally never caught. The victims included: Professor Adam Maldzis, Yury Khaschavatski and Valery Mazynski, producers; Yauhen Kryzhanouski and Vitar Charnabayeu, actors; Radzim Haretski and Yauhen Babosau, academics; Uladzimir Kolas, director of the recently closed National Humanitarian Lyceum; Siarhey Zakonnikau, a poet; Aleh Volchak, head of the recently closed “Legal Aid to Population”; and Valery Fralow, member of parliament.

## **5. Recommendations**

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The IHF gives the following recommendations:

*The Government of Belarus should:*

- 1) Reform its legislation so as to ensure that it is in line with the UN Declaration on Human Rights Defenders and international human rights treaties that Belarus is party to. The laws should be drafted on the basis of non-discrimination and should be enforced in a transparent manner. New laws should be created in cooperation with local civil society groups and international experts;
- 2) Withdraw all legal proceedings that it has initiated to limit legitimate human rights activities and order all public authorities to refrain from measures to restrict such activities. As the first step towards this goal, the government should drop all of the legal cases against the Belarusian Helsinki Committee and its members that it has launched under legal provisions that violate international standards for the freedom of expression, association and assembly;
- 3) Publicly express its support to human rights NGOs and declare their work as an essential part of Belarus’ efforts to promote democracy.

*The Belarusian Parliament should:*

- 4) Abrogate the amendments to the Belarusian Criminal Code and the Code of Criminal Procedure regarding “actions aimed against a person and public security” and renounce any plans to further reduce the narrow space left for criticism in Belarus ahead of the presidential elections of 2006.

*The International Community should:*

- 5) Do all in its power to avoid the isolation of Belarus and to keep it as a priority on its human rights agenda;

- 6) Develop programs aimed towards providing moral and financial support to civil society in Belarus and opportunities for international cooperation in the field of human rights;
- 7) *The United Nations* should extend the mandate of the UN Special Rapporteur in Belarus and make it clear to the Belarusian government that its full cooperation is expected in all issues raised by the UN;
- 8) The *European Union should* consider the adoption of diplomatic and economic sanctions against Belarus. At the same time, it should change its regulation on compulsory registration with Belarusian authorities of all EU-funded projects carried out in Belarus as the current system has proved to be unrealistic, contra-productive and actually hinders human rights work in Belarus.

# UZBEKISTAN

## 1. Summary

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Uzbekistan has a dark history of continuing oppression of independent human rights defenders, with two particular milestones of escalation: the 1999 Tashkent bombings,<sup>69</sup> which killed more than a dozen people, injured hundreds and which prompted a wave of arbitrary arrests of alleged “terrorists” and their supporters; and the Andijan events, the roots of which date back to bombings in Tashkent and Bukhara in March and July 2004 and which, again, led to unlawful arrests. In May 2005 the trial of 23 local businessmen from Andijan, allegedly linked to these bombings, was to conclude. The trial, considered unfair and unjustified by the population, triggered large-scale rallies and protests (not only against the proceedings, but also against the increasing poverty, unemployment and political oppression in the country) and ended in a massacre of hundreds of civilians by security forces on 13 May 2005.

In the aftermath of both bombings and of the Andijan massacre, the Uzbek government stepped up “anti-terrorism measures”, which were in fact renewed efforts to clamp down on individuals and organizations attempting to provide objective information about the events in Andijan and the ensuing unlawful measures taken by the government to deal with any criticism. The radical clampdown on all types of human rights activities is part of a systematic effort by the government to keep information about human rights abuses – and especially about the Andijan massacre – from leaking out, for fear that facts would potentially mobilize public outrage and so threaten what the government terms “stability” in Uzbekistan. It also reflects the fear of the Uzbek government that recent “revolutions” in Georgia, Ukraine and neighbouring Kyrgyzstan might threaten President Karimov’s power.<sup>70</sup> The violence against civilians in Andijan has been generally interpreted as a demonstration to the population of what type of measures the government is willing to take to maintain the status quo.<sup>71</sup>

Following the Andijan massacre, not only did the government do all in its power to hinder reporters and human rights defenders from going to the region to find out the facts, it also actively engaged itself in a misinformation campaign to conceal the massive abuses. The government fabricated demonstrations of “spontaneous public outrage” against human rights defenders, so as to create the impression that the population itself opposed the political opposition and the efforts of human rights defenders. Civil society activities focused on responding to the Andijan events have been inhibited, human rights NGOs and independent media outlets have been forced to close down and human rights defenders have come under surveillance.

The recent escalation of the persecution of human rights defenders is the result of a long-term, gradually mounting pressure against human rights activists. This pressure has taken various forms, ranging from indirect bureaucratic measures, to the obstruction of human rights defenders from organizing their activities, and in some cases blatant harassment and persecution of activists. Measures taken by the government include: the adoption of legal provisions which make human rights monitoring almost impossible in the country, the obstruction of the diffusion of any form of objective

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<sup>69</sup> See IHF, Human Rights in the OSCE Region: the Balkans, the Caucasus, Europe, Central Asia and North America, Report 2000 (Events of 1999), at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=2010](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=2010).

<sup>70</sup> See, for example, “Not in my Country,” in which Uzbek President Islam Karimov rejects the possibility of an “Orange or Rose Revolution” in Uzbekistan in an interview with a Russian newspaper, January 2005, at <http://enews.ferghana.ru/detail.php?id=362501248637.43.264.2851818>.

<sup>71</sup> For attempts to silence human rights defenders in the aftermath of Andijan, see IHF, “*One Can’t Keep Silent*” - *The Persecution of Human Rights Defenders in Uzbekistan*, 15 July 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4099](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4099).

information, a refusal to register human rights NGOs (thereby rendering their activities illegal), and the arrest, imprisonment and torture of human rights defenders. Moreover, human rights defenders are recurrently labelled traitors, terrorists, and tools of foreign governments wishing to discredit Uzbekistan.

Uzbekistan's human rights legislation and regulations are largely incompatible with the country's international obligations, thereby setting an inappropriate standard for good practice both in terms of the exercise of basic rights and of human rights monitoring. In practice, if national laws are incompatible with Uzbekistan's human rights commitments under international law, the authorities choose to give precedence to national law. Similarly, if domestic laws contradict decrees or other lower-ranking regulations issued by executive authorities, the more restrictive regulations are usually applied.

The application of restrictive legislation and the authorities perception of human rights defenders as a part of the political opposition – which the government does not tolerate – has left human rights defenders with very limited room for action.

Those human rights defenders who continue their work have been threatened, arrested and prosecuted. In a judicial system that is unable to guarantee due process, defendants cannot possibly receive a fair trial. Of further concern is the practice in recent years of forcibly confining outspoken human rights defenders to psychiatric institutions without sound medical reasons and treating them with psychotropics – a practice dating back to the Stalin era. Elena Urlaeva, a member of the Human Rights Society of Uzbekistan (HRSU) has been forcibly institutionalised already three times for her human rights, social and political activities<sup>72</sup>.

## **2. The Community of Human Rights Defenders**

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As of February 2006, there were five human rights organizations active in Uzbekistan, albeit not all were officially registered<sup>73</sup>. The community of independent human rights defenders is thus rather small, often with many of the activists holding prominent positions in political parties or movements (such as *Erk* Democratic Party, *Birlik* Political Movement or *Ozod Dekhkot*, none of them officially registered). This makes these activists increasingly vulnerable to persecution in a country where opposition is outlawed. Authorities tend to label all human rights activity as opposition politics and treat human rights defenders as their political opponents. It is thus often difficult to determine whether some individuals are persecuted for promoting their political opinions or demonstrating their respect for human rights.

The main human rights organizations in Uzbekistan are:

The Human Rights Society of Uzbekistan (HRSU), based in Tashkent, is affiliated with the IHF and operates in all regions of Uzbekistan. It has approximately 500 members, 12 regional groups and 20 district groups. Its main activities include general monitoring of human rights developments, observing trials and supporting human rights defenders - all of this to the extent currently possible. At the time of this publication, it is not officially registered.

