

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

REFERENCE: UA
RUS 9/2014:

14 November 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence pursuant to Human Rights Council resolutions 25/2, 24/5, 25/18, and 27/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning an **alleged court application for the closure of an umbrella human rights organisation and undue interference and defamation of an affiliated non-governmental organization.**

Historical, Educational, Human Rights and Charitable Society "Memorial" (Society Memorial) is an umbrella group, composed of a number of independent non-governmental organizations, focusing on documenting past and present human rights violations and promoting the rule of law and democracy in the region of the former Soviet Union.

Human Rights Centre "Memorial" (HRC Memorial) campaigns for the enforcement of the rule of law and records and investigates abuses committed by police and military forces in the Northern Caucasus, including arbitrary detention, torture, the abduction of civilians and the fabrication of terrorism-related charges. HRC Memorial is a member of Society Memorial.

The Law on introducing amendments to legislative acts of the Russian Federation in part regulating activities of non-commercial organizations which carry functions of foreign agents (the “Law”) and HRC Memorial have been the subject of three previous communications by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders, dated 13 June 2013, 1, case no. RUS 3/2013, 8 December 2013, case no. RUS 13/2013, and 20 June 2014, case no. RUS 5/2014. We acknowledge the replies sent by your Excellency’s Government to the last two communications, but we remain concerned given the allegations below.

Case of Society Memorial

According to the information received:

On 17 January 2013, the Ministry of Justice of the Russian Federation issued an official warning to the Society Memorial for violating the Law governing non-governmental organizations. It further argued that all-Russian organisations, including Society Memorial, had to register their branches in at least half of the regions of the Russian Federation to operate. Following this decision, Society Memorial filed an appeal, which was reportedly dismissed by both the District and Moscow city courts.

On 24 September 2014, the Ministry of Justice filed a lawsuit with the Supreme Court requesting the closure of the Society Memorial, citing “infringements” due to the group’s organisational structure, namely the failure to register sufficient numbers of its offices in other regions.

After receiving the notification of the lawsuit, Society Memorial informed the Ministry of Justice that they had scheduled a board meeting on 22-23 November 2014 to identify possible changes to align their organisational structure with the Law, despite the group’s continued opposition to the court decision of 17 January 2013.

On 10 November 2014, the Ministry of Justice requested the Supreme Court to postpone its hearing on the closure of the Society Memorial to allow time for the Society Memorial to hold its board meeting and to consider relevant changes to align itself with the Law governing non-governmental organizations. On 13 November, the Supreme Court upheld the request of the Ministry of Justice and postponed its hearing to 17 December 2014.

Case of HRC Memorial

According to the information received:

On 21 July 2014, the Ministry of Justice registered HRC Memorial on the “Foreign Agents” list under the Law. This decision was reportedly under appeal to the Zamoskvoretskiy District Court at the time of writing this communication.

On 26 September 2014, members of HRC Memorial were denied access to the villages of Vremenniy and Gymry in Dagestan, Northern Caucasus. They had been attempting to investigate allegations of human rights violations committed by the Russian military in the said villages.

On 10 October 2014, state-controlled television channel NTV issued a report accusing members of HRC Memorial of providing support to terrorists and “radical groups” allegedly hiding in Vremenniy. According to the reports, NTV broadcasted the attempted visit of HRC Memorial to Vremenniy and claimed that the Ministry of Justice had included HRC Memorial in the list of “foreign agents”.

Concern is expressed at the alleged lawsuit by the Ministry of Justice for the closure of Society Memorial and at the defamation of HRC Memorial. We continue to be seriously concerned at the negative consequences on civil society organizations, in particular human rights organizations, of the implementation of the above-mentioned laws, namely the Law on introducing amendments to legislative acts of the Russian Federation in part regulating activities of non-commercial organizations which carry functions of foreign agents and the Law on non-governmental organizations.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5 and 6.

We would like to remind your Excellency’s Government’s responsibilities under international law, particularly in relation to Articles 19 and 22 on the rights to freedom of expression and freedom of assembly in the International Covenant on Civil and Political Rights, which the Russian Federation ratified on 16 October 1973.

We wish to bring your Excellency’s Government’s attention to Human Rights Council resolution 22/6, which calls upon States to ensure that procedures governing the registration of civil society organizations are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration and are in conformity with international human rights law.

We would further like to refer to Human Rights Council resolution 22/6, which urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law

With regard to the requirement to re-registering non-governmental organizations, we would like to note the Special Rapporteur on the rights to freedom of peaceful assembly and of association stated in his report to the Human Rights Council in 2012 that “a notification procedure, rather than a prior authorization procedure that requests the approval of the authorities to establish an association as a legal entity, complies better with international human rights law [...] [He] believes the formation of branches of associations [...] should be subject to the same notification procedure” (A/HRC/20/27, paras.58 and 59). Furthermore, the Special Rapporteur stated “The suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient” (para. 75).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the above-mentioned rights and freedoms in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please indicate what measures have been taken to ensure that the legitimate right to form associations and to seek and obtain information is respected in the Russian Federation, and please explain how the above-mentioned laws comply with the international norms and instruments.
3. Please indicate what measures have been taken to ensure that human rights defenders and members of associations are able to carry out their legitimate work freely and in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort, including restrictive regulation.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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freedom of opinion and expression

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