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OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

REGIONAL ANALYSIS WESTERN EUROPE¹

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In 2009, Western European countries continued to adopt strong policy instruments in favour of the protection of human rights defenders. One year after the adoption of the Declaration of the Council of Europe Committee of Ministers on Human Rights Defenders, the Parliamentary Assembly of the Council of Europe adopted Resolution 1660 on April 28, 2009, calling national parliaments, *inter alia*, to “support assistance and protection measures for human rights defenders at risk, such as the issue of emergency visas, trial observation and involvement in networks of parliamentarians in support of human rights defenders”. Furthermore, in a number of third-countries outside the European Union (EU), some EU Member-States embassies and/or European Commission Delegations continued to act in favour of human rights defenders on the basis of the EU Guidelines on Human Rights Defenders, although the implementation of this tool remained too often partial or lacking. Within the EU, 2009 was marked by the proposal by the Czech Republic of a “Shelter Cities Initiative”, a move that was considered as a sign of political will to protect human rights defenders from third countries. The Shelter Cities Initiative aims at identifying EU cities that would be ready to host human rights defenders temporarily, namely for security or medical reasons. However, as of late 2009, the initiative had still not been formally adopted by EU Member-States, and a number of cities approached did not seem to be aware of these principles. Expectations remain that the initiative will be further advanced in 2010, together with a coherent and ambitious EU policy on temporary visas in favour of human rights defenders at risk.

In spite of these principles and policies in favour of human rights defenders’ protection abroad, the situation of human rights activists within Western European States remained concerning to some extent, as a number of defenders continued to face obstacles to their activities, in particular those working in support of migrants’ rights as well as in favour of economic, cultural and social rights. These obstacles were not as systematic

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 region owing to the historic nature of its negotiations with the EU.

as in other regions, but the fact remains that such hindrances, sometimes more insidious and dissimulated, were noted.

Obstacles to the activities of defenders of migrants' rights

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

In 2009, the legislation of some Western European countries continued to have a potentially adverse effect on the capacity of the defenders of migrants rights to operate without hindrances. In *France* for instance, the debate over the necessity to reform the legislation in order to lift obstacles to the defenders of the rights of migrants was an important public issue in 2009. The vagueness of the provisions concerning the offence of “giving assistance to illegal residency”², and in particular the lack of any clear and unconditional exemption from judicial proceedings for non-profit making activities, has indeed left room for a degree of ambiguity that exposes defenders of migrants' rights to the risk of judicial harassment. In November 2009, the French National Consultative Commission on Human Rights (*Commission nationale consultative des droits de l'Homme* – CNCDH) adopted by unanimity an opinion relating to the issue of assistance to migrants in France, which highlighted that laws in force contradicted the international and European standards, which provides that humanitarian, social or legal assistance to aliens in irregular situation, in particular by associations that have a mandate for sheltering, providing food aid, facilitating access to medical care and to legal support, etc. shall be excluded from the scope of the provisions on “assistance to unlawful entry, movement and stay on the French territory”. Despite this opinion, the restrictive legislation for defenders of migrants' rights remained in force as of late 2009. In *Ireland*, the Immigration, Residence and Protection Bill, which aimed, *inter alia*, at punishing lawyers defending migrants involved in “futile” cases – a dangerously vague expression – was taken off the Parliamentary books and had to go through a number of amendments in 2009. However, as none of the amendments related to the provisions on penalties that legal representatives would face, there are strong reasons to believe that this provision will remain in the next version of the Bill, which had not yet been adopted as of late 2009³.

2/ 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).

3/ See Irish Council for Civil Liberties (ICCL).

Judicial harassment against defenders of migrants' rights

The past years were marked by an increasing hostility of the authorities towards any action in defence of or solidarity with migrants. In the context of harsher European migratory policies, more and more people – members of human rights NGOs or ordinary citizens – who have expressed their solidarity or who have directly provided assistance to migrants have been facing acts of hostility by the authorities. This was again the case in 2009 in *France*, although Mr. Eric Besson, Minister of Immigration, Integration, National Identity and Co-Development, declared on March 23, 2009 that “any person, individual, volunteer, association, who has welcomed, accompanied, sheltered irregular foreigners in distress, is not concerned with the offence of solidarity. And I note that over the past 65 years of implementation of the law, nobody in France has ever been sentenced just for having welcomed, accompanied or sheltered a foreigner in irregular situation”. In reaction to these declarations, the Group on Information and Support to Migrants (*Groupe d'information et de soutien aux immigrés* – GISTI) started in April 2009 to draw the list of sentences issued since 1986 against persons who provided support to irregular foreigners – often by offering them a shelter⁴. In addition, as of late 2009, Mr. **André Barthélémy**, President of Acting Together for Human Rights (*Agir ensemble pour les droits de l'Homme* – AEDH), was still facing judicial harassment for “incitement to rebellion” and “obstructing the movement of an aircraft”. In 2008, the Public Prosecutor had requested three months' suspended imprisonment against the latter, who was eventually sentenced to a 1,500 euros fine. Mr. Barthélémy lodged an appeal but, as of the end of 2009, the trial in appeal had not taken place. On April 16, 2008, Mr. Barthélémy had been 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. In *Cyprus*, as of the end of 2009, Mr. **Doros Polycarpou**, Chairperson of the Action for Support, Equality and Anti-Racism (KISA), an NGO committed in the fight against xenophobia, racism, discriminations, and in favour of the respect of the rights of migrants and refugees, was risking to be accused of “threats for conducting violent actions and rioting”. These accusations refer to his intervention in August 2009 in favour of a Bulgarian migrant woman who was facing pressures of expulsion by heirs of her joint-tenants⁵. Mr. Polycarpou later

4/ See GISTI, *On-Line Study on the offenses of solidarity*, 2009.

5/ The woman, aged 65, was living in a State-owned house for the past 10 years with the elderly couple she looked after. After the elderly couple passed away, the son of the couple tried to force the migrant woman out of the house by the use of violence, pressure and harassment. He also apparently asked a policeman friend of his to pressurise and/or intimidate the migrant woman and her son to leave the house. The said policeman later acknowledged this himself.

went to the local police station and requested an investigation into the case as well as immediate police intervention in order to avoid further acts of violence. The policemen on duty refused to take action on the grounds that the accusations were “a dispute between civilians” and on various occasions during that day they made racist remarks⁶.

Judicial harassment against defenders of Roma people

In some countries of the region, the issue of ethnic minorities, and in particular of Roma people, remained a very sensitive one in 2009. In that context, those defending their rights remained subjected to acts of judicial harassment and intimidation. For instance, in *Italy*, on November 5, 2009, Messrs. **Roberto Malini** and **Dario Picciau**, co-Presidents of EveryOne Group, a non-governmental organisation supporting Roma people and refugees, were sentenced to a prison term, later commuted into payment of a fine of 2,100 euros. The court indeed argued that “they caused the interruption, or at least disturbed a police operation aimed at identifying three foreign citizens, and used abusive language towards the officers from Pesaro-Urbino police headquarters, and interfered in the carrying out of their duty”, in accordance to Articles 110 and 340 of the Criminal Code. The two defenders were sentenced on the basis of a so-called “criminal decree”, signed by the Office of the Magistrate for Preliminary Investigations of Pesaro on November 5, 2009. A criminal decree is a judicial procedure allowing a magistrate to sentence a person on the basis of the Prosecutor’s submission only, without hearing the accused. Criminal decrees can be appealed within 15 days of their notice, but as the two defenders were only notified of their sentences early 2010, they were not able to lodge an appeal⁷. Similarly, in *Greece*, the proceedings against Mr. **Theodore Alexandridis**, former Legal Advisor of the Greek Helsinki Monitor (GHM) and currently European Roma Rights Centre (ERRC) staff attorney, were still pending as of the end of 2009. On October 13, 2005, Mr. Alexandridis had filed a complaint with the police against the parents of pupils who had shown violence towards Roma children to prevent them from entering their school in Aspropyrgos, near Athens. On that occasion, the President of the Parents’ Association had also filed a complaint against Mr. Alexandridis for “slander” and “defamation”. The Athens Prosecutor of First Instance Office decided to refer both complaints to the same trial, scheduled for February 5, 2009 before the Misdemeanours Court of Athens, even though Article 59 of the Code of Criminal Procedure stipulates that the referral to trial for perjury (in this

6/ The charges of “threats for conducting violent actions and rioting” were eventually filed by the police on February 11, 2010. See KISA.

7/ See Frontline Press Release, February 19, 2010.

case of Mr. Alexandridis) is to be postponed until the trial on the initial case (in this case of the non-Roma parent) is held and has led to a final and irrevocable judgment. No decision had been issued as of late 2009.

Acts of harassment against defenders of economic and social rights

In some countries of the regions, defenders of economic and social rights were again subjected to various acts of harassment in 2009. In particular in *Turkey*, the trade union movement faced systematic repression of peaceful protests and trade union leaders were victims of arbitrary arrests and trials. Moreover, in *Greece*, attacks against defenders that were committed in 2008 were not properly investigated. Following the arsons of summer 2008 and their consequences, the attack against Mr. **Makis Nodaros**, a defender involved in shedding light on mismanagement and corruption by the authorities in relation to these events, remained unpunished in 2009. As of the end of 2009, no suspect had indeed been identified as being responsible for the assault on Mr. Nodaros, the Elia regional correspondent for the Athens daily *Eleftherotypia*, the Patras daily *Imera*, the Patras television station *Teletime*, the Patras radio station *Radio Gamma*, and also the host of a daily programme for the Elia radio station *Ionian FM*, in October 2008, despite the opening of an investigation. Prior to the assault, Mr. Nodaros had written a number of articles exposing corruption and mismanagement over relief provided by the Government, local authorities and non-governmental institutions for victims of forest fires, which destroyed a large part of the region in 2008. Mr. Nodaros had also published several articles about alleged corruption involving the Mayor of the adjacent Elia town of Zacharo. The Mayor reportedly succeeded in having him fired from a local Elia newspaper, and also announced that he was filing lawsuits against Mr. Nodaros and the newspapers in which he published his articles. Furthermore, the attack of a rare violence in a Western European country against Ms. **Constantina Kuneva**, a migrant trade unionist, remained unpunished as of late 2009. On December 22, 2008, Ms. Kuneva, a Bulgarian migrant worker and General Secretary of All Attica Union of Cleaners and Domestic Workers (PEKOP) based in Athens, which represents workers in the cleaning sector in the Attiki region, had sustained an attack with sulphuric acid as she was returning home from her workplace. She was seriously injured, losing the use of one eye. She also suffered from serious breathing problems due to widespread damage to her larynx, oesophagus and stomach, caused by her assailants who forced her to drink acid. On March 11, 2009, Ms. Kuneva's lawyers spoke publicly for the first time on the occasion of a press conference, stating that police had wasted valuable time in the days that immediately followed the attack, as they focused their inquiries on Ms. Kuneva's friends and family, suspecting a crime of passion, rather than treating it

as an attempt to murder Ms. Kuneva because of her trade-union activities. The lawyers further claimed that police officers failed to question witnesses, including a man who rushed to Ms. Kuneva's aid after the acid was thrown over her. They also accused the police of failing to make any efforts to determine the exact type of acid used in the attack. A 48-year-old Albanian cleaner was arrested and released in February 2009 on suspicion of being involved in the assault, but Ms. Kuneva's legal team argued that the police only caught him to "intentionally create confusion". The suspect was released after a judge decided there was not enough evidence to charge him. As of the end of 2009, no-one had been identified as being responsible for the attack carried out against her and the investigation was still ongoing.

Protection of public order: abusive restrictions to the right to privacy for human rights defenders in France

Under the pretext of better protecting public order, the right to privacy for citizens and the exercise of civil liberties continued to be threatened in *France* in 2009, with direct adverse effects on human rights defenders. On October 16, 2009, a Decree (2009-1250) on the "creation of a new automatic processing system of personal data in relation to administrative investigations linked to public security" (*Décret portant création d'un traitement automatisé de données à caractère personnel relatif aux enquêtes administratives liées à la sécurité publique*) was passed by the Ministry of Interior, Overseas Territories and Territorial Governments and published in the Official Journal on October 18⁸. It establishes a new file within the said Ministry, gathering, inter alia, data related to "public activities" or to "political, religious, philosophical or trade-union motives" possibly "incompatible with the exercise of certain duties or missions", without providing further details on the scope and without defining the term "motives". The scope of this decree is overly broad, and gives authorities the power to create files and gather any personal information on active representatives of civil society, in particular human rights defenders⁹. In 2008, the Ministry of the Interior had already created a similar police file for Documentary Exploitation and Use 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 granted the police the power to "centralise and analyse information relating to natural or legal persons who apply for or exercise a political, trade union, or economic

8/ See French Human Rights League (*Ligue des droits de l'Homme* - LDH).

9/ On February 15, 2010, several NGOs filed a petition before the Administrative Supreme Court (*Conseil d'Etat*) to withdraw this decree.

mandate, or play an institutional role of economic, social or religious significance”.

Harassment of a judge engaged in the fight against impunity in Spain

In *Spain*, the fight against impunity of serious international crimes came under attack in 2009, as Justice **Baltasar Garzón**, Judge of the Second Chamber of the Supreme Court, faced judicial harassment for his attempts to investigate crimes against humanity, in particular enforced disappearances, committed under the dictatorship of Franco dictatorship. On May 26, 2009, the Supreme Court ruled the admissibility of a complaint lodged by the far-right organisation Manos Limpias, which the organisation “Liberty and Identity” (*Libertad e Identidad*) subsequently joined, and which accuses Judge Garzón of “prevarication”, on the grounds that the latter assumed jurisdiction to investigate crimes committed during the Franco dictatorship, disregarding the 1977 Amnesty Law, and violating the principle of non retroactivity of criminal law, as well as the principle of legality and prescription of criminal action. As of late 2009, no decision against him had been issued but, if convicted, Judge Garzón could be suspended from his judicial functions.

Obstacles or risks of obstacles to the activities of human rights NGOs

In 2009, human rights organisations faced obstacles or risks of obstacles to their activities in several countries. Thus, risks of obstacles to the activities of associations materialised through slandering assertions in the press in *Spain* where, on October 25, 2009, the conclusions issued by the Spanish Association for International Human Rights Law (*Asociación Española para el Derecho Internacional de los Derechos Humanos – AEDIDH*) on the conditions of detention and ill-treatments against members of “Euskadi Ta Askatasuna” (ETA) in Spanish detention facilities, on the occasion of the presentation of an alternative report to the United Nations Committee Against Torture (CAT), were qualified by the *Europa Press* agency as “very similar to those of other organisations linked to ETA or Batasuna”. Hence a risk that the general public might assimilate AEDIDH to a terrorist organisation. In reality, the recommendations issued by AEDIDH are in line with those adopted by international human rights bodies, i.e. the Council of Europe and the United Nations Human Rights Council, and with those of international human rights NGOs. Moreover, several human rights organisations and activists in *Turkey* continued to be subjected to judicial harassment as a means to sanction their activities. This was particularly the case of members of the Human Rights Association (*Insan Haklari Dernegi – IHD*); defenders fighting against the impunity of enforced disappearances were also targeted.

Urgent Interventions issued by The Observatory in 2009 on countries of the region for which there is no country fact-sheet

COUNTRY	Names	Violations / Follow up	Reference	Date of Issuance
FRANCE	Mr. André Barthélémy	Judicial harassment	Press Release	February 18, 2009
FRANCE	Human rights defenders of migrants' rights	Publication of a fact-finding mission report	Press Release	June 16, 2009
GREECE	Ms. Constantina Kuneva	Assault	Urgent Appeal GRE 001/0109/OBS 018	January 29, 2009
		Ongoing lack of investigation	Open Letter to the authorities	March 26, 2009
SPAIN	Spanish Association for International Human Rights Law (AEDIDH)	Stigmatisation	Press Release	October 30, 2009

TURKEY

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Political context

In 2009, Turkey continued to demonstrate its failure to move towards the necessary human rights and governance reforms. The Government did not comply with its 2007 post-election pledge to engage in meaningful consultation on a new constitution, needed to strengthen respect for rights. The country remained heavily militarised. Police and military forces who burnt villages, kidnapped and summarily executed civilians in the past remained unpunished. According to the Human Rights Association (*İnsan Hakları Derneği* – İHD), 97 civilians were extra-judicially killed in 2009¹. Allegations of torture, ill-treatments and impunity for perpetrators were also still a cause for great concern of human rights defenders in Turkey².

Moreover, freedom to peaceful demonstration and meeting continued to face serious obstacles. For instance, in 2009, 229 peaceful demonstrations, public meetings, marches, press conferences were dispersed by force, leading to deaths and 565 wounded. More than 1,415 remained detained as of the end of 2009 and 369 were arrested and then released following their participation in a demonstration³.

The same applied to freedom of expression. Members of the opposition, journalists and civil society activists, including human rights defenders, continued to face prosecution and conviction based on the Criminal Code, the Press Law and the Law to Fight Terrorism (Law 3713)⁴. In 2009, 355 people were sentenced for the exercise of the right to freedom of expression, and 18 newspapers, most of them being accused of propaganda, were suspended temporarily⁵. Frequent websites bans also continued to

1/ See İHD, *2009 Turkey Human Rights Violations Balance Sheet*, April 29, 2010.

2/ The report on torture and ill-treatment by the Parliamentary Human Rights Investigation Committee, adopted in January 2009, denounces that none of the 35 lawsuits filed against 431 members of the Istanbul police for ill-treatment or torture resulted in a conviction. According to the same report, only 2% of the police officers were subject to disciplinary sanctions as a result of an administrative investigation of the allegations of torture or ill-treatments. In 2009, İHD received more than 1,000 torture complaints.

3/ See İHD, *2009 Turkey Human Rights Violations Balance Sheet*, April 29, 2010.

4/ Article 301 of the Criminal Code, which criminalises denigration of the Turkish nation, Article 37-1 of the Criminal Code on “propaganda and lies against the State” and the Law 3713 are some of the main provisions that restrict free speech in Turkey.

5/ See İHD.

be a cause for concern: 4,662 websites were blocked under Law 5651 on “the organisation of online publications and combating offences committed by means of such publications”⁶. In such cases, judicial and administrative decisions blocked the entire website instead of filtering out unwanted content. For instance, *Youtube* and *Deezer* have remained blocked since May 2008⁷. However, on a positive note, it is to be noted that on February 4, 2009, the Interior Ministry Mr. Basir Atalay reopened an investigation into the 2007 murder of Mr. **Hrant Dink**, Editor of the Turkish-Armenian language daily *Agos*, after a report by the Prime Minister’s Service found negligence and potential culpability among high-ranking intelligence officials⁸.

The application of the anti-terrorism legislation mainly targeted Turkish citizens of Kurdish origin or those who expressed sympathy with the Kurds. This legislation is particularly problematic in that it is used to bring a large number of prosecutions targeting legitimate free expression regarding the Kurdish issue in Turkey, and it frequently results in prison sentences. Indeed, according to Article 215 of the Criminal Code, the mere public mention of certain individuals’ names is a criminal offence⁹. The remit of Article 7/2 of Law 3713 is also very broad, and in particular makes no distinction between supporting political aims, which are shared by a “terrorist” organisation, and promoting that organisation, including its violent methods and actions. As an example, on February 5, 2009, Mr. Aysel Tuğluk, a senior member of the pro-Kurdish Democratic Society Party (DTP), was sentenced to 18 months in prison by the Diyarbakır Fourth Heavy Penal Court for violating anti-terrorism legislation by referring to PKK guerrillas as “heroes to some” at a rally in 2006¹⁰. On April 14, 2009, Republic Prosecutor of Diyarbakır started an operation against the Kurdish political movement. On this date, approximately 52 Kurdish politicians and activists were arrested. The latest wave of arrests took place on December 24, 2009 in 11 Turkish provinces and targeted members of the Kurdish Peace and Democracy Party (BDP) – one day after many of those arrested had joined the newly formed BDP, created following the December 11, 2009

6/ Law 5651 allows prosecutors to block access if a site’s content is deemed liable to incite suicide, paedophilia, drug abuse, obscenity or prostitution, or violates the 1951 Law forbidding any attacks on the Turkish Republic’s founder, Mr. Mustafa Kemal Atatürk.

7/ See İHD.

8/ The renewed investigation was expected to focus on possible involvement by Government officials in the murder. Twenty suspects were arrested, and court proceedings were continuing in late 2009. Eight police officers were also being investigated over allegations that they had failed to act on warnings that Mr. Dink was in danger.

9/ In particular any reference to the leader of the Kurdistan Workers’ Party (PKK) Abdullah Ocalan.

10/ See Human Rights Foundation of Turkey Daily Human Rights Reports, October 28, 2009.

closure of the DTP by the Constitutional Court ruling that the party had become the “focal point of activities against the indivisible unity of the State, the country and the nation”¹¹. Those arrested included a number of democratically elected mayors and officials of BDP, journalists and political activists. 28 were indicted, out of which 23 were remanded into custody pending trial for alleged links with the PKK as of the end of 2009. Since April 14, 2009, more than 1,400 Kurdish politicians, nine Mayors, Municipal and Provincial General Council members, Women’s Council and Youth Council members have been detained in all of Turkey¹².

Ongoing judicial criminalisation of human rights organisations and their members

In 2009, several human rights organisations continued to be subjected to judicial harassment and faced trials in order to hamper their activities. This was particularly the case of the İHD and its members. For instance, at the end of 2009, the criminal case that was opened by the Chief of Public Prosecutions Office of Beyoglu on October 17, 2008 against the İHD Istanbul branch pursuant to the Law on Associations No. 5253 was ongoing, following the complaint filed by the Province of Istanbul in which the Governor claimed that the İHD Istanbul branch had carried out activities that were contrary to its objectives by allowing the Mothers For Peace Initiative to hold a press conference in their conference room. Since July 19, 2007, the İHD Mersin branch is also facing ongoing judicial proceedings that are based on claims that the association acted in a way contrary to its objectives by joining the Platform Against Privatisation and the Labour and Democracy Platform¹³ in Mersin. These proceedings contradict Article 23 of the İHD statutes, which states that the “Executive Committee carries out activities to establish platforms with other associations, foundations, trade unions and other NGOs, to join or leave platforms that carry out activities in the field of human rights, democracy and other

11/ This decision contradicts the Constitutional Court’s previous ruling of January 2008, ruling against the closure of the pro-Kurdish Rights and Freedoms Party that had set a precedent by establishing that statements on the Kurdish issue fell within the boundaries of free speech. The ban was widely criticised both by NGOs and groups within Turkey and abroad. In the weeks leading up to the court’s decision, protests over the case in Turkey’s south-east grew in both scale and violence. Overall, since 1962, DTP is the 25th political party closed down in Turkey. On December 15, 2009, 1,000 people gathered in front of the DTP building in Bulanik, district of Mus province with the goal of protesting the closure of the DTP. The crowd was fired upon with a long-barrelled gun and a pistol from a store in the shopping district, leading to two people’s death and the injury of seven. See İHD.

12/ See İHD.

13/ The Labour and Democracy Platform is an association of progressive and labour organisations and political parties.

similar topics”¹⁴. Yet, on a positive note, it is to be welcomed that on April 30, 2009, a lower court granted the organisation Lambda Istanbul, which is working on lesbian, gay, bisexual, and transgender (LGBT) rights, permission to continue operating, after its closure in May 2008 following a decision by an Istanbul court. The case had been initiated by the Istanbul Governor’s office, which claimed that Lambda Istanbul’s objectives were “against law and morality”.

In that framework, several İHD leaders were in turn again subjected to arbitrary detentions, judicial harassment and arbitrary searches. On May 12, 2009, in Ankara, the offices and homes of Mr. **Hasan Anlar**, İHD Deputy Secretary General, Ms. **Filiz Kalayci**, İHD Executive Committee member, Mr. **Halil İbrahim Vargün**, İHD former Treasurer, and Mr. **Murat Vargün**, lawyer and İHD member, were raided by officers of the Anti-Terror Unit of the police. The four lawyers were immediately arrested and placed in police custody in the Anti-Terror Unit detention centre. This crackdown intervened after the İHD published in February 2009 a report on human rights violations in prisons of Turkey. The four lawyers had also been working on cases of human rights violations that occurred in detention. The court decided to release the four lawyers in the night of May 14, 2009, but imposed a travel ban on them as long as the proceedings were ongoing. On May 28, the 11th District High Criminal Court of Ankara ordered the re-arrest of Ms. Filiz Kalayci on the basis of an allegation of “aiding illegal organisations”¹⁵. Moreover, four different criminal cases against Mr. **Ethem Açıkalin**, former Chairperson of İHD Branch in Adana, remained ongoing in 2009. Arrested on January 23, 2009 on charges of “being a member of an illegal organisation” and “making propaganda of an illegal organisation” for his participation in a press conference organised on December 17, 2007 to denounce the assassination on December 10, 2007 of Ms. Kevser Mızrak, reportedly a member of the Revolutionary People’s Liberation Party/Front (DHKP-C) allegedly killed by police force, he was released on bail on June 23, 2009 by the Adana Eighth Heavy Penal Court. On October 8, 2009, the same court sentenced Mr. Açıkalin to 10 months of imprisonment on charges of “making propaganda of an illegal organisation”. He appealed the decision and, at the end of 2009, the appeal was pending. In addition, on October 17, 2009, the First Criminal Chamber of the Adana First Instance Court sentenced

14/ On February 26, 2010, the Mersin Second Criminal Court of First Instance rejected the petition for closure. However, the Public Prosecutor appealed to the Supreme Court.

15/ On January 28, 2010, the court ordered the release of Ms. Kalayci. However, Ms. Kalayci as well as Messrs. Hasan Anlar, Halil İbrahim Vargün and Murat Vargün remained prosecuted for “aiding illegal organisations”. The next hearing was scheduled for June 10, 2010.

