EUROPE and the CIS
Defending Human Rights in the Commonwealth of Independent States

The twelve successor states of the Soviet Union which now comprise the semi-functional Commonwealth of Independent States (CIS), are a study in how neighbouring countries can honour or negate their human rights obligations to the greatest possible degree. The extreme range of abuse which human rights defenders face in the region makes it impossible to generalise about the state of the human rights movement in the region as a whole.

The variations seen in the CIS, as elsewhere, are largely a function of the governments’ relative respect for the fundamental rights that underlie human rights work, principally the freedoms of expression, assembly, and association.

In some countries, such as Kazakhstan, Georgia, and Moldova, human rights defenders operate virtually unhindered by government interference, and indeed are able, with varying degrees of success, to effectively and regularly lobby their own governments. In more authoritarian countries, such as Azerbaijan, Belarus, and the Russian Federation, human rights defenders are faced with arbitrary detention, threats of imprisonment on falsified charges, government bans on their organizations, and beatings and routine intimidation. In Turkmenistan and Uzbekistan, the most repressive of the CIS states, sustained human rights activity on controversial topics is impossible without risk of violent attack or arbitrary arrest.

Despite the wide range of respect for human rights work, there are some common patterns of abusive or undue government interference in the CIS region. These include the inadequate enforcement of protective legislation, harassment of human rights defenders, and increased pressure on human rights activities through taxation or threatened taxation.

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1 The Commonwealth of Independent States comprises Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan, the Russian Federation, Ukraine, and Uzbekistan. Although Turkmenistan has effectively withdrawn from the Commonwealth, it will nonetheless be included in this brief survey.

2 A forthcoming report by the Lawyers Committee for Human Rights entitled “The Scapegoats of Transition” will provide a comprehensive survey of government treatment of human rights defenders in the CIS countries where the greatest abuse occurs: Azerbaijan, Belarus, the Russian Federation, Turkmenistan, and Uzbekistan.
It is not the case that all human rights defenders in the CIS come under government pressure or attack by definition. Rather, the victims tend to be those who advocate the rights of individuals or groups that are politically unpopular (such as the Crimean Tatars in Ukraine or political opposition figures in Azerbaijan) or those who appear to challenge the authority of individual police, government, or judicial figures (such as in Belarus and the Russian Federation).

Arguably the most serious crackdown on human rights defenders in the region has been in Uzbekistan. Since May of 1999, the already tiny community has been all but decimated. Activist Akhmadkhan Turakanov died in prison in May serving a politically motivated prison sentence. Mikhail Ardzinov, chairman of the banned Independent Human Rights Society of Uzbekistan, was detained on his way to observe a politically sensitive trial and was severely beaten in police custody and his work equipment and personal property were arbitrarily confiscated. Mahbuba Kasymova of the banned Independent Human Rights Society of Uzbekistan is in prison facing a lengthy prison term on fabricated charges; her formal appeal, which is pending at the time of writing, is a formality in this repressive country and stands virtually no chance of reversing the conviction. These and other attacks have cast a pall on the community at large.

In general, however, attacks are less orchestrated and dramatic. Rather, CIS governments more routinely undermine, demoralize, and, in some cases, silence human rights defenders through administrative and bureaucratic harassment. As a matter of international law, governments are required to register all applicants with exceptions only in extreme cases. (None of the CIS governments provide for default registration.) In the CIS, however, governments typically manipulate the registration of human rights NGOs (which is in most cases issued by the Ministry of Justice without independent review) granting it to groups that deal with uncontroversial issues or are loyal to the government and denying it to groups whose work is more vigorous and threatening. For example, eleven human rights NGOs are known to have been arbitrarily denied registration in Azerbaijan.

In the CIS, registration is not a formality; it is the key to meaningfully functioning in association with others. Without it, groups cannot rent offices, maintain a bank account to pay staff and cover routine expenses, or enter into contracts (with serious implications for external foreign funding). Often, requirements for registering are onerous or prohibitively expensive or are entirely arbitrary. In summary, human rights groups operate legally at the whim of an unregulated government bureaucracy.

Other common bureaucratic harassment is through arbitrary or punitive tax audits or other forms of restricting funds to human rights organizations. Governments threaten outspoken defenders with criminal charges in the form of financial misdeeds - which are notoriously difficult to disprove, and which can result in prison sentences - using the government tax inspection agency as the agent for these threats. Moreover, in most CIS countries, there is little appreciation of the notion that not-for-
profit work should legitimately be relieved of undue tax burdens. In Russia, draft legislation has come close to prohibitively increasing taxation levels on NGOs, which would all but eliminate group-based human rights activity there.

The best hope for support of human rights defenders in the CIS is from unequivocal solidarity from the international community. International donors, both bilateral and through intergovernmental bodies such as the United Nations, the European Union, and the Organisation for Security and Cooperation in Europe, have given firm support in many cases to facilitating human rights work through technical assistance and training. With some exceptions, the international community has not matched financial and technical support with commensurate moral support or willingness to confront abuser governments forcefully over cases of abuse. One form of support cannot exist meaningfully without the other. A government’s treatment of its human rights community is often the weathervane for the respect for the rule of law in general. It is therefore in the immediate interests of the international community to insure that domestic monitoring is allowed to flourish. It must do all that it can to insure that it does. The insightful and fateful tale of human rights defenders in the CIS is Andrei Sakharov’s to tell.

