



With the support of **fidh**

Violations of the civil and political rights of minorities,

Including ethnic groups, migrants, and LGBT activists;
Women and children in vulnerable positions;

The illegal restriction of the right to express a critical opinion

Alternative Report

2014

Anti-Discrimination Centre Memorial with the support of the International Federation for Human Rights

ADC Memorial has prepared this report on the violation of several articles of the International Covenant on Civil and Political Rights. The report focuses primarily on the topics that ADC Memorial is most deeply involved in, i.e. the right to freedom of speech and expression, minority rights, the rights of Roma and labor migrants, and the rights of women and children.

Chapters on the problems of migrants were prepared with the support of:
“Central Asia on the Move” Platform
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VIOLATION OF ARTICLES 5, 10, 14, 20

Many important criminal cases have a clear political component, even though the government has an obligation to ensure a fair trial and pretrial investigation of the actions of every accused person, which involves the proper classification of the incriminating actions in accordance with the RF Criminal Code.

Of special concern is the arbitrary application of Article 212 of the RF Criminal Code (mass unrest and, in some cases, pogroms). This article has been used to bring charges against participants in peaceful civilian actions and authorized demonstrations (such as the one that took place on Bolotnaya Square in 2012), while it has not been used in the investigation of actual pogroms of markets and other places where nationalists attack foreigners, destroy their property, beat them, and even take over buildings. Here it is also important to note the arbitrary application of Article 213 of the RF Criminal Code, a vague article that defines a wide sweep of activities ranging from hate crimes to attempts by environmentalists to hang a banner on a platform in the Arctic as “hooliganism.”

1. POGROMS DURING “RUSSIAN CLEANUPS” WERE CLASSIFIED AS “HOOLIGANISM.”

On 26, 27, 29, and 31 July 2013, radical groups took part in so-called “Russian Cleanup” actions in various districts of Saint Petersburg, the purpose of which was to suppress the “illegal street trading” allegedly being conducted by foreign citizens. Videos posted online show that these illegal actions were committed by citizens against representatives of ethnic minorities and were distinctly racist and xenophobic in nature. Without any authority to do so, participants in the actions checked the documents of foreign street traders, supposedly to determine the grounds for their stay in Russia and participation in business activities. During these “cleanups,” participants attacked “non-Russians,” overturned fruit and vegetable stands, used offensive language, and rudely demanded that the foreigners to leave Russia. These are exactly the kinds of actions that should be classified as “mass unrest” or “incitement of hatred and enmity and abasement of human dignity” (catchwords and slogans of a racist and xenophobic nature can be clearly heard in the videos). Foreign citizens suffered material and emotional damage as a result of these actions. In most cases, police officers did not try to suppress these illegal actions. According to information posted to D. Yevtushenko’s nationalist group (later deleted) on a social network, these actions were organized and conducted by branches of the unregistered, nationalist social organizations *Svetlaya Rus* [Light Russia] and *Slavyanskaya sila* [Slavic Forces].

On 31 July 2013, the police detained the alleged organizers near the *Sennaya ploshchad* metro station as they were preparing for another action. The participants in these actions were charged with “hooliganism”¹ under Article 213 of the RF Criminal Code with no indication of the motives of hatred and enmity in their actions, even though these actions clearly contained components of the crimes of “mass unrest” (Article 212 of the RF Criminal Code) and “incitement of hatred and enmity and abasement of human dignity” (Article 282 of the RF Criminal Code).

To this day, not one participant or organizer of the “Russian Cleanups” has been punished for their actions. On the contrary, they continue to engage in activities that promote the incitement of ethnic hatred and enmity.

Events that took place in the fall of 2013 in Moscow developed in an even more dramatic manner. On 10 October 2013, 25-year-old Russian citizen Yegor Shcherbakov was murdered by an immigrant from Azerbaijan in Moscow’s Biryulevo District. This incident focused the media’s attention on migration issues and later morphed into actual anti-migrant hysteria: the lead topic in the news during this period was crime among migrants. On 13 October 2013 a “people’s gathering” took place, also in Biryulevo,

¹ Source: <http://lenta.ru/news/2013/08/01/market>

that grew into mass unrest: participants in the gathering started to break windows in the local shopping center, where workers are mainly from Central Asia or the Caucasus. Detachments of OMON forces moved in on the building. Police officers detained seven people suspected of hooliganism at the shopping complex and took them into the police department for further investigation. Participants followed the car carrying those arrested, started shouting out demands for their release, and even threw bottles and garbage cans at the OMON troops, hitting one police officer in the face. The unrest then spread to a vegetable warehouse located next door, where local residents orchestrated a real pogrom: they overturned cars, destroyed stands selling products, and fought with OMON forces. Five police officers suffered injuries as a result. Three of them were hospitalized in serious condition. Participants in the unrest decimated the Biryuza Shopping Center and a watermelon market, damaged several cars, and attempted to storm the vegetable warehouse. A total of 23 people sought medical attention, and eight of them were hospitalized. The next day news spread that the body of an Uzbek man had been found in Biryulevo. He had undoubtedly been killed on the night the vegetable warehouse, where thousands of Uzbek migrants worked, was destroyed. But this killing did not give rise to any public reaction or demands to “punish” the murderer, and the police were clearly not prepared to take any strict measures.²

After these events, local authorities and law enforcement bodies made no attempt to find the organizers of the mass unrest or prosecute those arrested to the full extent of the law, which is exactly what happened in the case of the “Russian Cleanups” in Saint Petersburg. Instead, only several criminal cases were opened under “hooliganism” (Article 213), and they were all suspended under an amnesty that was granted two months later.

Instead of undertaking a serious investigation of these events, investigators started to study all the documentation for the Biryulevo vegetable warehouse in an attempt to find evidence of fraud or other criminal activities in its operations, while government representatives promised that the warehouse would soon be closed and all goods confiscated. The next day officers arrested 1,245 foreign citizens working and residing in Biryulevo, including the manager of the vegetable warehouse.³ One day later, 200 of them were found to have violations in their migration documents. On 15 October 2013, law enforcement officers arrested Azeri citizen Orkhan Zeynalov for the murder of Shcherbakov. Representatives of Azerbaijan’s diplomatic mission expressed dismay at the harsh treatment Zeynalov received during his arrest, but officials at the Investigative Committee argued that the actions of OMON forces were warranted. At the time of this writing, Zeynalov’s case has been forwarded to the court. Meanwhile, not one of the participants in the pogrom has been prosecuted, and the instigators of the unrest have not been found.

The mass demonstrations and pogroms that took place in Pushkino, Moscow Region in May 2014 were almost an exact repeat of the events that took place in Biryulevo in 2013. On May 13, 22-year-old soccer fan Leonid Safyannikov died from wounds he received during a fight with Uzbek citizen Jehangir Akhmedov and another man. Akhmedov and a taxi driver took Safyannikov to the hospital, where he died. The next day, almost 500 people gathered at the train station and from there the crowd headed to the town’s administrative offices, where they chanted “Punish Him!” and “Your children will pay for this murder.” The fans attacked a truck carrying vegetables and struck the driver several times, shouting “Caucasian scum!” Then the crowd burst into the empty vegetable market, where people started breaking windows. After this, the fans set off for the *Alyans* Hotel, where they believed the migrants were living. The most active participants were arrested there. A spokesperson for the police announced that “Forty-three people have been written up for disorderly conduct and drinking alcoholic beverages in a public place.” All those arrested were released.

And, again, while the pogromists were not accused of anything worse than “drinking,” the authorities took severe measures against the migrants, most of whom had nothing whatsoever to do with the fight. Akhmedov managed to fly out of Russia before his arrest, but Uzbekistan turned him over to Russia. On the night of May 16, he was delivered to Moscow and arrested. That same day, the Federal Migration Service and the police carried out mass anti-migrant raids. A spokesperson for the FMS announced

² For information on the events in Biryulevo see analytical bulletin of the Public Verdict Foundation No. 1(13), 2013, pgs. 8 – 19.

³ Source: <http://lenta.ru/news/2013/10/15/nelegals/>

that on May 15 regional FMS authorities checked 22 sites. At these sites, they found “large numbers of foreign citizens” and uncovered 70 violations of migration law. The Pushkino Municipal Court issued rulings to deport all 70 foreign citizens from Russia. The authorities decided to close the market in Pushkino where the Spartak fan was killed. A spokesperson noted that, “We are definitely shutting down the market on Lesnaya Street, as well as other sites where “unauthorized trade” was occurring.”⁴

The reaction of the Russian authorities to the nationalist “cleanups” and pogroms, including Zeynalov’s open cruel arrest (capturing the entire process on film and then playing it in the media, taking Zeynalov from the helicopter right to the personal office of the head of the Russian Ministry of Internal Affairs)⁵, is proof of their readiness to be pushed around by nationalists and of their obvious reluctance to investigate hate crimes against ethnic minorities. Moreover, these xenophobic attitudes find support amongst government officials, many of whom have openly stated that foreign migrants are to blame of all the ills of Russian society.

2. CLASSIFICATION OF PEACEFUL PROTESTS AS "HOOLIGANISM."

A) **On 6 May 2012, a peaceful demonstration** against the falsification of the election that returned Putin to the post of RF president for the third time took place on Bolotnaya Square in Moscow. The demonstrators first faced forceful dispersal and severe violence from the police and later faced criminal prosecution under Article 212 (mass unrest) and Article 318 (violence against law enforcement authorities). The investigation and the court perceived mass unrest as people coming out onto the square for an authorized peaceful demonstration and refusing to leave it at the first request of police officers who attacked them with no warning. As of now, in this case nine people have been given actual prison sentences, one has been put on probation, another 11 are in custody, six have been released on their own recognizance, one is under house arrest, and one is wanted. The arrests are still continuing two years later: on 28 May 2014 Dmitry Ishevsky, a person named in the Bolotnaya Case, was arrested under charges of participating in mass unrest and committing violent acts against police officers.⁶

The action on Bolotnaya Square did not contain any of the obvious signs of mass unrest and incitement of hatred and enmity (pogroms, destruction of property, resistance against law enforcement officials, nationalist slogans) that the pogroms in Biryulevo and Chekhovo and the “Russian Cleanups” in Saint Petersburg did. On the contrary, this event was agreed upon in advance with City Hall and took place within the framework of the law. However, as a result of violent actions provoked by the police, participants were subjected to unwarranted criminal prosecution, with cases under articles 212 and 318 being opened immediately following the arrests. In this case, 80 police officers are listed as victims, although it has not actually been proven that these police officers suffered any real harm. Two of the 80 were found to have minor physical injuries, but the circumstances under which they were received are not totally clear. (The case is full of contradictions. For example, Stepan Zimin was accused of wounding the finger of a policeman when he allegedly threw something at him. However, an expert report showed that the victim’s finger wound could not have resulted from being hit by a rock and that there were signs the “the finger had been twisted,” which is to say that the wound was of an entirely different origin. Nevertheless, Zimin was convicted.)

