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BURUNDI

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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In 2010-2011, human rights defenders were repeatedly considered as opposition members. Those denouncing acts of corruption and embezzlement were also subjected to judicial harassment and several human rights organisations were threatened, victims of defamation by the media and intimidated because of their fight against impunity.

Political context

General elections held in Burundi between May and September 2010¹, the first ones since the 2000 Arusha Agreement that took place in a context of peace, generated a particularly tense political climate. Indeed, citing electoral fraud, the main opposition political parties rejected the provisional results of the elections of May 24, 2010, the first of five scheduled elections, which devoted a large victory to the ruling party, the National Council for the Defence of Democracy - Forces for the Defence of Democracy (*Conseil national pour la défense de la démocratie - Forces de défense de la démocratie* - CNDD-FDD). Brought together in the framework of the Democrat Alliance for Change in Burundi (*Alliance des démocrates pour le changement au Burundi* - ADC-Ikibiri), the opposition parties, with the exception of the Union for National Progress (*Union pour le progrès national* - UPRONA), chose to boycott the presidential legislative and local elections due, according to them, to a lack of regulation in the electoral process². As a result, this almost single-party context allowed the CNDD-FDD to consolidate its power within the whole Government institutions.

Throughout the electoral process, Government authorities also tried to silence any criticism regarding the ways of governance and the conduct of elections. This led to restrictions on freedom of movement, prohibition of meetings and press conferences³, the arbitrary arrest and detention of

1/ The election process was made up of five elections, including municipal (May 24), presidential (June 28), legislative (July 23), senatorial (July 28) and local (administrative subdivision - September 7).

2/ See ADC-Ikibiri, *Mémoire sur les irrégularités et fraudes massives des élections communales du 24 mai 2010*, June 2010.

3/ On June 8, 2010, the Interior Minister, Mr. Edouard Nduwimana, banned all meetings and activities of parties not participating in the presidential elections. After the vote on June 28, he announced that the opposition parties could resume their activities. On September 17, 2010, Mr. Nduwimana said that coalitions are not allowed to operate outside the electoral period.

dissidents and the killing of militants of the ruling party and the opposition. This violence drove many of the main opposition leaders to exile⁴.

From September 2010, a wave of violence was also observed in some localities in western areas, especially in the provinces of Bujumbura Rural and Bubanza, former strongholds of the National Forces of Liberation (*Forces nationales de libération* - FNL). Military operations were launched by the Government authorities to try to counter a resurgence of armed groups close to the ADC-Ikibiri⁵. This period was marked by acts of violence and repression against opposition members, as well as against civil society activists and journalists, accused by the authorities of being behind the resurgence of insecurity in the country.

On January 25, 2010, the Burundian Parliament enacted Law No. 1/03 on the Organisation and Functioning of an Ombudsman with a mandate to investigate complaints, conduct investigations into embezzlement and violations of human rights committed by State agents, and to make recommendations to the competent authorities. On November 12, 2010, despite the challenge of parliamentary opposition regarding its lack of neutrality, Mr. Mohamed Khalfan Rukara, a senior leader of CNDD-FDD, was elected unanimously by the National Assembly and approved by the Senate for a term of six years⁶. On January 5, 2011, the Burundian Parliament also enacted a law establishing the Independent National Commission on Human Rights (*Commission nationale indépendante des droits de l'Homme* - CNIDH), arising from a process which began several years ago. The law, which contains the main recommendations made by civil society and fully complies with the Paris Principles, was however challenged in some points, particularly regarding the selection of commissioners and the financial independence of the institution⁷. The CNIDH will have the mandate to

4/ See the Forum for the Strengthening of Civil Society (*Forum pour le renforcement de la société civile* - FORSC) and the Association for the Protection of Human Rights and Detained Persons (*Association pour la protection des droits humains et des personnes détenues* - APRODH).

5/ See FORSC.

6/ The National Assembly is dominated by almost 80% of the CNDD-FDD. The few members of UPRONA and the three representatives of the Batwa minority withdrew before the vote, because they objected to the lack of consultation and consensus before the vote and wanted a candidate who was politically neutral.