Erika Dailey
Testimony of Rosemary Nelson, killed in Belfast on 15th March 1999

I have been a solicitor in private practice in Northern Ireland for the past twelve years. My practice includes a mixture of several areas of law including crime, matrimonial and personal injury cases. My clients are drawn from both sides of the community. For the last ten years I have been representing suspects detained for questioning about politically motivated offences. All of these clients have been arrested under emergency laws and held in specially designed holding centres. Since I began to represent such clients and especially since I became involved in a high profile murder case, I have begun to experience difficulties with the Royal Ulster Constabulary (RUC).

These difficulties have involved RUC officers questioning my professional integrity, making allegations that I am a member of a paramilitary group and, at their most serious, making threats against my personal safety including death threats. All of these remarks have been made to my clients in my absence because lawyers in Northern Ireland are routinely excluded from interviews with clients detained in the holding centres.

This behaviour on the part of RUC officers has worsened during the last two years and particularly since I began to represent the residents of the Garvaghy Road, who have objected to an Orange Order march passing through their area from Drumcree Church. Last year I was present on the Garvaghy Road when the parade was forced through. I had been present on the road for a number of days because I had instructions from my clients to apply for an emergency judicial review of any decision allowing the parade to pass through the area. When the police began to move into the area in force in the early hours of 5th July, I went to the police lines and identified myself as a lawyer representing the residents. I asked to speak to the officer in charge. At that point I was physically assaulted by a number of RUC officers and subjected to sectarian verbal abuse. I sustained bruising to my arm and shoulder. The officers responsible were not wearing any identification numbers and when I asked for their names I was told to «fuck off». I complained about the assault and abuse but to date have obtained no satisfactory response from the RUC.

Since then my clients have reported an increasing number of incidents when I have been abused by RUC officers, including several death threats against myself and members of my family. I have also received threatening telephone calls and letters. Although I have tried to ignore these threats, I have had to take into account the possible consequences for my family and for my staff. No lawyer in Northern Ireland can forget what happened to Patrick Finucane nor dismiss it from their minds. The allegations of official collusion in his murder are particularly disturbing and can only be resolved by an independent inquiry into his murder, as has been recommended by the UN Special Rapporteur. I would be grateful if the Sub-committee could do all in its power to bring about such an inquiry, by
communicating to the United Kingdom government its belief that an inquiry in this case would in fact be a boost to the peace process, as it has been in the Bloody Sunday case.

I have also complained about these threats, again without any satisfactory response. Although complaints against the RUC are supervised by the Independent Commission for Police Complaints, the complaints themselves are investigated by RUC officers. Recently, a senior police officer from England has been called in to investigate my complaints in view of the RUC’s apparent inability to handle my complaints impartially. This English police officer is interviewing witnesses himself and has decided not to rely on any assistance from the RUC.

I believe that one of the reasons that RUC officers have been able to indulge in such systematic abuse against me is that the conditions under which they interview clients detained under emergency laws allow them to operate without sufficient scrutiny. My access to my clients can be deferred for periods of up to 48 hours. I am never allowed to be present while my clients are interviewed. Interviews are now subject to silent video recording but are not yet being audio-recorded, although that is due to be introduced. The UN Special Rapporteur has made a number of recommendations that would remedy this situation, which to date have not been implemented. I should be grateful if this Sub-committee would lend their support to what he proposes.

Another reason why RUC officers abuse me in this way is because they are unable to distinguish me as a professional lawyer from the alleged crimes and cases of my clients. This tendency to identify me with my clients has led to accusations by RUC officers that I have been involved in paramilitary activity, which I deeply and bitterly resent. The Special Rapporteur has recommended that RUC officers be sensitised to the important role played defence lawyers in the criminal justice system. To date this recommendation had not been implemented. I should be grateful if this Subcommittee would ask the UK government what steps they intend to take to act on this recommendation.

I, like many others, was pleased to see the human rights provisions included in the recently signed Agreement. In particular I was pleased that the Agreement looked to the early removal of the emergency provisions legislation which has been in place in some shape or form since the inception of the state. The existence of this legislation has seriously undermined public confidence in the rule of law and led to numerous miscarriages of justice, some of which have involved my clients.

I believe that my role as a lawyer in defending the rights of my clients is vital. The test of a new society in Northern Ireland will be to the extent to which it can recognise and respect that role, and enable me to discharge it with without improper interference. I look forward to that day.

Taken from the Statement of Rosemary Nelson
Before the International Operations and Human Rights Sub-committee of the House International Relations Committee hearing on Human Rights in Northern Ireland
29th September 1998
Belarus

The concentration of power in the hands of Mr Lukashenko, head of State, has resulted in a series of restrictive amendments to the Constitution adopted in 1996, leaving less and less room for exercising fundamental rights in Belarus: arrest and detention of the opposition, arbitrary proceedings, violent repression of demonstrations, muzzling of all independent press, intimidation of Human Rights defenders; the same violations committed against civil society.

