

EUROPE AND THE COMMONWEALTH  
OF INDEPENDENT STATES  
(CIS)

## SITUATION OF HUMAN RIGHTS DEFENDERS

In 2005, the situation of human rights defenders continued to deteriorate in some countries of the Commonwealth of Independent States (CIS), in particular in *Belarus*, the *Russian Federation*, and *Uzbekistan*, where independent civil society was the target of the authoritarian policies of these States. In general, the changes of regime that followed popular movements (“coloured revolutions”) in Georgia in 2003, Ukraine in 2004, as well as in Kyrgyzstan in March 2005, created tension in the neighbouring States, which tightened their grip on civil society in order to avoid similar scenarios at home.

In *Turkmenistan*, freedom of association was still completely flouted, as were a great number of fundamental freedoms, and it remained completely impossible to organise and work in favour of human rights and democracy without being at risks of reprisals.

In the Balkans, where democratic transition still encountered certain difficulties, defenders carried out their activities within a society facing violence and ultra-nationalist movements, in particular in *Serbia-Montenegro*.

In *Turkey*, whereas a certain improvement was noted regarding freedom of association, defenders continued to be victims of judicial harassment.

Defenders also faced legislative restrictions to their freedoms of association (*Belarus, Russian Federation, Turkmenistan, Uzbekistan*), peaceful assembly (*Belarus, Kazakhstan, Russian Federation*) and expression (*Belarus*). Moreover, they were subjected to assaults and ill-treatment (*Kyrgyzstan, Russian Federation, Serbia-Montenegro, Uzbekistan*), threats (*Azerbaijan, Croatia, Turkey*), judicial proceedings and arbitrary detentions (*Belarus, Kazakhstan, Russian Federation, Turkey, Uzbekistan*), defamation and intimidation campaigns (*Azerbaijan, Georgia*) and obstacles to their freedom of movement (*Azerbaijan, Belarus, Chechnya*). Finally, NGOs were regularly victims of attacks, data thefts and abusive investigations (*Belarus,*

*Kazakhstan, Russian Federation, Uzbekistan*), and of suspension or arbitrary dissolution (*Belarus, Uzbekistan*).

### **Restrictions on freedom of association and defamation campaigns against NGOs**

In 2005, many of the CIS States carried on and intensified strategies in order to increase their control over independent civil society through a large panel of measures, from strengthening their legislation to closing down organisations deemed to be too critical of the government. Some States tried to justify these measures by claiming that they were necessary to protect national integrity from “new threats” coming from outside, in particular from Western Europe or the United States, in order to prevent any development that might lead to “coloured revolutions”.

In *Belarus*, President Lukashenko decided to introduce amendments to the Law on “Public Associations”, legalising the prohibition of non-registered organisations and extending the list of possible reasons for dismantling organisations. This “Law of amendments”, which came into force on 1 August 2005, constituted the premise for another law that was adopted at high-speed in December 2005, providing for heavy penal sanctions against any person carrying out activities within a non-registered organisation. After the judicial dismantling of the majority of independent human rights organisations<sup>1</sup>, a new threshold was then crossed by the government which, from this date on, began to directly attack activists. To justify this measure, the President of the Republic claimed that it was “necessary to protect Belarusian society from instability emanating from anti-Belarusian information sources”<sup>2</sup>. For his part, the Head of the Intelligence Service, Mr. Stsiapan Sukharenka, declared that “intelligence services would not allow the situation of the country to become destabilised as a result of ‘coloured revolutions’ that have already taken place in the CIS countries”. He pointed out that “the intelligence services of the Republic have enough information about all

1. 89 associations were dissolved through legal means in 2003 and 2004, several of which were human rights organisations, like the NGO Viasna, and about 40 associations (non-official figure) were dissolved through legal means in 2005.

2. See Address by the President of the Republic to the Defense Soviet, 30 September 2005. Non official translation.

kinds of seminars [...] and training courses organised by western specialists aimed at the citizens of Belarus” and that “the KGB, (which) is in control of the situation, will respond appropriately to any attempt to undermine the current laws of the territory”.

These words echoed the statements of Mr. Nikolay Patrychev, Director of the Federal Security Bureau (FSB) in the *Russian Federation*, when he pointed out, in a speech to the Lower House of Parliament in May 2005, that “his services were concerned about the increasing activities of foreign governments through NGOs”. He added that “[they] were thinking of introducing proposals in order to strengthen legislation regulating the work of foreign NGOs”. A few months later, in November 2005, amendments to three Russian laws were presented before Parliament, which drastically restricted the possible activities of international or foreign NGOs in the country, toughened the conditions of registration for national NGOs and strengthened the authorities power of interfering in their activities. Under pressure from Russian civil society and the international community, some modifications were made in the text before it was presented for second reading one month later. Significantly, the first meeting to revise the text was organised with representatives of the Intelligence Service, the Ministry of Defence and the Ministry of Home Affairs. However, even if some provisions concerning the establishment of foreign NGOs were withdrawn from the text, it still remained extremely restrictive.

The adoption of this text on 23 December 2005 illustrated the deterioration of fundamental freedoms in the Russian Federation and constituted a blank hardening of the position of federal authorities towards independent civil society. NGOs were accused of working in the pay of criminals and foreign powers, and were the subject of growing defamation campaigns by the authorities, aiming at discrediting them in the eyes of the population. Thus, on 14 September 2005, Mr. Yuri Kalinin, the Federal Penitentiary Service Director, stated that “many committees and all sorts of organisations exist in Russia today. None of these militants exercise their normal professions. The question is: how do they earn their living? Who is paying them? We know that their money comes from the thieves’ ‘common pots’”<sup>3</sup>. As for Mr. Sergei Lebedev,

3. See Conclusions of the Observatory international fact-finding mission in the Russian Federation, 18-23 June 2005.

Director of the Russian Foreign Intelligence Service (SVR), he accused in November 2005 NGOs and humanitarian missions of being “attractive for all intelligence services worldwide [which] need a cover [...] and a screen”.

Among the most targeted NGOs in the Russian Federation were those which dared to criticise the official Russian policy in Chechnya. Indeed, contrary to speeches made by the authorities, which tried to convince people of the “normalisation” in Chechnya, serious human rights violations were still perpetrated in this Republic. Defenders who attempted to denounce this situation were in turn targeted. For instance, the members of the Russian-Chechen Friendship Society (RCFS) in Nizhny Novgorod had to face serious judicial and financial harassment.

In *Kazakhstan*, the preparation for the presidential elections of 4 December 2005 also provided the authorities with a pretext for introducing new measures aiming at limiting the activities of foreign and international NGOs, especially concerning training and education in human rights. Thus, amendments to the Law on Elections of the Republic of Kazakhstan, which came into force on 15 April 2005, state that “[...] foreigners, stateless persons, foreign and international organisations shall be banned from activities that create obstacles for or assist in the promotion or election of candidates, [...] political parties [and] achievement of certain results in the elections”. In this regard, the law amending the Law on National Security, that came into force on 8 July 2005, provides for financial penalties for persons and legal bodies which infringe the clauses of the above-mentioned law, along with the expulsion of foreigners. On 12 September 2005, the President of the Republic, Mr. Nursultan Nazarbaev, further warned NGOs that the government “would closely watch them” to insure that international groups would not “mix themselves up in political life”. This behaviour, consisting in making systematic accusations against NGOs, stating that they are working in the pay of western powers and support opposition parties, entails serious risks of abuse. Thus, more than thirty national and international NGOs were subjected to inquiries by official representatives in 2005, on the basis of allegations that they had supplied money to opposition parties<sup>4</sup>.

4. See Human Rights Watch, Letter to President Nursultan Nazarbaev, 10 October 2005.

In *Uzbekistan*, Mr. Islam Karimov's regime continued to use the pretext of the fight against terrorism and religious extremism to suppress, by a reign of terror, all kinds of protest. In accordance with the decrees adopted in 2004 aiming at strengthening the control over civil society, all NGOs dealing with women's rights had to re-register. Most of these organisations were granted registration, even if this meant for many of them to include or remove some provisions in their statutes. Moreover, the decree adopted in 2004 in order to fight against money laundering and terrorism, obliging the organisations to deposit all their funds received from foreign donors only with the two State banks<sup>5</sup>, led to the shackling of NGOs activities and the intensification of the authorities control on their activities. Indeed, from this date on, they have had to provide a report on their activities to the Special Internal Committee created within the Uzbekistan Central Bank, and which is in charge of authorising all transfers of funds; this added to the reports which they had to send every three months to the Ministry of Justice and to the tax authorities. Last but not least, the government systematically repressed all dissident voices following the events in Andijan in May 2005<sup>6</sup>, and took advantage of this repressive context to muzzle civil society even further and close many organisations, such as the Bukhara Centre for Humanitarian Law and Internews.

In *Turkey*, despite improvements with regards to freedom of association, in particular since the new Law on Associations came into force in 2004<sup>7</sup>, human rights NGOs continued to be subjected to acts of harassment, especially those defending minorities. In May 2005, the Supreme Court ordered the closure of Egitim Sen, the largest union of college and university lecturers in Turkey, arguing that one of the articles of its statutes was contrary to the Turkish Constitution; the article stated that the union "defend[ed] the rights of individuals to education in their mother tongue and the development of cultures". The proceedings were abandoned when this wording in the statutes of the union was withdrawn.

5. See Annual Report 2004.

6. On 13 May 2005, more than 750 persons were killed during a demonstration against poverty, police repression and the trial of 23 persons accused of belonging to the radical Islamist movement *Akramia*.

7. See Annual Report 2004.

### **Collecting and broadcasting information on human rights: a high risk activity**

Transmitting information on human rights remained a difficult exercise in countries where independent press was muzzled and where, as a consequence, no media could relay denunciations made by defenders. This was the case in *Belarus*, *Turkmenistan*, *Uzbekistan*, and, to a lesser extent, in the *Russian Federation*. Besides, this activity proved to be very dangerous, as human rights defenders were subjected to different forms of reprisal.

For instance, in *Azerbaijan*, members of the Human Rights Centre of Azerbaijan (HRCA) continued to be victims of defamation campaigns after they transmitted information on prisoners of conscience.

In *Belarus*, the amendments to the Criminal Code, which came into force on 20 December 2005<sup>8</sup>, included an Article entitled “Discredit of the Republic of Belarus”, providing for heavy criminal sanctions for the transmission “of false information to a foreign State or international organisations, concerning the political, economic, military or international situation of the Republic of Belarus [...]”, the communication with foreign States or international organisations “to the detriment of internal security, sovereignty or territorial integrity”, and the dissemination of “material with such content”. The vagueness of the terms used might lead to arbitrariness, and might penalise the expression of all divergent opinions.

In *Kyrgyzstan*, it was sometimes difficult to collect information on human rights, especially about persons detained in institutions under the authority of the Ministry of Justice or in places of temporary police detention (IVS). On 17 June 2005, the Ministry of Justice indicated in a letter to the Youth Human Rights Group that, “according to the order [of 7 July 1995], information about the number of people condemned [to capital punishment] comes into the category of absolutely secret information”<sup>9</sup>.

In the *Russian Federation*, numerous illegal searches, attacks on offices and data theft were recorded in 2005, like for instance those that occurred on the premises of Memorial and the Soldiers’ Mothers

8. See above.

9. See Conclusions of the Observatory international fact-finding mission in Kyrgyzstan, 26 June - 6 July 2005.

of St Petersburg, or on several organisations in the Nizhny Novgorod region, such as the RCFS or the National Council of NGOs. Furthermore, on 15 November 2005, Mr. Osman Boliev, president of the human rights NGO Romachka, based in Kassaviurt (Daguestan), was arrested. After searching him, the police claimed to have found a grenade in his pocket and he was then accused of “participating in an illegal armed group”. He was remanded in custody in Kassaviurt, where he was still detained at the end of 2005. He had played an active role in preparing a case concerning a citizen kidnapped in October 2004 by members of the Kassaviurt police and sending it to the European Court of Human Rights in Strasbourg (France)<sup>10</sup>.

In *Uzbekistan*, 2005 was marked by the muzzling of information following the events in Andijan. A large number of NGOs and journalists were intimidated, arrested, placed in detention and ill-treated after attempting to denounce violent acts committed by the security forces at the time of these events. Some of them, for the same reason as a great number of citizens who witnessed these events, had to take refuge abroad. In this context, the Uzbek section of *Radio Free Europe (RFE)/Radio Liberty* was shut down on 12 December 2005, following many cases of harassment and threats against journalists who had denounced these events. For instance, Mr. Nozir Zokirov, a *RFE* journalist, was condemned to six years in prison on 26 August 2005. Moreover on 19 and 25 May 2005, the authorities made it abundantly clear that they would refuse any international inquiry into these events and refused the request for an invitation made in May and June 2005 by Mrs. Louise Arbour, United Nations High Commissioner for Human Rights.

Likewise, on 15 June 2005, the members of an international fact-finding mission sent by the International Helsinki Federation for Human Rights were forced to leave Andijan by the security forces. Similar restrictions were also applied to other kinds of investigation. In July 2005, official representatives appointed by FIDH to investigate into death penalty in Uzbekistan were intimidated and threatened before their departure by diplomats, who indicated that the authorities would not be held responsible “if anything happened to them”.

10. See Memorial.



During the mission, FIDH *chargés de mission* were denied access to the centres where those sentenced to death were being held.

In *Turkmenistan*, all those who attempted, individually, to criticise the regime, continued to be systematically repressed (detention in work camps or psychiatric hospitals, restrictions to their freedom of movement, surveillance and intimidation, pressure on their families, etc.). For example, in March 2005, Mr. Ruslan Tukhbatullin was forced to “resign” from his position as a general due to the human rights activities of his brother, Mr. Farid Tukhbatullin, in exile since 2003. Similarly, the father of Mrs. Tajigul Bergmedova, president of the Helsinki Foundation for Human Rights in Turkmenistan, likewise in exile abroad, remains isolated in a work camp due to his daughter’s activities.

In the Balkans, the denunciation of the authors of violations perpetrated during the war in former Yugoslavia remained a sensitive subject. The persons who took this risk were the target of nationalist and ultra-nationalist groups, like Mrs. Nataša Kandić, president of the Humanitarian Law Centre (HLC) in *Serbia-Montenegro*, or Mr. Drago Hedl, a journalist in *Croatia* and author of articles denouncing the role of the Croatian generals in the war crimes committed against Serb civilians in 1991-92. On 5 December 2005, he received at home an anonymous letter threatening him with death<sup>11</sup>. In *Bosnia-Herzegovina*, the attacks against the Helsinki Committee for Human Rights in 2004, and against Mr. Mladen Mimic, president of the Milici Citizens’ Association, in 2003, still remained unpunished<sup>12</sup>.

Finally, in *Turkey*, human rights defenders continued to be subjected to judicial proceedings due to their public criticisms. Moreover, many activists remained victims of long-standing sentences, which they appealed without any concrete result. This constituted an increasing pressure against such activists or organisations like the Association of Human Rights in Turkey (IHD) or the Human Rights Foundation of Turkey (HRFT).

11. See Reporters Without Borders (RSF), press release, 12 December 2005.

12. See Annual Report 2004.

## Hindrances to freedom of peaceful assembly

In *Azerbaijan*, on 21 October 2005, in a decision clarifying the meaning of Article 49 of the Constitution about freedom of peaceful assembly, the Constitutional Court stated that this freedom may be subjected to necessary limitations defined by law, within the context of a democratic society. Even if this decision is not in itself a restriction on freedoms, in practice it could open up further possibilities of repression against human rights defenders. Moreover, numerous cases of police violence were reported in the context of demonstrations during the campaign for the parliamentary elections of 6 November 2005. On 26 November 2005, many people were injured by the police when they denounced frauds that took place on polling day.

