

(Translated from Russian)

Permanent Mission of the Russian Federation

No. 1352

The Permanent Mission of the Russian Federation to the United Nations Office and other international organizations at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the request of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (Ref.: AL RUS 3/2018), has the honour to transmit herewith information from the Russian Federation.

The Permanent Mission takes this opportunity to convey to the Office of the High Commissioner the renewed assurances of its highest consideration.

Geneva, 12 April 2018

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Information from the Russian Federation in response to the request of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression regarding several regional offices of the voluntary organization “Memorial Human Rights Centre”

Reference: AL RUS 3/2018

The Russian Federation has examined the request of the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression regarding several regional offices of the voluntary organization “Memorial Human Rights Centre” and would like to provide the information below.

The Russian law enforcement authorities have taken the necessary measures within the scope of criminal procedural law to prevent criminal attacks on civilians, including human rights defenders, so that they may carry out their activities.

Specifically with regard to the incidents involving the offices of the human rights organization, Memorial, referred to by the Special Rapporteurs, the law enforcement authorities have taken the following steps:

On 17 January 2018, the investigating agency for Nazran, Ingushetia, of the Ministry of Internal Affairs opened a criminal enquiry, on the basis of article 167, paragraph 2 (deliberate destruction of or damage to another person’s property), of the Criminal Code, into the arson attack on the office space leased by Memorial, located at [REDACTED], Nazran, Ingushetia.

It has been established that on 17 January 2018, between 3.30 a.m. and 3.40 a.m., unidentified individuals in a black car without Government-registered plates drove up to the two-storey structure in which the Memorial offices were located, used a ladder they had brought with them to climb up to the second floor, broke a window and threw Molotov cocktails inside, thus setting the premises on fire.

As a result of the fire, the owner of the premises, [REDACTED], suffered significant material damage to his property, totalling more than 800 roubles. Memorial, in the person of [REDACTED], also suffered significant material damage, totalling 1 million roubles, resulting from the destruction of the organization’s property, which had rendered it unusable.

While he was being questioned as part of the investigation, the victim [REDACTED] stated that he was the head of the Nazran Memorial office. The offices damaged by the arson attack had been leased to Memorial by the owner, [REDACTED], since 1997. He had received no threats while carrying out human rights activities. [REDACTED] stated that he did not know why the rented premises had been set on fire, but he suggested that the attack might be linked to the activities of the organization. Memorial employees made similar statements.

On 23 January 2018, in Makhachkala, a criminal case was opened into crimes under article 167, paragraph 2, of the Criminal Code, involving the setting on fire, by unidentified individuals, of a 2008 GAZ-31105 Volga, belonging to [REDACTED], a driver employed by Memorial in Makhachkala.

It has been established that, on 22 January 2018, between 11.40 p.m. and 11.50 p.m., an unidentified individual set fire to a car belonging to [REDACTED] in the courtyard of a house located at [REDACTED], Makhachkala, causing some 30,000 roubles’ worth of damage.

The victim stated that he had worked as a driver for Memorial since January 2016. He said that he had not received any threats against his person and that he did not know why his car had been torched, nor who might have committed the crime.

As part of the investigation, the head of the Memorial office in Makhachkala, [REDACTED], and Memorial employees, [REDACTED] and [REDACTED], also stated

that that they did not know who had committed the crime, nor were they aware of any suspects. They suggested that the attack might be linked to the organization's activities.

Both criminal cases involved a significant amount of investigation and enquiries, including follow-up on statements obtained from "Memorial" staff, with a view to identifying the perpetrators. Investigations into these cases are ongoing.

With regard to the information requested about searches, a search of the Memorial office in Grozny was conducted on 19 January 2018. On 19 January, as part of a criminal investigation against Mr. Titiev involving charges under article 228, paragraph 2, of the Criminal Code (illegal manufacture, sale or carriage of narcotics or psychotropic substances or analogues thereof, as well as the illegal acquisition, storage, transportation, without the purpose of selling, plants containing narcotics, or psychotropic substances, or parts thereof containing narcotic drugs or psychotropic substances, committed on a large scale), pursuant to a decision by Shalinsky District Court on 18 January 2018, the investigating agency of the Ministry of Internal Affairs for Kurchaloevsky district, Chechnya, ordered a search of the apartment, located at [REDACTED], Grozny, which Mr. Titiev rented as an office for Memorial in Chechnya. The owner of the apartment is [REDACTED]. The search was carried out in the presence of [REDACTED], a lawyer representing the interests of Mr. Titiev, the mother of [REDACTED] — and witnesses. On 9 and 31 January 2018, in the course of a previous criminal investigation, the residence of Mr. Titiev in the village of Kurchaloy, Kurchaloevsky district, Chechnya, was searched.