In this particularly hostile environment, defenders of Human Rights, and amongst them lawyers defending political opponents, take the brunt of this repressive policy. Lawyer Vera Stremkovskaya was threatened with being disbarred from the Bar of Minsk for her work for Human Rights and her defence of political opponent Valery Staravoitov. In March 1999, she was finally ‘severely reprimanded’ by the College of Lawyers, and escaped disbarrment, thanks, notably to international pressure; a positive result not always enjoyed by a number of other lawyers who find themselves in the same situation. In terms of NGO activity, the authorities impose very heavy taxes on human rights organisations, and rent them offices in such a high price that NGO are obliged to close down. Furthermore, similarly in other countries of the CIS, the authorities use a method of registering associations to «sort out» the «annoying» organisations. In February 1999, three defenders, members of the organisation Charter 97 in Belarus were violently attacked by a group of neo-nazis. The national networks, under the control of the president, made no comment.
Czech Republic

Human rights defenders and their organisations can work freely. However, Roma activists are subjected to xenophobic and discriminatory practices.
Harassment of defenders of the Roma community

According to the information from the National Roma Congress (NRC), on the 23rd March in Rockycany, members of the police entered and searched the houses of several human rights defenders working for the rights of the Roma population, notably the leader Mr Ondrej Gina. These persons have been accused of having been amongst a number of signatories of a document protesting the discriminatory and racist policies of the Mayor of Rockcany as well as the appalling living standards of the Roma community.

These events come within the context of a policy of discrimination of the local authorities and the police against the Roma which has included, over the last few months, acts of intimidation against members of the community.

3 See urgent appeal CZE 001/0399/OBS 020
Greece

In July 1998, the European Court for Human Rights condemned Greece for violating the freedom of association due to the country's refusal to grant a registration to the «Center of Macedonian Culture.» This case illustrates the problems faced by the organizations defending the Turkish and Macedonian minorities, the immigrants and the Romani Community, as well as the climate of overt hostility directed at these groups. In April, 1999, the Court of Appeals in Thracia upheld the decision of the Trial Court which called for a dissolution of the «Turkish Union of Xanthi,» a cultural NGO founded in 1946, basing the decision on the organization’s alleged serving of another nation’s interests.
Following NATO’s decision to end the repression of the Albanian population by launching strikes against Serbia, the Kosovo Albanians became targets of renewed ethnic cleansing which resulted in the massive expulsion of the Albanian population to the neighboring lands of Macedonia, Albania and Montenegro. At the same time, Serbian forces raided several Kosovar towns and villages with human rights defenders as their primary targets. Mr. Kelmendi was assassinated during the first night of NATO air strikes. Mr. Xhevdet Leci, member of Pristina-based Council for the Defense of Rights and Liberties and Mr. Urim Redha, an attorney-at-law, met the same fate. During the retreat of the Serbian forces at the end of June 1999, 2000 Albanian prisoners were forcibly taken to Serbian territory, among them Ms. Brovina who was originally captured in April 1999 at the height of repression.

Kosovo

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Killing of Bajram Kelmendi

According to the information received Mr Bajram Kelmendi, a prominent human rights defender, was taken with his two sons from their home by force on 25th March by 5 Serbian unmasked police officers in blue camouflage uniforms.

Their bodies were found on the 26th March on the road near Kosovo Polje (south west Pristina). Within the context of the NATO military operation against the Federal Republic of Yugoslavia, and the ethnic cleansing perpetrated by the Serbian army and police, the Observatory expressed its deepest concern for the life, physical integrity and security of many human rights activists (journalists, trade unionists, independent journalists…). These defenders have for many years struggled for the respect of fundamental freedoms and have defended victims of systematic human rights violations perpetrated against the population and civil society of the Kosovar Albanians by the Serbian authorities and police forces; violations repeatedly denounced by the international community.

The Observatory also underlined its concern over the presence of paramilitary groups from the Republic of Serbska; their presence is of deepest concern given the role that they played during the war in Bosnia Herzegovina.

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4 See urgent appeals YUG/9903/OBS 019; YUG/9903/OBS 019.01
Kyrgyzstan

Although the authorities of Kyrgyzstan tolerate the activities of human rights organisations, as the experience of KCHR makes clear, much remains to be done.

The conduct and independence of the judiciary during the events was an ongoing concern. It confirmed that the judiciary's dependence on the executive branch remains an issue that is likely to hinder the work of human right defenders.
Continued surveillance of prominent human rights defenders and threats and harassment against activists is another obstacle to human rights work.
Increasing repression against the Kyrgyzstan Committee for Human Rights (KCHR)\(^5\)

**Annulment of the legal registration of the KCHR**

The Observatory was informed of the de-registration of the KCHR on Thursday 1st October 1998, when pro-governmental newspapers reported that the registration of the Kyrgyz Committee for Human Rights had been revoked by the authorities. It was subsequently informed of the attempts by the authorities to use bureaucratic measures to delay the re-registration.

