

GLOBAL COMPACT FOR MIGRATION vs NEW ANTI-MIGRATION POLICY IN RUSSIA

On the day of the 70th anniversary of the Universal Declaration of Human Rights, representatives of the governments of 150 countries gathered at a conference to support the adoption of a new global compact intended to help the world solve one of its most pressing human rights problems – migration, which opened with great ceremony in Morocco. One of the stated purposes of this compact is “to reduce the risks and vulnerabilities migrants face at different stages of migration.” Just prior to the conference, in late October 2018, the Russian president signed the order “On the Strategy for State Migration Policy for 2019–2025.” This new strategy was adopted before the existing strategy was set to expire in 2025 and establishes more rigid principles for the treatment of migrants.

The previous strategy criticized Russia's extremely complicated procedures for obtaining various types of migration status and acknowledged that the huge amount of “illegal migration” into Russia was a result of imperfect laws and practices. It prioritized protection of the rights and liberties of migrants and a social safety net for migrants and devoted a great deal of space to the integration and adaptation of various categories of migrants.

The focus has shifted in the new strategy: instead of simplifying procedures and creating new migration programs (like seasonal migration for students), it addresses combating phenomena which, in view of the intensity of the migration flow, “may become a threat for the Russian Federation and its bordering countries.” In particular, it highlights threats including negative socioeconomic processes and the danger that members of criminal structures, terrorists, and extremists will penetrate

Russian territory. While the resettlement program for compatriots was just a part of the general, comparatively liberal principles of the previous strategy, the new strategy refers much more pointedly to the priority of resettling compatriots and native Russian speakers, the Russian “cultural (civilizational) code,” and the fight against illegal migration.

The strategy's text abounds with the terms “security,” “extremism,” and “combatting illegal immigration,” while it mentions next to nothing about human rights, the fight against discrimination, and the social guarantees that most foreigners arriving for work need. It also gives a clear indication of the kind of people considered “desirable” migrants: these are primarily compatriots (Russians, Russian speakers, people fluent in Russia), who make up just a small number of migrants to Russia.

According to Ministry of Internal Affairs statistics, just over 100,000

compatriots were granted legal status in 2017, while almost five million migrants travelled to Russia for work. And these are the same five million migrants who pay taxes and work permit fees and make other mandatory payments to the state treasury, but who generally do not have the right to free medical care and pensions.

Antimigration rhetoric has long been a part of sociopolitical discourse in Russia, so enshrining this “value system” in a specialized document appears legal. Migrant phobia is very strong in Russian society, especially because the government lacks an adequate integration program and a transparent, accessible procedure for legalizing foreigners. Migrants come up against woe fully complex bureaucratic procedures and spend significant amounts on documents permitting them to live and work in Russia. This frequently forces them to circumvent the law and seek niches where it is easier to conceal one's legal

RUSSIA'S NEW STRATEGY FOR MIGRATION POLICY DOES NOT MENTION:



THE RIGHT TO PROTECTION FROM
DISCRIMINATION



THE SOCIOECONOMIC RIGHTS OF MIGRANTS



THE RIGHTS OF MIGRANT CHILDREN



THE RIGHT OF MIGRANT WORKERS TO
PARTICIPATE IN LABOR UNIONS

status. Meanwhile, means for restricting the rights of migrants and reasons for excluding people from the migrant flow are multiplying (expulsion and entry bans can be handed down for several administrative violations, for example, violation of traffic rules).

To resolve these problems, the new strategy proposes blanket formulations about “making administrative procedures more transparent and protecting them from corruption,” “reducing the likelihood of unfounded decisions and technical errors,” “creating mechanisms of social and cultural adaptation,” and “adopting measures to prevent segregation.” There are no specific responses to questions of how these problems, particularly corruption in the migration sphere, will be eliminated or what will be done to rectify the “technical errors” that cause migrants to be expelled, confined in detention centers, and forcibly separated from their families.

Not unexpectedly, the strategy contains not even one word about children, who make up a significant part of the migration flow, even though children have a more acute need than adults for ethnocultural adaptation and protection. There does not appear to be an end in sight to the police raids during which migrant children are detained as if they were adults and, if a law has been violated, are taken from their parents and placed in special institutions. Children frequently suffer from the absence in Russian laws of provisions stipulating an extension of their stay in the country along with their parents. During the academic year, this impinges on the right of migrant children to an education because it forces them to cross the Russian border every three months. Finally, many Russian schools refuse to accept migrant children because of problems with their registration at their place of stay.

The UN Committee on the Rights of the Child has repeatedly noted the need for compliance with the rights of migrant children and the state’s obligation to treat them as all other children, regardless of their documents and parents’ situations. Such disregard for their rights in favor of the precedence of a “culture code” and “protection of Russian culture and language” is inexcusable.

This crude and unrealistic policy on migrants only serves to provoke ethnic tension.

THE NEW STRATEGY MENTIONS STATELESS PERSONS, BUT NO PROCEDURE FOR THEIR LEGALIZATION



TENS OF THOUSANDS OF FORMER SOVIET CITIZENS WHO HAVE LIVED IN RUSSIA FOR YEARS STILL DO NOT HAVE DOCUMENTS



THEY ARE CONFINED INDEFINITELY, SINCE THERE IS NO COUNTRY THEY CAN BE DEPORTED TO



WORK ON AMENDMENTS HAS BEEN ANNOUNCED, BUT NO CHANGES HAVE BEEN ADOPTED

A less noticeable but extremely vulnerable part of the migration segment is comprised of stateless persons. According to the strategy, measures must be adopted to issue them identity documents. Amendments to the law were prepared long ago but never adopted, so tens of thousands of people who have lived in Russia for years without the necessary personal documents have no path to citizenship. Now stateless persons are arrested for “violation of migration rules,” court rulings on their deportation are issued, and they are imprisoned, to all intents and purposes, indefinitely, since it is not possible to deport them to any country. They are released after two years (the maximum possible time to “secure deportation”), but they are not issued any documents that would allow them to remain in Russia legally. As a result, they are often imprisoned again as violators of migration rules.