“Mothers against the Death Penalty and Torture” is also based in Tashkent. The group consists of mothers, most of whose children have been executed, are on death row, whose death penalties have been commuted, or who have been tortured whilst in custody. The group collects information on cases

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<sup>72</sup> See IHF statement on “Systematic Persecution of the Human Rights Society of Uzbekistan (HRSU)” [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4171](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4171)

<sup>73</sup> Information from the Humanitarian Legal Centre in Bukhara, September 2005.

of torture and transmits it to international governmental and non-governmental organizations, organizes protests, helps families to lodge complaints with authorities, and carries out general activities promoting the abolition of the death penalty.

The human rights organization *Mazlum* is closely connected with the *Erk* party, and the organization *Ezgulik* is affiliated with the *Birlik* party.<sup>74</sup> The Humanitarian Legal Center in Bukhara operated until recently, providing legal aid to vulnerable sectors of population and conducting sociological research in the Bukhara region. It was forced to close down in December 2005.<sup>75</sup>

The only two organizations which carry out human rights work (at least partly) and which have been granted registration by the Ministry of Justice are the *Independent Human Rights Society of Uzbekistan* (IHRSU, Tashkent) and *Ezgulik*; the first was registered in March 2002 and the latter in March 2003.<sup>76</sup>

In March 2004, a 15-member “rapid reaction group” (RRG) consisting of both government and NGO representatives was set up with assistance of Freedom House, Tashkent office. The group declared its task to be to “ensure that police operations in Uzbekistan comply with human rights standards.”<sup>77</sup> The RRG was created after the publication of a report by the UN Special Rapporteur on Torture, Theo van Boven (in March 2004) where he charged Uzbek authorities with “widespread and systematic use of torture.” As of 6 March 2006 when a Tashkent court instructed Freedom House to discontinue its activities in Uzbekistan, the RRG has stopped functioning.

### **3. Positive Developments**

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Despite the generally bleak situation for human rights defenders, there have been some minor positive developments, namely the publication and distribution of texts of national law and international human rights treaties,<sup>78</sup> and initial steps taken to “promote and facilitate the teaching of human rights and fundamental freedoms,” as provided by article 15 the UN Declaration on Human Rights Defenders. Since 2002, the Uzbek government has published and disseminated (in the Uzbek language), of the main international human rights treaties. Human rights education is now officially part of the curriculum of universities and other institutions of higher education, the police academy, and the training of national security agents. No information exists on the implementation of this.

### **4. Remaining Problems**

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#### **4.1. Freedom of Association**

##### Legislation

Under the Uzbek Constitution, all public associations must be registered with the government in order to make their activities legal. The activities of human rights NGOs are regulated mainly by the Law “On Non-Governmental Public Associations” (1991, with amendments) and the Law “On Non-

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<sup>74</sup> Information from the Humanitarian Legal Centre in Bukhara, September 2005.

<sup>75</sup> International League for Human Rights, open letter to President Karimov, 13 December 2005.

<sup>76</sup> IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2004 (Events of 2003)*, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=3860](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860).

<sup>77</sup> Freedom House, “Uzbekistan Dialogue on Human Rights is Step Forward,” 16 March 2004, at <http://www.freedomhouse.org/media/pressrel/031604.htm.ouse>

<sup>78</sup> Article 14.

Governmental and Non-Profit Organizations” (1999). In December 2003, the Uzbek government issued Resolution No. 543 “On Non-Governmental and Non-Commercial Entities,”<sup>79</sup> which stipulated that all foreign NGOs registered with the Foreign Ministry and operating in Uzbekistan should re-register with the Ministry of Justice by 1 March 2004. The re-registration required extensive paperwork and the order was widely perceived by NGOs as a way to restrict NGO activities in the country – and indeed has been used to that end. The new provisions also allowed the state to interfere in the financial affairs of foreign-funded NGOs.

In 2004, new procedures were introduced requiring international NGOs to obtain “agreement” from the Ministry of Justice on the content, agenda, timing and place of any activity in Uzbekistan and requiring them to invite the ministry officials to attend.<sup>80</sup> In May 2004, a Governmental Decree required all women’s rights groups to undergo re-registration, which meant that groups critical of the government would be refused registration and would thus not be able to continue operating.<sup>81</sup>

Recent amendments 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 is not sought for an event or when the authorities are denied access to an event 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 aforementioned 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.<sup>82</sup>

### Practices

Uzbek authorities have always arbitrarily applied legislation related to public organizations to the benefit of organizations loyal to the government. The first hindrance experienced by human rights defenders is the almost systematic refusal by the Ministry of Justice to register them as an organization, thereby automatically rendering their activities illegal and putting those persons working for these organizations in a very vulnerable position. The application process is cumbersome and time-consuming and in many cases the applications are left pending for extended periods of time, leaving the NGOs in a legal limbo. Another tactic used by the authorities alongside refusal of registration is to request additional documents which not required by law.

The Independent Human Rights Society of Uzbekistan (IHRSU) and *Ezgulik* are two of the few organizations carrying out human rights work (at least in part for the latter) that have been officially registered with the Ministry of Justice. Others, including the Human Rights Society of Uzbekistan,

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<sup>79</sup> Posted at Legislationonline.org, at <http://www.legislationline.org/view.php?document=61703>.

<sup>80</sup> Human Rights First, *Karimov’s War, Human Rights Defenders and Counterterrorism in Uzbekistan*, November 2005.

<sup>81</sup> Ibid.

<sup>82</sup> See IHF Open Letter to the Minister of Justice of Uzbekistan regarding the Suspension of Activities of Freedom House and Recent Amendments to the NGO Law [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4174](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4174)

“Mothers against Death Penalty and Torture,” and “Mazlum” have been refused registration, some of them repeatedly.<sup>83</sup> Pro-governmental organizations, on the other hand, are registered without any difficulties.

- On 27 November 2004, the HRSU applied to the Ministry of Justice for registration. The head of the Ministry’s Department on Public Associations, Mr. Abdusattorov, refused to even accept the application documents. The incident was witnessed by reporters of Voice of America and *Ozodlik* (Freedom). Mr. Abdusattorov yielded only after HRSU members waited for three hours and insisted that he either take the application or issue an official document certifying that he refused to take it. Since then, the HRSU has been asked on several occasions to submit additional documents which are not required by law, including a detailed list of all its members at all levels of the organization. The HRSU believes that this is only required for use by the secret services.<sup>84</sup>

In the past two years, and more so after the Andijan events, there has been an unequivocal attempt by the authorities to restrict as much as possible, the existence of a national civil society. According to the International League for Human Rights, an estimated 40 to over 200 national and local NGOs have been forced to close under pressure from the Justice Ministry and local authorities in the second half of 2005 alone.<sup>85</sup> These decisions have affected international NGOs such as the Open Society Institute, the US-based Freedom House, the Eurasia Foundation, Internews and several other press agencies (including the BBC and Radio Free Europe).

- In early 2004, the government of Uzbekistan revoked the registration of the Open Society Institute (OSI) Assistance Foundation in Tashkent, effectively closing it down. The Ministry of Justice formally notified OSI in a letter on 14 April that it would not be re-registered on the grounds that it had allegedly engaged in activities that undermined the government’s authority. Authorities claimed, for example, that OSI-funded educational materials supplied to higher educational institutions sought to “discredit” government policies by allegedly distorting “the essence and the content of socio-economic, public and political reforms conducted in Uzbekistan.” The foundation had equipped most of Uzbekistan’s universities and more than 100 secondary schools with, computers and internet access (among many other things) in an effort to promote reforms in fields such as economics, public health, education and arts and culture.<sup>86</sup>
- In February 2005, the Ministry of Justice issued an official warning to *Ezgulik* for reporting on the January death (allegedly by torture) of Samandar Umarov in KIN-64/29 colony in Navoi and their call for an investigation. The deputy minister of justice reprimanded Vasila Inoiatova, the organization’s chairwoman and issued an official warning letter which alleged that *Ezgulik* violated the terms of its charter and the law on the freedom of information by reporting on Umarov’s death and stated that in the event of a second offence, the ministry would “take all measures” against *Ezgulik*.<sup>87</sup>
- On 12 September 2005, the Tashkent City Civil Court ordered a six-month suspension of the activities of the International Research and Exchanges Board (IREX), a US based international NGO that operates in more than 30 countries. The ruling was based on a request

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<sup>83</sup> IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2004 (Events of 2003)*, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=3860](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860).

<sup>84</sup> Ibid.

<sup>85</sup> International League for Human Rights, open letter to President Karimov, 13 December 2005.