In *Belarus*, the amendments to the Criminal Code stipulate for serious judicial sanctions against any person who provides training or any other type of education aiming at participating in “mass activities”, or any person who funds such activities, as well as any person who provides training or any other form of education, aiming at the participation in “group activities which seriously violate public order”, or any funding or other material assistance of such activity”. It seems that these measures were taken in view of the forthcoming presidential elections, which were brought forward to March 2006 at the same time as this law came into force. Moreover, attacks against freedom of assembly continued in 2005. On 7 December 2005, the Brest section of the Helsinki Committee for Human Rights was notified that it was denied authorisation to held a gathering on the Universal Declaration of Human Rights and on the difficulties of the independent press, on 11 December 2005.

In *Kazakhstan*, numerous infringements to freedom of assembly were reported, especially in the context of the presidential elections of 4 December 2005. In particular, the Amendments to the Election Law of the Republic of Kazakhstan prohibit any demonstration between the eve of the ballot and the official announcement of the results. Moreover, the Law against Extremism, which had been adopted in 2004, came into force on 18 February 2005. This law stipulates that organisers of demonstrations and gatherings will be held responsible for the participation of “extremists”. This measure could be arbitrarily applied and discourage the organisation of peaceful assemblies and demonstrations. Furthermore, on 18 September 2005, a demonstra-

tion against the poor housing conditions in the suburb of Almaty was violently dispersed by the police.

In *Kyrgyzstan*, while in October 2004 human rights defenders had obtained a decision from the Constitutional Court, abrogating several provisions of the Law of 22 June 2002 (i.e. the obligation to ask local authorities at least 10 days in advance for the authorisation to hold meetings or demonstrations), the Council of Deputies of the town of Bishkek re-instated this obligation on 11 January 2005<sup>13</sup>. Subsequently, the police also used Article 8 of the Law on Meetings to disperse public demonstrations. Moreover, public protests that broke out in the middle of March 2005 in the context of the parliamentary elections in the big cities (i.e. Bishkek, Jalal Abad and Och) and which ended on 24 March 2005 with the flight of former President of the Republic, Mr. Askar Akaev, were violently repressed.

In *Turkey*, on 6 March 2005, many persons who had gathered in Istanbul to celebrate the International Women's Day were violently dispersed on the grounds that the demonstration had not been authorised. The police used tear gas and truncheons, injuring many participants. In April 2005, the Minister of the Interior issued a circular to remind the provisions of another circular issued in August 2004 on the need to prevent disproportionate use of force during such demonstrations. At the end of August 2005, judicial proceedings were pending against 54 police officers who were facing prison sentences for violence due to a disproportionate use of force.

In *Uzbekistan*, all the demonstrations of protest against the events in Andijan were cracked down. On 27 June 2005 in Tashkent, plain clothes policemen prevented the holding of a demonstration against media disinformation about the events in Andijan. Certain persons were held for several hours at the Regional Centre of the Ministry of Home Affairs and placed under surveillance before the demonstration, which had to be cancelled.

13. See Conclusions of the Observatory international fact-finding mission in Kyrgyzstan, 26 June - 6 July 2005.

## Fighting against racism and discrimination

Defenders of sexual, religious, ethnic and cultural minorities were regularly victims of attacks that often went unpunished when the perpetrators were nazi or far-right groups.

### Sexual Minorities

In *Poland*, in November 2005, several demonstrations calling for tolerance were organised following the victory of the conservative leader Mr. Lech Kaczynski at the presidential elections of October 2005. For example, on 19 November 2005, a peaceful assembly entitled “Equality March” organised at the initiative of organisations for the defence of homosexual and bisexual rights in order to promote human rights and the fight against all forms of discrimination, was repressed by the police. Around 60 participants were interrogated, whereas nazi groups who had set upon the demonstrators were not disturbed by the police<sup>14</sup>. These demonstrations took place in the context of growing hostility towards the homosexual community, actually relayed by certain senior officials. Among other things, the demonstrators were protesting against the announcement made on 4 November 2005 by the new Polish Prime Minister about the imminent closure of the Plenipotentiary Office for Equal Status, an independent body that had been working for four years in the fight against discrimination, and which had been set up in accordance with the European Union directives in this matter.

In *Turkey*, in September 2005, the deputy governor of Ankara opened proceedings against the Organisation Kaos GL for Gay and Lesbian Solidarity and Cultural Research for the “inauguration of an organisation contrary to moral laws and principles”, after the organisation requested to register as an NGO. The State Prosecutor refused to bring proceedings<sup>15</sup>.

### Ethnic and cultural minorities

In *Georgia*, Mr. Ucha Nanuashvili, president of the Human Rights Information and Documentation Centre (HRIDC), was intimidated

14. See International Lesbians and Gays Association (ILGA).

15. *Idem*.

by Mr. Kvaratskhelia Zaur, head of the Department of Ethnical Minorities and Georgian Diaspora Relations, of the President of the Republic office, after having given a press conference on 27 July 2005 in Tbilisi, during which he presented and circulated an FIDH report on the situation of ethnic minorities in Georgia.

In the *Russian Federation*, human rights defenders who fought in favour of minorities and against fascism were confronted to a real climate of hostility in their daily activities<sup>16</sup>. This climate resulted in a rise in xenophobia, racism and anti-semitism in Russia, targeting foreigners, minorities and, *de facto* defenders of their rights. This phenomenon did not only concern extremist groups, but was equally present at the heart of public administration, the political system and even the legal establishment. Indeed, the absence of official reaction was not always sufficient and the attacks to which the defenders were subjected were often considered as common law crimes. In this context, the lack of protection for witnesses and experts made them inclined to refuse to expose themselves to the risks incurred by testifying. On 13 November 2005, Mr. Timur Kacharava, a student and a member of an anti-fascist group, was murdered on the street by a group of skinheads. Following this attack, eight of the eleven assaulters were arrested and the investigation into those facts was pending as of the end of 2005. In December 2005, an anti-fascist demonstration was repressed in Moscow, and many human rights defenders, among them leaders of the organisation Memorial, were taken to the police station<sup>17</sup>.

In *Turkey*, persons defending the rights of Kurdish, Armenian and Alevi minorities continued to be subjected to judicial proceedings, such as the Association Democracy for Kurdish Culture and Solidarity in Diyarbakir, which was closed down in July 2005 in the framework of judicial proceedings linked to the publication of a clause in their statutes on education and the distribution of their documents in Kurdish. Furthermore, Article 301 of the new Turkish Criminal Code (June 2005), relating to the denigration of "Turkish identity", was used on numerous occasions to sanction people, including journalists who dared to speak about the Armenian genocide of 1915.

16. See Conclusions of the Observatory international fact-finding mission in the Russian Federation, 18-23 June 2005.

17. See Memorial.

## Mobilisation for regional and international protection of defenders

United Nations (UN)

During the 61<sup>st</sup> session of the UN Commission Human Rights (UNCHR) in April 2005, Mrs. Hina Jilani, Special Representative of the UN Secretary General on Human Rights Defenders, presented her report on her visit to *Turkey* from 11 to 20 October 2004. Whereas she pointed out “that the new law on freedom of association represents an impressive step towards an environment favourable to the activities of human rights defenders”, she called on the government to “continue to review this law in order to guarantee complete freedom of assembly” and she urged the authorities “to put an end to the surveillance [...] to which human rights defenders are subjected; not to publish declarations which call into question the legitimacy of the objectives of organisations for the defence of human rights [...] and to ensure that defenders shall be able to engage in international co-operation without risk of reprisals”. Moreover, she recommended that “all cases pending against human rights defenders be reviewed and the possibility should be explored of abandoning the current procedures [...]”. Finally, she called upon the government to “ensure proceedings should not be initiated against defenders in connection with their actions for the defence of human rights”<sup>18</sup>.

In her report to the Commission, Mrs. Jilani indicated that 16,5% of her communications in 2004 were based on information coming from European and Central Asian countries.

At the end of 2005, the request for a visit from the Special Representative to the *Russian Federation* was still under discussion. Her requests to *Belarus* and *Turkmenistan* did not receive any reply, while her request to *Uzbekistan* was refused.

At the 61<sup>st</sup> session of the UNCHR, Member States adopted a resolution on *Belarus*, in which they noted “the persistent reports concerning acts of harassment against non-governmental organisations, national minority organisations, independent media outlets, opposition political parties and independent trade unions, along with their suppression, and acts of harassment against individuals pursuing democratic activities[...]”. Moreover, they requested the authorities to

18. See United Nations Document, E/CN.4/2005/101, add. 3.

“cease harassing non-governmental organisations [...]; to review the legislation and national practices concerning the obligatory registration of non-governmental organisations” as well as “to co-operate fully with all the political mechanisms of the Commission particularly by inviting to Belarus [...] the Special Representative of the Secretary General on human rights defenders [...]”<sup>19</sup>.

### The European Union (EU)

On 15 and 17 July 2005, the Observatory arranged a meeting in Brussels (Belgium) between Mrs. Jilani and Mr. Michael Matthiesen, Personal Representative for Human Rights of the High Representative for the Common and Foreign security Policy (CFSP), along with several representatives of the European Commission and the European Parliament. Furthermore, the Observatory participated in the EU NGO Forum organised by the British Presidency in London (United Kingdom) on 8 and 9 December 2005, during which a workshop was especially dedicated to the implementation of the EU Guidelines on human rights defenders.

On 2 December 2005, the EU Presidency published a declaration, sharing its preoccupation about the “decision of the *Belarusian* National Assembly to approve the amendments to the Criminal Code and the Code of Criminal Procedure intensifying the penalties for activities directed against persons and against public security”. On 15 December 2005, the EU asserted that it “share[d] the opinion of the United Nations Special Rapporteur, Mr. Adrian Severin, that the new provisions have the potential to severely undermine freedoms of assembly, association and expression [in Belarus]”. The EU “very much regret[ted] that despite its urgent call to the Belarusian National Assembly to reconsider the decision and to reject the undemocratic draft legislation, the Belarusian authorities continued to further its adoption”. The EU finally indicated that it “will continue to follow closely development in Belarus and stands ready to take appropriate measures against individuals responsible for not upholding international standards”.

19. See United Nations Document, E/CN.4/RES/2005/13.

In March 2005, on the eve of its visit to *Turkey*, an EU delegation said it was worried about the violent repression of a demonstration in favour of women's rights on 6 March that year<sup>20</sup>.

In its press release of 8 September 2005, the EU Presidency emphasised that the Union was concerned, among other things, about the situation of human rights defenders in *Russia* as well as restrictions on freedom of expression. Moreover, the EU emphasised the phenomenon of racism and xenophobia and recognised the importance of NGOs in the promotion of human rights<sup>21</sup>.

On 3 October 2005, the EU Council of Ministers sounded the alarm bell concerning the detentions and harassment of *Uzbek* human rights defenders who criticised the official version with regard to the events in Andijan on 12 and 13 May 2005. Furthermore, in a statement from the EU Presidency on 19 October 2005, the Union expressed its concern about the decision of the Court on 18 October 2005 to place Mrs. Elena Urlaeva in a psychiatric hospital, and asked the Uzbek authorities to "postpone any such treatment until such time as an independent assessment is made of [her] health"<sup>22</sup>.

On 15 December 2005, at the end of their debate on the modification of the legislation on NGOs in the *Russian Federation*, the European Parliament adopted a resolution<sup>23</sup> in which it "voiced its deep anxiety" concerning this law, "appealed to the Duma to take the necessary time to revise and improve this legislation", and inviting the authorities to "engage in a broad consultation involving all the democratic elements of Russian civil society in order to find the means [...] really to help and consolidate the creation of NGOs". The Parliament also called on "the Austrian and Finnish Presidencies of the EU Council to allow more time for the EU/Russian dialogue on human rights and continue to involve the EU Parliament in this process." To this end, the Parliament invited the Russian authorities "to put an end to the politically motivated harassment of NGOs, in particular those observing the situation in Chechnya, for example the Russo-Chechen Friendship Society".

20. See above.

21. See Press Release of the EU Presidency, document 12801/05 (Press 228), 8 September 2005.

22. See Statement from the EU Presidency on Uzbekistan, 19 October 2005.

23. See European Parliament Resolution P6\_TA-PROV(2005)0534.



### Organisation for Security and Co-operation in Europe (OSCE)

On 30 and 31 March 2005, the Office of the Democratic Institutions and Human Rights (ODIHR) organised a conference on “the legal framework of freedom of association and meeting in Central Asia” in Almaty (Kazakhstan). The participants made recommendations to the governments of Central Asian countries, calling on them to “conform to international norms when adopting new laws relating to the fight against terrorism, extremism and in matters of national security”.

In September 2005, the Observatory took part in the Human Dimension Meeting of the OSCE. On this occasion, the Observatory intervened under the point of the agenda dedicated to freedoms of association and peaceful assembly (20 September 2005), and urged Member States to take action on the need to create a protective mechanism for defenders. The Observatory also organised, jointly with the International Human Rights League, a ‘parallel event’ on freedom of association in post-soviet countries. To this end, they invited two representatives of its member organisations and partners in Belarus and Uzbekistan.

### Council of Europe

In 2005, the Observatory, which had initiated within the Forum of NGOs the creation of a working group on human rights defenders, convoked several inter-NGO meetings with the hope of adopting a protective mechanism for human rights defenders within the Council of Europe.

In a press release dated 1 December 2005, Mr. Terry Davis, Secretary General of the Council of Europe, stated that “the proposed amendments to the law of the *Russian Federation* regulating freedom of assembly pursue legitimate objectives in the fight against terrorism and money laundering [...]. However, aspects of these amendments, concerning administrative and fiscal requirements for the registration of non-governmental and non-profit organisations, participation of foreign nationals and minors, and the authorities’ powers of supervision over NGO activities and over the grounds for their dissolution are too restrictive”.

On 19 October 2005, the Council of Ministers published a report on freedom of association in the member countries of the Council of Europe<sup>24</sup>. In this report, it noted that, in the context of the Action Plan adopted at the Warsaw summit, the Heads of State and Government of the Member States decided “to enhance the participation of NGOs in [Council of Europe] activities as an essential element of civil society’s contribution to the transparency and accountability of democratic government”. Among other things, this report revealed a “gap as regards relevant legal instruments elaborated within the Organisation [regarding freedom of association]”. In their conclusions, the delegates of the Council of Ministers invited Member States “to make full use of Council of Europe co-operation programmes in the field of freedom of association and civil society and disseminate information on possibilities available to other interested partners, such as mainly NGOs”.

Finally, at the request of the Russian authorities, the Council of Europe issued a provisional opinion on the compatibility of the draft amendments to federal laws of the *Russian Federation* regarding non-profit organisations and public associations<sup>25</sup> with the European Convention on Human Rights. In this notice, made public on 1 December 2005 between the first and second reading of the text<sup>26</sup>, the expert of the Council of Europe in charge of this mission stated that several measures were too vague, leaving too much scope for the discretionary powers of the authorities, especially concerning the reasons for refusing registration and dissolving organisations.

#### Seminar on Human Rights Defenders, Oslo (Norway), 25-27 May 2005

From 25 to 27 May 2005, the Observatory took part in a seminar on human rights defenders organised in Oslo by the Norwegian Ministry for Foreign Affairs. This seminar, which brought together numerous international actors involved in the protection of human rights defenders (the Special Representative of the UN Secretary General on Human Rights Defenders, representatives of mechanisms of regional protection, representatives of the EU and the States visi-

24. See Council of Ministers’ report CM/Monitor (2005).

25. See above.

26. See Document of Council of Europe, PCRED/DGI/EXP(2005) 63.

ted by Mrs. Jilani, international NGOs working in this area). The seminar allowed the participants to exchange their points of view on several questions, concerning, in particular, the issues linked to the renewing of the Special Representative's mandate in March 2006 and the collaboration between international and regional mechanisms.

