

THE OBSERVATORY

for the Protection of Human Rights Defenders

L'OBSERVATOIRE

pour la Protection des Défenseurs des Droits de
l'Homme

EL OBSERVATORIO

para la Protección
de los Defensores de Derechos Humanos

OSCE HUMAN DIMENSION IMPLEMENTATION MEETING WARSAW - OCTOBER 2006

Contribution of

The International Federation of Human Rights (FIDH)

and

The World Organisation Against Torture (OMCT)

Within the framework of their joint programme

The Observatory for the Protection of Human Rights Defenders

On the point in the agenda:

Freedom of assembly and association

Un programme de la FIDH et de l'OMCT - An FIDH and OMCT venture - Un programa de la FIDH y de la OMCT

fidh

International Federation of Human Rights
17, Passage de la Main d'Or
75 011 Paris, France



World Organisation Against Torture
Case postale 21 - 8 rue du Vieux-Billard
1211 Genève 8, Switzerland

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 deterioration of the situation of human rights defenders in some member countries, in particular in *Belarus*, the *Russian Federation*, *Turkmenistan* and *Uzbekistan*, where the authorities have tightened their grip over independent civil society in 2006, though at different degrees. The Observatory would also like to mention the perpetration of violations against human rights defenders in some countries such as *Georgia*, *Greece*, *Poland*, *Serbia*, *Slovenia* and *Turkey*.

The methods of repression used (attacks, serious threats, arbitrary arrests and detentions, judicial proceedings, harassment, adoption of restrictive legislation relative to freedoms of association and assembly) affect the majority of the rights contained in the United Nations Declaration on Human Rights Defenders¹. In particular they contravene the right to peaceful assembly (article 5.a), the right to form non-governmental organisations, associations or groups (article 5.b), the right to gather and disseminate information relating to human rights (article 6), the right of defenders to an effective remedy (article 9), the right to receive funding to promote human rights (article 13). These repressive methods constitute a violation of the obligation of States to take all necessary steps to ensure the protection of human rights defenders (article 12).

- In the *Russian Federation*, the killing of prominent journalist Ms. **Anna Politkovskaya**, on October 7, 2006, is very illustrative of the constant and progressive increase in violence against defenders over the last years. This violence does not only target journalists involved in the defense of human rights but also anti-fascist activists as well as defenders of the rights of minorities. For example, on April 7, 2006, Mr. **Samba Lampsar**, a student and an active member of the NGO “African Unity”, was murdered in Saint-Petersburg as he was returning from a weekly celebration of inter-cultural friendship between Russians and foreigners. Even if, in this case, the authors of the killing were identified and arrested a few weeks later on the eve of the G8-Summit, the general absence of official reaction in conducting effective investigations is tantamount to a blank cheque handed to the perpetrators of these violations who, *de facto*, generally enjoy almost total impunity².

Besides, defenders are frequently targeted by threats disseminated through the Internet. For example, a Nazi Website has called to the murder of some defenders from the Kuban region, giving their personal names and addresses since August 2006.

The Observatory is more generally concerned about the deterioration of fundamental freedoms in the Russian Federation and the hardening of the position of the federal authorities towards independent civil society. The entry into force, on April 10, 2006, of amendments to three Russian laws, which drastically restrict the possible activities of international or foreign NGOs in the country, toughen the conditions of registration for national NGOs and strengthen the authorities’ power of interfering in their activities, is illustrative of this significant trend.

Concerning freedom of assembly, a commemoration of the second anniversary of the Beslan massacre, organised by human rights NGOs in Moscow, on September 3, 2006, was violently repressed. The participants were calling for the need to try those responsible of the Beslan massacre, including political and police authorities, in particular FSB officers. On this occasion, twenty human rights defenders and activists were arrested by members of the special forces, taken to the nearest police station and released soon afterwards. Amongst them, Mr. **Lev Ponomarev**, Executive Director of the organisation All-Russian Public Movement “For Human Rights”, was condemned on September 26, 2006 to a three-day prison term for having organised this demonstration without any official authorisation, while, according to the “Federal Law on Assembly, Meetings, Demonstrations, Processions and Pickets” adopted in June 2004, organisations only have to inform the authorities³.

- In *Belarus*, the closure, through judicial means, of most independent human rights organisations between 2003 and 2005 was followed by a new threshold in the repressive strategy of the authorities with the entry into force, on December 30, 2005, of amendments to the Belarusian Criminal Code, criminalising the organisation of any activity carried out by any suspended or dismantled organisation. The amendments also state that any person who would communicate with foreign States or international organisations, “to the detriment of internal security, sovereignty or territorial integrity”, as well as disseminate material with such content, could be sentenced to prison from six months to three years. If such information was distributed through mass media, the “perpetrators” could be sentenced from two to five years in detention⁴.