<sup>86</sup> Eurasianet, “Uzbek Government Closes Down Open Society Institute Assistance Foundation in Tashkent,” 18 April 2004, at <http://www.eurasianet.org/departments/insight/articles/eav041804.shtml>.

<sup>87</sup> Human Rights Watch, “Uzbekistan: Rights Group Threatened for Alleging Abuse, Clamping Down on Civil Society, Justice Ministry Threatens Human Rights Group, 4 February 2005,” at <http://hrw.org/english/docs/2005/02/04/uzbeki10132.htm>.

by the Justice Ministry, which claimed that the organization had violated its charter and Uzbek legislation. Also, according to the ministry, IREX had refused to provide them with detailed information on citizens of Uzbekistan who had undergone IFEX training in the United States as well as lists of participants of events held by IREX. Further, IREX had allegedly used symbols of the parent organization, which had not been officially registered in Uzbekistan. IREX has been working in Uzbekistan since 1994 on eight US State Department programs and one USAID program which included student exchanges, introducing computers and internet in Uzbek schools and support of the country's civil society.<sup>88</sup>

- In December 2005, the Bukhara Humanitarian Legal Centre, headed by well-known lawyer Shukhrat Ganiev, was forced to close down. Prior to being dissolved, the Humanitarian Legal Centre provided free legal advice to vulnerable Uzbek citizens and conducted sociological research in the Bukhara region of Uzbekistan.<sup>89</sup>
- A Tashkent court ruled on 7 February that the US-based NGO Freedom House must leave Uzbekistan<sup>90</sup>. The organization had lost an earlier appeal on a ruling suspending its activities in Uzbekistan. This followed an 11 January 2006 decision from the Uzbek Ministry of Justice claiming that Freedom House was in violation of Uzbek legislation governing non-governmental organizations' (NGO) operations. The charges included offering free Internet access to Uzbek citizens and hosting unregistered organizations, including human rights defenders and political parties at Freedom House events. Uzbek prosecutors also alleged non-compliance with a secret decree issued by the government which, throughout the proceedings, remained undisclosed.

On 4 March 2006 the Eurasia Foundation decided to halt its operations in Uzbekistan after the Uzbek authorities initiated proceedings in February to stop the Foundation from working in Uzbekistan. The organization decided to close its Tashkent office rather than waste energy and resources on what it felt was a doomed legal struggle<sup>91</sup>.

## **4.2 Right of Peaceful Assembly**

### Legislation

While the Constitution provides for freedom of assembly and stipulates that this right can only be restricted on grounds of security (article 33), no law has been adopted to implement it. Therefore, the restrictive Soviet-era Decree "On Regulations for the Organization and Conduct of Assemblies, Meetings, Street Processions, and Demonstrations in the UzSSR" remains in force. It only allows static assemblies conducted in closed premises.<sup>92</sup>

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<sup>88</sup> CASCEN, "Uzbek court suspends activity of another US NGO, IREX," 13 September 2005, citing Freeuz.org, at <http://www.cascfen.org/news.php?nid=1368&cid=9>.

<sup>89</sup> International League for Human Rights, open letter to President Karimov, 13 December 2005.

<sup>90</sup> 7 March 2006, Radio Free Europe / Radio Liberty. See also IHF Open Letter to the Minister of Justice of Uzbekistan regarding the Suspension of Activities of Freedom House and Recent Amendments to the NGO Law [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4174](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4174)

<sup>91</sup> 6 March 2006, Radio Free Europe / Radio Liberty

<sup>92</sup> OSCE/ODIHR, Legislationonline.org, at <http://www.legislationonline.org/index.php?topic=245&country=43&org=0&eu=0>, last visited 28 December 2005.

## Practices

In practice, the only form of public protest that has been tolerated following independence is picketing. In recent years, however, authorities have used heavy-handed tactics against picketing participants, resorting to violence and arresting picketers<sup>93</sup>.

### *Andijan Events:*

The 13 May violence began when thousands of people participated in a rare, large-scale protest on Bobur Square in Andijan, protesting the growing poverty and government repression. The demonstration was sparked when an armed group successfully freed 23 businessmen from prison. The businessmen were being tried for “religious fundamentalism” – charges that were widely perceived as unfair and had prompted hundreds of people to peacefully protest against the trial in the weeks prior to 13 May (the first mass rallies in 15 years). The armed group that freed the businessmen had earlier that day raided military barracks and a police station, seized weapons, taken over a local government building and used people (whom they had taken hostage) as human shields. The authorities reacted with excessive force: government troops with snipers on armoured personnel carriers and military trucks fired indiscriminately and without warning into a crowd of thousands of people, nearly all of whom were unarmed. After troops had sealed off the area surrounding the square, they continued to fire from various directions as the protesters attempted to flee. One group of protesters was literally mowed down by government gunfire.<sup>94</sup>

Four members of an IHF delegation who were in Andijan in June 2005 to document the post-May 13 crackdown were briefly detained and forced to leave the province on 15 June. The four had been visiting the home of a human rights defender detained on charges related to the Andijan events. The official statement of the police stopping the delegation was that they wanted to determine whether the driver had been involved in a car accident - which he denied. Police took the driver’s identification papers and took the group to a local police station. On 16 June the delegation was ordered to return to Tashkent. The delegation consisted of Tolib Yakubov (HRSU Chair), Eliza Moussaeva, Eldar Zeynalov, and Dmitri Markushevski, and the driver, Abdurzai Dezhuraev.

As of January 2006, the real number of victims remains unclear but their number is estimated at hundreds, perhaps even up to a thousand people. No authorities are known to have been held accountable for the massacre. On the contrary, people who have tried to find out the truth about the incident have been persecuted (see below).<sup>95</sup> In a show trial that violated international fair trial standards, the Uzbek Supreme Court handed down on 14 November 2005 prison sentences ranging between 14 and 20 years under charges relating to the May violence in Andijan. According to official reports, more than 100 people were detained and charged in relation to the events. International observers were not allowed to carry out proper monitoring of the trials.<sup>96</sup> According to the Uzbek government, the army reacted to a terrorist gathering and did not fire at civilians; the 187 casualties were thus killed by terrorists, rather than by the authorities. The government has rejected all proposals for an independent investigation into the event.<sup>97</sup>

On 3 October 2005, Amnesty International, the International Federation for Human Rights (FIDH), the International League for Human Rights (ILHR) and the International Helsinki Federation for Human

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<sup>93</sup> See, for example, IHF, Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004), at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4057](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).

<sup>94</sup> Human Rights Watch, “Bullets Were Falling Like Rain,” the Andijan Massacre, 13 May 2005.

<sup>95</sup> IHF, “On the Violence Against Civilians in Uzbekistan,” 19 May 2005, at [http://www.ihf-hr.org/viewbinary/viewhtml.php?doc\\_id=6314](http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=6314).

<sup>96</sup> Human Rights Watch, “Uzbekistan: Andijan Show Trial Ends With Guilty Verdict,” 17 November 2005, at <http://hrw.org/english/docs/2005/11/14/uzbeki12020.htm> and “Uzbekistan: Access to Andijan Trials Blocked, Cover-Up of the Truth Continues,” 30 November 2005.

<sup>97</sup> See, for example, “General Prosecutor’s Office of Uzbekistan presents statement to journalists,” 16 September 2005, at the Uzbek government website <http://www.gov.uz/en/content.scm?contentId=14935>.

Rights (IHF) all appealed to the OSCE participating States to invoke the Moscow Mechanism with respect to the May 2005 events in Andijan, Uzbekistan.<sup>98</sup> As of January 2006 the Moscow Mechanism has still not been implemented respecting Uzbekistan.

On 12 December 2005, Uzbek victims of torture and survivors of the May massacre in Andijan requested the German federal prosecutor open a criminal investigation into the liability of Interior Minister, Zokirjon Almatov (who was in Germany to receive medical treatment) on three counts: individual crimes of torture, torture as a crime against humanity, and the Andijan massacre as a crime against humanity.<sup>99</sup> Almatov promptly returned to Uzbekistan a couple of days after the request.

### 4.3 *Freedom of Expression and the Media*

#### Legislation

Censorship was officially lifted in 2002 but an barrage of restrictive legal provisions have had chilling effects on free reporting and have encouraged wide-scale self-censorship by media outlets.

