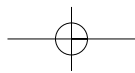
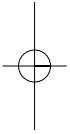
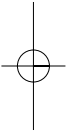


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THE SITUATION OF HUMAN RIGHTS DEFENDERS

In 2004, human rights defenders continued to be subjected to the hostility of their respective governments, although to different degrees. Repression mainly took the form of limiting their freedom of expression, since governments, always concerned with their image, poorly tolerated criticism of their policies and denunciation of human rights violations on their territories. Numerous cases of violence against human rights defenders were recorded, notably in *Cameroon*, *Democratic Republic of Congo (DRC)*, and *Zimbabwe*. Moreover, several States followed a more pernicious strategy of neutralisation and progressive paralysis of independent civil society, as for instance in *Ethiopia*, *Mauritania* and *Rwanda*. Defenders were also marginalised by campaigns aimed at discrediting them, organised by the authorities (*DRC*, *Mauritania* and *Togo*) and often relayed by pro-governmental NGOs that have become more and more present on both national and international scene. Although the war against terror remained on the political agenda of some States¹, few governments used the fight against terrorism as a pretext to undermine defenders' rights². However, 2004 was marked by an increasing number of particularly restrictive legislation with regards to freedom of association (*Ethiopia*, *Zambia*, and *Zimbabwe*). Finally, as well

¹ The African Union's Centre for Study and Research on Terrorism, in particular, was inaugurated on 13 October 2004 in Algiers.

² In *South Africa* for instance, the "Protection of Constitutional Democracy against Terrorism and Related Activities" Bill, which was adopted by the National Assembly in November 2003 and introduced before the Senate in February 2004, was finally withdrawn due to the large mobilisation of civil society and trade unions, who strongly protested against the broad definition given to "terrorist activities" and who denounced the risks entailed in this legislation with regard to freedom of association.

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as being affected by the direct consequences of conflict throughout Africa, defenders denouncing human rights violations in Darfur (*Sudan*), *Côte d'Ivoire*, and in Kivu (*DRC*) were subjected to threats and severe hindrances to their activities.

At regional level, 2004 was marked by the institutional reinforcement of the African Union (AU), and its strong political mobilisation, notably in conflict resolution, was widely welcomed by the international community. Two years after it was launched, the AU facilitated action at regional level in terms of conflict resolution, civil society participation, and protection of human rights defenders. This was largely due to the effective establishment of institutions such as the Peace and Security Council, the Economic, Social and Cultural Council, the Pan-African Parliament, and the African Court on Human and Peoples' Rights. Meanwhile, the AU however showed its will to tighten its control over independent civil society, so following a tendency that could be observed both in its members States and at international level.

Legislative obstacles to freedom of association

Several bills that were adopted or proposed in 2004 provided for manifold legislative constraints aiming at controlling independent civil society (demanding, if not paralysing, conditions for registration; wide interference prerogatives granted to the executive power, strict control and restrictions placed upon NGOs' funding sources).

In *Ethiopia*³, an NGO Bill that had been under review by the Ministry of Justice since 2001 was presented in a revised form in July 2004. Although this draft law authorises associations to organise themselves in networks, it allows the Minister of Justice extensive powers to interfere in NGOs' internal affairs of and thus contributes to maintaining a strict control over civil society. If adopted, this legislation will entitle the Minister to order the administrative dissolution of any NGO, to dismiss its members - whether elected or not -, to seize its documents and order the search of the premises without a warrant.

³ See Compilation of cases below.

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In *Rwanda*, a draft law regulating the activities of international NGOs operating in the country was presented on 12 July 2004. According to Article 3 of this bill, all international NGOs must register every year with the Ministry of Local Administration, which may be granted the right to scrutinise the nature and location of their activities. In addition, international NGOs also have to submit a yearly, detailed assessment of their activities to the relevant Ministries, whereas the government has the possibility to proceed to an "evaluation/audit of their activities (...) when appropriate" (Article 21). This law, which is in keeping with the Act on local NGOs that was adopted in 2001, was approved by the government in November 2004, and is expected to be examined by the Parliament in 2005.

In *Tanzania*, although the law on NGOs that was adopted in November 2002⁴ was not yet effective in 2004, it will most probably come into force in 2005, since several bodies it sets forth were established in 2004. This act, which was drafted by the Parliamentary Assembly of Tanzania without prior consultation with national NGOs, provides for criminal sanctions (fine and/or imprisonment) against members of NGOs that do not register, whereas the cases in which registration can be refused are not clearly defined. Besides, the NGOs Coordination Board and the National Council for NGOs set by this law are granted an important interference power in the associations' activities and remain under strict governmental control. Moreover, the 2004 Income Tax Act that was adopted in April 2004 and came into force in July 2004 greatly reduced the tax benefits and allowances for "charitable organisations", that can now be taxed on a wider amount of the gifts and donations they receive.

In *Uganda*⁵, the NGO Bill that was presented before the Parliament in 2000 was still under review by the Defence and Internal Affairs Committee at the end of 2004. If adopted, this Bill will impose fierce restrictions on the registration of NGOs that will for instance be obliged to regularly register with the Ministry of Internal Affairs and have a valid operating licence in order to carry out their activities, the legal

⁴ See Annual Report 2003.

⁵ See Annual Report 2002.

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duration of which has not yet been fixed. Moreover, some provisions forbid the registration of associations criticising the governmental policy or contrary to "public interest".

In *Zambia*, the President Mr. Levy Mwanawasa announced in November 2004 that the government was considering a Bill on NGOs' funding. Alleging that foreign funds received by national NGOs were used to "criticise the government", Mr. Mwanawasa announced his intention of setting forth "parameters in which NGOs will operate" and limiting the use of foreign funds by local associations.

Lastly, in *Zimbabwe*, the tendency identified in 2003 was confirmed by the adoption, on 9 December 2004, of the NGO Act which replaced the Private Voluntary Organisations (PVO) Act enacted in 1967, the provisions of which had been reasserted in 2002⁶. This new Act requires the registration of all NGOs with the Ministry of Social Welfare and prescribes personal criminal sanctions - including imprisonment - against the board members of an NGOs that is not registered. In addition, the authorities may at any time cancel or revoke the certificate of registration. Lastly, local human rights NGOs will be severely hindered in their activities since they are prohibited from receiving any foreign funding whereas foreign NGOs working in the field of human rights are no longer authorised to work in the country.

Defamation and discredit of human rights defenders: A tougher stance

Repressive practices against human rights defenders continued and diversified in 2004.

A large number of defenders were subjected to manifold methods of repression⁷ (harassment, professional reprisals, threats, arrests, arbitrary detention, mistreatment, etc.). The lack of independence of the judiciary intensified the arbitrary nature of this crackdown and thus further weakened the position of human rights defenders, who were often deprived of any equitable judicial recourse. For instance, in the *DRC*, Mr. Golden Misabiko, honorary president of the African Association of

⁶ See Annual Report 2003 and Compilation of cases below.

⁷ In particular in *Cameroon, DRC, Ethiopia* and *Zimbabwe*, see Compilation of cases below.

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Human Rights (Association africaine des droits de l'Homme - ASAD-HO) - Katanga section, is under close police surveillance since 23 December 2004, when he was gravely threatened by a person he later recognised as one of his former torturer⁸.

In 2004, the authorities also adopted pernicious strategies of discredit aiming at neutralising and paralyzing independent civil society, whilst reinforcing the position of pro-governmental organisations.

Many governments attempted to make independent human rights organisations lose their credibility with the public by orchestrating vast smear campaigns against them. In June 2004 for instance, shortly after an FIDH report on the human rights situation in *Togo* was published, both Mr. Adote Ghandi Akwei, president of the Togolese League for Human Rights (Ligue togolaise des droits de l'Homme - LTDH), and the FIDH were defamed by Mr. Pitang Tchallah, Minister of Communication, who declared the report "outrageous and revolting"⁹. In *Mauritania*, members of the Mauritanian Association for Human Rights (Association mauritanienne des droits de l'Homme - AMDH) and of the organisation SOS Slaves (SOS-Esclaves) continued to be described by the authorities as "extremists and fringes of society [...] specialists in distorting facts"¹⁰. Moreover, many governments did not hesitate to publicly slander independent human rights organisations before international institutions. Indeed, during the 36th session of the African Commission on Human and Peoples' Rights (ACHPR)¹¹, the president of the Community of Indigenous People of Rwanda (Communauté des autochtones rwandais - CAURWA) was personally threatened by representatives of his own country, after he presented an alternative report to the periodic report Rwanda submitted to the Commission¹².

Several independent organisations saw elected members of their administrative boards replaced, without prior consultation, by individuals close to the government. In *Ethiopia* for instance, this strategy, which had already been used in the 1990s against the Ethiopian Teachers' Association (ETA), was once more resorted to against the

⁸ See Compilation of cases below.

⁹ *Idem*.

¹⁰ *Idem*.

¹¹ Dakar, Senegal, 23 November - 7 December 2004.

¹² See Compilation of cases below.

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Ethiopian Free Journalists' Association (EFJA), whose executive board was re-elected in January 2004 by a general assembly convened by the Minister of Justice and in the absence of EFJA members¹³.

In June 2004, one of the very last independent human rights NGOs operating in Rwanda, the League for the Protection of Human Rights in Rwanda (Ligue rwandaise pour la promotion et la défense des droits de l'Homme - LIPRODHOR), was accused of "divisionism" by a Parliamentary Commission that further recommended its dissolution. Short after the Parliament adopted a resolution taking up this recommendation, the independent leaders of the organisation were forced into exile due to the serious threats exerted against them¹⁴. In September 2004, a new administrative board, composed of sympathizers of the ruling party, took over the association and immediately issued a public apology for its past "erring". The case of the LIPRODHOR is symptomatic of the baneful use by Rwandan authorities of the charges of "divisionism" and "propagation of genocide ideology" in order to muzzle independent civil society in the country.

This locking strategy was equally visible on the international scene in 2004, through the alarming proliferation of pro-governmental human rights NGOs. In *Mauritania*, the Group for the Defence of the Rule of Law (Groupe pour la défense de l'état de droit), an association close to the government, was created on 15 October 2004 with the explicit objective to discredit the FIDH, the AMDH and SOS Slaves. Moreover, during the 36th session of the ACHPR, several Mauritanian representatives of pro-governmental NGOs tried to introduce themselves as AMDH members, paralysing the debates and undermining the work of independent NGOs. This practice, which conveniently allows State authorities to publicly produce compliant civil society representatives while discrediting and isolating independent human rights defenders, is a real threat that requires an enhanced vigilance on the part of international human rights bodies.

In the DRC, several pro-governmental organisations orchestrated a smear campaign against the League of Electors (Ligue des électeurs - LE) by their donors, thus expecting to reduce the LE funding sources and activities¹⁵

13 *Idem*.

14 *Idem*.

15 *Idem*.

Freedom of expression and freedom of the press

Human rights defenders issuing public statements or publishing reports on human rights violations perpetrated in their countries remained systematically subjected to threats and retaliation.

In the *DRC*, members of human rights organisations were gravely threatened after each of their publications¹⁶ and interventions, as for instance the members of the Co-ordination of Actions for the Promotion of Peace and Human Rights (Coordination des actions de promotion de la paix et des droits de l'humain - CAPDH), an association based in Isangi, Oriental Province. Following the publication of a CAPDH report on the human rights situation in the Isangi district from October 2003 to June 2004, Messrs Gaspart Bombile, Dieu-Merci Mombaya and François Malomalo were arrested on 16 August 2004 by a group of police officers led by the police commissioner Mr. Nyeko, who had been incriminated by the report for perpetrating violations. Transferred to Mr. Nyeko's office, the three CAPDH members were first questioned and threatened with torture before being placed under detention. They were released on the same day thanks to the mobilisation of civil society. Later on, on 28 September 2004, Mr. Faustin Motembo was arrested on the order of Mr. Nyeko for allegedly stealing a radio. As soon as Mr. Nyeko and the officers got aware Mr. Motembo was a CAPDH member, they violently beat him up before placing him in detention. He was released two days later.

In *Ethiopia*, a couple of days after the Ethiopian Human Rights Council (EHRCO) published a report on the assassination of civilians by the armed forces in the Gambella region in January 2004, the government denied this information and threatened to take "appropriate measures" against the association. This statement was widely relayed on television and in the newspapers¹⁷.

In *Guinea Bissau*, Mr. Joao Vaz Mane, vice-president of the Guinean League for Human Rights (Liga Guinenseense dos Direitos Humanos - LGDH), was arbitrarily arrested in March 2004 after he denounced a

¹⁶ Notably the League of Electors, the Lotus Group, the African Association of Human Rights (ASADHO) and the Centre for Human Rights and Humanitarian Law (Centre des droits de l'Homme et du droit humanitaire - CDH).

¹⁷ See Compilation of cases below.

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police misconduct in a programme broadcast by the LGDH. As the police presented him as the perpetrator of a murder he had nothing to do with, Mr. Vaz Mane narrowly avoided being lynched by the population¹⁸.

Media associations and independent journalists denouncing human rights violations were also subjected to various pressures.

In 2004, the *Gambia* and *Zimbabwe* adopted particularly restrictive press laws prescribing heavy fine and imprisonment sentences for "defamation, libel, sedition and disseminating false information"¹⁹. Just as the legislation on NGOs, the crimes are so vaguely and broadly defined that these laws constitute a real sword of Damocles for independent journalists whose safety is at risk in many countries. In the *Gambia*, Mr. Deyda Hydera, co-owner of the independent weekly *The Point* and local correspondent for *Agence France Presse (AFP)* and Reporters without Borders (Reporters sans Frontières - RSF), was assassinated in the night of 16 December 2004, a couple of days after he criticised the new Gambian press laws²⁰.

In *Chad*, Mr. Tchanguiz Vathanka, director of *Radio Brakoss*, a private radio station regularly broadcasting programmes denouncing human rights violations perpetrated by the Chadian authorities, was arrested and tortured in February 2004. Moreover, members of the associative radio *FM Liberté* have been subjected to recurrent death threats since June 2004, when they broadcast the interview of an Ivorian musician who denounced dictatorships in Africa²¹.

In *Congo-Brazzaville*, Mrs. Catherine Nina, a journalist for *Radio France International (RFI)*, was questioned at length in the night of 7 August 2004 by two Congolese intelligence service agents who notably criticised her for leading an inquiry on the "Disappeared of the Beach" affair. In May 2004, the Minister of Communication had already threatened RFI with suspend after it broadcast the testimony of a high-ranking official who implicated the President of the Republic in the 1999 massacres.

In the *DRC*, on 20 June 2004, Mr. Modeste Shabani, director of the community radio *Sauti ya Mkaaji* (Peasant's Voice) in Kasongo,

18 *Idem.*

19 *Idem.*

20 *Idem.*

21 *Idem.*

Maniema Province, was violently beaten up by members of the armed forces who notably criticised him for "becoming far too involved in human rights issues" in the province.

In *Nigeria*, the State Security Services (SSS) arrested three employees of the *Insider Weekly* newspaper in Lagos on 4-5 September 2004. The three men were detained incommunicado at the SSS headquarters until 10 September 2004. They were accused of "attacking, disparaging and humiliating the person of the President, Mr. Olusegun Obasanjo (...), as well as other notable people in government". The three journalists were seemingly arrested following the newspaper's stand in favour of Nigeria's only trade union, the Nigeria Labour Congress (NLC).

In *Senegal*, Mr. Madiambal Diagne, chief editor of the daily newspaper *Le Quotidien*, was arrested in July 2004 on grounds of the particularly repressive Article 80 of the Criminal Code, which refers to "activities undermining public security or encouraging serious political disturbances, discrediting political institutions or their functioning, and contravening the country's legislation". Mr. Diagne remained in detention for 18 days and was released on bail thanks to the strong mobilisation of civil society and political opposition.

Defending human rights in conflict situations

Armed conflict situations

The signature of ceasefire agreements between North and South *Sudan*²² on the one hand, and *Senegal* and the Casamance separatist rebellion on the other, on 31 December 2004, is an undeniable sign of hope. The negotiations entered into by the government of *Uganda* and the rebels of the Lord's Resistance Army (LRA), although fragile, represent a step forward towards a peaceful conflict resolution. Meanwhile, the African continent however remained host to grave conflicts: the violent armed operations in the Darfur region (*Sudan*), where the conflict

²² The ceasefire agreed between the Sudanese government and the rebel forces of the Sudan People's Liberation Army (SPLA) resulted in the signature of comprehensive peace accords in Nairobi on 9 January 2005.

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is ongoing since February 2003, the renewal of hostilities in Kivu (*DRC*) and in *Côte d'Ivoire*, implied the escalation of massive human rights violations perpetrated against civilian populations (summary executions, forced disappearances, arbitrary arrests and detentions, torture, rape, displacement of populations, etc.).

In this context, human rights defenders were in the frontline of violence, most particularly those who fought the ongoing impunity of international crimes perpetrators. Serious threats were hanging over them, while they had to face numerous obstacles to their activities in favour of human rights.

In *Sudan*, members of human rights NGOs operating in the Darfur region were regularly accused of undermining the State security. For instance, Mr. Mudawi Ibrahim Adam, president of the Sudan Social Development Organisation (SUDO) that is particularly active in Darfur, was arrested at his home in Ondurman by National Security Agency (NSA) agents in December 2003. Detained in the Kober prison, Mr. Mudawi was formally accused, in February 2004, of "undermining the constitutional system, waging war against the State, disclosure of military information, calling opposition to public authority by use of violent criminal force, and provoking hatred against or amongst sects". Mr. Mudawi was released in August 2004 after these charges were dropped²³.

In addition, the access to the Darfur region is far from being secure for international humanitarian personnel: on 12 December 2004, two Sudanese employees of the British NGO Save the Children, Messrs. Abbaker Al-Tayeb and Yacoub Abdel Nabi Ahmed, were killed during the attack of their aid convoy, leading to the withdrawal of the association from the area. Moreover, on 14 December 2004, security forces arrested four Dutch and one Sudanese employees of the International Rescue Committee (IRC) at Nyala Airport (Southern Darfur State). The five aid workers were questioned at the Nyala central police station and accused of taking pictures inside Kalma and Douma refugee camps and interviewing internally displaced people (IDPs) about the security situation in the camps. They were released on bail on the same day, but

²³ See Compilation of cases below.

charged with espionage against the country - which carries a death sentence -, entering and photographing military areas and provoking hatred against or amongst populations. As of the end of 2004, the proceedings were still pending.