Mr. Açıkalın to three years of imprisonment for charges of “instigating a part of the people to hatred or hostility” for participating in a TV programme of *Roj TV* on October 29, 2008. During this programme, Mr. Açıkalın had criticised the Governor of Adana for cancelling the green cards¹⁶ of families whose children were arrested during demonstrations in Adana. He appealed the sentence. At the end of 2009, the appeal was still pending. In December 2009, Mr. Açıkalın left Turkey to seek asylum abroad¹⁷. On March 3, 2009, Mr. **Ridvan Kizgin**, an İHD Board member and former Chairperson of the Bingöl branch, who was sentenced on March 3, 2008 by the Supreme Court of Appeals (Yargıtay) to two and a half years’ imprisonment for “concealing evidence” in the 2003 killing by unknown perpetrators of five villagers in Bingöl after he published a report denouncing the assassination of these five persons. However, as of the end of 2009, two other proceedings against him remained pending before the Court of Appeal for “insults to a State official” and “insults to the Turkish nation”¹⁸. Finally, on December 24, 2009, police officers belonging to the Anti-Terror Unit launched an operation in at least 11 provinces in Turkey following an order issued by the Diyarbakir Chief Public Prosecution Office that led to the arrest of dozens of Kurdish opposition members, journalists and civil society activists including Mr. **Muharrem Erbey**, General Vice-Chairperson of the İHD and Chairperson of its Diyarbakir province branch. Mr. Erbey was then remanded into custody and charged by the Diyarbakir Special Heavy Penal Court on December 26, 2009 of “being a member of an illegal organisation”. Simultaneously, the police searched İHD offices in Diyarbakir and proceeded to the confiscation of İHD computers and documentation, including archives that had been collected during 21 years documenting serious human rights violations like politically motivated killings by unknown assailants, enforced disappearance and torture cases.

16/ The green card system was established in 1992 and is directly funded by the Government. Poor people earning less than a minimum level of income, which is defined by the law, are provided a special card giving free access to outpatient and inpatient care at the State and some university hospitals, and covering their inpatient medical drug expenses but excluding the cost of outpatient drugs.

17/ The Adana Sixth Heavy Penal Court is also prosecuting Mr. Açıkalın on charges of “being a member of an illegal organisation” for his participation as an İHD observer to some activities led by the Socialist Platform of the Oppressed such as press releases, marches etc. Another case was opened before the Adana Seventh Heavy Penal Court for charges of “making propaganda of an illegal organisation” for his participation in a press conference in front of the Kurkuler prison organised on December 19, 2007 by ĐHD, the Socialist Platform of the Oppressed and the Socialist Democracy Party (SDP) to commemorate the operation “Back to Life”, which was carried out on December 19, 2000 by the Turkish security forces against 20 prisons throughout Turkey at the same time to stop hunger strikes. During the operation, 28 prisoners were killed and many of them wounded.

354 18/ See Annual Report 2009.

Repression faced by human rights defenders fighting for justice for victims of enforced disappearances

In 2009, several human rights defenders who fight for the truth, justice and reparation of victims of enforced disappearances in Turkey were subjected to judicial harassment. For instance, on August 11, 2009, Mr. **Camal Bektas**, President of “Yakay-der”, an association struggling for the right to obtain the truth on enforced disappearance cases occurred in Turkey, was sentenced by the Fifth Chamber of the Court of Diyarbakir for “undermining the reputation of the army” and “propaganda and lies against the State” to one year of imprisonment. This judicial harassment followed the organisation by Yakay-der of a conference in July 2008 in Diyarbakir during which Mr. Bektas denounced the existence of mass graves in Turkey and accused the army of blocking access to several of them. The sentence took place in full contradiction with all fair trial requirements as no oral and public hearing took place and Mr. Bektas had no opportunity to defend himself. In addition, the Fifth Chamber of the Court of Diyarbakir has first and final jurisdiction to entertain the most serious crimes and therefore the sentence cannot be appealed, but Mr. Bektas’ lawyer immediately filed an application for review of the conviction before Yargitay, based in Ankara, in charge of reviewing the decisions and judgements given by courts of justice from the point of their conformity with the law. The application suspended the implementation of the sentence and should have been examined by Yargitay within three months. At the end of 2009, no decision had been issued yet. Moreover, another criminal investigation on Mr. Bektas was opened in June 2009 in relation to statements he made between February and June 2009, asking for the opening of a mass grave located in Van, a military area in eastern Turkey. Should the Prosecutor decide to prosecute him, Mr. Bektas risks a prison term ranging from four to five years. At the end of 2009, the investigation was ongoing. Ms. **Hacer Nar**, a member of the “Mothers for Peace” association, which struggles for the peaceful settlement of the Kurd issue and the right to obtain the truth on enforced disappearance cases occurred in Turkey, as well as a member of the Euromed Federation Against Enforced Disappearances (FEMED), was arrested as she was going to her office on April 12, 2009. On April 9, 2009, security forces had searched the offices of the Mothers for Peace association and confiscated a computer, a hard drive as well as working documents of the association. As of the end of 2009, the material seized had still not yet been returned to the association and Ms. Nar was held in Bakirköy prison, pending her trial on the basis of her alleged links with the PKK. Likewise, in 2009, Ms. **Nezahat Teke**, another member of the association, was convicted and sentenced to one year and a half of prison by the Fifth Chamber of the Court of Diyarbakir on the basis of similar charges without an oral and public trial, following appeals for peace and

the respect of the right to truth in Turkey and her denunciation of conditions of detention of political prisoners. Her lawyer filed an application for review of the conviction before Yargıtay. The application suspended the implementation of the sentence and should have been examined by Yargıtay within three months. At the end of 2009, no decision had been issued yet. Finally, Ms. **Pinar Selek**, a writer and sociologist who has been actively advocating for women's rights, the rights of discriminated and marginalised groups, including street children, and for the rights of the Kurdish and Armenian minorities, faced again trial for "alleged terrorism"¹⁹. In March 2009, the Ninth Criminal Department of the Supreme Court of Appeals (YCGK) demanded a life sentence for Ms. Selek, therefore cancelling the two decisions of the 12th Criminal Chamber of the Istanbul Court in 2006 and 2008 to acquit her after determining there was no evidence linking her to the blast²⁰.

Arrest and trial of trade unionists

In 2009, repression against the trade union movement was brought to bear at several levels, including systematic repression of peaceful protests, arbitrary arrests of trade union leaders and members, and confiscation of their documents because of their activities in favour of labour rights. For instance, on May 28, 2009, the Confederation of Public Employees' Trade Unions (KESK) headquarters in Ankara, its branch offices in İzmir and Van, even the houses and workplaces of some of its members were raided and searched by the Gendarmerie, and all official documents regarding gender issues and trade union activities, as well as a laptop and 18 CDs were confiscated. On the same day, 35 trade union leaders and members were arrested and placed in detention in "F-type" prisons²¹ or small group isolation prisons. 31 of them were charged of terrorism charges, of whom 22 were kept in detention. Until the submission of the indictment on

19 / Ms. Selek had initially been arrested by the police two days after the July 9, 1998 explosion at Istanbul's spice bazaar, in which seven people were killed and many injured. She was at the time working on an academic research on the Kurd issue and the origin of the civil war. Four expert reports said the explosion was caused by a gas leak and there was no evidence of a bomb. The only reason for accusing Ms. Selek in the explosion case was the testimony of a detainee who reportedly gave the testimony to the police under torture. In December 2000, Ms. Selek was released on bail after she had spent two years and an half in prison.

20 / The Public Prosecutor of the Supreme Court of Appeals objected to the decision of the Ninth Criminal Department of the YCGK but, on February 9, 2010, the Criminal General Council of Supreme Court (the Court of Cassation) rejected the objection of the Public Prosecutor and stated that the decision of the Ninth Criminal Department was appropriate. The case will be re-examined before the Istanbul 12th Criminal Chamber. If the court acquits Ms. Selek again, the decision will be re-examined again by the Criminal General Council of the Supreme Court.

21 / The F-type prisons are characterised by one- or three-inmate isolation cells. Many acts of torture and ill-treatment have reportedly taken place in these prisons.

July 31, 2009, the defence lawyers had not had access to their files, their homes and workplaces were searched, and their computers confiscated. On November 19 and 20, an hearing took place before the İzmir Heavy Penal Court No. 8 on this case, and the 31 leaders and members of KESK were tried on charges of “being members of the PKK”. The evidence against them referred primarily to their activities in support of such issues as Kurdish-language education and their participation in meetings. During the trial, the rights of the defence were constantly violated, with the President of the court himself doing the interrogations, and the defence lawyers being impeded to speak to the defendants. The only evidence against them stemmed from their recorded telephone conversations and their e-mail exchanges. On November 20, the court ruled in favour of the conditional release of the 22 leaders who remained detained. They had to appear in court again on March 2, 2010 and are banned to leave the country until the end of the trial. Moreover, on September 30, 2009, Mr. **Murad Akincilar**, a Turkish trade unionist working in Switzerland as the Secretary of the Swiss inter-professional trade union UNIA, based in Geneva, was arrested in Istanbul by officers in plain clothes along with sixteen other persons on terrorism charges, while they were holding a meeting for the organisation of the Social Forum in Turkey. Mr. Akincilar was then in Turkey visiting his sick mother. Ten of those arrested were released after being interrogated by the police and the others, including Mr. Murad Akincilar, remained in detention as of the end of 2009, pending trial. While in detention, Mr. Akincilar partially lost his sight in one eye because he was not granted the necessary medical care²².

22 / See International Trade Union Confederation (ITUC).

Urgent Interventions issued by The Observatory in 2009

Name	Violations / Follow up	Reference	Date of Issuance
Mr. Ethem Açıklan	Search / Administrative harassment	Urgent Appeal TUR 001/0108/OBS 011.1	March 11, 2009
Mr. Hasan Anlar, Ms. Filiz Kalayci, Mr. Halil İbrahim Vargun and Mr. Murat Vargün	Search / Arbitrary detention	Urgent Appeal TUR 001/0509/OBS 070	May 12, 2009
	Release / Travel ban / Judicial harassment	Urgent Appeal TUR 001/0509/OBS 070.1	May 15, 2009
Ms. Filiz Kalayci	Ongoing arbitrary detention / Judicial harassment	Urgent Appeal TUR 001/0509/OBS 070.2	October 27, 2009
Ms. Filiz Kalayci and Ms. Yüksel Mutlu	Harassment	Joint Press Release	May 29, 2009
Confederation of Public Employees' Trade Unions (KESK) and Eğitim-Sen / Ms. Songül Morsunbul, Ms. Gülçin Isbert, Mr. Abdurrahman Dasedemir, Ms. Elif Akgül Ates, Mr. Lami Özgen, Mr. Haydar Deniz, Ms. Mine Cetinkaya, Ms. Sermin Günes, Mr. Nihat Keni, Mr. Mehmet Hanifi Kuris, Ms. Sakine Esen Yılmaz, Mr. Aydın Güngörmez, Mr. Mustafa Beyazbal, Mr. Harun Gündes, Mr. Abdulcelil Demir, Ms. Yüksel Özmen, Ms. Meryem Çağ, Mr. Hasan Soysal, Mr. Aziz Akikloglu, Mr. Hasan Umar, Ms. Sueyda Demir, Ms. Yüksel Mutlu, Mr. Onder Dogan, Mr. Nejat Sezginer, Mr. Cezmi Gunduz, Mr. Ali Cengiz, Mr. Bisar Polat, Ms. Seher Tumer, Ms. Olcay Kanlibas, Mr. Erdal Guzel, Ms. Emriye Demirkir and Ms. Selma Aslan	Ongoing arbitrary detention	Open Letter to the authorities	July 30, 2009
	Conditional release	Press Release	November 25, 2009
Mr. Camal Bektas, Ms. Hacer Nar and Ms. Nezahat Teke	Sentencing / Judicial harassment	Urgent Appeal TUR 002/0809/OBS 119	August 20, 2009
Mr. Camal Bektas		Closed Letter to the authorities	September 1, 2009
Ms. Hacer Nar	Arbitrary detention	Press Release	October 28, 2009
Mr. Muharrem Erbey / Human Rights Association (IHD)	Search / Arbitrary detention	Press Release	December 29, 2009

REGIONAL ANALYSIS EASTERN EUROPE AND CENTRAL ASIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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The absence of political pluralism in the majority of the countries of the region (*Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Russian Federation, Turkmenistan, Uzbekistan*) continued to foster the emergence of increasingly authoritarian governments for which any form of dissidence is perceived as undermining the State political stability. In particular, the situation deteriorated worryingly in *Kyrgyzstan*, where the Government continued to slide towards repressive authoritarianism. In these countries, the Executive considers defenders to be a threat, as are independent journalists and members of the opposition. Consequently, any criticism of the human rights situation is frequently repressed or considered prejudicial.

Furthermore, attempts of rapprochement by the international community to extricate certain particularly repressive countries from their isolation have borne no fruit. The European Union lifting of some of the sanctions imposed on *Uzbekistan* and *Belarus* was indeed accompanied by no improvement in the situation of human rights and their defenders, who continued to be persecuted in these two countries. In some respects the repression against defenders even became harsher after the sanctions were lifted. Similarly, the development of economic relations with *Turkmenistan* by Europe and the United States was not accompanied by any progress in terms of freedoms of association and expression and, more generally, of respect for fundamental rights, while repression of defenders continued. Finally, *Kazakhstan* showed little willingness to improve the human rights situation despite its election to the Presidency of the Organisation for Security and Co-operation in Europe (OSCE) in 2010, and kept ignoring the appeals of the international community calling for an improvement in the human rights situation in the country.

In the South Caucasus, civil society also operated in a generally hostile climate. The pressure on certain defenders was accentuated in *Georgia* and remained very strong in *Azerbaijan* as well as, to a lesser degree, in *Armenia*, in a general context in which justice was most frequently control-

led by the executive body and where the problem of media independence persisted.

Obstacles to human rights defenders' freedoms of association and peaceful assembly

In recent years, States in the region have put in place a legal arsenal that tightly controls freedoms of association and peaceful assembly, blocking defenders capacity to organise themselves and depriving them of space for public expression. This process continued in 2009, with the adoption of new laws on the media (*Belarus, Kazakhstan*), freedom of association (*Azerbaijan*) and freedom of assembly (*Georgia, Kyrgyzstan*). Furthermore, the reform of the Law on NGOs that aimed to facilitate the work of associations in the *Russian Federation* has had no effect yet. On the contrary, associations have continued to cope with considerable problems in registering and were subjected to disproportionate controls. In general, the issue of registration of associations remained a major concern for defenders, who consequently were often forced to work clandestinely, especially in *Turkmenistan*, where there is no independent registered association, or in *Uzbekistan* and *Belarus*, where defenders working in the framework of a non-registered organisation are liable to criminal proceedings. In *Azerbaijan*, the Ministry of Justice also refused to register some organisations on baseless pretexts and associations were subjected to checks, with the subsequent risk of dissolution.

Throughout the region, it has also become extremely difficult to organise and hold peaceful meetings calling for respect for human rights, even in self-styled democratic countries (*Georgia, Serbia*). In some countries, it has become almost impossible (*Belarus, Uzbekistan*), or totally impossible (*Turkmenistan*), to assemble and demonstrate. In addition, peaceful assemblies remained subject to unjustified restrictions in *Armenia, Belarus, Kazakhstan*, the *Russian Federation* and *Uzbekistan*, and space for holding meetings was restricted in *Kyrgyzstan*. Furthermore, in *Armenia, Belarus, Kazakhstan* and *Uzbekistan*, intimidation and obstacles to freedom of movement were aimed at, amongst other things, dissuading protesters from taking part in demonstrations. In *Georgia, Belarus* and in the *Russian Federation*, defenders were victims of violence perpetrated by police forces that dispersed and arrested demonstrators. In these countries, as in *Kazakhstan, Kyrgyzstan* and *Uzbekistan*, defenders were frequently arrested for taking part in meetings to promote human rights and, in some cases, sentenced to fines or imprisonment. In *Belarus* and *Uzbekistan*, several people were also subjected to ill-treatment in police stations during custody that followed these arrests.

Ongoing violence, surveillance and intimidation campaigns against defenders in the region

Once again this year, defenders were targets of death threats in most countries in the region (*Azerbaijan, Georgia, Kazakhstan, Russian Federation, Turkmenistan*). In *Georgia*, the *Russian Federation* and *Uzbekistan*, defenders were also victims of particularly violent defamation campaigns. Termed as “enemies of the nation” (*Georgia*), “drug traffickers”, “dangerous criminals”, “crooks” (*Uzbekistan*), “terrorists” (*Russian Federation*) or presented as individuals motivated solely by foreign funding (*Russian Federation, Uzbekistan*), these campaigns were part of a global strategy to weaken defenders and to encourage acts of violence to be committed against them. Physical attacks were used as a means of putting pressure on and intimidating the latter. Whether perpetrated or not by State actors, these acts of physical violence were committed throughout the countries in the region and in general have remained unpunished (*Azerbaijan, Kazakhstan, Kyrgyzstan, Russian Federation, Serbia*). In the *Russian Federation*, these acts of violence have gone as far as the murder of six human rights defenders with total impunity. A human rights defender also remained missing as of the end of 2009. Attacks were particularly frequent in the States of Central Asia. Friends and relatives of victims were also affected by attacks and threats. These have been on a particularly disturbing scale in *Uzbekistan, Kazakhstan* and *Turkmenistan*, where the children of defenders were threatened with reprisals.

Faced with the activities of defenders, the fears of the authorities were also reflected in the establishment of an excessive system of surveillance. In many countries, there was regular control of e-mails, telephone calls and defenders’ journeys. In *Uzbekistan*, defenders were frequently followed and their homes were regularly placed under surveillance.

States also tried to restrict the work of defenders by placing obstacles in the way of exchanges with their partners abroad. As an example, in *Turkmenistan*, many defenders were subjected to a ban on leaving the country and could not go abroad. In *Belarus*, defenders were also subjected to disproportionate checks when they left the country. In addition, in *Belarus, Kyrgyzstan* and *Uzbekistan*, foreign defenders were prevented from entering the country or from meeting local defenders. In the *Russian Federation*, several defenders were also prevented from attending the OSCE Human Dimension Implementation Meeting, whereas others were victims of harassment, clearly linked to their participation in this meeting (*Kyrgyzstan, Turkmenistan*).

Defenders who fight against impunity, intolerance, racism and discrimination still a favourite target

Defenders who fight against the impunity that accompanies human rights violations committed by State actors and those who denounce the failings of the justice system remained a favourite target of repression. The working conditions of defenders who work in regions that are far removed or even cut off from capital cities are in many ways more dangerous due to the lack of mechanisms for media and political mobilisation (*Azerbaijan, Georgia, Russian Federation*). Furthermore, the work of defenders remained extremely difficult in conflict or post-conflict zones (*Georgia, Russian Federation, Uzbekistan*). These geopolitical tensions resulted in a climate of fear on the whole territory of those countries and strengthened drastic security policies that considerably hampered defenders' capacity to act. This was especially the case in North Caucasus (*Russian Federation*), where there was very serious repression of defenders who denounced massive human rights violations in the region. In *Georgia*, harassment continued of defenders who criticised the violations committed by the Government and the local authorities during the management of the war in August 2008. Similarly, defenders who combat the acts of violence committed by the forces of order in the name of the fight against religious extremism and of anti-terrorism in the south of *Kyrgyzstan* and *Uzbekistan* were particularly vulnerable. In *Belarus* and in the *Russian Federation*, the threats and acts of violence committed by members of extreme right organisations against defenders who combat racism and xenophobia were still extreme, going as far as the murder of defenders in the *Russian Federation*. In *Georgia* and *Azerbaijan*, those who defend the rights of minorities were subjected to threats and judicial harassment. Finally, defenders of lesbian, gay, bisexual and transgender (LGBT) rights, people who are in general disparaged by the whole population, were again this year victims of threats and violence on the part of the police force (*Georgia*), and of attacks carried out by fascist groups (*Serbia*). In *Uzbekistan*, activities relating to gender equality were also sensitive.

Repression of defenders at the time of elections

Defenders' rights and their capacity to take action were reduced considerably at the time of the elections that took place in several countries in 2009. In *Armenia* and *Azerbaijan*, election observers were repressed or prevented from carrying out their work before and during the elections. Anxious to silence any opposition protest challenging their legitimacy, the authorities increased repression and controls of defenders at the time of the parliamentary elections in *Uzbekistan* and the parliamentary elections in *Kyrgyzstan*.

Defenders of economic and social rights and of the right to the environment in the line of fire

In the framework of an economic crisis that undermines the ruling powers, defenders of social rights, particularly in *Kazakhstan*, were also in the line of fire in 2009, when the authorities criminalised and sometimes used violence to repress social protest movements. In addition, in *Turkmenistan* and *Kyrgyzstan*, defenders of the right to the environment and the rights of victims of ecological disasters were arrested and prosecuted for their work. Finally, in *Uzbekistan* and *Kyrgyzstan*, those who fight against child labour and defend the rights of smallholders were on several occasions arrested and sometimes given heavy prison sentences following unfair trials. Defenders who denounced corruption were also the target of judicial harassment (*Azerbaijan, Georgia*).

Judicial harassment of defenders throughout the region and ill-treatment in detention

Beyond the restrictive legal framework regarding freedoms of association and assembly, providing the authorities with the possibility of easily sentencing people who fight for respect for human rights, the lack of freedom of expression and the problem of the independence of the judiciary remained a major concern throughout the region. Proceedings for “defamation”, “attacks on dignity”, “hooliganism”, “deliberate false accusations” or “the illegal collection of information and disclosure of State secrets” became favourite ways of pursuing defenders who have become too much of an embarrassment because of their denunciation of the practices of State actors in prisons and police stations (*Belarus, Russian Federation*), the crimes committed by the Government against defenders (*Russian Federation, Uzbekistan*), acts of corruption (*Kazakhstan*); and because of the calls for the rights of the victims of ecological disasters (*Kyrgyzstan*) or the failings of the legal system (*Azerbaijan, Russian Federation*). In some countries, defenders were given heavy prison sentences based on fabricated evidence or following unfair trials (*Azerbaijan, Kazakhstan, Russian Federation, Turkmenistan*), or were given suspended sentences (*Kyrgyzstan*) or fines (*Georgia, Russian Federation*). This practice also became a means of massive repression in *Uzbekistan*, where accusations of economic crimes (fraud, misappropriation, tax offences, corruption, blackmail) were used to shut defenders away for long periods. At the end of 2009, at least sixteen defenders were still being held arbitrarily in the country in inhuman and degrading conditions. In *Belarus*, a defender committed suicide after receiving a prison sentence.

This situation is all the more disturbing as the practice of torture in prisons in the region and the catastrophic sanitary state of detention

centres undermine the physical and psychological health of the defenders who are detained. Deprivation of medical care led to the death of a defender of the rights of minorities while he was serving a prison sentence in *Azerbaijan*. The situation of prisoners of conscience is the most alarming in *Uzbekistan*. Subjected to torture and to inhuman and degrading sentences and treatment, their state of health is of particular concern. The situation appears to be similar in *Turkmenistan*, where the total news blackout prevents detailed information from being obtained on the conditions of detention of defenders who are rotting away in the country's jails.

ARMENIA

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Political context

In 2009, the human rights situation in Armenia improved compared with 2008, when clashes between the police force and demonstrators during protests in March 2008 and the establishment of a state of emergency had followed the announcement of the presidential election results. The amnesty of June 19, 2009 permitted the release of many of the opponents arrested during the demonstrations. However, at the end of 2009, 17 of them were still held in detention and were serving nine-year prison sentences¹. Although the Parliamentary Assembly of the Council of Europe (PACE) welcomed the amnesty decision, it nevertheless expressed concern regarding several points². The Assembly regretted the breakdown of the work of the independent expert group responsible for establishing the facts regarding the events of March 1 and 2, 2008 and the circumstances that led up to them. It also expressed concern regarding the fate of persons convicted solely on the basis of police evidence and noted that it would monitor the situation of those persons still held in detention. In addition, despite positive changes in legislation on conducting meetings, peaceful assemblies and demonstrations, the Assembly noted that requests to organise rallies were still frequently rejected by the authorities on technical grounds, or that unwarranted restrictions were placed on them³.

Furthermore, although the release on health grounds of the journalist Arman Babajanyan on August 4, 2009 appeared to be a sign of the Armenian authorities' goodwill⁴, in parallel, the beating of Mr. Argishti

1/ See Statement issued by the Vanadzor Office of the Helsinki Citizens' Assembly, November 4, 2009.

2/ See PACE Resolution 1677 (2009), June 24, 2009.

3/ See Helsinki Committee of Armenia Report, *Monitoring of the freedom of peaceful assembly in Armenia, Yerevan*, 2009.

4/ Editor-in-chief and founder of the daily newspaper *Zhamanak Yerevan*, Mr. Babajanyan had been in prison since 2006 for evading military service. The "Independent Commission on Release on Parole and Reduced Sentences" decided on his release on health grounds forty days before the end of his sentence, although he had previously made several applications to the same committee for this reason. See Civil Society Institute (CSI).

Kiviryan, Editor-in-chief of the on-line news portal *Armenia Today*⁵, on April 30, 2009, underlined how fragile press freedom remains⁶.

Nor did democratic progress seem to apply to the electoral process, as typified by the way the local elections were conducted in Yerevan on May 31, 2009, during which local actors, particularly the Helsinki Committee of Armenia, reported numerous frauds⁷, including the arrest and three months' imprisonment of the young political opponent Tigran Arakelyan⁸.

Obstacles to holding meetings and peaceful assemblies by human rights organisations

The Law on Conducting Meetings, Assemblies, Rallies and Demonstrations, modified on March 17, 2008 during the state of emergency⁹, then amended on July 11, 2008 under pressure from the OSCE Office for Democratic Institutions and Human Rights (ODIHR)¹⁰, includes several restrictive provisions, in particular Article 9.4.3, which grants considerable powers to the police services in banning demonstrations¹¹. Several demonstrations

5/ See CSI.

6/ It must, however, be acknowledged that the investigation following the November 17, 2008 attack on Mr. Edik Baghdasaryan, President of the NGO "Investigative Journalists" and Editor of the on-line newspaper *HetqOnline*, which works to defend the independence of the investigative press and condemns corruption in Government circles, permitted the arrest of Mr. Karen Harutiunyan, one of the three suspects in the attack, and his sentencing by the Nork Marsh District Court on November 17, 2009 to five years in prison for "hooliganism" and "premeditated blows that caused bodily harm of medium gravity". See Annual Report 2009 and CSI.

7/ See Joint Report of the Helsinki Committee of Armenia and the Urban Foundation for Sustainable Development on the municipal elections of May 31, 2009 in Yerevan, June 2009.

8/ Mr. Tigran Arakelyan was arrested on July 5, 2009 after a dispute with the police while he distributed leaflets announcing an opposition rally on July 1, 2009. Accused of "hooliganism" and "violence against a representative of the authorities", he risks a five to ten years' prison sentence. Initially held in temporary detention for three months, he was placed under house arrest on October 9, 2009 due to health problems. As of the end of 2009, the case was still being investigated. See CSI Press Release, October 9, 2009.