A restrictive freedom of information law came into force in February 2003<sup>100</sup>. Its article 4 states that freedom to inform the public can be restricted to “protect the moral values of society, national security and the country’s spiritual, cultural and scientific potential.” This vague definition paves the way to wide interpretation and virtual censorship. Other articles of the law give pretexts such as “preserving cultural and historical values,” “preventing psychological influence over and manipulation of public awareness” and preserving “social stability” for suppressing freedom of information.<sup>101</sup> Human rights defenders and reporters have also been prosecuted under provisions of the Criminal Code that prohibit the dissemination of information that pertains to terrorism,<sup>102</sup> and the February 2004 amendments to article 157 of this Code which made disclosure of “secret information” to foreign states and organizations punishable as treason. The code also provides for defamation and libel.<sup>103</sup> Human rights organizations fear that this provision could be used against local monitors when sharing information on human rights violations with international organizations.<sup>104</sup>

The process for registering media outlets is complicated, and registered media outlets can be closed down without a court decision. Provisions issued in 2003 further broadened the definition of media outlets so as to include bulletin-style publications and websites - thereby making illegal the circulation of independent information by human rights NGOs through bulletins and websites without official registration.<sup>105</sup>

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<sup>98</sup> For more details, see IHF et al, “Uzbekistan: Joint Appeal to the OSCE Participating States to Invoke the Moscow Mechanism with Respect to the Andijan Events,” 30 September 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4136](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4136).

<sup>99</sup> Human Rights Watch, “Statement by Theo van Boven, former United Nations Special Rapporteur on Torture,” 20 December 2005, at <http://hrw.org/english/docs/2005/12/20/german12337.htm>.

<sup>100</sup> Uzbek government decree of 24 February 2006 "On adopting basic rules, regulating professional activities of correspondents for foreign mass media"

<sup>101</sup> Reporters without Borders, “Internet under Surveillance, 2004,” at [http://www.rsf.org/article.php3?id\\_article=10687&Valider=OK](http://www.rsf.org/article.php3?id_article=10687&Valider=OK).

<sup>102</sup> Human Rights First, *Karimov’s War, Human Rights Defenders and Counterterrorism in Uzbekistan*, November 2005.

<sup>103</sup> IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)*, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4057](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).

<sup>104</sup> Ibid.; and Open Society Institute, Uzbek Government Forces Closure of Local Soros Foundation Uzbek Staff of International Organizations Branded Traitors, 18 April 2004, at [http://www.soros.org/newsroom/news/uzbekistan\\_20040418](http://www.soros.org/newsroom/news/uzbekistan_20040418).

<sup>105</sup> Ibid.

## Practices

Uzbek authorities exercise strong control over media and seek to prevent the spread of critical information. During the run-up to the parliamentary elections in December 2004, authorities stepped up efforts to obstruct the spread of the limited, independent information that was still available. Following the Andijan massacre unofficial censorship has become even stricter. Independent journalists and media outlets have not been allowed to enter the region.

Foreign media outlets have also been forced to leave the country, thereby reducing the already modest sources of independent information and making the monitoring work of human rights defenders even more important. Reporters Without Frontiers has pointed to a growing tally of assaults, threats, beatings, sentences, expulsions and office closures, culminating in that of Radio Free Europe (RFE/RL) on 12 December.<sup>106</sup>

- The Uzbek Foreign Ministry officially closed the offices of the Radio Freedom Europe/ Radio Liberty on 12 December 2005 by refusing to grant annual accreditation to its local office. Accreditation is obligatory for all media agencies wishing to work in the country. Four RFE/RL journalists also had their official accreditation suspended. Nosir Zokirov, a RFE/RL journalist who was one of the first on the spot in Andijan, was sentenced to six months imprisonment on 26 August 2005 for his coverage of the storming of the prison in Andijan. At least nine RFE/RL correspondents in the Uzbek office had received telephone threats, as have members of their family. They have also been questioned by members of the security services, had their recording equipment seized and some have been beaten.<sup>107</sup>
- Galima Bukharbaeva who worked with the Institute for War and Peace Reporting was interviewing demonstrators in Andijan when Uzbek troops rolled into Bobur Square and opened fire. She narrowly escaped a bullet which tore her backpack. Her eyewitness reporting of the crackdown, in which hundreds of civilians were shot dead, informed the world and angered the authorities. Fearing imprisonment, she fled Uzbekistan to the United States.<sup>108</sup>
- The Uzbek branch of Internews, a US-funded NGO that facilitates nation-wide broadcasts of news stories produced by independent TV stations, has been targeted since 2004. In September 2004 it had its license suspended for six months. Prior to that, in August 2004 Internews Network's bank accounts in the country were frozen. A year later, on 4 August 2005, a Tashkent district court convicted two employees of Internews Network in Uzbekistan of a conspiracy to engage in unlicensed production of TV programming and illegal publishing – a crime punishable by up to six months in prison.<sup>109</sup> On 9 September, a Tashkent court found the NGO guilty and ordered it to leave the country.<sup>110</sup>
- The BBC pulled out its reporters from Uzbekistan in October 2005 due to security concerns. Their entire local staff was withdrawn and the office in Tashkent was closed for a minimum of six months pending a decision on its long-term future. BBC staff had been subjected to a

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<sup>106</sup> Reporters Without Frontiers, "Closure of Radio Free Europe office signals endgame for free media," 14 December 2005, at <http://www.rsf.org/>.

<sup>107</sup> Internews, at <http://www.internews.org/regions/centralasia/uzbekistan.htm#pressure>, last visited on 27 December 2005.

<sup>108</sup> Committee to Protect Journalists, Dangerous Assignments, "Witness to a Massacre; an Uzbek reporter risked her life to tell the world of Andijan assault," at [http://www.cpj.org/Briefings/2005/DA\\_fall05/galima/galima\\_DA\\_fall05.html](http://www.cpj.org/Briefings/2005/DA_fall05/galima/galima_DA_fall05.html).

<sup>109</sup> Internews, at <http://www.internews.org/regions/centralasia/uzbekistan.htm>, last visited on 27 December 2005.

<sup>110</sup> IRIN, "Uzbekistan: Internews to appeal government closure notice," 12 September 2005, at <http://www.irinnews.org/print.asp?ReportID=49021>.

campaign of intimidation and harassment, following its reporting on the Andijan events. In June, the BBC World Service correspondent, Monica Whitlock, was forced to leave Tashkent under pressure from the government and two local staff members have since been granted refugee status by the United Nations High Commissioner for Refugees.<sup>111</sup>

In the absence of independent media outlets, it is difficult for human rights NGOs to disseminate information and to inform the public of their activities. The Internet remains virtually the only medium through which they can publish information, albeit in a restricted manner as the government has also taken measures to block access to many Internet sites. For example, the websites of *Erk Democratic Party*<sup>112</sup>, *Birlik Popular Movement*<sup>113</sup>, Uzweb, and Eurasianet<sup>114</sup> are blocked by most Internet providers. Internet cafes are also under control. The fee for using Internet connection varies between US\$1 and US\$2 per hour,<sup>115</sup> a significant sum of money for an average Uzbek.

#### **4.4 Freedom of Movement**<sup>116</sup>

Restrictions on the freedom of movement also impede the work of human rights defenders. Since the 1999 Tashkent bombings, all Uzbek citizens are required by law to carry a national identity document or passport at all times. The Interior Ministry and the National Security Services are authorized to randomly stop citizens to check their identity as well as to demand identity papers at people's homes. These provisions have been used especially against human rights defenders who have been singled out for harassment and often prevented from performing their work or moving freely due to confiscation of their identity documents. Following the Andijan massacre, police seized passports of many human rights defenders.

- The Human Rights Society of Uzbekistan and Ezgulik have experienced difficulties holding their pre-approved national meetings in Tashkent in 2002 and 2003 because delegates could not travel to the meetings as their passports had been seized by the police.

In addition, Uzbekistan requires that its citizens seek permission to leave their own country, a measure that has recently been employed is to turn down requests by human rights defenders who have wanted to visit for Georgia (a country considered "dangerous" after the "Rose Revolution") or to attend international human rights meetings. In the latter case the activists have also been accused of collaborating with international organizations.