Russia ranks fourth among receiving countries, so the result of implementing the strategy must be the creation of a situation that would not just make it possible to use the potential of migration for the good of the country, but that would also ensure the rights, liberties, and legal interests of all people involved in the migration process. One of the paragraphs detailing the goals of migration policy refers to “the creation of conditions for adaptation to the legal and socio-economic conditions of life in Russia for foreign citizens.” Since

there are no real proposals for resolving the problems of the rights violations, xenophobia, and discrimination that follow migrants through life, it appears that migrants are simply being told to get used to these conditions.

In early December 2018, another strategy was updated—the Strategy of State National Policy. This policy has more to say about equality of human rights and freedoms, but it still calls “illegal migration” a threat to national security. The core idea behind the text is the endorsement of the concept of a common Russian identity. As the policy states, this identity is “based on the preservation of the Russian cultural dominant inherent in all peoples populating the Russian Federation.” In referring to a “Russian cultural dominant” that presupposes not multiculturalism, but the pre-eminence of a Russian culture over others, the authors of this strategy risk creating even greater cultural distance not just between the migrant and Russian populations, but within Russia itself, where different peoples will perceive their identities as hostile to the Russian identity. Therefore, the negative factors that the authors of both strategies frighten us with will never be eliminated, while the crude and unrealistic policy for foreign and national minorities will, on the contrary, only serve to provoke ethnic tension.

Sergey MIKHEYEV

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MIGRANT CHILDREN IN CIS COUNTRIES: Lack of Adequate Legal Norms Regulating Cooperation Between the Countries Involved



The report is dedicated to the situation of children-migrants within CIS countries.

In the region, both international agreements and national migration laws mostly ignore the children as a group in need for special protective measures. Their return to the countries of origin is still regulated by the outdated Chisinau Agreement (on cooperation of the CIS states on the return of minors to countries of their permanent residence, 2002). In the changed post-Soviet reality, take place continuing violations of children rights, in a form of placing children the to closed institutions and depriving them of normal family environment and access to education.

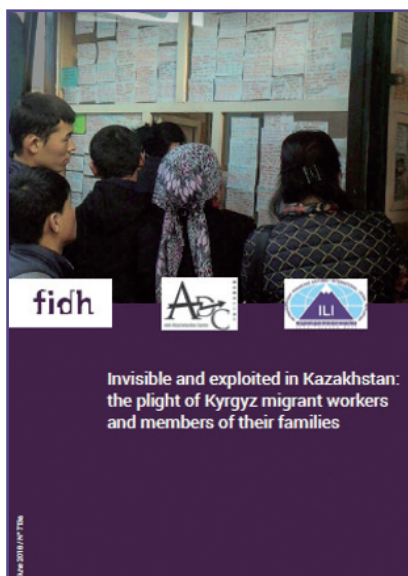
Some countries have humanized the system for children on the move (Armenia, Georgia, Moldova, Kazakhstan have closed their police detention centers; in Kyrgyzstan, Russia, Ukraine the transit functions have been delegated to social shelters, while police children institutions are also in use). However, even transit institutions that have been moved into social sphere remain places of detention: children cannot leave them at will and cannot receive visits from relatives or independent observers.

A broad understanding of the category “children left without care” results in the criminalization of children and leads to detention due to their immigration status. Thus, migrant children are to all intents and purposes deprived of their liberty only because of their migration status, which is unacceptable. This practice was condemned by the UN CRC and the UN CMW; the Council of Europe has also urged all countries to put an end to this practice.

The authors of this report believe that, given the radically altered political landscape of the former Soviet Union, the Chisinau Agreement can not be improved and is in need for replacement by bilateral agreements on the repatriation/readmission of children with the current human rights standards taken into account.

The practice of depriving separated children of their liberty and placing them in special institutions solely due to their migration status must be recognized as unacceptable in legal codes and must be fully stopped.

INVISIBLE AND EXPLOITED IN KAZAKHSTAN: the plight of Kyrgyz migrant workers and members of their families



Hundreds of thousands of men, women and children from Kyrgyzstan and neighbouring Central Asian states are forced to migrate to Kazakhstan in search of work. These individuals often fall victim to forced labour, unsafe and unsanitary working conditions, violations of the rights to maternity and childhood, as well as arbitrary arrests and deportations.

FIDH and its partners ADC Memorial and International Legal Initiative have documented the plight of Kyrgyz migrants, in a report released today.

Based on findings of a series of missions carried out from September to November 2017 in Kyrgyzstan and Kazakhstan, the report points to pervasive corruption within migration police services and increased discrimination in Kazakh society against migrants leading to their inability to formalize their presence on the territory of Kazakhstan. Because of their undocumented legal status in Kazakhstan, migrants are often exploited by employers and intermediaries, who force migrants to work long hours and without pay, withhold the migrants' passports, restrict their freedom of movement and medical access, and quarter them in squalid conditions. A large number of Kyrgyz migrants have been held in slavery, arbitrarily detained by the authorities and deported.

“The inability of labour migrants to obtain a “regulated status” in the country of destination often leaves them at the mercy of their traffickers, employers or Kazakh authorities, who often treat migrants, including women and children, as nothing short of slaves. States must do a better job of protecting these individuals and offer more resources to

civil society representatives working on these issues.”