¹ Adopted by the General Assembly of the United Nations on December 9, 1998 by consensus.

² See Observatory Urgent Appeal RUS 001/0406/OBS 048, April 10, 2006.

³ See Observatory Urgent Appeal RUS 003/0906/OBS 112, September 28, 2006.

⁴ See Annual Report 2005 of the Observatory.

In addition, in August 2006, the Observatory expressed its concern about the sentences against Messrs. **Nikolay Astreyko**, **Tsimofey Dranchuk**, **Eniro Bronizkaya** and **Aleksandr Shalayko**, members of “Initiative Partnership”, an independent and unregistered election monitoring group, who were the first to be sentenced on the basis of these amendments. Recognised guilty of “illegal organisation of activities by an association or a foundation, or participation in their actions” on August 4, 2006, Messrs. Bronizkaya and Shalayko were condemned to six months’ imprisonment each, and were released on August 21, 2006, having served the full term of their sentences (they had been arrested in February). However, Messrs. Astreyko and Dranchuk were respectively sentenced to two years and one year of prison⁵.

- In *Uzbekistan*, the situation of human rights defenders has continued to deteriorate since the events in Andijan, in May 2005, as Mr. Karimov’s regime has continued to repress all dissident voices, and took advantage of this repressive context to muzzle civil society even further. In this regard, the Observatory is extremely concerned by the increase in acts of violence, threats, judicial proceedings and arbitrary detentions against Uzbek independent defenders. For instance, the following defenders are currently arbitrarily detained:

- Mr. **Saidjahon Zaynabidinov**, President of the organisation “Appeliatsia”, is currently serving a seven-year imprisonment sentence, after he denounced the events in Andijan and made statements to the international media. Since his arrest, on May 21, 2005, no information on his whereabouts have been provided⁶.

- Mr. **Ikhtior Khamroev**, the son of Mr. **Bakhtior Khamroev**, Head of the Djizak section of HRSU, was arrested and charged with “hooliganism”, after having been attacked by a group of young men. He is now facing from five to eight years of prison, and remains detained up to now⁷.

- Messrs. **Azam Formonov** and **Alicher Karamatov**, Heads of the Human Rights Society of Uzbekistan (HRSU) offices in Cerdarine and Mizaabad, were sentenced to nine years’ imprisonment for “extortion” in June 2006, following a trial marred with irregularities. They were subjected to torture during the first month of their detention and were transferred to penitentiary colonies in Karakalpakie region, where conditions of detention are known to be very harsh, often leading to the death of the detainees⁸.

- Ms. **Mukhtabar Tojibaeva**, Head of the “Arden Hearts Club”, is currently detained in the psychiatric section for mentally ill and drug-addicted persons in a women’s detention centre in the Mirabad district. She was sentenced on March 6, 2006 to eight years’ imprisonment on the basis of 17 charges, including “slander” and “membership of an illegal organisation”. She is not authorised to receive visits and since her arrest in October 2005 her health has drastically deteriorated. In addition, Mrs. **Dilafruz Nurmatova**, one of her lawyers, publicly declared on August 15, 2006 that she would stop defending Mrs. Tojibaeva because of serious fears for herself and her family’s integrity⁹.

Besides, the Observatory remains deeply concern regarding acts of violence, aiming at preventing human rights defenders to communicate or disseminate information to foreign organisations or institutions. In this regard, on August 18, 2006, Mr. Bakhtior Khamroev was attacked at his home, whilst having a meeting with two representatives of the British Embassy in Uzbekistan. Unknown men and women rushed into his apartment insulting him, accusing him of being a traitor and of having “spies” at his home, and finally attacking him and his family. He was then brought to the hospital to receive emergency care. In the meantime, four representatives from Djizak town hall arrived and told Mr. Khamroev that he had to stop his human rights activities¹⁰.

Furthermore, breaches to freedom of association and peaceful assembly are still ongoing. For instance, on May 4, 2006, the Tashkent Civil Court ordered the liquidation of the Uzbek section of the NGO Counterpart International, on the grounds that “its status [did] not correspond to its real activities”, and that it had failed to pay some taxes. On May 25, 2006 another proceeding was brought against the organisation for “publishing documents without a license”. Moreover, on May 12, 2006, during a peaceful demonstration at the “Memorial of Courage” to commemorate the victims of the Andijan massacre, human rights defenders, political opponents and foreign journalists covering the event were attacked by members of the special police unit¹¹.