In November 1998, as the initial registration of KCHR (made in 1996) did not conform, the Ministry of Justice requested that the organisation send all documents pertaining to its creation. After having sent them, in March 1999, the Ministry sent them back, saying that there were irregularities. The KCHR then returned the document in accordance with the requirements.

One month after the documents were sent the Observatory was then informed that the Ministry of Justice had reregistered a public association calling itself the Kyrgyz Committee for Human Rights on 21st April 1999.

This new organisation was made up of people unknown to the real KCHR. The narrative of the text of registration contains background history information of the real KCHR. It is alleged that S. Botaliev, the chairman of this new organisation, is closely linked to the National Security Ministry (the former KGB) and has a previous criminal record for bribery and embezzlement. The real KCHR apparently completed all the required procedural matters connected with their registration by 4\(^{th}\) February 1999. In March the documents were returned with a letter from Mr E. Mamyrov the Deputy Minister of the Ministry of Justice stating that there were irregularities in the application. These irregularities were answered and the documents returned to the Ministry on 25\(^{th}\) March 1999.

As Kyrgyz law does not permit the registration of two associations with the same name (Article 12, 13 of the Law on Public Associations) this move by the government clearly breaches Kyrgyz law. Subsequently the courts ruled in favour of the fake organisation and for a period of time there was a serious risk that the members of the original KCHR would be arrested and jailed for resisting the ruling of the court.

Finally on 19th August 1999, Mr E. Mamyrov, Deputy Justice Minister, notified members of the KCHR that the organisation had been re-registered and now, once again, has legal status.

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5 See urgent appeals KGZ 001/9810/OBS 070.02; KGZ 001/9810/OBS 070.03; KGZ 001/9810/OBS 070.04; KGZ 001/9810/OBS 070.05; KGZ 001/9810/OBS 070.06; KGZ 001/9810/OBS 070.07
The KCHR was informed that the granting of the registration could be removed at any time «If so commanded by the higher authorities.»

**Harassment of KCHR members**

The deregistration came in the context of a number of acts of previous harassment. These acts have included accusations of financial mismanagement of funds donated by foreign donors and verbal threats to activists and leaders of the KCHR. It was further alleged that people who live and work near the offices of the organisation are regularly questioned on the movements of the workers of the Committee.

**The change in legal status gave rise to new acts of intimidation**

On October 8, 1998, at about 8 p.m. **Niyazbekova Azimhan**, an activist of the KCHR was approached on the street by a man wearing militia uniform. The man (later identified as Bolot B. Taabaldiev) warned her to stop her human rights activities. The officer insulted and intimidated her and said that if she did not stop she would be physically harmed. Officer Taabaldiev allegedly works in department 7 of Ministry of Interior, the department established to maintain surveillance on Kyrgyz citizens.

On 8th October the head of the regional branch of KCHR in Naryn oblast (region) reported that the local authorities will not grant permission to KCHR activists to observe the Presidential referendum on 17th October. On 9th October 1998 Judge Omorova of the Pervomaisky district court prohibited **Ramazan Dyryldaev**, the Chairman of the KCHR, from defending Bermet Bukasheva (chief-editor) of the «Litsa» newspaper. Bermet Bukasheva is accused of defaming Mr Talaibek Koichumanov, the Minister of Finance. The Judge stated that KCHR could not represent the defendant as it is not a legal entity.

The Observatory was particularly concerned by sources from within the government who have alleged that orders have been given to certain members of the authorities to trace members of the Committee, to find compromising materials against them, and to pressure their family members and relatives.
Russia

The Ministry of Justice ordered by decree the reregistration of all organisations, demonstrating a will to control the NGOs and keep a grip on those considered the most «troublesome.»

One of the oldest Human Rights NGOs, the Glasnost Foundation, was refused reregistration despite several attempts. This was the same for the Environmental and Human Rights Centre. Its founder, Alexey Yablokov, discovered that the reregistering of his organisation entailed the elimination of the mention of Human Rights in its title and statute. Mr Yablakov instigated legal action against this decision. To date the prospects for the trial do not look encouraging. The Court has, in effect, followed the argument invoked by the legal department of the government, which states that only the organs of the State and lawyers can legally protect Human Rights, thereby conforming with the Constitution which stipulates that «the protection of the rights of citizens is the responsibility of the State.» The appeal court equally supported this view and the matter is to be heard by the supreme court.

Certain province governors, for example the region of Krasnodar, have used this ministerial decree in their attempts to silence human rights defenders. The Krasnodar Regional Association for Human Rights, one of the most well-known organisations, has been prevented from reregistering under bureaucratic pretexts, as is the case of several hundred other organisations. At the same time, nationalist groups linked to the power were able to reregister without difficulty.
Attacks on Russian human rights defender

The Observatory was informed of the hospitalisation of the prominent human rights defender and chairman of Krasnodar Kray’s Association on Human Rights (KKAHR) who was physically attacked in connection with his work in defence of human rights. On 23rd October, Mr Vassily Rakovich was severely beaten by two unknown men and is now in hospital. Apparently, Mr Vassily Rakovich had just left the court building of the Krasnodar Region following a recess in the trial (where he is the defence counsel) when he was approached by two unidentified men. After saying “Now we’ll kill you for our brother Tsaturian” they began hitting him with a baseball bat and a brick. Vasily Rakovich lost a great deal of blood and was hospitalised with numerous head and body wounds.