Lastly, access to information remained strictly limited. Although censorship was officially lifted in 2003, journalists disseminating information about the situation in Darfur were fiercely repressed in 2004. For instance, Mr. Islam Salih Adam Belo, director of the Khartoum bureau of the Qatar-based *Al-Jazeera* television, was condemned to one month imprisonment and one million Sudanese dinars (3000 euros) for "disseminating false information" on 10 April 2004, following the broadcast of reporting notably covering the situation in Darfur. Mr. Islam Salih lodged an appeal before the High Court and finally served half of his jail term. However, *Al-Jazeera* offices in Khartoum remained closed since December 2003, on the order of the NSA.

In *Côte d'Ivoire*, the denunciation of the atrocities committed in the country was called into question and human rights defenders were caught in a stranglehold between the different parties to the conflict. Thus, Mr. Amourlaye Toure, president of the Ivorian Movement for Human Rights (Mouvement ivoirien pour les droits humains - MIDH), received death threats after MIDH published a report on the violent repression of opposition protests held in Abidjan on 25 March 2004. These threats notably criticised him for his "intransigence towards the regime" and accused him of supporting the rebel forces²⁴.

Serious obstacles to disseminating and gathering information were also recorded in 2004: on 13 May 2004, *RFI* was suspended from broadcasting for 24 hours by the National Council for Audiovisual Communication (CNCA), on grounds that the radio station had disclosed the conclusions of the report of the UN Commission of Enquiry set forth to investigate the 25 March 2004 events, even before this report was officially published²⁵. Moreover, although the murderer of journalist Mr. Jean Hélène, assassinated in October 2003, was sentenced to a 17 years jail term in January 2004, the circumstances in which the

²⁴ *Idem*.

²⁵ This decision was met in accordance with Article 3 of the 1991 Act on audiovisual communication, which stipulates that "public service shall contribute to the strengthening of national unity by developing a social communication".

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Franco-Canadian independent journalist Mr. Guy-André Kieffer disappeared remain unresolved, despite the indictment of his presumed murderer, Mr. Michel Légré, brother in law of President Gbagbo's wife.

In the *DRC*, many defenders operating in North-Kivu were forced to leave the region after undergoing repeated attacks. For instance, Mr. Amato Mbunsu, member of the Human Rights Observers' Committee (Comité des observateurs des droits de l'Homme - CODHO), had to put an end to his activities in September 2004 after he was threatened with death by elements of the Congolese National Army²⁶. Likewise, Mr. Guy Kajemba, a member of the Provincial Network of Human Rights Organisations in Congo (Réseau provincial des organisations des droits de l'Homme du Congo - REPRODHOC) - North-Kivu section, Mr. Richard Bayunda, member of the Centre for Research and Study on Human and Humanitarian Rights (Centre de recherches et d'études sur les droits de l'Homme et le droit humanitaire - CREDHO), Mr. Azile Tanzi, member of the NGO Campaign for Peace and Mrs. Immaculée Birhaheka²⁷, coordinator of the Promotion and Support of Women's Initiatives (Promotion et appui aux initiatives féminines - PAIF), all received similar death threats in December 2004, shortly after they published a report denouncing weapons distribution to civilians in North-Kivu. Mr. Kajemba was forced to go into hiding along with his family in South-Kivu. Lastly, in Beni, members of the editorial staff of the community radio station *Télé-Graben Beni*, many of them also belonging to the ASADHO - Beni section, were regularly intimidated by the armed forces for reporting human rights violations in the region.

Post-conflict situations

The peace process in which *Ethiopia* and *Eritrea* engaged by signing the Algiers Agreement of Cessation of Hostilities on 12 December 2000 remains partially blocked since the proposed border demarcation was rejected by both countries in 2002. In 2004, renewed tensions arose between the two States, Ethiopia accusing Eritrea of sheltering armed Ethiopian opposition groups on its territory - most particularly the

²⁶ See Compilation of cases below.

²⁷ Winner of the Martin Ennals Award for Human Rights Defenders, 2000.

Oromo Liberation Front (OLF)²⁸ and the Ogaden National Liberation Front (ONLF). In this context, human rights defenders denouncing the violations of Oromo populations' rights were systematically repressed by the Ethiopian authorities. In 2004, members of the "Mecha Tulema" association for the defence of Oromos' rights, amongst others, were accused on several occasions of supporting the protest movement of Oromo students as well as having links with the OLF. Likewise, EHRCO, who denounced the acts of violence perpetrated against Oromos students, was also suspected of supporting the OLF²⁹.

In *Somalia*, the election of the President of the Federal Republic, Mr. Abdullahi Yusuf Ahmed, in October 2004, was a first step towards the political reconstruction of the country. Yet, the peace process was far from being effective across the whole territory and again in 2004, no independent human rights organisation could be created.

Defending economic and social rights

Trade union activities were closely watched by the authorities, and many trade unionists suffered from human rights violations because of their commitment to the promotion and protection of economic and social rights. In certain countries, environmental activists who denounced and fought the abuses of multinationals were also targeted.

In *Burundi, Djibouti, Nigeria* and *Zimbabwe*, trade unionists had to carry on their activities in a extremely tense climate, while union movements were sometimes violently repressed.

In *Burundi*, Messrs. Pierre Claver Hajayandi and Celestin Nsavyimana, respectively president and treasurer of the Trade Union Confederation of Burundi (Confédération des syndicats du Burundi - COSYBU), were arrested by security services in September 2004, and accused of "jeopardising national security". Some days beforehand, the two union leaders had urged COSYBU members to sign a memorandum criticising the adoption of a new Constitution by the Burundi Parliament. They were held for one week before being released³⁰.

28 Separatist rebel group operating in the South of the country, fighting for the creation of an autonomous State, Oromia, since 1995.

29 See Compilation of cases below.

30 *Idem*.

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In *Djibouti*, union rights were severely restricted. For instance, in February 2004, following a dock workers' protest movement demanding the payment of retirement pensions, five of the protesters were appointed as delegates for the movement, on the request of the authorities. When these five persons arrived for negotiating with the government, they were immediately arrested, mistreated and placed under detention, before being given a suspended prison sentence of six months for causing a "breach of the peace".

In *Nigeria* and *Zimbabwe*, independent union movements were at risk of being weakened by the strategy of the governments, which resort to a fierce repression of their activities combined with the fragmentation of larger workers' groups into smaller units that are more easily controllable and thus subjugated to the authorities. In June 2004, Nigerian President Mr. Olusegun Obasanjo thus proposed a bill limiting the right to strike and providing for the creation of several union confederations. The introduction of this draft law followed national strikes and demonstrations called by the Nigeria Labour Congress (NLC) in June 2004 to protest against the leap in the price of petrol. This movement was violently repressed by the police forces, who also searched the home of the NLC president, Mr. Adams Oshiomole. The bill was adopted by the Senate in September 2004, but will only come into force once signed by the President.

Likewise, Zimbabwean authorities continued to register a large number of union groups in 2004, meant to be taken over by the pro-governmental Zimbabwe Federation of Trade Unions (ZFTU). The reinforcement of ZFTU jeopardised any effective trade union activity in the country, all the more that ZFTU often threatened workers with dismissal if they refused to join the union. In the meanwhile, the government subjected the Zimbabwe Congress of Trade Unions (ZCTU) to a fierce repression for the past years: indeed, ZCTU leaders were regularly arrested on grounds of the Public Order and Security Act (POSA) and prohibited the free exercise of their freedom of reunion³¹. In January 2004, Mr. Lovemore Matombo, ZCTU president, was also dismissed from his position at Zimbabwe Post (Zimpost) after he took

³¹ *Idem.*

part to the Congress of the Organisation for African Trade Union Unity (OATUU) held in Khartoum, Sudan, in December 2003. Although Mr. Matombo had complied with all requirements to obtain leave, his employers accused him of being absent of his post without prior official authorisation³².

Lastly, defenders denouncing abusive exploitation of mineral resources, notably in Katanga (*DRC*) and the significant risks of pollution for the local populations due to such practices were threatened with grave acts of reprisals³³.

The fight against impunity

With regard to the fight against impunity, 2004 was marked by some positive steps: the International Criminal Court (ICC) was referred to by *Uganda* in January, the *DRC* in March and the *Central African Republic* at the end of December, in order to investigate the international crimes committed on their respective territories since 1 July 2002³⁴. Investigations were opened by the ICC Prosecutor in the *DRC* and *Uganda*, respectively in June and July 2004.

However, the fight against impunity at national level seemed to have gone somewhat into reverse.

In *Chad*, the court of appeal in N'Djamena upheld, on 17 November 2004, the discharge of the assailants of Mrs. Jacqueline Moudeïna, legal officer at the Chad Association for the Protection and Promotion of Human Rights (Association tchadienne pour la défense et la promotion des droits de l'Homme - ATPDH). The discharge was first ruled by the N'Djamena correctional court on 11 November 2004³⁵.

The authorities in *Congo-Brazzaville* increased their threats and pressures against witnesses in the "Disappeared of the Beach" case, investigated by the Court of Meaux (France)³⁶. For instance, a new organisation,

³² *Idem*.

³³ *Idem*.

³⁴ Date the Rome Statute came into force.

³⁵ See compilation of cases below.

³⁶ In May 1999, hundreds of Congolese refugees returning to their country thanks to a humanitarian corridor placed under the auspices of the High Commissioner for Refugees were abducted by elements of the Presidential Guard, and executed within the very grounds of President Sassou Nguesso's palace.

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the "Association to Defend the Interests of the Alleged Disappeared of the Beach", close to the ruling power, was set up in Brazzaville, whereas witnesses, their families as well as families of the victims were subjected to constant pressures and intimidations. In the meanwhile, the manoeuvring of Congolese authorities, obviously supported by the French ones, led to the cancellation, in November 2004, of all legal actions taken before French jurisdictions since 2001³⁷. The case is now laid before the French Supreme Court of Appeal (Cour de Cassation).

In *Senegal*, the Parliament adopted, on 7 January 2005, a law granting amnesty on all authors of events related to the local, regional and national elections as well as those related to the assassination of Mr. Babacar Sèye, Vice-President of the Constitutional Council, in 1993. This law, which is contrary to the rights of the victims, was severely criticised by human rights associations. Several constituents of Senegalese civil society, such as the National Organisation for Human Rights (Organisation nationale des droits de l'Homme - ONDH) and the African Association for the Defence of Human Rights (Rencontre africaine pour la défense des droits de l'Homme - RADDHO), organised a peaceful protest demonstration, scheduled for 7 January 2005. Although the prior notice to the authorities had been presented on time, a decree of the Prefect of Dakar prohibited the demonstration. In spite of this decision, numbers of participants gathered before the National Assembly on 7 January, before being violently dispersed by security forces.

These demonstrators intended to protest against the ongoing impunity prevailing in Senegal by underlining the importance of cases which had a deep impact on Senegalese public opinion in the past few years and were never judicially resolved, e.g. death threats against the journalist Mr. Abdou Latif Coulibaly and his lawyer Mr. Ousmane Seye

³⁷ On 5 December 2001, the FIDH, the French League for Human rights (Ligue des droits de l'Homme - LDH) and the Congolese Observatory for Human rights (Observatoire congolais des droits de l'Homme - OCDH) filed a complaint for torture, forced disappearances and crimes against humanity before the Meaux jurisdiction, against Messrs Sassou Nguesso, President of the Republic of Congo, Pierre Oba, General and Minister of Home Affairs, Public Security and Local Administration, Norbert Dabira, Inspector General of the Armed Forces living in France, and Blaise Adoua, General, Commander of the Republican Guard (Presidential Guard).

(ONDH vice-president), against bishops of Dakar and the Christian minority³⁸ as well as the political opponent Mr. Amath Dansokho, the assassination of Mr. Balla Gaye, a student, or the raid against the premises of the Wal Fadjri newspaper and the PSD/Jant-Bi party.

Mobilisation for regional and international protection of human rights defenders

United Nations

Mrs. Hina Jilani, Special Representative of the Secretary General on Human Rights Defenders, visited Angola from 16 to 24 August 2004. Her report will be available in 2005. She also received positive responses to the invitations she requested from the DRC, Nigeria and Senegal to visit the countries. Finally, she renewed her request to be allowed to visit Chad and Zimbabwe, to which no response had been given by the end of 2004.

In the report she presented at the 60th session of the UN Commission on Human Rights, in April 2004, Mrs. Jilani underlined that African countries were at the pole position for the absence of response to the communications she sent in 2003.

African Union (AU)

In 2004, several AU initiatives emphasised the importance of the participation of civil society in the mechanisms and programmes of the Union.

In this way, the effective inauguration of the African Peer Review Mechanism (APRM)³⁹, which was set up in the framework of the New Partnership for Africa's Development (NEPAD), represents an important potential of intervention on the part of defenders, since the Country self-assessment questionnaire refers to the UN Declaration on Human Rights Defenders adopted by the General Assembly of the

³⁸ See Compilation of cases below.

³⁹ The mandate of the APRM is to "ensure that the policies and practices of participating states conform to the agreed political, economic and corporate governance values, codes and standards contained in the Declaration on Democracy, Political, Economic and Corporate Governance".

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United Nations on 9 December 1988⁴⁰. Conformingly to this reference, the first APRM support missions to Ghana (24-29 May 2004), to Rwanda (21-24 June 2004), to Mauritius (28-30 June 2004) and to Kenya (26-27 July 2004) widely took into account the representatives of civil society in these countries.

Furthermore, the Protocol relating to the establishment of the Peace and Security Council (PSC), which came into force in December 2003, became fully effective as the PSC was solemnly launched in May 2004. This Protocol provides for the participation⁴¹ in the PSC debates of civil society organisations, which shall also be invited to address the Council⁴².

Besides, the adoption of Statutes of the Economic, Social and Cultural Council (ECOSOCC)⁴³ by the 3rd Ordinary session of the Assembly of the AU held in Addis Ababa in July 2004⁴⁴ reinforced the establishment of the ECOSOCC, a permanent consultative body composed of civil society organisations representatives from the AU member States. A first consultative meeting shall be held in March 2005. Although the effective establishment of this AU organ represents an undeniable step as far as civil society participation is concerned, the statutes adopted in 2004 have been revised compared to the draft version proposed in 2003, and notably restrict the eligibility requirements for ECOSOCC membership. Moreover, the ECOSOCC Standing Committee⁴⁵ shall be responsible for the implementation of the "Draft Code of Ethics and Conduct for African Civil Society Organizations"

40 Focal point 1, Objective 3 of the questionnaire.

41 Article 8 Para. 10c) of the Protocol.

42 Article 20 of the Protocol.

43 The purpose of the ECOSOCC is to foster a real partnership between all segments of civil society and governments of the member States of the Union. The ECOSOCC also aims at promoting the participation of civil society in the development, implementation, supervising and monitoring of the economic, social and cultural programmes of the AU.

44 AU Document Assembly/AU/Dec.48 (III): "Decision on the Economic, Social and Cultural Council."

45 The ECOSOCC Standing Committee is composed of 12 representatives of civil society organisations elected by ECOSOCC civil society member organisations.

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which was first presented in June 2003⁴⁶. This Draft Code is of a great concern for freedom of association within the AU. Indeed, this Code of conduct, stating that "many associations suffer from a lack of credibility", seeks to "lay down a set of standards of self-regulation and governance" and "benchmarks" that civil society organisations need to adopt and meet in order to be accredited with the AU⁴⁷. If approved, this Draft Code shall allow the AU to monitor and scrutinize, in the name of "the principles of transparency, legitimacy and accountability", the activities of civil society organisations, thus threatening their independence.

African Commission of Human and Peoples' Rights (ACHPR)

During its 34th session held in November 2003, the African Commission of Human and Peoples' Rights established a Focal Point on human rights defenders led by Commissioner Mrs. Jainaba Johm, although without defining her mandate.

On 19 and 20 March 2004, a "Consultative workshop on the role of the Focal Point on human rights defenders" was organised in Banjul, the Gambia, by the ACHPR and the African Centre for Democracy and Human Rights Studies (ACDHRS). This workshop, which the Observatory actively contributed to prepare, brought together Mrs. Johm, a representative of the office of Mrs. Hina Jilani, the person in charge of the "defenders" Unit of the Inter-American Commission on Human Rights, as well as representatives of international NGOs and regional human activists. The discussions allowed elaborating a draft resolution defining Mrs. Johm's mandate, to be submitted to the members of the Commission.

At the 35th session of the ACHPR (21 May-4 June 2004, Banjul), the Observatory made an intervention under the item dedicated to human rights defenders and notably recommended the adoption of a resolution

46 The Draft Code of Ethics and Conduct for African Civil Society Organizations was developed by a Provisional Working Group (PWG) established during the second African Union - Civil Society Conference in June 2002.

47 The AU observer status is currently under review and shall be adopted by the Executive Council of the Union in 2005.

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clarifying Mrs. Johm's mandate. At the end of this session, the ACHPR appointed Mrs. Johm as "Special Rapporteur on Human Rights Defenders" and adopted a resolution based on the draft elaborated during the March workshop and specifying the terms of her mandate, which is to "seek, receive, examine and to act upon information on the situation of human rights defenders in Africa" as well as to "submit reports at every ordinary session of the ACHPR" and "develop and recommend effective strategies to better protect human rights defenders (...)⁴⁸".

On 18-19 November 2004, the Observatory organised, together with the ACDHRS and the International Service for Human Rights (ISHR), a joint "Consultative workshop on the situation of women human rights defenders in Africa", on the fringe of the 36th session of the ACHPR (23 November-7 December 2004, Dakar). Over 44 participants including a large number of women defenders took part to this workshop, at the end of which they adopted a resolution calling for an enhanced protection of women defenders in Africa. This event was organised in the framework of the International Women Human Rights Defenders Campaign that was launched on 25 November 2004 by a large range of NGOs all over the world.

