



# **/ EUROPE AND THE COMMONWEALTH OF INDEPENDENT STATES (CIS)**

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009



## / REGIONAL ANALYSIS WESTERN EUROPE<sup>1</sup>

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

ANNUAL REPORT 2009

Whereas in 2008 the European Union (EU) was particularly proactive towards human rights defenders in countries that do not belong to the European Community, defenders in EU countries also had to face obstacles of some importance to their activities in defence of human rights and fundamental freedoms. On February 6, 2008, the Committee of Ministers of the Council of Europe adopted a declaration with a view to “improve the protection of human rights defenders and promote their activities”<sup>2</sup>. The Committee of Ministers called on Member States to “create an environment conducive to the work of human rights defenders” and on all Council of Europe institutions to “pay special attention to issues concerning human rights defenders”. The Committee also invited the Commissioner for Human Rights to provide strong and effective protection to defenders, in particular by continuing to meet with a broad range of defenders during his country visits<sup>3</sup> and by reporting publicly on the situation of human rights defenders, and also by intervening with the competent authorities on the problems human rights defenders may face, especially in situations where there is a need for urgent action.

However, on the pretext of striking a balance between freedom and security, European Governments have at times in recent years developed initiatives that limit individual rights – electronic surveillance, increase in the number of data bases recording personal data, etc. On

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1./ The countries of Western Europe include the Member States of the European Union and the States Parties to the European Free Trade Agreement. Turkey is also included in this analysis owing to the historic nature of its negotiations with the European Union.

2./ See Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities, February 6, 2008.

3./ In 2008, for Western Europe, the Commissioner for Human Rights paid official visits to the Netherlands, Belgium, Monaco and San Marino in particular.

migration, the adoption by the European Parliament of the “return” directive on June 18, 2008<sup>4</sup> and the European Pact on Immigration and Asylum<sup>5</sup> helped to legitimise harsher policies and to criminalise irregular immigration. In this context, despite active mobilisation on human rights defenders issues, notably in the framework of their foreign policy, several European States adopted a certain number of restrictions on the action of defenders.

Although in 2008 some obstacles have been raised against the freedom of association of human rights organisations, the most commonly used methods to deter and hinder defenders’ activities in Western Europe are still acts of violence, threats and judicial harassment, both by the authorities and private companies, in order to attempt to silence all dissenting voices.

Generally speaking, although the obstacles encountered by defenders in Western European countries were not systematic, as in other regions, the fact remains that such obstacles, sometimes more insidious and dissimulated, have regularly been found to exist.

## Obstacles to the activities of defenders of migrants

### Statutory obstacles and threats to criminalise activities in defence of migrants’ rights

In a certain number of States in the region, for several years now, there has been a trend to increase the number of obstacles placed against the defence of migrants’ rights – which in some cases has led to the criminalisation of the assistance provided to undocumented aliens. In *France*, in *Spain* and in *Ireland*, certain legal or statutory provisions that are either in force or in the process of being adopted have, in 2008, allowed the beginning of the criminalisation of activities in the defence of the rights of migrants; at all events, a strongly deterrent climate has developed. In *France*, the vagueness of the provisions concerning the

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4./ See Directive of the European Parliament and the Council on Common Standards and Procedures Applicable in Member States Regarding the Return of Illegal Immigrants, adopted on June 18, 2008.

5./ On October 15 and 16, 2008 the European Council adopted the European Pact on Immigration and Asylum. It is designed to harmonise asylum and immigration policies in the EU.

offence of “giving assistance to illegal residency”<sup>6</sup>, and in particular the lack of any clear and unconditional exemption from judicial proceedings for non-profit making activities, leaves room for a degree of ambiguity that is dangerous for any person or association providing legal, social or humanitarian support to undocumented migrants in distress, making it possible to criminalise such action. In *Spain*, the bill to reform the law on immigration that was adopted in December 2008 by the Council of Ministers makes it a serious offence to promote “the maintaining of illegal residency of an alien in Spain”, liable to a maximum fine of 10,000 Euros<sup>7</sup>; in *Ireland*, the Immigration, Residence and Protection Bill punishes any lawyer defending migrants in “futile” cases, an expression that is dangerously vague.

In *France*, by a decree dated August 22, 2008, the Ministry for Immigration put an end to the monopoly enjoyed since 1984 by the Ecumenical Support Service (*Service œcuménique d’entraide - CIMADE*) for the provision of legal assistance in detention centres for illegal immigrants (*Centres de rétention administrative*)<sup>8</sup>, giving access to the centres to other associations or bodies willing to apply. The decree was followed by a call for tenders, specifying that the “provider of the service” would only be called upon to give information and documentation, thereby eliminating in fact the other activities, in particular the defence of migrants’ rights provided by organisations engaged in defending those rights, in particular CIMADE – these include informing the detained aliens of their rights, lodging administrative appeals, fulfilling asylum requests, etc. The rules governing the submission of tenders<sup>9</sup> also included an obligation of confidentiality and neutrality on the part of the applicant associations, which some saw as an attempt to “prevent testimonies and alerts concerning situations contrary to

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6./ See Article L. 622-1 to 4 of the Code on Entry and Residency of Aliens and the Right of Asylum (*Code sur l’entrée, le séjour des étrangers et le droit d’asile - CESEDA*).

7./ See Migreuropa and Salas Javier, Canarias 7, February 26, 2009.

8./ “*Rétention administrative*” is the possibility for the administration to detain, for a period laid down by law, foreigners in the process of being deported or who are not authorised to remain on French territory, and who cannot leave the country immediately.

9./ These rules are embodied in a document (*règlement de la consultation*), which is attached to all calls for tenders regarding public contracts. It describes the characteristics of a public contract and lays down how the tender should be sent and how the decision is made. See Article 11-1 of the Regulation.

respect for fundamental rights”<sup>10</sup>. Most associations consider that the call for tenders is designed to make it more difficult, if not impossible, to draw up the annual report that CIMADE has published since 2000 on the situation prevailing in the administrative detention centres. The decree was challenged on October 22 by several associations before the Supreme Administrative Court (*Conseil d’État*), which at the end of 2008 had still not handed down its decision. The call for tenders was suspended, and then cancelled on October 30, 2008 by a decision of the Paris Administrative Court of First Instance, following an appeal lodged by several associations involved in the defence of migrants. A second call for tenders was issued on December 18, 2008, which no longer included the obligation of confidentiality and neutrality.

Such fears that the defence of migrants’ rights be criminalised were on occasion exacerbated by public statements made by certain political figures reflecting a hostile attitude towards defenders of migrants’ rights. In *Belgium*, for instance, on July 24, 2008, Ms. Annemie Turtelboom, the Minister for Immigration Policy and Asylum, declared: “One cannot by law forbid people to go on a hunger strike, but I shall look into what can be done to call to account those who accompany and advise asylum seekers”<sup>11</sup>. In France, on October 16, 2008, the French Member of Parliament Mr. Philippe Cochet, a member of the Union for a Popular Movement, in his opinion on the draft budget for 2009 stressed the intention of the Government to continue the arrest of persons who provided assistance “in some form or another” to undocumented aliens, thereby adding further to the uncertainties regarding the field of application of existing provisions.

### **Acts of physical violence and harassment against defenders of migrants’ rights**

In 2008, the hostility of the police towards any action in defence of or solidarity with migrants increasingly made itself felt when illegal migrants were deported by air. In the context of harsher European migratory policies, more and more people – members of human rights

10./ See CIMADE, *Lettre ouverte à monsieur Brice Hortefeux, Ministre en charge de l’immigration*, October 23, 2008.

11./ See Institute of Race Relations (IRR), *IRR European Race Bulletin No. 65*, autumn 2008, and <http://www.annemieturtelboom.be/FR/asielbeleid/08/6.htm>. Unofficial translation.

NGOs or ordinary citizens – on boarding their flight expressed their indignation at the acts of violence to which migrants about to be deported were subjected. These persons have often been forced by the police to leave the plane, and some have been held in custody, and even prosecuted. Such repression is sometimes compounded by obstacles to their freedom of movement raised by some airlines, which refused to accept as passengers persons who had previously been forced to alight or who had been prosecuted following such incidents.

Such practices were recorded in *Belgium* and *France*<sup>12</sup>. In March 2008, Ms. **Fatima M'Baye**, a lawyer, President of the Mauritanian Association for Human Rights (*Association mauritanienne pour les droits de l'Homme* - AMDH) and FIDH Vice-President, had to disembark from a plane after having protested against the ill-treatment to which a foreigner deported by force to Mauritania on an Air France plane was subjected by the police. She was placed in police custody for the night, and on two occasions asked to undress, for a body search. At the end of 2008, no information was available concerning possible judicial proceedings initiated against her. On April 16, 2008, Mr. **André Barthélémy**, President of Acting Together for Human Rights (*Agir ensemble pour les droits de l'Homme* - AEDH), was also placed in police custody after having taken the defence of two Congolese nationals deported to the Republic of the Congo who complained of ill-treatment. At the end of 2008, Mr. Barthélémy incurred a maximum sentence of two months' imprisonment and a 7,500 euros fine for "incitement to rebellion", and five years' imprisonment and/or a fine of 18,000 euros for "obstructing the movement of an aircraft". Likewise, in *Belgium*, on April 26, 2008, Messrs. **Serge Fosso**, **Philippe Leonardon** and **Claude Moussa** were brutally removed by the police from a Brussels Airlines flight to Douala and placed in police custody after the first two had, before take-off, loudly denounced the attack on the human dignity of a passenger held down by four police officers, and calling for help. Messrs. Fosso and Moussa were punched and kicked, and insulted by the police officers. The three men were also banned from all Brussels Airlines flights for six months. Also, on May 16, 2008, Ms. **Hermine Rigaud**, Deputy Mayor of Chevilly-Larue (France), was manhandled and threatened by the police after having protested on a transit flight in Brussels against

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12./ See Institute of Race Relations, *op. cit.*

the ill-treatment of an undocumented migrant about to be deported to the Democratic Republic of Congo. Ms. Rigaud was also banned from all Brussels Airlines flights.

Defenders were also subjected to acts of harassment in connexion with peaceful demonstrations of solidarity towards migrants. In *Cyprus*, for instance, a peaceful demonstration organised on January 27, 2008 in front of the Ministry for Foreign Affairs to show solidarity with the families of asylum seekers detained for an indefinite period ended with the arrest of Mr. **Doros Polycarpou**, Secretary General of Action for Support, Equality and Anti-Racism (KISA), an NGO engaged in the fight against xenophobia, racism and discrimination, and calling for respect for the rights of migrants and refugees. Mr. Polycarpou was placed in police custody for five hours, and then accused of “inflicting bodily harm on a police officer” and “resisting arrest”. At the end of 2008, the Ministry of Justice decided to drop the proceedings against him<sup>13</sup>. In *Sweden*, on August 21, 2008, the police used tear gas to disperse several members of the SAC trade union which had organised a sit-in in Stockholm and were handing out leaflets calling on the management of a restaurant to pay the wages due to a group of undocumented workers who had worked in the restaurant<sup>14</sup>.

Finally, several defenders were harassed because of their professional activity in the defence of migrants' rights. In *Belgium*, on April 28, 2008, two lawyers defending the rights of migrants, Messrs. **Alexis Deswaef** and **Vincent Lurquin**, were manhandled, humiliated and insulted by police officers as they were trying to meet with a group of undocumented migrants in the Brussels Law Courts (*Palais de Justice*)<sup>15</sup>. In *Greece*, there are very few migrant workers calling for decent working conditions, owing in particular to the hostility of public opinion towards migrants. It is in such a context that Ms. **Constantina Kuneva**, a Bulgarian migrant worker and Secretary General of the All Attica Union of Cleaners and Domestic Workers (PEKOP), was seriously injured on December 22, 2008 in Athens, losing the use of an eye and her vocal cords following an attack with sulphuric acid. The attack

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13./ See KISA.

14./ See Institute of Race Relations, *op. cit.*

15./ See League for Human Rights (*Ligue des droits de l'Homme* - LDHB).

came after a series of threats made against her. At the end of 2008, the police enquiry had yielded no concrete results.

### **Judicial harassment, obstacles and threats against defenders of ethnic and religious minority rights**

In some countries of the region, ethnic and religious minorities were still, in 2008, a particularly sensitive issue, and those defending their rights were subjected to acts of judicial harassment and intimidation, and their freedom of assembly was restricted. In *Turkey*, defenders of minority rights had to operate in a very restrictive, even repressive environment owing to a strong current of nationalism<sup>16</sup>, and were regularly subjected to acts of harassment, even of a judicial nature. On March 3, 2008, for instance, the sentencing of Mr. **Ridvan Kizgin**, a leading member of the Association for Human Rights (*Insan Haklari Dernegi* - IHD), to two years' and six months' imprisonment for having investigated and published a report on five assassinations committed in the Kurdish village of Bingöl in 2003, was confirmed on appeal. At the end of 2008, Mr. Kizgin was still detained in the Erzurum prison. In addition, it was only on March 12, 2008 that Mr. **Tahir Alçi**, a lawyer, accused on January 19, 2007 of a breach of Article 288 of the Turkish Criminal Code on "attempting to influence the decision of a court of justice" after having issued a press release in which he called for the conditions of a fair trial to be met, in connexion with the trial of two police officers accused of having killed two Kurds through an excessive use of force, was acquitted by the Eskisehir High Criminal Court<sup>17</sup>. Finally, Mr. **Orban Kemal**, a lawyer, received threatening letters in January 2008, for his defence of victims of assassinations committed in April 2007 against the employees of a Christian publishing house in Malatya<sup>18</sup>. In *Greece*, defenders of minority rights, in particular of the Roma minorities, were on several occasions hindered in their work<sup>19</sup>.

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16./ According to Article 301 of the Turkish Criminal Code, "denigrating Turkish identity in public" and that of "the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures of the Republic" can incur respectively from six months' to three years' and from six months' to two years' imprisonment.

17./ See Association for a Human Rights Agenda (*Insan Hakları Gündemi Derneği* - IHG), *Turkey: Defend Human Rights Defenders*, 2008.

18./ *Idem*.

19./ See Greek Helsinki Monitor.



## Obstacles to the freedom of peaceful assembly and intimidation of defenders of LGBT rights in the Baltic countries

Despite some evolution, in particular in *Estonia*, where a relatively favourable political context enabled a parliamentary debate to take place on a bill governing same-sex marriages, the obstacles to the fundamental freedoms of defenders of the rights of lesbian, homosexual, bisexual and transgender persons (LGBT) were still present in 2008 in a certain number of Western European States. In *Lithuania* and *Latvia* in particular, the proximity of the State to the Church and the influence of religion on civil society encouraged the crystallisation of a generally hostile climate towards defenders of LGBT rights.

In 2008, the annual march of the LGBT movement (Gay Pride) was banned in *Lithuania*. It was able to take place in *Latvia*, but it was severely controlled by strong police forces; it had to take place away from the city centre and the route had been imposed and fenced off by the authorities, officially for security reasons. Police officers were stationed at the only access to the procession, and questioned participants about their sexual orientation. And the day before the 2008 march, unidentified persons broke into the server of the website of the Alliance of LGBT and their Friends “Mozaika”, erased most of the data and stole the organisation’s list of members. Whereas a police enquiry was initiated, it had yielded no result by the end of 2008<sup>20</sup>.