It is believed that the attackers were referring to Mr S. Tsaturian, an investigator of Leningrad Regional Prosecutor’s Office of Krasnodar Kray, who is involved in the court case mentioned above.

Mr Vassily Rakovich is currently defending another human rights activist, Vassily Chaikin. 53-year old Vasily Chaikin (in the above case) has been under arrest for the last year and a half, accused of a series of crimes. However, human rights activists have expressed their concerns that Chaikin is being persecuted for his activities in defending human rights.

There are equally a great many concerns over the conduct of the trial. Most notably it is alleged that many witnesses have denied their preliminary confessions and stated that they were extracted under pressure from Mr Tsaturian. Despite these statements both the regional prosecutor and the Judge, Mr Paziura, have refused to investigate these allegations.

It is also worthy of note that for over one and a half years Vasily Rakovich (supported by his colleagues from various regions of the country) has tried to prompt investigation of other alleged abuses of power committed by Tsaturian.

In March 1999, Mr. Ralkovitch was accused of “lacking respect for the court” and was detained for three days in an underground cell that lacked air and was overpopulated. He was hospitalised after his release.

Vasily Rakovich leads one of the most well-known human rights organisations in the region. He is editor of the bulletin “Human Rights in Krasnodar Region,” member of the Board of Inter-Regional “Human Rights Network” Group.

Legal case against Grigory Pasko

The Observatory was informed of the detention of Grigory Pasko, correspondent Journal of Russian Rain after his arrest November 1997, for high treason.

His arrest came after Japanese TV showed a documentary, that he had made, on the dumping of nuclear waste and more recently the promotions of certain generals.

He was accused by the Federal Security Service (FSS) of having given away state secrets and spying

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6 See urgent appeal RUS 001/9810/OBS 077

7 The Observatory communicated directly with the Russian authorities
for the benefit of foreign powers. Grigori Pasko effectively faced a sentence of 15 to 20 years for having worked for environmental rights in conformity with freedom of expression and information.

On 20th July at the Military Court of Vladivostok, the charges of high treason were dropped. However, he was found guilty of abusing his function and breaking the law. The three year sentence was dropped as he benefited from an amnesty law and was freed the same day. His lawyers opened an appeal on 27th July in order that the sentencing for abuse of function also be dropped.
This year numerous human rights activists, as well as journalists, intellectuals and writers, both Kurdish and Turkish have been condemned to serve prison sentences as a result of their position both written on sensitive issues like the Kurdish question, Islam and the Army. The lack of judicial independence anchored to Kemalist ideology, an ever present army in National Security Council, and the move toward nationalist politics that emerged during the recent elections of April 1999 are obstacles to the work of human rights activists.

The Offices of the IHD sections, the largest human rights organisation in Turkey, were closed by the authorities and particularly those in the South East, where, since 1994, an armed conflict between the PKK and the Army has raged. Akin Birdal, President of the IHD and Vice-President of FIDH was jailed for two and a half years by the Security court for having spoken out for peace. If the capture of the head of the PKK followed by the announcement of a cease fire by the PKK have suggested an improvement in the situation, the coalition of ultra nationalists in the Parliament and the Government (DSP MHP) emerging from the election of April 1999 is not encouraging. The fact that no prisoners of opinion in Turkey and notably human rights activists are included in the amnesty law that passed its first reading at the beginning of September attests to this.

The recent release of Akin Birdal - a provisional measure for six months for health reasons - gives little hope for an improvement of the situation of human rights defenders in the country.
Muzzling the Turkish Human Rights Association and the imprisonment of its President

Arrest and sentencing of Akin Birdal

On 3rd June, Akin Birdal, President of the Turkish Human Rights Association (IHD - member organisation of both FIDH and OMCT) and Vice President of FIDH, was taken to Ankara Prison to serve a two year prison sentence. The sentence is based on two court rulings in 1995 and 1996 convicting him for having spoken out publicly for a peaceful solution to the ongoing conflict in the South East of Turkey.

The Observatory sent a representative on a solidarity mission to Ankara who accompanied Akin Birdal to the Prison. Birdal noted that he was joining many other human rights defenders who are in prison and stated “we need a peaceful and democratic solution to the Kurdish question.”

The Representative of the Observatory Mission stated that: “As long as Turkey will not respect the fundamental rights of its citizens it will not be able to rank as a democratic state.”

On 27th October 1998, the General Board of Criminal Department of the Court of Appeal upheld the sentence of the Security Court of Ankara (SSC), which sentenced Akin Birdal to one year of imprisonment and a fine of 420,000 Turkish Lira. This sentence, based on article 312 of the Turkish penal code (incitement to hatred and discrimination on the basis of race, religion or origin), follows speeches made by Birdal on September 1st, 1996, during the World Day for Peace.