Tolekan Ismailova, FIDH Vice-President and President of human rights movement “Bir Duino Kyrgyzstan”

During its missions, the delegation met with migrant workers themselves, representatives of trade unions, non-governmental organisations and governments in order to analyse the situation of migrant workers both in the country of departure and arrival. Our report formulates recommendations to national authorities and the International Labour Organisation (ILO) with the view to increasing their protection of labour migrants.

“The existence of cases of human trafficking and slavery involving migrants is well known to the authorities and international intergovernmental organisations. However, no meaningful efforts have been conducted in coordination to protect Kyrgyz migrants and give them an access to an effective remedy”

Aina Shormanbayeva, President of International Legal Initiative, Kazakhstan

By ratifying the ILO conventions, Kazakhstan has agreed to guarantee certain labour rights for workers, including migrants. These international obligations remain unfulfilled.

COURTS CONTINUES TO EXPULSION OF FOREIGN CITIZENS, WHO HAVE CLOSE RELATIVES IN THE RUSSIAN FEDERATION

The right to respect for private and family life is one of the most important universally recognized human rights and is protected by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This article places limits on arbitrary interference by a public authority in family life and imposes positive obligations to respect family life.

Unfortunately, Russian courts and law enforcement agencies frequently violate this right in respect of the most vulnerable people—migrants and displaced persons whose families are located in the Russian Federation. One recent example is a case heard by Gatchina City Court in Leningrad Oblast on October 19, 2019, in which Armenia citizen O. was accused of violating Russian migration rules. At the time of the decision's publication, O. was living with his spouse, who is a Russian citizen, their child, and other relatives, also Russian citizens. In spite of this, the court refused to recognize the right to family unity and handed down a sentence of a fine and expulsion.

Working the ADC “Memorial”, the attorney Olga Tseytina appealed this decision with the Leningrad Oblast Court. Agreeing with Tseytina’s argument that the Gatchina City Court did not consider the fact that O. was residing with close relatives who were Russian citizens, the oblast court supported O. and excluded expulsion from the city court’s decision.

In adopting this decision, the court considered the precedence of norms of international law prohibiting interference by a public authority in private and family life and concluded that a fine with expulsion would violate the right to respect for family life, which is not in keeping with the requirements of Article 8 of the European Convention.

St. Petersburg City Court, having considered the legal complaint lodged by lawyer Yury Serov, considered an earlier court ruling concerning expulsion of K., a Georgian citizen whose wife and child are Russian citizens, ruled that it was a violation of the right for family life. The court also ruled to free K. from the centre for detention of foreign nationals, where he had been kept for more than six months to ensure his expulsion.

THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Article 8. Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

In March 2018 the Kalininsky district court of St. Petersburg ruled that K. was guilty of violating the regulations on the stay in the Russian Federation and sentenced him to a fine and expulsion. The court did not take into account the fact that K. had lived in Russia with his wife and son, citizens of the Russian Federation, thereby violating K.’s right for family life.

Taking into account Article. 8, Section 2 of the European Convention on Human Rights, which does not allow interference by public authorities in the exercise of the right for family life, and also considering the impossibility for K. to receive a permit for temporary residence in the Russian Federation for 5 years, which makes it impossible for him to organize his family life, the court considered it necessary to release K. from the centre for detention of foreign nationals. However the court haven’t completely dismissed the charges, but only replaced expulsion from the country with an independent, controlled exit.

Anti-Discrimination Centre “Memorial” welcomes the fact that K. was released from the centre for detention of foreign nationals, but expresses its concern about the common practice of court rulings on expulsion of foreign citizens, who have close relatives in the Russian Federation, even though there is a mechanism that allows them to be

defined in certain circumstances. Thus, K., same as many other foreigners, became a victim of judicial arbitrariness. His life plans were violated, he spent several months in detention and can now be convicted again if he does not leave the territory of the Russian Federation. The judicial practice of Russian courts to rule on expulsion and placement of persons, who have close relatives in Russian Federation, into detention centres for foreign nationals should be immediately abolished.

Until quite recently, Russian courts have rarely directly cited the European Convention in their decisions, particularly in administrative cases against migrants. However, thanks to the work of human rights defenders and attorneys, the practice of citing and applying Convention norms in administrative cases against foreign citizens and stateless persons is becoming more common. This is especially important in cases involving the protection of family unity and the rights of the child to life and to an upbringing by both parents, since the violation of migration rules is not a serious offense and cannot serve as a justification for interference in family life.

UKRAINIAN CITIZEN EXPELLED TO THE ZONE OF MILITARY CONFLICT, despite recognition of expulsion as illegal

On October 26, 2018 St. Petersburg city court overruled the earlier decision by the Kolpino district court, according to which K., a native of the Donetsk region of Ukraine, had been expelled to the zone of military conflict. The city court has also found the expulsion itself to be inappropriate to the purposes and principles of the sentence, as well as to be in violation of international legal acts, including the International Covenant on Civil and Political Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

In December 2017, K., who had fled from the war in Ukraine, was found guilty of violating the immigration legislation of the Russian Federation and had been sentenced to a fine and expulsion from the country. As an interim measure for the ex-

pulsion, the court also ruled to place K. into temporary detention centre for foreign nationals, where he then spent over 8 months. In August 2018 K. was forcibly expelled to the Donetsk region, where hostilities are currently underway, although the court had every reason to believe that expulsion could cost K. his life.

Lawyer Olga Tseitlina in cooperation with the Anti-Discrimination Centre "Memorial" appealed this court ruling. St. Petersburg city court then sided with K. and agreed with the position of the lawyer that when making the court decision of the first instance "the court did not take into account the events occurring in Ukraine", which could cause a real threat to the life and health of K.