### Commonwealth

During the Commonwealth Summit held on 25 and 27 November 2005 in Malta, the Observatory drew the attention of Member States to the situation of human rights defenders in African Member States of the Commonwealth. The cases of violations listed by the Observatory on that continent in 2004 and 2005 were quoted, as well as the negative impact of the entry into force of restrictive laws concerning freedom of the press in *Gambia* and freedom of association in *Tanzania*. Member States of the Commonwealth were advised to set up a special unit on human rights defenders, which should have powers to interrogate Member States on cases of violations of defenders' rights.

### Civil Society

From 13 to 15 October 2005, Frontline Defenders organised the third Human Rights Defenders' Platform in Dublin (Ireland), in which the Observatory took part. This meeting enabled about a hundred human rights defenders to meet each other, as well as representatives of regional mechanisms for the protection of human rights defenders.

On the fringe of the EU NGO Forum organised on 8 and 9 December 2005 by the British Presidency, the Observatory took part in the organisation of an inter-NGOs meeting on 7 December in London, at the initiative of Amnesty International. This meeting gave the NGOs present, involved in the protection of human rights defenders, the opportunity to consult on common strategies for the implementation of the EU Guidelines.

## HUMAN RIGHTS DEFENDERS IN THE LINE OF FIRE

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### AZERBAIJAN

#### **Defamation campaign against Mr. Eldar Zeynalov and Mrs. Leyla Yunus<sup>1</sup>**

At the end of March 2005, Mrs. **Leyla Yunus**, a member of the Institute for Peace and Democracy, learned from anonymous sources that her name was included in a “black” list of the intelligence services and that she “should be careful”.

At the same time, Mrs. Yunus and Mr. **Eldar Zeynalov**, head of the Human Rights Centre of Azerbaijan (HRCA), were victims of a defamation campaign in the pro-government television channels *Lider TV*, *ATV* and *Space TV*. In particular, a journalist for *Lider TV* accused Mrs. Yunus of working “against the State of Azerbaijan”, and stated that “people [like her] should not be given any protection”. Between June and August 2005, both were accused by several journalists of defending “terrorists”. In addition, a group of law professors, close to the government, publicly accused Mr. Zeynalov and Mrs. Yunus of “non-professionalism” and of “[providing] misinformation to international organisations”, in particular at a press conference on 17 October 2005.

Mrs. Yunus also received several death threats. Although she lodged a complaint against the security services, no inquiry had been opened yet by the end of 2005.

In 2004, Mr. Zeynalov and Mrs. Yunus had already been subjected to a defamation campaign in the pro-government media after they had presented a list of Azerbaijani political prisoners in May 2004 to representatives of the Parliamentary Assembly of the Council of Europe (PACE). At that time, they had been accused of supporting terrorists and members of the “Chechen resistance movement” and of disseminating false information to European institutions.

1. See Annual Report 2004 and Open Letter to the Azerbaijani authorities, 29 April 2005.

## Threats against Mrs. Arzu Abdullayeva and murder of Mr. Elmar Huseynov<sup>2</sup>

At the beginning of 2005, Mrs. **Arzu Abdullayeva**, president of the Azerbaijani Committee of the Helsinki Citizen's Assembly (HCA), and co-president of HCA International, was subjected to acts of harassment and intimidation. In particular, she noticed on a number of occasions that she was being followed by unknown individuals and received several anonymous death threats. On 9 April 2005, unknown persons came to the HCA office in Baku and at her home, demanding to speak to her, although a meeting had not been arranged.

These events followed the murder, on 2 March 2005, of Mr. **Elmar Huseynov**, founder and editor of the *Monitor*, a weekly newspaper that works closely with HCA. In January 2005, during the pre-electoral campaign, Mr. Huseynov had, notably, been critical of power abuses by several high-ranking officials, at the time when a law on the fight against corruption was coming into force, and when several representatives of the Ministry of Justice had been arrested and brought to court.

## Ongoing harassment of Mr. Ilgar Ibragimoglu<sup>3</sup>

On 4 April 2005, Mr. **Ilgar Ibragimoglu**, coordinator of the Centre for the Protection of Conscience and Religious Freedoms (DEVAMM), and secretary general of the International Religious Liberty Association (IRLA), was prevented from leaving Azerbaijan.

Mr. Ibragimoglu was to attend the 61<sup>st</sup> session of the United Nations Human Rights Commission in Geneva (Switzerland), in order to present a report on criminal proceedings of religious nature in Azerbaijan. Yet, Mr. Ibragimoglu had given to the authorities prior notice of his official invitation to take part in the Commission. The representative of the customs department explained that they had received orders not to let him leave. This was the fifth time since August 2004 that Mr. Ibragimoglu was prevented from leaving the country.

On 20 December 2005, Mr. Ibragimoglu was again prevented from attending a conference in which he was to take part, this time in

2. See Open Letter to the Azerbaijani authorities, 29 April 2005.

3. See Annual Report 2004 and Urgent Appeal AZE 003/1203/OBS 068.2.

Moscow (Russian Federation). The customs officer told Mr. Ibragimoglu that he had been ordered by the Ministry of Justice not to allow him to leave.

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## BELARUS

### Restrictive legislation<sup>4</sup>

#### New law on “Public Associations”

On 1 August 2005, amendments to the Law on “Public Associations” of 4 October 1994 came into force after being signed on 22 July 2005 by the President of the Republic, Mr. Aleksandar Lukashenko. These amendments, drafted without any consultation with independent civil society, comprise the provisions of several decrees, regulations and customary laws already adopted or applied by the authorities in the past.

#### *Registration of NGOs*

The new amended law incorporates the provisions of several presidential decrees that stipulate in particular the prohibition of non-registered civil society organisations (Article 7) and especially restrictive registration conditions. For example, an association wishing to apply for registration must provide the authorities with a list of its founding members as well as their full personal and professional addresses, the list of all members of the elected bodies of the organisation, within one month following the registration, and a document confirming the registered address of the organisation. This last condition is especially difficult to fulfil, as the State, the main landlord of premises, exerts great pressure on individuals to dissuade them from renting their offices to associations. As a consequence, they are finding it increasingly difficult to find premises and frequently have to set up their offices in the homes of their members.

In addition, the body responsible for examining registration applications from organisations is the Republican Commission for Registration. This commission, established in 1999 by presidential decree and whose members are appointed by the President of the

4. See Annual Report 2004.

Republic, must “give its opinion as to whether an association can be registered or not and send its conclusions to the authority responsible for processing the registration” (Article 14). This authority, in this case the Ministry of Justice or one of its local departments, decides on the basis of these conclusions.

### *Suspension of NGOs*

The amended law provides that the activities of an organisation may be suspended by court decision for a period ranging from one to six months, following application to the court by the authorities responsible for the registration, when: the authorities have already issued a written warning to the organisation; the organisation has not remedied the violations relating to its activities or its structure within the time-limit notified to it; or where it has failed to advise the relevant authorities that it has remedied these violations (Article 28).

The law stipulates that the authorities can issue a written warning for every breach of the legislation, no matter what that might be. These written warnings may be appealed.

### *Dismantling of NGOs*

The new law reiterates the former reasons for dismantling: when an organisation has committed acts aimed at the “violent change of the constitutional system”, “propaganda for war” or “inciting social, national, religious or racial hatred”; when an organisation has violated a legal provision after receiving a written warning in the same year; or when, on the registration of the organisation, its founding members have perpetrated serious or repeated violations of a legal provision – which is in particular a repetition of Article 57 of the Civil Code of Belarus, on the basis of which many NGOs were wound up by court over the last few years.

The law also adds other reasons for dismantling an organisation when: its composition or its affiliation do not comply with the conditions stipulated by the law; the organisation fails to remedy the violations leading to its suspension within the given time-limit; the organisation commits a breach of the law on public meetings or on the use of foreign funds.

*Control over the activities and funding of NGOs*

According to the law, organisations must provide an exhaustive annual report on their activities, their members, their possible affiliations to international NGOs and on events organised over the year.

In addition, Article 6 stipulates that “the involvement of State organs or officials in the activities of civil societies [...] is prohibited, except in cases stipulated by the law”. Article 24 of the law, however, gives the authorities responsible for the registration of organisations the right to participate in their demonstrations, to ask for and receive information about their activities and to “familiarise themselves” with their documents and resolutions. Organisations must also inform these same authorities about any meeting of their directors, at least seven days in advance, and also about any change in the composition of their elected organs.

Furthermore, Article 25 provides that the economic and financial activity of the organisation is controlled by State organs or other State organisations within the limits on their competence, without however specifying what these bodies are.

Finally, with regard to the receipt of funds, the new law is particularly vague: indeed, apart from sums from membership fees and possible business dealings, associations can only receive funds from “other sources of income not prohibited by law”.

**Restrictive amendments to the Criminal Code<sup>5</sup>**

On 23 November 2005, Mr. Lukashenko submitted to the Lower House of Parliament, as a matter of urgency, a series of extremely restrictive amendments to the Criminal Code (adopted in 1960), regarding freedoms of association, assembly and expression.

After they were passed by Parliament on 8 December 2005, Mr. Lukashenko proceeded to sign them on 13 December 2005. They came into force on 30 December 2005.

*Criminalisation of human rights defenders’ activities*

These amendments to the Criminal Code criminalise the organisation for any activity carried out by a suspended or dismantled organisation. Such activities may be punished by a fine or a six-month prison

5. See Press Releases, 1 and 14 December 2005, and Open Letter to the Belarus authorities, 9 December 2005.



sentence; in the most serious cases (for which there is no definition), these sentences can be up to two years of “restriction of freedom”<sup>6</sup> (Article 193-1).

In addition, any person offering training or any other type of education aimed at participating in “mass activities”, or who finances these activities, faces a sentence of up to six months in prison, or a “restriction of freedom” for three years (Article 293). Any person offering training or any other type of education aimed at participating in a “group activity causing serious disturbance to the public order”, or who finances or in any other way supports such activities, may be sentenced to a maximum of six months’ imprisonment or a “restriction of freedom” for a period of three years (Article 342). However, there is no clear definition of the “mass” or “group” activities.

Finally, persons suspected of acts of “terrorism” or “vandalism”, concepts that are not defined in the text, may be detained for ten days without charge.

The particularly vague meaning of these terms leads one to fear that these provisions will be arbitrarily used.

#### *Restrictions on freedoms of information and expression*

By virtue of these amendments, the transmission of false information to a foreign State or an international organisation concerning the Belarusian political, economic, military or international situation, the judicial situation of Belarusian citizens, or any decision-making body, can be sanctioned by six months’ imprisonment or two years of “restriction of freedom”. These amendments also state that anyone who communicates with a foreign State or an international organisation to the detriment of internal security, sovereignty or territorial integrity, or who disseminates material with such content, could be sentenced to a prison term of between six months and three years. If such information is disseminated through mass media, the “perpetrators” could be sentenced from two to five years of “restriction of freedom”.

6. The term “restriction of freedom” means that those who are sentenced are sent to villages where they are forced to live, work and regularly present themselves at the police station, or else to closed labour camps, often under very harsh conditions.

## Ongoing harassment of Viasna and its members<sup>7</sup>

Although the registration of the human rights NGO Viasna had been cancelled through legal proceedings in 2003, like many other independent NGOs, its members remained active and consequently continued to be subjected to acts of harassment.

### Brest Section

On 2 February 2005, judicial proceedings were instigated by the office of the local Prosecutor against Mr. **Uladzimir Malei**, legal adviser of the Brest section of Viasna and a member of the Council of Deputies of the Malaryta district, on the grounds that he had sent false information to the newspaper *Nasha slova*, regarding the president of the Executive Committee of the Malaryta district. These proceedings were related to an article on the investigation carried out by a deputy into corruption cases amongst high-ranking local officials. On 28 July 2005, the case was dropped for lack of grounds.

In addition, on 29 September 2004, the police, acting without a warrant, had surrounded the Viasna office in Brest. One hundred and thirty-seven copies of a brochure reporting cases of human rights violations perpetrated in the Brest region in 2003 and 2004 had been confiscated. By the end of 2005, the proceedings instigated against the section's president, Mr. **Vladimir Vyalichkin**, for "carrying out activities for an unregistered organisation" (Article 167.10 of the Administrative Code), were still pending, and the documents confiscated by the police had still not been returned.

Finally, on 7 December 2005, the section received notice that it had been refused permission to organise an assembly on the Universal Declaration of Human Rights and the difficulties of independent media on 11 December 2005.

### Zhodzina section

On 18 October 2005, the Viasna office in Zhodzina, located at the home of Mr. and Mrs. **Aliaksei** and Mrs. **Sviatlana Lapitski**, members of Viasna, was attacked.

On 19 October 2005, their home was again subjected to acts

7. See Annual Report 2004.

of vandalism after Mr. Lapitski lodged a complaint about the previous day's events.

On 25 October 2005, several shots from a large-bore rifle were fired at the window of their home.

By the end of 2005, an inquiry into these attacks was underway.

Those acts might be related to an article published by Mr. and Mrs. Lapitski, denouncing their difficulties in letting their child study the language of Belarus.

In addition, in September 2005, the local Public Prosecutor accused Mr. Lapitski of "behaviour contrary to good morals" when Mr. Lapitski went to learn the results of a complaint he had lodged in 2004. Subsequently, the Court pronounced in favour of Mr. Lapitski, judging that the accusations brought against him were groundless.

### **Ongoing harassment of the Belarus Helsinki Committee for Human Rights<sup>8</sup>**

#### Judicial proceedings against BHC

In August 2003, the Belarus Helsinki Committee for Human Rights (BHC) had received a warning from the Ministry of Justice for using letterhead paper and a stamp failing to comply with the statutes of the association.

Subsequently, at the end of an investigation carried out in August 2003 and January 2004 by the representatives of the Tax Inspection of the Moscow District in Minsk, BHC had been accused of tax fraud relating to funds received from the European Union's Technical Assistance Programme (TACIS) between 2000 and 2002. It had been ordered to pay 385,000,000 roubles (approximately 138,000 euros).

The Inspection of Taxes had based its decision on Decree No. 8, adopted in March 2001, on the "Receipt and Use of Foreign Financial Assistance and Omission to Register Foreign Financial Assistance" (Article 12). However, in accordance with the General Rules agreed by Belarus and the EU in the "Memorandum on Financing" of 10 May 2004, the funds are exempt from tax and Decree No. 8 does not apply to foreign financial assistance allocated under this programme. Also, on 23 June 2004, after several hearings, the Economic Court had dismissed the decision of the Tax Inspection of the Moscow District

8. *Idem*.

in Minsk and ordered it to repay the procedure costs incurred by BHC (190,000 roubles – 68 euros), stating that the latter had acted in complete legality.

On 18 October 2005, Mr. Eugène Smirnou, vice-president of the Supreme Economic Court (SEC), lodged an appeal against this verdict, as he believed that the translation of the Memorandum between Belarus and the EU had been wrongly interpreted. On 20 December 2005, SEC sentenced BHC to pay the sum of 70,000 euros for arrears of taxes and fines. BHC considered appealing against this decision, and the case was still pending by the end of 2005.

In addition, by the end of the year, proceedings for “tax evasion”, instigated on 17 March 2004 and based on the same charge against Mrs. **Tatsiana Protsko**, BHC president, and Mrs. **Tatsiana Rutkevitch**, chief accountant, were also pending.