9/ As a reaction to the wave of protests that followed the re-election of Mr. Serzh Sarkisian as President of the Republic on February 19, 2008, the state of emergency was decreed from March 1 to 20, 2008, including a temporary ban on the independent media, the suspension of the activities of NGOs and the political parties and the adoption of a new law that in particular restricted the freedom of peaceful assembly.

10/ See Joint Opinion No. 474/2008 on the Draft Law on Amending and Supplementing the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations of the Republic of Armenia prepared by the Venice Commission and ODIHR, endorsed by the Venice Commission at its 75th Plenary Session, Venice, June 13-14, 2008.

11/ Article 9.4.3 of the Law provides that an assembly may be banned by the authorities if credible data exists according to which the conduct of the event "creates imminent danger of violence or real threat to the national security, the public order, the health and morality of society, the constitutional rights and freedoms of others". Such "data" may be considered "credible" if the police of the Armenian Republic or the National Security Service has issued an justified official opinion on a real threat to the constitutional order, a risk of violence, a threat to the health and morality or encroachments on the constitutional rights and freedoms of others.

were banned or blocked in 2009 in Yerevan on this basis. Indeed, when a demonstration is due to take place in Yerevan, the police generally restricts freedom of movement by suspending public transport between Yerevan and the regions and the excessive deployment of police in different parts of the city was often observed¹². This is what took place, for example, during the demonstration on March 1, 2009 organised in memory of the March 1, 2008 victims and which the authorities initially banned¹³.

In addition to the difficulties that defenders continued to encounter in organising peaceful assemblies, they came up against obstacles during the organisation of events or meetings related to human rights issues, as they had in 2008. Hotels continued their practice of refusing to let NGOs organise events on their premises in 2009. For instance, on November 12, 2009, the day before the Helsinki Committee of Armenia was due to present its report on freedom of assembly in Armenia, the hotel where the meeting was due to be held refused to host the conference, on the pretext that it was due to host another event on the same day. It was only after long and difficult negotiations that the presentation finally took place on the day that had been planned¹⁴.

Misuse of criminal justice against defenders

The year 2009 was marked by the first arrest in Armenia of a defender, Mr. Arshalyis Hakobian, a member of the Armenian Helsinki Association, following his activities as an observer of the Yerevan municipal elections. On May 31, 2009, the Election Committee leader and members used violence to chase Mr. Hakobian and his colleagues from a polling station in Yerevan. Mr. Hakobian filed a complaint with the Special Investigation Department, which called him as a witness on June 5, 2009. Since he had received no official summons, Mr. Hakobian refused to attend. Two police officers then visited his home with a “summons” whose validity Mr. Hakobian at first contested and refused to sign and then, when the police officer put pressure on him, he wrote his signature in the wrong place. Irritated by Mr. Hakobian’s attitude, the police officer arrested him and took him to the Kentron district police station, where Mr. Hakobian was beaten. He was handcuffed and transferred to the Kentron District Department of Investigation and charged with “using violence against a Government representative”, under Article 316.1 of the Criminal Code, then held at Nubarashen prison. On October 16, 2009, the Court of First

12 / See Helsinki Committee of Armenia Report, *Monitoring of the freedom of peaceful assembly in Armenia*, 2009.

13 / *Idem*.

14 / See CSI.

Instance of the Keltron and Nork-Marash Districts of Yerevan decided to release Mr. Hakobian on bail. He was banned from leaving the country and the investigation was still under way as of the end of 2009¹⁵.

Two other defenders also found themselves charged in a case, despite initially being the plaintiffs. Ms. **Mariam Sukhudyán**, a young ecological activist from the organisation “SOS Teghut”, engaged not only in environmental protection but also in protecting the rights of the needy, was accused of “defamation” under Article 135.1 of the Criminal Code. In the spring of 2008, Ms. Sukhudyán and other volunteers who worked at the United Nations-supported boarding school No. 11 in the town of Nubarashen (a suburb of Yerevan), had revealed in several media that pupils of the school had been ill-treated and she had publicly accused the boarding school administration of not ensuring minimum standards of education and hygiene. On November 13, 2008, the Armenian public channel had broadcast the account of one of the boarding school pupils, who had revealed that she had been raped by one of the teachers. On the basis of this story the Erebundi Criminal Investigation Department had opened an enquiry whose findings cleared the teachers and the school administration. On February 11, 2009, the Erebundi police department investigation unit opened an investigation against Ms. Mariam Sukhudyán on the basis of accusations by the teacher who claimed that Ms. Sukhudyán had forced the young woman to testify against him. In the end, Ms. Sukhudyán was charged with “defamation” on October 20, 2009¹⁶. According to her lawyer, procedure was not respected during the criminal investigation: the student who had stated that she had been raped was seemingly forced to change her statement and the investigation apparently took no account of the evidence of four children who testified to similar cases of sexual abuse¹⁷. On October 21, the chief of Erebundi district police proposed an amnesty for Ms. Mariam Sukhudyán, but the latter refused, saying that she was not guilty and that she wanted the criminals to be punished. In November 2009, Ms. Sukhudyán agreed not to leave Yerevan before the start of the trial. The investigation was closed at the beginning of December 2009 and the trial date had still not been fixed as of the end of 2009. In addition, as of the end of 2009, the investigation ongoing since August 28, 2008 against Mr. **Mushegh Shushanyán**, the lawyer of five people arrested during the events of March 2008 for “disrespect towards the court” under Article 343.1 of the Criminal Code, after Mr. Shushanyán had left the

15/ *Idem*.

16/ Initially accused of “defamation” on August 11, 2009, the charges against her were changed to “false testimony” on August 15, 2009 in application of Article 333.1 of the Criminal Code.

368 17/ See CSI and *HetqOnline*, November 16, 2009.

courtroom, remained suspended until the Constitutional Court reached a decision regarding the constitutionality of Article 343.1¹⁸.

Urgent Interventions issued by The Observatory in 2009

Name	Violations / Follow up	Reference	Date of Issuance
Mr. Arshaluys Hakobyan	Arbitrary detention / Ill-treatments	Press Release	June 12, 2009
	Release	Press Release	October 20, 2009

¹⁸/ See Annual Report 2009 and CSI. In a ruling on January 14, 2010, the Constitutional Court considered Article 343.1 to be unconstitutional. The proceedings against Mr. Mushegh Shushanyan were therefore annulled.

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Political context

The human rights situation in Azerbaijan did not improve in 2009. The democratic functioning of the country remained an illusion, and attacks on freedom of expression increased. The March 18, 2009 referendum on several amendments to the Constitution, the preparation and conduct of which were seriously challenged, permanently lifted the ban for a president to be re-elected for a third time, opening the possibility for Mr. Ilham Alyev to remain in power for life¹. The local elections on December 23, 2009 also demonstrated the limits of democratic progress in the country. According to the Institute for Peace and Democracy (IDP), as of December 2, 2009, only 8% of candidates in local elections were members of the opposition². Civil society explained the excessive representation of the Government party “United Azerbaijan” by the obstacles the other candidates faced in officially filing their candidacy³. Similarly, the Election Monitoring and Democracy Studies Centre (EMDSC) recorded serious breaches of the electoral process⁴. The Council of Europe meanwhile has called for a revival of multiparty democracy in Azerbaijan⁵.

Furthermore, in 2009, independent journalists again paid the price for their freedom of speech, with assaults and physical intimidation against them

1/ The European Commission for Democracy, through the Peace Council of Europe (Venice Commission), expressed concern about this amendment that is very negative in terms of democratic practice, although it also noted significant improvements (such as measures conducive to greater transparency in governance and the introduction of a popular legislative initiative). The amendment to Article 32 also raised concerns from the Council of Europe and civil society in that it could restrict the right to freedom of expression and information in framing the law regarding journalists photographing, filming or recording of public events on behalf of the protection of privacy and family. See Opinion on the draft amendment to the Constitution of the Republic of Azerbaijan, adopted by the Venice Commission at its 78th plenary session, March 19, 2009.

2/ See Conclusions of the discussion on human rights in Azerbaijan led by the IDP on December 2, 2009.

3/ See Statement from the news information agency *Turan*, December 17, 2009.

4/ See Faik Medjid, *CEM&TD: Azerbaijan has no conditions for democratic elections, Kavkaz Uzel (Caucasian Knot)*, November 27, 2009.

5/ The international delegation of the Congress of Local and Regional Authorities of the Council of Europe, which observed the local elections on December 23, 2009, regretted the absence of a pluralistic political landscape in Azerbaijan and pointed to irregularities in the polling stations. It particularly regretted the lack of independence in the media coverage of the elections, which focused on the majority party as well as incidents surrounding the counting of turnout in polling stations, the role and origin of local observers, the readability of ballots, and the consistency of the vote count.

constantly increasing⁶. On October 8, 2009, Mr. Ravil Mammadov, owner of the Internet website *Poligon*, was abducted by plainclothes police officers after posting on the site, on October 6, 2009, an article on dismissals in the Ministry of Interior⁷. The fact that defamation is considered an offence punishable by imprisonment in Azerbaijan is also a concern for independent journalists, as well as for human rights defenders, and hampers their freedom of expression⁸. Other journalists were also prosecuted and convicted for “hooliganism”, such as bloggers Mr. Adnan Hajzade and Mr. Emin Milli Abdullayev. The situation for local media, especially in regions where the presence of civil society is very limited, is also problematic. In the southern Azerbaijan, those responsible for distributing free copies of the newspaper *Djanur Khiabiarliar*⁹ were subjected to acts of intimidation by regional authorities. Moreover, amendments to the Media Act that were adopted on March 6, 2009 only increased the pressure on journalists since they provide in particular for the possibility of suspending a publication for “abuse of power,” with the use of anonymous sources considered to be such an abuse.

Finally, despite the ratification by Azerbaijan of the Optional Protocol to the UN Convention Against Torture on January 28, 2009 and the adoption of a presidential decree on January 13, 2009 designating the Azerbaijani Ombudsman as the national mechanism for the prevention of torture, torture remains a known practice in the country¹⁰. In addition, although the Government specifically committed to prosecuting officials and law enforcement officers responsible for acts of torture when Azerbaijan joined the Council of Europe in 2001, so far not one officer has been criminally prosecuted¹¹.

Control over NGOs

As human rights organisations were often seen as opponents of the regime and potential enemies, the Government of Azerbaijan continued

6 / According to IDP, 150 acts of violence were committed against journalists during the first five years of the presidency of Mr. Ilham Aliyev. Of these 150 cases, only two were investigated and those responsible prosecuted and convicted.

7 / An employee of the Institute for Reporters’ Freedom and Security (IRFS), Mr. Elnur Mammadov, who was filming the abduction, was also arrested. Both were released in the evening of the same day.

8 / The offence of defamation is punishable by three years’ imprisonment under Article 147 of the Criminal Code.

9 / This newspaper is known for its sharp criticism and in-depth analysis of problems in the region.

10 / See UN Committee Against Torture in Azerbaijan, *Concluding Observations of the Committee Against Torture, Azerbaijan*, UN Document CAT/C/AZE/CO/3, December 8, 2009. According to the Committee, 110 people were tortured in 2009; six died following acts of torture. The practice of torture in Azerbaijan also raised criticism from the UN parting the framework of the Universal Periodic Review on February 4, 2009, and during the 96th session of the UN Human Rights Committee held from July 13 to 31, 2009.

11 / See IDP.

to deploy various strategies to impede the activities of these organisations. In June 2009, the Azerbaijani Parliament considered amendments to the Law on NGOs, Public Associations and Foundations. Denounced by civil society, these amendments seriously threatened freedom of association. They prohibited NGOs from receiving more than half their funds from abroad, they banned non-registered associations and restricted the activities of foreign NGOs since it was anticipated that their activities in Azerbaijan would depend on intergovernmental agreements. Thanks to strong national and international mobilisation, the most restrictive amendments were not adopted. Only one provision of the text adopted on June 30, 2009, by which the Government is authorised to collect information on NGOs without any legal foundation, continues to alarm human rights organisations¹². In addition, on December 25, 2009, the Government adopted a decree that allows the authorities to prohibit NGOs from receiving subsidies¹³. The decree stipulates in particular that an NGO will not be allowed to work on a project funded by a donor without the consent of the Ministry of Justice, which represents a serious barrier to NGOs activities.

Organisations were also still subjected to random and unjustified inspections¹⁴. On October 29, 2009 for example, officials of the Ministry of Justice conducted an inspection of the offices of the Institute for Reporters' Freedom and Safety (IRFS) to "determine whether IRFS activities complied with the law and charter of organisations". The inspection was carried out in the absence of the Director of the organisation, Mr. **Emin Huseynov**. Inspectors gathered information relating to personal data of members of the organisation and its founders¹⁵. According to Azerbaijani law, the dissolution of the organisation is the only sanction provided for, regardless of the infraction committed¹⁶.

12/ See Letter to the Ministry of Justice by a collective of human rights associations, November 6, 2009.

13/ See Decree of the President of the Republic of Azerbaijan on December 21, 2009 on changes and amendments of certain decrees of the President of the Republic of Azerbaijan about the Law of the Republic of Azerbaijan "on Changes and Amendments of Some Legislative Acts of the Republic of Azerbaijan", June 30, 2009.

14/ Since 2002, the European Court of Human Rights (ECHR) has adopted eleven decisions or judgments in response to requests from NGOs against decisions by the Ministry of Justice to refuse registrations. On five occasions, it condemned and demanded the annulment of the decisions of the Ministry of Justice, after which four of the five organisations were registered. Five other organisations were registered following a joint agreement of both parties. The last complainant died before the Court reached its decision.

15/ See South Caucasus Network of Human Rights Defenders.

16/ The ECHR ruled in its Decision No. 37083/03 (*Tebieti Muhafiz Cemiyeti and Israflov v. Azerbaijan*) of October 8, 2009 that the measure was disproportionate to the seriousness of the misconduct.

Moreover, the practice of denying NGOs their applications for registration was still a major obstacle to freedom of association. According to EMDSC, at the end of 2009 nearly 300 non-registered, but nevertheless active, organisations functioned in Azerbaijan¹⁷. In 2009, the Ministry of Justice continued to reject applications for registration without serious grounds. For example, it refused to register EMDSC on April 29, 2009 on the grounds that the title of the Law on NGOs, Public Organisations and Foundations was referred to incorrectly in the association's statute. The complaint that the organisation filed with the District Court of Assamalski in Baku was rejected on September 2, 2009¹⁸. It is no accident that the refusal to register an association specialising in election monitoring was issued in the same year as the municipal elections. This same association, operating under the name "Election Monitoring Centre", was dissolved in May 2008, before the presidential elections of 2008.

A judiciary that discriminates against defenders

Misuse of the criminal justice system against defenders

Government and State officials, unhappy with the criticism of defenders, continued their constant use of the legal machine to pursue the latter abusively and undermine their work. In 2009, prosecutions against defenders for "defamation" or "attacks on dignity and honour" multiplied. For instance, Mr. **Intigam Alyev** and Ms. **Nurlana Alyeva**, respectively President of and a lawyer for the Legal Education Society, were prosecuted by Mr. Gazanfar Karimov, Justice of the Sheky Court of Appeals, for "damaging the honour and dignity of a judge". The complaint concerned a book using information contained on the official website of the Judicial Council of Justice¹⁹, entitled *The Disciplinary Responsibility of Judges*, which placed particular emphasis on the shortcomings of the work of judges, such as the discriminatory and biased nature of their decisions. The contents of the book were also published on the website of the association. On July 15, 2009, the Baku Court of Appeals upheld the decision of the District Court of Nashimi, ordering Mr. Alyev and Ms. Alyeva to pay a fine of 1,000 AZM (about 850 euros) and enjoining them not only to present their apologies but also to demand the return of books distributed and, on their website and in their book, to refute the information that had provoked

17/ See Statement of the news information agency *Turan* postponing the intervention of the participants at the plenary session held in Baku on December 10, 2009, as part of a conference entitled "Solving the problems of democracy in the 21st century", December 10, 2009.

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

19/ The Judicial Council of Judges is in charge of training the judicial body and of the promotion and enforcement of judges.

the complaint of Judge Karimov, accompanied by a message of apology. The non-execution of this decision by Mr. Alyev would be interpreted as a refusal to enforce a court order, punishable by two years' imprisonment²⁰. Mr. Intigam Alyev and Ms. Nurlan Alyeva challenged this decision before the Supreme Court. Despite their appeal of the decision, which should be suspensive, the Court of Appeal of Nashimi illegally demanded the ruling to be put into effect, which Mr. Intigam Alyev was still refusing to do as of the end of 2009²¹. Similarly, on December 13, 2008, Ms. **Leyla Yunus**, Director of the IDP and member of OMCT General Assembly, was prosecuted for "attacks on dignity and honour" by the Minister of Home Affairs of Azerbaijan, Mr. Ramil Usubov, after she revealed on the very popular news site *www.day.az* a case of child trafficking involving members of the police and denounced the functioning of the Azerbaijani justice system. The first hearing, which was held on January 23, 2009 before the Regional Court of Nashimi, did not bode well: most people wishing to attend the trial were unable to enter the courtroom, in violation of Ms. Yunus' right to a public hearing. In the end, under pressure from local and international organisations, the Minister of the Interior withdrew his complaint on March 2, 2009. Finally, on April 7, 2009, the Editor of the daily *Tazadlar* (Contrast), Mr. **Asif Marzili**, was sentenced to one year in prison for "libel" for having published an article on corruption at the International University of Azerbaijan²².

Ill-treatments and refusal of the judiciary to investigate into complaints of defenders

One also notes that State officials responsible for acts of harassment and abuse against defenders are never punished, cases of violence against defenders are never investigated and the authorities refuse to solve cases of abuse. On October 14, 2009, the District Court of Nashimi in Baku dismissed the complaint of Mr. Emin Huseynov, who was brutally beaten by police officers from Nashimi No. 22 police station, including the deputy chief of police, Mr. Azer Karimzadeh, on June 14, 2008²³. Mr. Huseynov spent more than one month in the hospital after the beating. Moreover, Mr. **Novruzali Mammadov**, an ardent advocate of the rights of the Talish people who was wrongfully sentenced to ten years in prison on December 26, 2008 for "high treason" and "incitement of racial hatred", died in custody on August 17, 2009. The health of Mr. Mammadov, aged 70, had seriously deteriorated in detention centre No. 15, particularly because of the ill-

20/ Article 206 of the Criminal Code.

21/ See HRCA and Statement of the Legal Education Society, November 25, 2009.

22/ See Statement of *Radio Free Europe/Radio Liberty (RFE/RL)*, April 7, 2009.

23/ See HRCA and Statement of the Legal Education Society, November 25, 2009.

treatments he suffered when he was placed in solitary confinement. On July 28, 2009, he was transferred to the neurological department of the prison's central hospital, run by the Ministry of Justice, where he received no care. Following his death, his wife and son filed a criminal complaint against the Ministry of Finance, the Prison Service of the Ministry of Justice, the medical director for the Department of Justice, the administration of the colony prison No. 15, and the central prison hospital of the Ministry of Justice for "endangering the lives of others". However, on September 29, 2009, the Prosecutor for the Nizami District of Baku refused to open a criminal investigation. Mr. Mammadov's family then challenged the decision. The Court of the Nizami District, then in the second instance the Court of Appeal in Baku, on November 17, 2009, rejected the appeal. Another civil complaint was filed against the same institutions following their refusal to compensate the family of Mr. Mammadov. On October 15, 2009, a review of this complaint was opened in the Nashimi District Court but, on January 10, 2010, it decided not to initiate proceedings against these institutions.

Moreover, in 2009, no Azerbaijani judge upheld the complaints of human rights defenders brought against State officials. Thus, advocates of prisoners' rights who call for compliance with international standards of conditions of detention were persecuted and did not obtain satisfaction before the courts. This applied, for example, to Mr. **Shakir Rzakhanov**, founder of a prisoners' group at the Gobustan prison, the Initiative Group for Human Rights of Lifers. Since the start of the protest movement in 2002, Mr. Rzakhanov has been punished several times by prison authorities because of his involvement. Since February 2008, he has been held in solitary confinement for "advocacy on behalf of other prisoners", as well as for having "secretly filed [collective] complaints through his mother in order to gain some influence", and for raising "issues related to violations of minority rights". These charges relate to complaints that Mr. Rzakhanov filed before the European Court of Human Rights²⁴. Mr. Rzakhanov's mother challenged the conclusions of the inquiry before the Regional Court of

24 / In 2008 and early 2009, he, jointly with his fellow inmates, filed 16 complaints with the prison service, denouncing the use of threats and violence towards prisoners, as well as the fact that their complaints were never examined. The findings of the internal investigative division did not confirm the complaints. However, the report of the Committee for the Prevention of Torture (CPT), which was released on November 22, 2009 and drafted following a survey carried out from September 8 to 12, 2008, reported violations of international standards in Gobustan prison, such as failures in access to medical care and the use of ill-treatments. In addition, the Committee also reported "serious concerns" about the detention of prisoners in solitary confinement for long periods. See *Report to the Azerbaijani Government on the visit to Azerbaijan Carried out by the European Committee for the Prevention of Torture and Inhuman or degrading Treatment or Punishment (CPT) from 8 to 12 December 2008*, November 26, 2009.

Garadagh in July 2008, but her complaint was dismissed on October 31, 2008. On March 30, 2009, the Baku Court of Appeals upheld the decision of the District Court of Garadagh²⁵.

Worrying situation for defenders working in the Nakhchivan enclave

In 2009, defenders operating in the regions, particularly in the Nakhchivan enclave²⁶, were subjected to pressure, threats and attacks because of their remoteness from the seats of international organisations and a lack of media interest. Human rights violations are common in this region, where the local government is particularly authoritarian. Human rights defenders and opponents of the Government suffered many attacks, harassment and intimidation by local authorities to stifle dissent. Those responsible for this persecution act with total impunity. Some activists cooperating with international organisations were also threatened and prosecuted on the basis of fabricated accusations. For example, the representative of the regional office of the IRFS in Nakhchivan, Mr. **Elman Abbassov**, received telephone threats against him and his family on September 21 and 22, 2009. Police in the town of Nakhchivan refused to register his complaint²⁷. Mr. Abbassov had already received death threats by phone in March 2007. Additionally, in January 2009, he and his colleague, Mr. **Hakimeldostu Mehdiyev**, were victims of insults and death threats. In both cases, no response was received to the complaints submitted to the office of the Ministry of Internal Affairs of Nakhchivan, to the District Prosecutor, and to the Ministry of National Security²⁸. Moreover, on December 15, Mr. **Ilgar Nasibov**, a journalist for the radio station *Azadliq*²⁹ and a member of the Democracy and NGO Development Resource Centre, and Mr. **Vafadar Eyvazov**, a member of the same organisation, were assaulted while they were conducting an investigation as part of a project to fight against corruption at the State University of Nakhchivan. Doctors, who would have been pressured by the local authorities, refused to treat them. Furthermore, attempts by the two defenders to lodge a complaint with the police, the Prosecutor of Nakhchivan, and then the local representative of the Ministry of Internal Affairs were unsuccessful. The Ministry of Internal Affairs of Nakhchivan finally opened an investigation after

25 / The Government of Azerbaijan, in its response to the CPT report, referred to the complaint of Mr. Shakir Rzakanov's mother, without citing her. He disputed the opinion of the Committee, alleging that the Azerbaijani justice system did not confirm the inmate's complaint. See HRCA.

26 / The Autonomous Republic of Nakhchivan is an Azerbaijani enclave between Armenia, Turkey and Iran. The roads connecting Azerbaijan to Armenia through the enclave were closed because of the dispute between the two countries on the issue of Nagorno Karabakh.

27 / See HRCA.

28 / See Statement from the Nakhchivan Human Rights and Mass Media Monitoring, September 22, 2009.

29 / *Azadliq* is the Azerbaijani branch of RFE/RL.

receiving a written request from the two defenders, filed on December 16, and at the same time launched a smear campaign against the Centre. While the investigation was still ongoing, information on the attack, issued by the Press Service of the Ministry, was indeed published in the official newspaper *Sberg Gapsi* on December 18, 2009. The reports included particular mention that, contrary to reality, the Centre was not officially registered and acted illegally. Finally, on December 21, Mr. Ilgar Nasibov received a call from the Tax Ministry informing him that a tax inspection of the organisation would be conducted 15 days later.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Novruzali Mammadov	Sentencing	Urgent Appeal AZE 001/0808/OBS 139.2	January 7, 2009
	Arbitrary detention / Ill-treatments	Urgent Appeal AZE 001/0808/OBS 139.3	January 21, 2009
	Worsening health status / Destruction of equipment	Urgent Appeal AZE 001/0808/OBS 139.4	June 24, 2009
	Death in prison	Urgent Appeal AZE 001/0808/OBS 139.5	August 18, 2009
	Impunity	Urgent Appeal AZE 001/0808/OBS 139.6	October 22, 2009
Ms. Leyla Yunus	Judicial harassment	Urgent Appeal AZE 001/0109/OBS 008	January 19, 2009
		Urgent Appeal AZE 001/0109/OBS 008.1	January 26, 2009
		Closed Letter to the authorities	February 5, 2009
	End of judicial proceedings	Urgent Appeal AZE 001/0109/OBS 008.2	March 3, 2009
Mr. Ilgar Nasibov and Mr. Vafadar Eyvazov	Assault	Urgent Appeal AZE 002/1209/OBS 196	December 22, 2009

BELARUS

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

In its Resolution P7_TA-PROV(2009)0117 of December 17, 2009, the European Parliament stressed that clear and significant progress in democratisation should still be made in Belarus to ensure media freedom, reform of the Electoral Code, the release of political prisoners and the abolition of the death penalty. The sanctions imposed by the European Union against the country are suspended, but will in theory be lifted if these improvements take place¹. For its part, after twelve years of suspension, the Parliamentary Assembly of the Council of Europe (PACE) declared on June 23, 2009 that it was ready to give Belarus its special guest status in the Council of Europe, provided that the country continues its efforts towards democratisation and establishes a moratorium on the death penalty. Belarus has ignored this call².

In 2009, despite the hopes raised by several positive developments in 2008, such as the release of political opponents, the situation of human rights changed very little. Freedoms of expression and association remained very restricted and repression against critical voices of power continued. This year, political parties faced systematic refusal of registration³, exposing themselves to criminal sanctions if they chose to continue their activities. This repression particularly affected young political opponents, such as activists from Youth Front, which during the year were subjected to arbitrary arrests, mistreatments and punishment following their participation in peaceful gatherings. Several were conscripted into the army or expelled from their university. More disturbingly, several cases were reported of members of security forces dressed in civilian clothes kidnapping young activists and subjecting them to humiliation and intimidation before dumping them off in the outskirts of cities⁴.