- In *Turkmenistan*, where freedom of association and expression remain completely flouted, the Observatory expressed its deepest concern at the recent death in detention of Mrs. **Ogulsapar Muradova**, a Turkmen correspondent of *Radio Free Europe / Radio Liberty (RFE / RL)* and a former member of the Turkmen Helsinki Foundation (THF), on September 14, 2006. When her relatives were asked to identify her, they found wounds on her neck and head, and several other marks of violence on her body.

⁵ See Observatory Urgent Appeal BLR 001/0806/OBS 100, August 21, 2006.

⁶ See Observatory Open Letter to the authorities, June 30, 2006.

⁷ See Observatory Urgent Appeal UZB 002/0806/OBS 095, August 9, 2006.

⁸ See Observatory Open Letter to the authorities, June 30, 2006.

⁹ See Observatory Urgent Appeals UZB 001/0306/OBS 026, 026.1 and 026.2, March 14, July 25, and August 24, 2006.

¹⁰ See Observatory Urgent Appeal UZB 002/0806/OBS 095.1, August 22, 2006.

¹¹ See Observatory Open Letter to the authorities, June 30, 2006.

Mrs. Muradova had been arrested in June 2006, along with Mr. **Annakurban Amanklychev**, an independent journalist, after they had both worked on a documentary with two French production companies. Both of them had been sentenced on August 25, 2006, respectively to six years and seven years in prison, for “illegally possessing ammunitions” on the basis of fabricated evidences. Another THF member, working with Mrs. Muradova and Mr. Amanklychev, Mr. **Sapardurdy Khajiev**, was sentenced to a seven-year term in a high-security prison. Both Messrs. Amanklychev and Khajiev remain detained up to now¹².

In addition to these four countries, the Observatory would like to mention the perpetration of violations against human rights defenders and breaches of freedom of association and peaceful assembly in **the following countries**:

- In **Georgia**, NGOs that promote national minorities’ rights continued to be subjected to acts of reprisals. Such was the case, on June 7, 2006, of the **Public Movement Multinational Georgia (PMMG)**, the headquarters of which were broken into and robbed by unknown individuals. Hard disks of the computers were stolen, which contained, in particular, the draft of an alternative report to be addressed to the United Nations and the Council of Europe, dealing with the implementation of the Convention for the Protection of National Minorities. During the two previous weeks, several PMMG’s employees and partner organisations had been contacted by State representatives, who tried to obtain this alternative report¹³.

In the same country, on September 27, 2006, Messrs. **Irakli Kakabadze, Jaba Jishkarinani, David Dalakishvili** and **Levan Gogichaishvili**, members of the Egalitarian Institute, were arrested whilst demonstrating against the recurrent detention of some Institute members, as well as the lack of independence of the judiciary, in particular of the Court of Appeal. They also called for an impartial investigation into the murder of a young banker whose death is allegedly linked to high-ranking officials in the Ministry of the Interior. They were held for two days, before being released after paying a fine¹⁴.

Messrs. Kakabadze, Jishkariani and Dalakishvili had been previously detained in June 2006 and sentenced to 30 days of administrative detention, along with Messrs. **Zurab Rtvelashvili** and **Lasha Chkhartishvili**, other members of the Institute, following their public call for the release of two shareholders of the independent television channel TV 202¹⁵.

- In **Greece**, the Greek Helsinki Monitor (GHM) and its members remained subjected to judicial proceedings, acts of harassment, defamation campaign etc., due to their work in favour of the rights of the Roma. Thus, in January 2006, the Head of the Appeals Prosecutor’s Office referred explicitly to the GHM as an “accomplice” of six Greek Roma families from Makrigianni, to which the GHM gave legal support¹⁶.

- In **Poland**, organisations promoting tolerance and the defence of sexual minorities’ rights remained subjected to serious defamation campaign and obstacles to their freedom of expression and assembly. Such was the case in May and June 2006, when, in view of the organisation of a peaceful assembly entitled “Equality March” a member of Parliament from the League for Polish Families (LPR) declared that “if deviants start to demonstrate, they should be bashed with a baton” and that “homosexual are connected to a world of quasi-criminal character, including [...] paedophile circles and the organised world of drug mafias”.