Furthermore, BHC continued to be subjected to a financial investigation by the Ministries of Justice, Taxes, Economy and Foreign Affairs.

#### Harassment of Mr. Garry Pogoniaïlo

On 23 November 2004, the Public Prosecutor’s office in Minsk had instigated proceedings for “defamation” against Mr. **Garry Pogoniaïlo**, BHC vice-president, on the grounds that he had accused the President of the Republic of having committed “serious crimes”, in an interview he had given on 18 August 2004 on the Swedish television channel *TV4*. Mr. Pogoniaïlo had condemned the likely involvement of the President of the Republic into the disappearance of several opposition members, and also the lack of precision in the inquiries. The videotape containing the interview had been confiscated from the *TV4* journalist by customs officers when he was leaving Belarus, examined by the KGB and then sent to the Public Prosecutor’s office.

On 2 March 2005, the Prosecutor suspended proceedings against Mr. Pogoniaïlo, believing that these acts did not constitute a crime.

On 23 May 2005, the case was re-opened and finally closed at the end of November 2005.

### **Obstacles to the freedom of movement of Mrs. Vera Stremkovskaya<sup>9</sup>**

On 28 November 2005, Mrs. **Vera Stremkovskaya**, a lawyer and a human rights activist, received notice that she was prohibited from leaving Belarus. She had been planning to visit Tbilisi (Georgia) on 3 and 4 November 2005, in order to take part in a conference organised by the Organisation for Security and Cooperation in Europe (OSCE) on the “role of defence lawyers in guaranteeing a fair trial”. Mrs. Stremkovskaya was to speak on the need for change in Belarusian law to guarantee the independence of lawyers and the judicial system.

For this reason, she asked for the authorisation of the Minsk Bar Association to travel abroad, in accordance with the law, which stipulates that lawyers must request leave in advance in order to leave the country. Mr. A.V. Gambolevsky, deputy president of the Minsk Bar Association, based his refusal on the “possible need for extra lawyers for big criminal cases in other regions of Belarus”.

### **Release of Mr. Yuri Bandazhevski<sup>10</sup>**

Mr. **Yuri Bandazhevski**, an internationally renowned scientist specialised in medical research on nuclear radioactivity and former director of the Medical Institute in Gomel, had been sentenced on 8 June 2001 to eight years’ imprisonment on the grounds that he had sought bribes from the parents of pupils of the Gomel Institute. His research had revealed the harmful effects of the Chernobyl disaster on the population, contradicting the official claims made by the authorities. He had also criticised the misuse of Health Department funds, which he had said should have been used for research in this area.

On 31 May 2004, his prison sentence had been commuted, for good conduct, into a “restriction of freedom” sentence by the Belarus Criminal Court. Mr. Bandazhevski had been taken to Gyzgany, in the Grodnensk region, where he had been forced to work as a guard on a local collective farm (*kolkhoz*).

On 5 August 2005, Mr. Bandazhevski was released under judicial supervision, in accordance with the Code of Criminal Procedure that

9. See Urgent Appeal BLR 001/1105/OBS 110.

10. See Annual Report 2004.

allows such a release for convicted persons who completed two thirds of their sentence and did not commit any breach of prison regulations.

Nevertheless, Mr. Bandazhevski remained liable for a sum of 35 million roubles (approx. 13,600 euros) in damages to the State, and was still prohibited from holding any administrative or executive office in public institutions.

Mr. Bandazhevski submitted a paper to the United Nations Human Rights Committee objecting to his detention. This complaint, pronounced admissible on 7 July 2003, should be examined at the next session of the Committee in March 2006.

### **Civil Initiatives' dissolution remains in force<sup>11</sup>**

On 17 June 2003, the NGO Civil Initiatives had filed a complaint with the United Nations Human Rights Committee following its judicial dismantling.

In spring 2004, the Human Rights Committee had requested the Belarusian government to justify the dismantling of this NGO. However, by the end of 2005, the Committee had still not received any reply and this organisation remained therefore closed. The Committee was to pronounce on this case at its July 2006 session.

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## **GEORGIA**

### **Ongoing harassment of HRIDC members<sup>12</sup>**

On 27 September 2005, Mr. Ucha Nanuashvili, executive director of the Human Rights Information and Documentation Centre (HRIDC), received a telephone call from Mr. Kvaratskhelia Zaur, head of the Department for Relations with Georgian Diasporas and Inter-ethnic Relations at the office of the President of the Republic. In particular, Mr. Zaur accused Mr. Nanuashvili of being an "informer" and a "traitor", of divulging "false information" about ethnic minorities in Georgia and of representing the interests of foreign powers. These events followed a press conference on 27 July 2005 in

11. *Idem.*

12. See Annual Report 2004 and Urgent Appeal GEO 001/1005/OBS 088.

Tbilisi, during which Mr. Nanuashvili presented an FIDH report on ethnic minorities in Georgia.

Since then, the offices of his organisation have been subjected to several attempted break-ins and a guard is now there every night.

In November 2004, HRIDC had been threatened by several high-ranking officials who called on it to cease its activities concerning the rights of refugees.

In addition, HRIDC, like other independent organisations, continued to be ostracised by the authorities. Indeed, HRIDC requested to join the Supervisory Board on Pre-trial Detention, created in January 2005 by the office of the Ombudsman (to which it is answerable) and the Ministry of the Interior, but by the end of 2005 it had not received any reply to its request. HRIDC had already been prevented from joining the Supervisory Council of the Prison System, established in August 2004.

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## GREECE

### **Attack against Mr. Gregory Vallianatos<sup>13</sup>**

On 11 April 2005, Mr. **Gregory Vallianatos**, president of the Greek Helsinki Monitor (GHM), a free-lance journalist and producer of television programmes on human rights, was attacked in Athens by Mr. Alexis Koungias, a lawyer known for his homophobic views. Mr. Koungias struck Mr. Vallianatos violently on the head and insulted him. Mr. Vallianatos filed a complaint against Mr. Alexis Koungias. By the end of 2005, the proceedings were still pending.

On 12 April 2005, the police arrested Mr. Koungias, who was brought before the Prosecutor and released the next day, pending the results of the criminal investigation. On the same day, the Bar Association of Athens took disciplinary action and suspended Mr. Koungias for six months. He had already been the object of similar disciplinary procedures for, among other things, expressing homophobic views. Mr. Koungias appealed against the decision. By the end of 2005, the case was being examined by the Disciplinary Bureau of the second

13. See Closed Letter to the Greek authorities, 26 April 2005.

instance of the Bar Association.

However, Mr. Alexis Kougias repeated his verbal attacks in the media on several occasions.

### **Slandering statements against several NGOs<sup>14</sup>**

On 19 April 2005, Mr. Nikitas Kaklamanis, Minister of Health, and Mrs. Ionna Despotopoulou, Secretary General of Social Solidarity, publicly accused non-governmental organisations of “existing only on paper” and of “publishing negative reports on the basis of unreliable, exaggerated and misleading information on the victims of the smuggling of human beings in Greece, in order to obtain an increase in funding from the Greek Ministry of Foreign Affairs”. In particular, they explicitly named GHM. These statements, which Mrs. Despotopoulou repeated in July 2005, followed the information transmitted by GHM, on behalf of several Greek NGOs, to the United Nations Human Rights Committee. GHM lodged a complaint against those two official representatives before the Parliament, the only body that is authorised to judge members of the government. By the end of 2005, the case was pending.

### **Arrest and acquittal of Mr. Loizos Sideris and Mrs. Maria Stamouli<sup>15</sup>**

On 26 April 2005, Mr. **Loizos Sideris** and Mrs. **Maria Stamouli**, members of the Committee for Solidarity with Refugees on the island of Chios, located in the north Aegean Sea, attempted to hang a banner in the island’s port, which read “Europe Murderous Fortress – security of landowners is hiding at the bottom of the Aegean”. They were protesting against the drowning of two foreigners and the disappearance of five others on 25 April 2005, as they were attempting to reach Greece by boat.

On the order of the island’s Prosecutor, Mr. Loizos Sideris and Mrs. Maria Stamouli were arrested by the port authorities and appeared before the court the next day. Accused of “inciting the citizens to acts of violence against third parties, inciting animosity and disturbing the peace” (Article 192 of the Criminal Code), they were finally acquitted.

14. See GHM and the Center for Research and Action for Peace (KEDE – Stop Now) Press Release, 20 April 2005.

15. See GHM.



### **Harassment of Mr. Theo Alexandridis<sup>16</sup>**

On 13 October 2005, Mr. **Theo Alexandridis**, GHM legal counsel, was held at a police station for four hours after having participated, along with other human rights activists, in various demonstrations against the expulsion of Roma children from their school, subsequent to pressure exerted by certain parents of non-Roma children in the “Psari” neighbourhood in Aspropyrgos, near Athens.

Mr. Alexandridis had gone to the police station to lodge a complaint against the parents, responsible for violent acts during those demonstrations. Once he had filed the complaint, Mr. Alexandridis was not allowed to leave or meet with his colleagues at GHM. He was subsequently told that he was under arrest. Two hours later, he was told that he would not be judged in the framework of read-handed procedure and was released. The president of the Pupils’ Parents Association lodged a complaint against Mr. Alexandridis for “libel” and “defamation”. As of late 2005, the case was still pending.

### **Mr. Gjorgji Plukovski denied entry<sup>17</sup>**

On 4 August 2005, Mr. **Gjorgji Plukovski**, a member of the Macedonian Human Rights Movement International (MHRMI) and of the Association of Refugee Children from Aegean Macedonia (ARCAM), was denied entry upon his arrival at the Greek border. He was given an official document stating that he was considered to be a “threat to public order, to national security, to public health, and to international relations with one or more European Union Member States”.

M. Plukovski went to Greece on several occasions, in particular in July 2005, where he had stayed for three weeks.

16. See OMCT Appeal GRC 210105.ESCR.

17. See GHM, September 2005.

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**KAZAKHSTAN****Law against extremism<sup>18</sup>**

A law against extremism, which had been presented to Parliament in April 2004, came into force on 18 February 2005, after being signed by the President of the Republic, Mr. Nursultan Nazarbayev. This law provides that organisers of demonstrations and gatherings will be held responsible if “extremists” participate. There is a danger that this provision, which might be arbitrarily applied, will discourage peaceful assemblies and demonstrations from being held.

**Harassment of KIBHR<sup>19</sup>**

In March 2005, at a press conference, Mr. Bolot Baikadamov, Ombudsman, declared that the poor image of Kazakhstan on the international stage was due to reports by the Kazakhstan International Bureau for Human Rights and the Rule of Law (KIBHR), which, according to him, blackened the human rights situation in the country. These words, which followed the Ombudsman’s interview with Mr. Nazarbayev, were widely reported in national press and on television.

In addition, on 13 August 2005, KIBHR premises in Almaty were burgled. The thieves removed computer equipment containing information on the organisation’s activities.

The criminal police in Almaty and several representatives from the Department of Home Affairs were ordered to inquire into these events. However, due to the lack of proof, the inquiry was suspended for an undetermined period of time.

**Arrest of Mr. Lutfullo Shamsudinov<sup>20</sup>**

Mr. Lutfullo Shamsudinov, an Uzbek lawyer who was investigating into the events of Andijan<sup>21</sup>, was arrested on 4 July 2005, after fleeing Uzbekistan for fear of reprisals, and imprisoned following an

18. See Annual Report 2004.

19. See the Observatory statement before OSCE, under the item of the agenda “Freedom of association and peaceful assembly”, September 2005.

20. See Urgent Appeal KAZ 001/0805/OBS 073.

21. See below.

extradition order by the government of Uzbekistan. He was arrested despite the decision of the United Nations High Commissioner for Refugees (UNHCR) to grant Mr. Shamsudinov a refugee status.

On 12 July 2005, he was finally released, placed under the protection of UNHCR, and since then has found refuge abroad.

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## KYRGYZSTAN

### Harassment of the Kel-Kel movement<sup>22</sup>

The youth movement Kel-Kel, aiming at encouraging young people to take part in the parliamentary elections in 2005, was founded as a temporary organisation on 15 January 2005, following the refusal by the authorities to allow students to meet the election candidates. The website of Kel-Kel, created the same day, was sabotaged two days later and was no longer accessible. A second website that went online around 20 January 2005 was blocked a week later. The service provider explained in a letter that an organisation registered with the same name wished to take back “its” website. In fact, the aim of the usurping organisation was to discredit the original organisation. As a result, Kel-Kel had to use a foreign service provider.

In addition, on 5 February 2005, agents came to the home of Mrs. **Azima Rassoulova**, editor of morning programmes of the former national television channel *KHTV*, and a Kel-Kel activist, while she was out, and attempted to bring her son to the Ministry of the Interior, claiming that she had been beaten and left unconscious.

Between February and April 2005, Mrs. Rassoulova’s apartment was visited twice, and she received an offer of money to quit her job, before receiving several death threats against herself and her family.

Mrs. Rassoulova was also subjected to pressure from her employers following the broadcast of one of her documentaries on Uzbek refugees seeking political asylum in Kyrgyzstan, after the events in Andijan. Mrs. Rassoulova was threatened with dismissal on several occasions and received threats by telephone. At the beginning of June

22. See Conclusions of the international fact-finding mission sent by the Observatory to Kyrgyzstan, 26 June - 6 July 2005.

2005, Mrs. Rassoulova was victim of an attempted poisoning. After using a handkerchief she had left on her desk, she felt her face swell up and irritation in her eyes. An independent laboratory discovered traces of a synthetic virus, but could not determine its origin.

During the night of 28 to 29 December 2005, the organisation premises were looted by unknown persons who removed computer equipment and papers relating to Kel-Kel's activities.

### **KCHR situation<sup>23</sup>**

#### **Ongoing lack of legal recognition of KCHR**

In November 2003, the Kyrgyz Committee for Human Rights (KCHR) had been "replaced" by an organisation holding the same name, formed by former members of the Committee who were close to the government, with the intention of discrediting its activities. Since then, the "real" KCHR has been deprived of its legal status, and has not yet obtained the annulment of the registration of its legal "twin", despite a change of government in March 2005.

On 20 November 2005, the Lenin District Court of Bishkek rejected KCHR's petition against the Ministry of Justice without giving any reason for its decision.

#### **Ongoing acts of harassment of Mr. Ramazan Dyrlydaev<sup>24</sup>**

Mr. **Ramazan Dyrlydaev**, KCHR president, who was forced to live in exile from July 2000 until April 2002 and then from May 2003, returned to Kyrgyzstan after the "revolution" in March 2005.

On 1 February 2005, the newspaper *Slovo Kyrgyzstana* published an article saying that the real aim of the denunciations made by Mr. Dyrlydaev on human rights violations perpetrated by official agents was to obtain funding from Western institutions.

In addition, on 2 February 2005, a dozen police officers entered the building where Mr. Ramazan Dyrlydaev used to live until 2003. They asked the new occupants whether they knew where he was, adding that he was being sought for embezzling about 16,943,710 soms (340,000 euros).

23. See Closed Letter to the Kyrgyz authorities, 6 April 2005 and Press Release, 8 August 2005.

24. See Annual Report 2004 and Urgent Appeal KGZ 002/0803/OBS 044.6.

On 22 August 2005, the criminal proceedings initiated against Mr. Dyrlydaev for “non-implementation of a judicial decision” under Article 388 of the Criminal Code<sup>25</sup> were closed by the Public Prosecutor, Mr. Beknazarov, on the grounds that he had not committed any crime. On 22 November 2005, following Mr. Beknazarov’s dismissal, the assistant of the Prosecutor General of Bishkek overturned this decision and re-opened the case against Mr. Dyrlydaev. However, KCHR was informed by a letter from the office of the Prosecutor of Pervomai that these proceedings had been abandoned again on 20 December 2005, due to a lack of evidence to constitute a crime.