African Court of Human and Peoples' Rights

Although its Protocol came into force in January 2004, the African Court of Human and Peoples' Rights only virtually exists for the time being. It was, however, envisioned to complete the human rights protection role of the Commission. Its effective establishment is thus essential for human rights defenders: indeed, Article 3 of the Protocol provides for the competence of the Court to decide of sanctions against member States' violations of the provisions of the African Charter of Human and Peoples' Rights (notably on freedom of association, Article 10 and 11) and any other international human rights instruments when national appeals are exhausted.

Further, according to the Protocol, the Court can be referred to by the ACHPR, State parties, African intergovernmental institutions, but also, through an optional process, by individuals and NGOs accredited

⁴⁸ See Document in Annex.

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with the ACHPR observer status. However, human rights defenders will enjoy this possibility to refer to the Court only if the State concerned authorises such a procedure through a formal declaration under Article 34(6) of the Protocol. It is therefore important that States make such a declaration, so that this mechanism becomes an effective tool in the fight against impunity for victims of human rights abuses, notably defenders. To date, Burkina Faso is the only State that made the necessary declaration, amongst the 19 that ratified the Protocol.

Another element of concern regarding the implementation, efficiency and independence of the Court is the decision met in July 2004 by the Heads of State at the Assembly of the AU held in Addis Ababa (Ethiopia), to merge the Court with the African Court of Justice. If this decision were to be confirmed, it would be highly detrimental to the fast and effective implementation of the Court, which would depend on the coming into force of the Protocol of the Court of Justice, which has only been ratified, to date, by five countries out of the necessary fifteen. Moreover, the merger would conflict with the interests of the victims - including defenders - as well as the objectives set forth by the creation of the Court. Indeed, this decision does not take into account the fundamental differences between both courts, in particular the distinction between their mandates. The African Court of Human and Peoples' Rights is competent for dealing with breaches of the African Charter of Human and Peoples' Rights and other human rights instruments, whilst the African Court of Justice judges the enforcement of the Constitutive Act of the African union as well as the conformity of all other acts issued by other AU organs with the Constitutive Act. In addition, compared to the referral procedures of the Court, those of the Court of Justice do not allow victims of human rights abuses and NGOs to directly resorting to it. The decision to integrate or merge the two bodies would thus hamper the effective participation of the victims and defenders in their process, and would at the least further delay the implementation of the Court. This question will be on the agenda of all AU meetings in 2005 and one has to hope that the AU will come back on its decision and establish two separate courts.

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International Organisation of the Francophonie

At the 10th Summit of the Francophonie held on 26-27 November 2004 in Ouagadougou (Burkina Faso), member States of the International Organisation of the Francophonie (Organisation internationale de la Francophonie - OIF) confirmed their "determination to promote the principles and commitments of the Bamako Declaration on best practices on democracy, rights and freedoms, as well as to implement the programme of action concomitant to this declaration". This programme of action notably aims at "giving a stronger support to the field initiatives and projects developed by NGOs and related to the nurturing of human rights, democracy, good governance and peace (...)" as well as "supporting the activities of networks and INGOs at national, regional and international level" (Chapter III.5). Moreover, the OIF programme of action plans to "provide support to human rights defenders by relying on existing structures and instruments", to "honour and empower the commitments of francophone countries with regards to the main international and regional human rights instruments and to observe their full application".

This Summit, as well as the NGO Forum held previously, gave the Observatory the opportunity to strengthen its collaboration with the OIF in the follow up to the Beirut Summit of the Francophonie, held on 12 and 13 October 2002⁴⁹. The Observatory also contributed to the Ouagadougou Summit by submitting a written intervention on the situation of human rights defender in OIF member States.

Commonwealth

From 7 to 10 September 2004, the Human Rights Unit of the Commonwealth Secretariat held a seminar on human rights defenders in Africa, in Nairobi (Kenya). A similar event had been organised for the Asian zone in Sri Lanka in 2003. The Nairobi seminar brought together representatives of African civil society as well as members of national

⁴⁹ See Annual Report 2002.

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Human Rights commissions of certain Commonwealth member states. The Observatory submitted an oral intervention under the item on "the role of human rights defenders and international organisations in the protection of human rights".

European Union

On 6 October 2004, the Presidency of the European Union (EU) issued a declaration on "the Statement of the Rwandan Government to the Parliamentary Report on Genocidal Ideology"⁵⁰. The EU regretted that the "Government of Rwanda has not unequivocally stated that those mentioned in the parliamentary report are presumed innocent until the contrary is proven." The EU was also concerned at the liberal use of the terms "ideology and genocide" and "divisionism" and in this regard "would impress upon the government the need to clarify the definition of these terms".

Furthermore, on 16 December, the EU Parliament adopted a resolution on Zimbabwe, notably considering that "the Mugabe regime is intensifying its political oppression under the Public Order and Security Act and other such measures, as well as through additional repressive legislation, for example the Non-Governmental Organisations Act, which infringes fundamental human rights such as freedom of association".

Under Article 96 of the Cotonou Agreement implemented in cases of breach of democracy and human rights, the EU initiated or carried on negotiations with a number of African countries, such as Togo, Côte d'Ivoire and the Central African Republic, about violations of democratic principles and human rights on their territories. These consultations may lead to a partial or total suspension of European co-operation. This procedure allows human rights defenders to draw attention on the human rights situation in these countries and to insist upon greater respect of human rights in the negotiations. For instance, Togo com-

⁵⁰ It is on the basis of this report that the dissolution of LIPRODHOR was formulated and its members were threatened in June 2004. Likewise, several independent NGOs were repressed in Rwanda, accused of "propagating genocide ideology" (see compilation of cases below).

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mitted, after this consultation, to "reopen a credible national dialogue with civil society", to "guarantee without delay the stop of all harassment, censorship and intimidation of NGOs and civil society representatives" and to "ensure without delay the right of all civil society actors and all citizens to freely exercise their freedom of expression, the right to participate in peaceful meetings and demonstrations, publicly and on whole national territory, free from harassment, censorship and intimidation".

HUMAN RIGHTS DEFENDERS HARASSED

BURUNDI

Intimidation of Iteka members⁵¹

Intimidation, threats and harassment of Mr. Stany Mbazumutima

On 20 March 2004, when Mr. **Stany Mbazumutima**, a member of the Iteka League in Ngozi, was carrying out an enquiry on assassinations committed in Mubuga region by members of the National Council for the Defence of Democracy - Forces for Defence of Democracy (Conseil national pour la défense de la démocratie-Forces de la démocratie - CNDD-FDD), a rebel movement, the commander of the Ngozi public security police (police de sécurité publique - PSP), Mr. Emmanuel Ndayegamiye accused him of entering his district without prior authorisation and stated: "Even people working for the UN can be punished, imprisoned or even killed. If you do it again, I'll throw you in jail".

On 29 March 2004, when Mr. Mbazumutima requested that a young detainee who had just given birth be taken to the Ngozi hospital, a criminal investigation officer threatened to arrest him.

In July 2004, the Maranga brigade commander Appollinaire Bashirahishize ordered the immediate release of a man arrested for allegedly raping a young girl in Maranga commune. After the case was clo-

⁵¹ See Annual Report 2003.

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sed, Mr. Mbumutima contacted Ngozi district commander Philippe Ndayishimiye in October 2004 to denounce the impunity granted to the people responsible for this situation. Mr. Ndayishimiye apparently replied: "people who work for the United Nations can be jailed and, if necessary, killed, without legal proceedings".

Intimidation of Mr. Christian Havyarimana

On 27 March 2004, Mr. **Christian Havyarimana**, member of the Iteka League in Kayanza, 70 km north of Bujumbura, was threatened and insulted by Mr. Marira, a prison guard in Matongo commune, when he came to inspect the detention facility and enquire about the detention conditions for prisoners. Mr. Marira refused to let him enter the prison.

After a new prison administrator was appointed, Mr. Havyarimana was finally able to visit the prison facility on 7 May 2004.

Arbitrary arrest and detention of Messrs. Pierre Claver Hajayandi and Célestin Nsavyimana⁵²

The intelligence services arrested Messrs. **Pierre Claver Hajayandi** and **Célestin Nsavyimana**, respectively chairman and treasurer of the Trade Union Federation of Burundi (Confédération des syndicats du Burundi - COSYBU), on 24 September 2004 at the headquarters of their organisation in Bujumbura for "jeopardising national security". During the arrest, the officers confiscated two computers, three floppy disks and various documents on the draft interim Constitution⁵³.

Their arrest occurred a week after the two union leaders had urged COSYBU members to sign a memorandum criticising the adoption of a new Constitution by the Burundi Parliament. The memorandum expressed concern over the impact that this new Constitution would

⁵² See Urgent Appeal BDI 001/0904/OBS 073.

⁵³ The post-transition interim Constitution of the Republic of Burundi was adopted by the transitional National Assembly and Senate meeting as a Congress on 17 September 2004 and promulgated on 20 October 2004. This constitution will remain in force until a post-transition Constitution is adopted by a referendum.

have on the political stability of the country and the role that would be granted to institutions guaranteeing the right to establish trade unions and the rights of the individual.

Messrs. Hajayandi and Nsavyimana were detained in the "national documentation" office (presidential police) without access to their lawyer.

They were released in the evening of 30 September 2004, a week after their arrest. Their electronic equipment was returned, but the intelligence services kept the floppy disks and the documents.

CAMEROON

MDDHL and its members subjected to continued judicial harassment and pressure⁵⁴

The members of the Movement for the Defence of Human Rights and Freedoms (Mouvement pour la défense des droits de l'Homme et des libertés - MDDHL) were repeatedly subjected to harassment and intimidation again in 2004.

There are ten legal proceedings that involve MDDHL currently before the courts, six of which were to be examined by the Maroua courts, Grand Nord province, on 22 December 2004. All the hearings that day were adjourned until 26 January 2005.

Judicial persecution of Messrs. Blaise Yacoubou and Aminou Mohamadou⁵⁵

On 30 April 2003, Messrs. **Blaise Yacoubou** and **Aminou Mohamadou**, members of the MDDHL, were arrested by the Ndoukoula district head while they were investigating the human rights situation in this region. The arrest was made in application of a circular

⁵⁴ See Annual Report 2003.

⁵⁵ See Annual Report 2003 and urgent appeal CMR 001/0803/OBS 039.2.

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letter dated 10 January 2003 issued by Mr. Koué Kaokamla, public Prosecutor to the Diamaré district courts in Maroua, who instructed criminal investigation officers (police judiciaire) to take in all human rights activists in his jurisdiction and turn them over to his office for questioning. Messrs. Yacoubou and Mohamadou were released but their identity papers were not returned.

In August 2003, Messrs. Yacoubou et Mohamadou were summoned to the Maroua investigations unit, ostensibly to retrieve their identity papers. But when they presented themselves the next day, they were informed that they had been sought for several months so were considered fugitives, and were immediately arrested and put in jail for two days, without food or water. Mr. Kaokamla accused them of having entered the office of the Ndoukoula district head during their mission in April, threatening him before fleeing and leaving their identity papers behind.

Messrs. Yacoubou and Mohamadou were set free on 14 August 2003 but were not able to recover their papers until 2 September 2003, when released by the Prosecutor's office.

On 3 September 2004, Messrs. Yacoubou and Mohamadou received a summons signed by Mr. Koué Kaokamla, to appear before the Maroua court on 29 September. They were both indicted for "disturbing the functioning of a public service that they had nothing to do with", a criminal violation that can be punished by a sentence of one to ten years in prison. This accusation is a new legal rendition of liability dating back to 2003 and clearly reflects a new attempt by Mr. Kaokamla to punish the two MDDHL members.

When Messrs. Yacoubou and Mohamadou appeared in court on 29 September, the hearing was postponed until 22 December 2004, then until 26 January 2005, for the Ndoukoula district head, who was transferred to another district in the meanwhile, never appeared before the court.

*The Elise Monthé case*⁵⁶

On 10 December, a woman from Yaoundé, Mrs. Elise Monthé, entered the MDDHL premises in Maroua. After declaring that she was the

⁵⁶ See Annual Report 2003.

wife of the association's chairman, Mr. **Abdoulaye Math**, she threatened to accuse him of rape if he tried to throw her out. On 11 December, she physically attacked him. Mr. Math lodged a complaint for assault, battery, and destruction of property. Mrs. Monthé likewise lodged a complaint and changed its grounds on three occasions, the last version adopted by the public Prosecutor, Mr. Kaokamla, being for "swindling". These two cases were supposed to be heard on 28 January 2004, when the hearing was adjourned until 22 December 2004, then until 26 January 2005.

*The Semdi Soulaye case*⁵⁷

MDDHL filed three suits against Mr. Semdi Soulaye, a former member of the MDDHL executive board. Mr. Soulaye, - who had been elected coordinator of the Network of Human Rights Organisations and Associations (Réseau des organisations et des associations de défense des droits de l'Homme - ROADH), that was set up by MDDHL - seized MDDHL financial documents and apparently withdrew 2,177,000 CFA francs from the MDDHL's account at the Crédit du Sahel bank. Following these events, Mr. Soulaye was dismissed from the MDDHL permanent body. Although he was said to have left ROADH also, he kept his position for several months, until the MDDHL appointed another member to replace him.

The first suit lodged by MDDHL was for forgery and use of false documents, as well as for confiscation of all MDDHL financial documents. It was postponed several times and is to date scheduled to be heard on 26 January 2005.

The second suit was brought against Mr. Soulaye and the managing director of the Crédit du Sahel bank for forgery, use of false documents and aggravated breach of trust on 5 December 2003. It is currently being investigated, but as the end of 2004 no date has been set for the hearing.

The third suit, for usurpation of title, assault and blackmail, was initiated through a direct summons dated 5 January 2004. After the first hearing on 14 January 2004, the case was postponed until 22 December 2004, then 26 January 2005.

⁵⁷ *Idem.*

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On his side, Mr. Soulaye filed two suits against MDDHL.

The first one, for breach of trust, was lodged in December 2003 and supposed to be examined on 27 October 2004. On that date, it was postponed until 26 January 2005.

Mr. Soulaye's second suit against MDDHL was for unfair dismissal without compensation. It was filed with the Maroua court of first instance which ordered the MDDHL to pay four million CFA francs to Mr. Soulaye in April 2004. The MDDHL appealed this decision on 6 April 2004 and obtained a certificate of appeal that suspended the case on 18 April. Although the appeal had not yet been heard, a bailiff from the Maroua court came to the MDDHL headquarters on 29 November and seized MDDHL properties, including part of the electronic equipment. The material was returned on 1 December 2004.

On 6 December, the appeal was dismissed without prior thorough investigation and the MDDHL decided to take the case to the Supreme Court of Appeal (Cour de cassation).

On 15 December 2004, MDDHL properties were seized again. By end December 2004, the confiscated material had not yet been returned.

*The Ahmadou Ahidjo Jamot / CAMTEL case*⁵⁸

The MDDHL complaint against Mr. Ahmadou Ahidjo Jamot, representative of CAMTEL, the national telecom company, for abuse of authority after the association's phone lines were cut in December 2002, has still not been investigated. Since the defendant never appeared in court, the hearing was adjourned first until 21 January 2004, then until 6 October 2004, and finally until 22 December 2004.

On that date, it was re-scheduled for 26 January 2005.

Obstruction of judicial observation by an Observatory's mission

The Observatory, together with the Swiss Human Rights League (Ligue suisse des droits de l'Homme), commissioned Mr. **Patrick Herzig**, a lawyer, to attend the MDDHL hearings of 22 December 2004 at the Maroua court. But on 17 December, Mr. Herzig was told he

⁵⁸ *Idem*.

would not be able to get a visa, under the pretext that an official invitation had to be provided by the Cameroon Minister of Justice for this type of assignment. The Consulate of the Republic of Cameroon in Geneva explained that the Minister of Justice was in Nairobi, Kenya, and that he would not be able to sign an invitation letter before the deadline because of the jet lag. It is to be noticed that Mr. Herzig had deposited his visa application file in time and had been initially assured by the Consulate that the visa would be granted, respected the official schedule.

Because of this situation, the Observatory mandated Mr. **Jean de Dieu Momo**, an MDDHL lawyer, to defend the organisation at the hearings on 22 December 2004. For several years, Mr. Momo has been constantly harassed (surveillance, death threats, pressure on his relatives and clients, regular intrusions, burglaries in his building alone) because of his commitment to human rights in Cameroon. On 30 March 2004, for instance, fire broke out in his home in Douala. It was quickly brought under control, but was probably set on purpose. A similar incident occurred in his office a month later, on 30 April 2004, while he was in Maroua to defend Mr. Abdoulaye Math.

Pressure on members of the Cameroon House for Human Rights and ACAT-Littoral⁵⁹

Members of the Christians' Action for the Abolition of Torture in Douala (Action des chrétiens contre la torture - ACAT-Littoral) and the Cameroon House for Human Rights (Maison des droits de l'Homme du Cameroun - MDHC), which groups 12 Cameroonian human rights associations, including the ACAT-Littoral and the MDDHL, received anonymous telephone calls and were constantly threatened, tailed and called in to various security offices on a regular basis.

Continued harassment of Mrs. Madeleine Afité

On 3 June 2004, Mrs. **Madeleine Afité**, manager of ACAT-Littoral and MDHC, was called in to the State Security office, and a report was made of the visit. She was questioned for several hours about her acti-

⁵⁹ See Annual Report 2003 and Urgent Appeal CMR 001/0803/OBS 039.2.

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vities and the denunciation, by the MDHC, of the situation faced by human rights defenders in Cameroon.

On 7 June 2004, Mrs. Afité was called in again to sign the report on her interrogation. The commissioner, accompanied by two inspectors, then asked her to take them to the MDHC premises and show them around; they closely inspected the office.

Mrs. Afité, furthermore, was still subjected to repeated harassment and threats.

Attempt to abduct Mr. Sylvanus Shukila Binla

On 8 July 2004, police in plain clothes attempted to abduct Mr. **Sylvanus Shukila Binla**, member of the MDHC, while he was trying to hail a taxi to take him home in front of the MDHC headquarters in Douala. A taxi that had clearly been waiting for him then drove up, with two men inside who turned out to be policemen in plain clothes. They accused Mr. Shikula Binla of "tarnishing the reputation of the country" through his activities and said that they had to take him to the police station.

Thanks to the help of passers-by, Mr. Shikula Binla was able to get out of the taxi and flee.