## Practice of abuse of power against defenders by companies in a dominant position

In 2008, legal action for damages by private enterprises were initiated or continued against small human rights NGOs in an attempt to silence them. In France, the Network for Alert and Intervention for Human Rights (*Réseau d’alerte et d’intervention pour les droits de l’Homme* - RAIDH), a human rights organisation that focus in particular on the issue of police abuse and the use of Taser guns, was sued in 2007 by the company SMP “Technologies Taser France” for “excess of freedom of expression” and “disparagement of the trademark and trade

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20./ See Mozaika.

name Taser”<sup>21</sup>. The company claimed 50,000 euros in damages from RAIDH, 8,000 euros for publication costs and 3,000 euros in lawyers’ fees, directly threatening the capacity of the organisation, whose resources are already limited. On October 27, 2008, the Paris Court of First Instance dismissed all claims by SMP Technologies. SMP Technologies has since launched an appeal against RAIDH, demonstrating once again its determination to silence the organisation.

Similar actions were undertaken in Lithuania against defenders working for the right to a healthy environment<sup>22</sup>. In 2004, a movement to protect the common public space and the historical centre of *Vilnius* (a UNESCO World Heritage site), formalised under the name “For Lithuania Without the Question Marks”, was formed following the decision of developer M2Invest and its subsidiary “Rojaus apartment” to destroy a series of archaeological, historical and hydrogeologic sites in the city to make room for construction after it received a building permit from the county of Vilnius. Members of the movement filed a complaint on January 21, 2007 against the county for “violation of the right to participate in decision-making procedures relating to environmental issues,” as enshrined in the Aarhus Convention and national legislation in Lithuania. On July 27, 2007, Rojaus apartment brought charges against four activists of the movement, Mr. **Tomas Bakucionis**, Mr. **Vytautas Domasevicius**, Ms. **Gediminas Urbonas** and Ms. **Jurate Markeviciene**, before the Administrative Court of Vilnius, claiming one million litas (about 320,000 euros) in damages as well as the seizure of movable and immovable property, arguing that legal action had frozen the building permit granted by the county of Vilnius and had therefore caused a financial loss<sup>23</sup>. On April 21, 2008, the Administrative Court of Vilnius held that the building permit was invalid. However, no final decision on the question of damages would have been issued as of late 2008.

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21./ See RAIDH Press Release, October 28, 2008. The charges refer to the campaign that RAIDH led for three years on the regulation of the use of Tasers in France and, more recently, the request for an annulment of the decree from the Ministry of Interior on September 22, 2008, which authorises the use of Tasers by municipal police.

22./ See Lithuanian Association for Human Rights (*Lietuvos Žmogaus Teisiu Asociacija*).

23./ *Idem*.

## Obstacles to freedom of association in Ireland

While freedom of association for human rights organisations is not particularly threatened in countries of Western Europe, concerns nevertheless revealed themselves in *Ireland*. On December 11, 2008, the *Seanad* (Upper House of the Irish Parliament) voted against an amendment to the new Charities Bill, proposed by Senators of the opposition, which sought to include the “promotion of human rights” in the objectives of such organisations. Most donors to Irish associations and organisations require charity status. In addition, these organisations are exempted from certain taxes and can claim an exemption from rates. It is therefore feared that the exclusion of “the promotion of human rights” as the goal of charitable organisations may deprive human rights associations that already exist and those that are not yet registered of a number of advantages, limiting their capacity for action<sup>24</sup>. Some organisations even fear that, in some cases, the only way for them to retain their charitable status is to not mention their human rights activities<sup>25</sup>. Despite opposition from some Senators and NGOs, the text entered into force on February 28, 2009. These developments are unfavourable for Irish national institutions for the promotion and defence of fundamental freedoms. In July 2008, the Government announced its decision to merge a series of institutions for the protection of human rights. Although the Government abandoned the merger in late 2008 due to the mobilisation of Equality and Rights Alliance, a coalition of 60 NGOs and trade unions, it nevertheless severely limited the budgets of some of these institutions<sup>26</sup>.

## Protection of public order: the temptation to unduly restrict the right to privacy for human rights defenders in France

Allegedly to better protect public order, the right to privacy for citizens and the exercise of civil liberties continued to be threatened in *France* in 2008, and human rights defenders were specifically targeted. By Decree of June 27, 2008, the Ministry of the Interior created a new

24./ See Law Society of Ireland, *Memorandum to the members of Seanad*, December 3, 2008.

25./ See position paper from Amnesty International Ireland, Free Legal Advice Center (FLAC), Irish Council for Civil Liberties (ICCL) and Front Line, *Charities Bill 2007: Excluding Human Rights - The Repercussions*, December 8, 2008.

26./ Budgets for the Irish Human Rights Commission and Equality Authority were reduced respectively by 24% and 43%, while other agencies, including the National Consultant Committee against Racism and Intolerance (NCCRI) and Combat Poverty Agency, were closed. See FLAC.

police file for Documentary Exploitation and Utilisation of General Information (*Exploitation documentaire et valorisation de l'information générale* - EDVIGE), which was finally withdrawn on November 20, 2008, following the mobilisation of several civil society and political organisations. The decree allowed the police to “centralise and analyse information relating to natural or legal persons who apply for or exercise a political, trade union, or economic mandate, or play an institutional role of economic, social or religious significance, provided that such information is necessary for the Government or its representatives to exercise their responsibilities” and to “centralise and analyse information relating to individuals, groups, organisations and legal persons who, because of their individual or collective activity, are likely to prejudice public order”. The scope of this decree was dangerously large, and gave authorities the power to create files on those belonging to vaguely and broadly defined categories, which may include human rights defenders, and gather any personal information concerning them.

### **Harassment of defenders denouncing serious violations caused by mafia groups in Italy**

In *Italy*, human rights defenders denouncing the negative consequences of mafia groups on civil liberties again found themselves in the line of fire in 2008. In March 2008, Ms. **Rosaria Capacchione**, a journalist from the daily newspaper *Il Mattino*, Mr. **Raffaele Cantone**, former Anti-Mafia Prosecutor for the district of Naples, Mr. **Roberto Saviano**, a journalist for *La Repubblica* and author of the book *Gomorra*, all three joined as plaintiffs the judicial proceedings held before the Naples Court of Assize against sixteen “godfathers” of the Neapolitan mafia clan, the Camorra<sup>27</sup>, a criminal organisation operating in particular in the region of Naples. The three were seriously threatened by two “godfathers” of the organisation, who explicitly accused them of trying to “influence the work of judges” and “condition the evolution of the trial”. The situation of Mr. Roberto Saviano, who through his book *Gomorra* denounced human rights violations caused by the criminal activities of the Neapolitan mafia, remained critical throughout the year 2008: escorted 24 hours a day, Mr. Saviano received new death threats in October 2008 and left Italy in late 2008, fearing for his safety. The

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27/ The Court of Assize sentenced sixteen “godfathers” of the clan to life imprisonment, a decision that was upheld by the Court of Appeals on June 19, 2008.

local context in which he works further aggravates the situation, given that many members of the media are under strong pressure from the Camorra, which helps to extend operations to intimidate and discredit the journalist. The situation worsened following statements made by the Minister of the Interior, Mr. Roberto Maroni, who downplayed the threats faced by journalists and attempted to demobilise public opinion on the case.

### Urgent Interventions issued by The Observatory in 2008 on countries of the region<sup>28</sup>

Countries	Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
GREECE	Mr. Makis Nodaros	Attacks	Urgent Appeal GRE 002/1008/ OBS 173	October 28, 2008
TURKEY	Mr. Ethem Açıkalin	Arbitrary detention / Judicial harassment	Urgent Appeal TUR 001/0108/ OBS 011	January 28, 2008
TURKEY	Mr. Ridvan Kizgin	Arbitrary detention / Judicial harassment / Sentencing	Urgent Appeal TUR 002/0308/ OBS 039	March 18, 2008
TURKEY	Mr. Ethem Açıkalin and Mr. Hüseyin Beyaz	Excessive use of force by the police / Judicial harassment	Urgent Appeal TUR 003/0808/ OBS 137	August 19, 2008

28./ See the Compilation of cases in the CD-Rom attached to this report.



## / REGIONAL ANALYSIS EASTERN EUROPE AND CENTRAL ASIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
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Throughout 2008, repression against human rights defenders increased in the region, albeit to very different degrees depending on the country: some of them were marked by a manifestly abrupt halt of the democratisation process, and others, by a tightening of repression. Furthermore, while attempts of *rapprochement* by *Belarus* and *Turkmenistan* – two of the most repressive regimes in the region – with the European Union in order to establish stable economic relations foreshadowed a possible improvement of the situation of human rights defenders in these countries, this hope did not materialise.

Generally speaking, bad human rights practices proliferated, particularly in the *Russian Federation*, where many acts of repression of all kinds against human rights defenders were recorded in a climate of almost total impunity, as well as in a number of neighbouring countries, particularly in Central Asia (*Kyrgyzstan*, *Turkmenistan*, *Uzbekistan*). A worrying evolution of the overall political situation in *Armenia*, *Georgia*, *Kyrgyzstan* and *Azerbaijan* was also noted in 2008, which, consequently, led to a deterioration of the situation of defenders.

Furthermore, most countries in the region continued to share an enduring post-Soviet legacy, characterised by the persistence of similar police and judicial structures that hindered the administration of a fair justice and therefore a genuine independence of the judiciary, but also by problems of corruption, common challenges of democratic transition and geopolitical repositioning amid a total or almost-total absence of independent press. Thus, in *Belarus*, *Turkmenistan* and *Uzbekistan*, all critical voices continued to be systematically repressed by the authorities, and the ability of defenders to operate was seriously hampered. Moreover, several repressive practices inherited from the past, such as the confinement of defenders in psychiatric asylums to silence and

intimidate them, were still implemented in *Azerbaijan* and *Uzbekistan*. Such practices also continued to constitute a potential threat against human rights defenders throughout the region.

Finally, informal or secret agreements on extradition remained prevalent in some Member States of the Commonwealth of Independent States (CIS) and/or the Shanghai Cooperation Organisation, representing a daily risk for defenders wherever they were, and sometimes forcing them into hiding or into exile outside the region (*Georgia, Uzbekistan*).

### **Ongoing physical and verbal attacks against defenders in a persistent climate of impunity**

Physical attacks against defenders, whether from State or non-State actors, increased in 2008 in a general climate of impunity. A number of defenders, particularly those involved in the defence of the rights of ethnic minorities as in the *Russian Federation*, suffered sometimes fatal attacks from unidentified persons. It was often impossible for them or their families to subsequently complain to the police, and even less possible to obtain compensation or to expect any result from a commission of inquiry or a court, which were often devoted to the executive power (*Azerbaijan, the Russian Federation, Turkmenistan, Uzbekistan*).

Serious attacks to the physical and psychological integrity of human rights defenders – and sometimes to their relatives – generally remained one of the main features of the repressive policies of *Turkmenistan* and *Uzbekistan*. In these extremely authoritarian contexts, police violence still increased, and the use of torture continued. Death threats against a human rights defender were also reported in *Bosnia and Herzegovina*.

Throughout the year 2008, several defenders of ethnic and sexual minorities as well as their relatives were also subjected to acts of defamation, harassment and verbal threats (*Azerbaijan, the Russian Federation, Serbia*).

### **Legislative and administrative obstacles to human rights activities**

In some countries of the region, the hindrances to the rights of human rights defenders were again based on a particularly restric-

tive legislative arsenal regarding freedoms of association (*Azerbaijan, Belarus, Kyrgyzstan, the Russian Federation, Turkmenistan*) and peaceful assembly (*Armenia, Belarus, Kyrgyzstan, the Russian Federation, Turkmenistan, Uzbekistan*), an arsenal that was sometimes reinforced in 2008, with direct consequences on the working conditions of human rights organisations and their members. In *Kyrgyzstan* for example, while the civil society remained active, the situation of human rights defenders significantly deteriorated in 2008 with the adoption of a new and particularly restrictive legislation on freedom of assembly.

Furthermore, the use of those repressive legislative arsenals and the misuse of certain provisions of domestic law often led to lawsuits against defenders for spurious reasons (*Armenia, Azerbaijan, Belarus, Kyrgyzstan, the Russian Federation, Uzbekistan*).

### **Defenders perceived as a threat to political stability**

The series of parliamentary or presidential elections held in 2008 in *Armenia, Azerbaijan, Belarus, Georgia, the Russian Federation, Serbia* and *Turkmenistan* did not lead to any real change in policy on the whole. However, such electoral contexts were generally marked by a restriction of freedoms of defenders (*Kyrgyzstan*), acts of defamation against them (*Belarus*), and even acts of violence against local observers (*Georgia*). In the framework of protests held to contest election results, repression against human rights defenders also increased.

Generally speaking, denunciations of human rights violations were regularly perceived as an attempt to call political stability into question, and in many cases defenders were therefore assimilated with the opposition by authorities, and thus suffered campaigns of harassment or defamation. The independence of Kosovo, a pivotal period, also led to violent protests in *Serbia* by groups of Serbian extremists and nationalists, during which many human rights defenders and journalists were attacked. Defenders in *Georgia* also experienced limitations on their actions in the context of the Russo-Georgian war of the summer of 2008.

In addition, in 2008, some defenders continued to be assimilated with extremist elements in order to facilitate prosecution against them, especially in *the Russian Federation* and *Kyrgyzstan*, and the relations of some of them with foreign countries were sometimes presented by



the authorities as dangerous and contrary to the national interest, thus providing an additional ground for harassment against them (*Belarus, Kyrgyzstan, the Russian Federation, Turkmenistan, Uzbekistan*).

Finally, faced with economic difficulties that, in some countries, undermined the political stability of regimes that benefited from important revenues of oil and gas until the summer of 2008, coupled since the fall of 2008 with the consequences of the financial and economic crisis that severely hit the countries of the region, the authorities feared that the social consequences of these situations would call their legitimacy into question. In this context, repression was stepped up against any protest, and the vigilance of the authorities was increased, especially against defenders denouncing violations of economic and social rights, who suffered a number of hostile measures, as in *the Russian Federation*.

### Journalists defending human rights under pressure

In a number of countries where the media is a means of disseminating information relating to the promotion and protection of human rights, restrictions of press freedom was experienced in 2008, both in fact and in law, which forced many journalists into self-censorship. In this context, independent journalists who decided to continue to denounce human rights violations, and in particular those who investigated corruption of the authorities, were frequently subjected to judicial proceedings, threats, or even sentenced to imprisonment (*Armenia, Belarus, Turkmenistan, Uzbekistan*).

### Urgent Intervention issued by the Observatory in 2008 on a country of the region for which there is no Country Fact-sheet<sup>1</sup>

Country	Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
BOSNIA AND HERZEGOVINA	Mr. Branko Todorovic	Death Threats	Urgent Appeal BIH 001/0708/OBS 128	July 29, 2008

1./ See the Compilation of cases in the CD-Rom attached to this report.

# / TESTIMONIAL

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## **BAKHTIOR KHAMROEV**

President of the Djizak branch of the Human Rights Society of Uzbekistan (HRSU)

The history of the human rights movement in Uzbekistan – which was born in February 1992 with the creation of the first public organisation dedicated to human rights defence since the disappearance of the USSR, the Human Rights Society of Uzbekistan (HRSU) – can be divided into two distinct periods. The first period continued up to the tragic events in Andijan on May 13, 2005; the second period began that same day.

Already during the first period, life was not easy for human rights defenders in Uzbekistan: the latter were placed under surveillance by intelligence services, which regularly arrested them. In July 2001, Chavrik Ruzimuradov, President of the Kachkadaria region branch of HRSU, was killed in the basement of the Ministry of Interior (where the isolation cells for the temporary detention of people arrested are located). In October 2002, nine of our organisation's activists were in prison or in psychiatric asylums. Thanks to pressure exerted by international organisations and embassies of democratic countries, they were all released in October 2003. Until the events in Andijan, human rights defenders used to demonstrate publicly to denounce the countless violations of the law, of which the State bodies – in particular the forces of order, the office of the Public Prosecutor, and the courts – were guilty; they protested against the restriction of their rights; they defended convicted comrades. And to a certain degree they succeeded.