The criminal case does not contain any information about victims who suffered at the hands of the police, even though there is actual evidence that the police used unnecessarily rough force from video recordings and eyewitness accounts. Four participants in the action were hospitalized, and those who sought medical assistance on their own have stated that they were denied the opportunity to register their claims once it became clear that their injuries were caused at the hands of police officers.

The authorities estimated that participants in the peaceful action caused approximately 28 million rubles of damage to police officers and to state and municipal property. This amount included the cost of overturned portable toilets, headgear lost by police officers, and pavement damage that occurred

⁴ Source: grani.ru/Politics/Russia/m.229253.html; <http://ria.ru/society/20140517/1008194580.html>

⁵ For more on Zeynalov’s arrest see <http://newsru.com/russia/17oct2013/rough.html>

⁶ For more on the Bolotnaya case see <http://6may.org/>

under unclear circumstances.⁷ Meanwhile, the damages caused by nationalists and hooligans as they destroyed cars and kiosks and broke glass in Biryulevo Shopping Center have yet to be calculated.

B) The court also handed down an extreme sentence in the criminal case against members of the punk group PussyRiot, which expressed its disagreement with government policy in a peaceful civil protest/performance. On 17 August 2012, Nadezhda Tolokonnikova and Maria Alyokhina were sentenced to two years in prison under Article 213(2) of the RF Criminal Code and Yekaterina Samutseva was put on probation for performing a so-called “punk prayer service” in the Cathedral of Christ the Savior. Despite the efforts of attorneys and protests made by the RF ombudsman for human rights, the court sent these two young women to a penal colony without regard for the fact that they both had minor children.

C) The criminal case opened under Article 213 of the RF Criminal Code against 30 crew members of Greenpeace’s vessel Arctic Sunrise who participated in a peaceful protest action against oil drilling in the Arctic is a violation of both Russian and international law.

In June 2012, environmentalists from Greenpeace launched an action as part of the Save the Arctic campaign, the goal of which is to create a sanctuary around the North Pole where industrial fishing, oil drilling, and military actions are banned.⁸ On 18 September 2013, environmentalists on board the Dutch ship Arctic Sunrise sailed up to the Russian oil platform Prirazlomnaya and attempted to find a way onto the platform to hang a banner bearing a slogan against oil drilling in the Arctic on the outer side of the platform. Before beginning, the environmentalists notified the Coast Guard and platform personnel of their peaceful intentions. Nevertheless, the activists were arrested by members of a special FSB unit as they tried to access the platform and their ship was convoyed to port in Murmansk. Thus, the crew members of the Arctic Sunrise did not commit any acts of violence, hooliganism, or theft, but instead themselves became the objects of an attack. It is obvious that the activists’ goal was to draw attention to an environmental problem and not to seize the platform.

After the Arctic Sunrise was seized, its crew was held on board for over two days without any charges being filed. On the third day, they were charged under Article 227 of the RF Criminal Code (piracy) and likewise with infringement on Russia’s sovereignty, even though the platform is located in an exclusive economic zone where friendly ships are allowed to sail freely. Later, after President Putin stated that their actions could not be classified as piracy⁹, their actions were reclassified under Article 213 (hooliganism). The crew members were kept in custody for two months and then released on bail. Later they all received resolutions stating that the criminal case against them was being suspended under an amnesty issued to coincide with the 20th anniversary of the Russian Constitution. However, the criminal case was never actually suspended and the ship remains in Russia, because the authorities have refused to return it to its owners. On 21 October 2013, the Dutch government filed a claim with the International Tribunal for the Law of the Sea connected with Russia’s illegal impoundment of the Arctic Sunrise and the arrest of the Greenpeace activists.

Thus, Article 213 of the Criminal Code is applied arbitrarily during classification of crimes such as attacks on foreigners and anti-migrant pogroms as “hooliganism,” which clearly underestimates the severity of these crimes, and is at the same time used to hand down severe punishments for artist activists (Pussy Riot) and environmentalists protesting in the open sea (Arctic Sunrise). Article 212 (mass unrest, pogroms) is also applied just as arbitrarily. Real nationalist pogromists have not been charged under this article, while dozens of peaceful demonstrators have ended up in prison under charges of “unrest” consisting merely of attempts to assert their right to express critical opinions.

The Russian authorities have demonstrated these same double standards in their assessment of various actions related to the military conflict in Ukraine. On the one hand, the RF government has openly supported the seizure of buildings, police departments, and even military bases by pro-Russian forces in eastern Ukraine and considers these violent actions to be within the rights

⁷ Source: <http://m.forbes.ru/article.php?id=225571>

⁸ Information on this topic is available on the Greenpeace website.

⁹ <http://www.newsru.com/russia/25sep2013/greenp.html>

of local residents. On the other hand, in Russia itself even symbolic protests against the actions of Russian and pro-Russian forces in Ukraine are prosecuted to the fullest. An example of this is when Petr Pavlensky burned automobile tires during his artistic action Maidan Song in Saint Petersburg, which served as cause for his criminal prosecution.¹⁰ In March 2014, participants in peaceful protests in both Moscow and Saint Petersburg against the war with Ukraine and the seizure of the Crimea were arrested, tried, and sentenced to high fines and even detention for 10 – 15 days.¹¹ In the spring of 2014, a law was adopted that made it possible to prosecute under Criminal Code repeat offenders, i.e. any opposition activists or government critics, for violating the rules for holding protests. Under amendments to the law “On Meetings, Rallies, Demonstrations, Marches, and Pickets,” more than two violations of the established procedures for organizing or conducting street actions committed within 180 days shall be punishable by a fine in the amount of 600,000 to 1 million rubles or in the amount of a person’s salary for a period of two to three years; up to 480 hours of community service; one to two years of correctional labor; and up to five years of forced labor or deprivation of freedom.¹²

ISSUE: CRACKDOWN ON INDEPENDENT NGOS IN THE FORM OF CHARGES FOR “PERFORMING THE FUNCTIONS OF A FOREIGN AGENT,” CHECKS BY THE PROSECUTOR’S OFFICE, TRIALS, FORCED CLOSURE.

VIOLATION OF ARTICLES 19, 21, 22

In 2012-2014, a number of amendments were made to the law on NGOs, which in actual fact led to a crackdown on civil society. Since March 2013, NGOs have been subjected to numerous checks, conducted under contrived grounds, which have obstructed the NGO’s express activities by requiring a large amount of documentation, frequent summonses to the prosecutor’s office and court, and constant pressure on NGO representatives.

THE PROSECUTION OF ADC MEMORIAL

In 2013 – 2014, ADC Memorial was prosecuted based solely on the fact that it published and distributed to the UN Committee against Torture its human rights report “Roma, Migrants, Activists: Victims of Police Abuse” (at the same time it was shown that ADC Memorial received financing from abroad, specifically from Sweden). Thus, ADC Memorial was one of the first NGO’s to be found a “foreign agent” by two levels of courts (Saint Petersburg district and municipal courts) for the simple fact that it cooperated with the UN Human Rights Committee. This forced ADC Memorial to liquidate its legal entity in Russia.

Its continuation of human rights work without registration presents it with significant difficulties and risks, but it is absolutely impossible for this NGO to engage in any real work since its declaration as a “foreign agent” means that its partners and even clients refuse to work with it. For example, on 13 December 2013, which was the day following the district court ruling finding ADC Memorial a foreign agent, authorities in Novgorod Province cancelled a previously arranged round table on issues relating to educating Roma children, which was to have taken place in Chudovo (this town has a large Roma population whose children do not receive a high-quality education, which is a system-wide problem). Moreover, local authorities started to pressure the group’s clients to stop working with this shuttered organization. A glaring example of this is how the authorities took advantage of the vulnerable position of Roma living in a dense settlement in Leningrad Region (the Roma received threats that their homes would be torn down) to force them to sign a statement for the Russian Office of the Prosecutor General denouncing these human rights defenders and asking

¹⁰ grani.ru/Politics/Russia/activism/m.225213.html

¹¹ http://ombudsmanspb.ru/ru/otchet_o_nabljudenii_za_publichnym_meroprijatijem_2; grani.ru/Politics/Russia/m.225936.html

¹² For more on this see <http://www.forbes.ru/news/257789-gosduma-prinyala-v-pervom-chtenii-zakonoproekt-ob-ugolovnoi-otvetstvennosti-za-narusheni>

for protection from the interference of ADC Memorial, a foreign agent.¹³

It is abundantly clear that the semiliterate people who signed this denunciation would not have been able to write or even read it. The letter is about ADC Memorial's battle against the discrimination and segregation of Roma children in the local school, which parents had previously supported. It asserts that the Roma parents—the legal representatives of the children—are fully satisfied with the school and the human rights defenders have no right to interfere in this situation. The reality, however, is that this school, which is located in the Nizhniye Oselki, Vsevolozhsky District, Leningrad Province, does not provide children with a high-quality education. It keeps so-called “Roma classes” separate from other children until the fifth grade and holds two shifts in a separate small building that is poorly equipped for school needs. Approximately the same number or even slightly fewer non-Roma children study in a much larger building that is much better equipped for normal school classes. For the Roma, sixth and seventh grades exist only on paper and there are no upper “Roma” classes at all. Non-Roma children complete nine grades. Over the decades of this Roma settlement's existence, no Roma child has received a full-fledged education at the Oselki School. This is a blatant violation of the rights of hundreds and hundreds of children.¹⁴ Many Roma parents were upset with the situation. They complained, protested, and fought for their children's rights, but unfortunately without result. Now their opinion is being manipulated by those who write denunciations on their behalf and assert that “no one has the right” to protect their children's rights. It is clear that the situation of vulnerable minorities will only worsen in the face of pressure on these vulnerable groups coupled with reprisals against human rights defenders, who have for years acted in the interests of people facing discrimination.

PROSECUTION OF NGOS DEFENDING LGBT RIGHTS

The situation for NGOs defending LGBT rights was doubly vulnerable in 2013 – 2014: these NGOs have faced the same discrimination all human rights NGOs have faced, which is manifested in checks and searches, and they have faced discrimination against the group of people they represent—LGBT activists. Even ADC Memorial, which defends the rights of various minorities and does not represent itself as solely an LGBT organization, was charged by the prosecutor's office and the court first and foremost with the fact that it decided to make a recommendation to rescind homophobic laws. Thus, the very anti-discriminatory convictions held by ADC Memorial experts and the authors of the report “Roma, Migrants, and Activists: Victims of Police Abuse” served as grounds for the reprisals.

