

# Bulletin №67/2019

## ANTI-DISCRIMINATION



### ON ONE HECTARE

*Recently, newsfeeds have been flooded with headline-grabbing reports from the village of Chemodanovka, the site of a conflict between “residents” and “gypsies,” as this event is portrayed in the media. An all-out brawl, whose details and causes are unknown, victims, one person dead in the hospital. A people’s gathering, demands to “kick out the gypsies,” “residents” blocking the highway because of rumors that “gypsies are coming from other regions.” OMON, the Russian National Guard, dozens hauled into the police precinct. Official promises to get to the bottom of this and punish the guilty parties, an announcement of a “purge” of out-of-towners (with the implication that “gypsies” are also out-of-towners and not “locals”). The comments on the news from Chemodanovka—this is where the incitement is, this is where the extremism is... And no one thinks to delete them.*



*A Romani house after the pogrom. Khakassia, 2018*

Until now, few Russians were aware of the existence of Chemodanovka, and they will be surprised to learn that both human rights defenders and the international community know about the lives of the Roma in this village. In 2017, the UN Committee on the Elimination of Racial Discrimination reviewed Russia’s implementation of the corresponding convention. As part of this review, ADC Memorial submitted an alternative report that mentioned Chemodanovka’s school as one of dozens of schools that segregates Roma children by instructing them separately from other children. At the time, this school had Roma classes for first through fourth grades. One or two Roma children were in general classes in the fifth, sixth, and seventh grades, and there were no Roma children at all in the upper grades. Because of overcrowding (the school has two shifts and construction of a new school is only scheduled to begin in 2020), the school was not able to accept 10 Roma children

for first grade; these children were sent to a different village school, whose director told parents that she had to accept them, but that “we have Mordvins here, they won’t let you live.” In the end, these 10 children stayed home, hoping that there would be spots in Chemodanovka’s school the next year. Education agencies took no interest in the situation and have never given any thought to why there are 12 Roma children in first grade, but only one or two who make it to seventh or eighth grade or to what they do after that. And please don’t tell us that “Roma don’t want to study, that’s their tradition.”

One might wonder what the connection is between a school and an all-out brawl sensationalized into an ethnic conflict and accompanied by a real pogrom. In reality, the connection is direct: racism, demolition of homes, eviction, exclusion, segregation in school, low-quality education, unemployment, poverty—this is the vicious circle otherwise known as “structural discrimi-

nation against the Roma population,” where one problem cleaves to another, making it very difficult to break the cycle without outside help. And this outside help is non-existent; in fact the opposite is true. Particularly in the matter of land and housing.

Chronic problems cannot be resolved with evictions and “purges,” and there is no need to pretend that the authorities are hearing about the dense Roma population in Chemodanovka for the first time: they knew about it, they just did nothing to integrate the Roma or to prevent possible conflicts. The authorities of Penza Oblast now have the task of preventing what recently happened in Khakassia, where the “locals” vandalized and pillaged Roma homes with the silent agreement of the authorities and inaction on the part of the police following a conflict between the “locals” and the “gypsies” that ended in the accidental death of one of the brawlers.

*continue on the p.2*

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Now attempts are being made to drive Roma residents out of the village where they have lived for almost 20 years.

On May 30, 2019, the Supreme Court of the Republic of Khakassia took the side of the administration of Ust-Abakan and ordered residents of the Roma settlement to demolish 10 houses deemed “unauthorized structures” within one month. Previously, the Ust-Abakan District Court sided with the Roma and banned the demolition of the houses listed in the claim, but the city’s administration appealed this decision. In its judgment, the Supreme Court ignored the fact that this land was allocated to Roma for the construction of homes in the early 2000s and that the administration did not give owners the opportunity to legalize their structures or offer any options for resettlement.

Residents of the settlement in Ust-Abakan are already feeling pressure: on the day following the hearing, even before the court’s reasoned judgment was published (this takes 10 days), police visited the settlement with the head of Ust-Abakan District Office of the Russian Ministry of Internal Affairs. The police demanded that the residents of the ten “condemned” homes immediately start dismantling them and threatened forcible demolition if the residents refused.

The attorney Valery Zaitsev, who defended the rights of residents to their only housing with support from ADC Memorial, wrote in his appeal to the prosecutor’s office that “...The actions of the police officers are illegal and only serve to stoke social tension in a situation that is already complicated. The court’s judgment must naturally be complied with, but a decision needs to be made about where these people and their children will live. The court gave a one month period for this. Thus, the police officers’ actions cannot be viewed as actions to forcibly execute the court’s judgment, since this is not one of their duties. A demand to execute a court judgment that has not even been prepared against people who will be left without housing because of this judgment can give rise to nothing but outrage in these people.”