7/ Civil society had proposed that the commissioners should be nominated by their peers in their respective electorates. The enacted law however, states that the application is free and that the selection of candidates will be made by an ad hoc committee of the National Assembly. The National Assembly will elect seven members appointed by the then President of the Republic, despite the consultation process that promotes the Paris Principles. This reduces the room for a consultation process with civil society because the law does not force the National Assembly to consult with civil society for the appointment of members of the CNIDH. Neither the bar nor the unions are represented. Funding for the Commission is channeled through the Government, potentially undermining the independent and self-management of the Commission.

receive complaints and investigate human rights violations, to fight against torture, rape and other forms of gender-based violence, to provide legal assistance to victims or to propose concrete measures for the Government to promote the protection of rights.

Human rights defenders considered as opposition members

Civil society, private media and international NGOs were repeatedly considered by the power as members of opposition parties. This phenomenon is particularly worrying for the continuation of the activities of the defenders and their security. In June 2010, in response to the report on pre-election political violence by the NGO Human Rights Watch (HRW), its representative in Burundi was expelled from the country, deemed as politically favourable to the opposition⁸. In October 2010, the *Burundi News* website published an article accusing some leaders of the civil society to be agents of the opposition, including Mr. **Gabriel Rufyiri**, President of the Observatory for the Fight Against Corruption and Economic Embezzlement (*Observatoire de lutte contre la corruption et les malversations économiques* - OLUCOME). On November 5, 2010, following a visit to a leading member of the FNL in the central prison of Mpimba, during which the latter would have provided a list of FNL political prisoners in the prison, Ms. **Elyse Ingabire** and Mr. **Dieudonné Hakizimana**, two journalists from the newspaper *Iwacu*, were arrested without a warrant by the Municipal Commissioner Mr. Parfait Hakizimana and were taken to the Special Bureau of Research (*Bureau spécial de recherche* - BSR), a special investigation unit of the Gendarmerie. There, they were held for 48 hours under the orders of another Municipal Commissioner. During the interrogation, they were accused of collaborating with the FNL and of “undermining the security of the State”. During their detention, the newspaper’s lawyer was not allowed to see the two journalists, in violation of legal provisions. As of late April 2011, charges of violations of State security were still pending against them⁹.

Judicial harassment against defenders denouncing State corruption and embezzlement

In 2010, defenders denouncing acts of corruption and embezzlement within the State were one of the favourite targets of the authorities. Thus, on April 2, 2010, following the publication of a letter from OLUCOME to the President of the Commission on Defence and Security of the National Assembly concerning a draft statute for granting benefits to the

8/ They were not allowed to return to Burundi, but in April 2011, the authorities agreed that HRW could appoint a new representative.

9/ See OLUCOME.

generals of the national police and of the army, the Minister of Public Safety filed a complaint against Mr. Gabriel Rufyiri to the Attorney General of the Republic for “disturbing the public peace”, “spreading false news” and “misinformation and intoxication”, accusing him of a “breach of trust between institutions and people”. On April 8, 2010, the Council of Ministers issued a press release stating that the National Security Council, which was “concerned about the consequences of these allegations, would be meeting shortly to address the issue”. On April 14, 2010, Mr. Rufyiri was informed of the issuance of an arrest warrant against him and the next day, plainclothes police were looking for him but without success. However, Mr. Rufyiri was never arrested and the case was finally not brought to court¹⁰. On August 10, 2010, in response to a complaint filed by the Director of Regideso, a State company for the production and marketing of water and electricity, Mr. **Thierry Ndayishimiye**, the Editor of the weekly newspaper *Arc-en-Ciel*, was arrested by the police for “defamation”, in connection with an article published on July 30, 2010 involving the complainant in a case of embezzlement regarding the work done by Regideso in Gitega, Ruyigi and Rutana. After being placed in custody for two days at the Mpimba Central Prison in Bujumbura, Mr. Ndayishimiye was released on bail before the closure of the file¹¹. On July 17, 2010, Mr. **Jean-Claude Kavumbagu**, Editor-in-chief of the *Net Press* website, targeted by the power for several years because of his articles denouncing State corruption and embezzlement, was arrested by the General Commissioner of the police in the western region of Burundi, on an arrest warrant issued by the Prosecutor of Bujumbura. Remanded in custody at the Mpimba central prison, the journalist was accused of “treason”¹², “damaging allegations” and “libel”, under the pretext of the publication of an article published a few days earlier, expressing reservations about the ability of the army and police forces of Burundi to prevent a possible attack on the Somali Islamist group Al Shabab, who had claimed responsibility for a terrorist attack in Uganda. On April 13, 2011, the Prosecutor of Bujumbura called for a life sentence against Mr. Kavumbagu who, as of the end of April 2011, was still detained at Mpimba central prison, pending the verdict¹³.