An administrative case was opened against the Side by Side LGBT film festival in 2013. The organization paid an enormous fine and was forced to shut down.

A number of hearings took place in 2014 in relation to forcing the Saint Petersburg-based LGBT organization *Vykhod* [Coming Out] to register as a “foreign agent.” If the court finds this claim to be legal, this NGO will also be forced to abandon its legal entity.¹⁵

At a hearing on 14 May 2014 in the *Coming Out* case, a review of the book *Discrimination against the LGBT Community: What, How, and Why*, published by *Coming Out* in 2012, was introduced as evidence. The author of the review—Colonel A.I. Kugay—writes that the brochure's authors, in cooperation with *Coming Out*, are attempting “to incorporate the social practices of some foreign countries that are at the greatest variance with Christian morality.” The reviewer believes that Conchita Wurst's victory at Eurovision-2014 is evidence of the danger of the organization's actions as a “foreign agent.” In his conclusion, Professor Kugay writes that *Discrimination against the LGBT Community: What, How, and Why* not only incites homophobia, but also “aims at counteracting the federal law... that establishes liability for the promotion of homosexual propaganda to minors.”

¹³ The text of this document may be found at <http://adcmemorial.org/www/9254.html/> and the English translation is available at <http://adcmemorial.org/www/9254.html/?lang=en>

¹⁴ For more detailed information on Roma children at the Oselki school see ADC Memorial's report “The Situation of Children Belonging to Vulnerable Groups in Russia” at http://adcmemorial.org/wp-content/uploads/crs_eng_www.pdf

¹⁵ For more on this see the *Vykhod* website at <http://comingoutspb.ru> .

ISSUE: VIOLATION OF LGBT RIGHTS – ADOPTION OF DISCRIMINATORY LAWS THAT BASICALLY LEGALIZE HOMOPHOBIA AND PERSECUTION OF LGBT ACTIVISTS AND SOCIAL ORGANIZATIONS BY THE GOVERNMENT AND VARIOUS HOMOPHOBES.

VIOLATION OF ARTICLES 2, 18, 19, 21, 22, 24, 26.

1. ADOPTION OF HOMOPHOBIC LAWS AND EXAMPLES OF THEIR USE

In 2011 – 2012, a number of laws were adopted first in RF regions (Saint Petersburg, Arkhangelsk, Kostroma, Ryazan, Novosibirsk, Magadan, Samara, Kaliningrad, Irkutsk, Krasnodarsk Krai, Bashkortostan) and then at the federal level in 2013 banning “propaganda of homosexuality to minors,” which have basically resulted in the legalization of homophobia and homophobic views.

Supervisory bodies have begun interpreting the promotion of the idea of tolerance and the publication of educational books as “gay propaganda,” and these activities have now become cause for prosecution. For example, in February 2014 the Ulyanovsk Regional Prosecutor’s Office launched a review of Vera Timenchik’s children’s book *The Family in Our Country and Others*¹⁶ for subject matter promoting “non-traditional sexual relations.” This book was released as part of Ludmila Ulitskaya’s Children’s Project, which was started in 2006 and contains books about the Declaration of Human Rights, the diversity of the world, and respect for different nationalities, persons with disabilities, and people with HIV. Timenchik’s book talks about the marriage and family customs of different peoples. In particular, it mentions the legalization of same-sex marriage in different countries and the fact that these kinds of marriages have existed since time immemorial (it gives the example of same-sex unions in several African tribes).

In May 2014, the Orlov Regional Prosecutor’s Office launched a review of all the books in Ulitskaya’s series. The review was initiated pursuant to “a complaint from readers,” which states that “books such as these threaten the cultural values of our people.” The local branch of Essence of Time movement, which is led by the political scientist Sergey Kurginyan, organized the collection of signatures on an appeal to the region’s acting governor Vadim Potomsky asserting that this series promotes homosexuality, pedophilia, and incest. The movement also initiated a check of Ekaterina Geniyeva’s Institute of Tolerance, since this organization instills “European values” in children, which consists of “the development of a positive attitude towards homosexuality, incest, and pedophilia.”¹⁷

It has become impossible for the media to cover the subject of LGBT rights because it is illegal to do so. On 30 January 2014, a Khabarovsk court fined the editor-in-chief of the newspaper *Molodoy dalnevostochnik* (The Young Far-Easterner) for publishing an interview with schoolteacher Aleksander Yermoshkin, who was fired for his non-traditional orientation. The bodies that performed the check found that the publication “promoted homosexuality to minors,” even though the paper is marked for readers 16 and up.

Intensifying homophobia in society as a whole has resulted in increasing homophobia in closed societies where aggressive homophobic trends had not been previously observed. For example, ADC Memorial learned of a case where a young Roma man committed suicide. He started being harassed immediately after the Roma community adopted official homophobic rhetoric, transmitted through the media, about the abnormality of homophobia and the right to obstruct the LGBT community.

The adoption of homophobic laws has meant that aggressive, xenophobic groups have felt they have the right to use violence against members of the LGBT community. In a number of cases aggressors who have been prosecuted for causing serious harm to the health of LGBT activists have stated that they were motivated by hatred for this group, which is used as an argument for their defense during questioning and in court. A case like this took place in Saint Petersburg in the spring of 2014, when a man beat two young women on the metro, stating that they “did not look like normal women should

¹⁶ The text of the book is available at <http://5srazvorotov.livejournal.com>

¹⁷ Source: <http://izvestia.ru/news/571290>

look and dress.”¹⁸ Previously, Dmitry Chizhevsky, a participant in the closed event “Rainbow Tea Party,” lost vision in one eye as a result of an armed attack on this event. His attorneys were not able to convince the investigation that hate was a motive in this crime.¹⁹

An example of official homophobic rhetoric and denial of LGBT activists of the right to demonstrate and make speeches:

In May 2014, Moscow authorities denied LGBT activists their request to hold the Conchita Wurst March of Bearded Women and Men, which the activists wanted to arrange on the 21st anniversary of the cancellation of the law stipulating criminal prosecution for voluntary homosexual relationships.

Prior to this, several deputies from the United Russia party expressed outrage that Conchita Wurst, a “bearded transvestite” from Austria, had won Eurovision-2014. Olga Batalina, first deputy chairperson of the Duma Committee on the Family, Women, and Children, believes that Wurst’s victory is a result of “the promotion of non-traditional gay culture,” which is being carried out aggressively and assertively.²⁰ Vitaly Milonov, the author of a law banning “gay propaganda” in Saint Petersburg and a deputy in the city’s Legislative Assembly, sent an appeal to Russian Minister of Culture Vladimir Medinsky requesting that Conchita Wurst be banned from entering Russia. State Duma deputy Valery Pashkin (Communist Party of the Russian Federation) proposed that Russia stop participating in this competition.

An application to hold an LGBT action on May 31 in support of the erection of a statute of the British writer Oscar Wilde in Moscow was also denied. The reason for this denial was the federal law banning the promotion of “non-traditional sexual relationships” to minors, which was adopted last June.

In his letter to the organizers of the event, Vasily Oleynik, first deputy head of the Department of Regional Security and Anti-Corruption Enforcement for Moscow, wrote: “Holding a public event for this group of citizens in an open public space will cause moral harm to the children and adolescents who become unwilling witnesses to this event, offend religious and moral feelings, degrade the human dignity of other citizens, and violate their rights and freedoms, which will cause society to have a negative reaction and may provoke actions from individuals who do not share the views of the participants.”

Nevertheless, LGBT activists still showed up for the banned pickets and meetings on 31 May. They suffered attacks from aggressive homophobes, who beat the LGBT demonstrators, threw eggs at them, and sprayed them with gas. None of the attackers was detained by the police, while six peaceful female protestors holding banners and rainbow flags were arrested and accused of committing “violations.”²¹

2. NEGATIVE CONSEQUENCES OF HOMOPHOBIC LAWS: VIOLATION OF ARTICLE 24

The new homophobic laws have had the worst possible effect on children and adolescents: in practice, the ban on propaganda amounts to a ban on receiving any kind of information whatsoever from LGBT organizations. Children are banned from attending events where they can learn about LGBT life, including exhibits, film showings, discussions, and other similar social events. By preventing children and adolescents from attending these events that spread the idea of tolerance, homophobic laws give adolescents a reason to have negative feelings towards their gay or lesbian peers. It is widely known that LGBT children have a very high suicide rate, since these children have been deprived of access to objective information, support, and friends.

Instead of the support, information, and education that all children need, Russian schools offer students events of an entirely different nature—preventative discussions with adolescents about the harm of homosexuality. A 9th-grader at a Saint Petersburg school recounted how in 2012 his class was taken out of its lesson to attend a “class with a psychologist,” the goal of which was to create of negative image of the LGBT

¹⁸ Source: http://comingoutspb.ru/ru/news/03_04_2014

¹⁹ More details about this can be found on the Russian LGBT Network site: <http://www.lgbtnet.ru/ru/content/motiv-nenavistine-by-l-uchten-v-dele-o-napadenii-na-lgbt-aktivistov>

²⁰ Source: <http://www.interfax.ru/russia/375798>

²¹ Source: <http://grani.ru/Society/Neuro/m.229839.html>

community. The psychologist divided the class into boys and girls and asked them the following question: “How would you react if you found out that one of your classmates was gay?” This question provoked sharply negative comments against possible representatives of sexual minorities, specifically against one of the boys present, who naturally experienced deep frustration. The psychologist did absolutely nothing to stop these xenophobic attacks, which led the children to think that it was perfectly natural to blacklist and humiliate their classmate. At the same time, children who were tolerant of LGBT children were scared to speak their mind. In summing up the discussion, the psychologist drew the conclusion that “homosexuality is a harmful fad.” This discussion was conducted in violation of medical ethics, but also without the notification or consent of parents, which is required by law in regards to schoolchildren aged 13 – 15.²²

The coming out of an adolescent under the age of 18 is considered equivalent to an administrative offense.²³ On 16 January 2014 the first case of prosecuting a minor for “propaganda of homosexuality to minors” was registered in Russia. Members of the Juvenile Affairs Commission in Dyatkovo, Bryansk Region decided to select a warning in the form of a penalty against a 9th grader and register her with the Commission. The document states that during “preventative work” in November 2013, a 9th grader was discovered who “openly admit that her sexual orientation was non-traditional” and who regularly distributed information “aimed at giving minors a distorted idea of social equality in traditional and non-traditional sexual relationships.” It should be noted that this “preventative work” with Masha N. started after she attended a picket holding a sign supporting a teacher from Saint Petersburg who was harassed for participating in LGBT pickets and posted a picture of this on her *Vkontakte* page. The homophobes who started the harassment against the teacher later sent a letter of complaint to the school where Masha studied, which served as grounds for her prosecution.²⁴

The group Children-404, which supports LGBT children, has been subjected to reprisals. This project began in the spring of 2013 as a series of publications criticizing the ban on promoting “gay propaganda to minors” that was being discussed at the time. Later the journalist Elena Klimova organized a *Vkontakte* group where LGBT teens could share their stories and receive psychological and legal assistance.²⁵ On 31 January 2014, Elena Klimova was charged with “propaganda of non-traditional sexual relations to minors” in Nizhny Tagil. Vitaly Milonov, a deputy from Saint Petersburg, demanded that a case against the project and its author be opened. It was his belief that the letters written by the teens subjected to violence and harassment because of their sexual orientation were examples of “gay propaganda” and violated current federal law. Milonov demanded that the site be shut down and Klimova fined.²⁶ A Nizhny Tagil court suspended the administrative case against Klimova on 21 February 2014, but she is under constant threat of both physical reprisals and a new administrative case.