The demolition of Roma settlements has, unfortunately, not been a rarity in recent times. Suffice it to recall the high-profile destruction of over 100 homes in 2016 and 2017 in the settlement of Plekhanovo in Tula Oblast (which, incidentally, was conducted with the participation of special police forces). After this, residents spent several months living in tents, without electricity, gas, or any assistance from the authorities (Plekhanov residents have reported that another several dozen homes will be demolished in June



*A Romani house after the attack. Kemerovo Province, 2019*

2019). The Russian authorities are not at all concerned by the fact that the destruction of homes and eviction of residents without providing other housing has been deemed a violation of the European Convention of Human Rights and may result in thousands and thousands in payments from the country’s budget. (Under a 2016 judgment in the case of Bogdanavichus v. Russia issued by the European Court Roma, residents from the razed settlement of Dorozhnoe in Kaliningrad Oblast received a large award as compensation.)

And the Roma are not the only people the Russian authorities are trying to uproot. Communities of indigenous peoples also feel like they are sitting on a tinderbox as attempts are made to take the lands where they have traditionally lived for centuries and deprive them of the opportunity to hunt, graze deer, and gather wild herbs. This is being done not just by oil and mining companies that pollute nature, block roads, and set “loyal” non-governmental organizations of indigenous peoples against those who decide to protest, but also by local authorities, who lease the land of indigenous peoples to hunting farms and redraw borders for land use, meaning that settlements end up on the territory of a forest reserve and residents must respond to eviction lawsuits (this is what happened with the Nanai settlement in Khabarovsk Krai).

The law on the “Far Eastern hectare” has also complicated the lives of indigenous peoples. This law has been in effect for residents of the Far Eastern District since June 1, 2016 and for all residents of the Russian Federation since February 1, 2017. Some believe

that the inclusion of Buryatia and Zabaykalsky in the Far Eastern District—a move that turned our notions about geography upside down—was dictated specifically by those who wanted to get their hands on “hectares” in these regions. Indigenous peoples have been skeptical about this law since the beginning, but have not taken this as far as open protests: a lawsuit filed concerning the enormous loss of territory for traditional use of natural resources in Khabarovsk Krai was ultimately withdrawn.

The dubious idea that land can be simply handed out to anyone who wants it was first expressed in a similar and even more odious local law “on ancestral estates,” which was adopted in Belgorod Oblast in 2010 under the influence of the cult of Anastasians, who are actually dishonest land speculators who swindle gullible people under the guise of spiritual enlightenment. Attempts to move this law to the federal level have fortunately not yet been successful.

The “Far Eastern” law may also at some point live to see an investigation and exposure: after all, the idea of handing out “hectares” in remote regions and then “unexpectedly” discovering that this land has been used traditionally for centuries is no less dubious.

*Olga Abramenko – expert of the Anti-Discrimination Center Memorial, Candidate of Philology*

*First published on the blog of Radio Svoboda*



## OSCE ODIHR SESSION DISCUSSED ANTI-ROMA OUTBURSTS IN RUSSIA, UKRAINE AND BELARUS

*On September 26, 2019, Anti-Discrimination Centre "Memorial" organized side event "Violence against Roma population in Russia, Belarus and Ukraine: police raids, forced evictions, pogroms" during the annual meeting of the OSCE Office for Democratic Institutions and Human Rights (ODIHR). This side event was organized together with "Vesna" Human Rights Center (Belarus) and lawyers and experts from Ukraine and Russia.*

The participants of the side event spoke about the anti-Roma outbursts, carried out by various actors in Russia, Ukraine and Belarus in recent years. ADC "Memorial" has already appealed to various international bodies concerning some of these incidents. In particular, reports on the events in Russia were sent to the human rights bodies of the United Nations Organization and the Council of Europe. In June 2019, more than 900 Roma residents of the village of Chemodanovka (Penza region, Russia) were forced to leave their homes following mass clashes. 174 people were detained by the police while they were trying to leave the Penza region, and there is evidence that they were ill-treated by the law enforcement. Criminal proceedings were initiated against 28 ethnic Roma persons, who had been arrested, while not a single representative of the non-Roma majority was held accountable, although Roma people had been also victims of these clashes.

Responding to the last dramatic events in a few Roma settlements in Russia and in Belarus, where hundreds of Roma were illegally arrested, humiliated or forced to flee, ADC Memorial used an Early-Warning measures of UN CERD in order to bring these cases to the consideration of the Committee already at the closest session during August 2019. ADC Memorial also submitted information to UN Special Rapporteurs on minority issues and on adequate housing in order to alert them and ask for required measures.



