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BURUNDI

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
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Political context

The year 2009 was marked by significant progress in the implementation of the peace process from the 2000 Arusha Agreement and the preparation of five elections – including the election of President of the Republic by universal and direct vote – scheduled between May and September 2010. In particular, on April 18, 2009, members of the Party for the Liberation of Hutu People – National Forces of Liberation (*Parti pour la libération du peuple hutu – Forces nationales de libération – Palipehutu-FNL*) a rebel movement, definitively renounced the armed struggle and the movement was registered as a political party, the FNL, on April 21¹. This decision suggests a real hope for peace in this country, which was in the grip of a bloody civil war for decades. The only drawback remains issues related to the fight against impunity for perpetrators of serious crimes and establishing transitional justice mechanisms, which are well behind schedule. National consultations on this theme were organised throughout the country.

While the end of the rebellions led to the preparation of the 2010 elections, issues of election-related security and resolution of electoral disputes remained sensitive. In the pre-election context, 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*), the ruling party, tried to control the outcome of elections to ensure its re-election, without hesitating to restrict spaces for democratic debate and tighten freedoms. Violations of the freedom of assembly of political parties were reported, as well as violence between young members of political parties.

Among the positive developments, the new Criminal Code promulgated by President Pierre Nkurunziza on April 22, 2009 abolished the death penalty, severely punished perpetrators of sexual violence and criminalised torture, genocide, war crimes and crimes against humanity. Moreover, the majority of criminality for children was raised from 13 to 15 years. However, this same Code provides, in Section 567, that persons found guilty of having homosexual relations can be sentenced to three months'

to two years' imprisonment and a fine of 50,000 to 100,000 francs CFA (75 to 150 euros), with sexual practices between people of the same-sex becoming illegal for the first time in the history of Burundi².

Finally, during the Universal Periodic Review (UPR) of Burundi by the United Nations Human Rights Council in December 2008, a delay in the establishment of an independent National Commission on Human Rights was reported³. Although it was expected early 2009, the Bill remained on the Government's table throughout the year. The first version, which was not in accordance with the Paris Principles, would be presented to Parliament in early 2010.

Attacks against defenders denouncing corruption

The year 2009 was marked by an intensification of repression against defenders fighting corruption. In the night of April 8 to 9, 2009, Mr. **Ernest Manirumva**, Vice-President of the Observatory for the Fight Against Corruption and Economic Embezzlement (*Observatoire de lutte contre la corruption et les malversations économiques* – OLUCOME) and also Vice-Chairman of the Regulatory Authority Procurement Committee (*Autorité de régulation des marchés publics*) and member of the National Committee for Monitoring and Management of Expenses in Heavily Indebted Poor Countries (*Comité national de suivi et de gestion des dépenses des pays pauvres très endettés*), was killed in Bujumbura by strangers, who also confiscated his documents. The same night, the door of his office was forced open and documents were stolen. Shortly before, Mr. Manirumva had been regularly threatened by phone or through flyers placed in his office or by attacks on websites. On January 5, 2009, some OLUCOME members had received threats ordering them to surrender certain records, including those relating to the misuse of public funds for the benefit of the Interpetrol society and the case of the presidential plane Falcon 50⁴. On January 7, 2009, a complaint was lodged with the Prosecution Mayor of Bujumbura, but no action had been taken. On April 10, 2009, an initial commission of inquiry was formed, but as it was deemed ineffective and incompetent to interrogate alleged perpetrators, it was replaced on April

2/ See Burundian and international NGOs Petition against the criminalisation of homosexuality in Burundi, April 24, 2009.

3/ See Human Rights Council, *Report of the Working Group on the Universal Periodic Review - Burundi*, United Nations Document A/HRC/10/71, January 8, 2009.

4/ This case concerns the sale of the presidential jet Falcon 50 at the Delaware Corporation company at a price considered ridiculous and a shortfall, according to OLUCOME, by more than five billion CFA francs (approximately 3,153,482 euros). A committee was appointed following a resolution of the National Assembly on August 15, 2007 but its report was never discussed by the Assembly. See OLUCOME Letter, October 16, 2009.

22 by another judicial inquiry. In addition, the United States Federal Bureau of Investigation (FBI) and Interpol, as part of a collaboration by the police, acceded to the request for international support to Burundian civil society and delegated agents in the country to provide technical and logistical support. On October 8, 2009, in the absence of progress in the investigation, OLUCOME informed the Attorney General of the Court of Appeal of Bujumbura that he would serve as plaintiff in the case of Mr. Ernest Manirumva's assassination. On October 22, 2009, a third judicial commission of inquiry was formed, with Mr. Adolphe Manirazika, First Deputy to the Court of Appeal of Bujumbura, as President. As of the end of 2009, the investigation had still not progressed. Furthermore, on April 21, 2009, Mr. **Gabriel Rufyiri**, President of OLUCOME, received death threats by telephone following which he filed a complaint against persons unknown to the Public Prosecutor of Bujumbura town. However, as of late 2009, no action had been taken on this complaint.

