

THE OBSERVATORY

for the Protection of Human Rights Defenders

L'OBSERVATOIRE
pour la Protection des défenseurs des droits de
l'Homme

EL OBSERVATORIO
para la Protección
de los Defensores de Derechos Humanos

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

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The Observatory for the Protection of Human Rights Defenders
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The International Federation of Human Rights (FIDH) and the World Organisation Against Torture (OMCT), within the framework of their joint programme, the Observatory for the Protection of Human Rights Defenders, wish to draw the attention of the Organisation for the Security and Cooperation in Europe (OSCE) to the deteriorating situation of human rights defenders in some OSCE participating States.

First of all, the Observatory wishes to recall that almost one year ago, on October 7, 2006, the independent journalist and human rights activist Ms. **Anna Politkovskaya** was assassinated for reporting on the abuses committed in the framework of the Chechen war, and for denouncing with a constant determination the ongoing harassment of human rights defenders and civil society activists by the authorities of her country. The Observatory reiterates its deep indignation and sadness, and calls for impartiality and transparency throughout the investigation that is currently taking place, so that those responsible for the assassination as well as those who planned it be brought to justice and sanctioned according to law.

The Observatory is also particularly concerned with the recent denial to register the Russian-Chechen Friendship Society (RCFS) at an OSCE High Level Meeting on victims of terrorism that took place on September 13 and 14, 2007 and sees it as the result of political pressures exercised by the Russian Federation on the Spanish Presidency. This refusal is clearly the result of the determination of the authorities of the Federation to eradicate any dissenting voice, in blatant violation of part IV of the 1993 OSCE Helsinki Document on NGO participation. The Observatory wishes to make clear that such a refusal of NGO participation should in no way be considered as a precedent for future OSCE meetings.

More generally, all along the year 2007, **Belarus, Kyrgyzstan** and the **Russian Federation** continued to rely on restrictive laws and measures in relation to freedom of association, thus making it easier to control independent civil society.

Freedoms of assembly and peaceful gathering were also flouted in some countries (**Georgia, Russian Federation, Turkey**). Further, some defenders were arbitrarily detained (**Russian Federation, Uzbekistan**) while the authorities failed, in a number of cases, to protect human rights defenders when attacked by non-State actors (**Kyrgyzstan, Russian Federation**).

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

The Observatory, which has been working towards the establishment of a protection mechanism for defenders for several years, welcomes the creation of this Focal Point, and considers it as an important tool that will be able to keep the issues faced by human rights defenders on the forefront. However, the Observatory wishes to insist on the necessity to develop the activities of the newly-created Focal Point so that it be given a capacity of systematic alert in front of urgent issues arising in a number of countries. This mechanism of alert would be a good way to monitor and to ensure the implementation of the commitments of OSCE participating States with regards to freedoms of association, peaceful assembly and expression of human rights defenders.

Restrictive legislation

Restrictions to freedom of association

In **Belarus**, on August 28, 2007, the independent NGO “Viasna” was denied registration, for non-compliance with the Law on Public Associations. In particular, the Ministry of Interior stated that the Charter did not contain concrete goals, that the information provided on some of the members of the association was mistaken and that 20 founders out of 69 had been charged with criminal offences, five of them being convicted.

On July 23, 2007, “Viasna” had submitted a re-registration request to the Ministry of Justice, which had to reply within a month. “Viasna” had been closed down on October 28, 2003 by order of the Supreme Court at the demand of the Ministry of Justice, in a context of massive violation of the right to freedom of association. The recent refusal to re-register “Viasna” blatantly violates Communication n°1296/2004 of the United Nations Human Rights Committee issued on July 24, 2007, which pointed out that Article 22(1) of the 1966 UN Covenant on Civil and Political Rights on freedom of association had been violated and that the co-

authors of the complaint were “entitled to an appropriate remedy, including the re-registration of “Viasna”, and that Belarus was “under an obligation to take steps to prevent similar violations occurring in the future” (§9).

In the **Russian Federation**, since the new Federal Law on NGOs entered into force on April 17, 2006, the registration conditions for NGOs have been toughened, the capacity of foreign NGOs to operate in the country restrained, and the powers of the authorities to interfere in their activities strengthened. Some provisions of the Law on Combating Extremist Activities, which entered into force in 2002, were also used in several occasions to hinder the peaceful activities of NGOs.

On January 23, 2007, for example, the Supreme Court upheld the decision of the Regional Court of Nizhnyi-Novgorod, which had decided, on October 13, 2006, to close down the **Russian-Chechen Friendship Society** (RCFS) on the ground that Mr. **Stanislav Dmitrievsky**, RCFS Executive Director, had been sentenced to a two-year suspended prison sentence for “incitation to national hatred” in February 2006.

