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In 2010, relations between the regime and civil society became tense given that the latter was more and more considered by the authorities as part of the political opposition and given the attempts of the Government to control the activities of NGOs. Meanwhile, journalists who denounced acts of corruption continued to be subjected to judicial harassment in 2010-2011. Finally, several peaceful demonstrations organised by civil society organisations were banned and repressed in 2010.

Political Context

Civic protest movements against Government management of social issues intensified in 2010-2011, with more frequent and sometimes violent demonstrations taking place both in the capital and across the country¹. In this time of energy crisis and strong social discontent, on October 4, 2010, President Abdoulaye Wade fired his Minister of Energy and appointed to the position, his son and adviser, Mr. Karim Wade. Mr. Karim Wade had already been appointed Minister of State shortly after the success of the opposition in the March 2009 municipal elections. This cabinet reshuffle, considered by some as a confirmed volition to install a “dynasty” power, came to be seen in an already enlivened political debate over the legality of a new candidature of the President in 2012, as the Constitution does not allow a third term.

In 2010-2011, the reluctance of the Senegalese President to try Mr. Hissène Habré, the former Chadian dictator who has been living in exile in Senegal for over 20 years and who is accused of “war crimes”, “crimes against humanity” and “crimes of torture”, provoked a strong reaction within the international and African civil society. Indeed, on December 11, 2010, the President publicly stated that he “regretted” having accepted the case and declared his intention to “get rid” of it because of the lack of support².

1/ These demonstrations were firstly to protest against the high cost of living, poor living conditions, electrical power outages and inadequate access to clean drinking water, but were also held to press for better disaster preparedness and management in order to reduce the risk of flooding in vulnerable communities.

2/ On November 24, 2010, international donors meeting in Dakar released funds covering the entire provisional budget of the trial estimated at 5,6 billion CFA francs (about 8,6 million euros). At its summit held in Addis Ababa on January 31, 2011, the African Union (AU) confirmed the task of organising the trial that it had entrusted to Senegal five years earlier. On March 24, 2011, Senegal and the AU announced agreement on the creation of an ad hoc international court to try Mr. Habré and fixed another meeting in April to finalise the statutes and regulations of the court. By the end of April, these documents had not been finalised. See Senegalese League for Human Rights (*Ligue sénégalaise des droits de l'Homme* - LSDH) and the African Assembly for the Defence of Human Rights (*Rencontre africaine pour la défense des droits de l'Homme* - RADDHO).

The working conditions of journalists improved following the adoption by the Council of Ministers on September 16, 2010 of a draft law on a new Press Code, which decriminalises press offences – a major innovation³. Moreover, the summons of journalists by the Criminal Investigation Division (*Division des investigations criminelles* - DIC) for questioning about their work slightly reduced. However, independent media continued to face acts of intimidation, police violence and judicial harassment⁴.

NGOs considered as part of the opposition and State attempts to control their activities

At the end of 2010, relations between the authorities and the civil society became tense in a context in which the latter was increasingly considered as part of the opposition and where the State was trying to control the activities of human rights organisations. On October 1, 2010, at a ceremony to celebrate the 20th anniversary of the African Assembly for the Defence of Human Rights (*Rencontre africaine pour la défense des droits de l'Homme* - RADDHO), Prime Minister Ndéné Ndiaye who presided over the event, qualified the RADDHO Secretary General **Alioune Tine** as being close to the opposition. He reiterated this statement several times early in 2011⁵. In addition, by a presidential decree of October 20, 2010, the number of State-appointed members of the Public Procurement Regulatory Council was doubled, while the three members of Civil Forum (*Forum civil*) – the Senegalese section of the NGO Transparency International – were excluded from their seats in the council, on the grounds that they were a disruptive presence because of their systematic denunciations of bad governance practices contrary to the principle of transparency and the fight against corruption. Without the presence of Civil Forum representatives in the council, it became virtually impossible for NGOs to access information on this question⁶. Furthermore, on December 17, 2010, the President signed a new decree modifying Decree No. 96-103 of February 8, 1996, which established the regulatory framework governing NGO activities, by placing NGOs henceforth under the authority of the Interior Ministry rather than the Ministry of Social Development as it was previously the case. This decision was strongly criticised by the NGO Council of Development Support (*Conseil des ONG d'appui au développement* - CONGAD)⁷, which fears that this measure aims to place the organisations of the civil society under

3/ This draft legislation, which was still under consideration by the National Assembly at the end of April 2011, stipulates that prison sentences will be replaced by financial sanctions or by the withdrawal of a journalist's press card.

4/ See LSDH and RADDHO.

5/ See RADDHO.

6/ *Ibid.* at 4.

116 7/ Created in 1982, CONGAD comprises 178 international and national NGOs.

the tutelage of a ministry considered as the police arm of the State, and therefore seeks to muzzle and control them.