Unfortunately, after the tragic events that took place in Andijan on May 13, 2005 (when Government troops fired live ammunition at a peaceful demonstration in which thousands of citizens were taking part), and following the expulsion from the country of international human rights organisations and other NGOs, Uzbek human rights activists found themselves in the situation of having to face a cruel

political regime alone. In order to quash the human rights movement completely, the Government incorporated numerous amendments into the existing legislation, including within the Criminal Code, with the following consequences:

- It has become almost impossible for human rights organisations to register legally at national level;
- Non-registered human rights organisations are forbidden to carry out any legal activity;
- The leaders of a non-registered human rights organisation are exposed to huge fines or two weeks' administrative arrest. They may even be criminally convicted if their organisation receives financial aid from abroad.

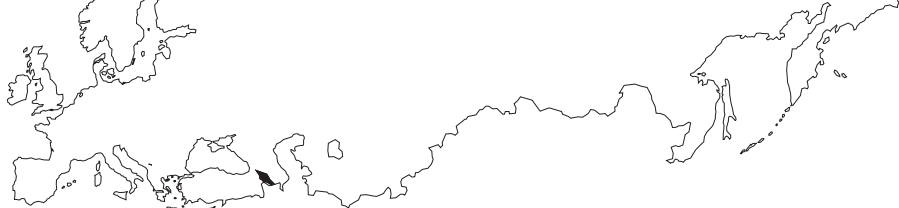
In Uzbekistan, the notion of “human rights defence” has to a great extent lost its original meaning. Since the tragic day of the Andijan massacre, the authorities have embarked on criminal proceedings against around forty human rights defenders, almost half of whom are behind bars. Nine HRSU members are still languishing in prison. The forces of order have launched a true hunt for human rights defenders. The latter have all, without exception, been placed under external surveillance; the authorities have radically reduced their freedom of movement within the country. They have also intensified judicial proceedings, focusing on human rights defenders who demonstrate in the street in protest against the constant persecution of their comrades and who demand the release of political detainees. But despite all this, it may be said that the authorities have not totally managed to crush the human rights movement in the country.

Today the human rights defence movement in Uzbekistan is experiencing the most difficult time in its history. No one can say how long Islam Karimov's cruel political regime will last. This regime has almost entirely suppressed democratic and religious opposition; it has eliminated all contestation and wishes to eradicate the human rights movement. Additionally, although some Uzbek human rights defenders manage to communicate relatively easily with international organisations, others suffer from too tenuous links with the same organisations, due to the lack of office and computer equipment and telephones, as well as to financial difficulties. This makes them vulnerable in the face of the authorities, given that they are unable to transmit their observations on the human rights situation in the country directly and in an

appropriate time-frame, nor can they let the outside world know about the problems they directly encounter.

And yet, although the country's leaders often ignore the demands of the international organisations and their constant calls for them to end the persecution of human rights defenders, these appeals by the international organisations represent the only hope for the safety of those people who are prosecuted. It does happen that the authorities on occasion retreat under international pressure and, for example, release certain human rights activists held in detention.

It is my view that international organisations should support human rights defenders even more. Currently within the country there is no internal force capable of changing the system. The role of the democratic countries and international organisations in pushing Uzbekistan towards democracy and freedom is therefore all the more important.



## / ARMENIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Armenia experienced the most violent repression of recent years after the presidential elections, which were won on February 19, 2008 by Mr. Serzh Sarkisian with 52% of votes. The opposition did not recognise the results of the ballot at the end of February and organised demonstrations that were violently dispersed. These resulted in the deaths of ten people on March 1, 2008, eight of whom were demonstrators, as well as the arrest of hundreds of political opponents<sup>1</sup>. The state of emergency, decreed from March 1 to 21, resulted in a temporary ban on the independent media, a *de jure* suspension of the activities of NGOs and opposition parties, and the adoption of a new law on peaceful assembly that is particularly restrictive<sup>2</sup>. Peaceful rallies continued to be prevented and even banned<sup>3</sup> after the state of emergency was lifted, and the authorities continued to use violence against opposition activists as well as independent journalists. In addition, after the Ombudsman, an independent expert responsible for protecting human rights and fundamental freedoms in Armenia, presented a report that was severely critical of the events of March 2008<sup>4</sup>, the Ministry of Justice and the General Prosecutor contented themselves with making objections to the questions raised by the Ombudsman in his report,

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1./ See Civil Society Institute (CSI).

2./ See Resolution 1609 of the Parliamentary Assembly of the Council of Europe (PACE) of April 17, 2008 condemning the adoption of this law.

3./ In some cases the authorities argued that community administrative regulations, which imposed notification of the organisation of demonstrations of over 100 people, had been violated. In others, the organisers were confronted with refusal by the authorities or were forced to organise their demonstrations in locations imposed on them by the latter.

4./ In his report, the Ombudsman noted a certain number of irregularities committed during and after the March 1 demonstration, such as, in particular, the lack of credible evidence permitting criminal proceedings to be opened against certain demonstrators, the issue of the proportionality of police action taken to end the rally, and the abuses committed in implementing the provisions of the decree imposing the state of emergency.

rather than responding to them. For his part, former President Robert Kocharian declared in the media that he had made the wrong choice in proposing an Ombudsman to the Assembly<sup>5</sup>. In his report, the latter had also drawn a very critical picture of the economic and political situation in Armenia<sup>6</sup>.

Freedom of the media witnessed a considerable *de facto* regression in 2008. In October 2008, the Armenian Ombudsman denounced recent legislative amendments that introduced a moratorium on media licenses until mid-2011. These amendments made it impossible to create new – and difficult to develop the existing – independent radio and television channels<sup>7</sup>, contravening the recent ECHR judgement concerning the A1+ independent television channel<sup>8</sup> as well as a Resolution of the Parliamentary Assembly of the Council of Europe dated June 2008, recommending that Armenia should “ensure an open, fair and transparent licensing procedure”<sup>9</sup>.

Overall, the country remained marked by considerable corruption, the lack of independence of the judiciary and the recourse to torture by the police force. In the international arena, the Armenian and Turkish presidencies have been seen to move closer together for the first time. The first visit of the Turkish President to Yerevan on September 6 encouraged the hope that the two countries would become closer and, on November 2, the Presidents of Armenia, Azerbaijan and the Russian

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5./ The current Ombudsman was proposed by the President of the Republic and appointed by the Assembly on July 8, 2006.

6./ In his report, the Ombudsman also confirmed that distrust of public bodies, over-centralisation of power, the ineffective system of checks and balances, the lack of guarantees for the protection of civil rights and human rights, and the emergence of a privileged elite were all factors that encouraged a large part of society to demonstrate its dissatisfaction.

7./ These amendments provided for the simple extension of existing media licenses until 2011, and that no call for tender for broadcasting frequencies would be made until this date.

8./ On June 19, 2008, ECHR considered that the refusal to grant a license to the A1+ television channel violated Article 10 of the European Convention on Human Rights and sentenced the Armenian Government to pay an amount of 30,000 Euros in damages to A1+. According to the Government, refusal to grant a license was necessary in Armenia's transition to compulsory digital broadcasting in 2012. A1+ was an extremely popular independent channel that had been closed down by the Government in 2002 and which had not been able to obtain a new license since then.

9./ See PACE Resolution 1620, June 25, 2008.

Federation adopted a declaration calling for political resolution of the conflict<sup>10</sup>.

### **Pressure exerted on lawyers responsible for defending persons arrested during the events of March 2008**

In 2008, the lawyers of hundreds of people arrested at the beginning of March and whose trials continued until the end of the year faced great difficulty in doing their job. The opening of criminal proceedings against lawyers who sought to obtain justice for the abuses and violations of human rights that occurred during the events of March 2008 seems in fact to have been used as a means of intimidating and obstructing their professional activities, insofar as Article 38 of the Code of Ethics of the Bar Association forbids a lawyer to carry out his or her profession if proceedings have been opened against them. For instance, on August 28, 2008, criminal proceedings were opened against Mr. **Mushegh Shushanian**, the lawyer of five people arrested and imprisoned during the March events. These proceedings were started on the grounds of “disrespect towards the court” under Article 343 of the Criminal Code, after Mr. Shushanian apparently accused the court of making political rulings during a hearing involving one of his clients. His lawyer’s license, which was suspended after judicial proceedings were opened against him, was renewed on November 24 by the chamber of the Armenian Council of Armenian Lawyers. However, the prosecution of Mr. Shushanian continued at the end of 2008, and he incurred a fine of 100,000 drams (around 255 Euros)<sup>11</sup>.

### **Impunity for attacks and threats against journalists defending human rights**

In 2008, the intensification of media muzzling in Armenia resulted in the development of Internet-based activities of independent journalists, newspapers and information platforms. However, the lack of monitoring of investigations that were opened following different attacks against – and pressure put on – journalists put those who, amongst others, denounced corruption, in a particularly delicate position. On

10./ The Nagorno-Karabakh conflict between Armenia and Azerbaijan has caused Armenia to be isolated, since its borders with Turkey and Azerbaijan have been closed since the start of the fighting and Armenia has no diplomatic relationship with these two countries.

11./ On December 19, his lawyers appealed against a ruling by the Kentron Court refusing to abandon the charges against him.

November 17, 2008, Mr. **Edik Baghdasaryan**, the President of the NGO “Investigative Journalists” and Editor of the on-line newspaper *HetqOnline*, which seeks to defend the independence of the investigative press and condemns corruption in Government circles, was violently attacked by three men in plain clothes and had to be taken to hospital. Government representatives demonstrated their support for him and affirmed that the Prosecutor was going to start an enquiry<sup>12</sup>. As at the end of 2008, a criminal case had been initiated for “bodily harm of medium gravity” (Article 113 of the Criminal Code) that, however, had led to no result.

### **Increasing difficulty for NGOs in organising human rights events**

During 2008, it has become more and more difficult for NGOs to organise conferences, discussions or film screenings on human rights issues. Indeed, most of the big hotels, cinemas and conference centres time and again refused to rent their premises to civil society organisations that condemned human rights violations committed by the Government. The Government reportedly put pressure on most of the big hotels not to rent out their rooms for “meetings of a political nature”, pressure that had no legal basis and that would aim to hinder the holding of human rights-related events. At the beginning of October 2008, the hotel Congress initially agreed to host a day of conferences and discussions dealing with the country’s major human rights problems, such as corruption and the violation of freedoms of expression, peaceful assembly and association, which was organised by the Partnership for Open Society<sup>13</sup>. The hotel Congress then withdrew its agreement on the grounds that the event was of “political nature”. The staff explained to the organisers that they would probably be turned down by the major hotels. In fact, the hotel Marriott, to which the Open Society Institute (OSI) made a similar request, had to apply for prior authorisation from the authorities. The hotel Congress finally authorised the event to be held on October 9, 2008, following OSI mobilisation<sup>14</sup>.

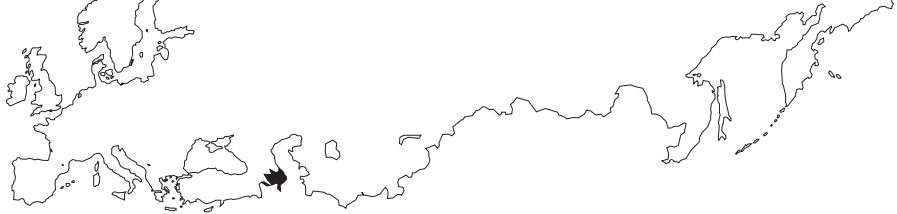
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12./ One of the presumed attackers of Mr. Edik Baghdasaryan gave himself up to the police on November 26, 2008.

13./ The “Partnership for Open Society” is an initiative of more than sixty NGOs, coordinated by OSI.

14./ See Joint Declaration of around a dozen NGOs, including the CSI, the Helsinki Committee for Armenia and the Transparency International Anti-Corruption Centre for Armenia, December 3, 2008.





## / AZERBAIJAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

The year 2008 saw no improvement in the human rights situation in Azerbaijan: the authoritarian regime of President Aliev was indeed reinforced and independent voices continued to be repressed. The presidential elections of October 15 took place without mishap, since the opposition boycotted the vote and organised no protest rallies. To no-one's surprise the President won the elections with more than 88% of the votes. Although the OSCE and the European Union were satisfied with some of the technical amendments to the Electoral Code, they nonetheless recalled that these elections could not be considered democratic<sup>1</sup>. In addition, on December 24, 2008, the Constitutional Court ratified a bill extending the limit to run for the Presidency beyond two terms, thus giving Mr. Ilham Aliev the possibility of lifetime election. A referendum on the end to the limit was due to be organised on March 18, 2009.

Although five journalists were released in January, strong repression of the independent media continued throughout 2008. At the end of October 2008, Mr. Nushiravan Maharramli, the Chairman of the national radio and television, announced that as from January 1, 2009 the foreign radio stations *BBC*, *Voice of America* and *Radio Free Europe/Radio Liberty* (RFE/RL) would no longer be licensed to broadcast programmes on national waves, on the pretext of making frequencies available for local radio stations<sup>2</sup>.

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1./ See OSCE Report of the Election Observation Mission in Azerbaijan dated December 15, 2008 and the Declaration by the Presidency on behalf of the EU concerning the presidential elections in Azerbaijan, October 20, 2008. The EU noted in particular "that the elections still do not satisfy international standards of democracy, particularly as regards the organisation of public debate, the conduct of polling and the counting of votes".

2./ These radio stations are still able to broadcast their programmes via Internet and satellite, which, in view of the existing infrastructures, considerably limits their audience.

Furthermore, as of the end of 2008, many political opponents, journalists and human rights defenders were still in prison and detention conditions remained alarming<sup>3</sup>.

### **Persistent administrative obstacles to freedom of association**

Although the legislative framework for civil society organisations has been clarified and improved in recent years, in reality freedom of association remained precarious during 2008. With the creation in December 2007 of the Council of State Support to NGOs under the President, the registration of organisations in fact took on a considerable political and financial dimension, since only legally recognised organisations could participate in or were eligible for funding from the Council. In 2008, the latter received a budget of one and a half million dollars and began to allocate funding in August. In April, President Aliev appointed 11 members of the Council, including three Government representatives and eight NGO representatives, two of whom are representatives of human rights organisations. However, several members of civil society criticised the purely consultative nature of Council members' opinions regarding decisions for grant aid allocation.

Additionally, there remained many practical obstacles to the registration of organisations (in particular waiting periods and legal flaws), so that some NGOs, such as the Forum of Jurists of Azerbaijan and the Humanity and Environment Organisation were only registered after the European Court of Human Rights issued a judgement, following many years of legal battles<sup>4</sup>. Furthermore, in 2008 the withdrawal of registration remained one of the simplest ways of silencing human rights organisations. On May 14, the registration of the Election Monitoring Centre (EMC), one of the most important organisations in Azerbaijan in the field of election observation, was suspended, notably on the grounds that a change of address had not been declared. As a

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3./ On March 26, 2008, Mr. Eynulla Fatullaiev, the founder and Editor-in-chief of the opposition daily newspapers *Gundalik Azerbaijan* and *Realny Azerbaijan*, who was sentenced in October 2007 to eight and a half years in prison for "defamation", began a hunger strike to protest against media repression and detention conditions. He was joined by several journalists, human rights defenders and political opponents. The hunger strike was continued until April 7.