Moreover, in June 2007, the District Court of Nizhnyi-Novgorod ordered that the **International Youth Human Rights Movement** (YHRM), an international NGO present in more than 30 States, be taken off the Federal Registration Service of recognised NGOs (FRS), for “absence of activities” due to its “failure” to provide details about its actions and finances to the regional department of the FRS, although this organisation has always conformed with the provisions of this Law by submitting all the information required to the Moscow office of the FRS. YHRM will appeal the decision.

More generally, on August 21, 2007, Mr. Alexandre Stepanov, the Director of the FRS Department in charge of the relations with NGOs, told the *Agence France Presse* (AFP) that according to the latest figures issued by the FRS, 216,279 NGOs had been registered so far on a list called the “unified State-list”, but that 467 of them would have to be shut down and 2,307 others would have to cease their activity as legal persons for failure to provide the necessary documentation, because they were violating the new Federal Law on NGOs.

In addition, acts of harassment of three non-governmental organisations and one newspaper in Nizhnyi-Novgorod were documented at the end of August 2007, including searches and confiscation of material. The targeted organisations were the **Nizhnyi-Novgorod Foundation to Support Tolerance** (the new name under which the RCFS is registered in Finland), the **Nizhnyi-Novgorod Centre to Support Migrants**, the **Nizhnyi-Novgorod Human Rights Alliance** and *Novaya Gazeta*.

In **Kyrgyzstan**, the Kyrgyz Committee for Human Rights (KCHR) was denied registration for the fourth time in July 2007 and its members have continued to be the target of acts of harassment, which have intensified in September. In addition, the Kyrgyz financial police recently issued guidelines on NGO funding, which compel Kyrgyz banks to give reports on the financial operations of NGOs and micro-credit unions operating in Kyrgyzstan and receiving funds from abroad. In January 2006, the Ministry of Justice had already given similar instructions, requiring that the Ministry’s registration department investigate into all NGOs financed by international donors, which had to an increase in financial audits, investigations and « visits » to several organisations.

Restrictions to freedoms of assembly and peaceful gathering

Freedoms of assembly and of peaceful gathering remained widely ignored in a certain number of countries, where the authorities relied upon abusive laws to sentence human rights defenders.

In **Georgia**, on June 12, 2007, Mr. **Jaba Jishkariani**, Mr. **Davit Dalakishvili** and Mr. **Levan Gogichaishvili**, members of the Egalitarian institute (a Georgian NGO which brings together human rights defenders, writers and intellectuals), were arrested and subsequently detained for 25 days for “violating public order” and “disobedience to the police”. They had called for the release of Mr. Irakli Batiashvili¹, the leader of the “Tsin Sakartvelo” party (« Forward Georgia »), by painting their requests on the road in front of the General Prosecution Office.

In the **Russian Federation**, on January 17, 2007, a bill entitled « Amendments to some Federal Laws on demonstrations, protests, marches and meetings » was presented to the Duma. This bill provided for further restrictions on freedom of assembly and was aimed at strengthening the already restrictive provisions of the

1 Mr. Irakli Batiashvili had been put in jail in July 2006 for “participation in riot against the State” and was sentenced on May 23, 2007 to seven years of imprisonment under articles 25 and 315 of the Georgian Criminal Code.

2004 Law on demonstrations².

If the Observatory welcomes the fact that Russian members of the Duma later decided to withdraw the bill, it expresses its concerns over the fact that the 2004 Law on demonstrations is still used as a tool for repressing freedom of expression.

The Observatory further regrets that the Duma of Moscow passed a Law on demonstrations on February 28, 2007 which entered into force on the territory of the Moscow region and which provides that the organisers of a demonstration must make sure that each demonstrator dispose of two square metres. According to this text, if the authorities notice that such conditions are not met, the demonstration must be dissolved and its organisers can be attacked for violating the law.

In Nizhnyi-Novgorod, on June 5 and 6, 2007, the Nizhegorodskiy District Court issued two rulings to impose a “ban to violate the administrative law” against Mr. Stanislav Dmitrievsky, after the latter organised and actively took part in the “Dissenters’ Marches” of April 2007. On August 17, 2007, the same court considered a motion lodged by the local Inspection to Enforce Sentences against Mr. Dmitrievsky for “violation of the administrative law”, on the grounds that Mr. Dmitrievsky had organised and taken part in a press conference organised by human rights defenders, journalists and members of the “Other Russia” (an opposition coalition). On that occasion, the Prosecutor’s office issued a “warning on the inadmissibility of any violations of law on mass assemblies and law on extremism” against Mr. Dmitrievsky. In this context, the Observatory fears that this ban might be used to turn the conditional sentence Mr. Dmitrievsky is currently serving (see p. 3 *supra*) into a real term imprisonment, since the provisions of the ban provide that Mr. Dmitrievsky can be sent to prison if he is found guilty of infringing it on two occasions.

