

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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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**

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

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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 situation of human rights defenders in some member countries.

Indeed, the first semester of 2007 has witnessed an ongoing tendency of repression aimed at reducing - sometimes drastically - the capacity of independent civil society to operate in several OSCE member-States. Thus, the **Russian Federation** continued to rely on restrictive laws in relation to freedom of association, thus making it easier to control independent civil society. Moreover, freedoms of assembly and peaceful gathering were flouted in some countries (**Georgia, Russia, Turkey**). Furthermore, some defenders were arrested and received prison sentences merely for owning materials related to human rights (**Uzbekistan**).

Restrictions on freedom of association

In the ***Russian Federation***, since the new Federal Law on NGOs, adopted in December 2005, entered into force on April 17, 2006, the registration conditions for NGOs have been toughened, and the powers of the authorities to interfere in their activities strengthened. Some provisions of the Law on Combating Extremist Activities were also used in 2006 to hinder the activities of NGOs. For instance, on January 23, 2007, the Supreme Court confirmed the decision of the Regional Court of Nizny-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. Indeed, according to Article 15 of the Law on the Fight Against Extremist Activities, “if the head or a member of the leadership of an NGO makes a public declaration in which he or she calls for an extremist act or if he or she was sentenced for an extremist act, his or her organisation must publicly declare its disapproval within five days [...]; the failure to do so by an organisation will be considered as an extremist act on the part of this organisation”. Moreover, the judge based himself on Article 19 of the Federal Law on NGOs, according to which “a person who was sentenced on the basis of the Law on the Fight Against Extremist Activities cannot be co-founder of an organisation”¹.

Restrictions on 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 as they were calling for the release of Mr. Irakli Batiashvili, the leader of the “Tsin Sakartvelo” party (“Forward Georgia”)², in front of the General Prosecution Office. Mr. Jaba Jishkariani, Mr. Davit Dalakishvili and Mr. Levan Gogichaishvili were charged for “violating public order” and “disobedience to the police”, and sentenced to 25 days’ imprisonment according to Article 173 of the Georgian Administrative Code. On March 19, 2007, Mr. Jaba Jishkariani had already been taken into custody after being sentenced on the same day to 30 days in prison for “disrespect to the court” (Article 208 of the Criminal Code of Georgia), by the Juvenile Court. Mr. Jishkariani was then attending a hearing in the trial against a juvenile prisoner, during which he reproached the Court for its lack of independence and said that the sentence was unfair. He also accused the Court Marshals (guardians) of being the “slaves of Mr. Ivane Merabishvili [Minister of Internal Affairs]”. Mr. Jaba Jishkariani was released on April 18, 2007, after spending 30 days in detention at the pre-trial detention centre at the Ministry of Internal Affairs³.

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 aimed at strengthening the already restrictive provisions of the 2004 Law on demonstrations. For instance, Article 5 of the bill provided that all persons with criminal or administrative convictions under the Law on the Fight Against Extremist Activities had to be banned from

¹ See Observatory Annual Report 2006 and Press Releases issued on January 22 and 24, 2007.

² 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.

³ See Urgent Appeal GEO 005/0607/OBS 085.2 and 085.3, respectively issued on March 23 and June 14, 2007.

organising demonstrations. This provision was particularly worrying as the 2004 law has already been used to criminalise human rights activities and to sentence human rights defenders.

Furthermore, under the proposed law, any person, non-governmental organisation, political party or religious organisation that had received a warning from the authorities under the above-mentioned law had to be banned from organising any demonstration for a period of six months.

Furthermore, Article 8 of the draft law had increased the list of the places in which demonstrations were to be banned, in particular near to military camps or institutions.

Finally, Article 12 of the bill provided for the authorities to be able to ban any public demonstration during the period of two weeks either side of elections.

If the Observatory welcomes the decision of Russian members of the Duma 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 law⁴.

In **Turkey**, on April 4, 2007, 11 Executive Committee members of several trade 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 having violating Law n° 2911 on Public Meetings and Demonstrations. They were all prosecuted following a peaceful teachers' demonstration organised by Egitim Sen in Ankara on November 26, 2005, which was forcibly repressed by the police. While the sentences of nine of the trade union leaders were suspended, the sentences for Mr. **Ismail Hakki Tombul**, KESK President, and 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 prison⁵.

Acts of harassment against human rights defenders

Over the past six months, several human rights defenders have continued to be harassed in some OSCE member-States and subjected to acts of reprisals such as arbitrary arrests, disproportional sentences, or assaults. The following cases confirm indeed the determination of both State and non-state actors in their attempt to silence lawyers, independent journalists, defenders of minority groups and more generally NGO-members.