**ISSUE: MIGRATION LAWS THAT DISCRIMINATE AGAINST CHILDREN;
ILLEGAL PLACEMENT OF MIGRANT CHILDREN IN DETENTION
CENTERS; DEPORTATION OF CHILDREN WITHOUT THEIR PARENTS.**

VIOLATION OF ARTICLES 2, 10, 12, 24, 26

**1. MIGRATION LAWS THAT DISCRIMINATE AGAINST CHILDREN
VIOLATE THE RIGHT OF CHILDREN TO LIVE IN A FAMILY AND
THEIR RIGHTS TO DEVELOPMENT AND EDUCATION.**

Amendments to the law “On the Procedures for Entering and Leaving the Russian Federation” took effect on 1 January 2014. Now, pursuant to Article 5(1) of this law, foreign citizens who arrive in the Russian Federation under procedures that do not require a visa may stay in Russia temporarily for a

²² The interview with the student who participated in the session is on file at ADC Memorial.

²³ Article 6.21 of the RF Code of Administrative Offenses

²⁴ For more details on this see <http://gazeta39.ru/mind/1840-odna>

²⁵ http://vk.com/deti404_vk

²⁶ <http://www.gayrussia.eu/russia/8672/>

period that may not exceed 90 days total in each period of 180 days. Migrants in the best situation include labor migrants, whose term of stay depends on their labor contracts, university students, enlisted personnel in the Russian army, and some other categories of foreign citizens.

The children of foreign citizens who attend Russian schools have the right to spend only 90 days out of 180 days in Russia. Their term of stay is not in any way connected to the length of stay permitted their parents: labor migrants may stay in Russia without a visa for up to one year (up to three years for Tajik citizens) as long as they have work permits. This means that a child who has attended school for three months must suspend his or her schooling, leave Russia, and remain outside the country for three months. Only then can he or she return to Russia and reenroll in school. This child will have missed the program that his or her classmates studied over the previous three months, so the quality of his or her education suffers. This also violates the right of the child to live in a family. Most children have nowhere to go—they no longer have homes in their native countries because their parents are in Russia.

Since most labor migrants come to Russia with children, it can be said with certainty that the right to education of thousands, and perhaps even tens of thousands, of school-age children is being violated. This is also a violation of the guarantee of equal access to education, which is enshrined in the Convention on the Rights of the Child, international obligations, and Russian law.

In addition to norms that ban staying in Russia for a period of more than 90 days out of 180 days, the Directorate of the Federal Migration Service has set additional rules that are not enshrined in any legal acts or domestic orders but must be complied with, thus lending them pseudo-legal effect. For example, ADC Memorial requested clarification on this issue from E.V. Dunayeva, the head of the Saint Petersburg Directorate of the Federal Migration Service on 30 May 2013.²⁷ The organization received a response saying that the duration of stay for the children of foreigners could be extended and timed to coincide with their parents' terms of stay, but in order to do this, parents were required to file an application with the local branch of the Directorate of the Federal Migration Service, located at 39 Rimsky-Korsakov Street. Citizen of Uzbekistan Yulduz A., who is the mother of school-age children, submitted such an application, with this letter and all the required documents attached, but she still received an oral denial of her request to extend her children's registration, and she was further unable to receive the reason for this denial in writing. Uzbek citizen Farida O., who is the mother to the school-age child Shakora O., filed a similar application, but she never received any response to it. Thus, minor children were not able to receive permission to stay in Russia based on the permits that their parents had, in spite of the written instructions issued by the heads of various directorates of the Federal Migration Service.

According to Mikhail Kh., who appealed to ADC Memorial for assistance, during a meeting at the school his children attend, parents were advised that all the children at this school must be registered in the district, because they were expecting to be checked by the Directorate of the Federal Migration Service. Students registered in other districts of the city were barred from classes. This specifically affected the petitioner's son Artur (their family was registered in a different district). The school director confirmed this, stating that spoken instructions were received from the district education committee, which in turn clarified that it received its instructions from the Directorate of the Federal Migration Service and forwarded them to the school.²⁸

2. PLACEMENT OF MIGRANT CHILDREN IN DETENTION CENTERS.

Violation of migration rules, which children cannot possibly be guilty of, is an administrative offense and grounds for placing migrant children in so-called temporary detention centers for juvenile offenders, where conditions are close to prison conditions, even though the norms of Russian law prohibit prosecuting children under the age of 16 for administrative offenses and placing them in detention centers in the absence of special circumstances.

²⁷ This document is on file at ADC Memorial.

²⁸ A recording of the interview with Mikhail Z. is on file at ADC Memorial.

Three children of M., a citizen of Tajikistan, the youngest of whom was nine, were arrested by police officers on a Saint Petersburg street on 22 March 2014. The children were accompanied by their older brother, who was a student. A check of their documents showed the police that their registration had expired on 3 March 2014 (the parents assert that this is a mistake, since their three-month registration was completed in January and that a typo was made in their documents) The children were taken to the 40th precinct, and from there an inspector transferred them to a temporary detention center for juvenile offenders, where they spent two days and two nights without their parents. The actions of the police inspector who transferred the small children (their father had a permit for a temporary stay in Russia, while their mother, who had the same typo in her documents as her children, was arrested when she tried to pick them up at the police precinct) are severe and unlawful. It is even more astounding that the temporary detention center for juvenile offenders accepted and placed children aged 9, 11, and 13 in what amounted to prison conditions, even though under Russian law children under the age of 16 cannot be held to administrative liability and cannot be placed in detention for a period of over three hours. It was only after two days that the children were brought to court, where they were found not guilty of any violations of the law.²⁹

Another case occurred on 3 November 2012, when 17-year-old Didor N., a citizen of Tajikistan, was arrested by police officers in Krasnoselsky District, Saint Petersburg on the grounds that his registration had expired. He was sent to a temporary detention center for juvenile offenders, where he spent eight days, three of them in solitary confinement due to a quarantine policy. According to Didor and his lawyer, the conditions of detention did not even meet standards set for adult prisoners: the cell held only three beds and there were no tables, chairs, or nightstands, and the window in the cell had bars on it and was nailed shut, so it was impossible to open, which was prohibited anyway. The bed linen, mattresses, and blankets were old and in poor condition. The light was kept on until 9 PM. Didor was not able to turn it off himself because the switch was located outside the cell. Thus, the guard was the only person who could turn the light on or off. There was no drinking water in the cell. A sink that provided only cold water was located in another room, as was the toilet. Didor could only use the bathroom by summoning the guard. Over the three days he spent in this cell, Didor was never given access to a bathtub or shower. A doctor examined him once a day, but he was not able to summon the doctor on his own. Didor was only taken out for one 15-minute walk during his entire stay. The food was of poor quality, and there was very little of it. For example, lunch consisted of only a piece of black bread, a cup of tea, and cream of wheat. No meat, fish, or fruits were served. Didor spent three days deprived of any access to information, since no books, newspapers, or magazines were handed out, and there was no radio or television in the cell. There was, however, a television in the general room, where he was transferred after the three-day quarantine.³⁰

3. DEPORTATION OF CHILDREN WITHOUT THEIR PARENTS

According to employees at social institutions working on matters related to child migrants, up to 40 foreign children are deported without their parents annually, which contradicts the principle of family unity.³¹ Children are generally separated from their parents after joint FMS-police raids to uncover illegal migrants in one region or another. As a result of these raids, children whose parents are found to be illegal migrants or whose parents cannot confirm their relationship to the children end up in shelters for homeless or neglected children or at a temporary detention center for juvenile offenders. After the identity of each child is established, officials at these shelters escort children from other cities or countries back to their native cities or countries, where they are handed over to relatives, if such can be found, or representatives of orphanages, where the children will remain until relatives come for them. In most cases this occurs because the parents are still in Russia dealing with violations of migration rules, or because their documents have been confiscated during the FMS raids. When children are collected during these raids, they are taken to hospitals or social service agencies. In theory, their parents can pick them up there, but they are frequently not allowed to if they cannot present documents or show that

²⁹ The interview with M.'s relatives and his attorney is on file at ADC Memorial.

³⁰ The interview with Didor N., his relatives, and his attorney is on file at ADC Memorial.

³¹ An interview with a social worker at a shelter for neglected children is on file at ADC Memorial.

they are residing and working in Russia legally. However, there have been cases when parents are not allowed to take their children even when they have the proper documents and express their readiness to leave Russia with their children immediately. In these cases, which took place during mass detentions and deportations of children from Saint Petersburg to Tajikistan in the spring of 2013 and 2014, the children were taken to orphanages in Tajikistan.³²

ISSUE: VIOLATION OF THE RIGHTS OF FOREIGN CITIZENS AND STATELESS PERSONS HELD IN FOREIGN CITIZEN DETENTION CENTERS AND SUBJECT TO DEPORTATION (EXPULSION).

