

Kyrgyzstan

The interim government and the international community should put an end to impunity

Preliminary conclusions of the FIDH fact-finding mission

Paris, Bishkek, 9 July 2010 – Following the events that struck Kyrgyzstan in April and June 2010, FIDH mandated an international fact-finding mission which held numerous interviews in Bishkek and Osh between 20 and 28 June 2010 and held discussions with NGO representatives, political parties, the provisional government and local authorities. The mission was composed of Messrs. Ales Bialiatski, FIDH Vice President and President of Viasna Human Rights Centre (Belarus), Kirill Koroteev, lawyer, adviser to the Memorial Human Rights Centre (Russia) and European Human Rights Advocacy Centre and Johan Bihr, researcher specialised in Central Asia (France).

The FIDH mission noted that the interim government was too weak to cope with the prevailing instability, especially in the south of the country where impunity reigns and crimes are still being committed. The fight against impunity, both for what happened in April 2010 and in June 2010, remains unsubstantial. The FIDH mission met with many members of the Uzbek minority group and gathered much evidence about their extreme vulnerability and the lack of protection and assistance. Furthermore, the pressure exercised on the human rights activists and the independent journalists is becoming systematic.

A situation yet to be stabilized

Three weeks after the violent clashes between ethnic Kyrgyz and Uzbeks, which have reportedly caused over 1,500 deaths and the displacement of over 400,000 persons, the situation in the south of the country is far from stable although the large-scale confrontations have come to an end¹. The curfew, which had been suspended during the constitutional referendum of 27 June, was imposed again until 10 August in the Jalalabat region and in certain cities in the Osh region. Every day, hostage takings, rapes and murders were reported to the fact-finding mission.

Part of the security forces (army, police and security services, GSNB) are not controlled by Bishkek and are free to raid and plunder the civilian population undisturbed. Furthermore, the members of the security forces and the judiciary are nearly all ethnic Kyrgyz, a factor which heightens the tension and prevents the Uzbeks from having any confidence in them. The FIDH mission heard several testimonies from Uzbek victims who were eager to talk to international observers about the ongoing violence since they felt

¹ For close to a week, starting on 10 June, the south of the country was subjected to highly organised criminal gangs that robbed and killed men, women and children. An analysis of UN satellite images indicated that between 2,000 and 3,000 houses were destroyed in the city of Osh, and 433 in the city of Bazar-Korgon (Jalalabat region).

they could not trust their authorities.

FIDH member organisation Citizens Against Corruption received information about Uzbeks being arrested in Osh and being unjustly accused for fomenting the unstable situation that occurred in June 2010. On 29 June 2010, the security forces arrested Zulkhumor Moydinova requesting her to turn over her minor son, threatening that otherwise they would put weapons and drugs in her home and then lay charges against her for that. At present, Mrs. Moydinova, who is physically disabled and sick, is being held in Osh.

In the night of 24-25 June a group of five armed men committed grave violence against members of the Abdulaev family that had returned on that very day to their home village, Asanchev, where most of the population is Kirghiz. To escape the violence, the Abdulaev family had fled to a refugee camp. Tadjikhan Abdulaeva, a member of the civil society and a local elected official was raped, threatened to be killed and manhandled in front of her children. Her mother Khadayatkhon Abdulaeva and her brother Isroil Mamdjanov were also brutally hit, and the family's money, jewellery and portable telephones were stolen.

Among the aggressors, the victims recognised two inhabitants of their village. Since the police station is closed at night, the victims could not appeal for help during the attack. Afterwards, the victims did not want to lodge complaints at the police station or at the office of the public prosecutor (*procuratura*) since they did not trust the Kirghiz officers. Furthermore, on the whole Kirghiz territory, no effective disarmament campaign has been carried out, and the circulation of weapons is an additional factor of instability.

It is unfortunate that the provisional government has tended to systematically play down the seriousness of this situation. The mission was told that the media had been requested not to give out any information on the ethnic appartenance of the victims or fighter groups. On 15 June, the President of the Interim Government, Roza Otunbaeva, declared that the situation was under control and that Kirghizstan was withdrawing its request to the international community for an intervention force: The FIDH President, Souhayr Belhassen declared: *“Media specialists should of course act responsibly, and we understand that the authorities are looking for appeasement. But minimising the events stokes rumours and panic, and maintains the lack of confidence among the local people who, in any case, receive information through other channels. We hope that the latest statement by Roza Otunbaeva on 27 June, in which she recognised that the situation was far from stable, will mark a turning point. The OSCE permanent council should not delay in dispatching a sufficiently large group of police-mediators to be able to provide real protection for persons whose life and physical integrity are still in danger.”*