Acts of harassment against defenders exposing miscarriages of justice

In 2009, several lawyers were summoned by the judiciary, following a broadcast between July 14 and 16, 2009 after they denounced corruption in the High Court of Ngozi. Mr. **Marc Kirura**, journalist of *Radio publique africaine*, and the person he interviewed, Mr. **Stany Mbazumutima**, member of Ngozi branch of the Burundian Human Rights League Iteka (*Ligue burundaise des droits de l'Homme Iteka*), appeared before the Prosecutor of Ngozi on July 23, 2009 for questioning following a complaint for "false statements". Mr. **Jean Bosco Ndayiragije**, Head of the radio station, also appeared on July 28, 2009 before the Prosecutor of Ngozi. By decision of the National Communications Council (*Conseil national des communications*), all cases were subsequently closed due to lack of evidence⁵.

Obstacles to freedom of peaceful assembly

In 2009, several meetings organised by civil society on human rights were banned in accordance with the Law on Public Meetings and Demonstrations of 1981. For instance, on June 29, 2009, a day of information and awareness on the national consultations for the establishment of transitional justice mechanisms, organised in the province of Karuzi by the Forum for the Strengthening of Civil Society (*Forum pour le renforcement de la société civile* – FORSC)⁶ was banned on the grounds that the authorities had not been informed. Demonstrations denouncing

5/ See Iteka League.

6/ The FORSC is an organisation that gathers 146 Burundian civil society associations with the aim of strengthening these associations' capacities.

Mr. Manirumva's assassination and calls for serious investigation and assaults suffered by albinos were also banned during the year⁷.

Acts of harassment against defenders fighting impunity

In 2009, several human rights defenders and organisations were threatened and harassed because of their fight against impunity. For example, FORSC and its members suffered various acts of harassment after calling for a campaign to conduct serious investigations into the murders of Mr. Ernest Manirumva and Mr. Salvator Nsabirihho, who died on November 5, 2009 after being tortured by the guards of the Governor of Kayanza on October 13, 2009 during a case linked to the transfer of land plots. In mid-November 2009, the Delegate General of FORSC, Mr. **Pacifique Ninihazwe**, and Mr. **Pierre Claver Mbonimpa**, President of the Association for the Protection of Human Rights and Detained Persons (*Association pour la protection des droits humains et des personnes détenues* – APRODH), were placed under supervision by the National Intelligence Services. Similarly, on November 18 2009, FORSC, OLUCOME, Iteka League, the Observatory of Government Action (*Observatoire de l'action gouvernementale* – OAG) and APRODH published an Open Letter to the President of the Republic, to denounce the “unsustainable demonization” of civil society organisations indulged in by “some high administrative authorities”, including the Ministry of the Interior and the CNDD-FDD⁸. The same day, representatives of these five associations convened and met with the Minister of the Interior, who threatened to take “measures” against those organisations. Furthermore, on November 19, 2009, members of APRODH saw several people in the vicinity of the association's premises, monitoring the movements of its members. On November 21, 2009, Mr. Pacifique Ninihazwe received a series of anonymous death threats. Fearing for his safety, he had to live in hiding for over a month. Finally, on November 23, 2009, the Minister of the Interior signed an order rescinding the approval of FORSC, citing a technical error in the order, approved by that same ministry in May 2006. This is the first NGO to be banned in Burundi. In a letter dated December 5, 2009, the Minister reversed his decision suspending the effects of the order of November 23, and a technical committee consisting of four members of FORSC and three members of the Ministry of the Interior was appointed to overcome the crisis. The Ministry of the Interior considered that organisations without the legal status of non-profit association within FORSC should leave it. As of the end of 2009, FORSC had still not been re-registered as an association.

7/ See Iteka League.

8/ In particular, these organisations denounced the threats to their representatives, the prohibition of their protests and the surveillance of their members.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Ernest Manirumva	Assassination	Urgent Appeal BDI 001/0409/OBS 061	April 14, 2009
Forum for the Strengthening of Civil Society (FORSC) / Mr. Pacifique Ninihazwe	Obstacles to freedom of assembly / Threats / Intimidation	Urgent Appeal BDI 002/1209/OBS 176	December 1, 2009