When adopting its decision on this case, the city court took into account the priority of international legal norms prohibiting expulsion of people, who may be at risk of torture and inhuman treatment, referring to Article 7 of the International Covenant

on Civil and Political Rights, Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The court also took into account the resolution of the government of the Russian Federation №690 adopted on July 22, 2014, which granted the right to accelerate the provision of temporary asylum to citizens permanently residing in the territory of Ukraine.

Today K., despite the cancellation of the decision to expel him from Russia, resides on the territory of the Donetsk region, in a zone of military conflict, where he is in danger. Given this, ADC "Memorial" will seek further restoration of his violated rights. The immigration rules, due to which peaceful people who fled from the war, are subject to fines, imprisonment as "illegal migrants" and expulsion from the country should be abolished.

ABSURD COURT RULING: MIGRANTS ALLOWED INTO RUSSIA ONLY TO BE ARRESTED AND DEPORTED FOR PREVIOUS OFFENSE

On October 23, 2018 St. Petersburg city court rejected the legal complaint filed by lawyer Olga Tseitlina concerning earlier ruling by the Moscow district court of St. Petersburg on fining and expelling two citizens of Tajikistan, who had been accused of violations of the immigration legislation of the Russian Federation more than a year ago. The two had earlier left the Russian territory without any trouble and had not been notified that they would be brought to justice on their next entry into the country.

On September 27, 2018, the citizens of Tajikistan S. and T. were detained by the Russian border guards during a passport check in Pulkovo Airport. It was revealed that during their previous stay in Russia, they had violated their terms of stay in the country. On the same day, both migrants were sentenced by court to a fine of Rb 5,000 each and expulsion from the Russian Federation with prior placement into the centre for temporary detention of foreign nationals.

With the assistance of Anti-Discrimination Centre "Memorial" and lawyer Olga Tseitlina, S. and T. decided to appeal to the St. Petersburg city court with a legal request to replace the forced expulsion from the country and prior detention in the

centre for temporary detention of foreign nationals with an independent departure from the country, while they themselves would pay the fines in advance and buy themselves airplane tickets for Dushanbe. However, the court left the earlier ruling unchanged, referring herewith to Section 12 Part 1 of Article 27 114 of the federal law № "On the procedure for departure from the Russian Federation and entry into the Russian Federation". The law states, in particular, that if a foreign citizen exceeded the allowed period of stay in the Russian Federation during his previous stay, but left within 180 days, he would be banned to enter Russia for a period of 3 years from the date of his departure from the Russian Federation. At the same time, entry into Russia for both migrants was not legally forbidden, as was evident by the absence of such a statement in the court ruling itself, and the claimants were not charged with unlawful entry into the Russian Federation, but with a violation of the terms of stay and dates of departure, which had been committed earlier.

Such a position of the court contradicts the position of the Constitutional Court of the Russian Federation, which had been explained in the legal complaint made by Noe Mskhiladze, according to which his placement into the centre for temporary detention of foreign nationals was not a separate

punishment, but a measure aimed at execution of the prior expulsion order, and therefore required proof that the order could not be otherwise executed. In its ruling, the city court did not take into account that S. and T. had expressed their desire to leave the territory of the Russian Federation on their own, and the court did not prove the necessity of depriving them of their liberty for an indefinite period of time.

Thus, instead of immediately prohibiting S. and T. from entering Russia, the law enforcement agencies and the courts, which had backed them, subjected migrants to an absurd and extremely inhumane incarceration into the centre for temporary detention of foreign nationals, where they have to stay until this day and wait for the expulsion, which would be carried out at the expense of the federal Russian budget (because the tickets that S. and T. had bought on their own have disappeared).

ADC "Memorial" in cooperation with lawyer Olga Tseitlina prepares supervisory legal complaints on the cases of S. and T. Although the supervisory authority does not imply the possible cancellation of an earlier adopted court ruling and this will not speed up the process of expulsion from the country, such a decision will be important for the protection of foreign citizens in similar cases in the future.

ECtHR: DETENTION OF STATELESS PERSONS IN CENTRES FOR FOREIGNERS IS AN UNACCEPTABLE PUNITIVE MEASURE

The European Court of Human Rights (ECtHR) has once again recognized long-term deprivation of freedom for stateless persons in the temporary detention centres for foreign nationals in Russia as illegal in the absence of realistic possibilities for their expulsion from the country.

Less than a year ago, the ECtHR communicated the legal appeal of Olimjon Mainov, which had been filed by lawyer Olga Tseitlina with the support of Anti-Discrimination Centre "Memorial". Mr. Mainov, who had spent more than two years at temporary detention centre for foreign nationals in St. Petersburg, was released from there only on formal grounds although Tajikistan had not confirmed that he had this country's citizenship.

In its ruling in the Mainov case the ECtHR pointed to the excessively formal approach of the Russian law enforcement agencies: in the case of the obvious impossibility for another country to accept a person, who had to be expelled from Russia, detention ceases to meet its purpose and becomes a strictly repressive measure. This decision of the ECtHR also noted the lack of efforts by the Russian authorities to expel Mainov to a third country. The court has also criticized the delay in the release of the applicant, who has been freed not immediately, but only two weeks after the decision to terminate the law enforcement proceedings against him was adopted.

In its decision the ECtHR took into account the previous legal appeals, such as the cases of "Kim v. Russia" and "Mskhiladze v. Russia". The court had earlier stated that it was inadmissible to

equate the punishment for violating the immigration regulations with the punishment for committing actual crimes. ECtHR, and later also the Russian Constitutional Court (in the case of Mskhiladze), found that the rules permitting an unreasonable long-term deprivation of liberty in the absence of an opportunity to appeal against placement into special institutions for further administrative expulsion to be illegal.