Moreover, his conviction under article 312 of the Penal Code deprives him of his civil rights. Almost certainly connected to the events, was the decision not to allow Birdal to leave Turkey on 9th November to go to Norway for medical treatment. This followed the attempt on his life when two armed men entered his offices and shot him six times.

On the 20th April 1999 the Supreme Court ruled in favour of the sentence of the Adana Security Court - a prison sentence of one year and a fine of 300,000 Turkish Lira for a lecture given by Birdal on 6th September 1995 in Mersin. The sentence was once again based on article 312.

The Observatory recalls that there are many cases against Akin Birdal related to his stance on peace and that they will prolong his detention as they accumulate.

Provisional Release

The Observatory was informed by the Human Rights Association of Turkey (IHD - member of both FIDH and OMCT), of the provisional release on the 24th September, for medical reasons, of Akin Birdal President of IHD and Vice-President of FIDH.

The release comes after Birdal’s legal representation appealed to the Prison Director. Akin Birdal is currently undergoing medical treatment on his right arm following an attempt on his life in May 1998; an attack carried out

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8 See urgent appeals TUR 003/9807/OBS 056; TUR 003/9807/OBS 056.01; TUR 003/9807/OBS 056.02; TUR 003/9807/OBS 056.03; TUR 003/9807/OBS 056.04; TUR 004/9909/OBS 056.05

9 See Annual Report 1997-1998 of the Observatory
because of his human rights work. The provisional release delays his sentence for six months.
The Observatory joins IHD’s call to the Turkish Parliament to amend the draft amnesty law currently under discussion so that all those currently condemned for crimes under article 312 of the Turkish Penal code (crimes of having spoken or written on subjects considered taboo by the authorities - the kurdish question, Islam and the army) are included. It is this article that has seen the imprisonment of Mr Akin Birdal and a great many other human rights defenders, journalists, intellectuals and writers.
In addition, the Observatory requests that the Turkish authorities guarantee under all circumstances freedom of expression, opinion and association.

**Closure of several branches of the Turkish Association of Human Rights**

The Observatory was informed by the Association of Human Rights in Turkey (IHD) of the successive forced closure of three of their sections. The branches of the IHD located in Bursa, Mardin and Balikesir were closed down on November 13th, and December 16th and 17th 1998 respectively. The Mardin and Balikesir branches were closed down following a warrant issued by the First Instance Court. The reason given for each decision was, as in previous cases, the holding of publications regarding the defence of human rights. Furthermore, the Director of the Balikesir Branch, Dr. Bekir Ceylan, was fired from his job. There are serious concerns over the fact that this decision could be linked to his position as executive member of the IHD.

The Bursa, Mardin and Balikesir section were later reopened. However, the Gaziantep section was closed for three months until the end of July 1999.

The closure of local branches remains a frequently used practice of the Turkish authorities to hinder the work of NGOs.

**Arrest of several members of the Turkish Human Rights Association**

The Observatory was informed of the arrest of several members of the Human Rights Association of Turkey, who were arrested in Diyarbakir between the 16th and 17th of February 1999.

There was confirmation of the arrest of Mr Sinan Tanrikulu (member of the Diyarbakir section of IHD) and Mr Mansur Resitoglu (member of the Central Executive Bureau of the IHD).

These arrests and a large number of arrests of HADEP (pro kurdish party) following the arrest of Abdullah Öcalan (the leader of the PKK).

Sinan Tanrikulu and Mansur Resitoglu were released shortly after.

**Legal charges for eleven members of the Executive Bureau of IHD**

The Observatory has been informed that legal proceedings started on 22nd June against 11 members of the Executive Bureau of the

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10 See urgent appeal TUR 004/9812/OBS 089
11 See urgent appeal TUR 001/9902/OBS 008
12 See urgent appeal TUR 003/9908/OBS 057

They are accused in their capacity as members of the Executive Bureau of IHD, of having «organised» the meeting of the International Bureau meeting of FIDH, which was held the 13th and 14th of February 1999 “despite the Council of Ministers having taken no decision allowing the IHD to carry out international activities nor to affiliate with international organisations, nor had any permission been granted by the Ministry of the Interior to invite foreign organisations and their members in Turkey to express themselves in the framework of a meeting.”

The charges were made known in the week of 23rd August 1999 on the basis of articles 7, 43, 77/3 and 82 of the association law N° 2908, and articles 3 and 28/1 on the law on meetings and demonstrations. These texts foresee terms of imprisonments of 6 months to 2 years and the closure of the organisation.

The first hearing will be held 24th September 1999 in Ankara although the case was opened by the prosecutor of the Court of first instance N° 5 in the district of Beyoğlu, in Istanbul.

FIDH organised its International Bureau meeting in Istanbul in February 1999 to show solidarity with its affiliate, their members and all human rights defenders in Turkey. The effect on IHD for having organised the meeting seem to have been without end. Effectively one part of the authorities where perfectly aware that holding of the meeting was of a private character. The authorities nevertheless considered that these debates held in a closed session should take place in the presence of representatives of the Turkish police. The police were present on the days of the meeting and took note down the views of the diverse speeches made during the meeting. The other issue is that it was FIDH and not the IHD who had organised the meeting.