In **Turkey**, on April 4, 2007, 11 Executive Committee members of a number of unions, which all belong to the Confederation of Public Employees’ Unions (KESK), were all sentenced to one year and three months’ imprisonment and a fine of 407 YTL (about 223 euros) each, for violating Law n° 2911 on Public Meetings and Demonstrations.

While the sentences of nine of the above-mentioned trade-unionists were suspended, the sentences for Dr. **Ismail Hakki Tombul**, KESK President, and of Mr. **Fehmi Kutan**, former President of the United Union of Transport Employees (BTS), were not. If these sentences were to be confirmed by the Turkish Higher Court of Appeal, both union leaders would be sent to prison. As of September 30, 2007, no date for the hearing in appeal had been set up.

These eleven trade union leaders were prosecuted following a peaceful teachers’ demonstration organised by Egitim Sen in Ankara on November 26, 2005, which was forcibly repressed by the police. 17 teachers were injured, and ten of them arrested, merely for exercising their legitimate trade union rights.

On June 7, 2007, Mr. **Ethem Acikalin**, President of the Human Rights Association (IHD) branch in Adana, Mr. **Mustafa Bagcicek**, Secretary General, and Mr. **Hüseyin Beyaz**, Financial Secretary, were sentenced by the Adana Criminal Court n°1 to two years and eight months’ imprisonment for “inciting hatred and hostility” and “praising crime and criminals” (Article 215 of the Criminal Code). On the same day, the three men appealed their sentence before the Appeal Court in Ankara (Yargitay). They will remain free until the decision of the court, which should take place within one year.

On December 18, 2005, they had organised a demonstration, protesting against the “Return to life” military operations³ and calling for the prosecution of those responsible for the violations committed in this context. The second charge was brought after they criticised, in the press release issued at the occasion of the demonstration, Mr. Öcalan’s solitary confinement in Imrali Prison.

Harassment of Human Rights Defenders

In 2007, several human rights defenders have continued to be harassed in some OSCE participating States: arbitrary arrests, disproportional sentences, assaults. The following cases confirm the determination of both State and non-state actors to silence lawyers, independent journalists, defenders of minority groups and more generally NGO-members, as well as the failure and the lack of political will of the State authorities to identify the aggressors and to bring them to justice, in violation of Article 12.2 of the UN Declaration on Human Rights Defenders adopted by the UN General Assembly on December 10, 1998.

² The 2004 Law on demonstrations limits the number of venues for such events and makes it more difficult to plan them.

³ In December 2000, the “Return to life” military operations had been launched by the military in 22 prisons all over Turkey in order to end two months of hunger strikes and “death fasts” carried out by hundreds of political prisoners, and resulted in the death of 31 people, two of them soldiers.

In the **Russian Federation**, in the evening of January 14, 2007, Mr. **Ikhtior Khamroev**, a member of the Civic Assistance Committee, was attacked by a group of unknown individuals in Moscow. The attackers hit him hard, causing a brain concussion and numerous contusions, and then left him on the ground.

On July 5, 2007, Ms. **Larissa Arap**, a member of the United Civil Front, an opposition movement, was arrested in a clinic in Murmansk where she had gone for a medical examination to renew her driver's licence. Following her arrest, she was transferred to a psychiatric hospital 150 km outside Murmansk, and would have been forcefully injected with drugs, beaten and tied to a bed.

Ms. Arap's arrest followed the publication, on June 8, 2007, of an article she had written on the ill-treatment of children in psychiatric hospitals in the Murmansk region, in *Marsh Nesoglasnykh (Dissenters' March)*, the newspaper published by the United Civil Front. In particular, she criticised the use of electroshock and alleged that patients would have been beaten and raped.

On July 18, 2007, she was ordered to follow a compulsory treatment. One week later, Ms. Arap was taken to the hospital she had criticised in her article, in Apatity, and on August 12, 2007, the order for compulsory treatment was upheld. Ms. Arap's lawyer appealed this decision but was released before the beginning of the trial, on August 20, 2007.

On June 19, 2007, Ms. **Valentina Uzunova**, a lawyer and one of Russia's experts on racial issues and hate crimes, as well as a member of the NGO "For a Russia Without Racism", was attacked by a female assailant, dressed in camouflage and wearing a mask. She was on her way back from visiting the relatives of Mr. Nicolai Girenko, one of her former colleagues, a human rights defender and an expert on ethnic issues who was killed on the same day three years ago, on June 19, 2004. Her aggressor hit her several times on the head. Ms. Uzunova sustained a concussion and hematomas on her head.

