

Amnesty International

Statement to Working Session 3: Fundamental freedoms II, including:

Freedom of expression, free media and information, role of civil society in protection of human rights

9 December 2008 marks the 10th anniversary of the UN Declaration on Human Rights Defenders and yet human rights defenders across the OSCE region are targets of intimidation, systematic harassment and serious human rights violations. As they struggle to campaign for the rights of others, their own freedom and safety come under attack. In some cases, the authorities try to silence them through torture, unfair trials and long prison terms. In the most extreme cases, they pay with their lives.

Amnesty International is concerned that many Participating States continue to fail to implement fully their commitments to protect the right to freedom of expression, assembly, media and information.

Amnesty International is gravely concerned about the deterioration of freedom of expression and assembly in **Uzbekistan**, as well as the continued targeting of human rights defenders, civil society activists, political opposition activists and independent journalists. These repressive measures have created a climate of fear among civil society. At least a dozen human rights defenders remain in prison in cruel, inhuman and degrading conditions, having been convicted to long prison terms after unfair trials. Only some of the imprisoned human rights defenders were released in the first half of 2008, under the 2007 Presidential Amnesty, and their release was not unconditional. The human rights defenders who remain in prison have limited access to relatives and legal representatives, and there are reports that they have been tortured or otherwise ill-treated.

Other human rights activists and journalists, who have not been forced into exile, are routinely monitored by uniformed or plain-clothes law enforcement officers. Human rights defenders have been called in for questioning at their local police stations, placed under house arrest or otherwise prevented from attending meetings with foreign diplomats and delegations, or from taking part in peaceful demonstrations. Human rights defenders and journalists have reported being beaten and detained by law enforcement officers, or beaten by people suspected of working for the security services.

In **Turkmenistan**, human rights defenders and other independent civil society activists are unable to operate openly. Opposition parties do not exist. Many opposition activists

live in exile. Virtually all media is state-controlled. The property of media outlets belongs to the state and editors and senior managers are appointed by the President.

The authorities have severely restricted the activities of independent civil society activists and have made it impossible for them to operate openly. Civil society activists have been frequent targets of interrogation and harassment, and have been arbitrarily detained or, in several cases, imprisoned. Approximately in April 2008 the authorities launched a new wave of repression against independent civil society activists and journalists. The main aim reportedly was to identify contributors to reports of foreign media outlets and NGOs based outside the country.

The authorities continued to bar dissidents, political opponents and their relatives from leaving the country as a tool to silence dissent. The targeting of relatives was also used to put pressure on exiled opposition politicians in an attempt to stop those in exile from criticizing government policies and speaking out about human rights abuses in Turkmenistan.

In the **Russian Federation**, ahead of the parliamentary and presidential elections (in December 2007 and March 2008 respectively) Amnesty International noted an increase of clampdown on dissent in Russia which effected not only the political opposition and journalists who attempted to report about events organized by the opposition movement the Other Russia, but also human rights defenders, working for the protection of voters rights and the right to freedom of assembly.

Ahead, during and following demonstrations of opposition groups, scores of people were detained, many were beaten, including journalists, who attempted to exercise their lawful right to report about such demonstrations. Several peaceful protesters were sentenced to administrative detention and were considered by Amnesty International to be prisoners of conscience.

One NGO, *Voice* (Golos), from Samara, working to inform the population about the election process and voters' rights, was paralyzed for several months prior to the elections because of a criminal case against Ludmila Kuzmina, the head of the organization as well as administrative procedures regarding the status of the organization. In the week following the presidential elections, the criminal case against the leader of the NGO was dropped for failure to establish that a crime had been committed and the Supreme Court of the Russian Federation decided that the reasons given by the Federal Registration Service to demand the closure of the NGO were not valid. Since then, Ludmila Kuzmina has been granted compensation for moral damage for being subjected to persecution by the authorities.

At the same time, human rights defenders and civil society activists continue to be subjected to harassment and human rights abuse.

On 31 August, Magomed Evloev, owner of an influential independent website, critical of the authorities in Ingushetia, Russian Federation, was shot in a police car. Since then,

the situation in Ingushetia is characterized by daily violence. In the past, the authorities had tried repeatedly to close the website "Ingushetiya.ru".

Human rights defender and head of the *Movement for Human Rights*, Lev Ponomarev, is facing criminal prosecution for allegedly insulting the head of the Federal Service for the Implementation of Punishment. Amnesty International considers that Lev Ponomarev in his comments about the government official solely exercised his right to freedom of expression. He has been under order not to leave Moscow since February 2008 due to the criminal investigations against him, a fact which seriously hampers his ability to continue his human rights work.

In **Belarus**, dozens of civil society activists and oppositionists, particularly youth activists, have been warned, fined and imprisoned under Article 193-1 of the Criminal Code. Since coming into effect in December 2005, Article 193-1 has enabled the authorities to penalize members of unregistered civil society organizations for their activities. Organizing or participating in an activity of an unregistered NGO has become a criminal offence which carries a prison sentence of up to two years. As the authorities have closed down most human rights organizations, many activists are increasingly susceptible to prosecution.

In **Azerbaijan** independent and opposition journalists faced imprisonment on libel charges, harassment by law enforcement officials and in some cases, physical assault by unknown assailants.