1/ The EU had imposed a number of sanctions in 2004 that were partially suspended in 2008, and the visa ban on Belarusian officials in some of Europe, imposed in 2004, was temporarily lifted in 2008. These transitional measures were extended for six months following the resolution of the European Parliament.
2/ No moratorium was implemented by the authorities. On July 17, 2009, the courts sentenced two men, who had filed a clemency petition with the Board of Pardons, but the request had not yet been examined as of late 2009.

3/ For example, in 2009, the Belarusian Christian Democratic Party (BkhD) and the Party for Liberty and Progress.

4/ See *RFE/RL, Charter 97* and the Viasna Centre for Human Rights.

While small advances in press freedom were reported in 2008, the State retains the monopoly of print and electronic media, and distribution and printing systems. Several independent newspapers were censored in 2009, and the new Media Act that entered into force on February 8, 2009 thwarted the hopes of easing the State policy on freedom of expression. This new law, which regulates online media and provides for media subscribing in a register, also accelerates the closing procedures of media outlets for minor offenses, as well as the possibility to prosecute journalists for publishing statements of political parties or NGOs if they “discredit the Republic of Belarus”⁵. Applications for accreditation of foreign media at the Ministry of Foreign Affairs were denied arbitrarily and many foreign journalists were forced to work illegally⁶.

In this context, defenders, as well as any kind of opposition to power, were victims of the repressive State system of President Lukashenko.

Repression of peaceful assemblies

Again this year, peaceful rallies held in favour of the defence of human rights were severely repressed. In most cases, defenders were not allowed to gather, and demonstrations mostly ended with violent intervention by law enforcement officials, arrests and convictions. Since 2005, on the 16th of each month, supporters gather in cities of Belarus to commemorate the disappearance of opponents of the regime⁷. Rallies held to mark this “Solidarity Day” are regularly repressed by the police. For instance, on September 16, 2009, the police dispersed a rally in Minsk and prevented journalists from filming and photographing the events. Thirty-one people were arrested, threatened, insulted and abused by the police during their detention at the police station before being released. The same day, some of them complained to the Prosecutor of Minsk Central District, and that complaint was forwarded to the Ministry of Home Affairs⁸. However, the Prosecutor declined to open an investigation, and the Directorate General for Security Affairs Ministry said that the allegations of violence could not be proven⁹. Similarly, on October 16, 2009, 16 people were arrested

5/ See Declaration by the Belarusian Association of Journalists (BAJ), February 17, 2009.

6/ See Viasna.

7/ These gatherings have been held since October 16, 2005 in honour of opposition leader Mr. Viktor Hanchar and businessman Mr. Anatol Krasouki, who disappeared on September 16, 1999 and who were allegedly both abducted by services secrets. The Minsk Prosecutor closed the investigation into their disappearance in 2003.

8/ The complaint also concerned acts of violence by the police on September 9, 2009 during a protest rally against the arrival of a military contingent of the Russian Federation to Belarus in the framework a joint military exercise.

9/ See Viasna.

in Gomel on their way to the rally planned for “Solidarity Day” and were prosecuted for “conducting non-authorized collective action” whereas they were, in fact, unable to attend the event. On October 13, 15 and 19, 2009, ten of them were sentenced by the District Judge of Gomel Chihunachni to fines amounting to 10,325,000 rubles (about 3,700 euros)⁴⁰. Most applications for assemblies to mark the anniversary of the Universal Declaration of Human Rights on December 10, 2009 were also denied by municipalities such as in Baranavichi, Barisau, Biaroza, Gomel, Hrodna, Mahiliou, Mazir, Navapolatsk, Orsha, Smarhon and Vitsebsk. The complaint filed by Mr. **Anatol Palauni** and Mr. **Leanid Sudalenko** with the Court of the Central District of Gomel to challenge the ban of the demonstration by the municipality of Minsk was dismissed on December 30, 2009. Furthermore, the city of Minsk refused the Union of Belarusian Radio Industry to assemble to demand respect for human rights on Banhalor plaza in Minsk, which was specifically designated by authorities for organized opposition demonstrations. Another rally organized by the Belarusian Popular Front for December 10, scheduled to take place on Yakub Kolas plaza, was banned by the city of Minsk on the pretext that no group was allowed within 200 meters of a subway station. Similarly, activists of the Belarus Helsinki Committee planned to conduct an awareness-raising campaign on human rights the same day, through meetings with civil society actors in a tram around the city. However, they were prevented from doing so, as the tram was not able to circulate for “technical reasons” and the bus booked at the last minute as a replacement was blocked by police. Members of the Belarus Helsinki Committee, the Viasna Human Rights Centre, the Committee for the Protection of Victims of Repression “Solidarnosts” and the Innovation Fund of Legal Technologies then had to resort to celebrate International Human Rights Day by distributing leaflets in the streets of Minsk on various subjects relating to human rights, such as discrimination affecting persons with disabilities, lack of alternative military services, and the use of death penalty in Belarus.

Serious attacks on the freedom of association

In 2009, independent civil society organisations, notably human rights organisations, were again confronted with systematic refusals of registration, thus exposing them to criminal sanctions if they chose to continue their activities. Article 193.1 of the Criminal Code criminalises activities “as part of an unregistered organisation”, punishable by a fine or a prison sentence from six months to two years. Twice this year, the application for registration by the Viasna Human Rights Centre, under the name

of Nasha Viasna, was denied. A first request on January 26, 2009 was rejected by the Ministry of Justice on March 3, 2009. The organisation challenged the ruling before the Supreme Court, which in turn upheld the decision of the Ministry on April 22, 2009 on the ground that there were inaccuracies in the list of members of the association and the charter of association. A second request was made on April 25, 2009 and was rejected on May 25, 2009. The organisation also challenged this refusal before the Supreme Court, which confirmed its position on August 12, 2009. These two consecutive refusals of registration were accompanied by a smear campaign against the organisation. In March 2009, following the first refusal, a television station aired footage of a building in Minsk and presented it as the premises used by the association to hold its meetings. The size of space designated obviously did not allow for the holding of such meetings. One of the reasons advanced by the Ministry to refuse registration was indeed that the premises were too small. The branch of Viasna from the city of Brest, “Brestskaya Viasna”, also faced similar difficulties. All four of its applications made in 2009 were refused by the office of the Ministry of Justice of Brest. The organisation appealed the decision to the Regional Court of Brest, which confirmed the decision of the Ministry. Similarly, on April 9, 2009, the Ministry of Justice dismissed the application for registration of the Belarusian Assembly of Pro-Democratic NGOs, a collective of associations that aims to contribute to the development of civil society in Belarus. This decision was upheld by the Supreme Court on June 3, 2009¹¹.

Judicial harassment against defenders

In 2009, judicial procedures to hinder the work of defenders were opened or continued. For example, the judicial proceedings opened in 2008 continued against Mr. **Leonid Svetsik**, a member of the Vitsebsk branch of Viasna, for the “fomenting of national and religious hostility” (Article 130.1 of the Criminal Code) after he supported citizens threatened by the extreme right organisation Russian National Unity (RNE). On March 31, 2009, Mr. Svetsik was also accused of “defamation against the President” under Article 367.2 of the Criminal Code. On July 16, 2009, Mr. Svetsik was fined 31 million rubles (7,500 euros) by the Regional Court of Vitsebsk, a conviction affirmed on appeal on September 15 by the Supreme Court despite serious procedural violations. In addition, Ms. **Yana Poliakovna**, lawyer and member of the Alliance for Human Rights in Belarus, committed suicide on March 7, 2009, days after being sentenced under Article 400.2 of the Criminal Code to “deliberate false accusations” to two and a half years of “restricted freedom,” and a fine of one million

11 / *Idem*.

rubles (about 240 euros) by the District Court of Salihorsk. Ms. Yana Poliakova defended the victims of police abuse and had herself been a victim of aggression by police officers. When she wanted to file a complaint against one of her attackers, she had been prosecuted for “harming the reputation of the police”¹².

Threats against journalists defending human rights

Independent journalists who expose human rights violations are particularly vulnerable to intimidation and threats. The journalist Ms. **Irina Khalip**, who has written numerous articles on human rights violations in Belarus, received death threats in her mailbox on November 23, 2009¹³. She had just sent an article to the Russian newspaper *Novaya Gazeta* on the involvement of the Belarusian authorities in a case of inheritance, and she received a message threatening that she would “join [the Russian journalist murdered in 2006] Anna Politkovskaya” if she did not withdraw her article. The fact that on that date only the Editor of *Novaya Gazeta* had been informed of the investigation conducted by Ms. Khalip suggests that the authors of the threats are members of secret services and that correspondence and telephone conversations of journalists are monitored. Journalists also received threats from neo-Nazis. For example, Ms. **Natalia Radzina**, Director of the *Charter 97* opposition website, received a letter containing particularly violent threats of assault, including rape, following the publication of an article on July 8, 2009 denouncing the impunity of racist crimes¹⁴.

Obstacles to the visits by foreign defenders and travels abroad for Belarusian defenders

In 2009, the authorities sought to restrict and prevent contacts between Belarusian and foreign defenders. On the one hand, they impeded the access of foreign human rights defenders in Belarus. On July 31, 2009, the Consulate of Belarus to France refused to issue a visa to Ms. **Souhayr Belhassen**, FIDH President. During her stay, Ms. Belhassen was to meet with representatives of civil society and attend the hearing of the Supreme Court regarding the refusal to register the association *Nasha Viasna*. Similarly, in late August 2009, Mr. **Nikolai Zboroshenko**, Assistant Director of the Moscow Helsinki Group, was denied entry at

12/ *Idem*.

13/ *Idem*.

14/ The article criticised the weakness of a conviction against a leader of the RNE who was prosecuted for engaging in racist attacks. The far-right activist was originally sentenced under Article 193.1, which normally sanctions unregistered organisations, and was then granted amnesty. See Charter 97, July 8, 2009.

the Lithuanian border. Mr. Zboroshenko then learned that he was under a ban on entry because of his participation in protests in Belarus in 2006¹⁵. On the other hand, Belarusian defenders were regularly subjected to disproportionate checks during their travels abroad. For instance, from mid 2008 until July 2009, the personal belongings and car of Mr. **Ales Bialiatski**, Mr. **Valentin Stepanovitch** and Mr. **Vladimir Labkovitch**, respectively President, Deputy President and lawyer for Viasna, were systematically searched by customs at the Belarusian border crossing.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Viasna Human Rights Centre	Registration refusal	Urgent Appeal BLR 001/0309/OBS 038	March 4, 2009
		Urgent Appeal BLR 001/0309/OBS 038.1	June 8, 2009
		Urgent Appeal BLR 001/0309/OBS 038.2	August 14, 2009
		Press Release	October 2, 2009
Dr. Leanid Svetsik	Judicial harassment	Urgent Appeal BLR 001/0608/OBS 095.1	April 16, 2009
Ms. Souhayr Belhassen	Visa refusal	Press Release	August 7, 2009

15/ See Viasna.

GEORGIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

The spring 2009 opposition demonstrations¹, which called for the resignation of President Saakashvili and the holding of new elections, also strained the country's political atmosphere and led to an intensification of repressive measures against the opposition. The Ombudsman and local NGOs documented dozens of cases of violations against political activists and demonstrators, including verbal abuse, arrests of political activists on baseless grounds, cases of torture and mistreatment, as well as trials based on fabricated evidence². Human rights defenders also complained of attacks by unidentified persons armed with sticks and wearing masks while demonstrators were returning home. These attacks appeared to specifically target the leaders of the movement and did not elicit any reaction from the police. In late 2009, no member of the security services who made use of weapons banned by the Police Code against the demonstrators who gathered outside the main police station in Tbilisi on May 6, 2009 had been identified or arrested³.

Despite the continuation of the reform of the judiciary, which was initiated in 2004 and led to positive developments such as the establishment of social guarantees for judges, the simplification of procedures for examinations and the possibility for judges to use legal mechanisms to avoid delays in hearings, the issue of judicial independence remained in 2009, as did the climate of impunity.

In this context, the repressive tendency against defenders, which took shape in previous years, was confirmed in 2009.

1/ The demonstrations, which began on April 9, 2009, continued for three months.

2/ See Press Release of the Ombudsman of Georgia, April 10, 2009 and Report of the Human Rights Centre (HRIDC), *Repressive democracy?! - Chronicles of State-sponsored violence in Georgia during the spring 2009*, June 2009.

3/ Said weapons were plastic balls and rubber bullets. The use of these weapons by the security forces was legalised shortly after these events by the adoption of an amendment to the Police Code on July 17, 2009. President Saakashvili apologised publicly to journalists wounded by rubber bullets, which were illegally used by the security forces, but no investigation in connection with these facts was carried out. See Appeal of the South Caucasus Human Rights Defenders Network to the Georgian authorities,

Obstacles to freedom of peaceful assembly

On July 17, 2009, Parliament adopted an amendment to the Act on Gatherings and Demonstrations that includes a minimum distance of 20 metres to be maintained between official buildings and rallies or demonstrations. This new provision gives way to arbitrary interpretations which could hinder freedom of peaceful assembly. In late 2009, three defenders had already been arrested and fined under this law. On November 23, 2009, the police arrested the leaders of the movement “November 7”⁴, Mr. **Dachi Tsaguria**, Mr. **Djaba Djishkariani** and Mr. **Irakli Kordzaia**, while they were leading a sit-in in front of Parliament to protest against the climate of impunity around the killing of Mr. Amiran Robakidze⁵ by the police on November 23, 2004, and of Mr. Sandro Girgvliani⁶ on January 28, 2006. The three men were tried by the Administrative Court of Tbilisi the same day they were arrested and fined 500 laris (about 200 euros) each for “exceeding the minimum authorised distance” and for having “hindered the movement of citizens”⁷. According to their lawyer, the judge’s decision was based only on the allegations made by the police and the judge refused to consider evidence and arguments of the defence that contradicted those accusations. The decision of the Court was upheld in appeal. Another amendment detrimental to the exercise of civil liberties was introduced on July 17, 2009 into the Code of Administrative Offences. This amendment extends the term of imprisonment for disturbing public order from a period of 30 to 90 days. The risk of arbitrary interpretation of the concept of “public order”, which would allow defenders to be charged easily when they carry out actions in favour of human rights, is also worrying.

Moreover, and in the context of the spring 2009 demonstrations, on June 15, 2009, a rally organised to condemn the detention of political opponents who were arrested on June 12 while participating in a protest before Parliament was strongly suppressed. According to the Ombudsman,

4/ The “November 7” movement was created during the wave of repression that accompanied demonstrations on November 7, 2007, in Tbilisi. This organisation acts for the protection of human rights and the promotion of democratic values in Georgia, by organising public protests and investigating video reports.

5/ Mr. Amiran Robakidze was shot dead at the age of 19 at a police checkpoint on November 23, 2004. According to the investigation, the young man was armed and tried to shoot at police. However, friends of the victim present at the scene of the crime, his lawyer and human rights defenders argue that the evidence was fabricated to cover the seriousness of the murder. After the trial, a policeman was convicted of “involuntary homicide” and then quickly released on bail.

6/ Mr. Sandro Girgvliani, a bank executive, died from injuries sustained in January 2006, after being beaten by officers of the Ministry of Home Affairs in a village near Tbilisi. Although four policemen were convicted and sentenced to seven to eight years in prison, the real instigators of the murder, who would be police officers, were never arrested or investigated.

7/ See Declaration of the Human Rights Defenders Network of the South Caucasus, November 26, 2009.

after opening a formal investigation into these events, two police officers received a severe reprimand, four policemen received a reprimand, and three others were suspended from their offices for the duration of the investigation, which was still not closed in late 2009. Some defenders were also victims of the violence which accompanied the demonstrations of spring 2009, in particular three members of the Egalitarian Institute, an association promoting freedoms of expression and peaceful assembly, Mr. Misha Meshki, Mr. Aleksandr Badzaghua and Mr. Murman Pataraiia, who were brutally beaten by the police during the violent dispersal of the rally. Mr. Misha Meshki was arrested and sentenced the same day for “hooliganism” to one month in prison by the Court of Tbilisi. He was released on July 15, 2009⁸.

Ongoing harassment of defenders who denounced the violations committed by the Government and local authorities, especially during and after the war of August 2008

Defenders and organisations working on politically sensitive cases or defending people wrongfully convicted by the authorities were particularly targeted by acts of repression in 2009. On October 11, 2009, Ms. Lia Mukhashavria, lawyer and founder of the association Human Rights Priority, and known for her many complaints against the Government filed before the European Court of Human Rights (ECHR)⁹, was fined 100 laris (about 42 euros) for “petty hooliganism”¹⁰ by the City Court of Tbilisi on the basis of unfounded allegations¹¹. Ms. Mukhashavria appealed the decision on November 6, 2009. Although the legislation stipulates that a decision in appeal should be issued within a period of one month, the Court of Appeals of Tbilisi had not yet ruled on the case as of the end of 2009. Meanwhile, Ms. Mukhashavria appealed to the Ministry of Home Affairs on October 13, 2009 to denounce abuses committed by members of the police patrol who testified against her and opened administrative proceedings against her in connection with the case¹². Ms. Mukhashavria would have been condemned because of her mobilisa-

8 / See HRIDC.

9 / In October 2002, she filed a complaint with the ECHR to challenge the extradition of 13 Chechens threatened with deportation to Russia. In 2004, she represented the former Mayor Tengiz Asanidze, imprisoned illegally, in the case Asanidze against the State of Georgia, brought before the ECHR.

10 / Under Article 166 of the Administrative Code.

11 / The procedure followed a quarrel between Ms. Mukhashavria and another person, Ms. Manana Sosebashvili, who filed a complaint against Ms. Mukhashavria for harassment. Police officers testified in favour of Ms. Sosebashvili without taking into account the allegations of Ms. Mukhashavria, who said that she was the victim of harassment from the other woman. See Caucasus Women's Network and HRIDC.

12 / On January 21, 2010, Ms. Mukhashavria was informed by mail that, after examination of the complaint, no abuse of authority by police officers had been found.

tion for the fight against the climate of impunity surrounding human rights violations committed against civilians during the war in August 2008, in particular through cases submitted to the ECHR. Similarly, HRIDC was under pressure after they disclosed, at a press conference on September 15, 2009, the results of their investigation into the case of Mr. Vakhtang Maisaia, a military expert accused of spying during the conflict in August 2008. Mr. Maisaia had revealed he had been under severe pressure during his detention in 2009 to accuse certain political personalities of acts of espionage. On the day of the press conference, the police visited the premises of HRIDC in order to take down the names and contact information for all employees, as well as the license plates of those who attended the press conference. At the same time, a control operation was conducted at the home of the Director of HRIDC, Mr. Ucha Nanuashvili. No reason was given for this operation¹³.

Furthermore, defenders working in the regions and exposing the illegal practices of local authorities were often accused of not being “real Georgians” and the violations they denounce in their reports were never the subject of investigations by the authorities. Thus, in early September 2009, the Ombudsman contacted the Shida Kartli Regional Prosecutor by mail to learn about the progress of an investigation into acts of harassment against Mr. Saba Tsitsikashvili, a local coordinator of HRIDC and journalist, which had forced him to leave Georgia in early 2009. On September 22, 2009, the Prosecutor informed the Ombudsman that the investigation had been closed. Mr. Tsitsikashvili had suffered severe pressure in 2008 from the local authorities because of his investigations into the refugees situation in South Ossetia in the Gori region. On his return in spring 2009, pressures against him resumed. He was banned from accessing the premises of the municipality of Gori in August and September 2009, as he was investigating the protests of people living in buffer zones between the Georgian town of Gori and the breakaway region of South Ossetia and calling for financial and material aid. Still threatened in late 2009, Mr. Tsitsikashvili was therefore forced to censor himself about the investigation of corruption of local authorities in the region of Shida Kartli¹⁴. The representative of the Special Operations Unit (SOD) of the Ministry of Home Affairs also threatened an associate of Mr. Tsitsikashvili with retaliation if he revealed to the press corruption cases implicating the SOD. The threats intensified on December 15, 2009, following the publication by Mr. Tsitsikashvili of

13/ See Statement by HRIDC, September 15, 2009.

14/ See HRIDC.

an article on the illegal distribution by the Regional Governor of Shida Kartli of bonuses and allowances to members of the local government⁴⁵.

In December 2009, a smear campaign aired in the media was launched against defenders through the manipulation of issues particularly sensitive to the population, such as the August 2008 conflict and minority issues. The campaign primarily targeted the Ombudsman of Georgia, Mr. **Sozar Subari**, who is particularly known for the quality of his human rights work. Mr. Subari was accused, in a false report circulated by a television channel said to be close to the Government, *Real TV*, to only defend minority religions to the detriment of the orthodox religions. Similarly, Mr. **Vakhtang Komakhidze**, Director of the NGO “Studio Reporter” and an investigative journalist specialising in human rights, corruption and electoral fraud, Ms. **Manana Mebuke**, Director of the Union of Wives of Invalids and Lost-Warriors, a Tbilisi NGO for the promotion of peace, and Mr. **Paata Zakareishvili**, a political scientist specialised in conflict, were designated as enemies of the nation by the Government following their trip to Tskhinvali on December 16, 2009 to inquire about the situation of three young Georgian prisoners. As part of this trip, the defenders had met with the leader of the breakaway Republic of South Ossetia, Mr. Shota Malashkhia. Moreover, on December 12, 2009, the Georgian Young Lawyers Association (GYLA) was accused, over a report broadcast on *Rustavi 2* television channel, of having hindered the release of Georgian hostages. The show referred particularly to complaints filed by GYLA with the ECHR on violations committed during the conflict in August 2008. Finally, on December 10, 2009, a highly critical report of the association Priority to Human Rights was circulated on the first public channel. The association was accused of harming the State by filing complaints with the ECHR, and “using the tragedy of war for its own interests”.

Pressures against Mr. Arnold Stepanian

In 2009, Mr. **Arnold Stepanian**, Director of the Public Movement “Multinational Georgia” (PMMG), co-founder of the Centre for Multi-Ethnic Resources for the Development of Civic Education and co-author of an alternative critical report on the protection of minority rights in Georgia submitted to the Council of Europe in 2008, was repeatedly threatened and told to cease his activities. On March 19, 2009, a police inspector visited the offices of the Centre for Multi-Ethnic Resources for the Development of Civic Education to request information about the leadership of the organisation. On the same day, a stranger who refused

to identify himself questioned, by telephone, the staff of PMMG about Mr. Arnold Stepanian. Finally, the same day, the tax control office closed a small company named “Arnold Stepanian”, belonging to the father of the defender, as well as the company “Giperioni”, of which Mr. Stepanian was co-founder. Subsequently, on August 28, 2009, while travelling in the Samtskhe-Javakheti region¹⁶ as part of a project funded by the association Open Society – Georgia¹⁷, Mr. Stepanian would have been followed by a member of the intelligence services. On his return, officials from the Ministry of Home Affairs met with him and tried to persuade him to stop his activities in the region. As of late 2009, the companies “Arnold Stepanian” and “Giperioni” were still closed. Mr. Stepanian sent a letter to the Ministry of Home Affairs informing them of his indignation following these events. His letter was forwarded to the service of counter inquiry, which had not yet responded as of late 2009.

Police violence against LGBT defenders

LGBT defenders are also very vulnerable. On December 15, 2009, a violent and illegal search took place in the offices of the association for LGBT rights “Inclusive Foundation”. Members of the security forces, armed and in plain-clothes, raided the premises of the organisation where there was a meeting of the “Women’s Club”. Without giving their names or the reasons for their intrusion, and without presenting any warrant, they arrested Mr. **Paata Sabelashvili**, the Director of the association. In addition, other persons present were searched, verbally abused because of their sexual orientation, and humiliated. A law enforcement officer threatened with death two members of the organisation, Ms. **Eka Agdgomelashvili** and Ms. **Tinatini Japaridze**, when they tried to verify the legality of the search. Mr. Sabelashvili would have admitted to have eight grams of marijuana. This confession was made before the arrival of his lawyer, and only in the presence of law enforcement officers. In addition, members of the organisation remained under close surveillance as of late 2009. On December 26, 2009, following an agreement with the Prosecutor, Mr. Sabelashvili pleaded guilty and admitted to having purchased and transported the drugs. He was sentenced to five years’ suspended sentence and a fine of 4,000 laris (about 1,700 euros) and was released the same day.

16 / Border area of Turkey mainly populated by Armenians.

17 / This project aims at organising meetings between the foreign diplomatic corps, members of NGOs and local political representatives to provide them the opportunity to testify as to the problems of the region and the opportunity to consider international support.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
M. Arnold Stepanian	Harassment	Urgent Appeal GEO 001/0309/OBS 054	March 30, 2009
Inclusive Foundation / Mr. Paata Sabelashvili, Ms. Eka Agdgomelashvili and Ms. Tinatin Japaridze	Police raid / Arbitrary arrests / Intimidation and insults / Death threats / Surveillance	Urgent Appeal GEO 002/1209/OBS 199	December 24, 2009

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Political context

Despite legislative reforms initiated in February 2009 regarding political parties, the media, elections and local governments¹, in 2009 Kazakhstan continued not to honour commitments made in 2007, when the future presidency of Kazakhstan at the OSCE was decided for 2010². In terms of political pluralism, while the new electoral law guarantees the representation of at least two political parties in the House of Representatives since it gives seats to the party that arrives in second place, whatever the number of votes received, even if it has not reached the threshold, the rule of 7% of votes needed to sit remains unchanged. Finally, to comply with OSCE standards, the Government should reconsider the constitutional amendment adopted in 2007, allowing the President to run for an unlimited number of terms.

Regarding the Media Act, one of the amendments adopted now exempts radio stations and television channels from the requirement of registering beforehand with the Ministry of Culture. However, this reform is not sufficient to guarantee freedom of the press, as independent journalists remain harassed, attacked and prosecuted. Defamation is indeed still criminalised, media bodies can be closed or suspended by decision of the executive and the independence of the body overseeing the registration of newspapers is not guaranteed.

Moreover, while one can welcome Kazakhstan's ratification of the Convention Against Torture and its Optional Protocol in 2008, the United Nations Special Rapporteur on Torture, Mr. Manfred Nowak, reported on May 13, 2009 during the conclusion of his visit to the country from May 5 to 13, 2009 that torture was still practiced in Kazakh prisons. He also deplored the absence of effective complaint mechanisms for victims

1/ On February 6, 2009, Parliament adopted amendments to the Media Act and the Law on Political Parties. On February 9, Parliament adopted amendments to the Elections Act and the Local Government Act.