In **Kyrgyzstan**, on September 13, 2007, Mr. **Ramazan Dyryldaev**, the President of the Kyrgyz Committee for Human Rights (KCHR), found that the KCHR office where he was intended to live, in Bishkek, had been burnt. On entering the office, he noticed smoke all over the place as well as a smell of carbon dioxide and of other chemicals. Two unidentified and burnt-out items were later found in the bathroom. Over the past years, Mr. Dyryldaev had already been subjected to acts of harassment.

In **Uzbekistan**, human rights defenders were accused and sentenced to imprisonment on the basis of abusive laws which only aim at restricting their activities.

On January 14, 2007, Ms. **Gulbahor Turayeva**, a forensic expert and a member of Anima-kor (a non-governmental organisation working to protect the rights of medical doctors and their patients), as well as a human rights activists from Andijan, was arrested at the Kyrgyz-Uzbek border. Uzbek border guards searched her luggage, and found several books, including materials on human rights and books by leaders of the Uzbek opposition. Ms. Turayeva was immediately arrested, on the ground that the books would be banned literature.

On April 18, 2007, the trial of Ms. Gulbahor Turayeva for "attempting to overthrow the constitutional system", "slander" and "producing and spreading materials threatening public order" began before the Andijan Regional Court. She was sentenced to six years in prison on April 24, 2007. Her sentence was reduced to three years suspended imprisonment on June 2, 2007.

On April 30, 2007, and without preliminary notification, the Tashkent's Sergeli District Court started the trial of Ms. **Umida Niyazova**, a human rights defender and a journalist who used to work at the Uzbek office of the international NGOs Internews and Freedom House and played an active role in many international human rights and social projects in Uzbekistan. Ms. Umida Niyazova was prosecuted for "illegally entering or illegally leaving the Republic of Uzbekistan", "preparing and distributing material which poses a threat to public order and security" and "smuggling".

The charge for "smuggling" is related to the laptop computer Ms. Niyazova had with her when she was arrested at Tashkent airport in December 2006 upon returning from a trip from Bishkek. Besides, "illegal materials" refer to the content of her laptop, including various human rights documents and articles.

On May 1, 2007, the Tashkent's Sergeli District Court sentenced Ms. Niyazova to seven years of imprisonment. On May 8, 2007, the Tashkent City Court decided, during a hearing in appeal, to commute the prison sentence of Ms. Umida Niyazova to a seven years suspended sentence, with three years of probation, and an obligation to report regularly to the neighbourhood police, to notify the authorities about any changes in her profession, and to observe a 10:00 p.m. curfew.

In addition, the Observatory recalls that Messrs. **Azam Formonov** and **Alicher Karamatov** (heads of two Syrdaria branches of the Human Rights Society of Uzbekistan - HRSU), Mr. **Ikhtior Khamroev** (the son of the head of the HRSU section in Djizak, Mr. Bakhtior Khamroev), Mr. **Dilmurad Muhitdinov** (the president of the Markhamat section of the human rights NGO *Ezgulik*), Mr. **Rassul Khudainazarov** (the former president of the Angren section of *Ezgulik*), Mr. **Mamarajab Nazarov** (a member of the Djizak section of *Ezgulik*), Mr. **Isroiljon Kholdarov** (the head of the Andijan section of *Ezgulik*), Mr. **Mukhtabar Tojibaeva** (the president of the Ardent Hearts' Club, an NGO based in Marjilan), and Mr. **Saidjahon Zaynabitdinov** (the president of the Andijan-based human rights organisation *Appeliatsia* ("Appeal")) remain arbitrarily detained, in very precarious conditions.

Recommendations

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

- **Guarantee in all circumstances the physical and psychological integrity of human rights defenders in the OSCE Members States;**
- **Put an end to the continuous repression of human rights defenders and their organisations;**
- **Fully recognise the vital role of defenders in the advent of democracy and the rule of law;**
- **Review their national legislation to conform with international and regional human rights instruments, in particular regarding freedoms of association and assembly;**
- **Comply with the provisions of the final document of the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension, of the Conference for Security and Co-operation in Europe (CSCE) and of the Declaration on Human Rights Defenders, adopted on December 9, 1998 by the United Nations General Assembly;**
- **Support and implement all recommendations brought to them from the March 2006 Supplementary Human Dimension Meeting on Human Rights Defenders;**
- **Comply with the provisions of the resolution titled « Strengthening OSCE engagement with human rights defenders and national human rights institutions » adopted by the OSCE Parliamentary Assembly in Kiev on July 10, 2007;**
- **Support the Focal Point, giving it the capacity and adequate means, including financial means, to carry out its monitoring and capacity building activities, and to provide human rights defenders with a concrete and individual protection in case of emergency.**