In **Turkey** the expression of non-violent opinions continue to be unjustly restricted. Despite amendments made Article 301 of the penal code, among other changes replacing "denigration of Turkishness" with "denigration of the Turkish Nation". Less than two months after the changes were made, in June publisher Ragıp Zarakolu was sentenced to five months imprisonment under this article. An appeal against the conviction is currently pending. The fate of other prosecutions under 301 commenced before the amendments took place remains unclear. Amnesty International also notes that permission to open investigations under Article 301 (as required under the amended Article) was being granted by the Justice Ministry.

Other laws and articles of the penal code continue to be used in ways that threaten freedom of expression. Among them, Article 7/2 of the anti-terror law that criminalizes "making propaganda for a terrorist organization" is frequently used to prosecute non-violent opinions. Nine children, all members of the Diyarbakir Yenisehir Municipality Children's Choir were prosecuted under the article after singing the Kurdish language anthem Ey Raqip (Hey Enemy) among other anthems in different languages, at a world music festival in San Francisco in October 2007. They were acquitted in June on the grounds that they did not know that they were committing an offence but an arrest warrant for the choir leader, Duygu Özge Bayar remains valid.

Human rights defenders, in addition to being unjustly prosecuted continued to be threatened with violence. Orhan Kemal Cengiz was threatened and intimidated because of his legal work on behalf of the three men killed in an attack on the *Zirve* publishing house in April 2007 in Malatya. He was later provided with a bodyguard. In May, academic Baskin Oran received death threats via e-mail purportedly from an ultra-nationalist group calling itself the "Turkish Revenge Brigade" that has previously carried out threats and violent attacks against human rights defenders.

The right to freedom of association and peaceful assembly are? also frequently violated. In the latest challenge to an association that defends the human rights of lesbian, gay, bisexual and transgender individuals, a local court ruled that Lambda Istanbul should be closed. The case was launched following a complaint by Istanbul Governor's Office that the organization's objectives were against Turkish "moral values and family structure". An appeal challenging this ruling is currently pending. Newroz/Nevroz (New Year in the Persian calendar) celebrations were banned by authorities in south-eastern Turkey in March, with police using force to disperse demonstrators. In violent confrontations that ensued after, law enforcement officials used excessive force including the use of plastic bullets and live ammunition injuring and killing three people. There was also widespread use of disproportionate force against demonstrators in Istanbul on 1 May after permission was refused for assemblies to be held in the city's Taksim Square.

In Croatia, in June 2008 a Lesbian, Gay, Bisexual and Transgender (LGBT) march – the Zagreb Pride – took place. Although the march itself was well protected and the police prevented any physical attacks from the counter-demonstrators, there were serious concerns about the safety of participants after the event. Reportedly, two organizers of the march were physically and verbally attacked in the street on the way home on the grounds of their gender identity. Four other persons were attacked while leaving the demonstration. Despite the fact of having a strong homophobic element both attacks were qualified by the police as acts of misbehaviour and not as hate crimes.

There has been an increase in the number of incidents of physical and verbal assault against journalists in Croatia in the last year.

In April 2008 Drago Hedl received death threats allegedly following his reports about the role of Branimir Glavas in the murders of Croatian Serbs in the Osijek area during the 1991-1995 war. (For more information consult the paragraph on *War crimes and crimes against humanity*).

In June 2008 Dušan Miljuš, a journalist of a Croatian daily *Jutarnji List* was brutally beaten up by unknown individuals in front of his house in Zagreb following his reports on interconnection between politics and illegal business activities.

In June 2008 the Croatian Journalists' Association issued a preliminary report in which it documented cases of attacks on 40 journalists in the last 15 years, including seven in 2008.

In Bosnia & Herzegovina, journalists and human rights defenders have also been at the receiving end of verbal and physical attacks.

In April 2008 two journalists of the Television of the Federation of Bosnia and Herzegovina (FTV) were physically attacked by Sadik Bahtic – a member of the Parliament of Bosnia and Herzegovina

On 11 July 2008 Samir Jordamovic - a photojournalist of Bosnian daily *Dnevni Avaz* – was physically attacked by the minister of industry of the Federation of Bosnia and Herzegovina Vahid Heco.

An association of Bosnian journalists in a public statement issued on the same day said that it was already 17th case of a physical attack on journalists in Bosnia and Herzegovina this year.

The OSCE Representative on Freedom of the Media, Miklos Harastzi while visiting BiH in May 2008 pointed out to the deteriorating state of media freedom, and particularly on the increase of verbal and physical abuse against journalists.

In the run-up to the Sarajevo Queer Festival which took place between 24 and 28 September 2008 some media and politicians launched a campaign against the lesbian, gay, bi-sexual and transgender people. Several newspapers published homophobic articles.

The organizers of the event received death threats from several individuals. Their computers were attacked by hackers who captured the content of their email in-boxes and posted correspondence of the organizers with other individuals as well as their contact details. As of the time of writing the perpetrators have not been brought to justice.

Recommendations

Amnesty International calls on the Participating States to:

- Stop the persecution of human rights defenders, and ensure that effective action is taken by the international community in support of those who courageously stand up for human rights.
- Refrain from passing – or, where already in place, abolish – any legislation, which exceeds the permissible restrictions on the right to freedom of expression under international law, and leaves the way open for the criminalization of a wide range of peacefully-expressed dissenting opinion.

Amnesty International calls on the OSCE, EU and the Council of Europe to:

- Ensure fast and reactive support and protection to human rights defenders at risk.