Human rights defenders and anyone trying to cast light on the recent acts of violence are intimidated by the police and various other groups. On 28 June, for instance, Tolekan Ismailova, president of the NGO Citizens Against Corruption, and Aziza Abdirasulova, president of Kylym Shamy, FIDH member leagues, were summoned for interrogation at the Osh oblast Prosecutor's Office² as witnesses in a case of “organising massive disturbance” (art. 233 of the Kyrgyz Criminal Code) and “murder” (art. 97). *“Mrs. Ismailova and Mrs. Abdirasulova carried out vital research in the Osh region,*

²Appeal from the Observatory for the Protection of Human Rights dated 30 June 2010, <http://fidh.org/Open-Letter-to-the-authorities-Deep-concern>

documenting a great number of violations and fighting to get the authorities to understand the scope of the situation. They had just asked the Minister of Defence and the government's special envoy to the south region, Ismail Isakov, to allow them to enter the Osh provisional detention area. Their summons must be seen as a warning to local human rights defenders to stop documenting violations committed by the security forces," said the FIDH Vice President Aliaksandr Bialiatski, who accompanied the two ladies to the interrogation.

An accident that occurred during the mission was evidence of the will to get the independent observers and the human rights defenders out of the region. On 27 June, 2010, Mr Bialitski, Mmes Abdirasulova and Ismailova, and a Russian journalist Oksana Chelysheva who was accompanying them, were the victims of an obviously premeditated accident near the village of Papan, Osh region: *"The screws in the back wheel of our car had been sawn through during the short period of time that we were away from the car. No one was hurt, but the accident could have been serious. Our visit was 'disturbing'"* said Aliaksandr Bialiatski. Furthermore, since the threats against Tolekan Ismaloiva and her family were continued, Mrs. Ismaloiva had to leave Kirghizstan after the FIDH mission ended. Several people had warned Mrs. Ismailova about criminal gangs that were "out to hunt Tolekan Ismailova in connection with the situation in the south of the country".

FIDH points out that Azimjan Askarov, a recognised human rights defender and president of the association called Vozdukh, was arrested on 15 June for allegedly having participated in the confrontation that led to the death of a police officer in Bazar-Korgon³. According to his lawyer, he made a film of the event and some parts seriously compromise the local police which aggressively searched Mr. Askarov' home three times and caused major damage. Mr. Askarov is still being held at the police station in Bazar-Korgon, where, apparently, he has been tortured. After denying the facts, the prosecutor's office told the FIDH mission that his wounds dated to before his arrest, and was reticent about changing the restrictive measures imposed on M. Askarov and letting him be examined and, if necessary, treated by independent physicians.

In the rest of the country, the situation of human rights is progressing but the improvements are still very fragile.

Since the Kourmanbek Bakiev regime was overthrown (7 April 2010) the interim government proclaimed the return of human rights as one of its priorities. Symbolic measures have been taken, e.g. the disbanding of the "9th division" of the GSNB in charge of monitoring political opposition. Certain components of the new government are anxious to listen to the civil society but other immediately started applying measures of intimidation. According to Mr. Daniar Karimov, journalists at www.24.kg have received telephone calls urging them to be 'prudent'.

In this situation of extreme polarisation, the senior members of the previous regime are being accused of everything that goes wrong now. The deputies of the old presidential

³ Press release of the Observatory for the Protection of Human Rights dated 18 June 2010
<http://www.fidh.org/Arbitrary-detention-of-a-human-rights-defender>

party, Ak Jol, are being harassed by the SNB and the police do nothing to protect them from criminal gangs that are taking advantage of their present weak position. Representatives of the Kirghizstan communist party and the Ak Jol party and political activists told the mission about being intimidated, usually by telephone. The Ak Jol deputies were summoned to the SNB where they were urged to quit the Ak Jol party. The national fact-finding commission on violence committed on 7 April, when the police and the snipers serving the presidential guard killed at least 86 demonstrators in several places throughout the capital, is expected to make its report soon, but the mission's meetings with Commission representatives clearly indicated that the Commission was more interested in strengthening the legitimacy of the new government by condemning the old one than in trying to understand what really happened. Their main conclusion is that all the orders were given personally by Janysh and Maksim Bakiev, the president's brother and son. Although FIDH was pleased that the Human Rights Council, on 18 June, adopted a resolution calling on the Kirghiz government to carry out a frank and open enquiry into the events of 7 April, it is essential to set up an international fact-finding mission to guarantee the independence and efficiency of this action.

Except in the south of the country (see above), the civil society is generally free to work and develop proposals. The interim government holds more consultations and interactive dialogues, which are more or less successful. But in reality, new forms of direct and indirect pressure have emerged. Despite a rather single-sided campaign and numerous doubts, OSCE felt that the constitutional referendum of 27 June was held in conditions that could be deemed satisfactory.