#### **4.5 Financial Restrictions**

While the 1999 law on Non-Profit Organizations explicitly provides that NGOs can freely choose the form of their activities and financing, Governmental Order No. 59 of February 2004 provides federal screening of the anticipated uses of any funding coming from abroad to NGOs through bank transfers. In addition, all foreign funds must be transferred to government-controlled banks. Violation of this law – which also includes a prohibition of the exchange of information potentially harmful to the state – is

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<sup>111</sup> BBC, "Harassed' BBC shuts Uzbek office," 26 October 2005, at <http://news.bbc.co.uk/2/hi/asia-pacific/4380166.stm>; BBC, Monica Whitlock, "Uzbeks banish BBC after massacre reports," [http://news.bbc.co.uk/2/hi/programmes/from\\_our\\_own\\_correspondent/4407086.stm](http://news.bbc.co.uk/2/hi/programmes/from_our_own_correspondent/4407086.stm).

<sup>112</sup> At <http://www.uzbekistanerk.org/>

<sup>113</sup> At <http://www.birlik.net/>

<sup>114</sup> At <http://www.eurasianet.org/>

<sup>115</sup> Mazlum website, at <http://wyith.ch/home/mazlumuz.org/m02.htm>.

<sup>116</sup> Based on information from Human Rights First, *Karimov's War, Human Rights Defenders and Counterterrorism in Uzbekistan*, November 2005.

punishable as treason. Although the decree was announced as part of a scheme to prevent money laundering, in practice, human rights organizations have been the primary targets of this policy.<sup>117</sup>

#### 4.6 *Direct Attacks on Human Rights Defenders*

The number of attacks against human rights defenders has increased dramatically in the past few years and especially after the Andijan events. Given widespread corruption among law enforcement bodies and courts, it is usually futile to file complaints about harassment and persecution. What is more, courts often work as tools of government officials and other influential private parties who wish to bring either questionable or downright fabricated criminal charges against particular individuals – in many cases outspoken activists.

Even before these most recent attacks on human rights defenders, outspoken activists have, as a general rule, always suffered reprisals. For example in 2002, after the Legal Aid Society presented a report to the United Nations Committee against Torture, one of its lawyers, Ildar Shayfiyev, was detained and brutally beaten; the Interior Ministry eventually admitted its responsibility for the acts. In a similar vein, after human rights activist Akhmadjon Madmarov testified about human rights violations in Uzbekistan at the May 2003 annual meeting of the European Bank for Reconstruction and Development (EBRD) held in Tashkent, one of his three imprisoned sons was placed in solitary confinement.<sup>118</sup>

In the past two years, gradual and increasingly heavy-handed tactics have been employed against individuals protesting repressive government policies, corruption or widespread poverty. A number of human rights defenders have been beaten when picketing and arrested, often under charges of illegal possession of weapons, literature or even rape – charges that nearly always are believed to be fabricated and politically motivated.

- On 16 February 2004, Muidinjon Kurbanov, head of the Zarbdor regional department of HRSU as well as a local leader of the *Birlik* opposition movement, was arrested on charges of illegal possession of weapons and ammunition believed to have been intentionally placed in his home.<sup>119</sup> Following his arrest, Kurbanov was held incommunicado for three days and forced to sign a confession that was dictated to him. He was subsequently sentenced to three years' imprisonment in an unfair trial which focused on his human rights work. The sentence was later reduced to a fine on appeal. In 1998 Kurbanov had also been arrested and sentenced on trumped-up charges, and badly tortured in detention.<sup>120</sup>
- In late May 2004, HRSU member Bakhodir Choriev, who was organizing a picket scheduled for 1 June, was brutally beaten. Four strangers stopped Choriev's car, forced him out of it and beat him so badly that he lost consciousness. Due to the injuries he sustained Choriev had to spend more than two weeks in hospital. There was reportedly no effective investigation into the case.
- Ruslan Sharipov, an independent journalist and human rights defender, was sentenced at a closed trial in August 2003 to five and a half years imprisonment on charges of homosexual acts and of having sex with minors. In a letter smuggled out from the prison, he stated that

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<sup>117</sup> Human Rights First, *Karimov's War, Human Rights Defenders and Counterterrorism in Uzbekistan*, November 2005, citing comments by Legal Aid Society.

<sup>118</sup> Ibid.

<sup>119</sup> IHF, "Open Letter to the President of Uzbekistan Mr. Karimov about the Arrest of Human Rights Defender Mr. Kurbanov," 26 February 2004, at <http://www.ihf-hr.org/documents/index.php>.

<sup>120</sup> Human Rights Watch, "Overview of Human Rights Issues in Uzbekistan," in *World Report 2005*, at <http://www.hrw.org>.

police had tortured him to force him to confess.<sup>121</sup> In October 2004, Sharipov was granted political asylum in the US after fleeing Uzbekistan with the tacit agreement of the authorities.<sup>122</sup> He subsequently published articles about his experiences within the Uzbek penal system, providing detailed accounts of abusive treatment.<sup>123</sup>

- On 24 September 2005, Hurshida Togaeva, a legal expert and chairperson of the Pahtakor regional branch of the HRSU, was beaten and kicked by two men who had been following her during over a series of days. The incident happened in Bulungur, near Samarkand, where Togaeva had travelled to visit her daughter. The men warned her and other HRSU members against meeting with foreign diplomats. In poor physical condition, Togaeva managed to return home on 26 September, but had to be hospitalised the following day after losing consciousness. She regained consciousness three days later. In addition, after the Bulungur incident, a man who did not identify himself visited her home several times while she was not there and told her son that her mother better stay at home or something bad would happen to her.<sup>124</sup>
- On 24 January Rakhmatullo Alibaev, an independent human rights defender who for years has monitored trials of independent Muslims charged with religious extremism and has assisted victims of economic fraud, was badly beaten. While at the offices of the opposition party Ozod Dekhon (Free Peasant Party) he opened the door to a man who identified himself as the brother of the party's chairwoman, Nigora Khidoiatova. The man walked in, began yelling at him, punched him three times in the face, in the nose and right cheek, and then left. A doctor found that he suffered a broken nose, a concussion, and trauma to the brain. Alibaev filed a complaint with the police through the doctor's office. Alibaev's beating happened the day before the scheduled start of the trial of Nodira Khidoiatova, coordinator of the opposition group Sunshine Coalition of Uzbekistan, and sister of Nigora Khidoiatova<sup>125</sup>.

### Aftermath of the Andijan Event<sup>126</sup>

In the aftermath of the 13 May events in Andijan, persecution of human rights defenders escalated dramatically. The government fears that any leaking of information on the Andijan massacre would potentially mobilize public sentiment and dangerously arouse national and international outrage. With media controlled by the government, human rights defenders play an essential role in providing information on the events.

The government has to date consistently refused an independent, international investigation into the Andijan events. Instead, it has engaged in a disinformation campaign to promote its own version of the events and to turn the population against human rights defenders. Human rights defenders, journalists and others whose reporting on the massacre has differed from the government position have been

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<sup>121</sup> See IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2004 (Events of 2003)*, [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=3860](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860).

<sup>122</sup> Amnesty International, *Concerns in Europe June-December 2004: Uzbekistan*, at <http://www.amnesty.org>

<sup>123</sup> See Ruslan Sharipov, "Special Report: Uzbek Prisons – A Survivor's Guide," *Reporting Central Asia* (Institute for War and Peace Reporting), No. 332, 10 December 2004, <http://www.iwpr.net>.

<sup>124</sup> FIDH/OMCT Observatory, UZB 003 / 1005 / OBS 091, 17 October, at [http://www.fidh.org/article.php3?id\\_article=2760](http://www.fidh.org/article.php3?id_article=2760).

<sup>125</sup> HRW 25 January 2006 "Uzbekistan: Stop Harassment of Activists" <http://hrw.org/english/docs/2006/01/25/uzbeki12519.htm>

<sup>126</sup> Unless otherwise noted, based on IHF, "One Can't Keep Silent - The Persecution of Human Rights Defenders in Uzbekistan" 15 July 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4099](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4099).

labelled “enemies” of Uzbekistan and the government has tried to maintain a virtual information sanction on Andijan.<sup>127</sup>

Since May 2005, human rights activists have been subjected to close surveillance, their homes and offices have been searched, their phones have been tapped and information saved on their computers has unexplainably reached the authorities’ files and the Council of National Security. In a number of cases, computers files have also been confiscated during office searches. Human rights defenders have been intimidated and physically attacked, many have been arrested and detained without any sound reason, and some have been falsely charged with crimes. Authorities have orchestrated defamation campaigns against them and their families, as well as shows of alleged “spontaneous public outrage” against them. So-called “comrades courts” have been set up, which conducted “trials” against human rights defenders without any legal authorization.