2/ During the OSCE Ministerial Council, held in Madrid on November 29, 2007, the Minister of Foreign Affairs Mr. Marat Tazshin said that Kazakhstan would introduce amendments to the Media Act that would reflect the recommendations made by the OSCE and continue to implement ODIHR recommendations relating to the issue of elections and the law on political parties.

of torture³. The European Union and the United States also criticised the lack of initiatives in Kazakhstan for democratisation and human rights⁴.

Therefore, Kazakhstan does not seem ready to assume the presidency of the OSCE and to defend human rights in all the countries of the organisation, and it is feared that Kazakhstan's OSCE presidency will not improve the situation of human rights and its defenders in the country in 2010.

Attacks on freedom of expression and harassment of journalists denouncing human rights abuses

On June 24, 2009, Parliament adopted a law to regulate freedom of expression on the Internet⁵ that considerably reduces the freedom of expression on the web, and that worries both NGOs and the OSCE⁶. Under the new law, all Internet resources are considered "media" in full and are subject to the same criminal, administrative and civil laws as any other media. Pursuant to Article 13 of the Act, the authorities are also entitled to block websites if they report without authorisation on elections, strikes, demonstrations or ethnic issues⁷. This law therefore reinforces censorship and encourages self-censorship, in particular because bloggers can be held criminally responsible for what they write⁸. While it is too early to measure the effects of this law, the effect it may have on the restriction of freedom of expression for human rights defenders is highly worrisome.

Moreover, protests against this law were repeatedly hampered by local authorities on several occasions. For example, on April 25, 2009, six members of the group "For a Free Internet!" tried to take action against the reform called "imprisoned bloggers" at the Intercontinental Hotel in Almaty. Early on in the rally, one of the protesters, Mr. **Aban Abrasilov**, was arrested by the police, surrounded by 16 police officers and then transferred to the Regional Department of Internal Affairs (ROVD). Other protesters decided to continue the demonstration outside of the premises of the Internet provider *Kazakh Telecom*, but they were arrested and detained

3/ See Statement by the United Nations Special Rapporteur on Torture, Mr. Manfred Nowak, May 13, 2009.

4/ See Declarations of the Presidency of the European Union Council and the United States Mission to the OSCE, February 12, 2009.

5/ Law on Introducing Changes and Additions to Legislative Acts on the Issue of Information Networks and Communication.

6/ See Statement of OSCE Representative on Freedom and the Media, Mr. Miklos Haraszti, June 25, 2009.

7/ In Article 13, paragraphs 3 and 4, the new text extends the reasons leading to the suspension of media. Media can be temporarily suspended in case of disruption to the smooth conduct of a peaceful protest or campaign, or in cases of incitement to participation in a strike. The media may be permanently banned for disseminating speeches inciting ethnic hatred and religious. See OSCE Commentary of the Bill.

8/ See International Bureau for Human Rights and Rule of Law (IBHRRL).

in the premises of ROVD before joining the rally. Bloggers were released the same day, thanks to the intervention by the Presidential Adviser to the Media, who feared that the arrests would cause an international scandal⁹.

The restriction of freedom of the press also resulted in numerous physical attacks against journalists, as well as legal action for defamation. While this affected all opposition journalists, it particularly concerned journalists denouncing human rights abuses and corruption cases, such as the newspaper *Almaty Info* and its Editor, Mr. **Ramazan Esergepov**. On August 8, 2009, the Tribunal No. 2 of Taraz, Khambilsk district, condemned Mr. Esergepov to three years in prison and a two-year ban on his work for “illegal collection of information” and “disclosure of State secrets” under Articles 172.1 and 339.2 of the Criminal Code. Arrested on January 6, 2009 while he was in hospital for a check-up, Mr. Esergepov was prosecuted following the publication on November 20, 2008 of his article entitled “Who is governing our country, the President or the National Committee of Security (KNB)¹⁰?” in *Almaty Info*. The article contained allegations of corruption¹¹. On October 22, 2009, the Regional Court of Khambilsk confirmed the conviction of Mr. Esergepov on appeal¹².

Obstacles to freedom of assembly and criminalisation of protests

The Law on the Organisation and Holding of Peaceful Meetings, Gatherings and Demonstrations contradicts the Kazakh Constitution, which guarantees the right to freedom of assembly, by allowing local authorities to prohibit assemblies “in light of local conditions” (Article 10) or relegate them to peripheral locations¹³. In practice, most of the time the authorities prohibit citizens to unite under various pretexts¹⁴, either directly or by preventing the conduct of peaceful gatherings, including by threatening potential organisers or participants. Petitions and complaints regarding the non-compliance of the right to assembly filed by representa-

9 / See IBHRR, *Report on the violations of the freedom to peaceful assembly in 2008 and from January to September 2009*, October 2009.

10 / The National Security Committee corresponds to intelligence services.

11 / The article reproduced a letter from the Head of the local KNB department of Khambilsk to the President of the KNB, Mr. Amageld Chabdarbaev. The letter referred to the criminal investigation against the company “Taraz” for non-payment of taxes and the fact that the company’s founder, Mr. Sultan Makhmadov, was in contact with members of the administration of President Nursultan Nazarbayev for his influence on preparations.

12 / See IBHRR.

13 / For example, a wasteland in the outskirts of Astana or a park on the outskirts of Almaty.

14 / Applications for assembly are rejected under various pretexts: simultaneous holding of a public event, prohibition to hold a rally near a government building, insufficient time between the date of application and the day of the event (less than ten days). Bans are mostly unmotivated or are issued too late, thus preventing the rally organisers to request a different place and to renew the request.

tives of the opposition and civil society are also almost always rejected by judges¹⁵. Otherwise, on very rare occasions, the judge decides to grant the applicants' request and authorise the rally in a place specially designated for hosting such events, most often on the outskirts of cities. For example, on October 6, 2009, the Kostanaïski municipality prohibited a meeting entitled "The right to a fair trial: the right of everyone" organised by the International Bureau for Human Rights and the Rule of the Law (IBHRRL). The gathering was to be held in silence near Tribunal No. 2 and the Town Hall without impeding traffic, but the city rejected the application on the grounds that the gathering "might interfere with the normal operation of transport", and deemed it possible to organise the assembly at Tselinikov, a place provided for this purpose. IBHRRL's second proposal was also refused on October 7, even though the organisation proposed a new meeting place¹⁶. Similarly, on April 21, 2009, members of the association "Ar-Rukh Kha", which fights against corruption in schools and takes an active part in student movements, were planning to gather with other youth organisations and human rights defenders in Almaty to meet journalists and share their concerns about a bill requiring all students and schoolchildren to comply with inspections for drug testing. An hour before the rally, the Deputy Prosecutor of the Almaty Region, the Deputy Head of the Regional Department of Internal Affairs and the Bostandinski Police Colonel Turispekov Abai appeared and proceeded to the arrest of members of the organisation as well as its President, Ms. **Bakhitjan Toregojina**. According to the police, the arrest was justified by the Internet broadcast of an advertisement calling for a planned rally that same day. The young activists were detained for two hours at the ROVD headquarters¹⁷.

If, despite denials and prohibitions, rallies were held, then the authorities dispersed demonstrators and arrested participants and organisers who were then exposed to convictions. The crackdown on protests mainly concerned "political" gatherings – that is to say, for example, those calling for the President's resignation or the replacement of a mayor, respect for freedom of peaceful assembly or the holding of fair elections, or protesting against the closure of a newspaper – led by civil society organisations and political opposition parties. Convictions varied from a simple warning to a fine or a deprivation of liberty for 15 days. For instance, after the Almaty

15/ See IBHRRL, *Report on the violations of the freedom to peaceful assembly in 2008 and from January to September 2009*, October 2009.

16/ See IBHRRL, *Report on the violations of the freedom to peaceful assembly from September to December 2009*, January 2010.

17/ See IBHRRL, *Report on the violations of the freedom to peaceful assembly in 2008 and from January to September 2009*, October 2009.

municipality refused twice to hold a rally marking the International Day of Journalists scheduled for June 25, 2009, over one hundred people gathered on June 24 near the premises of the national news service to conduct a silent protest action by covering their mouths with white tape and black blindfolds. The Almaty Prosecutor took legal action against participants. On July 17 and 21, 2009, the Almaty Administrative Interregional Court sentenced Mr. **Bolata Abilova**, a leader of the opposition party “Azar”, as well as Ms. **Rizada Jakipbek**, a member of the organisation defending housing rights “El Korgan”, to a fine of 65,000 tenge (about 400 euros) for “organising an illegal gathering”. Similarly, in September 2009, rallies organised each Wednesday in support of Mr. Evgeny Zhovtis¹⁸ were consistently concluded with convictions of participants. Journalists, researchers, advocates and opponents were fined and sometimes arrested. Among them, Mr. **Andrei Sviridov**, a journalist and member of IBHRRL, was arrested on September 16, 2009, detained for three hours at the police station, and sentenced to a fine of 12,730 tenge (about 80 euros) by the Administrative Court of Almaty on September 17, 2009 for “violating the law on the organisation and holding of peaceful gatherings, rallies, meetings and demonstrations” (Article 373.1 of the Code of Violations of Administrative Law).

Persecution of defenders of social rights in a context of economic crisis

While the President and local officials have publicly called on the Kazakh people to refrain from conducting protests during the economic crisis¹⁹, the number of protests related to layoffs in companies and problems related to housing rights has risen sharply over the past two years²⁰. Defenders of housing rights were particularly affected by the severe restrictions on freedom of assembly. Not only did they experience difficulties to organise peaceful rallies, but they were also victims of judicial harassment and were arrested and prosecuted for their actions in defence of housing rights. Thus, the President of the movement to defend housing rights and support for labour movements “Talmas”, Mr. **Ainur Kurmanov**, was har-

18/ See below.

19/ A “memorandum” prepared by the presidential administration and supported by local authorities on “understanding, collaboration and conservation of social and political stability in the region” was initiated in February 2009. The signatories pledged not to conduct protest action during a given period. Despite pressure from local authorities, opposition groups refused to sign the memorandum. See IBHRRL.

20/ The protests are varied. They sometimes relate to people whose homes have been requisitioned by the State for the development of the Kazakh economy and the “needs of the State” for little or no financial compensation. Tens of thousands of people have lost their homes and 80% of these dwellings have been granted to private companies, close to some officials. Action may also relate individuals who have been deceived by fraudulent construction companies investing money in ghost projects, or persons unable to honour loans incurred during an economic boom, and whose homes were seized. See IBHRRL.

assed because of his commitment. Sentenced ten times for having organised and participated in protest actions in 2009²¹, he was attacked and seriously wounded by unidentified persons with iron bars on September 22 in the village of Batir Outegen (not far from Alma-Ata). The attack took place shortly after his organisation supported the labour movement in a manufacturing plant of heavy machinery in Almaty that was recently purchased by the brother and sister-in-law of President Nursultan Nazarbayev. The police opened an investigation, but despite repeated requests by Mr. Kurmanov and Talmas members to question the managers of this company, no steps had been taken in this direction, and no suspect had been identified as of late 2009. Mr. **Ernek Koychinov**, Talmas lawyer, also received telephone threats during the fall of 2009²². The Kazakh State continued to impede not only the actions of Talmas, but also those of other organisations defending housing rights, such as the movement “Kazakhstan 2012, Let the People Have Housing” and the movement “For Decent Housing!”²³. Similarly, the Homeless Soldiers Union (SV BOMJ) was repeatedly denied the right to peaceful gatherings on false grounds. The leader of the movement, Mr. **Daulet Jumabekov**, was tried *in absentia* on November 20, 2009 by the Special Interregional Economic Court of Almaty for “organising an illegal gathering”. He received an administrative warning²⁴. On May 8, 2009, the police arrested Mr. **Imach Mamatraimov**, Ms. Rizada Jakipbek and Mr. **Amirbek Tagusov** for organising a press conference to inform journalists about the situation of a hundred people evicted from a home in Almaty. They were detained at the Regional Department of Internal Affairs for “organising a press conference”. Ms. Rizada Jakipbek was also charged with “unauthorised public use of the anthem of Kazakhstan”²⁵. Released the same day, Ms. Rizada Jakipbek and Mr. Amirbek Tagusov were arrested again on May 12 for trial, without having been summoned by the Special Administrative Court of Almaty, under Article 373.1 of the Code of Administrative Offences for “organising and participating in meetings, rallies and other prohibited public events”. Because of procedural shortcomings, the judge decided to drop proceedings.

21/ Sentences ranged from five to 15 days in prison. See IBHRRL, *Report on the violations of the freedom to peaceful assembly in 2008 and from January to September 2009*, October 2009.

22/ See IBHRRL.

23/ For example, on October 18, 2009, the Kazakh security forces tried to prevent the unfolding of a broad national movement of protest for the right to land and housing rights started by the organisation “Kazakhstan 2012” and supported by the organisations “For Decent Housing”, “Let the People Have Housing” and other NGOs. See IBHRRL.

24/ See IBHRRL, *Report on the violations of the freedom to peaceful assembly in 2008 and from January to September 2009*, October 2009.

25/ *Idem*.

Judicial harassment of human rights defenders

The severity of the sentence imposed in October 2009 on human rights defender Mr. Evgeny Zhovtis, Director of IBHRRL and member of several expert committees to Kazakh authorities and member of the Council of Experts of OSCE ODIHR, as well as the conditions of his trial and detention demonstrate the unwillingness of the authorities to protect those who defend human rights. On October 20, 2009, the Regional Court of Almaty in the city Taldy-Qorghan confirmed on appeal the charges against Mr. Evgeny Zhovtis and sentenced him to four years' imprisonment in a penitentiary colony near the city of Ust Kamenogorsk²⁶ under Article 926 of the Criminal Code – “violation of the Road Code leading to a fatal accident” – for accidentally killing a pedestrian in his car on July 27, 2009. Mr. Zhovtis was sentenced on September 3, 2009 in first instance by the Regional Court of Balkhash. The investigation and two trials were held in violation of the rules of criminal procedure and Mr. Evgeny Zhovtis was denied the right to an effective defence. Indeed, on July 27, 2009, Mr. Zhovtis was first called as a witness in the police investigation, and then his status was changed and he was declared a suspect on July 28, 2009. His lawyer was informed about this only on August 14, 2009, two weeks later, in violation of the law. In addition, the mother of the victim accepted Mr. Zhovtis' apologies. She also signed a statement that requested a stay of prosecution. Under Kazakh law, the charges against Mr. Zhovtis should, therefore, have to be lifted. During the trial, the judge refused to consider arguments by the defence and conclusions by experts that Mr. Zhovtis was sober, had not violated the Road Code at the time of the accident and could not have avoided collision with the pedestrian. It also seems that the verdict had been prepared in advance, since it did not take more than 25 minutes for the judge to write 25 pages of conclusions. In addition, Mr. Zhovtis do not enjoy the conditions of detention normally granted to inmates who committed a crime of negligence (such as a system of semi-freedom, the possibility of long-term visits and appropriate work for wages). Instead, the prison colony where he is located is subject to a very strict regime. As of late 2009, Mr. Zhovtis did not benefit from the medical assistance he needed²⁷. On December 12, 2009, the Almaty Regional Court rejected the request of Mr. Zhovtis' lawyer to conduct a judicial review of the proceedings that led to the conviction of his client²⁸.

26 / In north-east Kazakhstan, 1,000 km from Almaty.

27 / In late 2009, because of his conditions of detention, Mr. Zhovtis, and a large number of other prisoners, were suffering from the flu.

28 / Judicial review is an extraordinary remedy designed to modify the decision if there is evidence that the procedure is illegal, or that the sentence is not proportionate to the severity of the crime.

Urgent Intervention issued by The Observatory in 2009

Name	Violations / Follow-up	Reference	Date of Issuance
Mr. Evgeny Zhovtis	Judicial harassment	Open Letter to the authorities	October 19, 2009

KYRGYZSTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

In 2009, the human rights situation in Kyrgyzstan deteriorated, and tarnished a little more the image of “the country most respectful of human rights in the region”, as the country’s authorities like to boast. The presidential elections of July 23, 2009, which ended up with the re-election of Mr. Kurmanbek Bakiev with 76.12% of the votes, took place within amid the growing authoritarianism of the current president. Both during the presidential campaign and the election day, basic rules guaranteeing free and democratic elections were not met. Prior to the elections, media coverage of the campaign focused on the current President Bakiev¹. Arrests and intimidation of political opponents also marked the election campaign. Observation missions from the OSCE Office for Democratic Institutions and Human Rights (ODIHR) pointed to massive fraud on polling day, including ballot stuffing, destruction of ballots, vote buying, as well as attempts to obstruct the work of observers². Protests to demand fair elections and challenge election results were violently dispersed and accompanied by arrests³. As for the reform of the administration announced in October 2009, this was interpreted by independent civil society as an attempt at usurpation of power by the President. This reform places some organisations under the direct control of the President, in particular the National Security Service, and the Agency for Development, Investment and Innovation, of which the President’s son was nominated as head⁴. Finally, the Bill on the Reform of Bodies within the Ministry of Interior discussed during the year 2009 worried defenders because of the vagueness of provisions and the insufficient safeguards for intervention by the police, therefore threatening to encourage the impunity of the latter, to increase cases of arbitrary detentions, and to threaten fundamental freedoms⁵.

1/ See Reporters Without Borders (*Reporters sans frontières* - RSF) Press Release, July 27, 2009.

2/ See Final Report of the Election Observation Mission of the ODIHR, October 22, 2009.

3/ For example, the demonstration held in Baliktchi on July 23, 2009 was violently dispersed: the police fired in the air, dispersed the demonstrators with truncheons and arrested ten persons. See Kyrgyz Committee for Human Rights (KCHR). That same day, 41 opposition members were arrested in Bishkek as they marched to protest the results of presidential elections. See *Radio Free Europe/Radio Liberty* Press Release, July 29, 2009. On July 29, 67 demonstrators were arrested and most were convicted to prison terms ranging from three to fifteen days in jail or fined for participating in demonstrations the same day. See Final Report of the Election Observation Mission of the ODIHR, October 22, 2009.

4/ See KCHR.

5/ See “Kylym Shami” association.

Moreover, the situation in the south was unstable due to the existence of regional tensions caused by border disputes between Kyrgyzstan and Uzbekistan on the one hand, and Kyrgyzstan and Tajikistan on the other (presence of Tajik and Uzbek enclaves in the Valley area of Ferguana); of tensions between the Kyrgyz majority and many minorities including Uzbek, Tajik and Kurdish; and of the activity of several Islamist groups, including the Islamist party Hizb-ut-Tahrir (Liberation Party), banned in Central Asia. Thus, under the cover of the fight against terrorism and religious extremism, Kyrgyz law enforcement agencies perpetuated, in the name of security and with impunity, violence against citizens, and among them, defenders⁶. Across the country, attacks against journalists⁷, discussions in the Kyrgyz Parliament concerning the restoration of the death penalty⁸, the reform adopted January 13, 2009 on registration and activities of religious groups that restrict freedom of conscience⁹, reforms on freedom of assembly, and attempted reforms on non-governmental organisations¹⁰ worried human rights defenders and are indicative of the deterioration of the political and social climate in the country.

Harassed, threatened, arrested and convicted for expressing their discontent or denouncing human rights violations perpetrated by the Government, human rights defenders have become, along with political opponents and independent journalists, the first victims of authoritarianism by President Bakiev.

Freedom of assembly severely threatened

The legislation governing the organisation of rallies was tightened again in 2009, while the restrictive laws adopted in 2008 allowing local authorities to restrict the space devoted to peaceful assembly were implemented. Defenders also worried about the effects of the law signed by President

6 / See KCHR.

7 / According to RSF, eight attacks were carried out against journalists in 2009.

8 / The debate on capital punishment was revived in September 2009 when the Head of the State Committee on National Security, Mr. Murat Sutralinov, proposed to reinstate the death penalty at a meeting of the Security Council of the Republic of Kyrgyzstan. On November 10, the Parliament met with much reluctance a proposal made in Kyrgyzstan to sign the Second Optional Protocol to the International Covenant on Civil and Political Rights, which prohibits the death penalty. Reservations were mainly made by members of the majority party, in which some officials have proposed holding a referendum on restoring the death penalty.

9 / The reform makes the procedure of registration of religious organisations more complicated (including by increasing the number of people required to legally register the organisation from ten to 200 people) and prohibits proselytising.

10 / Under pressure from national and international organisations, consideration of the proposed amendment to the Law on Non-Commercial Organisations, submitted to Parliament on February 18, 2009 and which threatened to severely restrict the activities of NGOs, was postponed to a later date.

Bakiev on February 13, 2009 “On the Universal Conscription of Citizens of the Kyrgyz Republic, Military Service and Alternative Service” since it allows the military to participate in repression of peaceful rallies¹¹.

In 2009, most of the peaceful rallies and demonstrations organised by defenders were hindered and the participants arrested, prosecuted and convicted for organising an illegal gathering under the Law of July 6, 2008 regulating peaceful gatherings. Thus, on July 24, 2009, Ms. **Tolekan Ismailova**, Director of the organisation Citizens Against Corruption (CAC), Ms. **Diana Makenbaeva**, Ms. **Evguenia Krapivina** and Ms. **Aida Baydzhumanova**, respectively lawyers and employee of CAC, Mr. **Timur Shaikhutdinov**, Coordinator of the Council for the Defence of the Rights of Youth to the Ombudsman of Kyrgyzstan, Ms. **Erkingul Imankozhoeva**, a member of the organisation “Karek”, as well as Mr. **Urmat Kizi Mirgul** and Mr. **Umutay Arikova** were arrested by security forces while participating in a rally to mark the “Global Day of Action on Iran”. They were subsequently sentenced to fines, or received a verbal warning in accordance with the Law of July 6, 2008, with the exception of Messrs. Umutay Arikova and Urmat Kizi Mirgul, who were acquitted¹². On March 4, 2009, Mr. **Maxim Kuleshov**, Coordinator of the Tokmok Human Rights Resource Centre, was arrested while preparing to give a “street lesson in democracy,” to encourage people to peacefully struggle for human rights and the respect for the Constitution. Mr. **Mikhail Golovanov**, an active participant in the “lesson”, was also arrested. Mr. Kuleshov was placed in the psychiatric hospital of Bishkek for “improper behaviour” before being released the next day. Mr. Golovanov was sentenced to 15 days’ administrative detention. Released on March 6, he appealed the decision. Mr. Kuleshov, meanwhile, challenged the legality of his arrest. Their complaints were both rejected in first instance and before the Supreme Court of Kyrgyzstan. Under threat of being prosecuted criminally for failure to comply with a court order¹³, an offense punishable by imprisonment, Mr. Kuleshov left the country a few weeks later. On July 30 and 31, 2009, Ms. Tolekan Ismailova, Ms. **Asiya Sasikbaeva**, Director of the “Interbilim” Centre, Ms. **Aziza Abdirasulova**, Director of the Centre for Human Rights “Kylym Shami”, and Ms. **Gulanara Dzurabaeva** were arrested and sentenced to pay fines upon having gathered to protest the arbitrary arrests of opponents in Bishkek

11/ See Institute for Public Policy (IPP), *The right of Kyrgyz citizens to peaceful assembly: recent decisions by the authorities and the response of the society*, April 3, 2009.

12/ Ms. Aida Baydzhumanova, Mr. Timur Shaikhutdinov, Ms. Erkingul Imankozhoeva and Ms. Tolekan Ismailova were sentenced to a fine of 1,500 soms (25 euros), and Ms. Evguenia Krapivina received a verbal warning.

13/ Mr. Maxim Kuleshov was repeatedly arrested in 2008 for organising peaceful rallies and demonstrations and sentenced to fines he refused to pay on the grounds that said sentences were illegal.

and Baliktchi¹⁴. In addition, the municipality of Bishkek appropriated the space devoted to peaceful assembly to the outskirts of the city on the eve of the elections¹⁵. Similarly, Mr. **Sapar Argimbaev** and Mr. **Uran Riskulov**, respectively Director and member of the organisation for the rights of small farmers and social rights “Bolush” and leader of the opposition party “Kyrgyzstan Green”, were arrested and charged with organisation of “mass disorder” (Article 223 of the Criminal Code) in connection with the mass arrests that took place during peaceful gatherings organised by the villagers of Petrock in the Tchoui region on April 24 and 26, 2009 to denounce the lack of reaction by the authorities to the rape of a four year old child on April 8, 2009¹⁶. As of late 2009, the District Court of Moscow in the Tchoui region had not yet ruled on this case¹⁷.

Intensification of harassment and threats against defenders during presidential elections

Anxious to silence any demonstration by the opposition calling into question the legitimacy of Mr. Bakiev’s presidency of the Republic, the authorities stepped up repression efforts during presidential elections. The determination of the Government to stifle critical voices during the presidential elections was demonstrated in particular by the number of threats and serious violence perpetrated against defenders. On June 29, 2009, the Kyrgyz Committee for Human Rights (KCHR) posted on its website an interview with the opposition candidate for the presidency of the Republic, Mr. **Almazbek Atambaev**, in which he testified to have been subjected to threats and alluded to kidnappings of opposition members and their families. The next day, three people showed up at the office of KCHR, and asked for its Chairman, Mr. **Ramazan Dyrlydaev**. As no one responded, they threatened to find him and “break his arms and legs”, and added that if Mr. Dyrlydaev wanted to stay alive, he would have to withdraw this interview from KCHR website. Following these events, the organisation decided to temporarily close all offices and did not re-open until November 2009. A few months later, on October 7, 2009, another member of KCHR, Ms. **Guliza Omurzakova**, was assaulted while she was in transit to Almaty in Kazakhstan, after returning from Warsaw where she spoke at a conference organised by ODIHR on the situation of migrants from Kyrgyzstan to Kazakhstan and the Russian Federation.

14 / The arrests carried out in Bishkek and Baliktchi concerned members and supporters of the opposition party CDPK, who challenged the results of presidential elections on July 23, 2009.

15 / See KCHR.

16 / 83 people were arrested. Some were acquitted and others were sentenced to administrative penalties.

17 / See Klym Shami.