Mr. Ndi Richard Tanto aggressed

On 11 October 2004, Mr. **Ndi Richard Tanto**, provincial coordinator of the Ecumenical Services for Peace (Service oecuménique pour la paix - SEP, member of the MDHC) was told off and violently beaten up by 15 policemen belonging to the Mobile intervention group (Groupement mobile d'intervention - GMI) no.6 in Bamenda, while he was observing the presidential elections in this area.

GMI members were trying to prevent the vote count, thereby infuriating the local people; Mr. Tanto, who was an observer with a valid State accreditation, tried to intervene, but then was violently hit by the policemen.

CENTRAL AFRICAN REPUBLIC**Intimidation of Mr. Goungaye Wanfiyo⁶⁰**

On 25 May 2004, Mr. **Goungaye Wanfiyo**, a lawyer, organised a press conference to publicly condemn the poor running of Central African justice, in particular the illegal extension of provisional detention, using as an example the case of two of his clients, Messrs. Oumarou and Boykota Zouketia, held in Ngaragba Prison in Bangui, in breach of the code of criminal procedure.

The same day, the Prosecutor general at the Court of Appeal in Bangui, Mr. Sylvain N'Zas, replied to these accusations in the press, indicating mainly to Mr. Wanfiyo "that he was reserving the right to refer the case to the bar council", in terms which were excessive and threatening to Mr. Wanfiyo.

CHAD**Arbitrary arrest and torture of Mr. Tchanguiz Vathankha⁶¹**

On 9 February 2004, Mr. **Tchanguiz Vathankha**, director of the private station *Radio Brakoss* based in Moissala (600 km south of N'Djamena), which regularly broadcasts critical programmes, condemning in particular attacks on human rights committed by the Chadian authorities, was arrested by the local police. This arrest followed the airing, a few days earlier, of an interview with Mr. Saleh Kebzabo, leader of the National Union for Development and Renewal (Union nationale pour le développement et le renouveau - UNDR), an opposition party, who expresses his views on the socio-economic situation in Chad.

⁶⁰ See Urgent Appeal CAF 001/0604/OBS 042.

⁶¹ See Open Letter to the Chadian authorities, 24 February 2004.

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While being held at the police station in Moissala, Mr. Vathankha was severely tortured, before being released on 11 February 2004. When examined in the hospital in Moissala, Mr. Vathankha was found to be in a critical condition as a result of violent blows to his head, which had caused an eye haemorrhage and damage to the retina, as well as to his legs and thorax.

In addition, *Radio Brakoss* was closed down on the orders of Mr. Douba Dalissou, Prefect of Bahr Sara (south), from 11 to 16 February 2004, when it was able to broadcast a limited programming.

Furthermore, when the new Minister for Communications visited *Radio Brakoss* in September 2004, a high-ranking officer from the Chadian army who accompanied the Minister publicly threatened Mr. Vathankha with death.

At the end of December 2004, the programmes of *Radio Brakoss* were no longer officially restricted, but Mr. Vathankha's health is still affected by the torture he underwent.

Continued harassment of *FM Liberté* and death threats against Messrs. Evariste Ngaralbaye and Allahissem Ibn Miangar⁶²

Between 15 and 20 April 2004, the radio station *FM Liberté*, created by independent human rights NGOs for which it has become the principal communications link in Chad, broadcast a spot calling for a revision of the Chadian Constitution.

On 5 May 2004, following this broadcast, the High Council for Communications (Haut Conseil de la Communication - HCC) issued a formal notice against the radio station.

On 5 June 2004, *FM Liberté* broadcast an interview with the Ivorian musician Mr. Tiken Djah Fakoly, which had been recorded on 31 May 2004 by Mr. **Evariste Ngaralbaye**, editor in chief and programme coordinator for *FM Liberté*, and Mr. **Allahissem Ibn Miangar**, radio presenter. During the interview, Mr. Djah Fakoly had spoken out against the dictatorial regimes in Africa, and had notably cited the President of Chad,

⁶² See Annual Report 2003 and Urgent Appeal TCD 001/1003/OBS 056.1.

Mr. Idriss Deby. On 9 June 2004, *FM Liberté* received a leaflet signed by the "death squads", accusing Messrs. Ngaralbaye and Ibn Miangar of inciting the listeners to revolt and threatening them with death. On that same day, *FM Liberté* received a telephone call from the director of the HCC demanding a copy of the interview with Mr. Djah Fakoly. A few days later, Mr. Ngaralbaye and the director of *FM Liberté* received a summons from the HCC, threatening the radio station with closure. This threat, however, was not carried out, after the board of directors negotiated with the HCC at the beginning of August 2004.

On 8 August 2004, Mr. Ngaralbaye received, at his home, a second leaflet from the "death squads", threatening "to step up a gear". Mid August 2004, the director general of the national police arrived at the editorial department of *FM Liberté*, and demanded, in the name of the President of the Republic, a copy of the recording of the interview with Mr. Djah Fakoly, which was returned to him that same day.

From June to September 2004, Mr. Ibn Miangar's house was constantly watched by unidentified men, in unregistered vehicles with tinted windows. Faced with this pressure, Mr. Ibn Miangar went into hiding at the end of September 2004, and today lives outside of Chad.

Finally, on 21 October 2004, Mr. Ngaralbaye was attacked by two men in front of his house, when he was about to return home. After beating him, the two attackers stole his mobile phone and his passport.

The radio station *FM Liberté* had been closed down by decree of the Ministry of Public Security and Immigration from 21 October to 17 December 2003, because of "illegal operations and deviant behaviour".

Assassination attempts against the president of the LTDH⁶³

On 22 February 2004, a man claiming to be a Chadian army officer arrived at the National Office for Rural Development (Office national de développement rural), where Mr. **Dobian Assingar**, president of the Chadian League for Human Rights (Ligue tchadienne des droits de l'Homme - LTDH) works. After he entered M. Assingar's office, the man pointed a gun at him. Mr. Assingar was, however, able to put his attacker to flight.

⁶³ See Annual Report 2002.

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On 20 October 2004, while Mr. Assingar was on his way to Moundou, in the south of the country, at the request of the National Cotton Company (Cotontchad), bullets were fired at the passenger side of his company car, where he was sitting. The shots, fired from a distance of about fifty metres, shattered the windscreen without hitting him, thanks to the speed of the vehicle.

Since none of the complaints lodged by Mr. Assingar following previous assassination attempts were investigated, he gave up taking any legal step to these attacks.

Impunity confirmed for the attackers of Mrs. Jacqueline Moudeïna⁶⁴

On 11 June 2001, during a peace march by women protesting against the electoral fraud observed during the presidential election, the security forces threw grenades at the demonstrators. Mrs. **Jacqueline Moudeïna**, legal officer at the Chadian Association for the Defence and Promotion of Human Rights (Association tchadienne pour la défense et la promotion des droits de l'Homme - ATPDH), a lawyer for the victims in the Hissène Habré case in Chad and Senegal, and laureate of the 2003 Martin Ennals Award, was seriously wounded on that occasion. On 18 March 2002, Mrs. Moudeïna and six other women lodged a complaint with the N'Djaména court against three police officers, Messrs. Mahamat Wakaye, Mahamat Idriss and Taher Babouri, for illegal violence and grievous bodily harm.

The decision of the N'Djaména correctional court, which had decided to acquit Mrs. Moudeïna's three attackers on 11 November 2003, was upheld by the N'Djaména Court of Appeal on 17 November 2004.

⁶⁴ See Annual Report 2003.

CÔTE D'IVOIRE**Threats and intimidation of MIDH⁶⁵**

On 19 and 20 April 2004, a man who claimed to be an activist in the Rally of the Republicans (Rassemblement des Républicains - RDR, opposition party) entered the headquarters of the Ivorian Movement for Human Rights (Mouvement ivoirien pour les droits humains - MIDH) and said that he could provide information on efforts by people close to the government to organise an attempt to assassinate Mr. **Amourlaye Touré**, the MIDH president, who was at that time participating in the 60th session of the UN Commission on Human Rights held in Geneva from 15 March to 23 April 2004. Mr. Touré could only be informed of this threat on 2 May 2004.

This occurred while the MIDH was preparing a report entitled *Abidjan: fierce repression of demonstration organised by the opposition party: 25 March to 1 April 2004 (Abidjan : répression violente de la marche de l'opposition politique : 25 mars au 1^{er} avril 2004)* on police repression of the demonstration held in Abidjan on 25 March 2004 by the opposition and during which dozens of demonstrators were killed. The report was published on 28 April 2004. Until some time in May 2004, the MIDH headquarters in Abidjan received several anonymous phone calls threatening to kill Mr. Amourlaye Touré, Mr. **Drissa Traoré**, MIDH vice chairman, and some of their colleagues. Further, several leaders of the Alliance of the Young Patriots (Alliance des jeunes patriotes), a movement supporting President Gbagbo, were seen milling around the MIDH offices for a few days just after the report was published.

On 6 November 2004, two armed soldiers went to the Centre for the Promotion of Non-Violence and Democratic Culture (Centre pour la Promotion de la Non-Violence et de la Culture Démocratique - CNVD) created by MIDH in January 2004, and ordered the guardian of the building to let them into the offices. The Centre had stopped all of its activities on 4 November 2004, when hostilities were reignited between

⁶⁵ See Annual Report 2003.

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the government forces and the rebels, so the two soldiers left the building since there was no one in the CNVD office.

Further, as of end 2004, there was still no reaction to the complaint lodged by MIDH in April 2003 when the association's headquarters were attacked by three armed men who also violently beat up an employee on duty.

DEMOCRATIC REPUBLIC OF CONGO**Constraint upon freedom of assembly - Kinshasa⁶⁶**

The NGOs which collectively make up the Organisations of Civil Society Dynamics/Driving Forces (Dynamique des Organisations de la Société Civile/Forces vives) wanted to organise a peaceful demonstration on 20 April 2004 to protest against war, poverty and the partition of the DRC and in favour of holding free and democratic elections.

The organisers of the event, including the National Council of Development Organisations (Conseil national des organisations de développement - CNONGD), the National Support Centre for Popular Participation (Centre national d'appui à la participation populaire - CENADEP), and the National Network of Human Rights Organisations in the DRC (Réseau national des organisations de droits de l'Homme en RDC - RENADHOC), sent a letter to Mr. David Nku Imbie, Governor of the city of Kinshasa, advising him about the organisation of this demonstration. In a letter dated 19 April 2004, the day before the event was to be held, Mr. Nku Imbie refused them the right to organise this march, on the grounds of the "possible effect of the demonstration on public order and the protection of people and their property". This letter was also sent to the Minister of the Interior, to the Provincial Police Inspector of Kinshasa, to the Provincial Director of the National Intelligence Agency (Agence nationale de renseignements -

⁶⁶ See Open Letter to the authorities of the DRC, 23 April 2004.

ANR)/city of Kinshasa, to the city's Head of Division for culture and arts, and also to the Burgomasters of the Gombe, Kinshasa and Lingwala communes.

On 20 April 2004, the demonstrators gathered despite the Governor's prohibition. However, faced with a considerable police force deployed around the assembly site and all along the intended route, the peaceful march never took place.

Continued harassment of the League of Electors - Kinshasa⁶⁷

Campaign to discredit the LE towards its donors

Since January 2004, the League of Electors (Ligue des électeurs - LE) has been the victim of a smear campaign orchestrated by pro-governmental associations, such as the Congolese Civil Society (Société civile congolaise - SOCICO), towards its various sponsors. These NGOs in fact contacted the principal donors of the LE, by letter or by meetings, and advised them to stop their funding mainly by accusing the LE of not supporting the transition process and of inciting the people to revolt.

This strategy, which has deprived the League of the financial support of a number of institutions, has seriously limited its activities.

Intimidation of Mr. Paul Nsapu⁶⁸

On 26 April 2004, Mr. **Paul Nsapu**, president of the LE, was interviewed on the television channel *Antenne A* when he gave his views on the political situation in the DRC and the follow up to the referral to the International Criminal Court (ICC) on human rights violations in the eastern part of the country. This interview was recorded and broadcast by *Télé Kin Malebo (TKM)*.

During the night of 27 to 28 April 2004, when Mr. Nsapu was returning home in his car after attending a seminar organised by the International Organisation of the Francophonie (Organisation internationale de la francophonie - OIF), entitled "Managing the transition pro-

⁶⁷ See Annual Report 2003.

⁶⁸ See Annual Report 2003 and Urgent Appeal RDC 002/0404/OBS 030.

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cess with regard to the role of democracy-supporting institutions", his vehicle was tailed and caught "in a vice" between two cars with tinted windows and disguised registration plates. The drivers of these two vehicles first tried to cause an accident, before chasing Mr. Nsapu to a service station, where he hid to escape them. His pursuers watched him for half an hour before disappearing.

In addition, on 23 July and 16 August 2004, Mr. Nsapu received anonymous calls on his mobile phone threatening him with death.

Arrest and arbitrary detention of Mr. Kabamba Kabamba

On 14 June 2004, Mr. **Kabamba Kabamba**, a member of the LE, published in the local press an article condemning the suspicious circumstances of the failed coup against the ruling power in the DRC, on 10 and 11 June 2004, which was presumed to have been organised by Major Eric Lengi, Commander of the Special Group for Presidential Security (Groupe spécial de la sécurité présidentielle - GSSP)

On 16 June 2004, Mr. Kabamba Kabamba was arrested at his home by agents of the ANR, and driven with his wife, Mrs. **Justine Bilonda**, to the ANR offices. Mr. Kabamba was questioned at length on his connections with Mr. Paul Nsapu, president of the LE, as well as on the association's sources of funding. Mr. Kabamba Kabamba and his wife were not released until 21 June 2004, without any charges being brought against them. They have since lived in hiding.

Arrest and arbitrary detention of Messrs. Robert Numbi Ilunga, Rodolphe Mafuta, Kally Kalala and Lems Kalema - Kinshasa⁶⁹

The Friends of Nelson Mandela Association for the Defence of Human Rights (Association des Amis de Nelson Mandela pour la défense des droits de l'Homme - ANMDH) interceded in May 2004 as a mediator for the authorities of Kinshasa at the request of the NGOs Bana Kalamu et Bana Matonge, two associations for the defence of citizens' rights in the city of Kinshasa, in a matter involving Mr.

⁶⁹ See Open Letter to the authorities of the DRC, 16 June 2004.

HUMAN RIGHTS DEFENDERS HARASSED

Martin Matabia Hayala, a businessman who was illegally erecting a private construction on public land in the Matonge II district of Kinshasa.

Whilst the case seemed to have been received favourably by the various authorities, such as the Governor of the city of Kinshasa, the Burgomaster of the commune of Kalamu and the Vice President of the Republic who heads the economic and finance commission, Mr. Matabia Hayala, lodged a complaint - the date and content of which were never communicated - against Mr. **Robert Numbi Ilunga**, president of the ANMDH, Mr. **Rodolphe Mafuta**, president of Bana Kalamu, and Messrs. **Kally Kalala** and **Lems Kalema**, respectively president and member of Bana Matonge.

All four were arrested on 7 June 2004, before being placed in police custody in the cellar of the police station. Whilst the legal time limit of police custody is 48 hours, the four men were detained there for five days, under particularly precarious conditions (cramped, overcrowded space, without air supply).

Messrs. Numbi Ilunga, Mafuta, Kalala and Kalema were only notified of the charges brought against them on 10 June 2004, after they were heard by the investigating solicitor general who accused them of "inciting the people to revolt" and of "malicious destruction" (Article 112 of the Criminal Code).

They were transferred on 12 June to the central prison of Kinshasa, before being released on bail - amounting to 450 US dollars each - on 16 June 2004.

At the end of December 2004, the action was still pending.

Continuing harassment of the members of the VSV - Kinshasa⁷⁰

On 4 July 2004, the Voice of the Voiceless (Voix des Sans Voix - VSV) published a press release reporting the arrest in Brazzaville (Congo) and extradition to the DRC of Major Eric Lengi⁷¹. In this press release, the VSV, fearing an out of court ruling on this failed coup, denounced the confidentiality of the arrest and extradition of Mr. Lengi, which were

⁷⁰ See Annual Report 2003 and Urgent Appeal RDC 003/0704/OBS 057.

⁷¹ See above.

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otherwise refuted by the governments of both the Congo and the DRC.

On 6 July 2004, when Mr. **Floribert Chebeya Bahizire**, president of the VSV, was going to a meeting with a journalist from the newspaper *Le Potentiel* at the paper's offices, four armed men in plain clothes took him aside outside the paper's building and violently searched him under the pretext of looking for an anti-government leaflet.

The four men confiscated Mr. Chebeya's bag containing all his documents about the Lengi case, and took some money from him. These men, who were speaking amongst themselves in Swahili, seemed to be acting under the orders of one of them, whom the others called "captain", who spent a long time on the telephone, seemingly waiting for instructions. Mr. Chebeya took advantage of his captors' lack of attention to escape and hide in the offices of *Le Potentiel*.

Mr. Chebeya, who has already been subjected to verbal threats from senior representatives of the Military Order Court (Cour d'ordre militaire - COM, now dissolved), had to go into hiding from December 2002 to April 2003.

Threats of arrest against Mr. N'Sii Luanda Shandwe - Kinshasa⁷²

On 3 December 2004, at the hearing of the case "Department of public prosecution vs. Mr. Michel Bisimwa and others", the Military Prosecutor affirmed that the State Prosecutor had sent a summons to appear to Mr. **N'Sii Luanda Shandwe**, a lawyer and president of the Human Rights Observers' Committee (Comité des observateurs des droits de l'Homme - CODHO), who is acting as a defence counsel in particular in the case of Mr. Michel Bisimwa. The latter is being prosecuted for the assassination of the former President Laurent-Désiré Kabila. Mr. Shandwe was also informed that this summons would be pre-dated to August 2003 and that it would include notification of his indictment for "treason".

However, after various discussions with civil society representatives following this event, the judge of the High Military Court indicated that the

⁷² See Urgent Appeal RDC 004/0106/OBS 049.4.

reference to this summons to appear during the hearing had been a mistake and was no more topical. These facts nevertheless constitute an act of intimidation against Mr. N'Sii Luanda, in particular with regard to the recurring acts of repression to which he has been subjected for several years⁷³.