10 / *Idem*.

11 / See FORSC.

12 / Under the Criminal Code, the crime of treason is only considered in times of war and is punishable by life imprisonment.

13 / On May 16, 2011, Mr. Kavumbagu was released following the decision of the District Court of Bujumbura to drop the charges of “treason,” of “damaging allegations” and of “libel” pending against him. The Court nonetheless decided to sentence him to eight months in prison - a sentence he had already completed - and to a fine of 100,000 Burundian francs (about 58.10 euros) on the grounds of “publishing writing likely to affect the credit of the State and national economy”.

Ongoing acts of harassment against defenders fighting impunity

In 2010-2011, several human rights organisations and defenders were subjected to threats, defamation and intimidation, because of their commitment to the fight against impunity. Thus, on October 20, 2010, during a press conference held at the General Direction of the police, the Spokesman of the National Police charged Mr. **Pierre Claver Mbonimpa**, Head of the Association for the Protection of Human Rights and Detained Persons (*Association pour la protection des droits humains et des personnes détenues* - APRODH), with “support[ing] armed bandits” because of his denunciations of extrajudicial killings of FNL members. In addition, during a meeting held on October 20, 2010 in his office with representatives of several NGOs, the Interior Minister, Mr. Edouard Nduwimana, threatened to withdraw approval of APRODH or remove Mr. Pierre Claver Mbonimpa from his post.

Moreover, while the legal proceedings initiated in response to the killing on April 9, 2009 of Mr. **Ernest Manirumva**, Vice-President of OLUCOME, had still not determined the exact circumstances of his death nor the responsibilities of the individuals involved in the operation due to deficiencies in the conduct of the investigation of the case¹⁴, human rights defenders who mobilised to demand an independent and impartial justice were subjected to threats, intimidation, obstruction and surveillance, particularly from the Government authorities. Thus, on March 20, 2010, Mr. Pierre Claver Mbonimpa received an anonymous call threatening him with death if he kept working on the case of Mr. Manirumva. On the evening of April 1, 2010, a group of armed men went to the house of Mr. Gabriel Rufyiri while he was out. A few days earlier, his wife had received an anonymous call to warn her husband to “pay attention to the issues he was dealing with”. Mr. Mbonimpa and Mr. Rufyiri did not file a new complaint as the complaints previously filed by both organisations were not pursued. On November 1 and 2, Mr. Rufyiri and his wife again received death threats by phone. A week before, a man presented himself at the OLUCOME premises and uttered insults against Mr. Rufyiri and his wife. Following these incidents, OLUCOME filed a complaint on November 9, 2010 requesting the identification of the owners of the phone numbers. The police managed to identify the numbers and forwarded them

14 / Twelve people were prosecuted in connection with the case, but no leading figure among them. On January 26, 2011, the Bujumbura Court of Appeals declined jurisdiction and referred the case to the High Court which, in late April 2011, had not yet received the said file. On June 22, 2011, at the request of the Prosecution, the Criminal Division of the High Court of Bujumbura requested that additional instructions should be carried out, including DNA samples and interrogations of some senior officials, before further consideration of the case.