4./ See ECHR judgement No. 28736/05, *Alyev and others v. Azerbaijan*, December 18, 2008, and judgement No. 4439/04, *Ismayilov v. Azerbaijan*, January 17, 2008.

result the organisation was not able to send independent observers to the October 2008 presidential elections<sup>5</sup>.

Finally, in December 2008, Parliament amended the Code of Administrative Violations. The fines imposed for not declaring grant aid received, which were previously between 20 and 50 AZN (from 19 to 48 Euros) were now increased to amounts from 1,000 to 2,500 AZN (from 966 to 2,416 Euros). Although, as of the end of 2008, no NGO had been sentenced on the basis of the modified Code, the very existence of these new provisions placed a *de jure* restriction to freedom of association.

### **Impunity for violence against human rights defenders**

In 2008, attacks on human rights defenders continued, although the number of attacks lessened in comparison with previous years. In addition it remained extremely difficult for defenders who were attacked or in danger to obtain police protection or for their rights to be upheld by a judicial system that was in fact exploited by the authorities. As an example, in the Nakhchivan autonomous Republic, officials from the Human Rights Resource Centre (HRRC) continued in 2008 to be subjected to repeated acts of harassment in complete impunity. On August 27, 2008, Mr. **Elman Abbasov**, a member of HRRC and an expert with the Institute for Reporters' Freedom and Safety, as well as Ms. **Malahat Nasibova** and Mr. **Ilqar Nasibov**, correspondents of *RFE/RL*, were beaten by representatives of the forces of order and by civilians in the village of Nahram, while they were carrying out an investigation into cases of police intervention during attempts to hold peaceful rallies. They tried to file a complaint, which the police refused to register. Furthermore, no medical examination was made. Mr. Abbasov had already received death threats by phone on March 6, 2008<sup>6</sup>.

### **Judicial harassment and arbitrary detention of human rights defenders**

Against the background of the deterioration of freedom of expression, a new threshold was crossed when libel proceedings were opened against a prominent human rights defender. On December 13, 2008, Interior

5./ See Human Rights Centre of Azerbaijan (HRCA).

6./ *Idem*.

Minister Ramil Usubov accused Ms. **Leyla Yunus**, Director of the Institute for Peace and Democracy in Azerbaijan (IPD), of “attacking the honour and dignity” of the police and the Interior Minister, following the publication of an interview on December 3 on the *www.day.az* website<sup>7</sup>. In the article, Ms. Yunus criticised the fact that the right to a fair trial was not guaranteed in Azerbaijan, taking as an example the trial linked to the kidnapping of two girls, when police officers who were accused of human trafficking had not been prosecuted. Mr. Usubov claimed compensation of 100,000 manats (about 96,663 Euros), on the basis of Articles 4, 149 and 150 of the Civil Procedure Code and Articles 23.4, 23.6 and 44 of the Law on the Media. The trial of Ms. Yunus started in January 2009.

In addition, at the end of 2008, two human rights defenders were still deprived of liberty. Mr. **Novruzali Mammadov**, a defender of the rights of the Talysh ethnic minority, Head of the Talysh Cultural Centre, Editor-in-chief of the *Voice of the Talysh (Tolishi Sedo)* newspaper, and Department Head of the Linguistics Institute of the Science Academy, was sentenced on June 24, 2008 by the Court of Serious Crimes to ten years in prison for “high treason”, after the Court argued that he had collected information necessary for the establishment of an administrative autonomy in the territories of Azerbaijan populated by Talysh people and had spread a negative image of Azerbaijan. His sentence was confirmed in appeal on December 26 and, at the end of December 2008, Mr. Mammadov remained detained in the Bailov preventive detention centre No. 1. Furthermore, although criminal proceedings against Mr. **Sahib Teymurov**, Chairman of the NGO Support of Children’s Houses, who had defended the rights of an HIV-positive prostituted minor, were abandoned on May 20, 2008, the latter was on the same day forcibly placed in a psychiatric hospital, where he remained detained as of the end of 2008. Mr. Teymurov had been arrested in August 2007 for “extortion” and sentenced by the Court of Serious Crimes of the Republic of Azerbaijan. After being tortured by the police during his pre-trial detention, Mr. Teymurov began to suffer from mental problems<sup>8</sup>.

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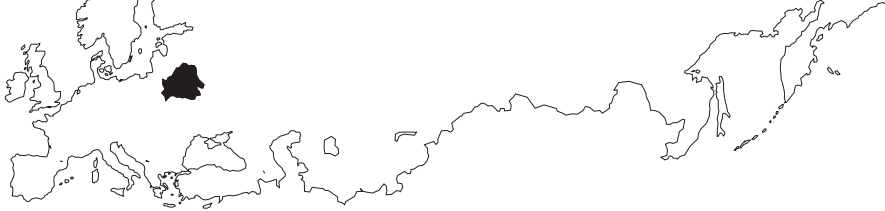
7/ The title of the interview was: “In most cases, the courts in Azerbaijan are passing illegal and unwarranted decisions in relation to the protection of human rights and fundamental freedoms” (unofficial translation).

8./ See HRCA.

## Urgent Interventions issued by The Observatory in 2008<sup>9</sup>

Name of human rights defender	Violations	Intervention Reference	Date of Issuance
Mr. Novruzali Mammadov	Sentencing / Arbitrary detention / Torture / Ill-treatment	Urgent Appeal AZE 001/0808/OBS 139	August 20, 2008
		Urgent Appeal AZE 001/0808/OBS 139.1	October 27, 2008
		Press Release	December 15, 2008

9./ See the Compilation of cases in the CD-Rom attached to this report.



## / BELARUS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Although the September 2008 parliamentary elections, in which no seat was won by the opposition, were considered not to be transparent by international observers<sup>1</sup>, the European Union nevertheless noted several positive signs in Belarus, such as the release of the last political prisoners at the end of the summer and the reorientation of Belarusian foreign policy towards Europe<sup>2</sup>. As a result, at the end of September the EU decided to partially suspend the sanctions adopted in 2004 and to lift the ban on visits by senior Belarusian officials for a period of six months<sup>3</sup>. The OSCE Chairman-in-Office and Finnish Foreign Minister, Mr. Alexandre Stubb, also spoke in favour of greater cooperation with Belarus<sup>4</sup>. On the Belarus side, on November 14, 2008 the Head of the Presidential Administration, Mr. Uladzimir Makey, deploring the isolation of Minsk, promised “positive steps” in the media situation, words that were followed with acts at the end of November, with the return of the independent newspapers *Narodnaya Volya* and *Nasha Niva* in the official distribution circuits. On November 19, 2008, the country’s authorities additionally informed their European counterparts that they were ready to take into account OSCE recommendations on the Election Code.

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1./ “The preliminary report by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on the conduct of the parliamentary elections in Belarus on Sunday 28 September concludes that these elections fell short of the OSCE’s democratic commitments, in spite of a measure of progress in relation to previous elections. [...] The Presidency has also noted the positive developments prior to the elections, particularly with regard to the release of the last political prisoners and the invitation to the OSCE to observe the parliamentary elections on 28 September”. See Declaration by the EU Presidency on the parliamentary elections in Belarus, September 30, 2008.

2./ In 2008, Belarus tried to develop closer economic ties with its European neighbours as a counterweight to the relationship with the Russian Federation.

3./ However, the EU reserved the right to renew the sanctions before the end of the six months period.

4./ See OSCE Chairman’s Press Release, October 7, 2008.

However, the positive developments of the end of the year 2008 should not mask the continued repression by the Belarusian authorities of opponents to the regime and civil society stakeholders. In 2008 for instance, the authorities sometimes used politically motivated dismissals or the exclusion of students from their universities to quash protests. Freedoms of assembly and association continued to be largely flouted. Since the State controls the judicial bodies, in 2008 several criminal proceedings were again opened against opponents and protesters, who remained at risk of prison terms, where detention conditions are extremely harsh. Furthermore, in 2008 journalists were subject to numerous threats and pressure, in an environment in which legislation relating to press freedom again became harsher this year, notably after a new law was signed in August 2008 by President Lukashenko, further restricting the freedom of the media, especially on-line publications, and making cooperation with foreign media more difficult<sup>5</sup>. Last but not least, Belarus remained the last State in the region to maintain capital punishment.

In addition, it was still not possible for many of the defenders appearing on the authorities' "special list" to leave the country. Although some defenders appearing on the list were given permission to travel abroad, they were systematically searched when they crossed the border.

### **Obstacles preventing human rights organisations from obtaining legal status**

In 2008, human rights organisations were again regularly denied registration for formal and fallacious reasons, or were subjected to requests for clarification or amendment as regards their registration application, or even for re-registration following arbitrary dissolution, thus making longer an already very slow procedure. Most human rights defenders consequently continued to risk proceedings under Article 193.1 of the Criminal Code for activities carried out in the framework of "an unregistered organisation". For instance, in August 2008, a letter from the Ministry of Justice informed the leaders of the Human Rights

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5./ This law which was deplored by Ms. Ferrero-Waldner, the European Commissioner for External Relations, in a statement on July 1, 2008, strengthens the media registration programme and makes it easier for the authorities to close down any of the media. It additionally establishes State control of Internet-based publications and requires Government accreditation for journalists working for foreign media. Finally, it prohibits financial and technical aid from foreign persons or organisations (unless these persons are co-founders).

Centre “Viasna” of the five official reasons for the refusal to register their organisation, that was ordered nearly a year before on October 26, 2007, by a ruling of the Supreme Court<sup>6</sup>. Although many NGOs did not succeed in obtaining legal status, those who did so also encountered great difficulty in carrying out their work. One of the concrete obstacles to NGO activities was the increase in rents for NGO premises, which caused the leaders of the Hrodna branch office of the NGO “BPF Adradzhenne” to give up renting their regional office<sup>7</sup>. On May 29, the branch was officially closed down on the grounds that it no longer had a legal address or office.

### **Multiple obstacles to freedom of peaceful assembly**

The year 2008 saw the continuation of practices intended to discourage human rights defenders from exercising their right to peaceful assembly. The Belarusian authorities resorted to acts of harassment before rallies, arrests and often refused to authorise demonstrations, thus making it possible to prosecute demonstrators for taking part in unauthorised demonstrations. A great number of protesters were arrested and detained in 2008, such as Messrs. Ales Bialiatski, FIDH Vice-President and President of the Human Rights Centre “Viasna”, Uladzimir Labkovich, Aleh Matskevich, Siarzhuk Sys, Aleh Kalinkou, Uladzimir Khilmanovich, Viktor Sazonau, Alexander Karaliou, Alexander Padalian, as well as Ms. Maryna Statkevch and Ms. Iryna Toustsik, who were arrested whilst they were celebrating the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights on December 10, 2008 and distributed copies of the Declaration in Minsk, Hrodna and Mahiliou. In addition, on December 4, 2008, a few days before the celebration of the sixtieth anniversary, a police officer went

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6./ The Ministry of Justice indicated that certain information relating to the founders of the association was false, without specifying which information. The Ministry used as a second argument the fact that 20 of the 69 founders had received administrative sentences. The third reason for denial of registration was the fact that, under Article 20.1 of the Law on Associations, associations may only defend their members’ rights, which is in contravention of the statutes of an organisation that conforms with the Universal Declaration of Human Rights. In the fourth place, the authorities put forward the fact that the name of the Human Rights Centre “Viasna” had not been changed from that of the organisation that had been dissolved, violating Article 12.6 of the Law on Associations. Finally, the Belarusian authorities argued that the financial document relating to the payment of costs for the Human Rights Centre “Viasna” did not mention the reason for the payments and therefore could not be accepted.

7./ See Human Rights Centre “Viasna”.



to the home of Mr. **Sergei Govcha**, a leader of the branch of “Viasna” in the town of Baranovitch, to search for “forbidden texts”<sup>8</sup>.

### **Discredit campaign in the official media and harassment of defenders by the authorities**

Since the main media are State-controlled, human rights NGOs and the work of defenders were often brought into popular discredit. After Mr. **Oleg Hulak**, President of the Belarusian Helsinki Committee, and Mr. Ales Bialiatski had taken part in a press conference on human rights on June 12, 2008, during which they declared their intention of organising the monitoring of future parliamentary elections, the first television channel broadcast a report in its Sunday programme “Panorama” that attacked their honour and dignity. In 2008, the authorities also began tax inspections against several defenders and their families, including Mr. Ales Bialiatski, Mr. Oleg Hulak, Mr. **Dmitri Markuchevski** and Ms. **Tatiana Protko**, members of the Helsinki Committee, as well as Mr. **Valentin Stefanovitch**, a member of the Human Rights Centre “Viasna”<sup>9</sup>.

In addition, the KGB directly intervened on several occasions to exert pressure on certain defenders, including students, and carried out inquiries and searches during which victims were often threatened. On May 23, 2008 for example, a search was made by three KGB officers at the home of Mr. **Leaniid Svetsik**, a human rights defender from Vitsebsk, who was prosecuted under Article 130.1 of the Criminal Code for “inciting national and religious hostility” in the context of threats made by the extreme right-wing organisation Russian National Unity (RNE) against citizens who Mr. Svetsik had supported. His computer and works relating to human rights were confiscated and Mr. Svetsik was questioned on several occasions at the KGB office. His trial was under way as of the end of 2008.

### **Increase in the number of searches and preventive measures taken against journalists defending human rights**

In Belarus, the radio stations remained the only way of broadcasting information on the promotion and protection of human rights. In 2008,

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8./ *Idem.*

9./ *Idem.*

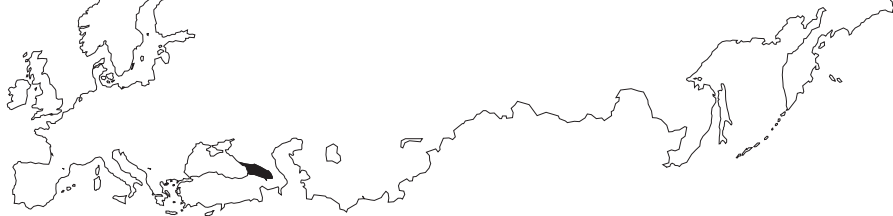
in order to stop independent journalists from doing their work of information supply, the authorities organised numerous repeated searches at their homes and offices. For instance, on March 27 and 28, 2008, throughout Belarus, KGB agents searched the private apartments and offices of a number of independent journalists, and confiscated computers. The offices of *Radio Racya*, *The European Radio for Belarus* and *BelSat TV Channel* were among the targets.

### Urgent Interventions issued by The Observatory in 2008<sup>10</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Leanid Svetsik	Searches / Judicial proceedings	Urgent Appeal BLR 001/0608/OBS 095	June 5, 2008
Messrs. Ales Bialiatski, Uladzimir Labkovich, Aleh Matskevich, Siarzhuk Sys, Aleh Kalinkou, Uladzimir Khilmanovich, Viktor Sazonau, Alexander Karaliou, Alexander Padalian, Ms. Maryna Statkevch and Ms. Iryna Toustsik	Arbitrary detention / Release	Press Release	December 15, 2008

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10./ See the Compilation of cases in the CD-Rom attached to this report.



## / GEORGIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

At the beginning of January 2008, the early presidential elections won in the first round by Mr. Mikhail Saakashvili did not put an end to the country's political instability. While the OSCE expressed some reservations about a campaign that was highly polarised<sup>1</sup>, the opposition strongly contested the validity of these elections. Firstly, a dialogue between the ruling party and the opposition group was opened, essentially on the question of election reforms, one of the main opposition's demands. However, the situation rapidly deteriorated at the end of March, after Parliament adopted amendments to the Election Code and the Constitution favourable to the ruling party<sup>2</sup>. This deterioration led to early parliamentary elections being held in May 2008, which were won by the President's United National Movement party, after a campaign in which the OSCE<sup>3</sup> and local observers noted a number of cases of intimidation and obstruction.

The persistent problems inherent to the country – corruption, lack of judicial independence, media censorship, worrying conditions of detention –, the emergence in the public debate of the issue of the large number of political prisoners, as well as the tension of the current regime in the face of popular discontent regarding economic and social problems, placed human rights defenders in a difficult situation throughout the two major crises of 2008. First of all, the election period was marked by numerous acts of verbal and physical violence, as well as by a certain number of acts of intimidation and threats by the representatives of the ruling party and the regional and electoral

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1./ See Report of the OSCE Election Observation Mission in Georgia, March 4, 2008.

2./ The amendments establish in particular the right to use administrative resources to fund election campaigns. These amendments were criticised by the Ombudsman, local observation organisations and the opposition parties for their lack of transparency and the absence of any consultation during the drafting phase.

3./ See Report of the OSCE Election Observation Mission in Georgia, September 9, 2008.

administration against civil servants working to hold free elections that were not falsified, NGO representatives, election observers and journalists. This atmosphere of violence reached its peak on May 21, 2008, the day of the parliamentary elections, and continued throughout the post-election period, during which human rights organisations reported cases of threats against independent journalists by local authority representatives<sup>4</sup>. Many civil servants who refused to campaign on behalf of the United National Movement were also dismissed. Furthermore, the war provoked by Georgia in August resulted in a particularly strong-arm reaction by the Russian Federation, resulting in considerable harm to the Georgian civilian population. This conflict brought to the fore once more the tensions in terms of freedom of expression: because the Georgian authorities were concerned to maintain a positive image during the conflict, human rights defenders, and in particular independent journalists, faced difficulties in providing evidence freely.

### **Pressure and acts of violence against defenders working for free elections**

In 2008, defenders working towards a good environment for the holding of elections were subjected to acts of harassment. For instance, Mr. **Sabir Makhietiev**, one of the most active election observers of the Public Movement “Multinational Georgia” (PMMG), was subjected to pressure, acts of harassment and intimidation, and was then arrested on April 23, 2008 while he was involved in pre-election monitoring aiming to prepare the parliamentary elections, for having refused to cease his human rights activities<sup>5</sup>. He was later obliged to leave Georgia.

On the day of the parliamentary elections, several local election observers were also subjected to insults, acts of intimidation, sometimes even death threats and ill-treatments, especially in rural areas. When these persons filed complaints, their cases were often destroyed. In

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4./ See Human Rights Centre (HRIDC).

5./ Mr. Sabir Makhietiev had reported violations of the Election Code during the January 2008 presidential elections. In the following months, considerable pressure was exerted by the regional administration. Mr. Aflatun Valiev, Representative of the Sadakhlo administrative territory, proposed that he should give up his activities as an observer and work with him, in exchange for the cancellation of an old debt with the Procredit bank. After he refused, the police and bank representatives went to his home on April 18, 2008 to confiscate his property. Five days later, Mr. Makhietiev was arrested for “armed resistance” and remanded in custody.

polling station No. 18 in Kabali, constituency No. 15 in Lagodekhi, Mr. **Gela Mtvlishvili**, an independent journalist and election observer for the Human Rights Centre (HRIDC), was physically attacked on May 21, 2008, the day of the elections, by Mr. Adalat Sardarov, an election committee official, and by some committee members, as he tried to draw up a complaint reporting election irregularities<sup>6</sup>. On the same day, HRIDC had to withdraw its observers during the last hours of polling, because their safety could not be guaranteed<sup>7</sup>.

In a context of increased State control of the television channels, the main sources of information, and of some radio stations, journalists became the disseminators of independent news, especially of reports of human rights violations. As a result journalists also found themselves in the front line of repression in 2008, when they tried to report on the violations that took place during the elections. On the day of the parliamentary elections, many journalists who were reporting from polling stations were ill-treated and their equipment sometimes damaged. In the Kakhetia district alone, five journalists were beaten, and numerous incidents of this kind were reported in other districts. On the same day, Mr. **Ilia Martkopelashvili**, an independent journalist, was threatened with arrest by employees of the Ministry of the Interior as he was about to inform mobile election observers about violations that had been noted.

### **Pressure on and acts of violence against defenders who condemned human rights violations during the war with Russia**

During the summer of 2008, journalists and NGO representatives faced great difficulty in reporting violations of human rights and international humanitarian law during the war with the Federation of Russia, not only in the regions occupied by Russian troops but also in neighbouring regions under Georgian control. They encountered material obstacles to reach these areas, as well as physical and moral pressure aiming to prevent them from denouncing violations. As an example, Mr. **Saba Tsitsikachvili**, an HRIDC Coordinator and jour-

6./ See HRIDC Report on the parliamentary elections, *Georgia's parliamentary elections - unprecedented brutality and election fraud. Monitoring of elections on May 21, 2008, June 2008*.

7./ On top of human rights defenders, representatives of various opposition parties were also subjected to threats or were beaten when they reported irregularities.

nalist who was investigating the situation of refugees in the Gori region in South Ossetia, was subject to threats and pressure exerted by regional Government officials on several occasions in August 2008. Pressure continued to be exerted during the following months. He was particularly encouraged to end his human rights activities or risk reprisals against himself and his family. For his part, Mr. **Ucha Nanuashvili**, HRIDC Executive Director, was questioned and then threatened with prosecution on August 29, 2008. Nothing had come of these threats as of the end of 2008.

### **Urgent Interventions issued by The Observatory in 2008<sup>8</sup>**

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Mr. Sabir Makhietiev</b>	Arbitrary detention / Judicial proceedings	Urgent Appeal GEO 001/0508/OBS 082	May 16, 2008
<b>Messrs. Saba Tsitsikashvili and Ucha Nanuashvili</b>	Physical and verbal attacks / Threats	Urgent Appeal GEO 002/0908/OBS 145	September 4, 2008

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8./ See the Compilation of cases in the CD-Rom attached to this report.



## / KYRGYZSTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

In 2008, the situation of human rights deteriorated in Kyrgyzstan, particularly following the adoption of new restrictive laws and the development of increasingly repressive practices. The Kyrgyz authorities adopted several unconstitutional laws: under the pretext of the fight against terrorism and extremism, a new law on freedom of worship, for example, passed by Parliament on November 6, 2008, restricts the recognition of religious movements. In addition, on November 14, 2008, the Parliament adopted a law on life imprisonment of former death row prisoners<sup>1</sup> that authorises the use of inhuman and degrading practices, even torture, in the framework of their detention. In addition, a new blow was struck in 2008 against freedoms of peaceful assembly and association, following the adoption of provisions and the implementation of practices contrary to international human rights standards.

Furthermore, in early 2008, NGOs were unable to obtain court rulings ordering the publication of the district-by-district results of the December 2007 parliamentary elections, which results were still contested in late 2008, and peaceful assembly protests that followed were repressed.

Finally, freedom of expression was significantly restricted by means of greater State control on public media. On June 4, 2008, President Bakiev signed a law giving him the power to appoint the Executive Director of the public consortium NKTR (public television and radio). On the other hand, pressure on the independent media exacerbated: the last two independent newspapers, *De facto* and *Alibi*, stopped publication in July and August 2008 due to lawsuits against some of their

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1./ The death penalty was abolished in June 2007.

leaders<sup>2</sup>. At the beginning of December 2008, *Radio Free Europe / Radio Liberty* (RFE/RL) and the *BBC* were also forced to stop radio broadcasting in Kyrgyzstan, following a unilateral decision that was not justified by the Government of Kyrgyzstan<sup>3</sup>.

## Systematic harassment and repression of defenders during demonstrations

Restrictions on freedom of peaceful assembly and repression of demonstrations continued and even strengthened in 2008, particularly following a decision by the Constitutional Court in July 2008 that allowed local authorities to significantly restrict the space for peaceful gatherings across the entire country<sup>4</sup>. Obstacles to freedom of assembly were translated into reality through bans on demonstrations and by the systematic arrest of demonstrators. For instance, the youth movement “I do not believe”, protesting against irregularities in the parliamentary elections of December 2007, had numerous brushes with the authorities in 2008, with each of their gatherings resulting in arrests and fines. For example, on January 28, 2008, twenty members of the movement who had gathered in front of the Parliament to protest peacefully against the fraud that marred the parliamentary elections of December 2007 were arrested within a few minutes. Several weeks later, the movement received a negative response from the administration of the city of Bishkek to organise a peaceful demonstration. Furthermore, Mr. **Maxim Kuleshov**, leader of the association “World-light of culture” and Coordinator of the Resource Centre for Human Rights in the city

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2./ On January 23 and 24, 2008, *Alibi* and *De facto* published an article involving the nephew of President Bakiev, Mr. Asylbek Saliev in a car accident causing a death in March 2007. Both newspapers were sentenced on June 4, 2008 to pay Mr. Saliev a million soms (about 19,047 Euros) for “moral damage”. Because the latter refused compensation several times, *Alibi* found it impossible to enforce the sentence of the Court of Pervomaisk (Bishkek) and was therefore banned from publication on August 22, 2008. *De facto*, whose readers had made contributions to pay the fine, had already stopped operations on July 1, following the judicial proceedings initiated against its Editor, Ms. Cholpon Orozobekova (see below).

3./ *BBC* programmes have been interrupted since December 6, 2008, and those of the *RFE/RL* since December 8.

4./ In late 2007, the city of Bishkek limited peaceful gatherings in three places: the “Youth Park” away from the centre, the Erkindik “Old Place”, near the Parliament, and Gorki Park. In July 2008, the Constitutional Court considered that the provisions adopted by the Bishkek City Council were in conformity with the Constitution, which now allows other municipal councils in the country to restrict freedom of assembly in certain places.



of Tomok, was also arrested repeatedly in 2008 for having organised rallies and peaceful demonstrations. For instance, his arrest on October 23, 2008 occurred minutes after he launched one of his “democratic street lessons” to encourage people to struggle peacefully for human rights and respect for the Constitution. Accused of violating the Law on Assemblies and disobeying the police, he was sentenced to a fine of 2,000 soms (about 40 Euros).

### **Intimidation and judicial harassment of human rights defenders**

In 2008, journalists who dared to denounce corruption and other human rights violations committed by the administration and Kyrgyz circles of power were victims of repression of various forms. The Editor of the independent newspaper *De facto*, Ms. **Cholpon Orozbekova**, was charged on July 3, 2008<sup>5</sup> for “deliberate publication of false information” under Section 329 of the Criminal Code. The charge followed the publication in her newspaper on June 12, 2008 of an open letter<sup>6</sup> highlighting the practices of corruption in tax collection that involved the Director of tax service in Bishkek, Mr. Taalaibek Dalbaev. Ms. Cholpon Orozbekova, who had already been harassed and threatened on several occasions in the past by strangers asking her to leave her position, had to leave Kyrgyzstan to protect her family.

As in other countries in the region, in 2008 the notion of extremist threat was also increasingly used in Kyrgyzstan as a pretext to prosecute human rights defenders. For example, on March 11, 2008, Mr. **Ravshan Gapirov**, Director of the Human Rights Centre “Justice and Truth”, was remanded in custody on a decision by the Court of the city of Osh; he was then charged under Article 299, paragraph 2, subparagraph 2, of the Criminal Code for “incitement to hatred of the nation or religious hatred”, following an open letter he sent on February 4, 2008 to Mr. Ruskyl Mondochev through websites such as *www.centrasia.ru* and *www.ca-oasis.info*. In the letter, Mr. Gapirov wanted to answer accusations of membership in the radical Islamic party “Hizb ut Tahrir”,

5./ A criminal investigation was opened on June 13.

6./ The author of the letter, who wrote under the pseudonym Zamira Moldoeva, disappeared. Ms. Orozbekova does not exclude the possibility that the whole affair was organised to discredit *De facto*. See RFE/RL article, July 14, 2008.

participation in a terrorist plot, and destabilisation of the country that had been made by Mr. Mondochev<sup>7</sup>. Mr. Ravshan Gapirov recalled in particular that he belonged to no party and invited Mr. Mondochev to issue a denial.

## Obstacles to freedom of association

Various obstacles to freedom of association increased in 2008. Echoing the barriers to funding of the associations raised by the guidelines of the Kyrgyz financial police in 2007, the Kyrgyz authorities prevented in 2008 the establishment of the office for Central Asia of the Norwegian Helsinki Committee (NHC). Their representative, Mr. **Ivar Dale**, was denied entry to the territory of Kyrgyzstan on October 12, 2008 while returning from a trip in Europe<sup>8</sup>. On September 5, Mr. Dale was tried by a local court in Bishkek for “illegal work in Kyrgyzstan”, the NHC not having been officially registered there, despite the completion of all formalities, and for providing “false information” in a visa application in November 2007. At that hearing, the court pointed out that the visa application submitted by the police had been falsified. Furthermore, the NGO “Mental Health and Society”, which runs an office for the defence of patients within the Mental Health Centre of the Republic (RMHC), the largest psychiatric treatment centre in Kyrgyzstan<sup>9</sup>, was subjected to constant harassment in 2008. In June, the Director of RMHC, Mr. Abjalbek Begmatov, demanded the NGO to be closed down and to leave RMHC premises after the NGO revealed financial

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7./ See Kyrgyz Committee for Human Rights (KCHR).

8./ Mr. Ivar Dale subsequently received confirmation by border police that he was banned from the territory of Kyrgyzstan for 10 years by the security services, on the grounds that his presence on the territory of Kyrgyzstan was considered as “contrary to national interests”. Mr. Dale also received a letter from the Shanghai Cooperation Organisation that the cause of the prohibition of entry into the territory was that the office of the NHC was not registered in accordance with Article 20 of the Administrative Code. Due to the absence of Mr. Dale, the office of the NHC was forced to close down in December 2008.

9./ The RMHC is a psychiatric hospital founded in 2004 with the assistance of the UNDP, the OSCE office in Bishkek, the Soros Foundation and the OSI, and in accordance to a memorandum signed in 2005 between the Kyrgyz Ombudsman, the International Mental Disabilities Advocacy Centre (MDAC) and the NGO “Mental Health and Society”. It is thanks to the support of the former Minister of Health that the organisation was able to use the premises of the RMHC.

irregularities within the RMHC<sup>10</sup>. In addition, pressure was brought against doctors who cooperated with the NGO; on October 20, 2008, Mr. Begmatov and hospital staff tried to evict by force the members of “Mental Health and Society” from their office. Since then, the NGO “Mental Health and Society” has remained formally closed, following a decision by the Director of RMHC, but its members continued their activities on its premises. The hospital administration filed a lawsuit on November 24, 2008 demanding that “Mental Health and Society” leave the premises of the centre, but the court did not consider the complaint for lack of presence of the plaintiff.