Moreover, on 28 November 2004, when Mr. N'Sii Luanda arrived at the Kinshasa Penitentiary and Re-education Centre (Centre pénitentiaire et de rééducation de Kinshasa - CPRK), along with Mr. **Amato Mbunsu Mahamba**, a member of the CODHO, to visit his clients in prison, the prison administrator, Mr. Kitungwa Killy Dido, advised him that from then on he was prohibited from visiting the inmates of Wing 1 (which houses those accused in the trial of former President Laurent Désiré Kabila's assassination) and that he had to meet his clients in the presence of the head prison supervisor, and in that official's office. Since the prison administrator refused to cede this last point, Mr. N'Sii Luanda felt obliged to leave the prison without being able to meet with his clients.

Arbitrary arrest and ill-treatment of several defenders - Katanga⁷⁴

On 6 April 2004, the Centre for Human Rights and Humanitarian Law (Centre des droits de l'Homme et du droit humanitaire - CDH), based in Lubumbashi, published a press release denouncing the situation of insecurity for nationals of the Equateur province living in Katanga. On 8 April 2004, the National Human Rights Observatory telephoned the members of the CDH, and told them about the "displeasure" on the part of the Governor of Katanga, Mr. Aimé Ngoi Mukena, following the publication of this press release.

On 10 April, Mr. **Dieudonné Been Masudi Kingombe**, executive director of the CDH, was arrested by ANR officers. When he was transferred to the provincial office of the ANR, Mr. Been Masudi Kingombe was violently beaten on his body and head, and an ANR officer attempted to bite off his ear. Mr. Been Masudi Kingombe was released two hours later in very poor condition, and without any reason for his arrest

⁷³ See Annual Report 2003.

⁷⁴ See Annual Report 2003 and Urgent Appeals RDC 00/1504/OBS 025 and 025.1.

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being given to him.

Furthermore, on 15 April 2004, the provincial director of the ANR, Mr. Katumbwe Bin Mutundi, gave instructions to his officers to look for and arrest Mr. **Freddy Kitoko**, a lawyer and vice-president of the African Association for the Defence of Human Rights (Association africaine de défense des droits de l'Homme - ASADHO) - Katanga section and Mr. **Grégoire Mulamba Tschisabamka**, CDH secretary general. Since 10 April 2004, Mr. Tschisabamka had received anonymous calls several times a day threatening him with death.

The ANR also allegedly drew up a list of about 10 people to be arrested, including Mr. **Jean-Claude Katende**, president of the ASADHO/Katanga, Mr. **Oscar Rachidi**, president of the League against Corruption and Fraud (Ligue Contre la Corruption et la Fraude - LICOF) and Mr. **Hubert Tshiswaka**, executive director of the Action against Impunity for Human Rights (Action contre l'impunité et pour les droits humains - ACIDH).

Due to international pressure, none of these people was arrested, and the threats stopped in May 2004.

The CDH also filed a complaint against Mr. Kasongo Tshikala, head of the ANR/city of Lubumbashi, for the mistreatment of Mr. Been Masudi Kingombe. At the end of December 2004, the case was still pending.

Arbitrary arrest and cruel, inhuman and degrading treatment of CDH members - Katanga⁷⁵

On 1 July 2004, Mr. **Ferdinand Mukube Mbaya**, a CDH representative in Mufunga-Sampwe (Upper-Katanga district), interceded on behalf of a peasant who was being threatened by the military to make him pay a fine. The following day, Mr. Mukube Mbaya was arrested by five of these soldiers on his way home. The five men violently kicked him and beat him with their rifle butts, blaming him for "making them lose money" by intervening the day before, then they ran off.

Mr. Mukube Mbaya, who sustained a broken leg as a result of the injuries inflicted by the soldiers, had to be hospitalised.

⁷⁵ See Annual Report 2003.

In addition, on 18 October 2004, Mr. **Sylvain Kapende Dimbu**, a CDH member in Kambove (Upper-Katanga district), was arrested by armed plain clothes officers of the national police, when he was carrying out an education assignment into human rights in Kafira (Kasenga territory). Accused of being a "spy" in the pay of the Maï-Maï militiamen, Mr. Kapende was violently beaten up, before being transferred to the police station and locked in a cell which was infested with "binkufu" (a type of flea, used as a means of torture). The same day, Mr. **Polycarpe Kabela Shinka**, another CDH member in Kambove, came to the police station to inquire about Mr. Kapende Dimbu's situation, and was also locked up.

On 20 October 2004, Messrs. Kapende Dimbu and Kabela Shinka were forced by police officers to walk 25 km to Kambove, where they were set free.

Grave threats against Mr. Golden Misabiko - Katanga⁷⁶

Mr. **Golden Misabiko**, honorary president of the ASADHO/Katanga, was arrested and arbitrarily detained from 5 February till 13 September 2001 at the Kinshasa Penitentiary and Re-education Centre (Centre pénitentiaire et de rééducation de Kinshasa - CPRK), and forced to leave the country in 2002, as a result of repeated threats against him. After spending almost two years in exile in Europe, Mr. Misabiko returned to Katanga in June 2004 and then resumed his activities.

On 24 October 2004, Mr. Misabiko circulated an open letter among the ASADHO partner organisations, condemning the human rights violations committed against civilians during the conflict in the Kivu, and drawing attention to the dangers experienced by the population in the mining towns of Katanga, as a result of the abusive exploitation of the uranium reserves in this province.

On 23 December 2004, while Mr. Misabiko was with his two children in a place called the "Allilac Center" in Lubumbashi, he noticed that a car was tailing them. The same vehicle was still tailing them forty-five minutes later, when they had just returned to their car to go home.

⁷⁶ See Urgent Appeal RDC 001/1204/OBS 097.

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Mr. Misabiko tried, in vain, to call someone at the United Nations Mission in the DRC (Mission des Nations unies en RDC - MONUC). He then stopped to buy some water, and two people got out of the car which was following them. Mr. Misabiko identified one of them as being one of his former attackers on 5 February 2001 and, in addition, as being one of his torturers during his seven months of detention. When Mr. Misabiko asked him the reason for this harassment and who was behind, the man immediately declared that he was not in any way connected with security services. Because of Mr. Misabiko's insistence, he replied that he was going to "call the boys to deal with [him]" and that "this time it [would] be more serious".

Since that date, Mr. Misabiko has noticed that he is under constant surveillance at his home and wherever he goes. On 27 December 2004, Mr. Misabiko further learnt from an unofficial source that several dozens of ANR members were instructed to follow his every movement, in order to "deal with" him.

Harassment of and death threats against several defenders - Katanga⁷⁷

In 2004, the members of the Meeting of Associations for the Defence of Human Rights in Katanga (Concertation des associations de défense des droits de l'Homme du Katanga - CADHOK), a platform of a dozen NGO's, including the ASADHO/Katanga, the CDH, the Evangelical Group for Non-Violence (Groupe évangélique pour la non-violence - GANVE) and the New Union Dynamics (Nouvelle dynamique syndicale - NDS), were subjected to reprisals because of their repeated denunciations of the abusive exploitation of mineral resources by several companies in the region, in particular the Mining Company of Katanga (Société minière du Katanga - SOMIKA). Indeed, this private company is established in a zone which was declared unsuitable for building development in 2000, close to the ground water of Kimilolo, which feeds into the pumping station of the Congolese National Water Distribution Company (Régie congolaise de distribution d'eau - REGI-

⁷⁷ See Urgent Appeal RDC 001/0105/OBS 001.

DESO) which provides drinking water for 70% of the population of Lubumbashi.

On 4 October 2004, the GANVE published, under its own name, a press release titled *Cela nous concerne tous (This affects us all)*, denouncing the risks of pollution at the REGIDESO pumping station. On 29 October 2004, the SOMIKA lodged a complaint for defamation before the Kenya Katuba (Lubumbashi) peace court. A hearing was scheduled for 11 January 2005.

On 2 December 2004, Mr. **Jean-Pierre Muteba**, secretary general of the NDS, had to be hospitalised in Lubumbashi, as a result of what the doctors diagnosed as "attempted poisoning". Mr. Muteba was transferred to Kinshasa to receive the appropriate care. He was later able to return to Lubumbashi, once he was out of danger.

In a letter dated 13 December 2004, the Deputy Minister for Mines, Mr. Cirimwami Muderhwa, ordered the SOMIKA to cease its operations at the Kimilolo site. This decision displeased the managers of the SOMIKA and the 350 employees at the works, mostly members the Association of Mining Developers and Workers of Katanga (association des Exploitants miniers et artisanaux du Katanga - EMAK), a professional association closely connected to the public authorities.

Since this date, the members of ASADHO-Katanga, CDH, GANVE and NDS have been subjected to continued harassment and serious threats.

So, in the evening of 16 December 2004, a group of men arrived at the ASADHO-Katanga headquarters. Although they assured the guard they were looking for Mr. **Marc Walu**, financial director of the association, they finally declared that they "would come back to look for him later", even though the guard had told them that Mr. Walu was in the office.

On 21 December 2004, five people, who held themselves out as being employees of the SOMIKA, burst into the "Maison Ekumène", a religious organisation and member of the GANVE, and threatened two Spanish voluntary workers, who had published the press releases by the CADHOK and the GANVE concerning the SOMIKA in their last newsletter.

On 23 December 2004, the ASADHO/Katanga, the GANVE and the NDS received an anonymous email threatening the members of these three organisations and their families. This email, sent from the address "First true", contained in particular the following message: "Look around you and you will understand that we are no longer going to let

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you act as before. We know you. What you are doing. Where you live. Where you work. When any of you goes to work. When he finishes. It doesn't take long to remove your car's wheels. It doesn't take long to blow up your office. A visit to your home can be easily arranged. Stronger measures are what you need, and if you don't wish to think of your children.... If you are reasonable, contact us at this address".

On 28 December 2004, the ASADHO/Katanga, the GANVE, the CDH and the Congolese League for the Protection of Consumers' Rights (Ligue congolaise de sauvegarde des droits des consommateurs - LISCO) published, under the name of the CADHOK, a joint press release condemning the refusal on the part of the SOMIKA to comply with the decision of the Deputy Minister, as well as the threats made against their members.

On 29 December 2004, two officials from the EMAK arrived at the workplace of Mr. **Jean-Marie Kabanga**, a member of the GANVE. Mr. Kaganga was able to leave without being noticed. A few hours later, the same two officials were spotted in the neighbourhood where Mr. Kabanga lives, while questioning his neighbours as to his exact address and working hours.

On 31 December 2004, the ASADHO, the GANVE, the CDH and the NDS received a second email from "First true", and worded as follows: "You don't want to be reasonable. Some of your friends have been. We know each of you, your respective boards of directors. We are telling you that something is going to happen and you run the risk of not seeing your children any more. We know your habits and what you do with your time. If you have wives and children, think about them for a last time. Final warning and those who are in charge of you will not protect you". This email also named several members of the four organisations, including: Messrs. **Jean-Claude Katende** and **Freddy Kitoko**, respectively president and vice-president of the ASADHO/Katanga, Mr. Golden Misabiko, Mr. Walu, Messrs. **George Kapiaka** and **Thimothée Mbuyia**, ASADHO/Katanga members, Messrs. Muteba, **Cryspin**, Kabanga and **Thiya**, members of the GANVE, and Mr. **Grégoire Mulamba**, secretary general of the CDH.

On the same day, the CDH and the NDS received another email from someone claiming to be part of a plot organised by the SOMIKA, in collusion with the EMAK. In particular this person referred to the attempted poisoning of Mr. Muteba, and sought to warn the people cited in the second email from "First true" of similar deeds.

Continued harassment of members of the Lotus Group - Kisangani / Eastern Province⁷⁸

Smear campaign against the Lotus Group and threats against Mr. Dismas Kitenge Senga

On 23 September 2004, the Executive Secretary of the Congolese Liberation Movement (Mouvement de libération du Congo - MLC) held a press conference in Kinshasa, during which he affirmed that MLC members had not committed any violent acts nor had there been any human rights violations against the Pygmy communities in Ituri.

Reacting to these words, Mr. **Dismas Kitenge Senga**, president of the Lotus Group (Groupe Lotus), granted an interview to *Radio France International (RFI)* and *Okapi*, during which he recounted the violations committed by MLC troops against civilian populations and the Pygmy communities.

That same day, the Lotus Group received calls from MLC officers, protesting against these denunciations, before being subjected, for more than three weeks, to a vast smear campaign orchestrated by the authorities of the MLC through conferences and debates, as well as speeches on the radio.

In addition, Mr. Kitenge regularly received anonymous calls threatening him with death.

At the end of December 2004, these threats had not yet stopped.

Attack against Mr. Marc Koya Osoko - Opala

On 12 November 2004, Mr. **Marc Koya Osoko**, president of the Lotus Group branch in Opala, was violently beaten up by a soldier of the Armed Forces of the DRC (Forces armées de la RDC - FARDC) in Yate, 200 km from Kisangani, when he was trying to intervene in the arbitrary arrest of a villager by a group of soldiers.

Threats against Messrs. Okinani and Mambele - Opala

On 15 November 2004, the Lotus Group published, on the strength of information provided by Mr. **Okinani**, co-ordinator of the Lotus

⁷⁸ See Annual Report 2003.

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Group in Opala, and Mr. **Mambele**, social services facilitator and a member of the Opala branch, a press release condemning the acts of torture perpetrated by Mr. Akili Mali, captain of the National Police Force in Balinga Lindja (Opala territory), and the acts of harassment committed against the population by the administrative authorities. This press release was widely broadcast by the private radio stations in Kisangani.

On 4 December 2004, Messrs. Ngandi Likala and Osandu Tolenge, "community heads" (an administrative authority recognised by the national authorities) of Balinga Lindja, issued notice of an inquiry against members of the Lotus Group branch in Opala.

At the end of December 2004, Messrs. Okinani and Mambele, who had to go into hiding, were still not been able to resume their activities.

Continued threats against Mr. Willy Loyombo - Opala

On 18 November 2004, Mr. **Willy Loyombo**, member of the Lotus Group in Opala and president of the Non-Governmental Organisation for the Settling, Literacy and Promotion of Pygmies (Organisation non-gouvernementale pour la sédentarisation, l'alphabétisation et la promotion des pygmées - ODAPY), was arrested by Mr. Akili Mali Kahindo, an MLC intelligence officer in Teturi, of Ituri province. Mr. Loyombo was speaking at the time with the Pygmies about the situation of the rights of indigenous peoples in the region, when Mr. Kahindo violently told him off, before driving him to the police station, where he was questioned at length about his activities and threatened with death.

Mr. Loyombo was released on the same day without charges.

Continued harassment of Justice Plus members - Ituri⁷⁹

The members of the association Justice Plus, based in Bunia, Ituri province, continue to be regularly harassed and threatened following the publication of their reports on the violations of human rights by the authorities, the national armed forces and the militiamen in Ituri.

⁷⁹ *Idem.*

Arbitrary arrest of and threats against Messrs. Christian Lukusha, Aimé Batsi, Joël Bisubu and Mrs. Odette Butsitsi - Bunia

At the end of September 2004, Justice Plus published a report on the administration of justice in Ituri, entitled *Justice in Ituri : breaches of procedure are undermining proceedings*.

With regard to the drafting of this report, Messrs. **Joël Bisubu** and **Christian Lukusha**, respectively training and research officers at Justice Plus in Bunia, visited the prison in Bunia on 7 and 8 August 2004, having received authorisation delivered on 7 August 2004 by the senior deputy Prosecutor.

On 28 September 2004, Messrs. Bisubu and Lukusha received a summons from the police department of Bunia, on the order of the Prosecutor of the Republic for the High Court of Bunia, ordering them to appear at the police department on 29 September 2004. The reason for the summons was not mentioned.

On 29 September 2004, as Mr. Bisubu was in Kinshasa, Mr. Lukusha turned up alone at the police department. Questioned by the chief inspector of the department, Mr. Lukusha was accused of visiting the prison without prior authorisation, and was immediately placed under provisional detention. When he was told about the situation, Mr. **Aimé Batsi**, a lawyer and member of Justice Plus, arrived at the Prosecutor's office to defend Mr. Lukusha. However, he too was placed in detention on the orders of the Prosecutor, who blamed him in particular for "participating in the drafting of a heinous report". Messrs. Lukusha and Batsi were transferred that same day to the detention centre of the police station in Bunia, before being released on 30 September 2004, as a result of pressure from Justice Plus and the Lotus Group.

Mr. Bisubu, on his return from Kinshasa on 1 October 2004, appeared on 4 October at the police department of Bunia, where he too was interrogated at length by a magistrate, on the orders of the Prosecutor.

On 12 October 2004, the local radio station *La Voix d'Allemagne (the Voice of Germany)* broadcast a programme condemning the acts of harassment against members of Justice Plus. This programme in particular stressed the association's co-operation with international organisations,

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and its role in documenting human rights violations for the ICC. As a result of this intervention, between 13 October and the beginning of December 2004, Mr. Bisubu received many anonymous telephone calls threatening him with death. On 16 October 2004, Miss **Odette Butsitsi**, an organiser for Justice Plus, also received anonymous calls threatening her with death.

On 3 November 2004, Mr. Bisubu received a new summons to appear in court on 9 November 2004. As the date of the summons did not comply with the requisite eight clear days, he asked for an extension of the summons, which was not sent to him.

Messrs. Bisubu and Lukusha were also advised that the facts for which they were blamed had been amended by the Prosecutor, who charged them, in December 2004, with "harmful involvement", a criminal offence punishable by six months' imprisonment.

At the end 2004, the proceedings were still pending.

Threats against Mr. Samy Azabho - Aru

As a result of a memorandum published on 25 October 2004 by the branch of Justice Plus in Aru, condemning the killings and human rights violations committed by the Armed Forces of the Congolese People (Forces armées du peuple congolais - FAPC) within the territory of Aru, province of Ituri, Mr. **Samy Azabho**, director of Justice Plus section in Aru, received several verbal death threats from FAPC members. Faced with this pressure, Mr. Azabho had to stop his activities and leave Aru into hiding.