In **Kyrgyzstan**, on April 6, 2007, Mr. **Ramazan Dyryldaev**, Chairman of the Kyrgyz Committee for Human Rights (KCHR), was subjected to a violent assault next to his home. On the same day, Mr. Dyryldaev had taken part into a TV show, during which he had criticised the policy of the President of the Republic, Mr. Kourmanbek Bakiev, and the former Prime Minister Mr. Felix Koulov, accusing them of being linked to corruption. On April 7, 2007, two unknown men came to his office, looking for him⁶.

In the **Russian Federation**, human rights defenders were subjected to serious acts of retaliation from unknown extremist individuals as a result of their activities. Besides, the Russian authorities once again failed to act in order to identify the aggressors and to bring them to justice.

- 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 while on her way back from visiting the relatives of a former colleague, who was killed on June 19, 2004. Over the past months, Ms. Uzunova had received threats of violence from anonymous sources. On June 20, 2007, Ms. Uzunova had to give expert testimony before the Vyborgi Federal Court in the case of Mr. Vladislav Nikolsky, who was facing charges for incitement to overthrow the constitutional order of the Russian Federation and incitement to racial hatred, but the hearing was cancelled because of the attack⁷.

⁴ See Press Release issued on January 26, 2007.

⁵ See Urgent Appeal TUR 001/0407/OBS 040, issued on April 23, 2007.

⁶ See Press Release issued on April 12, 2007.

⁷ See Urgent Appeal RUS 003/0607/OBS 070, issued on June 29, 2007.

- In the evening of January 14, 2007, Mr. **Bakhrom Khamroev**, a member of the Civic Assistance Committee (CAC), an NGO that supports refugees, was attacked by a group of unknown individuals, near the subway station “Toul’skaya” in Moscow, as he was entering the station. Mr. Khamroev was later diagnosed a brain concussion, and suffered from numerous contusions on his body.

Following this event, a criminal investigation was opened by the subway police, but the assailants have not yet been identified. Mr. Khamroev would reportedly have been threatened and followed several times before his attack⁸.

In *Uzbekistan*, human rights defenders were accused and sentenced to imprisonment as a way to sanction their human rights activities.

- On January 14, 2007, Ms. **Gulbahor Turayeva**, a forensic expert and a member of Anima-kor (an NGO 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. As 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. Straight after her arrest, Ms. Turayeva’s apartment was searched by secret services, which failed to produce anything suspicious. On April 24, 2007, Ms. Gulbahor Turayeva was sentenced to six years in prison for “attempting to overthrow the constitutional system”, “slander” and “producing and spreading materials threatening public order” by the Andijan Regional Court. On June 2, 2007, her sentence was reduced to three years suspended imprisonment⁹.

- On January 22, 2007, Mrs. **Umida Niyazova**, 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, was arrested. On January 26, 2007, she was transferred to the Tashkent Transport Prosecutor’s Office. Later on, Mrs. Umida Niyazova was transferred to the Tashkent prison’s investigation ward n°1.

On April 30, 2007, and without preliminary notification, the Tashkent’s Sergeli District Court started her trial. Ms. Umida Niyazova was prosecuted for “illegally entering or illegally leaving the Republic of Uzbekistan” (Article 223 of the Penal Code), “preparing and distributing material which poses a threat to public order and security” (Article 244, Paragraph 1) and “smuggling” (Article 246)¹⁰.

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. Ms. Niyazova was then released from the Court room. However, under the terms of her new sentence, Mrs. Niazova has to report regularly to the neighbourhood police, must notify the authorities about any changes in her profession, and must observe a 10:00 p.m. curfew¹¹.

- On May 18, 2007, Mr. **Kamil Ashurov**, a journalist and an active human rights defender in Samarkand¹², was insulted and beaten in the area of “Rukh obod” mosque of Samarkand, soon after Friday’s prayers. When Mr. Ashurov asked his aggressor why he was doing this, the old man hysterically said, “*you are a snake, a Scorpio and we should kill you...*” and that he had “*dared to criticize the President*”¹³.

⁸ See Urgent Appeal RUS 001/0107/OBS 002, issued on January 17, 2007.

⁹ See Urgent Appeal UZB 001/0107/OBS 006 and 006.1, respectively issued on January 23 and May 3, 2007.

¹⁰ 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 Ms. Niyazova had collected during a short period she worked in Uzbekistan. Ms. Niyazova explained to the court that the materials found on her laptop were personal copies for work and were not meant for distribution.

¹¹ See Urgent Appeal UZB 002/ 0207/OBS 012, 012.1 and 012.2, respectively issued on February 1, May 3 and May 9, 2007.

¹² Among others, Mr. Ashurov provides free legal consultation to victims of human rights violations, legal defence in court, and monitoring and reporting upon abuses

¹³ See Urgent Appeal UZB 003/0507/OBS 053, issued on May 29, 2007.

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.**

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.

The Observatory further welcomes the announcement of the establishment of a department specially dedicated to the protection of defenders during the last Human Dimension Implementation Meeting, which took place in Warsaw in October 2006. Nevertheless, the exact mandate of this new department should include the possibility of addressing member States on individual cases.



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