- On 26 May, apparently prompted by public attention drawn to the Andijan events by activists Momir Azimov and Bakhtiyare Khamraev, authorities organized a public show of “national outrage.” Local officials and public leaders took part in the protest and some local residents were forced to join in which, demanded the eviction of human rights defenders from the region. These “outraged representatives of the people” rode in two buses, both escorted by the Council of National Security. The first bus drove to Azimov’s house. The following day, the district leader Karim Saatov indicated to Azimov that the events of the prior day had been motivated by his activity surrounding the Andijan massacre. “Why should you care about Andijan? Live your life, raise children,” Saatov said to Azimov.
- Saidjahon Zainabitdinov, a prominent human rights activist who had spoken out about the Andijan massacre was arrested on undisclosed charges on 21 May 2005. On 5 January 2006 a Tashkent court (in a closed trial) sentenced him to seven years imprisonment on charges amongst others of slander, undermining the constitutional order and membership in a “religious extremist” organization,<sup>128</sup>. His current whereabouts is unknown. He had actively supported people accused of religious extremism, including the 23 businessmen on trial in Andijan.
- Mutabar Tadjibaeva, a human rights defender from Ferghana and Chairperson of the human rights organization Fiery Hearts Club was arrested on 7 October, the day before she planned to go to Ireland for an international conference for human rights defenders. She was charged with extortion for politically motivated reasons. On 6 March she was sentenced to eight years imprisonment for “anti-government activity” and receiving money from Western governments to disrupt public order. Following the verdict she said to the judge “this is puppet theatre, and a tragedy.”
- Shukhrat Ganiev and Vakhit Karimov, both working with the Humanitarian Legal Center in Bukhara, of which Ganiev is head, were threatened in the wake of the Andijan events.<sup>129</sup> Since May 2005 Ganiev has repeatedly been summoned to the Department for the Combat against Terrorism in the Bukhara province, where he has been told to close his office, limit his contacts with the U.S. Embassy and Freedom House and not to leave the city. The Humanitarian Legal Centre in Bukhara was closed in December 2005.

The involvement of individuals in both political opposition and human rights activities often makes it difficult to establish what the genuine reasons for persecution are.

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<sup>127</sup> See IHF Interventions to the OSCE Human Dimension Implementation Meeting 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4128](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4128).

<sup>128</sup> <http://web.amnesty.org/library/Index/ENGEUR620012006?open&of=ENG-UZB>

<sup>129</sup> Information from the Humanitarian Legal Center in Bukhara, October 2005.

- The *Ezgulik* activist Nurmukhammata Azizov was detained on 2 June 2005. Anticipating troubles, Azizov had destroyed all documents that might provide grounds for his arrest. At the time of arrest, however, the law enforcement agents planted in his possessions an incriminating leaflet of the Birlik party. Azizov was arrested on the grounds of allegedly having read the document aloud in public as an official Birlik party statement opposing the events in Andijan. His home had been under surveillance for approximately a week before his arrest. After his arrest, his house remained under surveillance and visitors were stopped in the street and questioned about the purpose of their visit.
- On 6 March 2006 Sanjar Umarov, the leader of the "Sunshine Uzbekistan" opposition coalition, was sentenced to nearly 11 years in prison for economic crimes, including embezzlement, money laundering, and tax evasion. His supporters, however, say the case is politically motivated. The verdict comes just days after the Sunshine Coalition's coordinator, Nodira Hidoyatova, was sentenced to 10 years in jail on March 1<sup>130</sup>.

Many of the most active participants at pickets held near embassies, international organizations and Uzbek governmental offices were placed under virtual house arrest. Activists were prevented from leaving home, even to buy food and were kept under constant surveillance. The IHF has information on 37 such cases in January 2006, with those imprisoned including members of the HRSU, Society for the Protection of the Rights and Liberties of the Citizens of Uzbekistan, Initiative Group of Independent Human Rights Defenders of Uzbekistan, members of the local branch of the International Human Rights Society, members of the parties *Erk* and *Ozod Dekhon* as well as independent human rights defenders and unaffiliated participants of pickets dealing with social and political problems. Some were prevented from leaving their homes and others were repeatedly summoned by the police to have "discussions," as a pretext to prevent them from attending demonstrations and pickets. The persons were held under house arrest in Tashkent for periods ranging from three days to two weeks. Annex I contains a provisional list of human rights defenders, of members of the Human Rights Society of Uzbekistan (HRSU) and other organizations in danger in Uzbekistan.

#### 4.7 Abuse of Psychiatry

In an extremely troubling development, Uzbek authorities have resumed the old Soviet-time practice of placing "inconvenient" individuals – usually human rights defenders and political activists – in psychiatric institutions without sound medical reasons and treating them with psychotropic drugs. In the past few years, at least three human rights activists have experienced this fate: Elena Urlaeva, Larissa Konakova and Lydia Volkobraun.<sup>131</sup>

- On 28 August 2005 Elena Urlaeva, a prominent human rights activist, was detained by militiamen for dissemination of leaflets of the opposition party "*Ozod Dekhonlar*" and for posting a caricature of the national symbol of Uzbekistan. On 18 October a Tashkent court ordered that Urlaeva undergo forcible psychiatric treatment with powerful psychotropic drugs even though the initial psychiatric commission had declared her sane. Neither Urlaeva, nor her lawyer, nor her family were informed of the hearing and thus were not able to challenge the decision.
- This was not the first time she was forcibly interned, as in 2002 Urlaeva was forcibly held in a psychiatric institution on two occasions (for a total of six months) due to her human rights work. During this time Urlaeva reported that she received forcible injections of psychiatric

<sup>130</sup> RFE/RL 6 March 2006 "Uzbekistan: Another Opposition Leader Given Harsh Sentence" <http://www.rferl.org/featuresarticle/2006/3/4762E14C-2EF7-4A99-ABB1-037F8B9817D7.html>

<sup>131</sup> IHF, "Open Letter: Uzbek Human Rights Activist Elena Urlaeva Reportedly Arrested and Abused," 29 August 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4119](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4119); Human Rights Watch, "Uzbekistan: Dissident Forced Into Psychiatric Detention," 3 September 2005.

drugs and that the hospital staff had tied her to the bed to administer the injections which caused chronic headaches, and problems with her heart and kidneys.

- A long-time activist who regularly participates in public demonstrations, Urlaeva has also previously been subjected to constant police surveillance, frequent house arrests, arbitrary detention and interrogation.<sup>132</sup> She was released from hospital on 27 October 2005,<sup>133</sup> but was temporarily placed under house arrest after her release. On 4 January 2006 she held a picket and was arrested in Tashkent and released after several hours.
- In August 2004, a court in Tashkent in absentia ordered that Larissa Konakova, who provided assistance to victims of government abuse, be forcibly interned to a psychiatric institution for observation, and that proceedings be initiated so as to strip her of her legal rights. The hospital, however, gave a testimony in Konakova's favour, and the judge dismissed the case, but did not preclude her from being subjected to such proceedings in the future.<sup>134</sup>
- In November 2004 a Tashkent court ordered the committal of activist Lydia Volkobraun, also for her to be placed under observation as a prelude to a competency determination. Without informing Volkobraun or her attorney of the court's decision, police forcibly committed her to a psychiatric hospital<sup>135</sup>. She was released after two weeks of detention<sup>136</sup>.

## 5. Recommendations

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Against the backdrop of facts stated above, it seems clear that the Uzbek government, in its effort to cover up its dismal human rights record, is waging a war against human rights defenders as well as international human rights organizations and the media. In this situation, the local human rights community needs urgent support from the international community and human rights organizations. With this in consideration, the IHF makes the following recommendations:

*The government of Uzbekistan should:*

- Amend legislation and regulations to lift all restrictions limiting freedom of association of human rights defenders as they serves to hinder their human rights activities and limit support from foreign organizations to local human rights defenders. This legislation should be implemented effectively;
- Allow for the registration of local human rights groups, without discrimination, so that they can work freely and without fear of legal and criminal sanctions or reprisals;

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<sup>132</sup> HRW, "Uzbekistan: Psychiatric Punishment Used to Quash Dissent, Government Deploys Stalinist-Era Tactic Against Leading Human Rights Defender," 20 October 2005, at <http://hrw.org/english/docs/2005/10/20/uzbeki11905.htm>. See also IHF, "Uzbek Human Rights Activist Elena Urlaeva Reportedly Arrested and Abused," 29 August 2005, at [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4119](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4119).