Death threats against Miss Julie Mwanza - Bunia

Miss **Julie Mwanza**, assistant in the Justice Plus programme for the fight against violence towards women, gave a speech at a conference for the launch of a report by Amnesty International on the violation of women's rights, which was held at Kinshasa on 26 October 2004. In particular, Miss Mwanza stressed the continued involvement of militiamen in violence against women in Ituri. Her proposals were broadcast by the *BBC* and *Okapi* radio stations.

When she returned to Bunia, Miss Mwanza was blatantly threatened with death by several members of the militia, who told her in particular that they were going to "beat [her] to a pulp". Miss Mwanza had to leave Bunia, and has lived in hiding since then.

Threats against and harassment of human rights defenders - Kivu

*Continued harassment of Messrs. Omar Kavota and Kalihi Pen Munongo - Beni*⁸⁰

On 19 December 2003, Messrs. **Omar Kavota** and **Kalihi Pen Munongo**, both members of the ASADHO section in Beni (North-Kivu), were arrested by the Congolese Assembly for Democracy (Rassemblement congolais pour la démocratie - RCD)/Kisangani in Mangina, for refusing to hand over to the soldiers a teenager who was a former Maï-Maï warrior. They were released on 20 December 2003, after having been subjected to cruel, inhuman and degrading treatment.

On 19 January 2004, three armed soldiers from the base of the Congolese Armed Forces, the armed branch of the RCD, in Mangina, arrived at the house of Messrs. Kavota and Pen Munongo, who were not at home at this time, with the obvious intent of arresting them again.

These threats are part of the recurring acts of harassment and threats against members of the ASADHO-Beni.

*Death threats against Mr. Amato Mbunsu - Wakilale*⁸¹

In August 2004, Mr. **Amato Mbunsu**, member of the Human Rights Observers' Committee (Comité des observateurs des droits de l'Homme - CODHO), was mandated by the association to inquire into the human rights violations committed in Wakilale, North-Kivu. From 6 to 10 September, officers of the National Congolese Army (armed branch of the RCD/Goma) arrived at his house by night on two occasions, and told him: "Staff headquarters of the National Congolese Army is aware of what you are doing here. We ask you to leave immediately, otherwise the UN will be coming to collect your body".

On 11 September 2004, Mr. Mbunsu was forced to stop his activities and flee from Wakilale.

80 *Idem.*

81 *Idem.*

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ETHIOPIA

The activities of human rights defenders in Ethiopia were often obstructed, as could establish the international fact-finding mission mandated by the Observatory in June-July 2004.

Obstacles to freedom of association and freedom of the press⁸²*Appointment of the Ombudsman and the head of the Human Rights Commission*

In compliance with Article 55 of the Ethiopian Constitution providing for the creation of national human rights institutions, the Human Rights Commission and the Ombudsman were officially established in July 2001. The Commission has been tasked with carrying out investigations on human rights violations committed on citizens, and has the possibility to propose amendments to the existing laws. Its role also includes the promotion of human rights and their teaching to the population and the police forces.

Parliament appointed the head of the Commission and the Ombudsman on 19 June 2004, without prior consultation with civil society, which expressed reservations about their competence and independence: the head of the Commission, Mr. Kassa Gebre Hiwot, is a former ambassador, without any particular experience in the field of human rights, and the Ombudsman, Mr. Abay Tekle Beyene, is a young academic and former member of the Amhara State Electoral Commission, which is close to the executive power.

Although the Parliament prepared guidelines covering the mandate of these two appointees, their exact attributions have not been made public yet.

Restrictive draft law on associations and NGOs

The legislation currently in force on freedom of association stems from the Civil Code's provisions on associations and the 1964 Associations Registration Regulation Act.

⁸² See Preliminary Conclusions of the international fact-finding mission mandated by the Observatory in Ethiopia from 26 June to 3 July 2004.

These laws oblige associations to register with the Ministry of Justice after completing a registration process that is essentially controlled by the authorities. To register, NGOs have to present the association's by-laws, the names and profiles of its members, a list of the activities planned inside and outside the country, as well as guarantees of solvency from its donors. The licence to carry out activities, which has to be periodically renewed, is granted by the Ministry of Justice, which is free to withdraw or modify it. Many human rights organisations have stressed the discretionary powers of the Ministry, which grants or renews registration in a selective manner. Organisations such as the Ethiopian Human Rights Council (EHRCO), the Ethiopian Teachers' Association (ETA) and the Ethiopian Free Press Journalists' Association (EFJA) have all had numerous problems in registering, all the more that there is no set time limit between filing for and receiving authorisation, while pro-governmental NGOs get registered very quickly and easily.

Since 2001, the Ministry of Justice has been studying a new draft law on NGOs. The first draft that was presented in 2001 had been severely criticised by various civil society associations that collectively had formed a working group. This group has been institutionalised in the form of a committee which has been invited to participate in the formulation of the new draft law. A public debate was held in July 2004 on the newly proposed text, but many independent human rights associations were not invited to participate.

Although this draft law authorises associations to organise themselves in networks, it allows the Minister of Justice extensive powers to interfere in NGOs' internal affairs and thus contributes to maintaining a strict control over civil society. The Ministry of Justice, for instance, can decide on the administrative dissolution of an association, dismiss its members (whether elected or not), and order confiscation of documents or a search of the premises without a warrant.

This bill is to be submitted to the Council of Ministers in 2005, and then to the Parliament for adoption as a law.

Draft proclamation to provide for freedom of the Press

Although freedom of expression and freedom of the press are guaranteed by Article 29 of the Ethiopian Constitution, the government presented a very restrictive draft law entitled "Proclamation to Provide for Freedom of the Press" in January 2003. This bill included many res-

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trictive provisions and was staunchly rejected by civil society and international experts. The government very slightly modified it and then presented it again at the beginning of 2004.

On 27 February 2004, Mr. Simon Bereket, Minister of Information, announced his intention to submit the bill to the Council of Ministers before 5 March 2004. After being approved by the Council, it was to be submitted to the Parliament for adoption as a law. Protests from civil society and journalists convinced the Minister to convene a meeting with representatives of the Ethiopian media in Addis Ababa from 21 to 23 July 2004. After that consultation, to which independent journalists were not invited, a new version of the text was presented.

This new text, presented at the end of July 2004, was hardly different from the original one. Article 5 providing for the "Right to Carry on Press Activity" includes a list of conditions (including age, nationality, and legal background) to be met in order to obtain a licence (Articles 9 and 10), the whole process being under the control of the Ministry of Information. The bill also provides for the creation of a government-controlled Press Council in charge of drawing up a code of conduct for journalists, and give the courts pre-censorship powers. Lastly, Article 47 provides for heavy fines and prison sentences of up to 5 years for violating the law.

On 28 September 2004, another consultative meeting was convened by the Minister of Information. International organisations for the defence of journalists were also invited. Mr. Simon Bereket agreed to revise certain provisions of the bill, in particular on licensing journalists, the independence of the press council, and respect for confidentiality of source. However, the draft law which will be presented again in 2005, still provides for heavy penal and criminal sanctions for violating the press law.

EHRCO activities impeded⁸³*Legal proceedings against EHRCO*

On 8 May 2001, Mr. **Mesfin Wolde Mariam**, chairman of the Ethiopian Human Rights Council (EHRCO), and Mr. **Birhanu Nega**,

⁸³ See Annual Report 2003 and preliminary conclusions of the international fact-finding mission mandated by the Observatory in Ethiopia from 26 June to 3 July 2004.

chairman of the Ethiopian Economic Association, were arrested following the students' demonstrations of 17 and 18 April 2001 that the police had violently repressed. One of the main reasons for their arrest was the outspoken position they took on 9 April 2001 in support of academic freedom and respect of human rights, at a seminar held at Addis Ababa University. They were released on 5 June 2001 after going on a hunger strike to protest against their conditions of detention.

Since then, two charges were brought against Messrs. Wolde Mariam and Nega. On grounds of Articles 32-1 and 480 of the Criminal Code, they were accused of having encouraged students "to demand respect of their rights by rioting rather than through legal means". They were also charged, on the basis of Articles 32-1 and 250, of colluding with the Ethiopian Democratic League (EDL), an organisation considered illegal at that time (but which has been registered since) and seeking to "create a clandestine party in order to change the Constitution by illegal means". The hearing was adjourned over and over again since June 2001: on 28 July 2004, it was postponed for 5 August 2005.

Smear campaigns following publication of reports

On 5 January 2004, EHRCO published a report on human rights in the Gambella region, in the western part of Ethiopia, undergoing a violent ethnic conflict. This report, entitled, *A Ferocious Attack Committed in Gambella Region*, questioned the government's ethnic policy and denounced the assassination of at least 13 civilians by the Ethiopian armed forces. This information was confirmed thereafter by a fact-finding commission established by the Parliament in April 2004. On 18 January, however, the government denied that any civilians had been killed by the armed forces and threatened to "take the appropriate measures against EHRCO". This statement was widely broadcast on television and published in various newspapers.

In February 2004, EHRCO published a report on the observation of district elections held on 25 January 2004 in the eastern province (Somali). The report especially denounced the many cases of abuse of and violations against opposition party members and candidates. A few days later, the National Elections Council, in its gazette, warned EHRCO that its authorisation to observe elections in the country would be withdrawn if it did not disclose its articles to government authorities before publishing them.

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Last, following the publication, on 7 May 2004, of an EHRCO report condemning the terrorist actions led in the Oromia region between March and May 2004, the Ministry of Information launched a vast smear campaign against the association on State radio and television channels. In the two main government-controlled newspapers, the Ministry accused EHRCO of having its own political agenda and of not being a human rights organisation.

Retaliation against Mr. Abebe Shambi

In March and April 2004, many teachers in Ambo city, 120 km west of Addis Ababa, were suspended following student protest movements in the region. Although he had not participated in these movements, Mr. **Abebe Shambi**, a civics teacher and the only representative of EHRCO in Ambo, was accused by the authorities and the administration of Ambo primary school where he taught, of "propagating the objectives of EHRCO amongst the students" and encouraging them to rebel.

On 26 April 2004, Mr. Shambi was suspended from teaching until September 2004, when he was transferred to the Odo Liben primary school in the outskirts of Ambo.

Pressure against EFJA⁸⁴

The Ethiopian Free Press Journalists' Association (EFJA), created in March 1993, is composed of over 150 journalists across the country. It strives to protect the independence of journalists and promotes freedom of expression. EFJA was registered with the Associations Registration Office and attained official recognition in March 2000.

Its executive committee, which was elected in December 2001, received a summons by the government on 10 November 2003, under the pretext that EFJA had not submitted its financial reports to the Ministry of Justice since 2000. Furthermore, the authorities demanded EFJA to submit the association's financial reports and audited accounts statement, although Ethiopian law waives this requirement only for organisations with budget below 55,000 Ethiopian birr (5,000 euros).

⁸⁴ *Idem.*

Since EFJA directors feared the association's licence would not be renewed (according to Ethiopian law, all associations have to get their licence renewed regularly), they submitted the reports to the authorities and declared that an auditor would be appointed to check the accounts. Alongside this administrative harassment, EFJA was subjected to a sweeping denigration campaign in the pro-governmental media.

On 2 December 2003, the government officially announced its decision to suspend EFJA. The Associations Registration Office, in a letter (*Ref. no.11/2155/w-493*) to the EFJA executive committee, forbade in particular the following people to "carry out any further activities within EFJA": Messrs. **Kifle Mulat**, chairman of EFJA, **Taye Woldesmiat Belachew**, vice-chairman, **Sisay Agena**, treasurer, **Tamiru Geda**, public relations manager, and **Habtamu Assefa**, accountant.

On 5 December 2003, EFJA appealed this decision with the Ministry of Justice, which never took up the matter. Moreover, EFJA's accounts were frozen.

In the meanwhile, the government tried to take control of the association. On 4 January 2004, the Minister of Justice decided to set up and appoint a new executive committee. This attempt failed because of protests by EFJA members, so, the Minister imposed, on 18 January, the election of a new committee by a congress that was established and convened especially for the occasion, and in which none of the EFJA journalists participated. On 27 January 2004, following the election, the "genuine" EFJA lodged a complaint against the Ministry of Justice with the Federal First Instance Court, before most of its members resigned on 31 January 2004.

The "fake" EFJA started its activities, e.g. it participated in the seminar organised by the Ministry of Information on the new press law⁸⁵.

On 24 December 2004, the 4th Chamber of the Federal High Court ruled that the suspension of EFJA and its senior staff was illegal and declared the election of the new executive committee, organised by the Ministry of Justice, null and void, since EFJA congress shall be exclusively composed of permanent EFJA members.

As at the end of 2004, EFJA members were about to resume their activities but feared that the Ministry of Justice will lodge an appeal with the Federal Supreme Court.

85 See above.

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ETA's freedom of association impeded⁸⁶

The Ethiopian Teachers' Association (ETA) was created in 1949 and has 2.5 million members throughout the country. It aims at promoting an equitable, fair education policy.

In the early 1990s, as a result of government interference and pressure, a "new" ETA was set up. In 1993, the independent ETA accounts were frozen, under the pretext that the association was not registered, while its leaders were arbitrarily arrested and detained, some of them even being murdered. As a consequence, two organisations with the same name are operating at present.

On 30 January 2004, the premises of the "first" ETA were sealed off under the pretext that the association was not registered.

On 15 December 2004, the Federal High Court ruled that the "old" ETA was the one legal and required its accounts to be unfrozen and the offices, unsealed. The government ignored this decision and the "new" ETA lodged an appeal with the Federal Supreme Court on 25 December 2004. The hearing is scheduled for 1 April 2005.

Infringement of lawyers' independence⁸⁷

Ethiopian lawyers are not allowed to exercise their profession unless they register with the Ministry of Justice, which set up a Committee of five people empowered to grant a professional licence to lawyers after examining their qualifications. This Committee is also authorised to transmit its recommendations on applications for registration, as well as on disciplinary sanctions, to the Ministry of Justice. This system thus places the lawyers under the direct authority of the Ministry. Many lawyers who defend human rights are subjected to fallacious accusations (followed by disciplinary sanctions) and threatened with having their licence withdrawn.

Arrest and arbitrary detention of Mr. Abebe Worke Wolde Yohannes

On 24 February 2004, Mr. **Abebe Worke Wolde Yohannes**, a lawyer, member of the Ethiopian Bar Association (EBA) and member of

⁸⁶ See preliminary conclusions of the international fact-finding mission mandated by the Observatory in Ethiopia from 26 June to 3 July 2004.

⁸⁷ *Idem*.

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EHRCO's executive council, was sentenced by the Federal Supreme Court to 20 days of detention following a clash he had with one of his clients about his professional fees. While the Court was examining the client's claim, it decided to render judgement and sanctioned Mr. Wolde Yohannes, while it has no competence for taking such a step. Furthermore, the Minister of Justice threatened to revoke his lawyer's licence. By the end of 2004, the threat had not been taken any further yet.

Mr. Wolde Yohannes is the lawyer for ETA and for Messrs. Mariam et Nega⁸⁸. He regularly denounces State interference in these associations' activities, regularly edits articles in support of human rights in EHRCO publications, and defends victims of state persecution.

GAMBIA**Adoption of restrictive legislation on freedom of the press⁸⁹**

On 13 December 2004, the Parliament abrogated the 2002 National Media Commission Act and adopted the Newspaper Amendment Act, the enactment of which invalidates registration of all media in the country and obliges them to re-register with the Registrar General's Office, that falls under the authority of the Ministry of Information, within two weeks of the coming into force of the Act. This law also imposes a five-fold increase in the sum that newspaper owners have to pay for their licence.

Moreover, on 14 December 2004, the Parliament adopted the Criminal Code Amendment Bill 2004, which provides for imprisonment of up to three years, without the option of a fine, for press offences, which include libel, (the definition of which was expanded), sedition and the dissemination of false news.

⁸⁸ See above.

⁸⁹ See Urgent Appeal GMB 001/1204/OBS 095.

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The President, Mr. Yahya Jammeh, had not signed these two laws by end 2004. Apparently, discussions on these two texts were underway between the government and the Gambia's main press union.

Assassination of Mr. Deida Hydara⁹⁰

Mr. **Deida Hydara**, a journalist, was assassinated during the night of 16-17 December 2004 while driving home two of his colleagues, Mrs. **Ida Jagne-Joof** and Mrs. **Nyang Jobe**. Mr. Hydara was killed at point-blank range by three shots in the head, by unidentified individuals whose car was passing his. His two colleagues were wounded in the legs and had to be taken to the hospital.

Mr. Hydara used to work as the correspondent for the *Agence France Presse (AFP)* in the Gambia since 1974 and for Reporters Without Borders (Reporters Sans Frontières - RSF) since 1994. He also was the co-owner of the newspaper *The Point*. Mr. Hydara was especially well-known for his commitment to freedom of the press and human rights, and had written two articles in his newspaper, just a few days before his death, criticising the adoption of the two aforementioned acts. He was also the initiator of the open letter dated 16 December that RSF sent to the President of the Republic of the Gambia, urging him not to sign the two bills into law.

The Gambian authorities promised to carry out a thorough investigation into this assassination, but the perpetrators had not yet been identified by end of December 2004.

⁹⁰ *Idem.*

GUINEA BISSAU**Continued harassment of Mr. Joao Vaz Mane⁹¹**

On 18 March 2004, Mr. **Joao Vaz Mane**, vice chairman of the Guinean Human Rights League (Liga Guineense dos Direitos Humanos - LGDH), was arrested while at the LGDH office, on the order of chief police commissioner Bitchofla Na Fafé, for denouncing a police misconduct that seriously wounded a young man, in an LGDH radio programme. Mr. Vaz Mane's clothes were ripped while he was being arrested.

A little later, the police took Mr. Mane to the site of a murder that had been committed the preceding evening and told the people there that he was guilty of the crime. Several people lunged forward to strike him, but then other people recognised him and stopped the lynching.

Mr. Mane was then taken to the central police station of the "Segunda Esquadra" where he was insulted and subjected to death threats for five hours before being released.

Mr. Joao Vaz Mane had already been arbitrarily arrested and detained in January 2003. In July 2003 he also had been threatened by Mr. Bitchofla Na Fafé, who publicly denigrated the activities of the LGDH and accused Mr. Vaz Mane of disseminating false information after he denounced the criminal behaviour of certain police officers.