Intimidation and judicial harassment against journalists who denounce corruption

While a revision of the Press Code was awaited, journalists who recorded and denounced acts of corruption continued to be subjected to judicial harassment in 2010-2011. Thus, while his appeal against the Director of the Senegalese company Lonase games was still pending as part of a previous conviction for “spreading false news”⁸, the investigative journalist Mr. **Abdoulatif Coulibaly**, Editor of the magazine *La Gazette*, a former member of the Council for Ethics and Deontology (*Comité d’observation des règles éthiques et de déontologie* – CORED) Executive Committee, and Director of the Higher Institute of Information and Communication (*Institut supérieur des sciences de l’information et de la communication* – ISSIC), was convicted on November 16, 2010 for “defamation” by the Criminal Court of Dakar, and given a one-month suspended sentence and a 20 million CFA francs (about 30,489 euros) fine. The charges arose from the publication of two articles in *La Gazette* on May 27 and June 3, 2010, in which Mr. Thierno Ousmane Sy, adviser to the Head of State for Information and Communication Technologies, was accused of having received substantial commissions for the sale of the third telephone licence in the country to the private Sudanese telecommunication group Sudatel. In addition, his colleagues, Messrs. **Aliou Niane** and **Alioune Badara Coulibaly**, co-authors of the articles, were sentenced to the same penalties for “complicity in defamation”. The three journalists appealed, but as of late April 2011, the Criminal Chamber of the Court of Appeal in Dakar had not yet scheduled a hearing⁹. In relation with this issue, on June 5, 2010, some policemen broke into the publishing premises of the independent daily *Le Populaire*, and confiscated some of its printing equipment. The apparent purpose of this action was to prevent publication of a petition by Mr. Bara Tall, a shareholder of the COM7 group that owns *Le Populaire*, demanding the opening of judicial proceedings in relation to the Sudatel transaction¹⁰. On October 5, 2010, a number of individuals entered the house of Mr. Abdoulatif Coulibaly and took away his laptop, his two

8 / See Annual Report 2010 of the Observatory.

9 / While the case was still being deliberated, the day after the trial held on September 14, 2010, the Public Ministry sent a confidential note to the Minister of Justice, also father of the complainant, Mr. Cheikh Ousmane Sy, in which it specifically requested that the guilt of Mr. Coulibaly should be recognised. Made public by the Senegalese press, this note was denounced by the defence as an injunction to judges and evidence of interference in the judicial system, seriously undermining the principles of a fair trial. See RADDHO and LSDH.

10 / See International Freedom of Expression Exchange (IFEX) Press Release, June 11, 2010 and LSDH. 117

phones and his vehicle, which was found later the same day. The phones were not found until later, as was the laptop in which files were found to have been destroyed, including a proposed paper on the human rights situation in Senegal. After Mr. Coulibaly filed a complaint, an investigation was opened and several people were arrested before being released, with the exception of one person who was convicted on November 19, 2010 for “receipt of stolen goods” and sentenced to two years and three months of imprisonment, and ordered to pay 4 million CFA francs (about 6,100 euros) in damages to the plaintiff¹¹. On December 9, 2010, Mr. Coulibaly was again summoned to appear before the Criminal Court of Dakar along with two journalists, Messrs. **Bocar Sakho** and **Mbaye Makébé Sarr**, for “defamation” and “complicity”. All three were cited in a complaint filed by Mr. Abbas Jaber, a friend of the Head of State and General Manager of Suneor, Senegal’s leading food company specialising in oilseeds, who following the publication of two articles in *La Gazette* on May 20 and 27, 2010, claimed 500 million CFA francs (about 762,245 euros) in damages¹². On February 24, 2011, counsel for the complainant requested 2 billion CFA francs (about 3,048,980 euros) in damages, before the prosecutor asked for a six months suspended prison sentence. On April 14, 2011, Messrs. Coulibaly, Sakho and Sarr were convicted for “defamation, public insults and complicity” by the Criminal Court of Dakar, to the prejudice of the complainant. They each received a three-month suspended prison sentence and were ordered to pay jointly to the plaintiff 10 million CFA francs (about 15,245 euros) in damages¹³.

Violations of freedom of peaceful assembly

While peaceful marches are protected by Article 10 of the Constitution as a form of exercising freedom of expression, several marches and peaceful demonstrations organised by various civil society groups were banned and repressed in 2010. For example, the peaceful demonstration organised by the Hann Maristes Collective of Associations (*Collectif des associations de Hann Maristes*), a group defending the rights of local residents of the Hann Marist region and protection of the environment, to protest against

11/ See RADDHO.

12/ These newspaper articles revealed a plan to sell 80% of the land assets of the company, which according to the authors would result in an estimated profit of 65 billion CFA francs (about 251,195,921 euros) while it had only cost 8 billion CFA francs (about 12,195,921 euros), thus constituting a breach of the protocol between the company and the State of Senegal, which does not allow the sale of its land before February 2012. According to the journalists, any regime change following the forthcoming presidential election could result in the State repossessing this land. This is why, Mr. Jaber would like to sell the company, which despite having received a State subsidy of 6 billion CFA francs (about 9,146,941 euros) to ensure the marketing of its peanuts has not recovered from its financial difficulties. See LSDH.

118 13/ See RADDHO.

the allocation of a portion of the perimeter of the local artificial lakes to real estate developers, was banned by the Prefect of Dakar on May 21, 2010, a day before it was due to take place. On May 22, 2010, the inhabitants of the Hann Marist region gathered to express their dissatisfaction with the proposed destruction and occupation of the site harbouring artificial lakes – a protected natural zone where no building was allowed according to the urban planning directives in force – to construct a gas station. In the view of Hann Marist residents, this project would have harmful consequences for the environment and their health, for example through the release of hazardous substances in lakes, noise and the risk of flooding caused by cutting down trees. National police units were deployed to prevent the march and the crowd was dispersed within a few hours. In addition, on May 25, 2010, the Coordinator of the Hann Marist group, **Mr. Aliou Diakhaté**, was invited to meet the Prefect to discuss their divergences regarding authorisation to hold the demonstration. However, on arrival at his office, Mr Diakhaté was greeted by members of the Hann Marist gendarmerie who arrested him for “disturbing public order”. He was detained for 48 hours at the gendarmerie and deferred to the Dakar Prosecutor in Dakar, who decided to release him without charge two days later¹⁴.

14 / See Hann Maristes Collective of Associations Open Letter to the authorities, June 6, 2010, LSDH and RADDHO.