Despite these decisions of the highest courts, judicial control over the terms and grounds for keeping stateless persons and foreign citizens in temporary detention centres for foreign nationals has not yet been introduced in Russia and stateless persons continue to be detained if they cannot be expelled from the country. The legal procedure for their legalization in the country is also still undefined at the legislative level in Russia.

ADC MEMORIAL TOOK PART IN THE 11TH SESSION OF THE UN FORUM ON MINORITY ISSUES IN THE PRESENCE OF THE SPECIAL RAPPOREUR

The Minority Forum aims at addressing the interrelatedness and interconnection between the promotion and protection of the human rights of persons belonging to national or ethnic, religious and linguistic minorities. This year's Forum is convened on the theme "Statelessness: A Minority Issue". Statelessness is a human rights issue disproportionately affecting minorities around the world. ADC Memorial has been working on the issue of statelessness for many years now.

The current problem of statelessness in Eastern Europe and Central Asia is deeply rooted in Soviet history. People who did not exchange their soviet passports for identity documents from their new states became "legally invisible" and even face prosecution for being "illegal".

ADC Memorial has been able to gather information about stateless persons and foreign citizens sent to «specialized institutions for the temporary

detention of foreign citizens» by the Russian courts for violating the migration regime». In practice, these people are held in custody, deprived of their freedom, and subjected to the same restrictions as prisoners in jail, even though «placement in special detention centers» is not considered administrative arrest. Stateless persons are sent to special detention institutions for lacking a valid passport or analogous document. The stated purpose for placement in special detention institutions is expulsion, which is patently impossible for stateless, who are not recognized as citizens by their countries of origin. The law allows people to be held in special detention institutions for up to two years. The key problem for stateless persons living in the Russian Federation remains their inability to participate in the legalization process.

Four years ago, this problem had been raised to the European Court for Human Rights in the case of Kim vs. Russia, on which the ECtHR made a ruling instructing the Russian authorities to take general measures to correct

the situation of all stateless persons and to abandon their persecution. In May 2017, the Russian Constitutional Court in its ruling in the case of Noe Mskhiladze found the detention of stateless people unconstitutional.

The implementation of the Constitutional Court's decision in this matter will become a defining moment for the many thousands of people living in the RF who don't hold citizenship in any country and who were deprived of their freedom for many years.

Russian authorities should accelerate legislative change and adopt an effective procedure for stateless people and detention of stateless people should end. Special attention should be given to vulnerable groups, including ethnic minorities like Roma and Ahiska Turks who suffer from statelessness.

RUSSIAN FEDERATION ACCEPTS UPR RECOMMENDATIONS ON STATELESSNESS

London-Brussels,
24 September 2018

Anti-Discrimination Centre Memorial (ADC Memorial), the Institute on Statelessness and Inclusion (ISI) and the European Network on Statelessness (ENS) today welcomed the Russian Federation's acceptance of recommendations on statelessness made to it by other states at under the recently concluded Universal Periodic Review (UPR), which if implemented will lead to concrete steps to improve the situation of stateless people in the country.

UPR is a mechanism of the United Nations Human Rights Council which periodically examines the human rights performance of individual Member States. Russian Government responded to the recommendations made by other Member states at the 39th UPR session which is taking place in Geneva between and will conclude on 28 September 2018.

Previously the issue of statelessness was highlighted in a joint submission by ISI, ENS and ADC Memorial to the UPR in May 2018, which outlined concerns regarding the treatment of stateless people and, in particular, the prolonged detention of those stateless individuals deemed to have violated migration rules.

Above all the organisations welcomed the fact that the Russian government supported the following recommendations:

- Consider ratifying the 1954 Convention relating to the Status of Stateless Persons as well as the 1961 Convention on the Reduction of Statelessness (Burkina Faso).
- Take additional measures to decrease statelessness among representatives of minority groups (Serbia).
- Strengthen the implementation of policies to reduce the number of unregistered persons, specially statelessness persons, refugees, holders of temporary residence permit and individuals belonging to certain minority groups (Angola).
- Step up efforts to end statelessness, especially by establishing safeguards to guarantee birth registration to all children born in the country, including stateless children and those belonging to minority groups (Thailand).

The declaration made by the Russian government should now be implemented through concrete steps, such as adoption and implementation of relevant amendments to migration legislation to legalise the status of a large number of former Soviet citizens living in Russia, and documentation of stateless people.

ISI Co-Director Amal de Chickara said:

"We thank all states that made strong recommendations on statelessness to Russia and welcome's Russia's response. We now call on Russian authorities to take the next important step of fully implementing these recommendations, and call on the Human Rights Council and Member States to monitor implementation to ensure compliance."

Chris Nash, the Director of the European Network on Statelessness said:

"Stateless people are often deprived of their liberty simply because they don't have a nationality. Thousands of stateless people living in Russia are held in detention in atrocious conditions without the prospect of their cases being resolved. Implementing these recommendations should provide some safeguards in preventing their unnecessary and arbitrary detention. We urge Russia to go further and to completely stop detention of stateless people by putting in place procedures to identify people without a nationality so that they don't end up locked up in limbo."

Stefania Kulaeva, head of ADC Memorial added:

"Particular attention should be paid to the situation of vulnerable groups who used to suffer from problems with citizenship and documentation, including Roma people who often face difficulties in obtaining personal documents".