### Urgent Interventions issued by the Observatory in 2008<sup>11</sup>

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Ms. Tolekan Ismailova, Ms. Toktaim Umetalieva, Ms. Nazgul Turdubekova, Ms. Aigul Kizalakova, Ms. Natalia Utesheva, Mr. Mirsujlan Namazaliev and Ms. Jibek Ismailova	Arbitrary detention / Release / Sentencing	Urgent Appeal KGZ 001/0108/OBS 007	January 16, 2008
Mr. Maxim Kuleshov	Arbitrary detention / Release / Sentencing	Urgent Appeal KGZ 001/0108/OBS 007	January 16, 2008
	Arbitrary detention / Release / Sentencing	Urgent Appeal KGZ 002/1008/OBS 172	October 28, 2008
Mr. Ramazan Dyrlydaev and Ms. Guliza Omurzakova	Assault	Press Release	October 20, 2008
Mr. Ivar Dale	Obstacles to freedom of movement / Expulsion		

10./ In the context of cooperation between the Ministry of Finance, the Ministry of Health and the alliance “For a Transparent Budget” (of which the NGO “Mental Health and Society” is part), supported by the Ombudsman. See Open Viewpoint Public Foundation and Press Release from the organisation Mental Health and Society.

11./ See the Compilation of cases in the CD-Rom attached to this report.



## / RUSSIAN FEDERATION

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### **Political context**

In 2008, repression against Russian human rights defenders and the independent media worsened in a climate of tightening policies. The transfer of power from Mr. Vladimir Putin, now Prime Minister, to Mr. Dmitry Medvedev, the new President, did not change the policy of the country. The economic crisis, which severely affected the population at the end of the year, and the August war with Georgia in 2008, led to a consolidation of repression against defenders, opponents and, more generally, against anyone critical of the authorities. Opposition activists were again having trouble enforcing their right to peaceful assembly, and during the year the sometimes brutal arrests increased. Several protests of discontent were violently repressed by the police across the country, as seen with the “Dissenters’ Marches”, regularly organised by the opposition and which some human rights NGOs joined, or the event held in Vladivostok on December 21 following an increase in taxes on imported cars. On the other hand, in search of political stability, the Duma amended the Russian Constitution in November to extend the presidential term from four to six years without any public debate.

Moreover, legislative counter-terrorism efforts continued to be the authorities’ main instrument, which made extensive use of certain articles of the Criminal Code to investigate numerous “fabricated” cases, under the guise of the fight against terrorism and extremism. In addition, several legislative changes strengthened the exploitation of the judiciary: on December 12, 2008, the Duma adopted a new law, promulgated on December 31, 2008 by the President, which bars juries from hearing cases on terrorism, treason, hostage taking, insurrection and organisation of mass disorder. This new law represents a significant decrease of the possibilities for citizens to access justice, in a context where the judiciary is already widely exploited by the authorities.

Finally, against the backdrop of the financial crisis and global economy, migrant workers, already exposed to the xenophobia and violence of far-right groups, were increasingly used as scapegoats by the Government.

### **Administrative and judicial harassment of human rights organisations and their members**

In 2008, human rights organisations again faced many judicial and administrative obstacles. At the normative level, the noose continued to strangle civil society: on July 2, 2008, Prime Minister Putin signed a decree abolishing the list of foreign organisations whose grants were exempt from taxes, rendering the financing of independent NGOs even more difficult, particularly as human rights were not included on the list as being tax exempt.

During 2008, the 2006 Law on NGOs<sup>1</sup> had again negative effects on the development and functioning of civil society, and the proposals that its representatives sent to the authorities to improve and soften legislation were still dead-letter. Many NGOs therefore continued to face great difficulties in complying with the new legislative requirements. With Presidential Decree No. 724 of May 12, 2008, the responsibility for the registration and dissolution of NGOs, previously performed by the Federal Registration Service (FRS), was transferred to the Department of Justice, and the FRS was closed. These institutional changes led to a temporary suspension of inspection, registration of new organisations, and alteration of the statutes of existing organisations.

Nevertheless, the greatest danger to human rights defenders in 2008 was still inspection procedures. The legislation defines these procedures vaguely, giving the authorities even broader powers. Many organisations were thus subject to excessive searches, in which the authorities used any pretext to prosecute human rights defenders. Organisations' activities were scrutinised, and documents were often confiscated. Throughout 2008, the Nizhny Novgorod Foundation to Support Tolerance was for instance subjected to constant harassment from authorities. On March 20, the police confiscated all the organisation's computers, as well as the cell phone of Mr. **Stanislav Dmitrievsky**, a referent for the organisa-

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1./ See 2007 Annual Report.

tion. The homes of several members of the organisation, including Mr. **Ilya Shamazov** and Mr. **Yuri Staroverov**, who investigated war crimes and human rights violations committed during the war in Chechnya, as well as Ms. **Elena Evdokimova**, were also searched by the police. In addition, on September 16, the Dront Ecological Centre in Nizhny Novgorod, one of the most important environmental organisations in Russia, was subject to an inspection for a “tax return error”. All files were inspected, and some documents, including maps of the region dating from the mid-twentieth century, were confiscated. The leaders of the organisation pointed out that no mail was sent asking for the missing documents, nor giving notice of the inspection, as required by the law, and denounced the fact that the inspection was conducted in their absence<sup>2</sup>.

These inspections sometimes threatened all of an organisation’s activities. In May 2008, pressure from the FRS on the charity Child Dignity Unesco Club (CDUC), based in Volgograd, led to the temporary cessation of its activities: on May 19, the Department Against Economic Fraud (SFEC) of the Internal Affairs Division of Volgograd conducted an inspection and confiscated documents, even though a routine inspection had been carried out on May 8. On May 30, criminal proceedings were initiated against Ms. **Irina Malovichko**, President of the organisation, for “misuse of public funds” for an amount of 8,584 roubles (about 194 Euros), on the pretext that she had incorrectly completed financial forms related to the management of the organisation. Her home and her accountant’s home were subsequently searched without a warrant, and working documents, including invitations in support of visa applications, information on booking air tickets, and 64,400 roubles (about 1,455 Euros) in cash, which had been sent by the German “Ost-West Trikster” through the cooperation project “Students from Germany and Russia for Peace and Cultural Diversity,” were confiscated. In the wake of her indictment, Ms. Malovichko was pressured and threatened by investigators to plead guilty. The complaint she filed on June 7 with the Voroshilov District Tribunal (city of Volgograd) for “illegal actions” undertaken by the SFEC had not led to any result as of late 2008<sup>3</sup>. Ms. **Tatiana Zagumennova**, Vice-President of the organisation, was also

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2./ See “Demos” Centre.

3./ See Moscow Helsinki Group (MHG).

detained on December 1 following an interrogation in connection with this case. She was released the same day, following an intervention by the Ombudsman for the region<sup>4</sup>.

## **Repression of human rights organisations and their members under the pretext of the fight against extremism**

### **Assimilation of human rights organisations to extremist organisations**

The pretext of NGOs being manipulated by foreign or terrorist organisations to destabilise Russia was again repeatedly used in 2008 to discredit the work of human rights defenders within the general public. On April 8, 2008, Mr. Nikolay Patrushev, Director of the Federal Security Service of Russia (FSB), accused NGOs of being “the main support of terrorists” in the northern Caucasus, without giving concrete facts, and of “taking advantage of social and economic problems and ethnic and religious tensions” for recruiting terrorists in Russia. Additionally, on September 11, Prime Minister Vladimir Putin stated during a meeting with members of the Discussion Club of Valdais that if Russia did not provide military assistance in South Ossetia, certain NGOs, which he did not name, would lead a campaign for secession of the Caucasus Republics. Mr. Aleksander Torshin, Deputy Spokesman of the Federation Council of Russia in the Duma, also directly accused foreign NGOs of supporting “terrorists” on the Russian soil and said during the presentation of an informational report on the response to terrorism before the National Antiterrorist Committee (NAC) that “foreign NGOs are often used to recruit terrorists and extremists”.

### **Administrative and judicial harassment of human rights NGOs and their members on the basis of the Law Against Extremism**

In 2008, human rights organisations and their members were often prosecuted on the pretext of the Law Against Extremism amended in 2007, which facilitates telephone tapping, expands the definition of extremist crimes, and prohibits the media from disseminating information on organisations considered extremist<sup>5</sup>. On January 15, 2008 for instance, prosecutions were launched against the NGO “Voice of Beslan” for “extremist activity”, “outrage to public service officers” and

4./ See “Caucasian Knot”.

5./ See 2007 Annual Report.

“undermining national pride”. The association, composed of mothers of victims of the hostage siege in Beslan in 2004, who are struggling for the opening of an independent investigation into the death of their children, received an order for closure in December 2007. On February 8, 2008, Ms. **Emma Tagaeva-Betrozova**, President of the Voice of Beslan, Ms. **Ella Kesaeva**, Deputy Chair of the association, Ms. **Svetlana Margieva** and Ms. **Emilia Bzarova** were charged by federal investigators of the judicial police (UFSSP) of having assaulted police officers and a judge<sup>6</sup>. Criminal prosecutions were also brought against Ms. Ella Kesaeva on the basis of Articles 115 (“deliberate grief over a minor injury”), 116 (“beating a person or causing him physical pain”), 129 (“defamation”) and 130 (“insult”) of the Criminal Code<sup>7</sup>. As of late 2008, the Voice of Beslan was still not recognised as having a legal personality. Another case of misuse of these legal provisions reflected the worrying trend of the human rights situation in Russia: on December 4, 2008, a group of masked men, including two members of the Rapid Response Unit of the Ministry of Interior (SOBR), which deals with cases of dangerous criminals or armed groups, raided the office of the “Memorial” Research Centre in Saint Petersburg, which is internationally recognised for its work with the victims of Stalinism. The masked men were equipped with a search warrant from the Prosecutor of Saint Petersburg, produced as part of an investigation opened against the newspaper *Novyi Petersburg*, on the basis of Article 282 of the Criminal Code (“incitement to racial and religious hatred”), for publishing an article deemed extremist. While it was clear that members of the “Memorial” Research Centre were not related to this article, and that a court ruling of October 21 had already established that the article was not considered extremist, several members of the organisation who were in the premises were threatened and held in their offices for half a day. All computer hardware, including 20 years of research on Soviet repression and gulags, was confiscated. As of late 2008, this equipment had not been returned.

Furthermore, on December 12, 2008, a bill of particular concern was proposed to the Duma. This bill seeks to amend Sections 275 and 276

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6./ On April 24, 2008, the Administrative Court decided to end proceedings against them.

7./ A first hearing was held on April 7, 2008 and, after a friendly agreement was reached, charges against Ms. Kesaeva were dropped.



of the Criminal Code by providing a broader definition of the crimes of State treason and espionage. The concept of State security would also be extended to the “constitutional order, sovereignty and territorial and State integrity”, phrases sufficiently vague to be exploited against members of civil society. In addition, cooperation with foreign and international organisations, including information-sharing, could fall within the definition of “hostile activities”, increasing the risk of harassment against most human rights defenders<sup>8</sup>.

### Attacks on human rights organisations by unidentified actors

In 2008, some human rights organisations were the target of attacks by unidentified individuals. On the night of April 9, 2008 for example, the offices of the International Protection Centre and the All Russia Movement for Human Rights, located in the same building in Moscow, were attacked by men claiming to own the building and damaging the premises. Ms. **Svetlana Davydova**, a lawyer of the International Protection Centre, was at the time working on a Chechen case that resulted in a complaint before the European Court of Human Rights.

### Attacks against defenders of economic and social rights

In an environment generally hostile to civil society and a revival of socio-economic problems, advocates of labour rights, ecology, the right to land and the fight against corruption became victims of intimidation and brutal attacks in late 2008. Furthermore, no proper investigation was able to identify and prosecute the perpetrators of these attacks. For example, on November 13 and 14, four defenders were attacked almost simultaneously in four Russian cities. Ms. **Carine Clément**, a French sociologist active in defending labour laws in Russia, was the victim of an attack with a syringe, following two other assaults against her that occurred a few days earlier. Mr. **Mikhail Beketov**, Editor-in-chief of the *Khimkinskaya Pravda* newspaper, which denounces acts of corruption by local authorities, and an activist for the preservation

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8./ The examination of the bill by the Legislative Committee of the Duma, which President, Mr. Pavel Krashenninikov, is close to President Medvedev, was suspended on January 13, 2009. Mr. Vladislav Surkov, Head of the Presidential Administration, said on January 27, 2009 that President Medvedev had heard the criticism from the public opinion and asked that the law be reworked so as not to prejudice human rights. See articles from the *Moscow Times and Radio Free Europe / Radio Liberty* (RFE/RL), January 28, 2009.

of the forest from “real estate speculation”, was also found on the same day in a coma in the courtyard of his building in the town of Khimki after being beaten. Mr. **Sergei Fedotov**, defender of the rights of small landowners in the suburbs of Moscow and leader of a support group of small private landowners who lost their land as a result of fraudulent actions of privatisation, was also attacked on November 13. The next day, Mr. **Alexei Etmanov**, co-Chairman of the Inter-regional Trade Union of Automobile Industry worker (ITUA) in the region of Saint Petersburg, was attacked for the second time in a week.

### **Serious threats against journalists and defenders fighting against racism and xenophobia and for the promotion of minorities and migrants’ rights**

In 2008, human rights defenders and investigative journalists exposing the rise of xenophobia in Russia were particularly targeted. Discourse by authorities, sometimes with nationalist trend involving migrants as a reason for the financial crisis, contributed to the development of a wave of threats against those who fought for the rights of minorities and against racism. On April 17, 2008, the extremist website *www.vdesyatku.net* published an article accusing journalists of defamation against skinheads. After stating that “journalists and radio stations [were] Jewish”, the authors called on skinheads in Russia to “recognise the Jews as their true enemies” and concluded that “their elimination should be a priority”. A list containing the names and personal details of 34 journalists and human rights defenders working on the issue of minorities, racism and fascism was attached to the article, including those of Mr. **Alexander Verkhovsky**, President of the SOVA Centre, and Ms. **Valentina Uzunova**, a lawyer, member of the NGO “For a Russia Without Racism” and an expert on racial issues and hate crimes. Mr. Verkhovsky and Ms. Uzunova both defend persons belonging to ethnic minorities, including migrants. In August 2008, a criminal investigation was opened for “disclosure of personal data” and “death threats” after attempts by members of a neo-Nazi group to enter the home of Mr. Verkhovsky. As of late 2008, the investigation was still pending.

### **Violence and murders of defenders in the north Caucasian Republics**

The situation of human rights defenders in the Caucasian Republics, particularly in Dagestan and Ingushetia, remained of particular concern in 2008. More than in any other region, defenders were prosecuted,

arrested or executed under the guise of the fight against terrorism. It is in this context that Mr. **Mustapa Abdurakhmanov**, a member of the NGO “Mothers of Dagestan for Human Rights,” was found dead on October 30 in Makhachkala. Mr. Abdurakhmanov would have been tortured and then shot in the head. Witnesses reportedly saw members of the security forces arresting him. As of late 2008, no investigation had been opened to identify those responsible for his murder. The authorities also argued that Mr. Abdurakhmanov was part of an “illegal armed group”<sup>9</sup>. In addition, on July 25 2008, Mr. **Zurab Tsetchoev**, a member of the human rights organisation “Mashr” in the village of Troitskaya, in the Ingush district Sunjenski, which helps victims of torture and relatives of the disappeared, was arrested in his home by fifty officers of the security services, who conducted a violent and illegal search of his home. Mr. Tsetchoev’s computer and phones were confiscated, and the latter was taken, beaten, and then abandoned a few hours later on a road.

### **Obstacles to the freedom of movement of foreign human rights defenders**

Against a background of increased pressure on foreign organisations, in 2008 European and American human rights defenders faced an increasing number of problems with their Russian visas, in order to discourage them from organising and participating in seminars and conferences with their counterparts in Russia. For instance, members of the Norwegian Helsinki Committee, co-organisers of the seminar “Dialogue on Human Rights” held in Murmansk in November 2008, were fined 2,000 roubles (about 45 Euros) for having attended the seminar with tourist visas<sup>10</sup>.