VIOLATION OF ARTICLES 2, 10, 12, 26

1. ILLEGAL DETENTION OF PREGNANT WOMEN IN FOREIGN CITIZEN DETENTION CENTERS (FCDC)

Sometimes pregnant women from foreign countries end up in FCDCs, even though their detention in deportation centers is a harsher and longer form of administrative enforcement than administrative arrest, which, pursuant to a resolution issued by the Plenum of the Supreme Court on 19 December 2013, may not be applied to pregnant women or to women whose children are under the age of 14. In its response to the complaint filed with the European Court of Human Rights *Kim v. Russia*, the Russian government admitted that the overall detention conditions in the Saint Petersburg Deportation Center violate Article 3 of the Convention, which stipulates that pregnant women may not be held in FCDCs.

Twenty-three-year-old pregnant Somali citizen Sinia Ali Lukman fled the war in Somalia and arrived in Russia on 21 August 2013. One week later, she was detained in the village of Kondratevo, Leningrad Region. Her trial took place on 30 August. The resolution notes that “At the hearing Lukman explained that a war was going on in Somalia and that they received a promise to be taken to Finland. Instead, they were first brought to Saint Petersburg, where their documents were collected and where they were held in an apartment for a week. Then they were taken to Vyborg.” The Vyborg Municipal Court adopted a resolution to fine Sinia under Article 18.8(3) (violation of entry rules or residence regulations) of the RF Code of Administrative Offenses and place her in an FCDC for deportation. In late September, while she was still in the FCDC, Lukman filed a written appeal with the Saint Petersburg and Leningrad Regional Directorate of the FMS requesting provisional asylum, but she was not offered asylum and her detention continued until her hospitalization due to complications with her pregnancy.³³

Other pregnant women have also been found at the Saint Petersburg FCDC: in 2014 a Nigerian citizen and a Tajik citizen spent two months and one month there respectively.³⁴

2. UNACCEPTABLE DETENTION CONDITIONS: NO WALKS, MEAGER FOOD SERVINGS, NO USE OF TELEPHONE, COMPLETE ISOLATION FROM INFORMATION, VISITS ONLY WITH APPROVAL OF INSPECTOR AND ONLY WITH CLOSE RELATIVES FOR A BRIEF PERIOD IN A ROOM LACKING NATURAL LIGHT AND VENTILATION THAT IS ALSO USED TO PERFORM BODY SEARCHES OF PRISONERS (THE ECHR FOUND THAT THE RF COMMITTED VIOLATIONS IN THIS REGARD IN THE CASES OF LAKATOSH ET. AL. V. RUSSIA AND KIM V. RUSSIA).

Pursuant to Article 31(9) of federal law No. 115 FZ “On the Legal Situation of Foreign Citizens in the Russian Federation” of 25 July 2002, foreign citizens subject to deportation shall be held, under a court ruling, at special institutions created under the procedures established by the laws of RF entities until

³² The Situation of Children Belonging to Vulnerable Groups in Russia. An Alternative Report of ADC Memorial. <http://adcmemorial.org/www/8546.html?lang=en>

³³ Source: <http://www.memo.ru/d/180577.html>

³⁴ The interview with their attorney is on file at ADC Memorial.

the ruling of deportation is carried out. However, until recently many RF regions did not have special FCDCs. For example, Saint Petersburg did not have any special FCDCs until the fall of 2011. Up until that time, the functions of this kind of center were performed by reception centers run by the Saint Petersburg and Leningrad Regional Main Directorate of Internal Affairs (6 Zakharevskaya St.). Usually people serving a short-term arrest of 1 – 15 days are kept there. The cells, which hold 2 – 4 people are like a dungeon and have an area of 8m². They lack the required furnishings and toilets and do not provide access to drinking water. From 2008 – 2011, foreign citizens sentenced to administrative violations, which are punishable by up to one year under the Code of Administrative Offenses, actually spent more than one year in these inhuman conditions.

The case of Lakatosh et. al. v. Russia:

Aladar Forkosh, Anna Lakatosh, and Pavel Gabor, stateless persons of Roma descent who immigrated to Russia from Ukraine, were held in the detention facility at 6 Zakharevskaya St. for over one year (September 2009 – October 2010) under a court decision, even though this was impossible due to the fact that the claimants had no country of citizenship. In an attempt to appeal the terms and advisability of keeping their clients in detention, lawyers from ADC Memorial and attorney Olga Tseytlina filed a complaint with the European Court of Human Rights (complaint No. 32002/10 “Lakatosh et. al. v. Russia, supported by the UN High Commissioner for Refugees) when they found that arguments regarding the lack of a country of citizenship were ineffective. This case was reviewed by the Strasbourg-based court as a high-priority case. The Russian government admitted violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms, acknowledged that foreign citizens and stateless persons were held in inhumane conditions in temporary detention facilities, and undertook to pay the claimants compensation in the amount of 30,000 euros per claimant.³⁵

A specially built FCDC at 51a Kingiseppskoye Shosse in the Saint Petersburg suburb of Krasnoye Selo has been operating since the fall of 2011. This center is designed to hold 180 people, and while the detention conditions there are much better than at similar centers in other RF regions, they do not meet the standards acknowledged by Russia itself in the case of Kim v. RF (complaint No. 44260/13 was filed with European Court by attorneys O. Tseytlina and Yu. Serov with support from ADC Memorial). When responding to the Court’s questions, Russia acknowledged that detention conditions at the Saint Petersburg FCDC did not correspond to the guarantees made in Article 3 of the European Convention. Claimant R.A. Kim complained about the lack of walks (no more than 1 – 2 times a month in the prison courtyard); meager food servings (low-grade and poor quality meat, no fruits and vegetables); lack of radios, television, books, or newspapers in the cell; a ban on the use of the telephone, which leaves the detainee completely isolated from information; granting of short meetings only with the permission of an inspector and only with close relatives in a room lacking natural light and ventilation that is simultaneously used for questioning prisoners, in connection with which there is not enough room for attorneys and relatives to sit down during their discussions.³⁶

3. ABSENCE OF PERIODIC COURT MONITORING OF DETENTION CONDITIONS AND TIMEFRAMES FOR CARRYING OUT DEPORTATION RULINGS

Detainees held in these centers may, pursuant to the Code of Administrative Offences, spend up to two years in detention for insignificant administrative offenses (sometimes for lack of a health insurance policy and more often for an expired migration card or residence registration), which basically turns into an additional punishment. The law “On the Legal Situation of Foreign Citizens” does not contain a time limit on detention prior to deportation and instead only states “until the ruling on deportation is carried out.” In cases where deportation is not possible (i.e., for stateless persons), this norm essentially amounts to deprivation of freedom for an indefinite period.

³⁵ Brochure “Lakatosh et. al. v. Russia”: Millions in Compensation for Inhumane Treatment: http://adcmemorial.org/wp-content/uploads/lakatosh_sajt.pdf

³⁶ The interview with R.A. Kim is on file at ADC Memorial.

Court resolutions do not generally indicate how long a petitioner may be kept in a detention center, which violates the principal of legal certainty, insofar as the two-year term during which a resolution on deportation may be complied with, and, accordingly, the petitioner's liberty may be restricted, is too long. Thus, the measure for ensuring proceedings in a case regarding an administrative violation, i.e. placement in a Center, becomes a punishment disproportionate to the severity of the administrative offense.

S., a native of Kazakhstan, filed an appeal to this indefinite period of detention with the Saint Petersburg Municipal Court. Kazakhstan did not acknowledge S. to be its citizen, which meant that there was no possibility of deporting him. But under a ruling issued by a district court, he had to remain in an FCDC "until his deportation," i.e. for an indeterminate extended period of time. The court interpreted the federal law "On the Legal Situation of Foreign Citizens" in terms of the legal position of the RF Constitutional Court that deprivation of freedom for an indeterminate period is an unacceptable restriction of the right to liberty and the security of person. Since the Federal Migration Service did not have any evidence of the possibility of complying with the ruling to deport S. in the future, the court made amendments to the ruling issued by the first instance court and set a time limit for S.'s stay in the detention center (until 6 March 2013), at the end of which S. was released. Nevertheless, stateless persons frequently end up in FCDCs and they continue to be deprived of their freedom based on the fact that they do not have the proper documents.

Nigerian citizen Veronika M. has been held for almost four years (2010 – 2014) in the Saint Petersburg FCDC. She has been there since 9 September 2010 awaiting execution of a ruling on deportation, but no deportation measures have been taken. Despite the fact that in 2010 – 2011, the maximum term of stay in an FCDC was one year, courts and bodies of the Directorate of the Federal Migration Service found ways to extend her detention illegally: on the same day that the court issued a ruling on suspending enforcement proceedings due to the expiry of the statute of limitations, it adopted a new resolution that Veronika was guilty of exceeding the term of her stay and again specified deportation and placement in an FCDC. She did not spend one day of this time free and, obviously, she could not violate her term of stay while she was confined and under the complete control of the authorities. When she was first arrested in September 2010, Veronika stated that she was a victim of sex slavery. Instead of investigating this claim, however, the authorities placed her in detention in violation of all possible time frames and procedures.³⁷

The Russian government acknowledged that it violated Article 5(4) of the European Convention on Human Rights in the case of *Kim v. RF*. Specifically, it acknowledged the system-wide problem of the lack of periodic court monitoring of the detention of people in custody and the absence of procedural ability to appeal detention in an FCDC upon the expiry of a specific timeframe, making it impossible to end confinement in a center, even if deportation is not possible due to the fact that the prisoner is a stateless person (similar violations were previously acknowledged by the RF in the case *Lakatosh v. Russia*, but no measures were taken to resolve the system-wide issues of the law and practice aside from compensation).

Stateless person Roman Anatolyevich Kim was arrested on 9 July 2011 because he could not produce documents verifying his identity. FMS officials compiled a report that Kim had committed an administrative offense stipulated in Article 18.8(1) of the Russian Code of Administrative Offences ("violation of duration of stay in the RF"). On 19 July 2011, a resolution as issued under which the claimant was found guilty of violating the terms of his stay in Russia and was subject to punishment in the form of a fine of 2000 rubles, as well as the additional punishment of deportation from the RF. Prior to his deportation (for which no deadline had been assigned), R.A. Kim was placed in the FCDC of the Saint Petersburg and Leningrad Regional Main Directorate of Internal Affairs. None of the agencies (Directorate of the FMS, the Federal Bailiff's Service, the FCDC) responded to the numerous requests filed by Kim's attorney regarding measures being taken to deport Kim. In fact, no actual measures were taken to deport Kim: it was only in January 2013 that a query was sent to the Embassy of the Republic of Uzbekistan in the Russian Federation,

³⁷ Information on this case is on file at ADC Memorial.

in response to which an answer was received on 5 February 2013 that there was no possibility of returning the petitioner to the Republic of Uzbekistan. However, R.A. Kim was held in the FCDC until 23 July 2013 (over two years) without any grounds.