Harassment and searches of the Mazlunder human rights organisation

The Observatory was informed by MAZLUMDER, (“Turkish Organisation for Human Rights and Solidarity with the Oppressed”) that its headquarters, its local branches as well as the offices and homes of members of the executive were searched during police raids on 19th June 1999.

During the search by the Ankara Security Directorate of the headquarters of the Ankara branch staff were ill treated by the police. They prevented the staff from answering telephones and photocopied the fax and phone numbers of members of the organisation.

At the same time materials were taken from local branches. The homes of Executive members of the organisation were also thoroughly searched. The police confiscated videocassettes and diskettes and other documents. Force was employed during the raids upsetting and insulting the neighbours. The doors of closed branches were forced.

The security forces decided to act on the basis of a search warrant from the Interior Ministry, dated

13 See urgent appeal TUR 002/0699/OBS 041
the 18th June, on the basis of “documents and proof indicating that the activities of MAZLUMDER are undermining the republican regime and the unity of the country.” The pressure on Mazlumder continues.

**Detention of Günseli Kaya and Dr. Alp Ayan**

The Observatory was informed by the Human rights Foundation Turkey over serious and continuing concerns for human rights defenders and equally a rapid deterioration in the human rights situation following a massacre of prisoners on 26 September in Ankara Central Prison (that ended in the death of 10 inmates).

According to the information received on 30th September, in Izmir, people gathered to go to Helvaci Village to attend the funeral of one of the victims of the massacre, Nevzat Çiftçi. They were stopped by the police who were apparently unwilling to listen to their pleas. Subsequently the group was attacked by the police. During the events 76 people were detained and 14 were arrested. Among the arrested are Günseli Kaya, secretary of Izmir Office of Human Rights Foundation of Turkey; Dr Alp Ayan, psychiatrist of the Treatment and Rehabilitation Center. Both are renowned human rights activists and equally members of the Turkish Association of human rights

The police reports accuse the detainees of “resisting the police and propagandizing at the funeral of an illegal organization member”. The police reports further identify Dr. Alp Ayan and Günseli as “provocateurs.” Aliaga Public Prosecution Office issued a decision of non-authorization on the accusations in question, and sent 68 of the detainees to Izmir State Security Court (SSC). After discussion it was decided that the court would try the accused in the SSC.

At the end of the court hearing which lasted until 06.15 a.m. on Sunday October 3rd, it was decided that Dr. Alp Ayan, Günseli Kaya, and other 12 persons would be prosecuted under Article 32 § 3 of Law on Meetings and Demonstrations, (which foresees imprisonment of between 3 and 5 years for countering a police decision not to hold a meeting with “coercion, violence, threat, attack or resistance,”) and under Article 7 § 2 of the Anti-Terror Law (which foresees imprisonment terms of between 1 and 5 years for those helping “members of terrorist organization and disseminate the propaganda of the organization.”)

The 14 persons were then remanded. Günseli Kaya is in Usak E-Type Prison and the other prisoners are in Bergama E-Type Prison at the moment. Given the frequent resort to torture and other cruel and inhuman treatment practiced in Turkish prisons the Observatory must express grave concern for the physical and psychological integrity of the above mentioned persons.

**Esber Yamugdereli still in detention**

Esber Yagmurdereli, lawyer and eminent human rights defender, has been in prison since his arrest 11st June 1998, in Cankyry prison and

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14 See urgent appeal TUR 003/9910/OBS 065

15 See Annual Report 1997-1998 of the Observatory
is serving a cumulative sentence of 23 years: 22 years for a sentence dating from 1991 that was reimposed 1991 although he was released. He was first sentenced in 1980 for supporting an illegal political movement, notably for his work defending trade unionists. A sentence of 10 months in prison was confirmed by the appeals court in 1997 for separatist propaganda when he stated his position in favour of a peaceful solution to the events in the south east of the country during a demonstration. Esber Yagmurdereli is one of the most well known prisoners of conscience in Turkey. He has not ceased to defend his belief in freedom and peace for his country.

Release of Haluk Gerger at the end of his sentence

Haluk Gerger, academic and human rights defender was jailed 28th January 1998 to serve a one year sentence for publishing an article in Istanbul Daily Ozgur Gundem 1993, a paper allegedly linked to the PKK. He was freed having served out his sentence.

16 Ibid.
**United Kingdom**

In the United Kingdom the only cases of persecution of Defenders are among lawyers practising in Northern Ireland. The U.N. Special Rapporteur on Independence of Judges and Lawyers concluded, after his enquiry in 1997, that several lawyers had been subject to intimidation, particularly from the Northern Ireland police (Royal Ulster Constabulary - RUC) for the sole reason of their professional involvement and for their respect for human rights.

In 1999, Rosemary Nelson, one of the best known lawyers and member of the Committee for the Administration of Justice (CAJ) was assassinated. Ten years before, in 1989, solicitor Patrick Finucane was killed in front of his family by an armed group. Human rights defence associations have constantly called for the re-opening of the enquiry into this murder, which was closed without any responsibility being shown and no one charged. The authorities have always refused this request. Recent information showed possible collusion of members of the security forces in this killing. Mr. Finucane had received death threats from police officers shortly before his murder. Finally in October 1999 the British Government announced the opening of a public enquiry to shed light on this killing, after a request to this effect was, made by the Irish Government.