<sup>133</sup> Registan.net, 31 October, at <http://www.registan.net/index.php?cat=14>, last visited 28 December 2005.

<sup>134</sup> HRW, "Uzbekistan: Human Rights Concerns for the 61st Session of the U.N. Commission on Human Rights," 10 March 2005, at <http://hrw.org/english/docs/2005/03/10/uzbeki10304.htm>.

<sup>135</sup> Ibid.

<sup>136</sup> HRW, "Uzbekistan: Dissident Forced Into Psychiatric Detention", September 3, 2005, at <http://hrw.org/english/docs/2005/09/03/uzbeki11684.htm>

- Lift restrictive regulations and practices that hinder independent international human rights non-governmental organizations from operating in Uzbekistan;
- Adopt legislation to provide for freedom of peaceful assembly, as provided by international human rights instruments, and implement such legislation rigorously so as to allow demonstrations and rallies without excessive restrictions;
- Investigate all reported cases of attacks against human rights defenders, making it publicly clear to law enforcement officials and all other authorities that such attacks will not be tolerated, and warn public officials against making defamatory statements against defenders;
- Immediately release all human rights defenders detained for their legitimate activities and refrain from prosecuting on the basis of spurious or fabricated charges laid against them;
- Put an end to the misuse of forceful confinement to psychiatric institutions and involuntary treatment without sound medical reasons of human defenders and other critics of government policies;
- Cooperate with the UN special procedures (in particular the Special Rapporteur on torture and the Special Representative of the SG on the situation of human rights defenders) and extend to them an invitation to visit the country; and
- Allow the Independent Expert on the situation of human rights in Uzbekistan (1503 procedure) of the Commission on Human Rights to visit Uzbekistan as this agreement has not been forthcoming

*With respect to the Andijan events in May 2005, the government of Uzbekistan should:*

- Put an end to the information obstruction on Andijan by allowing media outlets, reporters and human rights defenders to move freely in the region and further, drop charges against all media outlets and reporters and defenders who have been prosecuted while trying to find out the truth about the Andijan massacre;
- Allow access to Andijan to an independent international expert group so that they are able to conduct an effective investigation of the events that took place and the ensuing trials (most of which have been conducted in private); and
- Publish official individual information on all of the deceased, arrested and wanted in Andijan events.

*The international community should:*

- Demand that Uzbekistan fulfil its international obligations and commitments to protect human rights defenders;
- Continue to take a firm stand against human rights violations in Uzbekistan and voice their concerns in different regional forum, it should also call for the immediate release of Uzbek rights defenders detained on spurious charges;
- Repeatedly emphasize the importance of a strong and independent civil society for the proper functioning of a democratic state, and encourage the government to promote the development of civil society;

- Consider means of protecting persecuted local defenders, including special measures of temporary resettlement in emergency cases as per the newly issued EU Guidelines on Human Rights Defenders;
- Continue to support (financially and otherwise) the work of civil society groups in Uzbekistan;
- Support in all ways possible an independent, international investigation into the killings in Andijan and the ensuing trials;
- Encourage the Uzbek government to issue invitations to visit the country to the following UN special procedures representatives:
  - a) Special Representative of the Secretary-General on the situation of human rights defenders
  - b) Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
  - c) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
  - d) Special Rapporteur on the promotion and protection of human rights while countering terrorism
- Urge the Commission on Human Rights (or the Council on Human Rights) to extend the mandate of the Independent Expert on the situation of human rights in Uzbekistan (1503 procedure); and
- Hold an international conference on the difficulties being faced by civil society in Uzbekistan. The unsatisfactory way in which the fight against terrorism and extremism is being used as a pretext to restrict activities of civil society should be addressed by governmental, inter-governmental and non-governmental actors alike.

*The Organization for Security and Co-operation in Europe (OSCE) should:*

- Invoke the Moscow Mechanism with respect to the May 2005 events in Andijan and associated gross violations of human rights;
- Strengthen the work being carried out by the OSCE Centre in Tashkent, in particular its human dimension work, so as to make their presence in the country meaningful.

*The United Nations should:*

- Continue to request that an international team of experts be allowed to carry out a full investigation as to Andijan events and the related proceedings;

*The European Union should:*

- Continue to implement its sanctions against Uzbekistan and seek their expansion, as there has been no clear signs from the Uzbek authorities of a willingness to improve their human rights record;
- Strictly implement the current travel restrictions to EU countries of officials directly responsible for the Andijan massacre and expand them to include government officials responsible for ordering or condoning the killings.

**International Helsinki Federation for Human Rights (IHF) 28 March 2006**

*NB. This non-exhaustive list has been prepared by the IHF based on information sent directly to the IHF or to its partner organizations.*

<b>Provisional list of members of the Human Rights Society of Uzbekistan (HRSU) and other organizations in danger in Uzbekistan</b>				
<b>#</b>	<b>Name</b>	<b>Position</b>	<b>Location</b>	<b>Description</b>
1	Bolbekova Bukhvol	Member of HRSU	Djisak province, Dustlik region, village Bunedkor	After the Andijan events she was fired from the position of the chair of the women's council of the village by the order of the regional <i>Khokim</i> . She is under constant surveillance. Militiamen demand reports on all her movements and do not allow her to exit the region.
2	Imamova Munozhaat	Member of HRSU	Djisak province, Dustlik region, village Bunedkor	She is under constant surveillance, is systematically threatened with the demand to stop her human rights activity. Militiamen demand reports on all her movements and do not allow to exit the region. On 15 August she came to Djisak city to visit the chair of HRSU branch Khamroev. She was detained near his flat and beaten. At that time she was 3 months pregnant and as a result lost her child.
3	Umarov Donier	Member of HRSU	Fergana province, Besharik region	On 12 November he visited the chair of Syrdaria province HRSU branch A.Farmonov. Around 4 a.m. he was beaten by strangers in Farmonov's garden, where he had stayed for a night. A criminal case was initiated in the city of Gulistan. Militiamen arrested five suspects, but four were released under recognizance not to leave. Umarov thinks that the effective work of militia was connected with the fact that he remembered the car plates of his attackers.
4	Farmonov Azamjon	Chair of the Syrdaria province branch (HRSU)	Syrdaria province, Gulistan	On 5 November Farmonov's apartment was set on fire (all his family was absent at that time). Since 6 November he is being closely surveyed.
5	Togaeva Khurshida	Chair of the Pakhtakor regional branch (HRSU)	Djisak province, Pakhtakor region, village Navbakhor	She is under close surveillance. On 23 September she was beaten by two unknown persons, who asked her which ambassadors had B. Khamroev visited. After this attack she was hospitalized.
6	Kurbanova Saida	Member of HRSU	Djisak province, Pakhtakor region, village Navbahor	She is under constant surveillance and the authorities do not allow her to exit the region.