The driver of the taxi she used to get to Almaty airport, as well as another man who boarded the vehicle later, interrogated her about the purpose of her trip to Warsaw and then threatened to rape her. The men agreed to release her in the outskirts of the city only after she gave them 50 euros. They demanded that she no longer participate in international conferences on human rights, and that she stops to write reports on the situation of migrants in Kazakhstan. Back in Bishkek, Ms. Omurzakova filed a complaint with the Ministry of Home Affairs, as well as with the OSCE representation in Bishkek. In early November 2009, she was informed that the latter had forwarded her complaint to the Ministries of Internal Affairs and Foreign Affairs. Ms. Omurzakova subsequently had a meeting at the Ministry of Internal Affairs in late November 2009. However, no further steps had been initiated by the Ministry as of late 2009. Similarly, on July 23, 2009, Mr. **Sopiev Kanat**, Coordinator of the KCHR office in the region of Issik-Kul, was arrested and severely beaten by police officers while demonstrating outside the local administration of Baliktchi to challenge the manipulation of votes in presidential elections. Eighteen other protesters were arrested at the same time. Mr. Sopiev Kanat was placed in the detention centre of the city of Baliktchi. Suffering from a brain concussion and kidney pain following the beatings he received during his arrest, as well as aseptic meningitis that he suffers on a recurring basis, he has been under house arrest since September 1, 2009 by order of the judge of Baliktchi. On September 30, 2009, the latter ordered his detention. Fearful of being subjected to torture and pressure by the National Security Service, Mr. Sopiev Kanat left the country in early October to seek asylum abroad¹⁸. A search was launched against Mr. Kanat. The eighteen other protesters were sentenced on December 25, 2009 by the Court of Baliktchi for “obstructing the right to vote or the work of the electoral commissions”, “organising mass disorder”, and “public calls for a violent change of constitutional order” (Articles 139, 233 and 297 of the Criminal Code). Four of them were sentenced to four years in prison, and fourteen received prison sentences ranging from two to four years’ imprisonment. They declined to appeal the decision, fearing that the penalty would be increased.

Repression against Kyrgyz and international defenders for investigating into the events of Nookat

In the South-West, where the geopolitical situation is very complex, defenders who denounced abuses committed by security forces against citizens in the name of the fight against terrorism were particularly targeted. In 2009, defenders who have investigated the events of Nookat and

18/ See KCHR.

the conviction of 32 people which ensued¹⁹ were systematically harassed. Persecution targeted both Kyrgyz and foreign defenders. On February 26, 2009, Mr. **Vitali Ponomarev**, Director of the Central Asian programme of the Centre for Human Rights “Memorial” in Russia, was blocked at Manas airport by customs officials, deported to Russia and banned from the territory for five years. The organisation Memorial had just published a report headed by Mr. Ponomarev on the serious human rights violations suffered by the accused of Nookat, including the use of torture and fabrication of false evidence²⁰. A colleague of Mr. Ponomarev, M. **Bakhrom Hamroev**, who had travelled to Kyrgyzstan to investigate violations of the rights of the Muslim community in the south of the country by the police in the framework of the fight against terrorism, and specifically on the events of Nookat, was arrested in Osh on November 18, 2009. His Kyrgyz collaborator, Mr. **Izzatilla Rakhmatillaev**, Director of the organisation Law and Order²¹, was also arrested the same day by the Office of National Security Service, where he had gone to obtain information on Mr. Hamroev’s fate, and his apartment was searched. The latter was released the next morning. Mr. Hamroev was meanwhile held overnight by the National Security Service in Osh, and was threatened during his detention²². Accused of illegally collecting information on the social and political situation in Kyrgyzstan and “disseminating information” on the Islamist organisation Hizb-ut-Tahrir, he was deported to Russia on November 19, 2009²³. Finally, Ms. **Nigina Bakhrieva**, former Director of the Centre for Human Rights and the Rule of Law in Tajikistan and currently a consultant for the United Nations High Commissioner for Human Rights on a project for the office of the Ombudsman in Tajikistan, was prevented from entering Kyrgyzstan on December 2, 2009 after having been invited by the Ombudsman of Kyrgyzstan. In September 2009, she had already visited the country to advise the lawyers defending the accused from Nookat on available remedies before the United Nations Human Rights Committee. Ms. Bakhrieva was told she was banned from living in Kyrgyzstan until 2019 because of her “problems” with the “institutions” of Kyrgyzstan,

19/ On May 19, 2009, the Supreme Court sentenced, on appeal, 32 people (including two women and three minors at the time) accused of taking part in the events of October 2008 in the city of Nookat, to sentences ranging from five to 17 years in prison. Scores of the villagers clashed with police after the cancellation of the traditional celebrations of *Eid al Fitr*. Kyrgyz officials said those were members of Hizb-ut-Tahrir and their intention was to overthrow the constitutional order, charges denied by the defendants and their relatives. The defendants’ confessions would have been extracted under torture, and the defendants would have been deprived of their right to a fair trial.

20/ See Memorial.

21/ This association leads investigations on human rights violations in southern Kyrgyzstan.

22/ Mr. Hamroev was, for example, threatened to be delivered to the authorities in Uzbekistan, where he originally came from.

23/ See Memorial.

no further details being given to her²⁴. Members of the Monitoring Commission to the Ombudsman on the events of Nookat were also pressured to dissuade them from conducting investigations²⁵. Ms. Aziza Abdirasulova, President of the Commission, was particularly targeted. On October 2, 2009, a bullet was found in her handbag by customs officials at Sheremetyevo airport in Moscow upon her return from Warsaw, where she had participated in an OSCE meeting and was on a layover in the Russian capital. During customs control in Warsaw, no object of this sort had been found. The Russian police let her go to Bishkek unhindered. On July 16, 2009, a member of the special services presented himself to the offices of the organisation she heads, warning her that she could be prosecuted if she kept making statements on counter-terrorism operations in the south of the country. On April 1, 2009, members of the Homicide Squad made simultaneously stops in different villages to question members of Ms. Abdirasulova's family on her activities²⁶. On September 24, 2009, Ms. **Dinara Ochurakhunova**, President of the Coalition for Democracy and Civil Society and member of the Commission on Nookat events and the Human Rights Defenders' Council to the Ombudsman, was arrested at Bishkek airport after becoming the subject of an alert from the National Security Service. Released after one hour, it would appear that this action was carried out by the special services in order to intimidate her. Ms. Ochurakhunova sent a complaint to the head of the border services, the presidential administration and the President of the Agency for Tourism. As of late 2009, she had received no reply to her letter²⁷.

Retaliation against Ms. Baktigul Imankozhoeva, defender of the rights of victims of Barksoon

In 2009, the judicial harassment increased against Ms. **Baktigul Imankozhoeva**, doctor, Director of the Diagnostic Centre of the City of Barksoon and member of the organisation "Karek", an association of the rights of victims of the environmental disaster in Barksoon²⁸. The harassment seems to be intended to intimidate and cause the demobilisation

24 / See Open Viewpoint Public Foundation.

25 / During the summer of 1998, a truck full of cyanide spilled into the Barksoon region. Twenty tons of toxic chemical waste spilled into the river, which flows into Lake Issik-Kul. This ecological disaster resulted in over 1,000 victims in the region. The truck driver is the only person who was prosecuted, the victims did not receive adequate medical care, and promised compensation to victims were never paid.

26 / See Press Release of the Human Rights Defenders Council to the Ombudsman, April 6, 2009.

27 / See Open Viewpoint Public Foundation.

28 / During the summer of 1998, a truck full of cyanide spilled into the Barksoon region. Twenty tons of toxic chemical waste spilled into the river, which flows into Lake Issik-Kul. This ecological disaster resulted in over 1,000 victims in the region. The truck driver is the only person who was prosecuted, the victims did not receive adequate medical care, and promised compensation to victims were never paid.

of members of civil society acting to promote the rights of victims of the tragedy. On December 15, 2009, the Supreme Court upheld the conviction of Ms. Imankozhoeva, who was sentenced to a two-year suspended sentence despite the fact that the investigation was conducted in violation of rules of criminal procedure (illegal search, pressure on the plaintiffs) and that many witnesses testified to her innocence. The hearing took place in the absence of Ms. Imankozhoeva, who was hospitalised at the time, and of her lawyer, despite the request to postpone the hearing made by the defender's sister. In 2007, Ms. Imankozhoeva was indicted for misuse of building materials and non-payment of wages and then sentenced in June 2008 for "abuse of power" under Article 304 of the Criminal Code by the District Court of Jeti-Oguz, then again on appeal in September 2009 by the Regional Court of Issyk-Kulsk. Ms. Imankozhoeva had already been convicted in 2002 under Article 304 of the Criminal Code after being accused of having sold a newborn. She was then dismissed from her job, but the Supreme Court had overturned the conviction, holding that Ms. Imankozhoeva's guilt could not be proven²⁹.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Maxim Kuleshov and Mr. Mikhail Golovanov	Arrest / Harassment	Urgent Appeal KGZ 001/0309/OBS 045	March 10, 2009
Mr. Ramazan Dyrlydaev / Kyrgyz Committee for Human Rights (KCHR)	Harassment / Threats	Urgent Appeal KGZ 002/0709/OBS 099	July 7, 2009
Ms. Tolekan Ismailova, Ms. Diana Makenbaeva, Ms. Evguenia Krapivina, Ms. Aida Baydzhumanova, Mr. Timur Shaikhutdinov, Ms. Erkingul Imankozhoeva, Mr. Urmat Kzy Mirgul, Ms. Umutay Arykova, Ms. Asiya Sasykbaeva, Ms. Aziza Abdirasulova and Ms. Gulnara Dzhurabaeva	Arbitrary arrest / Sentencing / Obstacles to freedom of peaceful assembly	Open Letter to the authorities	August 4, 2009
Messrs. Bakhrom Hamroev, Izzatilla Rakhmatillaev and Vitaly Ponomarev	Arrest / Deportation	Urgent Appeal KGZ 003/1109/OBS 171	November 23, 2009
Ms. Nigina Bakhrieva	Prohibition from entering the territory	Urgent Appeal KGZ 004/1109/OBS 179	December 3, 2009

RUSSIAN FEDERATION

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

In Russia, the year 2009 was marked by an unprecedented number of murders and violent attacks on human rights defenders and independent journalists. These attacks were intended to establish a reign of terror¹. Government measures to identify, try and sentence the culprits and, more generally, to ensure the protection of human rights defenders, independent journalists and members of the opposition remained insufficient. There was a general climate of insecurity and violence throughout the country. Fascist groups continued to make xenophobic speeches as the number of public demonstrations and racist crimes and attacks increased². In parallel, the idea that Russia is invaded by an uncontrollable flood of migrants who have come to steal work from Russians was widely relayed in the press and in official speeches, giving legitimacy to the stigmatisation and impunity for the attacks endured by defenders of migrants' and minorities' rights. Insecurity was aggravated by the general climate of impunity that reigned in the country, the violence commonly used by the police force, and by a defective legal system. Faced with this situation, at the end of December 2009 the Russian President promised to revise the judicial system, the police and the prisons.

Moreover, the Russian President's promises to democratise the country resulted in little that was concrete. The opposition still had considerable difficulty in making itself heard and there was no end to attacks on freedom of expression. Dissident voices were harshly repressed and were still considered as threats. Once again this year, demonstrations by the "nesoglasnikh"

1/ A symbolic case is that of the Ingush activist Mr. Maksharip Aushev, the owner and former Editor-in-chief of the opposition website www.ingushetiya.ru. He was shot dead on October 25, 2009. A member of the Experts' Council for the North Caucasus attached to the Russian Human Rights Ombudsman, he had been threatened on several occasions before his murder and had escaped an attempt to kidnap him on September 15, 2009.

2/ For instance, on November 4, 2009, the concert by the Russian fascist cult rock group Kolovrat brought thousands of neo-Nazis together to chant racist slogans in complete freedom in the centre of Moscow. The fact that this kind of assembly might be permitted led to the belief that these groups benefit from special protection on the part of the authorities, which is a cause for concern for human rights defenders. See Russian Research Centre for Human Rights (HRO). Furthermore, the warnings given by the Young Europe organisation concerning fascist meetings provoked no reaction from the Prosecutor. See *Caucasian Knot*. According to the Moscow Bureau for Human Rights (MBHR), from January 1 to December 15, 2009, 75 people were killed and 282 people were injured following attacks of a racist nature. During the same period, 300 people were prosecuted for racist crimes. Most of them were sentenced.

movement, the “Dissenters’ marches” that call for a “Russia without Putin”, were brutally dispersed and accompanied by arrests. In addition, the last day of the year was marked by the arrest of 50 people during a demonstration calling for freedom of assembly in Moscow, amongst whom was the former Soviet dissident, founder and President of the Moscow Helsinki Group, Ms. **Liudmila Alexeeva**³.

Furthermore, the security situation worsened throughout the North Caucasus in 2009. Although in April 2009, ten years after the war had started again in Chechnya, President Dmitri Medvedev announced the end of the “anti-terrorist operation” and that the work of reconstruction would continue, the security situation in the republic of the North Caucasus continued to be of great concern. Under cover of apparent “normalisation”, abductions, enforced disappearances, acts of torture and murders continued while the Chechen President Ramzan Kadyrov established a reign of terror, at the same time cultivating a form of cult of personality and exercising power that is almost absolute. Despite efforts by the current President of Ingushetia, Mr. Yunous-Bek Yevkurov, to begin a dialogue with human rights organisations and civil society associations, together with his willingness to reform the bodies responsible for implementing the law, the situation in the small neighbouring republic of Chechnya worsened in 2009, as was the case for the rest of North Caucasus. The atrocities committed by the forces of law and order and agents of the Federal Security Service (FSB, formerly the KGB) in Dagestan and Ingushetia in particular, such as acts of torture, arbitrary detentions and abductions, fuelled the revolt of young people who swell the ranks of the Islamic groups. Attacks on State representatives increased, as demonstrated by the killing of the Dagestan Minister of the Interior, Mr. Adilgerey Magomedtagirov, on June 5, 2009 and the attack on the Ingush President on June 22, 2009. Instability, corruption, arbitrary acts and impunity reigned throughout the other republics of North Caucasus. Finally, the crimes committed in the past and that continued to be committed in the context of the fight against terrorism went unpunished. In this context, defenders who denounced these atrocities and impunity for them were subjected to brutal repression.

Serious persecution of defenders in the North Caucasus

Killings, attacks, threats and harassment of defenders in Chechnya

During the summer of 2009, the Chechen authorities publicly accused members of human rights organisations of being “enemies of the Republic”

and “accomplices of terrorist groups”. As an example, on June 24, 2009, the Chechen President, criticising work by experts who contested the so-called “stabilisation” of the republic, in which the “Memorial” Human Rights Centre had in particular participated, announced on the *Grozny* television channel that he connected the activities of the authors of the report “with banditry, terrorism, criminality”. On July 1, 2009, Mr. Adam Delimkhanov, a member of the Duma close to Mr. Kadyrov, also spoke in hostile terms on the *Grozny* channel about human rights defenders, saying that they “help these devils [i.e. terrorists and fighters] and defend their interests and their actions”. “They do just as much damage as the ones that hide in the woods (...). These devils, these terrorists, the ones that help and support them, we will destroy them”.

This clear hostility was accompanied by murders, attacks and serious threats against defenders. On July 15, 2009, Ms. **Natalia Estemirova**, a member of Memorial, was kidnapped in Grozny and murdered; her brutal death immensely traumatised the community of defenders in Russia and worldwide. The President of the Chechen Republic had personally threatened Ms. Estemirova because of her investigation into cases of abduction, enforced disappearances and summary executions in Chechnya. Following her murder, several other members of the Memorial office in Grozny were threatened. On July 17, 2009 Memorial therefore decided to close the offices of the organisation in Chechnya⁴. In August 2009, the organisation’s employees were the subject of surveillance and pressure. This persecution in particular concerned Mr. **Akhmed Guissaev**, who helped Ms. Natalia Estemirova on the case of the abduction of two men in Grozny on June 28, 2009. Mr. Guissaev had been under surveillance by unknown persons since the beginning of the month of July 2009. This surveillance continued after the killing of Ms. Estemirova, while Mr Guissaev continued the investigation. During the evening of August 13, 2009, unknown armed persons checked Mr. Guissaev’s papers. In addition, Chechen “siloviki” (members of the Government forces of law and order) placed the Grozny premises of the organisation under surveillance. Following serious threats, several members of Memorial also had to leave the country. Furthermore, on August 11, 2009, the President of the organisation “Save the Generation”, a support association for handicapped children, Ms. **Zarema Sadulayeva**, and her husband, Mr. **Umar Dzhabrailov**, were abducted and killed. Their bodies were found in their car and bore traces of torture. The fact that their abduction took place in broad daylight and that the assailants’ faces were not covered leads to the suspicion that the authors of the crime were

4/ They were re-opened on December 16, 2009.

members of the security forces. At the end of 2009, a criminal investigation had been opened but no suspect had been arrested. On October 31, Ms. **Zarema Gaissanova**, a member of the Grozny branch of the Danish Refugee Council, was abducted from her home. Her attackers, probably members of the security forces, also shot at her house, which they partially burned. As of the end of 2009, Ms. Gaissanova's whereabouts remained unknown. On November 9, 2009, the Prosecutor's representative simply informed the mother of the victim that the latter was still alive.

The campaign to discredit members of Memorial and other human rights organisations continued in parallel with these attacks. For instance, in an interview for the newspaper *Zavtra* that was published on September 24, 2009, President Kadyrov accused Memorial of being an association created to "destroy Russia". Similarly, the Chechen Republic Human Rights Commissioner assimilated *Caucasian Knot*, the independent news website responsible for numerous articles on violations in the Caucasus, to a terrorist website. In an interview given on *Radio Freedom* shortly after the murder of Ms. Estemirova, President Ramzan Kadyrov denigrated the defender's work, stating that it was of no interest, and described the activist as a person who had "never had any honour or decency". The Chechen President also filed a complaint against Mr. **Oleg Orlov**, President of the Memorial executive office, for "defamation", demanding 10 million roubles in damages and interest for "moral prejudice". This complaint was made after Mr. Orlov had accused on July 15, 2009 the President of being responsible for the murder of Ms. Estemirova, on Memorial website. On October 6, 2009, the Tverskoy Court sentenced the association to pay a fine of 50,000 roubles (1,140 euros) and Mr. Orlov to a fine of 20,000 roubles (450 euros). In parallel, a criminal investigation was opened against Mr. Orlov on October 20, 2009 by the Central Department of Internal Affairs (GUVd), for "defamation". At the end of 2009, Mr. Orlov, who risked a prison sentence, and one of his colleagues, Ms. **Svetlana Ganuchkina**, were questioned by the police services but no charge was held against them⁵.

Intensification of the repression of defenders throughout the region

All the republics of North Caucasus were also affected by repression. For example, in Dagestan, during the night of August 19 to 20, 2009, a fire was criminally started in the premises of the "Mothers of Dagestan for Human Rights" organisation in Makhachkala, which were totally destroyed. All of the organisation's documents and other property, includ-

410 5/ On February 9, 2010, the Chechen President announced that he would withdraw his complaint.

ing computer equipment, went up in smoke, depriving the organisation of its main working tools. A criminal investigation was opened in the month of October 2009 but, as of the end of 2009, no prosecution had been initiated⁶. In addition, at the beginning of September, hundreds of leaflets were distributed in the town of Makhachkala containing hostile messages against defenders, lawyers and journalists. The authors of the tracts, presenting themselves as “family members of murdered policemen”, called for revenge and openly threatened 250 people with death. Amongst those named were Ms. **Svetlana Isayeva**, Director of the organisation “Mothers of Dagestan for Human Rights”, two Memorial colleagues, Ms. **Bakanay Guseynova** and Mr. **Zaur Gaziyeu**, and Mr. **Isalmagomed Nabiyeu**, a human rights activist⁷.

Impunity for killings and attacks against defenders in the rest of the country

Killings and attacks against defenders were not restricted to North Caucasus, but were carried out throughout the Russian Federation. On March 31, 2009, Mr. **Lev Ponomarev**, Director of the Public Movement “For Human Rights”, was the victim of a particularly violent attack that led to him being hospitalised. In 2008, Mr. Ponomarev had tried to alert the police to the fact that he was being followed, without the latter taking any steps to ensure his safety. At the end of 2009, the case was termed as “banditry committed by a group formed by prior agreement” (Article 162.2 of the Criminal Code), but no arrest had been made.

At the same time, investigations into murders and attacks on defenders saw little progress and no investigation was made into the real people behind the attacks – evidence of the incompetence or the authorities’ lack of willingness to bring those really responsible for the murders of defenders to justice. As an example, as of the end of 2009 it was still not known who was behind the killing of the journalist Ms. **Anna Politkovskaya** on October 7, 2006. On February 19, 2009, the Moscow Military Court acquitted the persons who had until then been accused of carrying out the killing. On June 25, 2009, the Supreme Court quashed the verdict and, on September 3, 2009, ordered the case to be sent back to court and a new

6/ The criminal nature of the fire was confirmed by an agent of the Ministry of Emergency Situations, who found pieces of newspaper soaked in petrol under the window of the premises. After the fire, the Sovietsky district police station in Makhachkala (ROVD) had nevertheless refused to register the complaint filed by Ms. Svetlana Islayeva: it was claimed that an assessment had been carried out by experts from the Ministry of Emergency Situations, attributing the fire to a short circuit in the cabling on the premises. However, at the time of the fire, the current to the office had been cut off two and a half weeks previously. None of the machines was plugged in. See Mothers of Dagestan for Human Rights.

7/ See Memorial.

investigation to be opened. In addition, as of the end of 2009, no-one had been identified as being responsible for the attacks carried out in 2008 against Ms. **Carine Clément**, a French sociologist and defender of social rights in Russia, Mr. **Mikhail Beketov**, Editor-in-chief of *Khimkinskaya Pravda*, a newspaper that denounces local authority corruption, and an activist to safeguard the forest from building projects, and Mr. **Sergey Fedotov**, a defender of the rights of smallholders in the Moscow suburbs. In addition, with regard to Mr. Beketov, who remained in a coma for several weeks after being attacked, a criminal investigation was opened under Article 111 of the Criminal Code for “intention to seriously damage health” and not for “attempted murder”⁸. The investigation was ongoing as of the end of 2009.

Killings, attacks, threats and harassment against defenders who combat discrimination, racism and right-wing extremist groups

In 2009, once again, members of organisations that combat racism and the activities of extreme right-wing movements were victims of violence by neo-Nazi groups that issue increasingly frequent calls for the elimination of defenders and publish on Internet lists of the names and contact details of the persons targeted. The beginning of the year was marked by the killing on January 19, 2009 of the lawyer Mr. **Stanislav Markelov** and the *Novaya Gazeta* journalist, Ms. **Anastasia Baburova**, who accompanied him. Mr. Markelov was investigating the atrocities committed by the forces of law and order in Chechnya and was defending victims of the Nord Ost tragedy. The investigation that followed the killing led to the arrest and conviction for of Messrs. Nikita Tikhonov and Evgenya Khacis on November 3 and 4, 2009⁹. According to the statements of the accused, they killed Mr. Markelov because he was defending persons belonging to the anti-fascist movement. On November 16, 2009, Mr. **Ivan Khutorskoy**, one of the young anti-fascist movement activists, was found dead on the landing of his Moscow apartment building with two bullets in his head. The young 26 year-old activist had been violently attacked with a knife on three occasions since 2005. His name and address were included on neo-Nazi websites calling for him to be killed. Shortly after his murder, the person in charge of the Prosecutor’s Investigation Committee stated that he did not exclude the possibility that the murder was linked to the young man’s anti-fascist activities. The investigation was ongoing as of the end of 2009¹⁰. Similarly, threats against the “SOVA” Centre for Information

8/ *Idem*.

9/ Mr. Markelov was attempting to incriminate the same two people for the murder of a young anti-fascist. See HRO.

and Analysis¹¹ intensified in 2009. On February 8, 2009, the day before the publication of a report on the issue of nationalism and racism in Russia, Ms. **Galina Kozhevnikova**, Vice-President of the SOVA Centre, received death threats by e-mail informing her that she would soon join Mr. Markelov and the anti-racist activist Mr. **Nikolai Guirenko**, murdered in 2004. At the beginning of the year, unknown persons tried to enter the apartment of Mr. **Alexander Verkhovsky**, the Centre Director. The latter had already been the victim of such intrusions in July 2008 and his name and address were included in a list published on the extreme right website *www.vdesyatki.net*. An investigation had then been opened for “revealing personal information” and “death threats”. A new investigation was opened but, as of the end of 2009, no suspect had been identified in either of the two investigations.

The extreme right threat is all the greater because the neo-Nazi movements can express themselves in complete freedom. In July 2009, Mr. **Konstantin Baranov**, in charge of the Rostov-on-the-Don branch of the Young Europe organisation, which promotes the values of tolerance and combats racism, received threats after taking steps to warn the Prosecutor that neo-Nazis would meet in the city of Rostov-on-the-Don. On July 15, 2009, a web page on the Internet site of a member of the Slavic Union extreme right movement published Mr. Baranov’s contact details and a call to “all extreme right sympathisers in Russia” to take “appropriate” action in response to the initiatives of the defender. New threats were published on the same site after Mr. Baranov alerted the SOVA Centre. In Krasnodar, on October 12, 2009, an illegal control¹² was made of the “ETHnICS” association for the promotion of tolerance by the Department of Economic Crimes (OBEP). Three computers were seized and OBEP agents tried to arrest Ms. **Anastasia Denisova**, President of the organisation, member of the coordinating committee of the Youth Human Rights Movement and the Citizens’ Union for a Green Alternative (GROZA) and a collaborator of Memorial. Ms. Denisova refused to submit to being arrested since there was no warrant. Following this search, in December 2009, a criminal investigation was opened against Ms. Denisova for “violation of copyright in the course of her job” on the basis of Article 146.3 § D of the Criminal Code, liable to a six years’ prison sentence and a fine of 500,000 roubles

11 / The SOVA Centre is an organisation that monitors and analyses displays of racism and xenophobia and studies relations between the churches and secular society, as well as political radicalism in Russia.

12 / A complaint that the organisation used pirated software was used as grounds for the search. However, the complaint did not correspond to the address of the office.

(12,400 euros)¹³. Finally, on October 4, 2009, she was stopped at Krasnodar airport and prevented from attending a human rights meeting organised by the OSCE. The day after the search, on October 13, 2009, fearing new reprisals, Ms. Denisova left Krasnodar. In September 2009, Ms. Denisova had additionally been the victim of a slander campaign in the Krasnodar municipal newsletter¹⁴.