9./ See Mothers of Dagestan for Human Rights.

10./ See Norwegian Helsinki Committee.

**Urgent Interventions issued by the Observatory in 2008<sup>11</sup>**

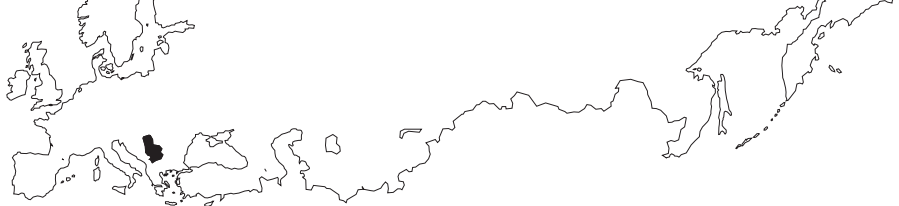
<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Voice of Beslan</b>	Judicial proceedings / Harassment	Urgent Appeal RUS 001/0208/OBS 015	February 5, 2008
<b>Ms. Emma Tagaeva-Betrozova, Ms. Ella Kesaeva, Ms. Svetlana Margieva and Ms. Emilia Bzarova</b>	Judicial proceedings / Harassment	Urgent Appeal RUS 001/0208/OBS 015.1	February 11, 2008
<b>Ms. Ella Kesaeva, Ms. Svetlana Margieva, Ms. Emilia Bzarova and Ms. Marina Litvinovich</b>		Urgent Appeal RUS 001/0208/OBS 015.2	April 22, 2008
<b>Ms. Natacha Butler, Mr. Eric Josset and Mr. Dmitry Saltykovskiy</b>	Harassment	Press Release	February 11, 2008
<b>Mr. Ilya Shamazov, Mr. Yuri Staroverov, Ms. Elena Evdokimova and Ms. Oksana Chelysheva ; Nizhny-Novgorod Foundation for the promotion of tolerance</b>	Searches / Obstacles to freedom of association / Harassment	Urgent Appeal RUS 002/0308/OBS 041	March 20, 2008

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11./ See the Compilation of cases in the CD-Rom attached to this report.

Names of human rights defenders / NGOs	Violations	Intervention Reference	Date of Issuance
Mr. Stanislav Dmitrievsky and Ms. Svetlana Davydova	Attacks on premises / Obstacles to freedom of association / Harassment	Urgent Appeal RUS 003/0408/OBS 054	April 11, 2008
International NGOs and the Chechen Committee for National Salvation (CCNS)	Defamation	Press Release	April 11, 2008
CCNS	Obstacles to freedom of association / Harassment	Urgent Appeal RUS 004/0408/OBS 063	April 23, 2008
Mr. Alexander Verkhovsky and Ms. Valentina Uzunova	Threats / Harassment	Urgent Appeal RUS 005/0408/OBS 066	April 25, 2008
Mr. Shakhman Akbulatov, Ms. Zarema Mukusheva, Ms. Milana Bakhaeva and Mr. Yaraghi Gayrbekov	Arbitrary arrests / Release / Death threats	Urgent Appeal RUS 006/0608/OBS 108	June 23, 2008
Mr. Stanislav Dmitrievsky and Ms. Oksana Chelysheva	Defamation / Harassment	Urgent Appeal RUS 007/0708/OBS 118	July 11, 2008
Mr. Zurab Tsetchoev	Searches / Abduction / Liberation / Abuse / Harassment	Urgent Appeal RUS 008/0708/OBS 126	July 28, 2008
Mr. Stanislav Dmitrievsky	Attacks / Harassment / Intimidation	Urgent Appeal RUS 009/0808/OBS 141	August 21, 2008

<b>Names of human rights defenders / NGOs</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Karinna Moskalenko</b>	Poisoning attempt	Press Release	October 14, 2008
<b>Mr. Alexey Etmanov, Mr. Vladimir Lesik</b>	Attacks / Threats / Harassment	Urgent Appeal RUS 010/1108/OBS 194	November 20, 2008
<b>Ms. Carine Clément, Mr. Mikhail Beketov and Mr. Sergueï Fedotov</b>	Attacks / Harassment	Urgent Appeal RUS 011/1108/OBS 195	November 21, 2008
<b>Memorial Research Centre of Saint Petersburg</b>	Searches / Confiscation of material / Harassment	Urgent Appeal RUS 011/1208/OBS 207	December 5, 2008



## / SERBIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Two weeks after the victory of pro-European candidate Mr. Boris Tadić at the February 3, 2008 presidential election, the declaration of independence by Kosovo on February 17, 2008 led to violent demonstrations held by nationalist and extremist groups, during which several human rights defenders and journalists, the United States and United Kingdom embassies, and members of the Albanian minority group (especially in the province of Vojvodina) were attacked and seriously harassed. The State did not provide adequate protection or open investigations. The reactions of Serbian authorities were, at the very least, ambivalent. While President Tadić and the Ombudsman virulently condemned these events, other official reactions rather contributed to legitimise the violence, and even to encourage it. For instance, Mr. Velimir Ilić, the Minister for Infrastructure, stated that these protests “of rage and anger” were “democratic”; the Prime Minister simply spoke of “spontaneous” reactions.

In addition, serious disagreement within Mr. Vojislav Koštunica’s Serbian Government as to what action to take on the issue of the European integration of Serbia led to early parliamentary elections in May 2008, which were won by President Tadić’s coalition “For a European Serbia”. Pro-European democrats and socialists subsequently claimed to prioritise *rapprochement* with the EU, which requires Serbia’s cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), of which the arrest of Mr. Radovan Karadžić on July 21 remained the most significant example as of the end of 2008.

### Defamation campaigns and incitement to violence against human rights defenders

In a society in which nationalistic sentiments persist, human rights defenders who were fighting for recognition of war crimes committed in the 1990s as well as for justice were not particularly supported by the

authorities or by public opinion<sup>1</sup>. In 2008, these defenders continued to be subjected to insults and threats, particularly from violent extremist groups who considered them as enemies of the homeland, in a climate of impunity and without any real protection provided to them. The situation deteriorated further in early 2008 following the declaration of independence of Kosovo.

For example, insults and incitement to violence against Ms. **Nataša Kandić**, Executive Director of the Humanitarian Law Centre (HLC), were spread in February 2008 through many tabloids<sup>2</sup> that conducted a broad campaign of defamation against her, some calling for her arrest or elimination, in particular because of her cooperation with the ICTY<sup>3</sup> and for recognising Kosovo's independence. On February 19, 2008, Mr. Ivica Dačić, member of the Serbian Socialist Party, also accused Ms. Kandić of undermining "the independence and integrity of the State" after she attended the independence ceremony for Kosovo. On February 21, 2008, the premises of the HLC were attacked with a flare. As of the end of 2008, no investigation into these facts had been conducted. In addition, Ms. **Sonja Biserko**, President of the Helsinki Committee for Human Rights in Serbia (HCHRS), which works on crimes committed in the 1990s, was also subjected to attacks and threats in the media during October 2008, which accused her of treason, threatened her with death, and published her home address. On September 30, 2008, more direct threats were made against her by over a hundred activists of the far-right gathered outside the offices of HCHRS, with no reaction from the police. Following these threats, Ms. Biserko contacted the head of the police department, who told her that she did not have enough evidence to file a complaint. The situations of Ms. Kandić and Ms. Biserko are particularly representative of the level of social tension prevailing in Serbia and the degree of impunity enjoyed by perpetrators of violations against many defenders.

### **A hostile environment for defenders of LGBT rights**

In 2008, members of the gay and lesbian communities continued to be the subject of threats and smear campaigns in the media. In this

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1./ See Humanitarian Law Centre (HLC).

2./ Including through an article published in the journal *VeDernje Novosti* on February 19.

3./ Ms. Kandić is involved in numerous cases before the ICTY.



context, defenders of the rights of lesbian, gay, bisexual and transgender (LGBT) people were particularly targeted, and were victims of verbal abuse, harassment, or even physical abuse. Their freedom of peaceful assembly was also limited, amid inadequate police protection<sup>4</sup>. Between January and March 2008, the gay rights centre “Queeria”, which promotes a culture of non-violence and diversity, received numerous threats by email and on Internet forums. Because of the centre’s activities, including its cooperation with the Coalition for a Secular State<sup>5</sup>, Queeria activists were violently insulted on the neo-fascist site *Storm Front*, by means of hateful xenophobic and homophobic messages, as well as descriptions of “punishments” that would be imposed on the defenders. In cooperation with the Lawyers’ Committee for Human Rights (YUCOM), Queeria filed several complaints. Yet, as of the end of 2008, they had only received a telephone call from the Department of Justice in charge of the Internet, informing them that their complaint had been received but that the police did not have sufficient resources to deal with verbal attacks on the web<sup>6</sup>. Further, in March and April 2008, an activist of the organisation “Gay Straight Alliance” (GSA) was subjected to homophobic threats. He was threatened by phone and later found graffiti threatening and insulting him in front of his home. On April 18, the latter complained to the police in the Belgrade municipality of Palilula with the assistance of the GSA President, Mr. **Boris Miličević**. The police refused to register the complaint, arguing that the registrar of complaints was closed. Mr. Miličević was then insulted by a policeman, who forced him to leave the police station. The GSA activist and Mr. Miličević then went to the main police station of the

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4./ In 2008, the collective for the defence of LGBT rights “Queer Beograd” was careful not to announce in the media the location of the festival “Queer Belgrad”, scheduled from September 18 to 21 at the cinema Rex, so as to ensure the safety of its participants. In September 2008, a Belgrade tabloid published on the cover an article about a “clandestine gay festival”, leading to the attack of four people by ten members of the neo-fascist group “Obraz” during the event. Two attackers were quickly arrested by police. The organisation for the rights of lesbians LABRIS sued the leader of the gang who carried out these attacks, which were deplored on September 22, 2008 by the Ministry for Human Rights and Minorities. However, as of late 2008, the judicial proceedings had not led to any result (See LABRIS).

5./ The coalition, founded in early 2006 in response to a law on churches and religious communities that strengthened the involvement of the Church in the public sphere, is composed of a dozen NGOs, including Queeria, but also legal experts, academics and political activists. It organises conferences and meetings on human rights, publishes brochures, etc.

6./ See Queeria.

city of Belgrade, which quickly registered the complaint. The Court of Belgrade subsequently issued a fine of 10,000 dinars (about 100 Euros) or 20 days' imprisonment to the policeman in question, for violating Article 6.2 of the Public Order Act, according to Sections 84, 118, 232 and 235 of the Act on Crimes. Criminal prosecutions were also brought against the officer on the basis of Article 138.1 of the Criminal Code for "endangerment<sup>7</sup>".

### Urgent Intervention issued by the Observatory in 2008<sup>8</sup>

Name of human rights defender	Violations	Intervention Reference	Date of Issuance
Ms. Nataša Kandić	Attacks / Harassment / Threats / Fear for safety	Urgent Appeal SER 001/0208/OBS 026	February 26, 2008

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7./ See LABRIS, *Annual Report on LGBT Human Rights Defenders in the OSCE Region*, May 2008, and GSA.

8./ See the Compilation of cases in the CD-Rom attached to this report.



## / TURKMENISTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

In 2008, Mr. Gurbanguly Berdymukhammedov, President of Turkmenistan since the death in December 2006 of Dictator Saparmurat Niyazov, persisted in his willingness to break with some of the policies of his predecessor, and in particular to rehabilitate Turkmenistan, a major gas producer, on the international scene. In continuation of the policies of 2007, reforms were undertaken to prove that Turkmenistan was on the way of democratisation and worthy of being a commercial partner<sup>1</sup>. These reforms remained, however, a façade. Among those reforms, a constitutional reform on September 26, 2008 formally gave citizens the right to form political parties and reiterated the right to property. This new Constitution, however, reinforces the power of the President, whose term of office changed from five to seven years and who now has the right to appoint directly regional governors<sup>2</sup>. It also officially gives back to the Parliament, a body which in effect remains at the service of the President, the powers transferred in 2003 to the People's Council (*Hal Maslahaty*)<sup>3</sup>, thus strengthening the omnipotence of the Head of State.

The parliamentary elections scheduled for December 14, 2008 illustrated once more the gap between the President's declarations of intent, the texts, and reality. For the first time, independent candidates have had the theoretical possibility to run for election, but none of these

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1./ On December 2, 2008, the European Commission launched the procedure for approval of an interim trade agreement with Turkmenistan.

2./ In theory, they are appointed locally. It is a formal strengthening of the powers of the President.

3./ The People's Council was the supreme body of Turkmenistan until September 2008, with more than 2,500 members. It included the President, who led the Council, deputies to the Parliament (*Majlis*), the President of the Supreme Court, the Attorney General, Government officials, elected representatives, local leaders of authorities, associations, and delegates nominated by the staff of public companies and institutions.

independent candidates succeeded to register in practice<sup>4</sup>, thus leaving room to candidates affiliated either with the ruling party or with other civil or political organisations controlled by the State<sup>5</sup>.

On the other hand, all public structures in Turkmenistan remained at the service of the regime and its ideology, and “justice” was actually used as a machine of repression against human rights defenders and political opponents. Although some political prisoners were released in 2008, no proceedings were initiated to review their cases, and widespread releases had not yet occurred. Many political prisoners remained detained arbitrarily and would reportedly suffer mistreatment and torture in full secrecy<sup>6</sup>.

All official media, whose leaders are appointed by the President, were closely monitored and censored, and foreign press was still prohibited. In addition, the February 3, 2003 Decree from the People’s Council entitled “Unlawful acts considered as high treason and penalties incurred by traitors”, was still in force. Accusations of high treason, with its still vague definition, could be used amongst others to sue defenders, in particular independent journalists who risked sentences that range up to life imprisonment.

In general, the constant pressure against dissidents, human rights defenders and independent journalists did not diminish in 2008, as they continued to undergo regular psychological pressure, provocation, risk of arbitrary arrests, or illegal questioning. A number of them and their families were also prevented from leaving the country, with authorities conducting meticulous control of the reasons for their leaving. In reality, the situation of human rights was still catastrophic and the Turkmen State remained the most repressive in the region.

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4./ Independent candidates were pressured at the local level. Most of the time, no official reason was given for the refusal of their candidacy.

5./ Pursuant to the campaign, NGOs in exile revealed very low voting participation. The official figure is 94% participation, but the Turkmen Initiative for Human Rights (TIHR) estimates participation to be between 3% and 20%.

6./ See TIHR.

## Denial of the freedom of association

Since the death of President Niyazov in late 2006, Turkmen civil society has hoped for a softening of laws on freedom of association. However, the especially restrictive “Law on Public Associations”, which organises the creation, registration, activities and liquidation of NGOs, was not amended, and the number of NGOs was therefore limited: in total, there were seven independent NGOs out of the 89 registered. In fact, only NGOs close to the Government were allowed to register: the only officially registered NGO since the arrival to power of President Berdymukhammedov – the Organisation of Industrialists and Entrepreneurs – was fully created by the President. The creation of such organisations with pure screening functions allows those in power to deny any legal existence to emerging or pre-existing independent organisations that have the same statutory purposes. In addition, administrative measures were designed to make the registration of independent organisations effectively impossible: a payment of 1.5 million manat (about 80 Euros) is required whether the response is positive or negative, as well as a letter of support from the Ministry, making it unfeasible to establish any truly independent association<sup>7</sup>. Many independent NGOs were victims of such measures in 2008<sup>8</sup>.