No complaints were received from any of the individuals involved in the investigation prior to, during or after the investigation. Neither did any of those present during the search submit any comments or clarifications after reading the report related to the search. The lawyer and the owner of the premises both received a copy of the report.

The information on the conduct of searches at Memorial offices in Dagestan has not been confirmed, nor has the information regarding the alleged following of Mr. Titiev's lawyer, Petr Zaikin, from 18 January 2018. No surveillance of Mr. Zaikin has been carried out by the law enforcement authorities.

In the assessment of the incidents referred to by the Special Rapporteurs, it should be noted that the Russian Federation places great importance on the development of civil society institutions. The institutional framework for civil society has traditionally focused on non-profit organizations.

According to article 2 of Federal Act No. 7-FZ of 12 January 1996, on non-profit organizations, such organizations encompass voluntary or religious organizations (associations), communities of Russian indigenous minorities, Cossack communities, non-profit partnerships, institutions, autonomous non-profit organizations, social, charitable and other funds, associations and unions, as well as other entities provided for under federal law.

In the Russian Federation, there are a number of mechanisms that foster interaction between the State and civil society. Pursuant to Presidential Decree No. 120 of 1 February 2011, a council was established within the Office of the President for the development of civil society and human rights. In 2012, the Governmental Commission for the Coordination of Open Government was set up to facilitate interaction between federal executive bodies and representatives of civil society, voluntary associations and the business community concerning the establishment and operation of the "open government" system.

The Social Forum, established by Federal Act No. 32-FZ of 4 April 2005, plays an important role in the development of civil society, by fostering interaction between Russian citizens, voluntary associations, trade unions, artists' associations, employers' associations and related entities, professional associations and other non-profit organizations established with a view to representing and safeguarding the interests of professional and social groups, and federal, regional and local authorities. The Social Forum strives to protect the rights and freedoms of Russian citizens and the rights of non-profit associations in the development and implementation of State policies, and promotes public monitoring of the activities of the public authorities.

The judicial protection of civil rights and freedoms is enshrined in article 46, paragraph 1, of the Constitution. Article 52 of the Constitution contains safeguards to protect the rights of crime victims. The State ensures that victims have access to justice and compensation for harm.

In accordance with article 11, paragraph 1, of the Civil Code, civil rights are protected under the material jurisdiction established in the law of civil procedure by a civil or commercial court or an arbitration tribunal. Article 12 of the Civil Code sets out a list of mechanisms for the protection of civil rights, including the recognition of rights; the restoration of the situation that prevailed before a right was violated and suppression of acts that infringe or risk infringing a right; invalidation of an act of a central or local government authority; the right of self-defence; court order on fulfilment of an obligation in kind; damages; moral damages; the termination or alteration of legal relations; and the non-application by the courts of an act of a central or local authority that is inconsistent with the law.

According to article 4, paragraph 1, of the Code of Administrative Procedure, all concerned individuals have the right to appeal to the courts in defence of violated or disputed rights, freedoms and legitimate interests, including if, in the opinion of the concerned individuals, the exercise of their rights, freedoms and legitimate interests has been hampered, or an obligation has been unlawfully placed on them.

Article 15 of the Civil Code provides that a person whose rights have been violated may claim full compensation for the losses suffered, unless the law or contract in question provided for lesser compensation. In accordance with article 151 of the Civil Code, if a citizen suffers moral harm (physical and psychological suffering) through actions that violate his or her personal non-material rights or infringe on other intangible benefits enjoyed by the citizen, as well as in other cases prescribed by law, a court may require the wrongdoer to pay financial compensation for the harm suffered.

The Criminal Code and the Code of Administrative Offences lay down the crimes and administrative offences relating to legal liability for violations of human rights and freedoms.

Chapter 19 of the Criminal Code describes as a criminal offence, inter alia, the violation of the equality of human and civil rights and freedoms (art. 136), infringement of the inviolability of private life (art. 137), the violation of the confidentiality of correspondence, telephone conversations and postal, telegraphic and other communications (art. 138), infringement of the inviolability of the home (art. 139), the refusal to provide citizens with information (art. 140), falsification of election or referendum documents (art. 142), electoral fraud (art. 142.1), the violation of the right to freedom of conscience and religious belief (art. 148), and the obstruction of the holding of or participation in a meeting, rally, demonstration, march or picket (art. 149).

Efforts are ongoing to improve criminal procedure legislation and to incorporate information technology in the work of the courts. Currently, the parties to civil, arbitral and administrative proceedings in administrative cases to the Court may send applications, statements, complaints, submissions and accompanying evidence electronically. Such documents must be signed electronically and submitted using a special form found on the court's website. At the request of the participants in the proceedings, the court ruling may be sent via email.