3. LACK OF PROCEDURAL ABILITY TO APPEAL DETENTION UPON THE EXPIRATION OF A CERTAIN PERIOD OF TIME,

making it impossible to end confinement in a center, even if deportation is not possible due to the status of stateless person (the ECHR found that the RF committed violations in this regard in the cases of *Lakatosh v. Russia* and *Kim v. Russia*).

A problem for many people held in an FCDC is the short timeframe for filing a cassation appeal to a resolution in an administrative offense case, which, pursuant to Article 30.3 of the RF Code of Administrative Offenses, equals 10 days, a timeframe that is frequently allowed to lapse. Detainees are often deprived of the right to make a phone call. They usually do not speak Russian very well, particularly the language of court proceedings; in a number of instances, they have not been explained their rights or their ability to appeal a resolution; their relatives are not notified that they have been detained; they have no access to legal assistance (only a lawyer with the status of attorney may enter an FCDC, and this lawyer must know the name of the client he or she is visiting); and they are not provided with legal assistance free of charge.

Judicial review of the legitimacy of detention cannot only be limited to the ability to appeal a ruling on detention: petitioners should be provided with subsequent periodic judicial review of the terms of their detentions in relation to procedures for executing a ruling on deportation, and in connection with this, the legitimacy of placing restrictions on their freedom when, by analogy with criminal procedural law (articles 108 – 109 of the RF Code of Criminal Procedure), further detention is justified, including due to the need to perform certain significant investigative actions. The availability of legal remedy assumes that the authorities have created circumstances that give petitioners the actual opportunity to make use of such legal remedy.

5. LACK OF STATUTORY OR OTHER REGULATORY DOCUMENTS SETTING THE CONDITIONS UNDER WHICH PEOPLE AWAITING DEPORTATION MAY BE HELD FOR A PROTRACTED LENGTH OF TIME.

Detainees at FCDCs do not currently have access to legal assistance, the mechanisms for determining the identity of people who end up in these centers have not been clearly defined, and there is no time limit set for establishing their identities. Internal order, diet, and the opportunity to speak with a lawyer or relatives are all determined by “internal regulations,” which can often be much stricter than regulations at pretrial detention centers or prisons.

“For the purposes of security,” instigators and people who do not agree with the internal regulations are housed on a special floor at the Saint Petersburg FCDC, where they cannot move around freely and are confined to their rooms. According to one foreigner who worked temporarily in the kitchen at this FCDC pending deportation, he was placed in a punishment cell for several days for doing something wrong at work. It is unknown which regulatory documents govern this kind of treatment.

ADC Memorial learned from a witness who happened to overhear a conversation between guards that guards at the Saint Petersburg FCDC are told to use the threat of harsh methods to influence detainees: “Some junior police officers were standing in the hallway with their dogs and receiving instructions from an officer that they could use their equipment with any detainee who showed the slightest sign of disobedience: ‘If it seems like he’s up to something, give him a nice hit with your club while he’s in the shower, otherwise he’ll push you around’” (obscene words have been left out here).³⁸

³⁸ A recording of this interview is on file at ADC Memorial.

ISSUE: EXTRADITION OF FOREIGNERS TO THEIR COUNTRIES OF CITIZENSHIP, WHERE THEY FACE THE THREAT OF TORTURE, ILL TREATMENT, AND REPRISALS; "HIDDEN EXTRADITION" (APPLYING PROCEDURES FOR ADMINISTRATIVE DEPORTATION TO EXTRADITION).

VIOLATION OF ARTICLES 2, 7, 10, 12, 13, 26

1. EXTRADITION TO COUNTRIES OF CITIZENSHIP, WHERE FOREIGNERS FACE THE THREAT OF TORTURE, ILL TREATMENT, AND REPRISALS.

Extradition is not allowed if there are grounds to believe that the person being extradited may become the victim of torture or inhumane treatment or punishment. This legal provision is unconditional and does not in any way depend on the behavior of the petitioner, negative traits that he or she may have, issues of danger for the receiving country, or any other factors.

One problem involves attempts to extradite to Kyrgyzstan people of the Uzbek nationality who face accusations of participating in the "unrest" and events of 2010.³⁹ Now people who have fled to Russia to avoid pogroms or prosecution often end up in prisons where they can be handed over to Kyrgyzstan for punishment at any moment. Migrants from Uzbekistan and Tajikistan who are persecuted in their own countries for their religious beliefs also face grave danger if they are deported to their "homelands."

Even though in specific cases RF courts, including the Supreme Court, have found it unlawful to extradite ethnic Uzbeks to Kyrgyzstan due to the likelihood that they will face torture and ill treatment and to their extreme vulnerability in the criminal justice system in their country of citizenship⁴⁰, decisions to refuse extradition are frequently reversed.

In December 2012, attorneys working with ADC Memorial succeeded in defending Ilkhom Salakhidinov, an ethnic Uzbek from Osh, from extradition to Kyrgyzstan, where he faced the threat of torture. Both the Saint Petersburg Municipal Court and the RF Supreme Court quashed the initial ruling on extradition, recognizing the risk of torture and ill treatment against Uzbeks in Kyrgyzstan.⁴¹ However, in similar cases the RF Office of the Prosecutor General approved requests to extradite Botir Turgunov (24 July 2013) and Murodil Tadzhibayev (13 August 2013). These two Kyrgyz citizens are still being held in a pretrial detention facility under threat of extradition. On 25 February 2014, the Supreme Court resolved to quash the November 2013 ruling adopted by the Saint Petersburg Municipal Court to cancel Murodil Tadzhibayev's extradition to Kyrgyzstan and upheld the court's ruling to extradite Botir Turgunov. These kinds of rulings ignore the threat of torture and ill treatment that these people face when they are returned to their countries of citizenship.

2. RUSSIA IS RESORTING MORE FREQUENTLY TO "HIDDEN EXTRADITION,"

where extradition is replaced with "deportation" to simplify document processing and court procedures. It was under this procedure of administrative deportation that individuals were handed over to Uzbek and Kyrgyz authorities even when their extradition had been refused by the Russian Office of the Prosecutor General. People such as this are sentenced to deportation to their native countries for fictitious administrative offenses (usually because they did not have the proper documents on them).

To avoid any hurdles that may arise when wanted individuals are handed over to countries where they face the danger of torture or death (the European Convention allows use of Rule 39 on interim measures), in a number of cases the security services have resorted to illegal forms of cooperation like kidnapping or secret extradition.

³⁹ See an interview with Elena Ryabina, an expert who works with refugees from Central Asia: <http://adcmemorial.org/www/251.html/>

⁴⁰ Ruling of the Supreme Court of 18 February 2013

⁴¹ The Russian text of the cassation ruling is available on the website of the RF Supreme Court: http://www.supcourt.ru/stor_pdf.php?id=527174

A case of this nature occurred in the spring of 2014. Umid Yakubov (an Uzbek by nationality) was officially recognized as a refugee by the UN High Commissioner for Refugees (UNHCR). However, he was kidnapped in broad daylight in Moscow on 29 April 2014 as he was traveling to a meeting at the local UNHCR office to discuss the matter of his resettlement to a country less dangerous than Russia. The car in which he was riding was stopped by a police officer. As the officer checked the driver's documents, three men (one of whom was wearing a police uniform) approached Umid Yakubov and placed him in a van. It is feared that he was taken to Uzbekistan, where he faces the danger of torture and ill treatment.⁴²

PROBLEM: DISCRIMINATION AGAINST WOMEN BELONGING TO MINORITIES WHO SEEK A FAIR TRIAL, WHICH IS COMPLICATED BY THE VULNERABLE POSITION OF YOUNG WOMEN IN TRADITIONAL SOCIETIES.

VIOLATION OF ARTICLE 3, 14.

Case-study of a stateless Roma woman multiple discrimination

Young women of Roma origin (as well as women from some other traditional societies) are frequently the victims of two types of discrimination: the traditional view of women in a number of communities as less valuable members of society and the biased attitude of government representatives.

A typical example is the case of Zhanna Lakatosh (b. 1985), who belongs to a community of so-called Magyar Roma (a Hungarian-speaking group of Roma that migrated to Russia from Ukraine's Transcarpathian Region). A small community of Magyar Roma has been living on the outskirts of Saint Petersburg since at least the early 2000s. Some of these Roma have Ukrainian passports and birth certificates and some have lost their documents entirely. The vast majority of Magyar Roma is illiterate. They live in huts made from whatever materials are at hand, and in the winter these huts are heated with handmade stoves. They earn a living by collecting scrap metal, committing petty theft, and begging. The position of girls and women in this community is extremely vulnerable: they must obey the men and older women, they frequently experience violence at the hands of the men, and they are forced to steal, which leads to the frequent arrest of girls.

In January 2013, Zhanna was arrested on charges of murdering Maksim Sabov, the 18-month-old child of her friend Yulia Sabova, who left her son in the care of Zhanna when she herself was arrested for theft in December. In April 2014, Zhanna Lakatosh was found guilty and sentenced to 10 ½ years in a general regime penal colony by the Nevsky District Court of Saint Petersburg.

Circumstances in Zhanna Lakatosh's case pointed to her innocence and to the real killer—Alexander Dyerd, Zhanna's partner, who was a suspect at the beginning of the investigation (for example, an impression was taken of his shoes, since a boot print was found on the boy's clothes). Twelve-year-old Andrey, who witnessed the beating that resulted in the boy's death, testified in court that it was Alexander who beat the child and then hit him on the head with a hammer. But the court did not take Andrey's testimony into consideration. Other assumptions were also made during the case. For example, witnesses stated that the boy died on 21 January 2013, which was during the time that Zhanna was in detention for a theft committed on 18 January 2013. Nevertheless, the charges were built on the testimony of Alexander Dyerd himself and his mother Itsa Tonto—the oldest woman in the community who for many years played the role of a kind of mediator between the Roma and the outside world due to her knowledge of Russian and her strong ties with the police. In fact, it was Itsa Tonto and her son who were instrumental in making sure that all the other witnesses gave the same testimony and stated that Zhanna was guilty of the boy's death and that she was the one who allegedly beat Maxim. Andrey's testimony makes it clear that the witnesses were threatened with reprisals if they told the truth about what they saw.

Procedural violations also occurred during the trial: the witnesses for the prosecution (Itsa Tonto, Aleksander Dyerd) did not appear in court, even though they were notified of the hearings, thus

⁴² Source: <http://amnesty.org.ru/node/2890>

depriving Zhanna and her attorney of the right to question them; the courtroom was not equipped with video equipment, so Zhanna and her attorney were forced to watch a recording of this testimony on the monitor of the video camera that was used to make the recording, and the interpreter was not able to participate in this process because the volume was not high enough to provide a high-quality translation for the defendant (her native language is Hungarian and she speaks and understands Russian poorly).