MAURITANIA**Campaign to slander human rights NGOs⁹²**

During the 65th session of the United Nations Committee on the Elimination of Racial Discrimination (CERD), held in Geneva from 2

⁹¹ See Annual Report 2003 and Open Letter to the Guinean authorities, 30 March 2004.

⁹² See Annual Report 2003.

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to 20 August 2004, the Forum of National Human Rights Organisations (Forum des organisations nationales de défense des droits de l'Homme - FONADH) presented an alternative report to the sixth and seventh periodical reports submitted by the Mauritanian government.

On 5 September 2004, Mr. Hamoud Ould Abdi, Minister of Communication and Relations with the Parliament, and government spokesman, held a press conference in which he mentioned CERD's apparent glowing remarks about Mauritania. During the conference, the Minister said, inter alia: "our country which has made major achievements, has just scored another victory against all outcasts, extremists and racists in the country and those hostile organisations that support this lamentable bunch of traitors. This bunch of outcasts which ruminates false propaganda stoked by hate, with a noteworthy example being FIDH and other organisations that constantly are contriving demeaning blows against our people, who are peaceful and attached to their religious, moral, and civic values (...). Testimony by CERD provide unambiguous denial of the false allegations supported by parties that are trying to tarnish our high reputation and credibility and the consideration we enjoy on the international scene". Mr. Ould Abdi went on to single out several defenders who participated in the preparation of the alternative report, namely, Mrs. **Fatimata Mbaye**, a lawyer and president of the Mauritanian Association for Human Rights (Association mauritanienne des droits de l'Homme - AMDH), Mr. **Abdoulaye Sow**, vice-president of AMDH, Mr. **Boubacar Ould Messaoud**, chairman of the association SOS-Slaves (SOS-Esclaves) and Mr. **Diabira Maroufa**, chairman of the International Study and Research Group on Democracy and Economic and Social Development in Africa (Groupe d'étude et de recherche sur la démocratie et le développement économique et social (GERDDES-Afrique).

These statements were broadly disseminated, in particular by the *Nouakchott-Info* of 6 September 2004, which stated that "the results of the 65th session of CERD was a complete success, contrary to allegation by parties specialised in distorting the facts, and these marginal groups, apostles of racism, as well as hostile organisations that specialise in dishonest, hateful propaganda such as FIDH".

Several women belonging to the Association of Detainees' Families subjected to legal proceedings and arbitrary detention⁹³

The Association of Detainees' Families (Collectif des familles de détenus) was created in September 2003 to defend the detainees' rights in the trial of the alleged perpetrators of the attempted coup of 8 and 9 June 2003 and denounce their conditions of detention -they are apparently being held in sheds and are not allowed to receive any visitors or medical care. More generally, the Collectif aims at defending the right to a fair trial in Mauritania.

On 21 November 2004, the national police forces (gendarmerie) arrested seven members of the Collectif - Mrs. **El Mounne Mint Mohamed Elemine**, Mrs. **Raky Fall**, Mrs. **Khadijetou Mint Maghlah**, Mrs. **Teslem Mint Oumar**, Mrs. **Mariam Mint Neyni**, Mrs. **Fatimetou Mint Khaya** and Mrs. **Mariam Fall Mint Chenouve** - during the opening session of the first hearing of the trial of the alleged putschists. These women, mostly mothers, sisters and wives of the accused, were taken to the Ouad Naga brigade where they were held in the hot sunshine, on the ground for the whole day. The brigade commander allegedly slapped Mrs. Mariem Mint Neyni, who was pregnant; she was released the next day.

On 22 November, Mrs. **Meye Mint Hamady** and Mrs. **Fatma Mint Hamady**, also members of the Collectif, were arrested when leaving the court room, after they protested to the gendarmes who were about the mistreat an elderly woman.

On 29 November, Mrs. Mariem Mint Neyni was arrested again.

The nine women were not told the grounds of their arrest but were questioned several times about the participation of two members of the Collectif in the 36th session of the African Commission for Human and Peoples' Rights (ACHPR), held in Dakar from 23 November to 7 December 2004.

On 30 November 2004, the nine women were accused of "having been caught in the act of distributing tracts" and "death threats", and were immediately transferred to the Nouakchott women's prison. Their friends and relatives were not allowed to visit them.

⁹³ See Urgent Appeals MRT 001/1104/OBS 089, 089.1, 089.2 and 089.3.

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In the evening of 1 December, two guards took Mrs. Mariem Mint Neyni, who was about to give birth, to the Chiva clinic, where the baby was born. The guards, following the instructions they had received, sought to transfer the mother and her new-born back in the jail cell immediately after the delivery; thanks to requests from her lawyers, she was allowed to stay in the clinic and was released on parole on 5 December 2004.

On 6 December 2004, lawyers filed a request for the release on parole of the other eight women. Although the judge issued an order for their release for that same day, the Prosecution immediately lodged an appeal, thereby suspending the application of the order. The case was referred to the Nouakchott court of appeal.

The President of the Nouakchott Court of Appeal, on 16 December, supported the appeal lodged by the Prosecution and rejected the order for the release on parole of the eight women.

In the evening of 4 January 2005, the Prosecution of the Trarza regional court finally agreed to release the eight women. The women's lawyers immediately drew up an application for release that same day since the one-month warrant of commitment for the women had expired on 30 December 2004. The charges against these eight women and Mrs. Mariem Mint Neyni, who had been released earlier, were not dropped, and legal proceedings were still pending by end of 2004.

Threats against lawyers⁹⁴

The lawyers of the alleged putschists were repeatedly threatened. Mr. **Brahim Ould Ebety**, the lawyer for the defence and secretary general of the International Study and Research Group on Democracy and Economic and Social Development in Mauritania (Groupe d'étude et de recherche sur la démocratie et le développement économique et social - GERDDES-Mauritanie), was threatened with arrest on 30 November 2004, the day after he intervened at the 36th session of the ACHPR under the agenda item on torture. On 1 December, Mr. **Mohamed Ahmed Ould El Hadj Sidi**, also a lawyer for the defence, was arrested before the hearing was resumed. He was accompanied by a relative of

⁹⁴ *Idem.*

one of the detainees. The pretext for the arrest was that the relative tried to appear as if he was a lawyer by carrying Mr. Sidi's robe over his arm. He was released the same day, after several hours of detention.

NIGERIA

Reports confiscated⁹⁵

On 14 October 2002, the customs office impounded 2,000 copies of the report published by OMCT and the Centre for Law Enforcement Education, Nigeria (CLEEN), entitled *Hope Betrayed? A Report on Impunity and State-Sponsored Violence in Nigeria*.

After the report was seized, CLEEN lodged a complaint against the customs services with the Federal High Court in Lagos which heard the case in June 2003. On 10 November 2003, after several adjournments, the CLEEN lawyers were able to submit their arguments. But because of an overburdened schedule, the court interrupted the hearing and postponed it until 26 January 2004.

On that date, the defence asked for the court's indulgence and for the hearing to be adjourned until he could get a certified copy of the legal action. The lawyer for the prosecution was not against this request, but reminded the court that the hearing had been scheduled for that day, and hence asked that the plaintiffs be awarded 5,000 naira (30 euros) as compensation. The judge agreed to adjourn the hearing until 24 March 2004 and awarded 2,000 naira (12 euros) to the plaintiffs.

On 6 October 2004, the Federal High Court of Lagos rendered a judgement in favour of CLEEN and against the Nigerian customs. The court declared that the confiscation and non-distribution of the reports violated "the freedom of expression of the claimants as guaranteed by section 39 (1) and (2) of the 1999 Constitution of the Federal Republic of Nigeria and, thus, were unconstitutional, null and void". The court also stressed that

⁹⁵ See Annual Report 2003.

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this confiscation was in violation of the claimants' rights in application of section 44 (1) of the Constitution". The Court ordered the Nigerian customs office to pay compensation of five million naira (3,000 euros) and either return the 2,000 copies of the report within seven days, or pay an additional compensation of four million naira (2,400 euros).

At the end of December 2004 the reports had not yet been returned.

RWANDA**Arbitrary demand for dissolution of the LIPRODHOR and legal proceedings against its members⁹⁶**

In April 2003, the League for the Promotion of Human Rights in Rwanda (Ligue rwandaise pour la promotion et la défense des droits de l'Homme - LIPRODHOR) was accused of "divisionism" by a parliamentary commission set up at the end of 2002 and tasked with investigating into the Democratic Republican Movement (Mouvement démocratique républicain - MDR), an opposition party dissolved since. At that time, the LIPRODHOR was accused of collaborating with the MDR and benefiting from political funding, and had to face up to a vast smear campaign, widely broadcast in the media.

At the end of 2003, a parliamentary commission tasked with investigating into the possible propagation of the ideology of genocide, prohibited by Rwandan law, was set up following the murders of several of the survivors of the 1994 genocide in the Gikongoro province.

On 27 June 2004, this commission submitted its conclusions to the Parliament, and in particular recommended that the LIPRODHOR, which was accused of "propagating the ideology of genocide in Rwanda", be dissolved, and legal action be undertaken against its members. The commission's report also asked for the dissolution of four

⁹⁶ See Annual Report 2003 and Urgent Appeals RWA 001/0704/OBS 055 and 055.1.

other organisations for the same reason, namely the Forum of Rural Relatives (Forum des organisations rurales), Remembrances of Parents (Souvenirs des parents), SDA-Iriba and 11.11.11, an organisation based in Belgium.

On 30 June 2004, the Parliament adopted a resolution which repeated the terms of the commission's report, asking the government to dissolve the LIPRODHOR as well as the three other above mentioned local organisations. In addition, some members of the Parliament demanded the security forces and national justice to pursue and severely punish the managers, employees and members of these organisations, going as far as circulating a list of thirteen people of which nine were members of the LIPRODHOR: Mr. **Emmanuel Nsengiyumva**, president, Mrs. **Marthe Nyiranzeyimana**, assistant representative in Kigali, Mr. **Fabien Bakizanya**, head of the legal commission, Mr. **Balthazar Ndagijimana**, treasurer, Mr. **Aloys Habimana**, head of programmes, Mr. **Jean Bosco Molisho**, member of the LIPRODHOR branch in Kibungo, Mr. **Ruben Niyibizi**, administrative and financial manager, Mr. **Jean Damascène Ntaganzwa**, manager of the LIPRODHOR branch in Gitarama, and Mr. **Félicien Dufitumukiza**, head of logistics.

Given the seriousness of this measure and the threats hanging over their safety and integrity, these people were forced to go into exile, in particular to Kampala (Uganda) and Bujumbura (Burundi).

On 19 September 2004, the members of the LIPRODHOR in exile in Uganda were subjected to harassment and arbitrary arrests. Messrs. Bakizanya, Ndagijimana, Habimana, Molisho, Niyibizi, Ntaganzwa, and Dufitumukiza were arrested at their hotel in Kampala by the Ugandan police, probably at the request of the Rwandan authorities. These seven people were accused of taking refuge in Ugandan in order to destabilise the Rwandan government, and were released on 21 September 2004, as a result of international pressure.

In addition, on 18 and 19 September 2004, Mr. Emmanuel Nsengiyumva, president of the LIPRODHOR, and Mrs. **Yvonne Niyoyita**, member of the Cyangugu branch, both in exile in Bujumbura, were watched by an agent of the Immigration and Customs Office, known to be a member of the Department of Military Intelligence of Rwanda (DMI).

Given the danger which the members of the LIPRODHOR were encountering in Burundi and in Uganda, all of these people were taken

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into the care of the UN High Commissioner for Refugees (HCR). By the end of 2004, all of them were resettled in Europe.

In the meanwhile, on 11 September 2004, an extraordinary general assembly of the LIPRODHOR was convened in Kigali, in the absence of the elected managers of the organisation, to proceed with the election of a new board of directors. Most of the members of the new board, who were closely connected with the authorities, then backed up the terms of the parliamentary commission's report, pointing out that this report "[showed] that certain members [were] responsible for the misconduct which was in the end attributed to the LIPRODHOR, whilst it had not in fact given them authority for this". The new board also decided to "take measures against the members responsible for this misconduct" and to "ask forgiveness from the Rwandan people and their government for the misconduct of certain members and employees which has been attributed to the league". Finally the general assembly "thanked the Rwandan government for its unfailing collaboration with the LIPRODHOR".

On 19 September 2004, the government published its conclusions on the parliamentary commission's report, and welcomed the fact that the "new" LIPRODHOR had separated from "its members who supported the ideology of genocide". The government also stated that "some Rwandans [were] still in favour of ethnic separation, led by the genocide ideology [...] in some associations, non-governmental organisations [...] as well as among civil society" and urged these organisations to "carry out a courageous self-criticism to right the criticism made against certain leaders (of the government), [...] and to severely punish their members".

Moreover, members of the "true" LIPRODHOR who were not able to leave Rwanda were subjected to a great deal of pressure. Mr. **Pasteur Nsabimana**, responsible for familiarising policy makers with human rights, and Mr. **Mérari Muhumba**, secretary, who did not have passports, were not able to leave the country in July 2004. They were notified by a letter from the "new" LIPRODHOR board of directors, dated 8 December 2004, of their dismissal from the league because of their "divisionism". As this letter was made public, the authorities became aware of the matter and placed Messrs. Nsabimana and Muhumba under house arrest. At the end of December 2004, this order had still not been lifted.

Restriction on the freedom of association and threats against members of the Community of Indigenous People of Rwanda⁹⁷

In a letter dated 28 June 2004, the Minister of Justice advised the Community of Indigenous People of Rwanda (Communauté des autochtones rwandais - CAURWA), an organisation defending the rights of the Batwas in Rwanda, that the organisation's request to be recognised as a legal entity was refused on the grounds that "the aim and name of the organisation [were] contrary to the constitutional principles of the Republic of Rwanda".

The Ombudsman explained this decision in a letter dated 8 October 2004, by indicating in particular that the names "indigenous" and "Batwa", which were used several times in the statutes and rules of procedures of the CAURWA, were contrary to the fundamental principles of the Constitution of Rwanda aimed at "eradicating finally the divisions based on tribal origin, regionalism and other division", thus inferring that the CAURWA was promoting "divisionism". The Ombudsman also advised the organisation to modify its status to bring them into line with these principles.

On 24 November 2004, the CAURWA received a letter from the Minister of Justice dated 9 November, repeating his refusal to grant legal status to the organisation on the grounds that it still did not conform to the Constitution, and demanding the suspension of its activities as long as the situation was not remedied.

There is every indication that this decision was part of the reprisals against the activities of the CAURWA at the 36th session of the African Commission of Human and Peoples' Rights (ACHPR). Indeed, Messrs. **Zéphirin Kalimba** and **Amédée Kamota**, respectively director and head of the human rights programme of the CAURWA, submitted in Dakar an alternative report to the periodical report by the Rwandan government, to which the members of the Commission referred when questioning the Rwandan Minister of Justice. Replying to the questions of members of the Commission, a representative of the Rwandan government directly threatened Mr. Zéphirin Kalimba, quoting in particular his name and making reference to his wife and one of his children.

⁹⁷ See Urgent Appeal RWA 002/1204/OBS 090.

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At the end of 2004, the CAURWA - which operates throughout the whole territory and whose mandate is to condemn the discrimination to which the indigenous "Pygmy" populations in Rwanda are subjected - was continuing negotiations with the Rwandan government aimed at showing that the objectives of the organisation are not contradictory to the principles of the Constitution. The decision to modify or not the status of the CAURWA should be taken at the beginning of 2005 at its general assembly.

SENEGAL**Smear campaign against the ONDH⁹⁸**

On 5 January 2004, the National Organisation for Human Rights (Organisation nationale des droits de l'Homme - ONDH) published a press release disclosing the existence of death threats against Msgr. **Théodore Adrien Sarr**, Archbishop of Dakar, and all Senegalese bishops. These threats, emanating from a group called the "Circle of Steel" (Cercle d'acier), had been received by the clergy on 9 December 2003, following the declaration issued by the bishops at the Tambacounda episcopal conference, at the end of November 2003, at which they voiced their anxiety as regards the political and social situation in the country.

On 6 January 2004, the "Sentinels for Political Change Movement" (Mouvement des sentinelles de l'Alternance), which was hitherto unknown, circulated a press release asking that the members of the ONDH be "heard by the police and pursued". In their opinion, the disclosure by the ONDH of the existence of the letter aimed at Msgr. Sarr represented a "dangerous operation of destabilisation and indoctrination about the President of the Republic", "which could throw Senegal into an unprecedented period of turbulence". The same press release also urged the religious leaders and the Senegalese people to remain vigilant

⁹⁸ See Urgent Appeal SEN 001/0104/OBS 004.

lest they be fooled by "these organisations which have become by devious means (...) political parties in disguise and which stir up the flames on a regular basis in the name of the Devil".

SUDAN

Arbitrary arrest and detention of Mr. Mudawi Ibrahim Adam⁹⁹

On 28 December 2003, Mr. **Mudawi Ibrahim Adam**, president of the Sudan Social Development Organisation (SUDO), was arrested at his Ondurman home by the forces of the National Security Agency (NSA). This arrest followed Mr. Mudawi's speech, on 27 December 2003, at a seminar on education in human rights organised by the SUDO in Shendi.

Mr. Mudawi was first placed in detention in an unknown place, without any charge being brought against him. On 3 January 2004, it was confirmed that he had been transferred to the Kober prison.

On 11 February 2004, Mr. Mudawi was accused on the basis of the 1991 Criminal Code of having "undermined the constitutional system (Article 50), conducted a war against the State (Article 51), revealed military information (Article 56), incited people to oppose the public authorities using violence and force (Article 63), incited hatred against or amongst sects (Article 64)", charges which carry a sentence of life imprisonment or death.

These charges were dropped on 4 August 2004, and Mr. Mudawi was released on 7 August 2004, after more than seven months in detention.

⁹⁹ See Urgent Appeal SDN 001/0104/OBS 001.

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Arbitrary arrest and detention of Mr. Salih Mahmoud Osman¹⁰⁰

On 1 February 2004, Mr. **Salih Mahmoud Osman**, a lawyer and member of the Sudan Organisation Against Torture (SOAT), was arrested at his home, in Wad-Madani (Central-Sudan), by agents of the NSA. After being questioned in the NSA offices, Mr. Salih was imprisoned in isolation without charges. He was transferred on 3 February 2004 to the Dabak prison, while suffering from serious health problems (jaundice, diabetes and hypertension).