### **Harassment of Mrs. Aziza Abdurasullova and her family<sup>26</sup>**

On 21 September 2005, upon her return from a seminar on the rights of refugees, Mrs. **Aziza Abdurasullova**, a lawyer and president of the human rights NGO Kylym Shamy, discovered that her husband had been abducted in Bishkek by four men on 19 September 2005, and taken to an unknown place. His kidnappers demanded that he wrote that Mrs. Abdurasullova had received about 845,350 soms (16,960 euros) from rail workers she had been defending<sup>27</sup>, and they also demanded copies of all the documents regarding the cases of corruption and embezzlement of funds of the railways. When he was detained, he was repeatedly beaten on the head and in the kidneys. His assaulters said they knew which schools their children and grandchildren attended.

Mrs. Abdurasullova’s husband was detained for over two hours before being released.

In addition, on 26 September 2005, Mrs. Abdurasullova’s daughter received anonymous threats.

25. This decision followed the lawsuit initiated by a former employee of KCHR in 1999. On the basis of this decision, a warrant was issued for the arrest of Mr. Dyrlydaev in July 2000, as a result of which he fled the country. See Annual Reports 2000 and 2001.

26. See Annual Report 2004.

27. From 26 to 31 August 2005, the railway-workers were on hunger strike to demand the appointment of a professional railway-worker at the head of the Rail Board of Kyrgyzstan. Indeed, this sector of activity is particularly corrupt, and it seems that anyone wishing to be appointed would have to pay for this. Until then, the railways were managed by a friend of the Akaev family, who had connections with the criminal underworld. The rail workers had demanded his departure, and Mrs. Abdurasullova had been assured their rights would be respected.

By the end of 2005, none of the attackers had been identified, despite the deposition made by her husband to the Department of Home Affairs in the Alamedino district, on 19 September 2005 and the complaint lodged by Mrs. Abdurasullova on 26 September 2005.

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## RUSSIAN FEDERATION

### Restrictive legislation<sup>28</sup>

On 18 November 2005, a draft law entitled “Amendments to some federal laws of the Russian Federation” was presented before the Lower House of Parliament (*Duma*) by the Parliamentary Committee on religious and associative organisations, presided by Mr. Popov, a member of the United Russia Party (ruling party). On 23 November 2005, the text was adopted by Parliament in first reading, in spite of the faults found in it by Mrs. Pamfilova, president of the Civil Society Institutions and Human Rights Council under the President of the Republic, and Mr. Vladimir Loukine, Commissioner on Human Rights in Russia.

This law amends three laws: the Federal Law No.7 of 12 January 1996, on non-profit making organisations (Law on NKO – *O Nekommercheskih Organizatsijah*), the Federal Law No. 82 of 19 May 1995 on public associations, and the Law of 14 July 1992 on closed territorial administrative entities<sup>29</sup>. It addresses all non-profit organisations, including those working on the protection and defence of human rights.

On 8 December 2005, under national and international pressure, several round tables were held by the Parliamentary Committee for the Affairs of Religious and Voluntary organisations, the legislation Committee of the Duma and the Property Committee, bringing together Russian and foreign NGOs, the Civil Chamber of the Russian Federation and the Council for the development of civil society and the voluntary sector. On that occasion, Mr. Popov stated that the only purpose of the draft amendments was to protect the Russian Federation “against the activity of foreign politics”.

28. See Press Release, 16 December 2005.

29. These closed administrative entities are towns or regions, access to which is subjected to an authorisation from the Security Services (FSB).

The second reading of the draft amendments, initially scheduled for 6 December 2005, was postponed until 16, then 21 December 2005.

Even though several restrictive provisions were withdrawn from the bill, the law, as adopted in the third reading on 23 December 2005, remains in blatant violation of the right of freedom of association.

On 17 January 2006, the law was published in the Official Journal after being signed by the President of the Republic and it will come into force on 10 April 2006.

### Registration of NGOs

– Amendment No.1 to the Law on closed territorial administrative entities prohibits NGOs whose founder members are foreigners, stateless persons, foreign organisations or foreign NGOs, including those who represent foreign branches of NGOs operating in Russia, from establishing or operating in these territories.

– Amendment 3§5 to Article 15 of the Federal Law on NKO and amendment 2§3 to Article 19 of the Federal Law on public associations stipulate that foreign nationals or stateless persons who do not hold permanent resident status cannot found nor belong to an organisation. This provision is also valid for any foreign national or stateless person whose presence is considered “undesirable”, in accordance with a decision taken by the authorities.

– Furthermore, amendment 4 to Article 21 of the Law on public associations states that “the decision to register a representative office of a foreign NGO can only be taken by the State registration body”. Such a decision will be based on other documents related to the NGO in question, in particular its statutes and many other documents, supplied in the original language and supported by a bailiff certified translation.

– Amendment 6 to Article 23 of the Law on Public Associations broadens the reasons for refusal of registration. From now on, a request for registration of an organisation may be rejected “if the status of the organisation violates the Constitution or the legislation of the Russian Federation”, “if the person who is presented as a founding member of the organisation may not be a founding member according to Article 19 of the Law” or “if the name of the organisation is an offence to morality or to the national and religious feelings of citizens”.

– Amendment 3§9 to Article 23.1 of the Law on NKOs repeats these provisions and also provides reasons for refusal that are specific

to sections of foreign NGOs, in particular “if the aims of creating the chapter create a threat to the sovereignty, political independence, territorial inviolability, national unity and uniqueness, to the cultural heritage and national interests of the Russian Federation”, or “if an NGO section has previously been registered in the territory [...] and dismantled because of clear violation of the Constitution or of Russian legislation”.

– Although amendment 6§4 specifically stipulates that organisations that already exist do not need to re-register, Article 6§5 states that representative bodies or chapters of foreign NGOs must, for information purposes, notify the authorities of their existence within six months of the Law coming into force. Beyond this period, associations that have not carried out this procedure must cease their activities.

#### Monitoring of NGOs' activities

– Amendment 2§8 to Article 38 of the Law on NKO stipulates that the “State registration body in charge of vetting registration applications from organisations shall also monitor their activities and funding, and shall have access to all the organisations financial papers”. Hitherto, access to such papers required a prior request from the *Prokuratura*<sup>30</sup>, the police or the Tax Inspectorate. Furthermore, the representatives of the State registration body may take part in all the activities of the organisations, be they internal or public, and shall conduct, at least once a year, an audit to check activities against the aims as set forth in the statutes. Should the statutes not be in compliance, the registration body shall serve a justified warning in writing, and the organisations shall have at least one month to comply with their statutes. An appeal can be made against this written warning. This amendment also stipulates that the health, epidemiological and fire services or any other State service may verify the charities compliance with rules and standards.

– Amendment 3§10 to Article 32 of the Law on NKO stipulates that the organisation shall “transmit each year before 1 March a report on the activities, on the implementation of tasks and on the use of

30. The *Prokuratura* includes investigating officers and prosecutors under the supervision of the Public Prosecutor.



funding in keeping with the statutes as filed, as well as the names of the board members to the Ministry of Justice". If the NGO section or representative does not transmit this information, the registration body may decide to disband it without a judicial procedure.

### Dismantling of NGOs

– Amendment 2§7 to Article 23-1§5 of the Law on NKO stipulates that repeated failure to supply financial and budgetary documents within the allotted time may constitute grounds for an application from the State registration body before the Court, to order the cessation of the organisation activities, its dismantling or its striking off from the legal entity register. These documents relate to, among other subjects, the amount of resources and other goods received by the association from international or foreign organisations, foreign or stateless persons, and the purpose for which they are intended to be spent or used.

– Amendment 2§9 adds a new paragraph to Article 44.1 of the Law on NKO, which indicates that failure of an association to correct the infringements found within the deadlines may constitute grounds for a procedure initiated by the Public Prosecutor of the Russian Federation or the State registration body requiring dissolution.

– Amendment to article 33 to the Law on NKO lists grounds for dissolution or cessation of activities of an organisation through a court procedure, namely: if the organisation undertakes extremist activities (no definition of such activities is provided), if it provides assistance in legalising illegally acquired funds, if it violates the rights and freedoms of citizens, if it commits repeated and serious violations of the Constitution, of federal laws or any other norms, or if the activities do not comply with the aims set forth in the statutes. The particular vagueness of these provisions may lead to an arbitrary interpretation.

### Defamation campaign against independent NGOs<sup>31</sup>

On 7 May 2004, at a press conference on the situation of prisoners in Russia, General Valerii Kraev, head of the General Direction of Sentence Enforcement of the Ministry of Justice, had said that human rights NGOs were funded by "criminal groups" and aimed at destabilising the Ministry of Justice by disseminating false information.

31. See Annual Report 2004.

He had also made a distinction between “good” and “bad” associations, and listed by name in this latter category the Amnesty International sections in Chelyabinsk and Ural, the Civil Information Initiative of Irkutsk, the All-Russian Public Movement for Human Rights (MDH) and the Committee of Support for Detainees. These statements, disseminated in the press, had followed the condemnation by these NGOs of the poor conditions of detention in Russian prisons. Mr. **Lev Ponomarev**, MDH chairman, had immediately filed a complaint against General Kraev for slander.

On 11 October 2005, the Moscow Civil Court announced there was no proof of slander by General Kraev against the organisation. Indeed, in the shorthand notes of the press conference produced in court, General Kraev’s remarks against MDH did not appear. The journalists who had relayed these statements also confirmed that they had not kept their recordings. The Court, stating that “the information contained in the words published by the press did not correspond to the facts”, concluded that the words published by the media had not been spoken by General Kraev. MDH decided not to appeal against this decision.

## **Direct attacks against several associations and their members**

### Saint Petersburg

#### *Assault on Memorial’s office*<sup>32</sup>

On 18 February 2005, unknown persons arrived at the Research Centre of the Memorial Saint Petersburg organisation, under the pretext of an urgent message from Memorial Moscow. When Mr. **Emanuil Polyakov**, an employee of the organisation, opened the door, three men rushed in and violently beat him, leaving him unconscious. He was found the next morning in a critical state and was immediately taken to hospital.

The assailants destroyed part of the office equipment, searched the archives and forced open the organisation’s safes. The fact that they directly went to the office of Mrs. **Irina Flige**, director of the Research

32. See Open Letter to the Russian authorities, 26 January 2005, and Urgent Appeal RUS 001/0803/OBS 042.1.

Centre, and that they later left by the back door, could indicate that they had a plan of the premises.

The police opened an investigation that, by the end of 2005, still had to be concluded.

*Harassment of the Association of Soldiers' Mothers  
of Saint Petersburg<sup>33</sup>*

*– Assault of the association's offices*

During the night of 3 to 4 June 2005, the offices of the Association of Soldiers' Mothers of Saint Petersburg was burgled. Three telephones, a fax machine, a liquid crystal display, and two USB memory sticks containing information on the activities of the organisation were stolen. A video camera and tape-recorder that were in a safe were also taken.

On the morning of 4 June 2005, the police came to record the events and to block access to the premises where the organisation weekly meeting was to take place. Police officers took finger-prints of all the members of the organisation and tried to dissuade them from filing a complaint. In the police report of the same day, this theft was not mentioned. Some days later, the association's staff members discovered the passage used by the burglars, which linked to the cellar of the building. They phoned the police, which refused to return to the premises.

*– Judicial proceedings*

On 14 June 2003, Mr. Bukin, head of the Nachinov military school, had initiated proceedings against the Association of Soldiers' Mothers and the newspaper *Smena*, following the publication of information provided by the organisation on physical and psychological torture of pupils in the school. The case had continued in 2004, despite the fact that these acts had been acknowledged by Mr. Kuroedov, the Admiral of the Russian Fleet, and that the officers responsible had been punished.

33. See Annual Report 2004, Urgent Appeal RUS 001/0605/OBS 043, Press Release, 21 June 2005 and Conclusions of the international fact-finding mission sent by the Observatory to Saint Petersburg, from 18 to 23 June 2005.

On 21 June 2005, a hearing was held in the Kuibychev Court in Saint Petersburg, in the presence of *chargés de mission* appointed as part of an Observatory's fact-finding mission to the Russian Federation, from 18 to 23 June 2005. The hearing was first adjourned until 20 July 2005, then until 27 September 2005, while the investigation was still ongoing. On that date, the Court rejected Mr. Bukin's complaint.

In addition, at the request of the soldiers' mothers, an inquiry was to be opened in 2003 by the Prosecutor General on the accountability of Mr. Bukin for these crimes of torture. The Kuibychev Court had announced that the results of this inquiry would be known at the end of January 2005. However, by the end of 2005, the inquiry itself had not been opened yet.

*– Judicial proceedings dropped against Mr. Sergei Mikhailov*

In 2005, the charges against Mr. **Sergei Mikhailov**, an orthopaedic doctor working with the Association of Soldiers' Mothers as a medical expert, were dropped. On 17 July 2004, the Prosecutor for the Kalinin region of Saint Petersburg had opened an inquiry against Mr. Sergei Mikhailov for "complicity" in a desertion case.

*Lack of results in the investigation into the murder of Mr. Nikolai Girenko<sup>34</sup>*

On 20 June 2004, Mr. **Nikolai Girenko**, chairman of the Minority Rights Commission of the Saint Petersburg Scientific Union and president of the Ethnic Minority Rights Association, was murdered at his home. This murder had been a reprisal for Mr. Girenko's work. He had participated, as an expert witness, in trials of far-right groups and skinheads in Saint Petersburg and other towns in Russia.

Since Mr. Girenko's murder, Mrs. Valentina Matvienko, mayor of Saint Petersburg, has regularly stated at numerous press conferences that this murder was a criminal act and had no political significance.

By the end of 2005, the inquiry, extended every two months, had not produced any results, though the investigator of the *Prokuratura* of Saint Petersburg maintained that it was "progressing". It is to be feared that the case could be suspended or closed for lack of new evidence.

34. See Annual Report 2004 and Conclusions of the above-mentioned Observatory mission.

*Continued threats against Mrs. Stefania Koulaeva*<sup>35</sup>

In the days following the murder of Mr. Girenko, Mrs. **Stefania Koulaeva**, executive director of the Anti-Fascist Commission and head of the Northwest Russia Centre for Social and Legal Protection of Roma (Memorial Saint Petersburg), had received several death threats by telephone at her home. The authors of these threats had in particular alluded to Mr. Girenko's murder saying that this was "just a start" and that she was "next on the list". The following day, the door to her apartment had been covered with swastikas and Nazi symbols. By the end of 2005, the inquiry into these threats had not produced any results.

In addition, on 31 August 2005, Mrs. Koulaeva received insulting and anti-Semitic messages on her mobile phone.

## Moscow

*Sentencing of Mr. Yuri Samodorov and Mrs. Ludmila Vasilovskaya*<sup>36</sup>

Following a resolution of the State Duma dated 2 September 2003, the Moscow Prosecutor had initiated judicial proceedings against Mr. **Yuri Samodorov**, executive director of the Sakharov Museum, Mrs. **Ludmila Vasilovskaya**, in charge of the exhibition, and Mrs. **Anna Mikhachuk**, one of the artists in the exhibition "Beware, religion", for contravening Article 282.2 of the Criminal Code ("incitement to racial, ethnic and religious hatred").

On 25 December 2003, the investigator of the Moscow *Prokuratura*, Mr. Yuri Tsvetkov, had also accused the artists and organisers of "attacking the dignity of certain religious groups".