Thus Zhanna was effectively convicted based solely on testimony given outside the court by witnesses who were concealing themselves from the court and were even too afraid to inform the court of their whereabouts.⁴³

This case is a clear violation of Article 14 of the International Covenant on Civil and Political Rights, and specifically of clause 3(e), since the defense and the defendant were not given the opportunity to question witnesses for the prosecution. Moreover, the court's formal grounds for its failure to take evidence in support of Zhanna and Andrey Lakatosh's testimony into account give reason to assume that the court took a biased approach to the defendant, which found expression in a dislike of Zhanna's way of life. Considering the fact that Zhanna was forced under pressure from her partner to engage in criminal activities as a result of her existing circumstances, coupled with the state's failure to take any actions, it can be asserted that Zhanna essentially existed in a state of slavery, which is expressly banned by Article 8 of the Covenant. Thus, this case shows evidence of two types of discrimination against Zhanna: first as a young Roma-Magyar woman with a low status, and second as a Roma and representative of a vulnerable minority which the ethnic majority and the authorities view in a negative manner.

Discrimination of Women belonging to traditional Communities

Women and girls from traditional Muslim communities, especially those in the republics of the North Caucasus, are in an especially vulnerable position. The traditional attitude towards women, who are required to be modest, sometimes up to the point of completely denying their own identities, is reinforced by the increasing official piousness of these communities that is supported by many local politicians and representatives of the executive branch and law enforcement agencies. For example, Chechen president Ramzan Kadyrov has on many occasions stated that he is prepared to accept even "honor killings,"⁴⁴ because women who have been punished by their relatives for violating or allegedly violating the moral code "deserve to die."

Restrictions on women's rights in the North Caucasus are also manifested in the requirement to observe a "Muslim dress code," which is determined by dress length (pants are often completely prohibited), sleeve length, and head coverings. For example, according to teachers at Grozny University in Chechnya, female students are required to wear a headscarf and a dress of a certain length and may not use bright makeup. Checks take place at the entrance to the university and during classes, which can be interrupted for special "inspections of female clothing."

The rights of women trampled on in the most dramatic way by families, communities, and often the local authorities when suspicions of "sexual offenses" arise. Two victims of harassment caused by gender stereotypes appealed to ADC Memorial in 2012 and 2013. They were forced to flee the North Caucasus for Saint Petersburg and then for points beyond due to threats of physical reprisals made by relatives and acquaintances.

Z., a student at a school in Buynaksky District, Dagestan, was subjected to harsh reprisals and blackmail by a boy in her class, who demanded money from her under threat of publishing a video where he had placed Z.'s face in a porn movie. Z. was forced to give the blackmailer her parent's money in secret. When the whole story came out, the fathers of both the boy and the girl were killed during an argument, and Z. and her mother were forced to leave their native village in a rush and go into hiding. All the relatives believed that the girl was the only guilty party in the events, while the young man (he was already 18 by that time) who had so poisoned her life did not suffer

⁴³ Information on the case of Zhanna Lakatosh is on file at ADC Memorial.

⁴⁴ <http://inosmi.ru/social/20120503/191471674.html>

any punishment, even though he stated in public that he had killed Z.'s father. The entire village believed that Z. was guilty and that her mother was to blame for "raising such a child." Life at home became impossible and extremely dangerous because Z. could have been killed, so the family was forced to drop everything and flee.⁴⁵

Honor killings have been on the rise in this region in recent years. For example, in November 2011 a 19-year-old female resident of Karachay-Cherkessia was put to death by her older brothers. According to the brothers, they killed their sister for her "immoral way of life." The double murder of the Musayev sisters—15-year-old Jamila and 19-year-old Milana—was committed in the settlement of Borozdinovskaya, Shelkovsky District, Chechnya on 27 June 2011. The father of the girls, 48-year-old Ruslan Musayev, confessed on his own to law enforcement authorities. One of the theories investigated was the theory of an honor killing, which is an execution carried out by relatives. The cause for an honor killing may be unauthorized marriage, divorce, walks with a man, or simply rumors floated by ill-wishers.⁴⁶

Notions about the code for female behavior and the virtually open support of "honor courts" by officials in the North Caucasus only serve to create conditions under which these crimes do not meet with the necessary resistance. Sometimes the criminals themselves are hidden along with the people who are supposed to thwart them.

In Ingushetia, there was a case where an educated, grown woman who herself worked in the court system was a victim of harassment and harsh reprisals. Tamara N. worked as an assistant to Judge Tutayev at the Arbitrazh Court of the Republic of Ingushetia from 2001 – 2012. Foes of this judge wanted to use N. in their fight against him and demanded that Tamara give false testimony against her former boss. If she refused, a video taken in Tutayev's office that allegedly provided evidence of intimate relations with her boss would be published online. Tamara hoped that her family would accept her explanation and not believe the insinuations made by the judge's enemies, so she refused to give the testimony that her blackmailers demanded. The video was posted on YouTube and her husband and other relatives learned about it right away. Even though her relatives initially wanted to support her, they also fell under the influence of the general negative attitude towards this woman, whose reputation suffered from this base intrigue. As a result, Tamara's two young sons were taken from her and she was forced to flee into hiding after losing her house, her job, and her sense of security. She and her daughter are forced to move regularly when rumors of her whereabouts reach her family, because she fears for her life. As typical in these types of situations, as the man Judge Tutayev did not suffer at all and kept his job at the arbitrazh court, even though he was the initial target of the harassment.⁴⁷

Reprisals against women and demands for them to follow traditional morals must be suppressed once and for all. If this does not happen, traditional stereotypes will reach the level of unwritten "legal norms" and will become the basis for gender discrimination that is essentially supported by the state in a number of cases.

PROBLEM: DISCRIMINATION AGAINST ROMA; LACK OF A REAL STRATEGY TO OVERCOME DISCRIMINATION AND UNSATISFACTORY IMPLEMENTATION OF REMEDIAL MEASURES AND PROGRAMS ADOPTED BY THE STATE.

VIOLATION OF ARTICLES 24, 26, 27

After years of receiving recommendations from international organizations, including the UN Committee on the Elimination of Racial Discrimination (CERD), and being lobbied by human rights defenders, the Russian Federation finally adopted a road map for government efforts to improve the situation of the Roma minority, and on 31 January 2013 the Comprehensive Plan for the Socio-

⁴⁵ The interview with Z. is on file at ADC Memorial.

⁴⁶ <http://www.kavkaz-uzel.ru/articles/207051/?print=true>

⁴⁷ The interview with Tamara N. is on file at ADC Memorial.

economic and Ethno-cultural Development of Roma in the Russian Federation for 2013 – 2014 was approved. However, the document itself was never published and cannot be freely accessed. It is even impossible to find on the website of the Regional Development Ministry.⁴⁸

The contents of the Comprehensive Plan give cause for criticism. It is clear that similar action plans that exist in other countries, including the OSCE's Maastricht plan, were not taken into account during its drafting, so it consists of only 20 "measures." The plan does not reflect the most important problems for Russian Roma, which first and foremost include ensuring a high-quality education for all Roma children and creating conditions for Roma to receive secondary and university level educations. The plan fails to mention the problem of the segregation of Roma children, the fact that many Roma children do not even attend school, or the fact that those who do attend school do not receive an education that meets federal standards. The only education-related topics that the Plan touches on are the development of a Russian alphabet for Roma children and a Roma language textbook for the lower grades. Meanwhile, Russia lacks the research structure that could be used to create these kinds of textbooks and study aids (the Laboratory for Roma Culture, which was created in the Federal Institute for Education Development in 2006 has been shut down; the Russian Center for the Study of Roma Culture, which was organized as part of the Russian Institute of Cultural Research in 2012 has been disbanded; and no university or institute in Russia has a department or offers a major in Roma Language and Culture). The problem of discrimination against the Roma is never mentioned in the plan, which also lacks measures to prevent the police from treating Roma in an arbitrary manner. There are no measures to legalize the homes and land plots of Roma settlements, even though initially the Regional Development Ministry stated that this was one of its priorities. Moreover, the absence of measures to legalize land plots and to ban the unjustified demolition of existing settlements has meant that since the time the plan has been in effect, two Roma settlements have been demolished, one in Topki, Kemerovo Region and another in Irkutsk.⁴⁹ Another 120 claims to demolish homes in Tula Region were granted by the court, which puts the entire settlement under the direct threat of demolition.⁵⁰

Despite the fact that the plan is aimed at integrating Roma and improving their socio-economic situation, most of the measures are actually not aimed at resolving any important problems. Many of the measures (like "providing technical and organizational assistance to Russian Roma to ensure self-employment according to the 'business incubator' principle," "holding workshops for the heads of amateur theater groups at the Roman Theater," "holding press conferences with leaders of national and cultural autonomies of Russian Roma") are not aimed at directly improving the socio-economic situation of the Roma, and their success depends in large part on who will manage these measures under what sort of program.

In addition to measures that will likely be ineffective, the plan contains obviously harmful proposals that show how little the plan's authors understand about the task of integrating the Roma into society. For example, one proposal involves creating "groups to teach children traditional trades (blacksmithing, horse breeding, embroidery, needlework, basket weaving) in areas with dense Russian Roma populations." In this way, children from Roma settlements, who already suffer from isolation due to their traditional way of life and their lack of access to a high-quality education, are being ordered, with the support of the government, to study embroidery and the long-forgotten trade of blacksmithing, which were never practiced by Russian Roma to begin with. Clearly the authors of this plan believe that these are appropriate activities based solely on the children's nationality.

Even useful measures in the plan that need to be taken, like providing social services to Roma families at home, ensuring that Roma children are not neglected, and providing members of the Roma population with personal documentation, may not improve the lives of the Roma population due to the way in which they are described and, more importantly, will be implemented. For example, the plan lacks a detailed description of the actions that state agencies will take and it does not indicate the amount of financing that will be received. Instead, it only indicates that this amount will be determined by executive branch bodies.