- In **Serbia**, on September 4, 2006, Mrs. **Natasa Kandic**, Executive Director of the Humanitarian Law Centre (HLC), Mrs. **Sonja Biserko**, President of the Helsinki Committee for Human Rights in Serbia, and Mrs. **Biljana Kovacevic-Vuco**, President of the Yugoslav Committee of Lawyers, were threatened with death by Mr. Sinisa Vucinic, President of the nationalist Serbian Party of the Left, in an article entitled “Targeted Women”, and published in the daily newspaper *Courier*. The article referred to a letter wrote by Mr. Vucinic in which he stated that the ladies should be “first abduct[ed] and then assassinate[d] by foreign intelligence services [...] to persuade the international community that they had been liquidated by the state leadership of Serbia for rendering support to Martii Ahtisaari, the UN Special Envoy for Negotiations on Kosovo”. Mr. Vucinic added that he wanted “to advise the three women to immediately freeze their public activities and seek refuge in a safe location”.

- In **Slovenia**, Ms. **Neva Miklavcic-Predan**, President of the Helsinki Monitor in Slovenia (HMS), faces criminal proceedings sanctioning her freedom of speech. In a first case, Mrs. Miklavcic-Predan was charged with “slander” and “persecution”, following a complaint lodged in 2003 by the Union of Veterans of the Slovenian Independence War, a pro-governmental organisation. This complaint followed the organisation by Ms. Miklavcic-Predan of a press conference, where it was said notably that the murder of soldiers of the Yugoslav National Army in 1991 could be considered as war crimes. Even if Mrs. Miklavcic-Predan was declared not guilty on May 30, 2006, the State Prosecutor appealed this decision. Moreover, Mrs. Miklavcic-Predan has been charged with “corruption”, for

¹² See Observatory Urgent Appeals TKM 001/0806/OBS 103 and OBS 103.1, August 31 and September 15, 2006.

¹³ See Observatory Urgent Appeal GEO 003/0606/OBS 080, June 23, 2006.

¹⁴ See Observatory Urgent Appeal GEO 004/0606/OBS 085.1, September 29, 2006.

¹⁵ See Observatory Urgent Appeal GEO 004/0606/OBS 085, June 30, 2006.

¹⁶ See Observatory Open Letter to the authorities, March 2, 2006.

having allegedly offered a bribe by phone to a civil servant of the Ministry of the Interior, to obtain Slovenian citizenship for a Roma. In this case, she indicated that she was intending to defend herself by “civil disobedience” (i.e. to voluntarily not attend the hearings, not defend herself, not hire an attorney etc.). A third case was filed in October 2005 by a judge who felt “offended” by Mrs. Miklavcic-Predan’s appeal and her decision of “civil disobedience”. These three cases are still pending¹⁷.

- In **Turkey**, despite improvements with regards to freedom of association, human rights NGOs continued to be subjected to acts of harassment, especially those defending minorities. Such was the case of Mr. **Edip Yasar**, a member of the Diyarbakir section of the Human Rights Association (HRA) and President of Tum Bel-Sen, a trade union of municipal officials, Mr. **Necdet Atalay**, an HRA member, and Mr. **Ali Onçü**, Spokesman of the Diyarbakir Democratic Platform and President of TES-Is, one of the largest trade unions in the country, who were all arrested and charged with “assisting and supporting illegal organisations” in April 2006. They were finally all released on bail, following proceedings marred with numerous irregularities, but remain prosecuted. The next hearings in these cases should take place on October 10, 2006.

Besides, Messrs. **Resit Yarai** and **Mursel Kayar**, respectively board member and member of the Batman section of HRA, remain detained in the Batman prison, facing the same charges¹⁸.

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 UN General Assembly.**
- **support and implement all recommendations brought to them from the March 2006 Supplementary Human Dimension Meeting on Human Rights Defenders.**

In addition, the Observatory reiterates its complete support for the work of the Office for Democratic Institutions and Human Rights (ODIHR) on freedoms of association and peaceful assembly and recommends its development and extension.

In view of the seriousness of the violations perpetrated against human rights defenders in the OSCE zone and the increase in attacks against freedoms of expression, association and peaceful assembly in some countries of this zone, the Observatory reiterates its call upon the OSCE to create a special mechanism (such as a Special Rapporteur or a Special Representative), which would be authorised to approach and question the States on this issue, to reply to them, to report publicly and permanently on cases - both individual and collective -, and which would work in cooperation with the Special Representative of the UN Secretary General on Human Rights Defenders. The Observatory also calls the ODIHR to develop focal points on human rights defenders in all its offices and representations.

¹⁷ See Observatory Urgent Appeals SVN 001/0406/OBS 040 and OBS 040.1, April 3 and June 16, 2006.

¹⁸ See Observatory Urgent Appeals TUR 001/0406/OBS 045 and OBS 045.1, April 7 and June 20, 2006, as well as Press Release, July 19, 2006.