On 28 March 2005, the Tagansk District Court in Moscow sentenced Mr. Yuri Samodorov and Mrs. Ludmila Vasilovskaya to a fine of 100,000 roubles each (approx. 3,000 euros), on the grounds that the exhibition was blasphemous and insulting to Christian believers, especially members of the Russian Orthodox Church, and that it had dangerous social consequences.

35. *Idem.*

36. *Idem.*

On 10 June 2005, the City of Moscow Court, after hearing the appeal by the lawyers for Mr. Samodurov and Mrs. Vasilovskaya, upheld the verdict of the First Instance Court.

*Threats against Mr. Ruslan Linkov*<sup>37</sup>

In April 2005, Mr. **Ruslan Linkov**, a member of the association Democratic Russia and former parliamentary assistant to the democrat MP, Mrs. Galina Starovoitova, who was killed in Saint Petersburg in November 1998, was subjected to threats published on nationalist websites and on the news web page of the city of Saint Petersburg (*rusprav.ru*, *zrd.spb.ru*, *derjava.ru*). In the readers' *chat* column, some of them had written anonymously that "it [was] time that [Mr. Linkov] joined Mr. Girenko and Mrs. Galina Starovoitova and that he [was] next on the list". Other threats were published several times on the *Rosbalt* website, an official news site. Mr. Linkov contacted the police, but he had not received any protection by the end of 2005.

Ingushetia and Nizhny Novgorod regions

*Assault on the Council of Non-Governmental Organisations*<sup>38</sup>

On 12 January 2005, hooded and armed men attacked the office of the Council of Non-Governmental Organisations in Nazran, Ingushetia. The seven people who were present in the office were threatened and forced to lie down on the floor or were pushed against a wall. Mr. Kyril Chvedov, a member of the Ingush Department of the Federal Security Bureau (FSB), checked their identity papers and the Council's statutes, and made copies of them. The attackers took away two computers and asked Mrs. **Taissa Isaeva**, a Council member, to come the following day to the FSB office in Magas to collect them. Since this attack, the Council has moved and remains under constant surveillance.

Furthermore, on 18 May 2005, the official "*Anti-terror*" website published an article on the "activities of terrorist groups on the Internet". The Council of NGOs was described as a "separatist" organ, a classification punishable under Russian law.

37. See Conclusions of the above-mentioned Observatory mission.

38. See Open Letter to the Russian authorities, 26 January 2005.

Lastly, at the beginning of November 2005, Mr. **Adlan Daudov**, a member of the Commission for Refugees of the Council of NGOs, was visited by FSB agents who were hoping to obtain information on the organisation's activities. These agents said they had been informed that the Council was working for Western intelligence agencies.

### *Harassment of CCNS*

#### *– Abduction of Mr. Makhmut Chaparovich Magomadov<sup>39</sup>*

On 21 January 2005, Mr. **Makhmut Chaparovich Magomadov**, a lawyer, member of the Chechen Committee for National Salvation (CCNS) and an expert of the International Helsinki Federation in Northern Caucasus, was abducted while he was visiting Mr. Amirov, a Chechen citizen. Mr. Magomadov's wife and two children were with him. Chechen-speaking men, who were armed and disguised and had been following them in their car, entered Mr. Amirov's house and dragged Mr. Magomadov and one of his daughters outside. Mr. Magomadov was violently shoved into a car and then driven in the direction of Grozny. On 14 February 2005, information was published saying that Mr. Magomadov had been taken home without any explanation as to where he had been detained or as to the conditions of his detention.

#### *– Judicial proceedings<sup>40</sup>*

On 2 August 2004, CCNS had been ordered to close down by the Ingushetia *Prokuratura*, which had also asked that several press releases on the human rights situation in Chechnya published by the association be examined so that their "extremist" nature could be ascertained.

On 25 October 2004, Mr. Ali Ozdoev, a judge and president of the Nazran Regional Court, had considered that the information disseminated by CCNS had not been of an extremist nature and that the proceedings instigated by the *Prokuratura* had been groundless.

On 10 February 2005, the Supreme Court for Civil Matters of Ingushetia held that the appeal filed by the *Prokuratura* against this decision was admissible, and sent the case back to the Nazran Regional Court, where the bench of judges had in the meantime been changed.

39. *Idem.*

40. See Annual Report 2004.

On 17 June 2005, the *Prokuratura* ordered the University of Ingushetia to carry out a psycho-linguistic assessment of the press releases, although CCNS had already provided the Court with the conclusions of legal and linguistic experts, which the judge had refused to include in the case file. Since then, all the hearings have been adjourned and the case was still pending at the end of 2005.

#### *Harassment of NNSHR*<sup>41</sup>

On 3 June 2005, Mr. **Victor Gurskiy**, president of the Nizhny Novgorod Society for Human Rights (NNSHR), was served notice by two representatives of the Ministry of Justice that the activities of the organisation needed to be stopped. This decision was based on the allegation that NNSHR had not complied with a request for documents by the Ministry as part of a check on its activities, in February 2005.

NNSHR pointed out that it had complied with its obligations, which was confirmed by a court decision in April 2005.

By the end of 2005, the Ministry of Justice had not followed up on this notification.

#### *Harassment of RCFS*<sup>42</sup>

– *Defamation campaign against Mrs. Oksana Chelysheva and Mr. Stanislav Dmitrievsky*<sup>43</sup>

From February to April 2005, the members of the Russian-Chechen Friendship Society (RCFS) were subjected to a defamation campaign launched in the Nizhny Novgorod media, which broadcast comments of representatives of the region's office of the Public Prosecutor and FSB accusing the members, *inter alia*, of encouraging extremist activities and supporting terrorist acts.

On 14 March 2005, leaflets containing defamatory statements about Mrs. **Oksana Chelysheva**, editor of the Information Centre of RCFS, and giving her home address, were thus distributed to her neighbours. The leaflets were issued by an unknown organisation

41. See Open Letter to the Russian authorities, 20 June 2005.

42. *Idem*.

43. See Open Letter to the Russian authorities, 20 June 2005 and Press Release, 16 September 2005.



called the Youth Patriotic Front of A.P. Ivanov. On 9 September 2005, more leaflets containing threats and defamatory statements against Mr. **Stanislav Dmitrievsky**, programme director and editor of publications of the RCFS information centre, were distributed in the neighbourhood. Two telephone numbers were given at the foot of the leaflet, as well as the slogan “We are waiting for you!”, and a call for reprisals against the two defenders.

In addition, FSB agents also attempted to tarnish the reputation of Mrs. **Petimat Tokaeva**, a reporter responsible for the Achkhoy-Martan district (Chechnya), by making claims to her neighbours that she was their informer.

– *Judicial and fiscal harassment*<sup>44</sup>

– *Pravozaschita Case*. On 11 January 2005, the office of the Public Prosecutor of Nizhny Novgorod initiated proceedings against the newspaper *Pravozaschita* (Human Rights Defence), a joint publication of RCFS and NNSHR, following the publication of statements by Messrs. Akhmed Zakaev and Aslan Maskhadov, two Chechen separatist leaders who had called for a peaceful settlement of the Russo-Chechen conflict.

On 20 January 2005, FSB agents removed from the RCFS offices the newspaper’s statutes, several documents and the employment contracts of seven of the Centre’s employees residing in Chechnya. Those members were questioned by FSB agents, and some of them decided to resign because of this pressure. On 24 January 2005, Mrs. **Natalya Chernelevskaya**, RCFS treasurer, and Mrs. **Tatiana Banina**, a member of the organisation, were summoned to FSB and told that the content of these articles constituted a violation of Article 280 of the Criminal Code, which prohibits “public appeals to carry on extremist activities”.

An expert’s report, ordered by FSB, concluded there was no proof that such a crime had been committed and the charges were then reclassified under the term of “incitement to hatred or hostility”, a crime liable under Article 282 of the Criminal Code with two years’ imprisonment.

44. See Open Letters to the Russian authorities, 26 January and 20 June 2005, Press Release, 16 September 2005, and Urgent Appeals RUS 003/0805/OBS 069, 069.1, 069.2, 069.3 and 069.4.

On 3 June 2005, Mrs. Chernelevskaya received a call from the head of the Tax Inspectorate of the Nizhegorod district, who threatened her with imprisonment. He also attempted to persuade her to leave her post in RCFS by offering her a better-paid job in his department.

On 11 August 2005, Mr. Stanislav Dmitrievsky, editor of the *Pravozaschita* newspaper, was heard as a witness by the Public Prosecutor of the Nizhny Novgorod region, and was then accused on 2 September 2005 “of incitement to hatred or hostility”. On 3 November 2005, a preliminary hearing took place in the Sovetsk District Court in Nizhny Novgorod.

On 15 November 2005, Mr. **Bill Bowring**, a British lawyer and coordinator of the European Human Rights Advocacy Centre (EHRAC), was denied access to Russia by FSB agents at Moscow airport, when he had come to attend the hearing on 16 November as an observer. On that day, several RCFS members and employees were called as witnesses.

At a subsequent hearing, on 28 November 2005, about thirty members of the patriotic youth movement Nashi demonstrated before the court, carrying posters, which read: “a terrorist cannot be a human rights defender”. On the same day, unidentified individuals searched Mr. Dmitrievsky’s apartment. A complaint was filed with the Public Prosecutor’s office.

On 15 December 2005, the trial continued with the appeal by Mr. Dmitrievsky, who again refused to plead guilty. At the hearing on 21 December 2005, Mrs. Anna Politkovskaya, a journalist at the *Novaya Gazeta*, and Mrs. Elena Karmazina, an architect, argued in favour of Mr. Dmitrievsky. The next hearing was fixed for 18 January 2006.

– *Fiscal harassment and judicial proceedings.* Following an audit by the office of the Federal Inspectorate of Taxes of its accounts, RCFS received, on 16 June 2005, an order from this office, saying that the organisation had to pay 1,001,561 roubles (approx. 28,200 euros) due to its failure to pay fines for grants received in 2002, 2003 and 2004. The basis of this order was Article 100 of the Code of Taxes and it referred to financing received from the European Commission and the National Endowment for Democracy Foundation (NED), arguing that these organisations were excluded

from the list of funding providers whose funding was tax exempt<sup>45</sup>. On 28 June 2005, RCFS appealed this decision to the Regional Arbitration Court of Nizhny Novgorod, believing that the claims by the office of the Inspectorate of Taxes were illegal and unfounded. Despite these proceedings, on 15 August 2005, the office of the Inspectorate of Taxes of the Nizhegorod district issued a new order (Resolution 25) against RCFS, ordering it to pay this amount, on the grounds that the organisation had used the funds received for the “publication and dissemination of publications”, an activity not included under Article 251 of the Code of Taxes that governs the use of funds, and after it had nevertheless acknowledged that the funds from the Commission were not taxable.

On 26 August 2005, the office of the Inspectorate of Taxes ordered the bank account of RCFS to be frozen, despite the appeal filed in the meantime by RCFS against Resolution 25.

On 12 September 2005, the Regional Arbitration Court of Nizhny Novgorod ordered the implementation of Resolution 25 to be suspended, and the organisation’s bank account was re-opened on 4 October 2005.

On 16 November 2005, the Regional Arbitration Court of Nizhny Novgorod decided to adjourn the hearing of the appeal by RCFS against the office of the Inspectorate of Taxes until 30 November 2005, due to the absence of two members of this institution. However, on 28 November 2005, the Inspectorate of Taxes sent a new order to the bank managing the RCFS accounts, demanding the withdrawal of 91,000 roubles (2,650 euros).

By 15 December 2005, the date on which the Inspectorate of Taxes stopped demanding this withdrawal, 13,500 roubles (394 euros) had been withdrawn from the organisation’s accounts. Following this withdrawal, RCFS filed a new complaint with the Regional Arbitration Court for “non-implementation of a judicial decision” (Article 315 of the Criminal Code).

At the hearings on 30 November and 6 December 2005, the representatives of the Inspectorate of Taxes did not give any explanation

45. See Annual Report 2004. Article 100 of the Russian Code of Taxes deals with the list of donors, whose financing of organisations is exempt from tax. The list of these providers was established by the Russian government and adopted within the framework of Resolution No. 923 dated 24 December 2002.

for these withdrawals, and denied taking the initiative for them.

At the hearing on 13 December 2005, the lawyer for the Inspectorate of Taxes asked for the suspension of this case until a verdict had been reached in the *Pravozaschita* case. On 20 December 2005, the judge decided to agree to this request and to adjourn the hearing to a later date, as yet to be determined, when the criminal trial would be over.

Finally, following the same audit, judicial proceedings were initiated against RCFS on 2 September 2005 for “failure to pay taxes or other dues on a large scale”. On 23 September and 6 October 2005, Mr. Dmitrievsky was questioned as a witness in the regional department of the Ministry of the Interior in Nizhny Novgorod.

– *Judicial harassment by the Ministry of Justice.* Following an audit carried out by the Main Department at the Federal Registration Service of the Ministry of Justice in the Nizhny Novgorod region, a complaint was filed by the Ministry on 8 April 2005 aiming at closing down RCFS, on the grounds that the organisation had not produced certain documents for the Ministry. This complaint was filed despite the fact that the materials requested had already been provided to the office of the Inspectorate of Taxes as part of its audit of the organisation’s accounts<sup>46</sup>.

On 26 October 2005, the representative of the Ministry of Justice asked the judge to order the immediate closure of the organisation.

On 14 November 2005, the judge rejected the request. As the Ministry of Justice did not lodge any appeal against this decision within ten days as stipulated by law, the verdict is final.

– *Illegal search and arbitrary detention*

On 12 July 2004, police officers entered the RCFS premises in Karabulak (Ingushetia) without a warrant. They seized computer hardware and documents relating to activities of the organisation (testimonies of victims of human rights violations by the Russian Federal Forces in Chechnya, names of alleged perpetrators and details of vehicles used in abductions), then made those present sign a blank document that apparently was a search warrant.

46. See above.

A short time later, the police “found” two empty powder jars in the premises and Mr. **Khamzat Kuchiyev**, RCFS correspondent, was taken to the Department of Home Affairs in Karabulak on suspicion of “terrorist activities”. Mr. Kuchiyev was released on the same day, after the intervention of Mrs. Pamfilova, president of the Civil Society Institutions and Human Rights Council under the President of the Republic.

RCFS complained to the offices of the Public Prosecutor of Ingushetia and Karabulak, denouncing the illegality of the search on 12 July 2004, the arbitrary detention of Mr. Kuchiyev and the fabrication of evidence.

By the end of 2005, an inquiry into these events had yet to be opened.

#### Assassination of Mrs. Lyudmila Zhorovlya and her son<sup>47</sup>

On 21 July 2005, Mrs. **Lyudmila Zhorovlya**, a human rights defender in the city of Vorkuta, northern Russia, was murdered at home, along with her 21-year-old son, Mr. Konstantin Zhorovlya.

Mrs. Lyudmila Zhorovlya assisted local residents in lawsuits against the city authorities, calling for compensation for sharp increases in their utilities bills. Her work had been repeatedly criticised, in particular by the mayor of Vorkuta, Mr. Igor Shpektor, and Mrs. Zhorovlya had received death threats by telephone in September and December 2004, and also in January 2005, urging her to cease her work. She had then warned the Public Prosecutor of Vorkuta but had not received any reply.

On 20 July 2005, these threats increased, particularly after she announced her intention to sue the authorities of the town regarding mandatory taxes on television antennae.

An investigation into her death was opened by the Ministry of the Interior that was still underway by the end of 2005.