Judicial harassment of defenders of the rights of detainees

In the context of considerable concern regarding the state of prisons in Russia and in which the rights of prisoners are not respected, people who denounce the situation are deemed to be an obstacle to the stability of the Russian State and are legally prosecuted for their activities to defend the rights of detainees. The Volgograd correspondent of the *Svobodnoe slovo* (Free Speech) newspaper, Ms. **Elena Maglevannaya**, was sentenced on May 12, 2009 by the Kirov District Court in Volgograd to pay 200,000 roubles (4,613 euros) in damages and interest to the Volgograd penitentiary, in accordance with Article 152 of the Civil Code relating to the “honour and protection of a professional reputation”. This sentence was related to articles by the journalist published in several newspapers and on Internet on the detention conditions of a Chechen prisoner and the ill-treatment that he suffered. The journalist refused to pay the damages and interest and to publish a disclaimer. With the risk of criminal prosecution, she sought asylum in a European country at the end of May 2009. She was not only afraid of being deprived of her freedom but also feared for her safety, as she received death threats from an extreme right-wing group. The defender of detainees’ rights, Mr. **Aleksei Sokolov**, President of the organisation “Legal Basis”, member of the Non-Governmental Commission of Observation of Places of Detention in the Sverdlovsk region and well-known for his denunciations of the use of torture in Russian prisons, has been the victim of judicial harassment since May 2009. Accused of being a “crook” and of “large scale robbery” (Articles 162 and 158.4 of the Criminal Code), he was placed in provisional detention on May 13, 2009 in Yekaterinburg prison No. 1. On December 23, 2009, the Bogdanovich Court, in a closed hearing, extended his provisional detention until March 9, 2010. The accusations against Mr. Sokolov were based on statements

13/ On February 11, 2010, Ms. Anastasia Denisova was charged with “violation of copyright in the course of her job” as well as with “using harmful computer programmes”, an offence liable to a three years’ prison sentence and a fine of 200,000 roubles (around 4,970 euros).

14/ An article published in the municipal newsletter dated September 30, 2009 accused her of inciting national discord and hatred because of her writings on the problem of xenophobia in the Krasnodar region and her work to promote Russo-Georgian dialogue.

forcibly obtained from detainees. Examination of the grounds of the case began in January 2010.

Administrative and judicial harassment of human rights organisations

In 2009, President Medvedev confirmed his willingness to carry out reforms aimed at strengthening civil society in the country. A working group responsible for proposing improvements to the Law on Non-Profit Making Organisations was created by presidential decree on May 8, 2009. The reform process should continue into 2010. The first stage consisted of adopting amendments on the registration and checking of NGOs. These amendments came into force on August 1, 2009 and in particular reduce the checks that NGOs must undergo and the number of authorised grounds for refusal to register. Although these reforms are an important step, they are still not enough since they do not guarantee NGOs protection against arbitrary or politically motivated decisions. The second stage was the drafting of a law to support NGOs that have a social character¹⁵, which would encourage work in the social domain, particularly thanks to State funding and tax benefits. As a result, this support would allow the Government to transfer to NGOs part of its responsibilities relating to the social damage caused by the crisis. However, at the end of 2009, this reform had not been implemented yet. The third stage, planned for the beginning of 2010, will consist in codifying legislation on NGOs and removing the contradictions, regulating NGO taxation and cooperation between NGOs and the State, settling the issue of funding NGOs, and changing legislation relating to the activities of foreign NGOs and international organisations on the territory of the Russian Federation. The human rights organisations call for far greater changes to effectively guarantee the conditions of independence of civil society¹⁶.

However, despite the reforms and the declarations of the head of the executive regarding the reinforcement of freedom of association, the latter was constantly hindered in 2009, particularly on the part of the local authorities. Several organisations encountered obstacles in particular during their attempts to register. In Saratov, for example, in violation of the provisions of the new law, the local department of the Ministry of Justice considered the presentation of a certificate signed by the municipality guaranteeing an address was insufficient for registering organisations, stating that NGOs could only obtain premises at auction, so creating an absurd situation, since in order to sign any property contract, organisations must

15/ These changes were promised by President Dmitri Medvedev during his speech to the nation on November 12, 2009, when he promised to modernise the country on a democratic basis.

16/ See HRO Press Release, December 22, 2009.

have prior legal existence¹⁷. Similarly, as from January 1, 2010, Voronej city council planned to triple the rent of the Human Rights House¹⁸, which was additionally in poor condition¹⁹. Furthermore, NGOs were subjected to checks, including the seizure of their archives, and were prosecuted on unsubstantiated grounds. On the night of July 20 to 21, 2009, in the town of Kazan in Tatarstan, the Agora association and the Kazan Human Rights Centre were searched by agents of the Ministry of Internal Affairs Tax Offences Investigation and Intervention Unit. The laptop computers of the Director of the Kazan Human Rights Centre, Mr. Igor Sholokhov, and the organisation's accountant were seized. On August 5, 2009, representatives of the Inter-Regional Federal Tax Service of the Republic of Tatarstan came to the Agora offices to carry out a tax inspection. In September, Agora filed recourse with the General Prosecutor of the Russian Federation to contest the legality of the search. The Regional Prosecutor responsible to the General Prosecutor concluded that the search was illegal. On November 19, 2009, the Bakhitovsky Regional Court also declared that the search was illegal²⁰. Furthermore, on December 18, 2009, the Minister of Internal Affairs of the Republic of Tatarstan cancelled the tax inspection²¹. Similarly, it was only in March that the Memorial Saint Petersburg Research Centre was able to collect the equipment that had been confiscated during the search carried out in December 2008, after a ruling on March 24, 2009 by the Dzerzhinsky District Court of Saint Petersburg²².

Furthermore, this year human rights associations were again affected by the Law Against Extremism²³. Based on an imprecise definition, the provisions give rise to numerous abuses with regard to the representatives of civil society. Political extremism is one of the Government's favourite

17/ See Human Rights Resource Centre.

18/ The Voronej Human Rights House groups together several associations, such as the Voronej branch of Memorial, a consumers' association, the International Human Rights Defence Group, the Free Labour Confederation, the Youth Human Rights Movement and the Voronej Journalists' Club.

19/ See HRO.

20/ According to the court, agents of the Tatarstan Interior Ministry violated bank secrets, filmed defenders without any grounds, and ordered their financial documents to be handed over with no legal grounds.

21/ See HRO.

22/ The association had contested the legality of the search and demanded the return of the confiscated equipment. On January 14, 2009, the Dzerzhinsky District Court considered that the search had been illegal and demanded that the confiscated archives should be returned. On February 24, 2009, at the request of the Public Ministry, the Saint Petersburg Court cancelled this ruling. The Dzerzhinsky District Court, during re-examination of the case, ruled again on March 24, 2009 and considered that the search was illegal in form since the organisation's lawyer had been prevented from being present during the search.

23/ This law extends the definition of extremism to incitation to racial, religious, political and social hatred and modifies the definition of hate crime in the Criminal Code (Article 63).

accusations for silencing defenders. During the summer and the beginning of the autumn of 2009, the Novorossiysk Prosecutor led a long campaign to discredit the Novorossiysk Human Rights Committee in the name of the fight against extremism. On May 21, 2009, the Prosecutor issued a warning to Ms. **Tamara Karasteleva** and her husband, Mr. **Vadim Karestelev**, members of the organisation, for “inadmissible extremist activity” for having enjoined minors to adopt “antisocial behaviour”. The defenders were accused of having incited agitation in schools, meeting school students to invite them to take part in a demonstration against Law 1539-KZ. Yet, although the defenders denounced the law, which plans to fine parents who do not respect the compulsory curfew for minors, in reality they had carried out no such activity in schools. On September 11, 2009, the Prosecutor tried to set in motion judicial proceedings against the organisation for extremism, calling for the latter to be closed down on the grounds of the warnings and for having displayed the slogan “Freedom is not granted, it’s taken” during a demonstration held on April 4, 2009 and considered to be “extremist”. On September 30, 2009, the Otyabrsky District Court of Novorossiysk ruled that the Prosecutor’s complaint was inadmissible.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Stanislav Markelov	Murder	Urgent Appeal RUS 001/0109/OBS 010	January 19, 2009
Ms. Galina Kozhevnikova	Death threats	Closed Letter to the authorities	February 13, 2009
Mr. Stanislav Markelov, Ms. Anastasia Baburova, Ms. Galina Kozhevnikova and Mr. Nikolai Girenko	Assassination / Death threats	Press Release	February 18, 2009
Mr. Alexandre Verkhovsky and Ms. Galina Kozhevnikova	Threats / Harassment	Urgent Appeal RUS 002/0209/OBS 033	February 26, 2009
Memorial Saint Petersburg Research Centre	Illegal confiscation of equipment / Judicial proceedings / Harassment	Urgent Appeal RUS 011/1208/OBS 207.1	March 4, 2009
Ms. Elena Maglevannaya	Judicial proceedings	Urgent Appeal RUS 003/0309/OBS 052	March 24, 2009
	Sentencing	Urgent Appeal RUS 003/0309/OBS 052.1	May 18, 2009
Mr. Lev Ponomarev	Attack	Urgent Appeal RUS 004/0409/OBS 057	April 1, 2009
Mr. Aleksei Sokolov	Arbitrary detention / Ill-treatments / Risk of torture / Judicial harassment	Urgent Appeal RUS 005/0509/OBS 080	May 20, 2009

Names	Violations / Follow-up	Reference	Date of Issuance
		Urgent Appeal RUS 005/0509/OBS 080.1	August 21, 2009
		Urgent Appeal RUS 005/0509/OBS 080.2	October 27, 2009
		Urgent Appeal RUS 005/0509/OBS 080.3	November 20, 2009
Ms. Tamara Karasteleva and Mr. Vadim Karestelev	Judicial and administrative harassment	Urgent Appeal RUS 006/0609/OBS 087	23 June 2009
Ms. Natalia Estemirova	Assassination / Threats	Press Release	July 15, 2009
Memorial Human Rights Centre	Suspension of activities	Press Release	July 22, 2009
Ms. Natalia Estemirova, Mr. Akhmed Guissaev, Mr. Alexander Cherkasov and Mr. Oleg Orlov / Memorial Human Rights Centre	Threats	Press Release	September 24, 2009
Kazan Human Rights Centre and "Agora"	Search / Harassment	Urgent Appeal RUS 007/0809/OBS 113	August 3, 2009
Ms. Zarema Sadulayeva and Mr. Alik (Umar) Dzhabrailov, Mr. Murad Muradov, Ms. Natalia Estemirova	Assassination	Press Release	August 11, 2009
Mr. Oleg Orlov / Memorial Human Rights Centre / Ms. Natalia Estemirova, Mr. Stanislas Markelov, Ms. Anastasia Baburova, Ms. Zarema Sadulayeva, Mr. Alik (Umar) Dzhabrailov	Judicial harassment	Press Release	October 7, 2009
Mr. Oleg Orlov and Ms. Svetlana Gannushkina	Judicial proceedings	Urgent Appeal RUS 006/1109/OBS 164	November 9, 2009
		Press Release / International Judicial Observation Mission Report	December 21, 2009
ETHnICS / Ms. Anastasia Denisova, Mr. Yuriy Ivaschenko	Search and illegal seizure of equipment / Attempted arbitrary arrest	Urgent Appeal RUS 008/1009/OBS 150	October 15, 2009
Ms. Zarema Gaisanova	Enforced disappearance	Urgent Appeal RUS 009/1209/OBS 189	December 15, 2009

SERBIA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

In 2009, as part of the process of drawing closer to the European Union, Serbia implemented a large number of the reforms required for deregulation of the visa system¹. On March 25, 2009, the Serbian Parliament adopted a draft law against discrimination that defined a legal framework for the protection of all Serbian citizens, whatever their political, religious or sexual orientation or their state of health, whether physical or mental. Despite pressure from the Orthodox Church and conservative opinion that spurred the Government to adopt amendments restricting sexual and religious freedoms, the law was adopted without major changes². Welcomed by human rights organisations, it will come into force at the beginning of 2010.

Serbia must nonetheless ensure resolution of the criminal proceedings opened against Mr. Ratko Mladić and Mr. Goran Hadžić, indicted by the International Criminal Court and still on the run.

In addition, extremist groups continued to carry out violent acts of a racist or homophobic nature, which the authorities seem incapable of combating, although first steps have been recently taken in this direction. On September 26, 2009, the police arrested around thirty activists from extreme right-wing groups, including the head of the extreme right-wing group “Obraz”, Mr. Mladen Obradović. At the end of 2009, these organisations were being investigated and key political figures and authorities also called for a ban on “Obraz” and the “1389” movement³ and their dissolution. However, the ban on demonstrators who marched on November 9,

1/ With regard to this, lifting of the Schengen visa system came into effect on December 19, 2009.

2/ The law prohibits all discrimination, whether racial, national, social or denominational and provides protection against political, cultural, linguistic, physical or psychological discrimination. It also provides for the appointment of a commissioner for the protection of equality responsible for defining violations of this legislation and for taking warning and prevention measures. Fines of up to 10,000 to 100,000 dinars (105 to 1,050 euros) are planned.

3/ The Prosecutor of the Republic of Serbia called for the Supreme Court of Serbia to ban the extreme right-wing groups “Obraz” and “1389” in September 2009. Similarly, at the end of February 2009, the Secretary of State for Human Rights and Minorities, Mr. Marko Karadžić, called for “Obraz” to be banned and petitioned the court to verify the constitutionality and legitimacy of its activities. As of the end of 2009, the Supreme Court had not yet issued a ruling and the court was still considering the case.

2009, the International Day Against Fascism, Racism, Anti-Semitism and Xenophobia, prohibiting them from approaching the Parliament although they had initially been authorised to do so, was interpreted as a sign of the Government's refusal to fully assume its responsibilities in combatting extreme right-wing groups⁴. Human rights defenders complained in general about the lack of political will to protect them from attacks by extreme right-wing groups and to guarantee their rights fully. Furthermore, no sentence resulted from the complaints filed by defenders who were attacked in 2008, which creates a climate of impunity and insecurity that is prejudicial to the work of civil society protagonists.

LGBT defenders are still threatened and their freedom of assembly is frequently flouted

In 2009, defenders of lesbian, gay, bisexual and transgender rights (LGBT) were again subject to violence by extremist groups and suffered from the State's lack of willingness to guarantee their right to freedom of expression and ensure their protection. As an example, the organisation "Gay Straight Alliance" (GSA) encountered numerous problems in organising a press conference to announce the publication of a report on the situation of the rights of homosexuals in Serbia. The press conference, which was to be held on February 26, 2009 at the press centre in the Sava conference centre, was cancelled by the centre's management on February 24, as the use of the premises by an organisation for the promotion and defence of the rights of homosexuals was deemed "inappropriate". The conference was finally held on March 9 in the town of Kragujevas. Defenders who participated were attacked and insulted by young members of extreme right-wing groups (including "Naši", "Obraz", "1389" and hooligans), who threw stones at the windows and doors of the building where the conference was being held, at the same time making death threats⁵. Three of these members were later arrested.

Neither did the Serbian State guarantee freedom of peaceful assembly for defenders of LGBT rights, banning the "Belgrade Pride" parade from taking place as planned on September 20, 2009. Following the organising committee's announcement of the precise date of the event, extreme right-wing organisations launched an intimidation campaign, threatening to invite themselves along to prevent it from taking place and scrawling homophobic slogans such as "death to gays" on the walls of Belgrade. In

4/ The demonstration had been organised by the Women in Black organisation, the lesbian rights organisation Labris (*Organizacija za lezbejska ljudska prava* - "Labris") and the Centre for Peace and Democracy Development (CAA).

parallel, the “Gay Pride” organisation committee made recommendations to the police services to ensure safety at the event, recommendations that were not taken into account. Two weeks before the event was held, the media published calls for violence made by extreme right-wing organisations⁶. On September 19, the organisation committee met the Prime Minister, who presented a letter from the police chief banning the event from the centre of Belgrade due to “considerable risk”⁷. Despite their commitments⁸ and under pressure from extremist groups, the authorities failed in their duty to guarantee LGBT defenders their right to peaceful assembly and freedom of expression. On October 19, five members of the Belgrade Pride organisation committee filed a complaint before the Constitutional Court, which had still not issued a ruling as of the end of 2009⁹. The Organisation for Security and Cooperation in Europe (OSCE) and the Council of Europe expressed their regret following the cancellation of the Gay Pride, recalling the fundamental freedoms of assembly and expression¹⁰.

Attacks on defenders remain unpunished

At the end of 2009, those responsible for the assassination attempt on the independent journalist Mr. **Dejan Anastasijevic**, who had in particular investigated war crimes committed during the war and the illegal activities of the police and the secret services, had still not been identified. On April 14, 2007, a bomb had been thrown into the room of the journalist. Similarly, as of November 2009, no enquiry had been opened into attacks on the Humanitarian Law Centre (HLC) premises and threats against its Director, Ms. **Nataša Kandić**, who had been the subject of a slander campaign in 2008 because of her opinions on the independence of Kosovo. Such a climate of impunity merely encourages attacks against Serbian human rights defenders.

6/ The Helsinki Committee denounced a “campaign of fear” started by the police and the media to sabotage the parade.

7/ See CAA.

8/ On September 18, 2009, Serbian President Boris Tadic declared that the State would protect LGBT activists who took part in the parade and “would do everything possible to protect citizens without taking into consideration their religious, sexual or political persuasion”.

9/ See Belgrade Pride, www.belgradepride.rs.

10/ See Press Release issued by the OSCE Mission and the European Commission Delegation and the Council of Europe’s Office in Serbia, September 21, 2009.

TURKMENISTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Contexte politique

As in previous years, the progress promised by President Berdymuhammedov in terms of political and civil freedoms was minimal. With the exception of the wish of the President to bring the country out of its isolation at the international level and to continue to develop partnerships with Europe, the United States, Russia and China, no major policy change was noted. Whilst cooperation between the European Union and Turkmenistan since 2007 has permitted the start of a human rights dialogue by way of annual meetings such as the one that took place in Brussels in June 2009¹, these debates appear to remain superficial and it is to be feared that EU interests in the region, particularly because of the rich gas reserves and progress in the Trans-Caspian pipeline², remain the priority. Furthermore, after trying to block participation of Turkmen human rights organisations at the annual OSCE Human Dimension Implementation Meeting (HDIM), which took place in Warsaw from September 28 to October 9, 2009, the Turkmen delegation refused to participate in this event, which it condemned in a letter published on September 24, 2009³, a sign of the lack of willingness to carry out reforms that further respect for human rights in the country⁴.

Dissidents, political opponents, independent journalists and human rights defenders remained subject to severe repression and members of their families were threatened. Political pluralism still does not exist, despite the Constitutional reform adopted in 2008, officially giving citizens the right to form political parties. As was previously the case, the State is run by a single party and everything has been done to put obstacles in the way of

1/ See European Union Press Release PRES/09/203, June 30, 2009.

2/ The Trans-Caspian gas pipeline will carry gas from Central Asia to Azerbaijan across the bottom of the Caspian Sea, permitting the transport of gas to Europe.

3/ According to the Head of the Turkmenistan Delegation to the OSCE, certain people on the guest list would be "terrorists", and the OSCE ODIHR would be becoming a "platform for expression by terrorists who are being sought", obliging the delegation to propose to the Turkmen Government that it should revise the terms of its cooperation with ODIHR. See Statement by the Delegation of Turkmenistan to the OSCE at the meeting of the OSCE Permanent Council under the agenda item entitled "Any other business", September 24, 2009.

4/ In a Statement by the Swedish Presidency of the EU on October 18, 2009, the EU regretted the absence of the Turkmen delegation from HDIM.

opponents who might have any vague thoughts of creating new parties. The latter were victims of intimidation acts – with summonses from agents of the Ministry of Domestic Security, threats to their families – or convinced to give up their places in exchange for sums of money⁵. Although the release of the political prisoner Mukhametkuli Aymuradov on May 2, 2009 after serving the whole of his 14 years' prison sentence might have been interpreted as a sign of change, no political prisoner benefited from the three presidential amnesties that freed thousands of people in 2009⁶. In addition, the media remain under total supervision and it is impossible to find any independent sources of information. Foreign media are banned. Certainly, the number of Internet cafés has increased (even though there are still less than thirty throughout the country), but access to independent websites is still blocked, all the sites visited by Internet users are registered and any e-mail exchanges between persons suspected of being “traitors to the country” or considered as opponents are monitored⁷. While freedom of peaceful assembly is inexistent, the right to freedom of movement is strictly controlled, with a “blacklist” of people who are forbidden to leave the country. The new Immigration Services Law, ratified by the President of the Republic on December 2, 2009, still limits the Turkmen people's right to freedom of movement and grants considerable privileges to the Department of Migration⁸. Defenders and their family members are particularly affected by this violation of their right to move freely, which is one of the authorities' favourite ways of isolating any dissident voice⁹.

Violation of the right to freedom of association

The 2003 Law on Public Associations, which gives the Government total control over the activities and funding of non-governmental organisations, remained in force in 2009. Although several hundred associations exist that are officially registered with the Ministry of Justice, in reality they are only Government mouthpieces. Once again this year, no independent

5/ See Turkmenistan Helsinki Foundation.

6/ 3,934 prisoners were released on December 12, 2009 for the Turkmen National Holiday. The first amnesty was on February 19, 2009, National Flag Day, when 990 prisoners were released. Finally, 1,284 detainees were released for Layat Al-Qadr, marking the end of Ramadan, on September 15, 2009.

7/ See Turkmen Initiative for Human Rights (TIHR) Press Release, June 16, 2009. In December 2009, the *Youtube* video website and the on-line *LiveJournal* blog were blocked.

8/ This particularly relates to passport control for Turkmen citizens who leave or enter the country, and research and investigation activities (Article 14 of the Law on Migration Services). The use of force by the Migration Services is authorised (Article 3.1 and Part III of the Law on Migration Services), and the law additionally creates a new paramilitary force and a new security service. During the summer of 2009, the ban on hundreds of students leaving Turkmenistan to go and study abroad, especially in Turkey, Kazakhstan, Kyrgyzstan, Russia and the United States, illustrated the determination of the Turkmen authorities to restrict the free movement of its citizens. See Turkmenistan Helsinki Foundation.

9/ See Turkmenistan Helsinki Foundation.

association was able to register officially in Turkmenistan, a reflection of the State's fear of losing the slightest control over the social, political and economic life of the country¹⁰. The amendment of Article 28 of the Law on Public Associations¹¹, adopted on July 2, 2009, made the situation of NGOs worse with the provision that associations that receive foreign funding up to a certain unspecified threshold and those whose activities extend beyond the scope of their usual remit will be subject to investigation by the Ministry of Justice. The lack of clarity of the law, especially regarding the threshold for foreign investment and the nature of the scope of usual remit, leads to the fear of arbitrary interpretation¹². In the general environment of intimidation, this amendment could discourage associations from applying for foreign funding from now on, even though no domestic funding exists. Members of independent associations are therefore obliged to work clandestinely and are strictly controlled. Their telephone calls are bugged, their e-mails monitored and they are regularly summoned by the intelligence services. Their family members are subjected to the same repressive measures. Pressure is put in particular on defenders and independent journalists who have contacts abroad.

Repression of journalists and the independent media that denounce human rights violations

In an atmosphere of total control of the media, persecution of independent journalists who report on human rights violations and denounce the political system, as well as their family members, continued in 2009. Once again this year, journalists from *Radio Free Europe/Radio Liberty (RFE/RL)* were the principal targets of Government services. On November 17, 2009, the journalist Ms. **Kurbansoltan Atshilova** was summoned by the National Security Committee (KNB) and threatened with being charged if she did not end her work as a journalist. She was also warned that, if she did not do so, she and her children and grandchildren would encounter serious problems¹³. Similarly, Mr. **Osman Halliev**, a correspondent for *RFE/RL* in the Lebap region, who had in particular covered the 2008 parliamentary elections, received threats. Pressure was also put on members of his family. At the beginning of January 2009, he was arrested and then held for several hours in the Lebap province prison. Following this, his Internet connection was restricted, his telephone line was cut, and his son, his daughter-in-law and his son-in-law lost their jobs. In the

10/ See Institute for War and Peace Reporting (IWPR) Press Release, August 11, 2009.

11/ The amendments to the Law on Public Associations were made in the framework of the Law on the Introduction of Amendments and Additions to Certain Legislative Acts, adopted on July 2, 2009.

12/ See TIHR Press Release, October 12, 2009.

13/ See Turkmenistan Helsinki Foundation.

middle of January 2009, Mr. Halliev again received threats by telephone. He tried to file a complaint concerning the persecution suffered by his family and himself, but the authorities refused to start an investigation on the pretext that the facts reported were not in breach of the law¹⁴. Mr. **Sazak Durdymuradov**, an *RFE/RL* correspondent who had been arrested and interned in a psychiatric hospital then released in 2008, was also relentlessly harassed. He was constantly summoned and tailed by the intelligence services in Bakhaden, where he lives. He was advised not to go to the capital, Ashgabat. Finally, the letters he sent to the Presidential Council and the Presidential Commission concerning the pressures to which he is subjected were regularly diverted¹⁵. Furthermore, in 2009, the Turkmen authorities still refused to open an investigation into the death in prison, in September 2006, of the *RFE/RL* journalist Ms. **Ogulsapar Muradova**. Even worse, all attempts by the journalist's entourage to inform international organisations and foreign governments of the situation were repressed¹⁶. At the end of 2009, journalists Messrs. **Annakurban Amanklitchev** and **Sapardurdy Khadjiev**, arrested at the same time as Ms. Ogulsapar Muradova and sentenced on August 25, 2006 to seven years in prison for having worked together on a documentary entitled "The Niyazov dictatorship – Turkmenistan: in the country of shadows" (*La dictature de Niazov – Turkmenistan: au pays des ténèbres*) for the "Envoyé spécial" programme for the French TV channel *France 2*, remained in Turkmenbachi prison. The two requests for amnesty that they made in 2009 were met with silence on the part of the President. As well as their telephones being bugged, all those close to Mr. Annakurban Amanklitchev and the extended family of Mr. Sapardurdy Khadjiev, even including distant cousins, were placed on the "blacklist" and were not allowed to leave the country¹⁷.

Judicial harassment of a defender of the right to the environment

Justice was still a weapon used by the authorities to harass critical voices and the courts sentence defenders who represent a threat to the government on the basis of fabricated evidence and at the end of hearings that violate the rules for a fair trial. On October 29, 2009, the Dashoguz Court sentenced Mr. **Andrei Zakota**, a biology researcher and environmental activist who holds Turkmen and Russian nationality, to five years in prison for "causing injuries of medium severity"¹⁸ on the basis of fabricated evi-

14/ See *RFE/RL*.