But the overall feeling of emergency allows the interim government to govern by decree, sometimes outside any legal framework. It may be possible to understand the unusual conditions that brought the new government to power, but the dissolution of the parliament and the constitutional court, the accumulation of power in the hands of the executive and the legislature, and the fact that oversight of the ministry of the interior and the ministry of justice is exercised by one vice-prime-minister leaves the door open to all sorts of abuse. Thus it was that *Piramida* and *5th channel* television channels were nationalised all of a sudden, without compensation, by a decree that had to be cancelled thereafter because the decree ignored the fact that a Kazakh investor owned 49% of the shares in *Piramida*.

Since there are no institutional counterweights, nor any political and juridical controls of the interim government's actions between now and the next parliamentary elections, the civil society stands as the only interlocutor to the government, without really having the means to act. The feeling of emergency is heightened by the situation in the south. The Director of the International Relations Department of the Kirghizstan Public Prosecutor's Office told the mission: "*When the matter at hand concerns the integrity of the State or the fight against terrorism, all sorts of human rights violations are possible*". Yet the success of the constitutional referendum shows the interim government's determination to work on developing democracy-based legitimacy although the lack of information on the official texts, the combination of questions presented at the referendum and the agreement to vote on documents that do not mention citizenship is regrettable.

FIDH is a federation of 155 non-governmental human rights organizations operating in more than 100 countries. FIDH has a consultative status before the United Nations, UNESCO, and the Council of Europe, and observer status before the African Commission on Human and Peoples' Rights.

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Considering this situation, FIDH and its member organisations call upon:

the Kirghiz authorities:

to facilitate the creation of an independent, international fact-finding commission on the violence that took place in the south of the country in June 2010; to seriously examine the qualification of “crimes against humanity” in order to accept the jurisdiction of the International Criminal Court; to make sure that all of those responsible for committing crimes, including government officials, be brought to justice; to closely evaluate the responsibility accusations raised against security forces members and local administration officials.

to request the creation of an independent, international fact-finding commission on the nature and scope of the violence on 6 and 7 April 2010 in Talas and Bishkek, and on who is responsible and to guarantee the effectiveness of the criminal enquiry;

to communicate regularly and openly on the situation (safety, humanitarian) in the south of the country, and involve the representatives of the civil society, in compliance with the statement made by Roza Otunbaeva on 27 June 2010;

to introduce reliable mechanisms for consulting on and controlling decrees issued by the interim government;

to guarantee the independence of the nationalised media services (independent editorial policy, oversight committee, etc.);

to openly and equitably judge the leaders of the previous regime who are accused of crimes and corruption and, at the same time, launch a national reconciliation policy and cease persecution of parliamentarians of the Ak Jol party and its allies;

to organise an efficient disarmament campaign throughout the whole country.

the military authorities and the police in the Osh and Jalalabat regions and the regional prosecutors' offices:

to stop intimidating and harassing human rights defenders and start cooperating with them;

to the public prosecutor of Bazar-Korgon, to immediately authorise an independent medical examination of Mr. Azimjan Askarov and seriously consider the possibility of conditional release for health reasons and to guarantee that he be given a fair, transparent trial.

the member states of the Organization for Security and Cooperation in Europe (OSCE):

to encourage the OSCE permanent council to dispatch a sufficiently large intervention police force to be able to provide real protection for persons whose lives and physical integrity are still in danger;

to intervene without delay in favour of sending a fact-finding mission on the events that occurred in April and June 2010.

the members of the U.N. Security Council:

to examine the situation in Kirghizstan in application of Chap. 7 of the United Nations Charter and the Responsibility to Protect (RtoP)”;

to commission an independent, international enquiry on the scope and nature of the crimes committed in the south of the country in order, if appropriate, to submit the case to the Public Prosecutor of the International Criminal Court, by virtue of art. 13(b) of the Rome Statute;

to assist with the establishment, under OSCE mandate, of an international police support mission to ensure the safety of the civilian population and stabilise the region, with, if necessary, military support;

to help with UN humanitarian activities and support for refugees and displaced persons.

the international community as a whole:

to examine, in a coordinated manner, possible measures for helping the Kirghiz authorities stabilise the situation in the south of the country without delay and prevent all new escalation of violence.

the member states of Collective Security Treaty Organization (CTSO):

to come to an agreement, without delay, on the logistical and material support to give to the Kirghiz forces;

the humanitarian organisations and the Kirghiz authorities:

to launch, as quickly as possible, vast programmes to rebuild destroyed homes, provide medical and psychological aid, and prevent further conflict in the Osh, Jalalabat and Batken regions.

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