47. See Urgent Appeal RUS 002/0805/OBS 058.

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**SERBIA-MONTENEGRO****Violence against demonstrators<sup>48</sup>**

On 10 July 2005, a peaceful demonstration organised in Belgrade by the NGO Women in Black to commemorate the 10<sup>th</sup> anniversary of the Srebrenica massacre was violently disrupted by a group of extremists who threw tear gas at the demonstrators and insulted them.

**Harassment of HLC and its members<sup>49</sup>**

On 22 March and 11 July 2005, a Star of David was sprayed on the plaque of the Humanitarian Law Centre (HLC), along with anti-Semitic messages.

Furthermore, in early July 2005, a complaint was filed by the Serbian Radical Party (SRS) against Mrs. **Nataša Kandić**, HLC executive director. The complaint followed a televised statement by Mrs. Kandić broadcast on 13 June 2005, in which she named Mr. Tomislav Nikolić, SRS vice-president, as one of those responsible for the killing of 191 civilians in Matic in 1991.

On 23 July 2005, Mr. Aleksandar Vucić, SRS secretary general and a member of Parliament, stated that if the case did not result in a condemnation by 15 October 2005, there would be “half a million people in the streets of Belgrade”.

The SRS complaint was dismissed by the Fourth Municipal Prosecutor’s Office in Belgrade.

However, on 9 September 2005, a preliminary investigation was opened against Mrs. Nataša Kandić and Mr. **Veran Matić**, editor of television channel *B92*, by the Belgrade District Prosecutor for “verbal offences against the State”, a charge that refers to offences against persons protected by the State as mentioned in Article 98 §1 of the Serbian Criminal Code (President of the Republic, President of the Parliament, etc.). Yet, as the head of a political party, Mr. Nikolić did not fall within this category. The first preliminary hearing in the case was held on 7 November 2005.

48. See Open Letter to the authorities of Serbia-Montenegro, 30 August 2005.

49. See Open Letter to the authorities of Serbia-Montenegro, 30 August 2005 and Urgent Appeal SER 001/1105/OBS 113.

By the end of 2005, the proceedings were still pending.

Finally, on 21 July 2005, Mr. **Tatomir Lekovic**, a lawyer working with HLC, was attacked in Kragujevac by an unknown assailant, receiving serious injuries to his head and body. The attack was very probably linked to his work with HLC, in particular his investigatory work to establish responsibility for war crimes committed by Serbian forces in Kosovo. Before this attack, Mr. Lekovic had been harassed and threatened by some police officers, who were allegedly implicated in war crimes or other criminal matters.

### **Harassment of the Helsinki Committee for Human Rights in Serbia and of its members<sup>50</sup>**

On 11 July 2005, a Star of David was sprayed on the walls of the Helsinki Committee for Human Rights in Serbia (HCHR), along with anti-Semitic messages

In addition, the harassment and intimidation of Mrs. **Sonja Biserko**, HCHR president, continued in 2005. On 8 September 2005 in particular, the newspaper *Tabloid* accused her of being a “Croatian spy”. The birth dates of her parents and her address were published. She was physically assaulted on several occasions and her home was vandalised.

Furthermore, copies of the book *Military Secret*, confiscated on 26 March 2004 during a police raid on HCHR offices in Belgrade, had still not been returned. By the end of 2005, the investigation opened against its author, Mr. **Vladan Vlakovic**, on charges of “disclosing military secrets” (Article 224 §1 and §2 of the Criminal Code), was still pending.

### **Death threats and insults against Mr. Dragutin Vidosavljevic<sup>51</sup>**

On 31 July 2005, Mr. **Dragutin Vidosavljevic**, a lawyer of the Committee for Human Rights in Vlasotince, was insulted on the street by Mr. Goran Velickovic, a local police officer, who was visibly drunk. The latter stated that he was going to “slit his throat as he had slit the throats of other people in Kosovo”. Mr. Vidosavljevic then

50. See Open Letter to the authorities of Serbia-Montenegro, 30 August 2005.

51. See Observatory statement before OSCE, under the item of the agenda “Freedom of association and peaceful assembly”, September 2005.

attempted to enter a shop but the policeman grabbed him by the neck and hit him in the face. Mr. Vidosavljevic then defended himself and hurried to the nearest police station. As he was waiting in the reception area, Mr. Velickovic appeared and struck him again.

The next day, the Leskovac police circulated a report accusing both Mr. Vidosavljevic and Mr. Velickovic of disturbing public order. The report stated that the police officer had been “slightly injured” but omitted any mention of the victim’s injuries. Two medical reports written by the doctors who examined Mr. Vidosavljevic referred to “cuts to the leg”, “bruises on the lips” and “trauma to the head”.

By the end of 2005, no inquiry had been opened.

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## TURKEY

### Harassment of IHD members

#### Death threats against four IHD executives<sup>52</sup>

On 19 and 21 April 2005, four executives of the Human Rights Association in Turkey, (*Insan Haklari Dernegi* – IHD), Mrs. **Kiraz Biçici**, vice-president, Mrs. **Eren Keskin**, president of the Istanbul branch, Mr. **Doğan Genç**, member of the General Executive Board, and Mr. **Şaban Dayanan**, member of the Board of the Istanbul branch, received death threats at their homes and their offices.

These letters, which followed other messages with threats that were e-mailed to the association over the previous two months, were signed by an armed ultra-nationalist group called the Turkish Revenge Brigade (*Türkçü Intikam Tugayı* – TIT). This group, responsible for the armed attack perpetrated against the IHD headquarters in Ankara in 1988, during which an attempt had been made on the life of the then IHD president, Mr. **Akin Birdal**, stated in their messages that the four members of the IHD might not be as lucky as Mr. Birdal, who had survived the attack.

By the end of 2005, Mrs. Biçici was still regularly receiving death threats on her mobile phone. Although she filed a large number of complaints, no action was taken.

52. See Press Release, 21 April 2005.



Mr. Doğan Genç also continued to receive similar threats in e-mails. An inquiry into these threats was allegedly opened at the end of 2005 in response to a complaint filed by the organisation.

Lastly, Mrs. Eren Keskin continued to receive death threats by letter and phone message. She was to be heard soon by the Prosecutor of Beyoğlu (Istanbul), as part of a joint judicial action brought by IHD, the Association of Human Rights and Solidarity for Oppressed Peoples (*Mazlum-Der*) and the Human Rights Foundation of Turkey (HRFT) against Mr. Semih Tufan Günaltay, head of the National Unity Party (*Ulusal Birlik Partisi* – UBP).

Mrs. Eren Keskin was also informed that further proceedings were initiated against her following the publication of an IHD press release on the assassination of an activist during a peaceful demonstration in Istanbul. She was accused of “publishing a press release without a permit”, even though the law does not require a permit for this kind of activity.

#### Ongoing judicial harassment of Mr. Ridvan Kizgin<sup>53</sup>

In 2005, three new cases were filed against Mr. **Ridvan Kizgin**, president of the IHD Bingöl section.

On 1 February 2005, the Court of First Instance of Bingöl indicted Mr. Kizgin with “insulting an acting official in the press” after he had published an IHD urgent appeal, broadcast by a number of local press agencies, about the rape of a young girl to whom the organisation was providing legal aid.

On 26 April 2005, the Bingöl Provincial *Gendarmerie* Command initiated proceedings against Mr. Kizgin for “supporting and encouraging an illegal organisation, the Kurdistan Workers Party (*PKK-Kongra-Gel*)”, and on 30 June 2005, the General *Gendarmerie* Command, the Bingöl Provincial *Gendarmerie* Command and the Bingöl Police Department accused him of “praising a criminal and an insult against the State”.

Furthermore, many other judicial proceedings filed against him in 2004 remained pending by the end of 2005.

53. See Annual Report 2004.

### Judicial proceedings against IHD members in south-eastern Turkey<sup>54</sup>

Proceedings against Mrs. **Reyhan Yalcindag**, IHD vice-president, and Mr. **Anatolia Mihdi Perinçek**, head of the eastern and south-eastern regions of IHD, were initiated by the office of the Prosecutor in Diyarbakir following the publication of a press release and a report.

Mr. Perinçek and Mr. **Selahattin Demirtas**, president of the IHD section in Diyarbakir, was also charged by the Prosecutor office in Diyarbakir with “circulating secret information”, following the publication of a report on the assassination of a twelve-year-old child and his father, into which an investigation had been in progress.

### Harassment of HRFT members

#### Judicial proceedings against Mr. Mustafa Cinkilic and Mr. Mehmet Antmen<sup>55</sup>

On 4 October 2005, the first hearing was held in the case brought against Mr. **Mustafa Cinkilic**, a lawyer and a member of the Adana section of HRFT, and Mr. **Mehmet Antmen**, a doctor working with that section, before the Adana Criminal Court of First Instance.

Mr. Cinkilic and Dr. Antmen were charged with “concealing evidence” and “forging official documents” following the drafting of a medical report on the status of Mr. Sükrü Boyav’s health, held for two years in an E type prison<sup>56</sup>, where he had been subjected to ill-treatments. Based on this report, Mr. Boyav had filed a complaint with the Prosecutor office against the penitentiary administration and prison guards.

On 16 September 2004, Messrs. Antmen and Cinkilic had been interrogated concerning the report and had stated that they had been unable to supply the original version. The police had then placed them in detention and requested an arrest warrant on charges of “obstructing” the investigation. The Court had rejected the request and ordered their release.

54. *Idem.*

55. *Idem.*

56. Prisons built in 2000, in which detainees are placed in solitary confinement.

### Judicial proceedings against Mr. Alp Ayan and Mrs. Günseli Kaya<sup>57</sup>

On 13 February 2004, Mr. **Alp Ayan** and Mrs. **Günseli Kaya**, both HRFT members, had been sentenced by the Aliaga Criminal Court of First Instance to eighteen months in prison for “using violence to resist law enforcement officers” (Articles 32-1 and 32-3 of Law 2911 relative to meetings and demonstrations), following their participation in the funeral, on 30 September 1999, of Mr. Nevzat Ciftci, a prisoner killed during a police operation at the Ulucanlar prison in Ankara on 26 September 1999. They had been attacked by a group of gendarmes attempting to prevent them from attending the funeral service. Sixty-nine persons had been arrested and fourteen of them, including Mr. Alp Ayan and Mrs. Günseli Kaya, had been placed in custody pending trial for four months.

Another defendant, Mr. Adnan Akin, sentenced to 3 years in prison, had appealed against the verdict.

By the end of 2005, the case remained pending before the Supreme Court of Appeal.

### Legal proceedings against Mr. Yavuz Önen<sup>58</sup>

On 24 September 2003, the State Prosecutor office in Izmir had appealed before the Supreme Court of Appeal, asking the court to overturn the decision of the Izmir Criminal Court of First Instance that had acquitted Mr. **Yavuz Önen**, HRFT president. Mr. Önen had been sentenced on 27 March 2001 to a prison term and a fine, the sentence being subsequently commuted to a heavy fine, for having expressed his indignation with respect to the charges brought against Mrs. Kaya and Mr. Ayan in an article published in the daily *Cumhuriyet* on 19 January 2000.

By the end of 2005, the proceedings were still pending.

### Confirmation of the verdict against Mrs. Sefica Gürbüz<sup>59</sup>

On 19 January 2004, the State Security Court in Istanbul had sentenced Mrs. **Sefica Gürbüz**, president of the Turkish NGO GÖC-

57. See Annual Report 2004 and Report of the judicial observation mission of the Observatory, Turkey: *Human Rights Defenders on Trial*, February 2005.

58. See Annual Report 2004.

59. *Idem*.

DER (Immigrants for Social and Cultural Co-operation), to a fine of 2,180 million Turkish liras (1,280 euros). Mr. **Mehmet Barut**, member of the organisation, had been acquitted.

Mrs. Sefika Gürbüz and Mr. Mehmet Barut had been charged under Article 312/2 of the Turkish Criminal Code with “inciting hostility and hate on the basis of class, race, religion, beliefs, and regional origin”. The charges had been brought following statements made during a press conference organised by GÖC-DER in April 2002 for the presentation of a report on the forced displacement of the Kurdish population. The court had convicted Mrs. Sefika Gürbüz despite the fact that the amendment made in August 2002 to Article 312/2 restricted its application. Since that date, no one can be convicted on the basis of this article unless the incitement in question may endanger the peace and public order.

In November 2005, the Eighth Chamber of the Supreme Court of Appeal, to which Mrs. Gürbüz had appealed, upheld the verdict handed down by the State Security Court in Istanbul.

### **Cancellation of the dismantling of the trade union Egitim Sen<sup>60</sup>**

On 25 May 2005, the Supreme Court in Ankara ruled that the statutes of Egitim Sen, the largest teachers’ union, were in breach of several provisions of the Constitution as well as provisions of the law on the recognition of trade unions, and ordered the organisation to shut down. The Court based its decision on Article 20 of Law 4688 on civil servants trade unions, which stipulates that the administration and activities of trade unions established under the law may not conflict with the basic democratic principles of the Turkish Republic as provided in the Constitution.

The court ruled that one of the provisions in the statutes of Egitim Sen, to the effect that the organisation “defends the individual’s right to education in his or her mother tongue and to the development of cultures”, violated Articles 3 and 42 of the Constitution, which establish that the Turkish nation is an indivisible entity and that the Turkish language is the only one to be taught to citizens.

On 3 July 2005, at an extraordinary congress, a majority of representatives of the organisation voted to remove this article from the

60. *Idem.*

statutes. Following this move, the union filed a new request with the Second Labour Court in Ankara that the Supreme Court decision be overturned.

The same day, Egitim Sen filed a request for summary action with the European Court of Human Rights.

On 26 October 2005, the Second Labour Court in Ankara overturned the Supreme Court decision, ruling that the charges against Egitim Sen were no longer valid in view of the changes made to its statutes. The Prosecutor, who had eight days to appeal against the decision to the Supreme Court, abandoned the case. As a consequence, the organisation remained open.

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## TURKMENISTAN

### **Restriction on the freedom of movement of several defenders<sup>61</sup>**

Just prior to a visit to Turkmenistan by Mr. Rolf Ekeus, OSCE High Commissioner on National Minorities, several members of NGOs were ordered by the Ministry of National Security (MNB) to stay at home the day of his visit and to refrain from seeking to meet with him or persons accompanying him.

On 31 May 2005, as Mr. Ekeus was being received by the President of Turkmenistan, the homes of several activists were cordoned off by the police and plain-clothes MNB agents.

In particular, Mrs. **Nathalia Shabunts**, director of the human rights NGO Civic Dignity, was prevented from leaving her apartment and was therefore unable to take part in an international seminar.

61. See Annual Report 2004 and Urgent Appeal TKM 001/0603/OBS 0271.

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**UNITED KINGDOM****Status of the investigation into the murder of Mrs. Rosemary Nelson<sup>62</sup>**

In November 2004, following lengthy proceedings aimed at obtaining the opening of a public inquiry into the assassination of Mrs. **Rosemary Nelson**, a panel was established, with “full powers to impel disclosure of documents and attendance of witnesses”. Mrs. Nelson, a lawyer and a member of the Committee on the Administration of Justice (CAJ), was murdered on 15 March 1999 in Lurgan, Northern Ireland.

On 19 April 2005, the chairman of the panel opened a preliminary inquiry into the death of Mrs. Nelson under the Inquiries Act, which was adopted by the British Parliament Royal Assent on 7 April 2005 and came into effect on 7 June 2005<sup>63</sup>. The panel examined evidence and information supplied by the police at the end of 2005 and was expected to publish the conclusions of the preliminary inquiry in January 2007, after which time the public inquiry could begin.