At the same time, the Government Commission chaired by Chris Patten to look into the workings of the RUC published its report in October. This shows the malfunctioning which exists and favours a complete reform of this police institution - changing its name, its emblem and its make-up - which should comprise approximately equal representation of the two communities (currently the RUC is 92% Protestant). The conclusions of this report have yet to be carried out, but one must welcome these recent changes: encouraging signs for a greater respect for human rights and the activities of human rights defenders.
Killing of Rosemary Nelson

The Observatory was informed of the killing, on 15th March 1999, near Lurgan, Northern Ireland, of Ms Rosemary Nelson; lawyer and human rights defender and member of the Executive Committee of the Committee on the Administration of Justice (CAJ), a member organisation of both the FIDH and OMCT.

The Observatory condemns this odious crime which has been claimed by a paramilitary group.

For many years, within the framework of her professional and activist work, Ms Nelson was subjected to death threats and different forms of harassment by the Police Forces of Northern Ireland, the Royal Ulster Constabulary (RUC).

The investigation of the United Nations Special Rapporteur on the Independence of Judges and Lawyers in 1997, confirmed that several lawyers were subject to acts of intimidation in particular by the RUC. The motive behind these acts was directly linked to the professional legal work of these lawyers and their work done for human rights.

The resultant report made explicit reference to the threats against Ms Nelson and her personal fears for her security.

The Observatory and national and international human rights organisations called for guarantees that the investigation into the death be clearly guaranteed. An officer from the English police was put in charge of the investigation with the assistance of several officers from outside the RUC. The situation remains of concern as the investigation is still under the RUC.

To date no one has been charged with the murder of Rosemary Nelson. Moreover a recent police report revealed that local officers had refused to investigate Rosemary Nelson's complaints about the death threats that she had received from officers of the RUC. It was only under pressure that the complaints were examined and the report reveals concerns that the investigations were superficial and inadequate.

The report confirms the concerns of the Observatory and NGOs over the capacity of the police to conduct an independent inquiry.

17 See urgent appeal GBR 001/9903/OBS 015
The government of Uzbekistan has attacked not only individual defenders’ activities (see regional analysis) but has equally manipulated their ability to register as legal entities. The Ministry of Justice has repeatedly refused to register the two largest and most broadly networked groups - the Human Rights Society of Uzbekistan (HRSU) and the Independent Human Rights Society of Uzbekistan (IRSU) - despite vigorous, albeit fitful protests by western governments and the OSCE and other international actors.

The government has in the past gone to extraordinary lengths to disrupt the work of human rights organisations which culminated in sending police to break up the founding congress of the IHRSU in 1996. The group’s leader, knowing the government would not let the meeting take place, sent them to the wrong address. The result is that first-hand documentation of human rights violations has decreased notably just as the government’s crackdown on its population, principally directed at the “Islamic threat” increases, demanding greater scrutiny and international censure.

\textbf{Uzbekistan}

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Ahmadon Turahanov dies in prison

The Observatory was informed by the Kyrgyz Committee for Human Rights (KCHR) of the grave concerns over the arrest, trial and sentencing of Ahmadhon Turahanov, Uzbek human rights defender and the concerns over his poor health. Ahmadhon Turahanov is a social activist defending the economic and social rights of people of Namangan city to basic amenities. He works for the Peoples movement of Uzbekistan «Birlik». According to the information, on 29th December 1998 Ahmadhon Turahanov was arrested by officials of the Regional Prosecution Office. On 24th February 1999 Ahmadhon Turahanov was brought to trial and was charged under Articles: 159 (Infringement of constitutional order of Uzbek Republic) and 277, part 2, clause «g» (hooliganism). On the 25th of February 1999, he was sentenced to five and a half years of imprisonment.

There are serious grounds for concerns over the conduct of the trial. According to the KCHR, almost all the 15 witnesses brought before the court told the jury that their written testimony had been taken down by an investigator from the Namangan City Prosecution Office, Mr Dolimov. There are further allegations that that witnesses were harrassed and threatened by Mr Dolimov to sign written statements which they were unable to properly read.

There were strong grounds for fearing that this trial was politically motivated and that Judge Latifhon Djurabaev was conducting the trial under instructions from higher authorities.

Ahmadhon Turahanov died in Sangorod detention facility on 19th June. The exact cause of death is unknown but believed to be related to his chronic diabetes which apparently went untreated. Other reports have suggested that the cause may have been tuberculosis or heart failure. A post mortem was not carried out for religious reasons.

It is reported that two days before his death his wife and son visited him. Ahmadhon Turahanov was apparently carried in on a stretcher and had difficulty speaking.

During his detention he was ill treated and kept in conditions that fall well short of international standards. There are strong grounds for fearing that the appalling conditions that Turahanov was subjected to while in detention contributed to his death.

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18 See urgent appeals UZB 001/0599/OBS 029; UZB 001/0599/OBS 029.01