7	Murodov Djura	Chair of the Nishan regional branch (HRSU)	Kashkadaria province, Nishan region, city Nishan	He is under constant surveillance. On 2 November he managed to visit Tashkent; during his absence his family was asked about his whereabouts.
8	Aminov Mamur	Chair of the Fergana province branch (HRSU)	Fergana city	On 6 October he sent a letter to the Minister of Defense R. Gulomov regarding the violation of the rights of a retired servicemen in Fergana valley. As a result he was intimidated by the Fergana province department of defense affairs, a representative of which stated that no organization called HRSU exists. On 28 October a representative of the Ministry of Defense called T. Yakubov and demanded some official legal documents about HRSU, which were then delivered to the Ministry (Statutes and an IHF letter).
9	Yakubov Talib	Chair of the HRSU	Tashkent city	He is under constant surveillance (his flat is surrounded by three cars). On 8 September the state TV channel showed information aimed at discrediting Yakubov in the eyes of the citizens.
10	Yakubov Olim	Chair of the Takchilik village branch (HRSU)	Djisak region, Djisak city	A son of the chair of the HRSU, T. Yakubov. Is systematically threatened by telephone calls. On 3 October at night he was attacked by two unknown men.
11	Isakov Nasim	Member of HRSU	Djisak region, Djisak city	A criminal case was fabricated against him (hooliganism – art. 227-2 CC). For several days his family knew nothing about his whereabouts and only on the sixth day of his detention was he allowed to meet his defender. Now he is in an investigative cell of the Djisak city prison. On 20 December was sentenced for 8 years of imprisonment.
12	Sunnatullaev Nurulla	Member of HRSU	Djisak region, Djisak	He is under constant surveillance.
13	Azimov Mamir	Chair of the Djisak regional branch (HRSU)	Djisak region, village Uch-Tepa	He is under constant threat by militiamen and representatives of the administration of the region.
14	Karimov Djamshid	Member of HRSU, journalist	Djisak region, Djisak	He is under constant surveillance. His telephone is bugged. On 6 September he was hit by a car, which disappeared immediately after the accident. On 2 November his mother was told by the head of the Djisak local department of interior, E. Khusanov, that her son must be “taught”: evicted from the village or arrested.
15	Khamroev Bahtier	Chair of the Djisak region branch (HRSU)	Djisak region, Djisak	He is under constant surveillance, his telephone calls are bugged. He systematically receives threats over the telephone. On 17 August the head of the department of combating terrorism Kasimov told him that he would not allow him to leave the region without his personal permission. After this he was stopped four times while trying to leave the region. Unknown people incited by the authorities systematically throw stones at his apartment.

16	Turlibekov Adgar	Chair of the Kashkadari a regional branch (HRSU)	Kashkadaria region, Karshi city	He is under constant surveillance. The law enforcement body does not allow him to leave the region (he was forced to return twice to Karshi, while trying to go to Tashkent).
17	Shaimanov Egamnazar	Human rights defender	Djisak province, Dustlik region, village Bunedkor (temporary lives in Gulistan city)	On 17 August he was detained by the SNB staff of Djisak province, who tortured him (his hands were bound, then was hanged on a tree, beaten and tortured). He was released on the same day. On 5 November he was again detained by a militiaman and brought to the regional branch of the Ministry of Interior of Dustlik city, where he was interrogated the whole night. On 6 November he was transferred to Tashkent where an official arrest warrant was shown to him, which was signed by the investigator of the General Prosecutor's office. The same day he was unexpectedly released. His interrogations were accompanied by constant threats.
18	Kutliev Djamal	Head of the Gidjuvan regional branch of the ERK party	City Gidjuvan, Bukhara province	Was arrested on 10 November. During the search a newspaper ERK (issue of 1991) and a newspaper FORUM (issue of 1994) were found. He is kept in Bukhara city.
19	Turgunov Ajzam	MAZLUM, chair of the organization	Tashkent city	On the basis of the forged accusation of insults he was sentenced for administrative offences. On 7 November the court hearing announced that the case was returned to the local militiaman (probably because the court hearing was visited by many human rights defenders). He is under constant surveillance.
20	Pardaev Ukhtam	Independent Human Rights Society of Uzbekistan; chair of Djisak regional branch	Djisak province, Djisak city	He is under constant surveillance. His brother, a taxi driver, was under pressure of the State auto inspection, which demanded his he denounce his brother's human rights work.
21	Ganiev Kholiknazar	EZGULIK, chair of the Samarkand regional branch	Samarkand province, Djambaj region, Djambaj city	On 24 August was kidnapped in a car by unknown people in masks. He was kept away for 10 days. He heard how in the next rooms people cried while tortured. On 2 September he was kidnapped again and taken by a car to the village Djom. He was ordered not to say where he had been taken.
22	Razzakov Ziedulla	International Human Rights Society (IHRS), chair of the Djisak regional branch	Djisak province	He is under constant surveillance. On 7 August he was taken to the regional department of the Minister of Interior of Zarbdar region, where was interrogated for six hours, accompanied by beatings and threats.

23	Nazarov Mamarazhab	EZGULIK, chair of Zarbdor branch	Djisak province, Zarbdor region, Buston city	Shortly after the Andijan events, his family and himself were evicted from Buston city and resettled to a mountain village Urgandji in Kushrabad region of Samarkand province. He was under constant surveillance. On 28 September he managed to come to Buston city. After this all buses going to the direction of the Djisak city were searched and passengers were interrogated. On 29 September the head of the Zarbdor regional department of the Ministry of Interior demanded him to leave the city.
24	Urlaeva Elena	Society of Rights and freedoms Protection of Uzbek citizens', Party "Ozod Dekhonlar" a member	Tashkent	On 28 August she was detained by the militiamen for dissemination of leaflets of the opposition party "Ozod Dekhonlar" and political caricatures. Was put into a psychiatric hospital. This created much outcry and she was released on 27 October. She was also placed under home arrest temporarily after her release. On 4 January she held a picket and was arrested in Tashkent and released after several hours.
25	Tadjibaeva Mutabar	"Club of flaming hearts", a leader	Margilan sity, Fergan province	She was arrested on 7 October, the day before she planned to go to Ireland for an international conference for human rights defenders. She was charged with extortion for politically-motivated reasons. She remains in prison having started a hunger strike. On 6 March she was sentenced to eight years in prison for "anti-government activity" and receiving money from Western governments to disrupt public order. She was found guilty of 13 charges, including threatening public order, fraud, theft and blackmailing local businessmen.
26	Ganiev Shukhrat	Humanitarian legal center, director	Bukhara city	He is under constant surveillance. Repeatedly was summoned to the department of combat against terrorism in the Bukhara province, where he was told not to leave the city and that his office has to be closed. He was also recommended to limit his contacts with US Embassy and Freedom House. As a result his office was closed.
27	Saidov Narsullo	ERK party, member	Bukhara province, Vabkent region, Vabkent city	He was accused of larceny and now is under instructions not to leave the region. His request to have his own lawyer during the proceedings was rejected; instead he was given a state lawyer.
28	Zokirov Zokhidjon	Committee on individual rights protection, member	Namangan city	Was detained on the Uzbek-Kyrgyz border. A criminal case was initiated against him. He was detained for 10 days and was then released, although he continues to be under investigation.
29	Fazieva Gulnora	Initiative group of independent human rights defenders, member	Tashkent	She is under constant surveillance.

30	Ikramov Surat	Initiative group of independent human rights defenders, chair	Tashkent	He is under constant surveillance. Repeatedly exposed to attacks, illegal summons and threats. His relatives regularly got anonymous telephone calls with the demand to discontinue their human rights activities.
31	Mukhtarov Zhamshid	EZGULIK	Djisak city	On 22 November he was openly and severely beaten by unknown people in Djisak city. On 21 December he was attacked again. He lost consciousness and was left on the street without any assistance for several hours.
32	Kholzhigitov Norboj	HRSU, Ishtikhan regional branch	Samarkand province	On 18 October he was sentenced by the Samarkand province court to 10 years of imprisonment (see the IHF report "One can't keep silent")
33	Irzaev Sattor	HRSU, member	Ishtikhan region, Samarkand province	On 18 October was sentenced by the Samarkand province court to six years of imprisonment (see the IHF report "One can't keep silent")
34	Akpulatov Khabibulla	HRSU, member	Ishtikhan region, Samarkand province	On 18 October was sentenced by the Samarkand province court to six years of imprisonment (see the IHF report "One can't keep silent")
35	Kholzhigitov Khayatulla	HRSU, member	Ishtikhan region, Samarkand province	A son of the chair of the Ishtikhan regional branch of HRSU – Norboj Kholzhigitov, his case now to be examined by a court (see the IHF report "One can't keep silent").
36	Rakhmatullo Alibaev	independent human rights defender	Tashkent	On 24 January Rakhmatullo Alibaev opened the door to a man who identified himself as the brother of the party's chairwoman, Nigora Khidoiatova. The man walked in, began yelling at him, punched him three times in the face, in the nose and right cheek, and then left. The right side of Alibaev's face is now badly swollen. A doctor found that he suffered a broken nose, a concussion, and trauma to the brain. Alibaev filed a complaint with the police through the doctor's office.
37	Zainabitdinov Saidjahon	human rights defender		Zainabitdinov is a human rights defender who had spoken out about the May massacre in Andijan. According to international information, he has been convicted on charges of slander, undermining the constitutional order and membership in a "religious extremist" organization, amongst others. In early February he was sentenced him to seven years of imprisonment.