**Status of the investigation into the murder of Mr. Patrick Finucane<sup>64</sup>**

In 2004, the British government had agreed to open a public inquiry into the murder of Mr. **Patrick Finucane**, a lawyer known for his views in favour of human rights who was murdered in Belfast in 1989, once the trial of the presumed perpetrators of the murder would be over. On 23 September 2004, after Mr. Kenneth Barrett, a former paramilitary loyalist, had been sentenced to a life prison term, the Secretary of State for Northern Ireland had announced that an inquiry would be opened only on the basis of a new law “that would have to be passed by Parliament” and not on the basis of the existing law.

62. See Annual Report 2004.

63. According to this text, public inquiries are overseen by the government, which appoints - and removes - each member of the panel. The government may also restrict public access to inquiry evidence and testimony, and may decide, “in the public interest”, not to publish the inquiry’s findings.

64. See Annual Report 2004.

In 2005, the family of Mr. Finucane announced that they would not collaborate in an inquiry based on such a law. No panel was appointed.

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## UZBEKISTAN

### **Arbitrary arrests and detentions and violent acts against defenders during the events of Andijan<sup>65</sup>**

Following the events of Andijan in May 2005<sup>66</sup>, numerous human rights defenders, who had denounced the disproportionate use of force against the demonstrators, were arbitrarily arrested, detained and subjected to ill-treatments. In addition, all the human rights organisations in the city were accused of supporting the *Akromists*, an Islamic movement opposed to the government, and judicial proceedings were initiated against the directors of a great number of these organisations.

#### **Arbitrary detention of Messrs. Saidjahon Zaynabitdinov, Nurmuhhammad Azizov and Akbarali Oripov**

On 21 May 2005, Mr. **Saidjahon Zaynabitdinov**, president of the human rights organisation *Appeliatsia* (Appeal), based in Andijan, was arrested and secretly detained after having denounced the events of Andijan and made statements to the international media. He was accused of [making] “a slur on the President of the Republic”, “infringing the constitutional order of the Republic of Uzbekistan”, “organising illegal public or religious assemblies”, “fabricating or disseminating material constituting a threat to security and public order” under Articles 159, 216 and 244 of the Criminal Code, and of “creating, administrating and participating in an extremist religious organisation, or separatist, fundamentalist or other illegal organisations” under Article 244.2 of the Criminal Code. Since his incarceration in Tashkent prison, where he was still being held at the end of 2005, Mr. Zaynabitdinov has not been allowed to meet neither his lawyers nor members of his family.

65. See Urgent Appeals UZB 001/0505/OBS 036, 036.1 and 036.2.

66. See above.

At the first hearing of his trial that started on 11 January 2006, *in camera*, Mr. Zaynabitdinov was sentenced to seven years of imprisonment by the Tashkent Court.

On 2 June 2005, Mr. **Nurmuhammad Azizov**, chairman of the section of the Human Rights Society of Uzbekistan (HRSU) in Andijan, and Mr. **Akbarali Oripov**, a member of the human rights organisation Ezgulik, were arrested during searches of their homes by agents of the Ministry of the Interior of Markhamat in the Andijan region. Mr. Azizov was charged with “a slur on the President of the Republic”, “infringement of the constitutional order”, “fabrication and dissemination of material constituting a threat to public order and security” and “organisation of illegal public or religious assemblies”.

By the end of 2005, both men were still detained in Tashkent prison.

#### Harassment and ill-treatment of several dozens of human rights defenders

- On 22 May 2005, Mr. **Sobithon Ustabaev**, a member of the Namangan Group for the Protection of Human Rights, was arrested and sentenced to 15 days' imprisonment under the Uzbek administrative Code, after taking part in a peaceful demonstration against the events of Andijan. He was released after serving his term, and found refuge abroad.

- On the same day, a group of seventy people, under the orders of Mr. Ubdibulla Yamankulov, head of the Administration of the Djizak region, broke into the home of Mr. **Bakhtior Kamroev**, president of the Djizak section of HRSU. He and other members of his family were beaten, threatened with death and insulted.

- Some days later, Mr. **Ulugbek Bakirov** and Mr. **Fazleddin Gafurov**, Ezgulik members, were beaten and harassed by law enforcement officers in Andijan, while they were interviewing witnesses of the Andijan events.

- On 28 May 2005, Mr. **Dilmurad Muhitdinov**, president of the Markhamat section of Ezgulik, Mr. **Muhammadkodir Otahonov**, an Ezgulik member, and Mr. **Mussajon Bobojanov**, an Ezgulik member and chairman of the local organisation of the political party Birlik, were arrested. Their computers, CDs and other documents were seized.



- During the night of 29 to 30 May 2005, twelve members of Ezgulik from various regions were arrested at the home of Mr. **Hussan Yussupov**, also a member of Ezgulik, in Tashkent. Some of them were beaten and then sent back home by force. Afterwards, Mrs. **Vassila Inoiatova**, Ezgulik president, her husband and Mr. Hussan Yussupov were arrested and taken to the regional centre of the Ministry of the Interior in Sobir-Rakhimovskii. They were released on 30 May 2005.

- On 30 May 2005, Messrs. **Vakhid Karimov** and **Ilkhom Ashurov**, members of the Centre of Humanitarian Law, were detained for three hours in Bukhar. Their papers were confiscated and they were made to sign a document prohibiting them from leaving the city.

- On the same day, Mr. **Sotivoldi Abdullaev**, a HRSU member, was beaten by law enforcement officers outside his house in Tashkent, and had to spend fifteen days in hospital. In addition, Mr. **Iskandar Khudaiberganov**, president of the Centre of Democratic Initiatives, Mrs. **Bashorat Eshova**, a HRSU member, and Mr. **Azam Turgunov**, president of the human rights NGO Mazlum, were detained for several hours, while other human rights defenders were prevented by the police from leaving their homes.

- On 2 June 2005, Mr. **Muzaffarmirzi Iskhakov**, president of Ezgulik for the Andijan region, was arrested in this city and detained for several hours. Documents containing information on human rights defenders, the programme and charter of the Birlik political party, and several computers belonging to the Andijan section of Ezgulik were seized in his home. He was released on bail on 6 June 2005, but his papers were confiscated and, by the end of 2005, he was still prohibited from leaving the city.

- On 4 June 2005, in Mytan, law enforcement officers in the province of Samarkand arrested Messrs. **Abdusattor Irzaev** and **Khabibulla Okpulatov**, members of the Ishtikhanskii district section of HRSU, as well as Mr. **Norboy Kholjigitov**, HRSU president for this district. The three men were charged with "extortion" and detained at the security services base in Samarkand. Messrs. Irzaev and Okpulatov were released on 30 June 2005. On 13 June 2005, Mr. Khabibulla Okpulatov's son, Mr. **Youldash Okpulatov**, was subjected to intimidation and threats. Mr. **Aslitdin Suvankulov**, a lawyer for

Mr. Kholjigitov, was attacked after saying he would act as his defence lawyer. On 18 October 2005, the Samarkand Regional Criminal Court sentenced Mr. Norboy Kholjigitov to ten years' imprisonment and Messrs. Okpulatov and Irzaev to six years' imprisonment. By the end of 2005, a lawsuit initiated against Mr. **Khayatulla Kholjigitov**, the son of Mr. Norboy Kholjigitov and a HRSU member, was still in progress.

- On 4 June 2005, Mr. **Tulkin Karaev**, a HRSU member and an independent journalist working for the Institute for War and Peace Reporting (IWPR), was arrested and put under administrative detention for "hooliganism". He was released on 14 June 2005. On 16 June 2005, Mr. Karaev was again arrested and questioned, as well as Mr. **Akmal Akhmedov**, a journalist and member of the Initiative Group for Independent Defenders of Uzbekistan. Though he was released shortly afterwards, his passport was confiscated and he was prohibited from leaving the city. Mr. Karaev was granted political refugee status abroad.

- On 21 June 2005, Messrs. Sotivoldi Abdullaev and **Abdudjalil Vaimatov**, a HRSU member, were prevented from taking part in a demonstration to commemorate the victims of the "tragedy of Andijan" in Tashkent. Furthermore, about twenty people were arrested and detained at the police station.

#### Arbitrary detention of and judicial proceedings against Mrs. Mukhtabar Tojibaeva

On 13 May 2005, Mrs. **Mukhtabar Tojibaeva**, chairwoman of the Ardent Hearts' Club, a human rights organisation based in Margilan, in the Fergana valley, was prevented from leaving her home by several police officers. Later in the day, agents from the anti-terrorism department of the Ministry of Interior took her to the police station where she was detained until 16 May 2005, without her arrest being officially recorded.

In August 2005, the law and order forces again prevented Mrs. Tojibaeva from visiting Namagan, where she had to work.

On 7 October 2005, Mrs. Tojibaeva was arrested at home. While she was to attend the Third Platform on Human Rights Defenders organised by the NGO Frontline in Dublin (Republic of Ireland), sixteen officers from the Department of Home Affairs, including some

in masks and carrying wide bore rifles, broke into her home and searched the premises. They removed a computer and several documents. Mrs. Tojibaeva was then arrested and charged with “extortion” under Article 165.2b of the Criminal Code, in connection with a dispute with one of her employees to whom she had lent a large sum of money that was to be repaid to her. It was when this employee visited Mrs. Tojibaeva’s home and gave her some of the money that the law and order forces burst in. Earlier that day, at a press conference organised by the Fergana centre, she announced that she was being followed.

On 24 December 2005, fourteen other charges were filed against Mrs. Tojibaeva.

### **Arbitrary arrest and forced medical treatment of Mrs. Elena Urlaeva<sup>67</sup>**

In March 2005, Mrs. **Elena Urlaeva**, president of the Organisation for the Defence of Rights and Freedoms of Citizens of Uzbekistan and a member of the opposition party Ozod Dehkonlar, discovered that her name appeared on a “black list”, which was published by Mr. Safar Abdullaev, an independent journalist, and which anticipated various types of punishment for 65 persons, political activists and human rights defenders (being sent to a prison colony or psychiatric hospital, receiving an intravenous injection of the “lupus” virus etc.). The names of Mrs. **Nozima Kamalova**, director of the NGO Legal Aid Society (LAS), and Mrs. Mukhtabar Tojibaeva<sup>68</sup> were also on the list.

On 27 June 2005, in Tashkent, three members of the security forces visited the home of Mrs. Elena Urlaeva, where she was with Mr. **Rakhmatulla Alibaev**, a member of the Initiative Group for Independent Defenders of Uzbekistan. Mrs. Urlaeva was beaten and taken away by the security forces, while Mr. Alibaev was taken to an unknown location. The following day, Mrs. Urlaeva was fined after appearing in the offices of the Ministry of Interior to ask for the release of Mr. Alibaev. On this occasion, three men belonging to the Ministry beat her again and threatened her family.

67. See Annual Report 2002 and Urgent Appeal UZB 001/0505/OBS 036.2.

68. See above.

On 28 August 2005, Mrs. Elena Urlaeva was arrested and detained in the psychiatric hospital in Tashkent. On 21 October 2005, she was forced to take a medical treatment for schizophrenia, which could have incurable consequences for her future health. She was released from the hospital at the end of October 2005.

Finally, on 4 January 2006, Mrs. Urlaeva was arrested briefly while demonstrating against the detention of Mrs. Nadira Hidoyatova, coordinator of the opposition party Solar Coalition.

### **Threats and ill-treatment of Mrs. Urshida Togaeva<sup>69</sup>**

On 21 September 2005, an unknown person visited the home of Mrs. **Urshida Togaeva**, a HRSU member, on three occasions, asking her son where she was. When her son replied that she was away on a business trip, the man pronounced threats against her.

On 23 September 2005, two unknown persons began to watch her home.

The following day, while she was visiting her daughter, these men followed her and hit her in the stomach, threatening her and her family with death. Mrs. Togaeva lost consciousness and was hospitalised on 26 September 2005, where she remained in a coma for three days.

### **Reprisals against Mr. Tolib Yakubov and murder of his nephew<sup>70</sup>**

The persecution of Mr. **Tolib Yakubov**, HRSU president, continued in 2005. These reprisals increased sharply at the end of the year, particularly aimed at members of his family: on 5 November 2005, the apartment of his son-in-law, Mr. Azamzhon Farmanov, was ransacked and then set on fire, in Gulistan.

On the next day, the body of his nephew was discovered, chopped to pieces, in Djizak.

By the end of 2005, Mr. Yakubov was still being constantly followed by several men everywhere he was going.

69. See Urgent Appeal UZB 004/1005/OBS 091.

70. See Annual Report 2004.

### **Arbitrary arrest and detention of Mr. Abdurasul Hudainazarov<sup>71</sup>**

On 21 July 2005, Mr. **Abdurasul Hudainazarov**, president of the Angren section of Ezzulik, was arrested in Korabog, as part of a criminal investigation conducted by the office of the Public Prosecutor of the city.

On 24 July 2005, he was charged with extorting 400 US dollars from Mr. Ilhom Zokirov, a police captain, and placed in detention. A resident of Angren, from whom Captain Zokirov had extracted this sum in exchange for his silence about an alleged theft of livestock, had approached Mr. Hudainazarov to get the money back from the captain. Mr. Hudainazarov had then contacted the police officer. However, immediately after Captain Zokirov returned the money to Mr. Hudainazarov, the police arrived and arrested him.

By the end of 2005, the date of his trial had not been set yet.

### **Dismantling of Internews Network and judicial proceedings against its members<sup>72</sup>**

On 4 August 2005, Mrs. **Khalida Anarbayeva**, former managing director of the representative office of Internews Network, an international organisation that protects the freedom of the press and access to information, and Mrs. **Olga Narmuradova**, accountant, were charged with violating Article 190.2.b of the Uzbek Criminal Code with regard to the “publication of information and production of unauthorised videos”. When the verdict was announced, the judge declared that Internews had “started meddling in the politics of Uzbekistan”.

On 6 September 2005, the appeal lodged by Mrs. Narmuradova was rejected by the Court of Tashkent, for lack of valid grounds. However, Mrs. Anarbayeva and Mrs. Narmuradova were granted a presidential amnesty and, for this reason, did not serve their sentences.

In addition, on 9 September 2005, the Court of Appeal in Tashkent ordered the dismantling of the Uzbek branch of the organisation, alleging that it had been carrying out activities without the necessary authorisation, and that it had used the logo of the association without the consent of the Ministry of Justice.

71. See Urgent Appeal UZB 002/0805/OBS 063.

72. See Urgent Appeals UZB 003/0805/OBS 066 and 066.1.

On 11 October 2005, the Tashkent Court of Appeal rejected Internews Network's appeal without explanation.

The organisation had to publish this judicial decision within two months in the newspapers, and to settle its debts as soon as possible. However, as the organisation's assets had been frozen in August 2004, it found it impossible to pay the required sum.

### **Judicial proceedings against LAS<sup>73</sup>**

At the beginning of 2005, the Ministry of Justice refused to acknowledge the annual report of the Legal Aid Society (LAS), without giving any reason, although the submission of this report is obligatory and a necessary condition for the organisations to keep their legal status. The representatives of the Ministry also added that their services were intended to monitor the activities and administrative documents of the organisation, to check their legality. After this examination, the city Justice Department raised some minor points, claiming that LAS had violated the law on NGOs.

On 26 December 2005, Mr. **Alisher Ergashov**, LAS lawyer, was summoned to the city Justice Department, where he was informed that the first hearing against the organisation would take place on 27 December 2005.

In addition, the organisation found it impossible to legally occupy any premises due to the legislation in force that prevents NGOs from accessing their bank accounts without official authorisation.

73. See Legal Aid Society (LAS).