to the judiciary in late April 2011, which had not yet acted on this information. In 2010-2011, Mr. **Pacifique Nininahazwe**, Chairman of the Forum for the Strengthening of Civil Society (*Forum pour le renforcement de la société civile* - FORSC), a platform of 146 civil society organisations¹⁵ particularly active in campaigning for justice in the murder of Mr. Manirumva and for the release of the journalist Mr. Jean-Claude Kavumbagu, was regularly subjected to death threats, stalking and defamatory statements on Internet websites close to the ruling party. His phone was also tapped and he observed some National Intelligence Service (*Service national de renseignements* - SNR) vehicles, parked outside his residence¹⁶. On April 8, 2011, just before the second anniversary of the assassination of Mr. Manirumva, a peaceful march organised by NGOs in Bujumbura as part of the campaign calling for shedding light on the assassination and for pursuing and prosecuting those responsible, was prevented from advancing by a group of policemen, twenty yards after leaving the headquarters of the Burundian League of Human Rights (*Ligue burundaise des droits de l'Homme* - ITEKA). The police then tore the posters and banners of the demonstrators. At the scene, Mr. David Nikiza¹⁷, Commissioner of the western region for the Burundian national police, ordered the arrest of Mr. Gabriel Rufyiri and Mr. **Claver Irambona**, a member of OLUCOME. The two men were detained at the BSR and then released without charge a few hours later. The event was legally declared in a letter sent on April 4 to the Mayor of Bujumbura, who responded through a letter dated April 5, that he was shocked that OLUCOME had organised an event and that the OLUCOME should go to the relevant court. The organisers of the march received no notification of the prohibition. In addition, on April 22, 2011, *Radio sans frontières Bonesha FM* reported the circulation of a pamphlet containing a list of forty people who had to die by the end of 2011, including Mr. Rufyiri, Mr. Nininahazwe, Mr. Mbonimpa and Ms. **Eulalie Nibizi**, President of the STEB teachers union and Vice-President of the Confederation of Trade Unions of Burundi (*Confédération des syndicats du Burundi* - COSYBU), one of the main leaders of the union movements. Finally, on April 26, 2011, during a march supported by the ruling party, protesters were carrying placards bearing the words "Pacifique Nininahazwe: stop this divisionism. Not only Ernest died in Burundi". Mr. Rufyiri informed the police before

15/ On January 28, 2011, the Interior Minister reinstated the legal status of the FORSC, revoking the decree of November 2009 which had set aside the order approving it.

16/ On August 25, 2010, for example, he was followed by a police car. When he arrived at his home, he found two jeeps parked outside his house and two others arrived later, before leaving the scene together. Mr. Nininahazwe, who has been protected by two police officers since November 2009, did not press charges after the death threats were made against him.

17/ Mr. Nikiza would be involved in the operation that led to the assassination of Mr. Ernest Manirumva.

speaking in the media but no legal proceedings had been opened at the end of April 2011¹⁸.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Pierre Claver Mbonimpa, Gabriel Rufyiri and Ernest Manirumva	Death threats / Acts of intimidation / Impunity	Urgent Appeal BDI 001/0409/OBS 061.1	April 7, 2010
Ms. Prudence Bararunyetse and Messrs. Gabriel Rufyiri, Pierre Claver Mbonimpa and Ernest Manirumva	Death threats / Harassment / Impunity	Urgent Appeal BUR 003/1110/OBS 134	November 12, 2010
Messrs. Gabriel Rufyiri, Pierre Claver Mbonimpa and Ernest Manirumva	Death threats / Impunity	Press Release / International Mission of Inquiry	November 29, 2010
Mr. Ernest Manirumva	Impunity	Press Release / Mission Report	April 7, 2011
Messrs. Gabriel Rufyiri, Claver Irambona and Ernest Manirumva and Ms. Pacifique Nininahazwe	Obstacles to freedom of assembly / Detention / Liberation / Impunity	Urgent Appeal BUR 001/0411/OBS 060	April 8, 2011
Mr. Ernest Manirumva	Impunity	Joint Press Release	April 9, 2011
Ms. Neela Ghoshal	Expulsion	Urgent Appeal BDI 001/0510/OBS 064	May 21, 2010
		Joint Press Release	May 28, 2010
Mr. Pierre Claver Mbonimpa / Association for the Protection of Human Rights and Detained Persons (APRODH)	Threats / Risk of obstacles to the freedom of association	Urgent Appeal BDI 002/1110/OBS 131	November 4, 2010
Forum for the Strengthening of Civil Society (FORSC)	Rehabilitation	Press Release	February 10, 2011
Mr. Jean-Claude Kavumbagu	Arbitrary detention / Judicial harassment	Press Release	April 21, 2011

¹⁸/ See FORSC.