On 31 May 2004, Mr. **Amir Mohammed Suleiman**, a lawyer and SOAT member, submitted an official memorandum to the security department, demanding the immediate release of Mr. Salih, given the absence of charges against him and the expiry of the 90 days time limit for provisional detention, provided for by Article 32, section 2, of the 1999 National Security Act. However, on 20 June 2004, the director of the NSA replied that Mr. Salih had benefited from medical visits during his detention, the time limit for which had been extended beyond 90 days at the request of the NSA superior council on the basis of the National Security Act of 1991.

Mr. Salih went on a hunger strike from 30 June until 2 July 2004, before being released without charges on 4 September 2004.

Mr. Salih is a well-known lawyer and a writer, who provides legal assistance to hundreds of victims of human rights violations in Darfur, and who also represents the persons sentenced to death or to amputation in the region.

Arbitrary arrest and detention of Mr. Osman Adam Abdel Mawla¹⁰¹

On 5 May 2004, Mr. **Osman Adam Abdel Mawla**, a member of the SUDO, was arrested in Zalingy (Western Darfur), then taken to the offices of the security forces, although no charge was officially brought against him.

100 See Urgent Appeals SDN 002/0104/OBS 009, 009.1 and 009.2.

101 See Urgent Appeal SDN 003/0504/OBS 035.

Mr. Mawla was released on 18 May 2004, after thirteen days in detention during which he was neither interrogated, nor advised of the reasons for his arrest. After his release, the security services first refused to provide him with the necessary authorisation to leave Nyala.

Arbitrary arrest and detention of Messrs. Nour Eldin Mohamed Abdel Rahim and Bahr Eldin Abdallah Rifa¹⁰²

On 9 May 2004, Messrs. **Nour Eldin Mohamed Abdel Rahim**, *omda* (tribal chief) *fur* of Shoba, and **Bahr Eldin Abdallah Rifa**, *omda fur* of Jabal, were arrested by the security forces in Kabkabia (Northern Darfur), after taking part on the same day in a meeting about human rights violations in the Kabkabia region with the local authorities and representatives of the Red Cross. During this meeting, Messrs. Abdel Rahim and Abdallah Rifa gave the Red Cross representatives information on the existence of mass murders and graves, as well as other serious human rights violations against the civilian population of the region.

As of end 2004, no information was made available on their whereabouts, nor if they were released.

Arbitrary arrest and detention of Mr. Adel Abdullah Nasir Aldeain Saeed¹⁰³

On 16 June 2004, Mr. **Adel Abdullah Nasir Aldeain Saeed**, a lawyer and member of the SOAT in Nyala (Southern Darfur), was arrested at his office by agents of the security forces, then held incommunicado for five days in the premises of the security forces in Nyala.

He was released on 21 June 2004 without charges.

Mr. Aldeain Saeed provides legal assistance to persons who have been sentenced to death, amputation and other inhuman or degrading treatment. In April 2004, Mr. Saeed in particular took part, with other lawyers, in an appeal to the security forces of the Southern Darfur State, urging the authorities to immediately release all the detainees who had not been officially charged, and to guarantee them a fair trial.

102 See Urgent Appeal SDN 004/0504/OBS 036.

103 See Urgent Appeal SDN 005/0604/OBS 047.

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Restrictions on freedom of the press

Although censorship in Sudan was officially lifted on 12 August 2003 by a presidential decree, the NSA announced, on 11 September 2004, the establishment of a "pre-censorship" programme, immediately applicable to all publications in the country, and banning the dissemination of any information regarding the situation in Darfur and the Popular National Congress (PNC, opposition party), which do not officially emanate from the government. The NSA agents are, amongst others, authorised to supervise publications, inspect, modify or order the withdrawal of certain articles before their publication.

Questioning of Mr. Faiçal El-Bagir Mohammed¹⁰⁴

On 16 September 2004, Mr. **Faiçal El-Bagir Mohammed**, a journalist and SOAT member, correspondent for RSF in Sudan and leader writer for the newspaper *Aladdwaa*, was summoned to the NSA offices, where he was held for almost nine hours. Mr. El-Bagir was questioned in particular about his editorial, which was to appear in that day's edition of the *Aladdwaa*, and which criticised the NSA's new pre-censorship policy, the crackdown on freedom of expression in Sudan and the 1999 National Security Act. As a result of pressure from the NSA, this article was withdrawn from the edition.

Mr. El-Bagir, whose activities have been regularly watched and controlled since 2001, has been repeatedly subjected to arbitrary arrest and summons by the security services. In 2003, he had been questioned in this way on five separate occasions by the NSA agents because of his stand in favour of human rights and freedom of expression.

104 See Annual Report 2003.

TOGO**Defenders of human rights likened to "delinquents"¹⁰⁵**

The Togolese League for Human Rights (Ligue togolaise des droits de l'Homme - LTDH), its president Mr. **Adote Ghandi Akwei**, and the FIDH were victims of a smear campaign orchestrated by the government, following the publication of a FIDH report on the situation of human rights in Togo, dated 8 June 2004¹⁰⁶.

On 9 June 2004, the Togolese Minister of Communication, Mr. Pitang Tchallah, told *AFP* that he considered this report to be "outrageous and revolting".

On 11 June, the President of the Parliament, Mr. Fanbaré Outara Natchara, further declared during an interview broadcast by the Togolese radio station *Métropolys*, that the LTDH and the FIDH had "mistaken and distorted" his words, and concluded "that they were a bunch of dishonest liars" and "delinquents". Mr. Natchara also stated that the FIDH report that condemned the recurring violations of human rights in Togo was "a means of polluting [Togo's] discussions with the European Union (EU)", before accusing the FIDH of "relying on the support of the president of the Togolese League of Human Rights, an association of delinquents".

ZAMBIA**Harassment of Mrs. Sara Longwe's family members¹⁰⁷**

The family of Mrs. **Sara Longwe**, a member of the UN Conference of NGOs (CONGO) and laureate of the 2003 Hunger Project African Leadership Prize, was subjected to serious acts of harassment.

¹⁰⁵ See Press Release, 16 June 2004.

¹⁰⁶ See Report by the FIDH, *Togo : l'arbitraire comme norme et 37 ans de dictature*, June 2004.

¹⁰⁷ See Open Letter to the Zambian authorities, 19 February 2004.

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On 5 January 2004, the Minister of Home Affairs signed a deportation order requiring her husband, Mr. **Roy Clarke**, a journalist and British citizen, to leave the country within 24 hours. Mr. Clarke's deportation order was based on the grounds that he had allegedly insulted the Zambian President in his weekly satirical column in *The Post* newspaper. Mr. Clarke and Mrs. Longwe went into hiding from 5 to 13 January to avoid his deportation. The Minister of Home Affairs reportedly revoked Mr. Clarke's permanent residence permit and announced that he would deport Mr. Clarke, despite a "stay of execution" that was ordered to allow for a judicial review of his case, which was heard on 26 January 2004 by a High Court judge. On 12 February 2004, Mrs. Longwe's eldest daughter was kidnapped while driving her mother's car. Her assailants threatened to kill her, after asking her where her mother was, and left her on a small road in the Chamba valley a few hours later. That same day, Mr. Clarke was arrested before being released on bail the next day.

ZIMBABWE**Renewed legislative obstacles to freedoms of association and expression¹⁰⁸***The 2004 NGO Act*

In November 2002, the Zimbabwean government reported its intention to adopt a new law on NGOs to replace the 1967 Private Voluntary Organisations Act (PVO), some provisions of which had been reasserted in September 2002.

The 2004 NGO Act was adopted by the Parliament on 9 December 2004.

This law imposes heavy restrictions on freedom of association and especially targets human rights NGOs. Indeed, the legal definition of

¹⁰⁸ See Annual Report 2003 and Open Letter to the Zimbabwean authorities, 13 August 2004.

an NGO has been made much wider than in the PVO Act and, in particular, includes "any institution, the objects of which include or are (...) the promotion and protection of human rights and good governance" (Article 2[1]). Previously, human rights associations were operating under the same legal status as "trusts" which carried easier registration and financial conditions.

To comply with this new Act, all NGOs have to register with the NGO Council placed under the authority of the Ministry of Public Service, Labour and Social Welfare or will be liable to fines and imprisonment.

This Council, the establishment of which is provided for by Article 3, is composed of five civil society representatives and nine members of the government. It is not only responsible for registering the NGOs but also for investigating their administration, management and activities.

To be able to register, each organisation, inter alia, has to provide "the names, nationalities and addresses of its promoters, its sources of funding, and its plan of action or projected activities for the next three years..." thus enabling the authorities to control the NGO's activities; no details are given concerning the grounds for refusing the application for registration. Furthermore, Article 9[4]: states that "no foreign non-governmental organisation shall be registered if its sole or principal objects involve or include issues of governance", "issues of governance" including, according to Article 2, "the promotion and protection of human rights".

The Ministry of Public Service, Labour and Social Welfare also has substantial discretionary powers and, in particular, is entitled to dismiss the members (whether elected or not) from an association, call for the election of a new board of directors and cancel the certificate of registration.

Lastly, the 2004 NGO Act imposes various financial restrictions on local associations which, by virtue of Article 17 are not authorised to receive "any foreign funding or donation to carry out activities involving or including issues of governance".

At end 2004, the NGO Act had not come into force since Mr. Robert Mugabe, President of the Republic, had not yet signed the bill into law.

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The AIPPA Amendment Act and the Criminal Law Codification and Reform Act

The Access to Information and Protection of Privacy Act (AIPPA) adopted in 2002 was amended by the Zimbabwean Parliament in November 2004. The amendment provides for sanctions of up to two years imprisonment for journalists who are not accredited by the Media and Information Commission (MIC). According to this law, "any journalist, not accredited, who continues to practice whether by himself or herself or in partnership or association with any other person" may be liable to imprisonment. President Mugabe signed this bill into law on 7 January 2005.

On 9 December 2004, the Parliament also adopted the Criminal Law Codification and Reform Act which provides for prison sentences of up to 20 years for any journalist communicating or publishing "false statements perceived to be prejudicial to (the security of) the State". By the beginning of January 2005, President Mugabe had not yet signed the bill into law.

Continued pressure against NCA members¹⁰⁹

On 4 February 2004, hundreds of members of the National Constitutional Assembly (NCA), a grouping of independent NGOs dedicated to the promotion of democracy and the rule of law in Zimbabwe, were violently dispersed by the police while demonstrating in front of the Parliament in Harare to call for a reform of the Constitution. Over 150 people were wounded and 116 demonstrators were arrested and taken to the police station where they were accused of disturbing peace and public order, according to Article 7 of the Miscellaneous Offences Act (MOA), and organising an illegal event. They were all released that same day, after having paid 10.000Z\$ bail each.

During these events, Mr. **Lovemore Madhuku**, chairman of NCA, was arrested and forced into a police vehicle that took him away. Six other people were also arrested, but they were released a short while thereafter. One of the policemen hit Mr. Madhuku violently and ano-

¹⁰⁹ See Annual Report 2003 and Press Release, 18 February 2004.

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ther one said: "since you are not afraid of prison, that's the gun you deserve". Mr. Madhuku was left for dead about 15 km from Harare on the road to Bulawayo. Later on, he was taken to a clinic for medical care.

On 25 February 2004, while on his way to a seminar organised by the Center for Peace Initiatives in Mutare, Mr. Madhuku was arrested at a police barrage 5 km from Mutare. One of the policemen said he had been instructed to "put him in detention because he is known for his involvement in various demonstrations". Mr. Madhuku was released on the same day thanks to the intervention of the Zimbabwe Lawyers for Human Rights association (ZLHR).

On 15 May, the NCA and the Civil Alliance for Social and Economic Progress (CASEP) organised a work session in Gweru. The police violently interrupted the meeting and arrested 80 people, including Messrs. Madhuku and **Lyson Mlambo**, national coordinator of CASEP. All detainees were released a few hours later, except Messrs. Madhuku and Mlambo, who were accused of having organised a public meeting without prior authorisation, as required by Articles 24(1) and 6 of the Public Order and Security Act (POSA). They were released on the next day without charges.

On 1 September 2004, Mr. Madhuku participated in an NCA-sponsored event to support constitutional reforms. On 9 September 2004, he was arrested at his home and taken to the Harare central police station but was not told the reasons why. After several hours of detention, he was accused of participating in a illegal gathering according to Article 26(5) of the POSA. He was released on the next day without charges.

In October 2004, an NCA member was attacked by security forces and left for dead just after he met with Mr. Madhuku. This person was again threatened on several occasions while being in hospital.

Continued pressure against members of ZimRights¹¹⁰

On 27 April 2004, Mrs. **Mabel Sikhosana**, representative of ZimRights in Masvingo, was arrested by agents of the Masvingo police station and accused of organising a meeting without prior notice to the authorities. She was released the same day without charges.

110 See Urgent Appeal ZWE 002/0504/OBS 032.

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Mrs. Sikhosana was apparently arrested in connection with the peaceful march that had been organised on 28 April 2004 in Harare in support of democracy and reforming the Zimbabwean Constitution. Before and after the event, the police arrested many people who were suspected of participating.

On 28 April 2004, Mrs. **Sheba Dube Phiri**, vice president of ZimRights and a member of Amnesty International and the NCA, was arbitrarily arrested by policemen in plain clothes, and detained at the Bulawayo police station. The police searched her apartment without a warrant, and confiscated reports, files and documents concerning the activities of ZimRights, Amnesty International and the NCA.

Mrs. Dube Phiri was arrested along with Mr. **Félix Mafa**, a member of the Post Independence Survivors Trust (PIST), an NGO that provides assistance to the victims of the Gukurahundi massacres in the 1980s, Mr. **Goden Moyo**, a NCA member, Mr. **Reggie Moyo**, a member of Agenda Bulawayo, a group of activists advocating for democracy in Zimbabwe, and two other people. All five men were taken in for questioning and released two hours later without charges, although the police informed them that they might be called in again some time in the future.

Arbitrary detention and torture of Mr. Tinashe Lukas Chimedza¹¹¹

On 22 April 2004, Mr. **Tinashe Lukas Chimedza**, a student and defender of social and youth rights, was arrested at Mount Pleasant Hall in Harare while giving a speech on the right to education during a peaceful gathering.

He was taken to the Marlborough police station and brutally beaten up by policemen who kicked and hit him with their fists and sticks. He was hospitalised in an extremely critical condition after lawyers Mr. **Otto Saki**, a ZLHR member, Mr. **Jacob Mafume**, a member of the Forum for Human Rights and Mr. **Tonderai Bhatasara**, insisted that he be given medical care.

Mr. Chimedza apparently left the country shortly thereafter.

¹¹¹ See Urgent Appeal ZWE 001/0404/OBS 028.

Continued pressure against the members of WOZA¹¹²

On 14 June 2004, 43 members of Women of Zimbabwe Arise (WOZA) were arrested at a meeting in a community hall in Bulawayo. All 43 women (some with young children) were taken to the central police station in Bulawayo where they were interrogated about WOZA activities. The police apparently threatened them and slapped some of them. That same day, 39 of them were released. The other four were accused of having organised a meeting without prior authorisation from the police and were detained until the next day when they were released without charges. On 19 June 2004 WOZA-Bulawayo organised a demonstration to protest against the economic deterioration of Zimbabwe and to celebrate the international refugee day. The police encircled the group and arrested 73 women who were taken to the central police station. They were released the same day after paying a fine of 25,000 Z\$ each. While the women were still in detention at the police station, some WOZA representatives, who had avoided the police round-up, assembled another group of women and marched to the police station. Eleven of them, including Mrs. **Jennifer Williams, Magodonga Mahlangu, Memory Mushore, Anna Moyo, Erika Sithole, Edith Mbofana, Anna Dube, Emma Sibanda and Selina Ncube**, were arrested and taken to the Donnington police station. The 11 women were accused of disturbing public order (Article 7 of MOA); they were questioned by the court, and remanded in provisional custody. They were released on 6 July 2004.

Last, on 5 October 2004, close to 50 women, mostly WOZA members, were arrested and taken to the central police station in Harare for demonstrating in front of the Parliament in Harare in order to present a petition against the adoption of the NGO bill. They were only allowed access to their lawyers the next day.

The women were detained until 11 October 2004 when all the charges against them were dropped.

Further, Messrs. **Tsvangirai Mukwazhi, Desmond Kwande and Howard Burditt**, three journalists who were accredited and registered by the MIC, were arrested while filming the demonstration. They were

112 See Annual Report 2003.

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held until the next day, released without charges and were not informed of the grounds of arrest.

Continued pressure against members of ZCTU¹¹³

On 23 January 2004, Mr. **Lovemore Matombo**, chairman of the Zimbabwe Congress of Trade Unions (ZCTU), was dismissed from his job at the Zimbabwe post (Zimpost) for participating in the Congress of the Organisation of African Trade Union Unity (OATUU) in Khartoum from 5 to 12 December 2003.

Although Mr. Matombo had complied with all requirements to obtain a special leave, which his employers granted, the latter accused him of being absent of his post without prior official authorisation.

On 5 August 2004, Messrs. **Wellington Chibebe**, **Timothy Kondo** and **Sam Machinda**, respectively secretary general, advocacy coordinator, and vice chairman of the ZCTU central region branch, and Mrs. **Lucia Matibenga**, vice chairperson, were arrested in Gweru at a workshop on the repercussions of the tax increase on labourers, HIV/AIDS, and the conclusions of the annual meeting of the international labour conference of the International Labour Organisation (ILO).

They were at first accused of organising the workshop without prior permission from the police. The four ZCTU leaders were remanded for "disturbing public order", "uttering words (that could) provoke a breach of the peace", (Article 19-1b of the POSA).

Messrs. Chibebe, Kondo and Machinda and Mrs. Matibenga were released on bail (amounting 200,000 Z\$ each - 28 euros) on 6 August 2004 and summoned to appear before the court on 8 September 2004. On that date, the hearing was postponed until 3 November 2004, when the charges brought against Messrs. Kondo and Machinda and Mrs. Matibenga were dropped. However, proceedings against Mr. Chibebe were still pending, the next hearing being scheduled for 1 March 2005.

¹¹³ *Idem.*