UN EXPERTS ASSESSED TAJIKISTAN'S COMPLIANCE WITH INTERNATIONAL STANDARDS

Two United Nations Committees have recently commented on issues relevant to the situation in Tajikistan. UN Human Rights Committee (UNHRC) during its 124th session presented the Tajikistan with a list of questions for consideration based on the country's 3rd periodic report. UN Committee on the Elimination of Discrimination against Women (UN CEDAW) have also issued its recommendations to the Tajikistan authorities after the Committee's 71st session.

UNHRC inquired about Tajikistan's plans concerning adoption of comprehensive anti-discrimination legislation, which should include effective mechanisms for the protection of victims of judicial discrimination.

Highlighting the difficult situation of victims of multiple discrimination, UN CEDAW members recommended taking measures to protect against exploitation and to improve access to health care, social services, employment and education, participation in public and political life for the vulnerable groups, in particular migrant women, women left by their migrant husbands, widows of migrants, LGBTI women, women without citizenship and women refugees, women with HIV and various disabilities.

While all stateless persons in Tajikistan have problems with housing, access to social services and employment, regularly face the risk of deportation, discrimination and blackmail by government officials, especially due to the lack of identity documents, it is women and children, according to UN CEDAW, who make up the majority of stateless persons in the country. Moreover, every tenth child is not registered at birth, which increases the number of undocumented people. The UN experts recommended to guarantee the receipt of identity documents to stateless persons, to ensure access to registration of children and to all social services, to prevent deportation before identifying the status of these people, and also to give amnesty to undocumented people in order to regulate their status, including women and children.

Considering that migration remains a serious issue in Tajikistan (see the list of issues compiled by ADC "Memorial" in its report to UN Committee on Migrant Workers), UN CEDAW recommended speeding up the adoption of a law on labor migration, which would take into account guarantees for protection of the rights of female migrants, widows of male migrants and women abandoned by their migrant husbands.

CRC: CHILDREN IN VULNERABLE SITUATION SHOULD BE PROTECTED FROM SEXUAL CRIMES

Following the consideration of Russia's official state report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the UN Committee on the Rights of the Child (CRC) has recommended that Russia should adopt a number of general measures in order to raise awareness on matters covered by the Protocol and to conduct trainings for professionals, who work with children. CRC has also proposed to adopt a comprehensive strategy aimed at counteracting the crimes against minors and establishing assistance programs for victims of such crimes.

While pointing out that Russia's efforts to prevent crimes covered by the Optional Protocol were insufficient, the experts of the UN Committee recommended that more attention was given to identifying potential victims among representatives of vulnerable groups: migrants, refugees, children with disabilities, juveniles in places of detention and closed institutions, including institutions for children with mental disabilities.

Anti-Discrimination Centre "Memorial" has prepared its alternative report to the CRC, in which it has noted the absence in the Russian criminal legislation of a separate crime of "sexual exploitation of minors", which complicated the situation. Currently the Russian courts consider only a small number of such cases, while social workers report that thousands of children have been affected. Obviously, migrant children face the highest risks of becoming victims of sexual exploitation in the event of deportation of their parents from Russia. Numerous brothels in large Russian cities engage minors in prostitution, while many of these minors come from the Central Asian countries.

It is the opinion of the CRC members, that it is necessary to gather statistics on the number of victims of crimes covered by the Optional Protocol from among the representatives of underage migrants. Among other things, such statistics are also required in order to ensure more effective protection of these minors. Therefore, the Committee has asked the Russian authorities to provide detailed statistics of crimes against minors by their sex, age, ethnic

origin, disability status and other categories in the next reporting period.

Drawing attention to the need to protect children from economic exploitation, members of the CRC have urged the authorities of the Russian Federation to reduce the risks of child trafficking and labor exploitation of children by adopting necessary measures to ensure access of minors to education regardless of their citizenship and the immigration status of their parents.

ADC "Memorial" has also pointed out the problem of early marriages in some regions of Russia, particularly Northern Caucasus. This issue was further reflected in the recommendations of the Committee, which called not only for setting the marriageable age at 18, but also insisted on providing protection against the sale of children in the form of forced marriage under the pretext of observing local traditions.

While the Russian authorities consider the country's laws to be fully in line with the requirements of the Optional Protocol, prostitution and debauchery are not officially recognized as pervasive problems in Russia.

ADC MEMORIAL SUPPORTED THE LIST OF QUESTIONS ADDRESSED TO AZERBAIJAN BY THE UN CMW

On September 20, 2018 the UN Committee on the Protection of the Rights of Migrant Workers and Members of their Families (CMW) published a list of questions for the 3rd periodic report of Azerbaijan.

Among the questions addressed to Azerbaijan were those that had been compiled by ADC Memorial for the 29th session of the UN CMW with regard to discrimination against migrant workers and members of their families, as well as measures adopted by the government of Azerbaijan to protect them. One of the most important issues is the protection of the rights of children, who leave the country with their parents: their right to education, the right to live in a family, prevention of them being placed in detention if they are recognized to be "violators of immigration

regime" and prevention of separation from their parents due to the migration status of the family members.

In the list of questions it had compiled, ADC Memorial stressed the utmost importance of access to primary and secondary education for migrant children. Schools in Russia often refuse to accept migrant children because of the troubles with their registration at the place of residence, and thus children are forced to miss years of school. Hence, the rights of school-aged migrant children are violated, and this requires attention and response from the country of their citizenship.

Human rights activists also raised the problem of placing Azerbaijani citizens in "temporary detention centers for foreign citizens", which are in fact prisons, and placement of minors into

children's "reception centers". This was reflected in the Committee's request to provide statistical data on migrants held in custody abroad. Many of these people do not receive quality legal assistance, which results in violation of their rights. The Committee requested information from the Azerbaijani government on the work of the consular services to protect the rights of its citizens, who work abroad.