## Harassment of human rights defenders in contact with foreigners and activists in exile

In 2008, any advocacy for human rights - whether carried out within or outside the country – was met with repression by Turkmen authorities. No independent, intergovernmental or non-governmental organisation was authorised in 2008 to carry out research on violations of human rights committed within the country.

In 2008, this repression tended to increase in the run-up and following consultations with the EU, international meetings and elections. In April 2008, following a EU high-level meeting in Ashgabat, a wave of harassment affected many defenders in Turkmenistan and in exile. The apparent objective of the authorities was to update information sources on Turkmenistan used by NGOs and media based abroad, par-

7/ *Idem.*

8./ Their name is not mentioned so as not to endanger their members.

ticularly those of the Turkmen Initiative for Human Rights (TIHR), based in Vienna (Austria). In addition, several defenders were placed under house arrest, detained and had their telephone and Internet lines cut to prevent them from meeting with representatives of foreign Governments and international organisations visiting Turkmenistan.

Finally, during 2008, Turkmen defenders remained virtually unable to leave the territory. Such was the case of Mr. **Andrei Zatoka**, an environmental activist, who encountered an unmotivated order of refusal to leave the territory from the Attorney General, although he was scheduled to go to a meeting in Moscow organised by the International Social and Ecological Union and holds a Russian passport<sup>9</sup>.

### **Increased repression against journalists human rights defenders and the independent media**

Despite the wishful thinking expressed by the President in 2007, censorship of the Internet increased in 2008, with the strengthening of filters blocking access to websites of dissidents and human rights defenders, as well as websites critical against the regime. Fifty websites were banned, and email closely controlled, to capture articles transmitted abroad, criticising, *inter alia*, the policies of the regime on human rights. Independent journalists who reported about human rights violations also remained subjected throughout the year to arbitrary arrest and sometimes ill-treatments. Acts of repression were mainly directed to the correspondents of the Turkmen branch of *Radio Free Europe / Radio Liberty* (RFE/RL), to compel them to end their professional activities. Family members were not spared from such activities. For instance, Mr. **Sazak Durdymuradov**, independent correspondent for *RFE/RL* in the city of Bakhaden, specialising in education and constitutional reforms, was arrested on June 20, 2008 and placed in a psychiatric clinic, where he was beaten and tortured in order to sign a declaration asserting that he was ending his cooperation with *RFE/RL*. He was finally released on July 4, 2008 under pressure from human rights organisations and international diplomats. However, as of the end of 2008, his safety and that of his family remained threatened<sup>10</sup>.

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9./ See TIHR.

10./ See RFE/RL.

In addition, at the end of 2008 the Ministry of National Security was reportedly in the process of compiling a database of independent journalists, including those who left the country. Throughout 2008, raids occurred in several editorial offices in order to collect personal data of former employees and be granted access to archives. Senior editors or journalists were interrogated about former contributors. They were asked not only the names of their former colleagues, but also their current addresses and activities, as well as the names of the persons with whom the expatriate journalists remain in contact in Turkmenistan. One of the special services officers revealed during a raid that the President had been outraged by the publication of articles on the Internet referring to the lack of freedoms in Turkmenistan, and emphasising the social concern in the country. The President would thus have ordered to find at any price their authors in order to retaliate<sup>11</sup>.

Finally, as of the end of 2008, Turkmen authorities had still not opened any enquiry commission into the death of Ms. **Ogulsapar Muradova**, a journalist with *RFE* who passed away in prison in September 2006, and no information could be obtained about the situation of Mr. **Annakurban Amanklychev** or Mr. **Sapardurdy Khadjiev**, who were arrested at the same time as Ms. Muradova and sentenced on August 25, 2006 to seven years in prison for having taken part in the preparation of a documentary in Turkmenistan for the TV programme “*Envoiyé spécial*”, on the French television channel *France 2*.

### Urgent Intervention issued by the Observatory in 2008<sup>12</sup>

Names of human rights defenders	Violation	Intervention Reference	Date of Issuance
Messrs. <b>Annakurban Amanklychev</b> and <b>Sapardurdy Khajiev</b>	Incommunicado detention	Press Release	December 15, 2008

11./ See TIHR.

12./ See the Compilation of cases in the CD-Rom attached to this report.



## / UZBEKISTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2009

### Political context

Although in 2008, against the background of discussions regarding the possible lifting of EU sanctions, six of the 21 opponents and human rights defenders included on the list given to the Uzbek authorities by the European Union in 2007 were released, it is regrettable that the prisoners released in the context of the dialogue between the EU and Uzbekistan were treated during the negotiations as “special or exceptional cases” and that the release could therefore not be extended to other detainees. These fears were confirmed in October when two human rights defenders were sentenced to ten years in prison. Despite the passing of these sentences, the EU nonetheless decided to lighten the sanctions imposed on Uzbekistan at the end of 2005<sup>1</sup>.

Rare improvements included the following: in February 2008 the International Committee of the Red Cross (ICRC) obtained permission to visit detention centres again for a limited period of six months (from March to September)<sup>2</sup>; ILO Convention 182 on the elimination of the worst forms of child labour was ratified in June; and the authorities announced the imminent ratification of Convention 138 on the minimum employment age. In addition, since September child labour has been prohibited by Government decree<sup>3</sup>. Capital punishment was also abolished on January 1, 2008. However, equal justice was not always guaranteed for persons who had previously been sentenced to death and whose sentence had been commuted to life imprisonment.

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1./ Only the arms embargo now remains in force.

2./ The visits were stopped at the end of the six months period and, at the end of 2008, negotiations were under way between ICRC and the Uzbek authorities to decide on the next steps for cooperation concerning these visits. Between March and September, ICRC visited twenty detention centres and auditioned over a thousand detainees. See ICRC and the Human Rights Society of Uzbekistan (HRSU).

3./ However, this had still to be put into practice since children took part in the latest cotton harvest in 2008.



Detention conditions in Uzbek prisons remained appalling and torture was widely practiced, including on human rights defenders.

Overall, the authoritarian Uzbek regime pursued its policy of repression of opponents and civil society members. Over 5,000 people were deprived of their liberty on political or religious grounds<sup>4</sup>. Freedom of expression was still muzzled, since the national media remained Government-controlled and access was blocked to some websites that criticised the authorities. Furthermore, a number of foreign media and networks, such as *Deutsche Welle*, the *BBC*, *Radio Free Europe / Radio Liberty* (RFE/RL) or the Institute for War and Peace Reporting (IWPR)<sup>5</sup>, were not always granted accreditation in 2008 in Uzbekistan, and Uzbek laws continued to permit the authorities to prosecute persons whose declarations were considered hostile to the regime.

### Repression of peaceful rallies

In 2008, the authorities resorted again to numerous measures to prevent peaceful human rights rallies from taking place: once again this year, the police made massive arrests of protesters, followed sometimes by violent interrogations and arbitrary detentions. For instance, Ms. **Saida Kurbanova**, a defender of peasants' rights from the Human Rights Society of Uzbekistan (HRSU) in the Djizak region, was threatened with expulsion from her home in February 2008 for having organised and taken part in a series of peaceful demonstrations against the lack of domestic heating and electricity in the Djizak region. Unknown persons in plain clothes kept her under surveillance and the local authorities put pressure on her so that she leaves the region; she was also attacked in the street on several occasions, notably on February 22, 2008. Her family was also threatened<sup>6</sup>. In addition, on May 13, 2008, the members of the Human Rights Alliance of Uzbekistan (*Pravozashchitni Aliansi Uzbekistan* - PAU) organised a rally to commemorate the third anniversary of the Andijan massacre. On the day of the rally, the police prevented Ms. **Lyudmila Mingazova**, Ms. **Karima Kamalova**, Mr. **Akramhodzha Muhitidinov**, Mr. **Sahdmanbek Fazilov** and Ms.

4./ See the association "Human Rights in Central Asia".

5./ IWPR is an international network whose goal is to reinforce the capacity of local journalists for operating in conflict areas or in repressive countries. In Uzbekistan, IWPR helps local journalists to disseminate their writing within the country, the region and throughout the world.

6./ See HRSU.

**Tatyana Dovlatova**, PAU members, from leaving their homes and made threats against their families. Ms. **Elena Urlaeva**, President of PAU, was also remanded in custody in the morning by a member of the intelligence services and a police officer, and put under house arrest for the whole afternoon. Mr. **Saidagzam Askarov**, also a member of PAU, was arrested on his way to the rally location and forced to sign a statement obliging him to give up his human rights activities. In addition, the intelligence services prevented Ms. **Jana Ignatenko** and Mr. Alisher Mamadzhanov from laying a wreath of flowers in front of the “Monument to Courage” and tried to arrest Mr. **Anatoli Volkov** and Ms. **Victoria Bajenova**. Messrs. **Rasulzhon Tadjibaev** and **Shurat Ahmadjonov** were also arrested. All of these persons were quickly released during the day. Similarly, on December 6, 2008, Ms. **Ada Kim**, Ms. Victoria Bajenova, Ms. **Liudmila Koutepova**, Ms. Tatyana Davlateva, Ms. **Salomatoi Baimatova**, Ms. **Zulkumor Tuytchieva**, Ms. Elena Urlaeva and Messrs. **Oleg Sarapulov**, Anatoli Volkov and Akromokhodzha Mukhitdinov, ten members of the Prisoners of Conscience Committee, “Ezgulik” and PAU, were arrested while taking part in a rally in front of the Prosecutor General’s office before the commemoration of the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights on December 10 and Uzbek Constitution Day on December 8, in order to call for the release of defenders and political prisoners. The ten defenders were interrogated and ill-treated before being sentenced to fines of around 160 Euros, a sum equivalent to ten times the minimum wage, and released the same day.

Furthermore, during 2008 the homes of a number of defenders remained under surveillance and obstacles to their freedom of movement and preventive arrests increased, in particular before rallies were held. As an example, on March 16, 2008, the day before an internal HRSU meeting in Tashkent, the police arrested Mr. **Mamir Azimov**, President of HRSU in the district of Djizak, and prevented him from going to the meeting<sup>7</sup>.

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7/ *Idem*.

## Continued judicial harassment and arbitrary detention of human rights defenders

Although seven human rights defenders were released in 2008<sup>8</sup>, including Ms. **Mutabar Tadjibaeva**, leader of the Ardent Hearts' Club and Laureate in 2008 of the Martin Ennals Award for Human Rights Defenders, who was released in June, numerous cases against human rights defenders continued to be cobbled together so that they could be arbitrarily detained and silenced. As an example, Mr. **Akzam Turgunov**, Founder of the "Mazlum" human rights centre, was arrested on July 11, 2008 for "extortion", tortured during his interrogation then sentenced on October 23 to ten years in prison. As of the end of 2008, he was still detained in penal colony UYa 64/49 in the town of Karchi (Kashkadarya province). Likewise, Mr. **Salijon Abdurahmanov**, a human rights defender and a journalist who is critical of the local authorities<sup>9</sup>, was sentenced on October 10, 2008 to ten years in prison for "drug trafficking", a sentence that was upheld in appeal on November 20, 2008. As of the end of 2008, he remained detained in colony UYa 64/51 in Karchi.

### Obstacles to leaving the country

In 2008, it was particularly difficult for defenders to obtain the required exit visa to leave Uzbek territory<sup>10</sup>, as the authorities used various pretexts to prevent them from communicating with their colleagues abroad and from publishing information abroad on the situation inside Uzbekistan. Thus, applications for exit visas made between February and April 2008 by Mr. **Ikhtiyor Khamroev**, a member of HRSU, Ms. **Saida Kurbonova**, Chair of HRSU in the Pakhtakor district, Mr. **Ziyadullo Razakov**, Chair of the International Human Rights Society of Uzbekistan (IHRSU) in Djizak district, Mr. Mampir Azimov and Mr. **Uktam Pardaev**, Chair of the Independent Human Rights Society of Uzbekistan in Djizak district, were all refused, with

8./ In February 2008, Messrs. **Saidjakhon Zaynobitdinov** and **Ikhtiyor Khamroev** were released and the probation period that had been imposed on two other human rights defenders, Ms. **Gulbahor Turaeva** and Ms. **Umida Niazova**, released in 2007, was cancelled. Messrs. **Dilmurod Mukhitdinov** and **Mamarajab Nazarov** were released in October 2008.

9./ Mr. Abdurahmanov wrote on sensitive issues such as social and economic justice, human rights, corruption, etc. He worked closely with *UzNews*, an independent on-line news agency, as well as freelanced for *RFE/RL*, *Voice of America* and *IWPR*.

10./ Uzbek nationals need a visa, valid for two years, authorising them to leave the country.

no reason given, either because they had come out of prison or had problems with the police because of their human rights activities<sup>11</sup>.

### Urgent Interventions issued by The Observatory in 2008<sup>12</sup>

<b>Names of human rights defenders</b>	<b>Violations</b>	<b>Intervention Reference</b>	<b>Date of Issuance</b>
<b>Ms. Mutabar Todbibaeva</b>	Arbitrary detention	Open Letter to the authorities	February 15, 2008
	Release	Press Release	June 3, 2008
<b>Mr. Ikhtiyor Khamroev, Mr. Saidjakhon Zaynobitdinov, Ms. Umida Niyazova and Mr. Bakhodir Mukhtarov</b>	Release	Open Letter to the authorities	February 15, 2008
<b>Messrs. Azam Formonov, Alisher Karamatov, Nasim Isakov, Djamshid Karimov, Rasulev Yuldash, Norboy Kholjigitov, Abdulsattor Irzaev, Habibulla Akpulatov, Abdurasul Abdunazarov, Zafar Rakhimov, Mamaradjab Nazarov and Dilmurod Mukhitdinov</b>	Arbitrary detention	Open Letter to the authorities	February 15, 2008
		Open Letter to the authorities	October 10, 2008
		Press Release	December 15, 2008

11./ See HRSU.

12./ See the Compilation of cases in the CD-Rom attached to this report.

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Mr. Ulugbek Kattabekov and Mr. Karim Bobokulov	Arbitrary detention	Open Letter to the authorities	February 15, 2008
Messrs. Abdugafur Dadaboev and Musajon Bobojonov	Harassment	Open Letter to the authorities	February 15, 2008
Mr. Salijon Abdurahmanov	Arbitrary detention / Judicial harassment	Urgent Appeal UZB 001/0908/OBS 151	September 16, 2008
		Open Letter to the authorities	October 10, 2008
	Sentencing / Arbitrary detention	Urgent Appeal UZB 001/0908/OBS 151.1	October 14, 2008
		Urgent Appeal UZB 001/0908/OBS 151.2	November 20, 2008
		Press Release	December 15, 2008
Mr. Akzam Turgunov	Arbitrary detention / Torture and ill-treatment / Judicial harassment	Urgent Appeal UZB 002/0908/OBS 153	September 18, 2008
		Open Letter to the authorities	October 10, 2008
	Sentencing	Urgent Appeal UZB 002/0908/OBS 153.1	October 24, 2008
			December 15, 2008
Mr. Yusuf Jumaev	Arbitrary detention	Open Letter to the authorities	October 10, 2008
		Press Release	December 15, 2008

Names of human rights defenders	Violations	Intervention Reference	Date of Issuance
Ms. Lyudmila Koutepova, Ms. Victoria Bajenova, Ms. Yelena Urlaeva, Mr. A. Mukhitdinov, Ms. T. Davlateva, Ms. Zulkhumor Tuychieva, Mr. A. Volkov, Ms. S. Baymatova, Mr. O. Sarapulov and Ms. A. Kim	Arbitrary detention / Sentencing	Urgent Appeal UZB 003/1208/OBS 212	December 11, 2008
		Press Release	December 15, 2008