15/ See Turkmenistan Helsinki Foundation.

16/ *Idem*.

17/ *Idem*.

18/ In application of Article 108, paragraph 2, of the Criminal Code.

dence and following an unfair trial. He had been arrested on October 20, 2009 after being attacked by an unknown person in Dashoguz market. His attacker was quickly released while Mr. Zakota was detained, charged and sentenced. Following considerable international mobilisation, the Dashoguz Court re-examined his case on November 6, 2009 and commuted his prison sentence to a fine of 1,000 Turkmen manats (around 230 euros). His arrest came at the end of three years of intimidation and harassment by the Turkmen authorities¹⁹. His release was conditional on him giving up Turkmen nationality and Mr. Andrei Zakota left the country on November 7, 2009 to go to Russia, his second country of nationality.

Urgent Interventions issued by The Observatory in 2009

Name	Violations / Follow-up	Reference	Date of Issuance
Mr. Andrei Zatoka	Arbitrary detention / Judicial harassment	Urgent Appeal TKM 001/1109/OBS 161	November 5, 2009
	End of proceedings / Release	Urgent Appeal TKM 001/1109/OBS 161.1	November 6, 2009

19/ Arrested in December 2006, he had been charged with "hooliganism" and then the charges against him had been changed to "illegal possession of weapons or explosives, and illegal distribution of active or poisonous substances" particularly after deadly snake poison was apparently found at his home. He had spent 46 days in detention and had been released. In January 2007, the Dashoguz City Court had given him a suspended three-year prison sentence. The sentence had been quashed as part of a collective presidential pardon for around 9,000 prisoners. Mr. Zakota had been forbidden to leave Turkmenistan since June 2008.

UZBEKISTAN

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

On October 27, 2009, the European Union lifted the arms embargo in Uzbekistan, the last of the sanctions imposed on the country following the Andijan massacre in May 2005, with the aim of “encouraging the Uzbek authorities to take further substantive steps to improve the rule of law and the human rights situation”¹. The human rights situation remains worrying, however. Although several prisoners of conscience were released, such as the opposition politician Mr. Sanjar Umarov on November 7, 2009², at least sixteen human rights defenders and around thirty political opponents were still being held in detention in appalling conditions³ at the end of 2009.

Freedoms of expression and association remained highly restricted in 2009 under the heading of the fight against terrorism and religious extremism. Journalists, members of associations and political opponents continued to be harassed, ill-treated and prosecuted when trying to communicate any kind of information concerning the socio-political situation in the country, or to demonstrate any disagreement with government policy. The Government’s security policy also permits close surveillance of the population. Members of civil society are tailed, their communications bugged and their homes placed under surveillance. The increase in arrests and sentencing on political grounds has been made possible by a criminal justice system that is corrupt and follows orders⁴. No human rights association or political party was registered in 2009. Government refusal to authorise the registration of opposition political parties made it impossible for the latter to take part in the election process. For the December 27, 2009 parliamentary elections, which took place in a climate of intensified

1/ See European Union General Affairs and External Relations Council (GAERC) Decision of October 27, 2009.

2/ Arrested in October 2005 after having openly criticised the events in Andijan in May 2005, Mr. Sanjar Umarov had been sentenced to 14 years in prison. The reasons for his release, which was not related to a collective amnesty, remain unexplained.

3/ See Human Rights Society of Uzbekistan (HRSU).

4/ Indeed, the nomination of Supreme Court judges is the exclusive responsibility of the President, and there is no guarantee of the right to a fair trial since confessions are regularly obtained under torture and evidence is fabricated.

repression of defenders, journalists and all independent voices⁵, the two opposition parties “Erk” and “Birlik” remained banned and the Central Election Committee authorised only four pro-Government parties⁶ already seating in Parliament to take part in the elections. Mr. Bahodir Choriev, the leader of the “Birdamlik” opposition movement, was expelled from Uzbek territory on December 11, 2009, two months after his return from exile and two weeks before the first round of the parliamentary elections⁷. Moreover, despite the government decree adopted in 2008 banning child labour and the ratification on March 6, 2009 of ILO Convention 138 on the Minimum Age for Admission to Employment or Work, children were again forced to work in the cotton fields in the autumn of 2009⁸.

In general, human rights defenders are among primary victims of the authoritarian power of President Islam Karimov, based on a system of widespread corruption, the regular use of repression, criminalisation of social protest and silencing of all dissenting voices.

Ongoing arbitrary detentions and judicial harassment of human rights defenders

In 2009, several defenders were prosecuted on the basis of false accusations, false evidence and false testimony and sentenced following unfair trial. As an example, Mr. **Farkhad Mukhtarov**, a member of the Uzbekistan Human Rights Alliance (*Pravozashchitni Alians Uzbekistana* – PAU), was sentenced on December 3, 2009 to four years’ imprisonment for “fraud” (Article 168.3 of the Criminal Code) and “corruption” (Article 28.211.2 of the Criminal Code) by the Iunussabatski District Criminal Court in Tashkent⁹. He would have been subjected to ill-treatment and pressure during his detention. Mr. Mukhtarov was arrested while he was going to file a complaint with the Prosecutor against members of the security forces.

5/ See Report of November 6, 2009 by the ODIHR of OSCE on the December 27, 2009 parliamentary elections in Uzbekistan. In the report, ODIHR justified its decision to send only one limited observation mission by the fact that fundamental freedoms continued to be restricted, that current general policy did not offer electors a real choice of competing political alternatives, that previous ODIHR recommendations had remained unaddressed and that no progress had been made in bringing the legislative framework in line with OSCE recommendations.

6/ These are the Uzbekistan People’s Democratic Party, the “Adolat” (justice) Social Democrat Party, the Liberal Democrat Party and the “Milliy Tiklanish” National Revival Party.

7/ Altogether 506 candidates stood for 135 seats in the lower chamber of the Uzbek Parliament. 94 members of Parliament were elected in the first round. The officially reported 87.8% rate of participation is contested by human rights associations, which estimate it at between 22 to 26%. The second round took place on January 10, 2010. See Human Rights in Central Asia.

8/ See Human Rights in Central Asia.

9/ On October 2, 2009, the Yunnusabad District Criminal Court in Tashkent had initially sentenced Mr. Mukhtarov to five years in prison.

Frequent use is also made of accusations of terrorism to charge defenders and place them in detention. For instance, Mr. **Gaybullo Jalilov**, a member of the Karshi branch of the Human Rights Society of Uzbekistan (HRSU) and a defender of the rights of prisoners of conscience, remained prosecuted as of the end of 2009, for intending, supposedly, to organise an attack at Karshi airport. His place of detention was still unknown¹⁰. At the end of 2009, the photographer Ms. **Umida Akhmedova** was subject to judicial proceedings following an investigation carried out by the Uzbek Press and Information Agency¹¹ into films and books by the photographer on the issue of gender equality. Prosecuted for “defamation” and “insulting the Uzbek people” (Articles 139 and 140 of the Criminal Code), she risks a sentence of six months’ detention, or two or three years of “correctional labour”.

Furthermore, although two defenders were granted amnesties and released in August 2009¹², at least twelve others, arrested between 2005 and 2008 and sentenced to five to ten years’ imprisonment, remained detained in Uzbek jails in appalling conditions. Most defenders in prison suffered from serious health-related problems and received none of the treatment needed. The deterioration in detainees’ health is related to detention conditions as well as to the ill-treatment of prisoners. Furthermore, the mental health of detainees is undermined by the pressures they are put under as well as by the authorities’ systematic refusal to accede to their requests for amnesty. The health of certain defenders was particularly alarming at the end of 2009. Mr. **Nasim Isakov**, a member of the Djizak branch of HRSU, was suffering from violent headaches and his hearing had deteriorated due to the torture he was subjected to at the time of his arrest¹³. Similarly, the ill-treatment and constant humiliation of Mr. **Yusuf Jumaev** led to the deterioration of his health. In September, for no official reason, he was placed in isolation, where the only food he was given was bread and water.

10/ On January 18, 2010, Mr. Jalilov was sentenced in a closed hearing to nine years in prison by the Kashkadaria Regional Court.

11/ The investigation by the Press and Information Agency was opened following the launch in March 2009 of a “Programme to reinforce national sentiment and the fight against phenomena and activities that are foreign to the Uzbek way of life and mentality”. The programme began with the examination of publications and projects produced by international organisations in order to determine whether they should be considered as being “hostile to national culture and traditions”.

12/ These are Ms. Oyazimkhon Khidirova, a member of the Djizak branch of HRSU, released on August 30, 2009, and Mr. **Abdulsattor Irzaev**, a member of the Ishtikan branch of HRSU, released on August 10, 2009 following a request for amnesty that had been made one year before, following a collective amnesty in February 2008. Arrested on June 4, 2005, he had been sentenced to six years in prison on October 18, 2005 for “defamation, extortion and fraud”.

13/ Arrested on October 27, 2005 and sentenced to eight years in prison, Mr. Isakov is held in prison colony U/Ya 64/3 (Tavaskai, Tashkent region).

He has great difficulty in walking and has lost a considerable amount of weight¹⁴. Mr. **Norboy Kholjigitov**, a member of the Ishtikhan branch of HRSU, has lost 40 kg since the start of his detention. He suffers from diabetes, black marks have appeared on his body, indicating the beginnings of gangrene, and he has lost all his teeth. On December 5, 2009, his health became even worse as he suffered from bronchitic asthma, and he was transferred to a health care facility (U/Ya 64/18) in Tashkent¹⁵. As of the end of 2009, Mr. **Khabibilla Okpulatov**, a member of the Ishtikhan branch of HRSU – who weighs no more than 55 kg, can no longer use his right leg and has serious sight problems –, also remained in detention. Although he was due to be released on August 4, 2009, the Navoy Court extended his sentence for a further three years on September 29, 2009 and then in appeal on November 26, 2009, for having violated detention centre regulations. Mr. Okpulatov's lawyers received no notification of the hearings. The defender appealed to the Uzbekistan Supreme Court¹⁶. The state of health of the journalist defender Mr. **Salidjon Abdurakhmanov** was also extremely critical. He has lost a considerable amount of weight and suffers from an allergy due to the poor quality of the water. In spite of undertakings by the prison management to transfer him to a prisoners' hospital ward, no steps had been taken to do this by the end of the year¹⁷. Finally, Mr. **Agzam Turgunov**, Director of the "Mazlum" Human Rights Centre¹⁸, weighed only 40 kg in December 2009. Furthermore, as of the end of 2009, it had not been possible to obtain any information about the state of health of Mr. **Yuldosh Rasulev**, a member of the Kashkadaria branch of HRSU, sentenced to ten years in prison in 2007¹⁹, Mr. **Azamjon Formonov**, Chair of the Sirdaria branch of HRSU²⁰, Mr. **Jamshid Karimov**, a member of the

14/ Arrested on December 17, 2007 and sentenced to five years in prison, Mr. Jumaev is held in prison colony 64/71, Karakalpak Republic.

15/ In 2005, Mr. Kholjigitov was sentenced to 10 years in prison.

16/ Arrested on June 4, 2005 and sentenced to six years in prison, Mr. Okpulatov remained imprisoned as of the end of 2009 in prison colony U/Ya 64/29, in Navoy. In January 2010, Mr. Okpulatov was transferred to the U/Ya 64/45 strict regime prison colony in Almalik, Tashkent region.

17/ Mr. Abdurakhmanov has been detained since June 7, 2008 in prison colony U/Ya 64/5, in the Kashkadaria region.

18/ "Mazlum" is an association that defends prisoners of conscience. Arrested on July 11, 2008, tortured during interrogation on July 14, 2008 (boiling water was poured over him), and sentenced to 10 years in prison, Mr. Turgunov is detained in prison colony U/Ya 64/49 of the city of Karchi, Kashkadaria province.

19/ At the end of 2009, Mr. Rasulev would still be held in prison colony U/Ya 64/25, in the Bukhara region.

20/ Arrested and sentenced to nine years in prison in 2006, Mr. Formonov was being held as at the end of 2009 in prison colony U/Ya 64/71 (Djaslik, Karakalpak Republic), where he was tortured. On January 22, 2010, Mr. Formonov was transferred for a few days to the U/Ya 64/SI-9 prison in Nukus, Karakalpak Republic. This transfer aimed to remove the defender from the attention of the international community at the time of an International Red Cross visit.

Djizak branch of HRSU²¹, Mr. **Abdurasul Khudoynazarov**, Director of the Angren branch, Tashkent region, of the organisation “Ezgulik”²², and Mr. **Zafar Rakhimov**, a member of the Kashkadaria branch of HRSU²³. On the other hand, the state of health of Mr. **Alisher Karamatov**, Director of the Mirzabad branch of HRSU, improved in 2009 but his wife is under constant supervision²⁴.

Repression of defenders of economic, social and cultural rights

In 2009, defenders of the right to land were particular targets of repression in a context in which many peasant farmers have seen their land confiscated in recent years. Mr. **Dilmurod Saidov**, a journalist, member of the “Ezgulik” human rights organisation and defender of the rights of smallholders, was arrested on February 22, 2009, then sentenced on July 30, 2009 in first instance and in appeal on September 2, 2009 to twelve and a half years’ detention for “extortion” (Article 165 of the Criminal Code) and “falsification of documents” (Article 228 of the Criminal Code)²⁵. At the end of 2009, Mr. Saidov was detained in prison colony U/Ya 64/47 in very harsh conditions that caused his health, which was already poor as he suffers from tuberculosis, to deteriorate. Ms. **Oyazimkhon Khidirova**, a member of the Djizak branch of HRSU, was arrested on July 28, 2009 and charged with “banditry” (Article 277.3 of the Criminal Code), “tax evasion” (Article 184), “abuse of power” (Article 205), and “fraud” (Article 168), because of the publication of information on the situation of smallholders in the district of Dustlik, blaming the local authorities. Ms. Khidirova was released on August 30, 2009 by a ruling of the Arnassayski District Court in Djizak following a collective amnesty. Similarly, Mr. **Ganikhon Mamatkhanov**, a member of the Independent Human Rights Society in Uzbekistan, an activist against forced child labour and in favour of farmers’ rights, was sentenced on November 25, 2009 to five years in prison for “corruption” (Article 211.3 of the Criminal Code) and “fraud” (Article 168.3 of the Criminal Code) by the Akhunbabaev District Court in Ferghana. Just

21/ On September 12, 2006, M. Karimov was sentenced to three years’ detention in a psychiatric hospital. As of the end of 2009, he was apparently still being held at the Samarkand psychiatric hospital. Unable to keep on bearing the ill-treatments, he had attempted to commit suicide in 2008.

22/ Sentenced to nine and a half years in prison in 2006, Mr. Khudoynazarov would still be held at the U/Ya 64/21 strict regime prison colony.

23/ Mr. Rakhimov was sentenced to six years in prison in October 2007.

24/ Sentenced in 2006 to nine years in prison, as of the end of 2009 Mr. Karamatov was still detained in the U/Ya 64/18 medical facility to which he had been transferred on October 12, 2008 due to his alarming health status.

25/ During the trial, key witnesses changed their testimonies, stating that they had been put under pressure. In addition, Mr. Saidov did not benefit from the assistance of a lawyer during the hearings.

before his arrest, Mr. Mamatkhanov had sent a letter to President Karimov to denounce the implementation of a decree that led to the confiscation of lands belonging to smallholders, to the benefit of large landowners. Mr. Mamatkhanov would have suffered two heart attacks since the start of his detention and his state of health would require medical attention. On October 7, 2009, Mr. Mamatkhanov had also been the victim of a defamation campaign after he had denounced the problem of non-payment of salaries and pensions in Ferghana valley, in an interview on radio *Ozodlik*²⁶.

Furthermore, on October 14, 2009, several defenders were prevented from holding a rally in Djizak to denounce the exploitation of children in the cotton fields. Ms. **Nuria Imankulova**, Ms. **Gavkhar Berdieva-Iuldacheva** and Ms. **Mukhabbat Khassanova**, defenders from Djizak city, and Ms. **Elena Urlaeva**, a member of PAU, were arrested as they left their homes, and held in different police stations in the town, where they were insulted before being released a few hours later. After their arrest, Ms. Imankulova and Ms. Urlaeva were forcibly taken to the town hall to begin negotiations on the issue of child labour in cotton fields. The police nonetheless filed a complaint against Ms. Urlaeva for violating the rules on holding rallies and demonstrations, under Articles 201-2 and 202 of the Administrative Code. As of the end of 2009, the Galaarle District Criminal Court in Djizak had still not issued a verdict²⁷. In order to discourage defenders, threats were also made against their families. As an example, a few days before the day the rally was due to be held, a member of the Djizak Regional Department of Internal Affairs threatened to stone to death Ms. Gavkhar Berdieva and her relatives. Similarly, on the morning of October 14, 2009, Ms. Urlaeva's husband was arrested by the special services, who demanded that he throw his wife out of his home and threatened to arrange so that he be dismissed from his job if his wife held rallies before the elections²⁸.

Harassment and intimidation of defenders to dissuade them from taking part in peaceful rallies

Considerable pressure was put on defenders who took part in peaceful rallies. As an example, defenders were intimidated on several occasions in order to dissuade them from taking part in the rally planned for May 13, 2009 to commemorate the Andijan massacre. The day before the rally, a police inspector and a member of the Anti-Terrorist Division arrested Mr. **Bakhodiy Namazov**, Chair of the Committee for the Release of

26 / *Ozodlik* is the Uzbek branch of *Radio Free Europe/Radio Liberty*.

27 / See PAU.

28 / *Idem*.

Prisoners of Conscience and Director of HRSU, at the home of Mr. **Oleg Sarapulov**, Director of PAU Press Centre. After his papers were checked, Mr. Namazov was warned that he should not take part in the rally. The two men were followed as they left their meeting place by car. The homes of two members of PAU, Ms. **Victoria Bajenova** and Ms. **Lyudmilla Kutepova**, of Ms. **Tatyana Dovlatova**, member of the Committee for the Release of Prisoners of Conscience, and of Ms. Elena Urlaeva were placed under surveillance. Ms. Dovlatova and Mr. **Surat Ikramov**, Head of the Initiative Group of Independent Human Rights Activists of Uzbekistan, also received calls to dissuade them from going to the demonstration. Pressure was also put on members of the families of Ms. Dovlatova and Ms. Bajenova. On the day of the demonstration, the special services put pressure on two members of PAU, Mr. **Shukhrat Rustamov** and Mr. **Syd Yanishev**, who were unable to go to the rally location. Mr. Ikramov was arrested by the Anti-Terrorist Division, held at Sabir Rakhimovski police station in Tashkent and then released and forbidden to leave his home, which was being watched by the police. Mr. **Abdulov Ilnur**, a member of PAU, was arrested and held at the Iunusabadski district police station, where he was ill-treated. Mr. **Anatoli Volkov** and Ms. **Salomat Baymatova**, both members of PAU, Mr. **Abdulla Tadjibay-Ugli**, active in promoting fair and transparent elections, Ms. Urlaeva, Ms. Dovlatova and Mr. Sarapulov were also arrested and held at different police stations in Tashkent. Ms. Baymatova was insulted and threatened with being charged during her detention, while Ms. Dovlatova and Ms. Urlaeva did not receive the medical assistance they requested. Mr. Bakhodyr Namazov was threatened with arrest and his house was placed under surveillance.

Increased systematic repression of defenders, including foreigners, during the election campaign and on the day of the parliamentary elections

Repression of defenders increased as the parliamentary elections approached. On December 8, 2009, Ms. Berdieva and Ms. Imankulova were arrested in Tashkent while they prepared to hold a peaceful meeting in front of the presidential palace to challenge the arbitrary practices of judges and security forces in the Djizak region. They were taken to Djizak police station and held in the cold and with no food until the middle of the night. The next day, the two women were again arrested at their home and held in the same conditions until 11 pm. On December 10, 2009 the police banned them from leaving their homes until the day of the elections²⁹. Similarly, many defenders from the Djizak region were victims of a general campaign of intimidation. On November 9 and 11, 2009, Mr. **Uktam**

29/ *Idem.*

Pardaev, Chair of the Djizak branch of the Independent Human Rights Association, was detained for the whole day in a café by members of the Department of Internal Affairs (ROVD) without being given any reason for the “meeting”. On November 9, 2009, Ms. **Saida Kurbanova**, Chair of the Pakhtakorski district branch of HRSU, was arrested by members of the Department of Criminal Investigation and held at the police station, and then at Pakhtakorski town hall for six hours. On November 11, 2009, a similar attempt failed because Ms. Kurbanova could not get around because of health reasons. Her home was nevertheless watched for the whole day. As the elections approached, the Uzbek Government also prevented Ms. **Tatiana Lokshina**, a researcher with the Human Rights Watch association based in Moscow, from meeting two members of HRSU, Mr. **Nodir Akhatov** and Ms. **Gulshan Karaeva**, in Karshi on December 5, 2009. Indeed, police officers arrested Mr. Akhatov in the bus that was taking him to the appointment location, and then held him until the evening. Furthermore, while Ms. Lokshina was walking to Ms. Karaeva’s home, she was violently attacked by a woman. The police then arrested Ms. Lokshina, accusing her of starting the fight and disturbing public order. After her arrest, Ms. Lokshina was searched, questioned about the reasons for her stay, held for four hours and then obliged to leave Karshi. The next day, Ms. Lokshina was unable to meet Mr. **Akhmadjon Madumarov** either, a member of the Independent Human Rights Organisation of Uzbekistan in Margilan, in the Ferghana valley, since the latter was held at the police station for no reason and only released following Ms. Lokshina’s departure³⁰. Repression of defenders continued on the day of the elections. Mr. Bakhodyr Namazov was unable to leave his home because the Anti-Terrorism Department had banned him from going to the polling station unless he was accompanied by one of its agents. Similarly, the homes of Ms. Gulshan Karaeva and Mr. Nodir Akhatov were placed under surveillance on voting day. They had regularly been tailed during the previous week³¹. Finally, on December 21, Uzbek State television broadcast a documentary that presented Mr. Salidjon Abdurakhmanov, Mr. Yusuf Jumaev, Ms. Oyazimkhon Khidirova and a political opponent as dangerous persistent offenders. Mr. Abdurakhmanov was presented as being a drug trafficker, Mr. Jumaev a dangerous criminal and Ms. Khidirova as being a swindler. The documentary would have been commissioned by the Uzbek Government which, with the parliamentary elections in view, was attempting to increase pressure and intimidation of representatives of the opposition and of the Uzbekistan human rights movements³².

30/ See HRSU and Human Rights Watch.

31/ *Idem*.

32/ See HRSU.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Norboy Kholjigitov and Mr. Alisher Karamatov	Serious health deterioration / Torture / Arbitrary detention / Sentencing in appeal	Urgent Appeal UZB 001/0109/OBS 005	January 14, 2009
	Ongoing arbitrary detention	Urgent Appeal UZB 007/0809/OBS 118	August 20, 2009
	Deterioration of health	Press Release	August 28, 2009
Mr. Akzam Turgunov	Sentence upheld in appeal / Arbitrary detention	Urgent Appeal UZB 002/0908/OBS 153.2	January 14, 2009
	Deterioration of health	Press Release	August 28, 2009
Ms. Lyudmila Kutepova, Ms. Victoria Bajenova, Ms. Elena Urlaeva, Ms. Salomat Baymatova, Ms. A. Kim and Ms. Tatyana Dovlateva, Messrs. A. Mukhitdinov, Zulkhumor Tuychieva, Anatoli Volkov and Oleg Sarapulov	Sentence upheld in appeal	Urgent Appeal UZB 003/1208/OBS 212.1	February 16, 2009
	Assault	Urgent Appeal UZB 002/0409/OBS 064	April 23, 2009
Ms. Victoria Bajenova, Ms. Lyudmila Kutepova, Ms. Tatyana Dovlatova, Ms. Elena Urlaeva and Ms. Salomat Baymatova, and Messrs. Surat Ikramov, Bakhodyr Namazov and Oleg Sarapulov	Arbitrary arrest / Harassment	Urgent Appeal UZB 003/0509/OBS 075	May 14, 2009
Mr. Dilmurod Saidov	Arbitrary detention / Judicial harassment	Urgent Appeal UZB 004/0709/OBS 106	July 20, 2009
	Sentencing	Urgent Appeal UZB 004/0709/OBS 106.1	July 31, 2009
	Ongoing arbitrary detention	Urgent Appeal UZB 007/0809/OBS 118	August 20, 2009
Ms Oyazimkhon Khidirova	Arbitrary detention / Harassment	Urgent Appeal UZB 005/0809/OBS 114	August 5, 2009
	Ongoing arbitrary detention	Urgent Appeal UZB 007/0809/OBS 118	August 20, 2009
	Release	Urgent Appeal UZB 005/0809/OBS 114.1	September 1, 2009
Mr. Farkhad Mukhtarov	Arbitrary detention / Harassment	Urgent Appeal UZB 006/0809/OBS 116	August 10, 2009
	Ongoing arbitrary detention	Urgent Appeal UZB 007/0809/OBS 118	August 20, 2009
	Sentencing	Urgent Appeal UZB 006/0809/OBS 116.1	October 14, 2009

Names	Violations / Follow-up	Reference	Date of Issuance
	Arbitrary detention / Appeal against sentence	Urgent Appeal UZB 006/0809/OBS 116.2	November 25, 2009
Mr. Abdulsattor Irzaev	Arbitrary detention / Health deterioration / Release	Urgent Appeal UZB 007/0809/OBS 118	August 20, 2009
Mr. Khabibulla Okpulatov	Ongoing arbitrary detention	Urgent Appeal UZB 007/0809/OBS 118	August 20, 2009
	Health deterioration	Press Release	August 28, 2009
Messrs. Salidjon Abdurakhmanov, Yusuf Jumaev and Alisher Karamatov	Health deterioration / Arbitrary detention	Press Release	August 28, 2009
Messrs. Bakhtior Khamraev and Mamir Azimov	Assault / Harassment	Urgent Appeal UZB 008/1109/OBS 167	November 16, 2009
Mr. Ganikhon Mamatkhanov	Sentencing / Defamation campaign	Urgent Appeal UZB 009/1109/OBS 175	November 27, 2009
Mr. Gaybullo Jalilov	Arbitrary detention / Judicial harassment	Urgent Appeal UZB 010/1209/OBS 183	December 8, 2009
Ms. Umida Ahmedova	Judicial harassment	Urgent Appeal UZB 011/1209/OBS 197	December 22, 2009