ADC Memorial expressed its hope that experts of the UN CMW will also raise these issues during the upcoming review of Azerbaijan's compliance with the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

IN MEMORIAM LYUDMILA ALEXEYEVA,
Russian Human Rights activist, aged 91, passed away on December 8, 2018 in Moscow



Lyudmila Alexeyeva (20.07.1927 – 8.12.2018)
Photo from the Facebook page the Moscow Helsinki Group

Anti-Discrimination Centre “Memorial” expresses its condolences to all the relatives and colleagues of Lyudmila Alexeyeva, as well as all people she took care about as a human rights defender. She died the day after the Moscow City Court ruled on the arrest of human rights activist Lev Ponomarev, a ruling which she demanded to cancel shortly before her death.

Until the last minute of her life Lyudmila Alexeyeva fought for the rights and freedoms of people in the Russian Federation. Her colleagues in the Moscow Helsinki Group wrote in her commemoration:

“Lyudmila Alexeyeva, head of the Moscow Helsinki Group, died on December 8. A person symbolizing a whole era, a legendary woman, wise and humane, a human rights defender until the last moments of life. For many people she was and will remain the spirit of the human rights movement, an example worth following. Lyudmila Alexeyeva, we are grateful to our fate for the opportunity to work and be friends with you. Our grief is difficult to express in words, we will miss you very much”.

My dear friends and colleagues!

I am very sorry that my health does not allow me to be with you today, a day so very important to us all, as we mark the seventieth anniversary of the Universal Declaration of Human Rights!

On this day, we truly do have something to celebrate and contemplate. Seventy years ago, a document of supreme importance was passed, a document that, in resting on the tragic experience of the terrible Second World War, formulated the universal rules for living in common on our planet on the basis of respect for human dignity and human rights.

Throughout the intervening decades, we have been working, insofar as we have had the strength and talent, to fill this important declaration with real content, so that it might become a part of our culture and policy, be defended by laws and institutions, and take root in our daily life. This has been a difficult movement, enjoying intermittent success at various speeds, with victories and disappointments, gains and bitter losses. On the

whole, looking back, it is worth noting the indisputable progress in the development of international law, the rejection of the colonial system, the gradual rejection of the death penalty, and the global struggle against discrimination and racial prejudices and for equality between men and women and for more and more people on the planet living in conditions of freedom and democracy, and how, despite everything, we have managed to avoid a new global war and on the whole seen a tendency for the intensity of military conflicts to decline. This progress would have been impossible without the active movement of human rights activists and humanists throughout the world!

At the same time, you and I must admit that as we move further and further from the lessons of the Second World War, new generations have displayed considerable cynicism and unconcern toward the as yet not very stable system of values and institutions that has been built, as they consistently and more and more and more frequently test their stability.

The growth of political populism and nationalism in the context of a migration crisis, the religious conflicts, the renaissance of authoritarian rulers and of

slumbering national worldviews in specific parts of the world, and the rejection of international obligations on the part of individual states (including Russia, which we find especially deplorable) threaten all our important but fragile gains of the past and have saddled you with new and difficult tasks.

I had sincerely hoped that we would be able to leave behind a more perfect and just world in which there would be no place for the hardships and sufferings that fell to my and previous generations, and as before I still hope for this, unfortunately, though, it is obvious by now that you, too, will know your fair share of difficulties and trials.

I only want to believe that your generation will not repeat all our past mistakes and will be able to build upon our few achievements and experience.

One of the important problems of the contemporary global movement for human rights is that some of it has been bureaucratized and become an element for maintaining the activities of national governments or intergovernmental organizations (especially in Europe), while some has been actively included in immediate political struggle, thereby limiting the possibility of influencing the worldview of the majority of our fellow citizens, being limited by the fact that we work with a narrow circle of our political allies. This does not mean that I am opposed to working with the authorities or with politicians; this merely speaks to the fact that we need many more people in the movement who are prepared to interact with and spread their values to a wider audience, especially among young people.

It seems to me that this is our most important task: to leave behind our conventional “ghetto” of comfortable interaction with like-minded people and narrowly thematic expert work and go to the masses and engage in education on a new level using new approaches, technologies, and people.

It is broad human rights and, more broadly, humanistic education that must be one of our most important objectives.

We must also do everything in our power to preserve our unity and the good will inside the movement! We may disagree on matters of tactics for achieving stated objectives and in individual opinions, but for the sake of achieving common strategic objectives we must be tolerant toward our disagreements, respect and support one another, and not allow the authorities to goad us into internal wrangling and mutual mistrust.

A particular distinguishing trait of the human rights movement was always international solidarity. With the civil society of Belarus, Central Asia, and other countries. Important for us right now are acts of solidarity with human rights activists in Ukraine and especially Crimea. Support for the Crimean Tatar peace movement has always been a distinct objective of the Moscow Helsinki Group and our entire human rights movement.

It seems to me that complicated times lie ahead for us. Including in Russia.

You and I can see perfectly well just how weak right now are civil society, the rights culture, and democratic institutions in our country. It is naive to think that our authorities are exclusively to blame for this. Yes, we have truly not been lucky with authorities, but we are also partly to blame for the fact that these authorities can rely on the support of the majority of our fellow citizens by means of simple propaganda and manipulations.

We have underestimated their degree of influence, their vulnerable imperial chauvinistic consciousness, and the legacy of our totalitarian past, and we have not always been able to choose the arguments or style and form of interaction with people that will change their minds. Without that ability, even in the event of a change of state to one more in solidarity with our views, we will still depend on the will and views of politicians inclined toward populism and cynicism, who will continue to manipulate society.