⁴⁸ The Russian text of this document is available on ADC Memorial's website: <http://adcmemorial.org/www/6620.html/>

⁴⁹ <http://irkutskmedia.ru/news/irkutsk/21.04.2014/352129/vosem-nezakonnih-zhilih-postroek-snesli-v-irkutsk-21-aprelya.html>

⁵⁰ http://tnews.tula.net/news/society/v_tulskoy_oblasti_sud_rassmotrit_120_iskov_o_snose_tsyganskikh_domov/

The weakness of the Comprehensive Plan can be ascribed to the fact that it was developed with participation from or cooperation with competent experts and human rights defenders involved in protecting Roma rights. The plan's other shortcomings include the absence of specific goals, strategies, and mechanisms for implementing and evaluating the Plan, as well as an unclear financing mechanism (the Plan would be financed by local, not federal, sources, which makes it unlikely that the Plan could even be implemented). CERD noted these shortcomings in its recommendations in a 2013 report evaluating Russia's efforts to integrate gypsies.⁵¹ Despite criticism from human rights and international organizations, no clarifications or amendments were made to the Comprehensive Plan.

Not one of the Plan's clauses provides for ensuring that reports on its implementation are accessible to the public. In other words, it is not possible to receive organized information on progress in any part of the country. Some executive agencies in RF regions publish select information on the implementation of measures outlined in the plan. For example, a round table was held in Volgograd, Roma in Saratov and Chelyabinsk were issued personal documentation, the issue of personal documentation was raised in Orel and Irkutsk Region, and measures to combat unemployment were taken in Rostov Region.⁵² The administrations of some RF entities will only announce that the plan exists and maintain that there are not any problems with Roma in their areas. They also state that the timeframe of the Plan (2013 – 2014) is ending soon. Thus, it can be concluded that the areas in need of the greatest attention are being ignored and that the measures provided for in the Plan are not being implemented even by the appropriate agencies to which the Plan itself assigns a small amount of responsibility. When the plan's measures are implemented, they sometimes lead to even greater discrimination against Roma.

Thus, "the development and approval of comprehensive, preventative measures to combat the illegal trade in narcotic substances in the Roma community" actually amount to "raids" and anti-Roma campaigns with the expected names that law enforcement agencies regularly conduct against the Roma population. For example, authorities conducted the "strategic preventative measure *Tsygane*[Gypsies]," the goal of which was to "prevent and avert crimes and fraud committed by individuals of the Roma nationality," in Miass, Chelyabinsk Region on 18 – 19 April 2014.⁵³ In this way, discriminatory actions taken by the police are enshrined in regulations under the guise of implementing the Comprehensive Plan.

PROBLEM: VIOLATION BY OIL AND GAS COMPANIES OF THE RIGHTS OF INDIGENOUS MINORITIES IN THE FAR NORTH AND FAR EAST TO USE NATURAL RESOURCES AND FOLLOW A TRADITIONAL LIFESTYLE.

VIOLATION OF ARTICLES 1(2) AND 26.

Technological developments in the oil and gas industry mean that extraction can now take place in remote areas where extraction was unprofitable and problematic. The production of oil and gas is a main branch of the Russian economy; almost the entire social sphere depends on its efficiency, so the state has a clear interest in expanding and increasing production. This has a negative effect on the situation of indigenous peoples, because it is very difficult for small communities that frequently do not have access to legal assistance to stand up against powerful corporations backed by the state that have various means of pressuring the communities and the local authorities.

For example, in February 2013, a conflict arose between representatives of the Khants, who live near the Agan River in Nizhnevartovsk District, Khanty-Mansi Autonomous Region, and the Pokachevneftegaz oil company, a subsidiary of Lukoil, which is developing the Martolirovsk Field. Heavy equipment and

⁵¹ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fRUS%2fCO%2f20-22&Lang=en

⁵² For information on the plan's progress see <http://цыганероссии.рф/plan-razvitiya/progress/>

⁵³ Source: <http://newsmiass.ru/index.php?news=34376>

road construction caused damage to Khanty deer pastures and holy shrines, and no agreement on the extraction of natural resources from the area on which the Khanty live was ever reached. The amount of compensation the company pays to the Khanty for oil extraction on their land does not even reach the minimum cost of living set for this region.⁵⁴

Indigenous peoples who try to develop their own businesses in the mining industries cannot compete with more formidable market players that have financial and administrative resources. For example, the Evenki cooperative Dylacha, which is the largest nephrite mining company in Buryatia and has been operating since 1997, was essentially crowded out of business by the Russian Nephrite Company LLC and the Zabaykalskoye Mining Company, which has connections with the state corporation Rostekhnologii. Later, Dylacha was shut down under a court ruling that granted a civil claim filed by the prosecutor's office. In October 2012, forces from the Ministry of Internal Affairs carried out an operation against Dylacha and a criminal case was opened regarding the "theft" of 20 tons of nephrite with a market value of over 600 million rubles, which was allegedly mined by the company outside of the boundaries set by the company's license, even though an independent expert study established that that the company did not violate the boundaries of its plot. The valuable nephrite ended up in warehouses belonging to Russian Nephrite Company LLC. Representatives of the Evenki community and experts view this operation as a hostile takeover.⁵⁵

There is little doubt that other indigenous communities in the Far North, Siberia, and the Far East have also suffered from the devastating actions of oil companies, gas companies, and other mining companies, but these communities often do not have the ability to make this known.

⁵⁴ Source: <http://www.znak.com/hmao/news/2013-02-21/1002582.html>.

⁵⁵ <http://дылача.рф/index.php/dylacha/zahvat>

CONCLUSIONS AND RECOMMENDATIONS

The following conclusions can be reached based on the above analysis of incidents where minority rights guaranteed by the International Covenant on Civil and Political Rights were violated:

1. The Russian Federation systematically violates migrants' rights: foreign citizens are not sufficiently protected by the law or the practices of executive agencies both in cases where crimes are committed against them (including the pogroms of markets, dormitories, and shopping centers that took place in 2013 – 2014) and in cases where they themselves are accused of violations (including people who are placed in detention centers for violation of migration rules, held in poor conditions for time periods that often exceed the allowable limits of detention and are not reviewed by a court, and are not provided with legal assistance free of charge).

Children (minor migrants, whose right to stay in the RF capped at 90 days, which makes it impossible for them to attend school or live with their parents who work in Russia) and some women (pregnant women held in prison conditions under administrative articles, women from traditional communities, etc.) are in an especially vulnerable position.

2. Civil activists who express a critical opinion of government actions in a specific area (violation of voters' rights, restrictions on freedom of expression, violation of the right to a fair trial and the right to peace) are subjected to political reprisals in the form of detentions, searches, arrests, and prison terms.

Human rights organizations are also subjected to reprisals for publishing independent reports and drawing attention to human rights violations.

Activists and human rights defenders who defend the rights of minorities that are discriminated against, including sexual and gender minorities (members of the LGBT community, whose rights have been restricted since the 2013 adoption of the law banning "propaganda of homosexual to minors") are in an especially vulnerable position. The most serious restrictions relate to minors in the LGBT community; they are denied their self-identification and their right to express their own opinion, and their very existence is covered up.

3. Not enough is being done to contain the growth in migrantophobia, homophobia, and other forms of xenophobia, which in some cases are actually provoked by the state (as is the case with the homophobic rhetoric displayed by a number of politicians). This lends support to aggressive criminals because it gives them a feeling of permissiveness and also condones hate crimes.

4. The situation of women is dramatically worsening in the North Caucasus, where traditional stereotypes are supported by both the increasing influence of religion and the policies of a number of regional leaders. Women, young women, and girls have become the victims of discrimination and the targets of harassment and even so-called "honor courts," which perform extrajudicial reprisals and killings. At the same time, government institutions are not taking enough measures to protect the rights of women or even to protect them from crimes that sometime even local government representatives refer to as "our traditions."

5. Insufficient measures are being taken to overcome discrimination against ethnic minorities, including the Roma and indigenous peoples of the Far North and Siberia. Despite the existence of official plans and programs aimed at improving the situation of these vulnerable groups, these groups continue to be discriminated against in the area of education (most importantly, cultural initiatives like publishing books and textbooks in their national languages and conducting academic research are not being undertaken). Also, their socio-economic rights are being violated (the extraction of natural resources depletes the resources indigenous peoples need for their survival) and they face racial profiling by police officers (police operations are given names like "Gypsies"). Finally, racism and stereotypes debase the dignity of representatives of national minorities and result in the commission of hate crimes against them.

***IN CONNECTION WITH THE ABOVE, ADC MEMORIAL URGES
THE HUMAN RIGHTS COMMITTEE TO:***

1. Raise the issue of the violation of the rights of migrants and other visual minorities, strive for the adoption of effective measures for their protection from hate crimes, attacks, and pogroms.

Pay special attention to the arbitrary interpretation by investigators and courts of the concepts of “mass unrest” and “hooliganism,” when anti-migrant actions (along with several artistic actions and environmental protests in the open sea) are classified as “hooliganism” and peaceful demonstrations are treated as “mass unrest.”

Draw the attention of the RF government to violations of the rights of migrants and prisoners in Foreign Citizen Detention Centers (absence of court review of detention periods, unacceptable conditions, lack of attorneys), and likewise to the impossible situation of migrant children, who are not allowed to remain in the RF with their parents for more than 90 days in a row (even though adult labor migrants have to right to stay in the RF for up to one year and in some cases up to three years).

Call for a more careful study of the problems faced by women subjected to discrimination in traditional communities, encourage an improvement in their difficult situation and try not to aggravate it.

2. Urge the RF government not to restrict freedom of speech, prosecute civil activists for expression a critical opinion, or subject peaceful activists and human rights organizations to reprisals. Devote special attention to the rights of LGBT activists and NGOs, recognize the right of minors in the LGBT community to information and public self-identification.

3. Strive for the adoption of effective measures to end racial and homophobic violence, prohibit the use of hate speech against minorities (offensive and provocative statements made by politicians, officials, law enforcement officers, and court officers must be punished especially severely), uncover the hate motives in crimes, and sentence all the participants in these crimes with due account for aggravating circumstances.

4. Demand the protection of women from discrimination, including women from Muslim regions of the RF, primarily women residing in the North Caucasus, not allow stereotypes and traditional moral demands to prevail over the principles of women’s rights, prevent executions of “violators,” and protect women and girls from requirements that have been imposed on them to adhere to restrictions in their education, work, lifestyle, and dress.

5. Raise the issues of the rights of ethnic minorities and the obligations the RF has undertaken to protect vulnerable ethnic groups and indigenous peoples of the RF, provide these groups with the opportunity to study their native languages and cultures, ensure that their children receive full-fledged educations (including the children of Roma, migrants, and indigenous peoples, without discrimination or unjustified differences in the quality and conditions of education), preserve traditional environments and the ability to use natural resources, and ensure socio-economic rights, the right to participate in political life, and the ability to create independent associations, unions, and NGOs without risk of reprisals and prosecution.