We must learn how to interact and disseminate our views and values among all our fellow citizens, discounting no one. Not the state, not the opposition, not the victims of tyranny, not the perpetrators of crimes, after all, they are all our fellow citizens and simply human beings, the bearers of human dignity, for whose sake we work and together with whom we must live and create a better world.

We must stand in the defense of our convictions and our remaining and constantly narrowing rights and freedoms, and we must stand up against isolationism and the militarization and clericalization of public life while pointing out to the state and society the error of their chosen path. We must not allow the accession of total ideological obscurantism and ensure, even in the hardest circumstances, that an alternative opinion has the chance to exist and be disseminated.

Given the mounting political repressions, we must continue to defend the victims of state tyranny and defend without compromise both each other and critics who have been persecuted by the state.

I would ask you to convey my warmest words of support to dear Lev Aleksandrovich Ponomarev, and I call on all my colleagues to unite in urgent actions in his defense! We must remember all the other political prisoners and prisoners of conscience and work constantly to achieve their unconditional and immediate release!

Contemporary Russian officials continue to repeat their predecessors' mistakes, restricting freedoms in the hope of remaining in power through dictatorial methods but thereby merely aggravating their position and increasing the likelihood of the state's uncontrollable collapse through resistance in society and, god forbid, violence. It seems to me that we must not be complicit in such a scenario but must, no matter what, patiently explain to the state that it is in its own interests and the interests of the country to replace their chosen course, to ensure free political competition, and to guarantee civil freedoms. We cannot and must not conduct a course of “the worse the better” because that would be worse not only for the authorities but for all of us, and ultimately the way out of this spiral would prove even longer and more difficult.

We must appeal to people's values, historical experience, and common sense. This is very difficult but essential, and if we are convincing, consistent, and firm, success will be on our side without fail. Believe me, I know what I'm talking about. When we began our difficult journey for the defense of human rights, we had far fewer grounds for optimism than we do today, but we believed in the success of our hopeless cause! Today I wish you, with all my heart, just such faith, as well as strength and success!

With faith in the success of our common cause,

Lyudmila ALEXEYeva

*Translation by Marian Schwartz,
rights@russia.info*

This text is the welcoming address to participants at the congress of the Moscow Helsinki Group. Lyudmila Alekseeva managed to finish writing this while in the hospital. We are publishing this major text—in fact, her final word. To us all.

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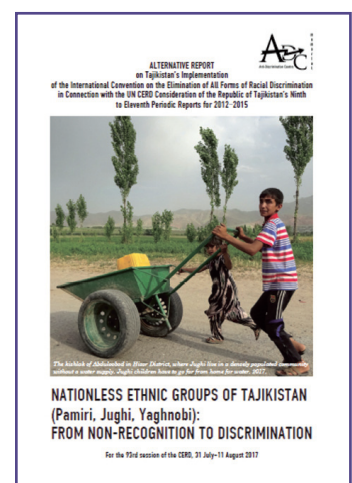
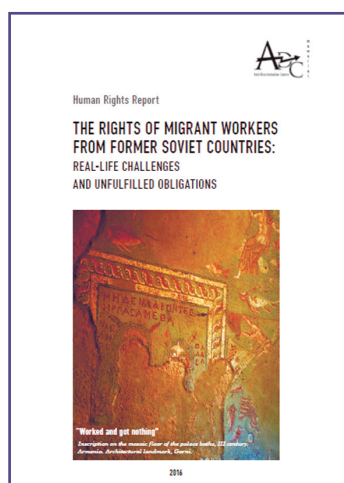
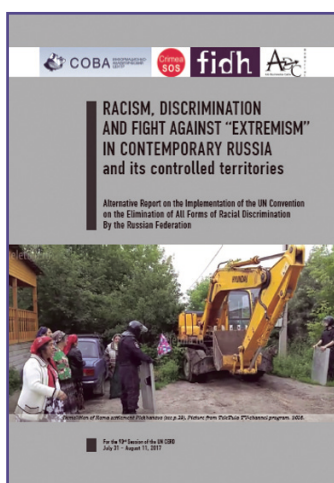
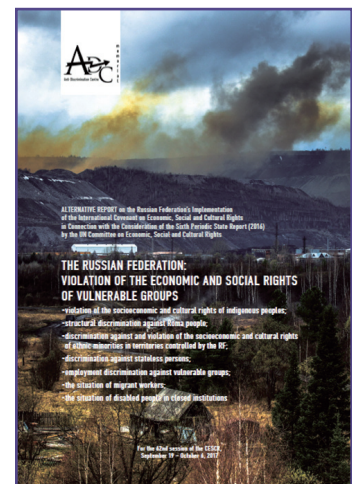
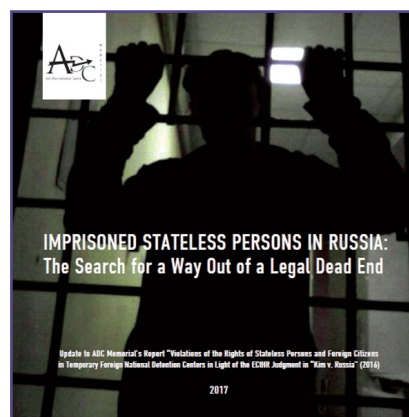
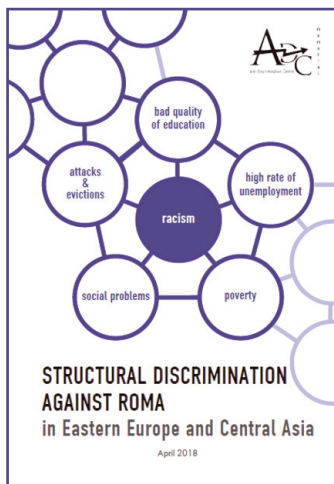
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