**Violence against Roma in Russia, Belarus and Ukraine: police operations, forced evictions, pogroms**

OSCE Human Dimension Implementation meeting

**26.09.2019**  
**13.15-14.45,**  
**Room1**

ADC Memorial, with the participation of the Human Rights Center «Viasna» and experts from Ukraine

ADC VIASNA

Lawyer Valery Zaitsev spoke about legal defense of Roma residents of Ust-Abakan (Republic of Khakassia, Russia), who had suffered from a pogrom and actions of the local administration, which had filed a lawsuit pursuing eviction of Roma people from their homes and recognition of the latter as illegally constructed buildings. In May 2019, the Supreme Court of the Republic of Khakassia ordered demolition of 13 Roma houses within a period of one month. The local administration had not offered Roma people, who lost their only housing, any alternative dwelling. Valery Zaitsev emphasized that neither the local administration nor the courts could specify which particular public interests could be put above the human right to housing. However, the court simply ignored this issue, as well as the earlier clarifications made by the Constitutional Court of the Russian Federation.

Lawyer Pavel Sapelko ("Viasna" Human Rights Center, Belarus) reported on anti-Roma raids in the summer of 2019 in Mogilev and other cities of Belarus, which had been caused by the rumors surrounding the death of a policeman, later to be recognized as suicide. Hundreds of men, women and even children were detained and held in unacceptable conditions for several days without any formal charges. The detentions were carried out outside the procedural framework of the investigation of a particular criminal case,

and these detentions were later formally linked to supposed administrative offences (petty hooliganism). The prosecutor's check did not find any violations in the actions of the police, while the authorities limited themselves to an apology from the presidential administration, whose rhetoric itself could be considered insulting and discriminatory.

Ukrainian lawyer Andriy Leshchenko spoke about his experience of defending a Roma client, who had been accused of a felony in Loshchinovka (Odessa region, Ukraine) in 2016. The swift-handed and unjust verdict in this case was only prevented by the perseverance of the lawyer, who had found the real signs of his client's innocence (including an alibi at the time of the crime and the presence of extraneous DNA on the victim's body), as well as the assistance of human rights organizations and the media. Andriy Leshchenko emphasized that this case was of strategic importance for the elimination of discrimination in Ukraine.

Ukrainian expert Vyacheslav Likhachev spoke about anti-Roma campaigns that had swept through the country in 2016-2018. He stressed the need for an effective investigation of violent crimes against Roma people and holding those responsible for them legally accountable.

## PROTECTION OF THE RIGHTS OF VICTIMS OF THE ANTI-ROMA POGROM IN UST-ABAKAN



***I represent the interests of the Roma living in the settlement of Ust-Abakan. This community of 250 people moved there in 2000.***

In May 2018, the Roma members of the settlement's population started receiving threats because of an everyday conflict that spiraled into a brawl and the death of one of the participants. That night, funeral wreaths were brought to the street where Roma lived. Sensing danger, the Roma fled the settlement. Over the next several days, local residents destroyed and looted Roma homes with the connivance of officials. It was only after reports about this appeared in the media that the police took measures to record the number of homes damaged and formally identify the guilty parties.

Roma started returning to the village in July and August of 2018. Village authorities, most likely in concert with more senior officials, actively impeded the Roma's return to their homes: They demanded that the Roma present documents confirming ownership of each house and, with the help of police officers, forbade them from occupying homes for which they could not present documents.

In September 2018, the village administration, understanding that forcibly blocking the return of the Roma could attract the attention of the media, filed a lawsuit to compel the demolition of 13 Romani homes. As the court was considering this lawsuit, three homes were burned down at one-month intervals. A local resident was identified as the suspect in one of the arsons in January 2019. The people who burned down the other two homes have not yet been found.

On February 21, 2019, the first instance court rejected the administra-

tion's lawsuit on demolition and justified its decision as follows:

- in 2000, the administration granted a plot of land to the Roma to build homes;
- the Roma have lived openly in the village since this time, and the authorities never took any measures to ensure that the Roma followed administrative procedures when using this plot;
- the village's location plan, which regulates the procedure for land use in the village, was issued by the local government after the Roma built their houses and did not take account for the houses already standing;
- the administration was not able to provide the court with sufficient information to find that the Roma houses violated anyone's interests.

In response to the administration's appeal, on May 30, 2019 the second instance court issued a conflicting decision requiring the Roma to raze 13 of their homes.

Notably, the second instance court did not investigate any new evidence. It based its conclusion that the homes must be demolished on the fact that the Roma did not present any official documents attesting to their ownership of the land plots and that the location of the homes did not correspond to the village's location plan. The court's main argument was the lack of evidence that the village administration had permitted these specific Roma to use the land plot for construction back in 2000.

The decision entered into force as soon as it was announced and was referred for enforcement one month later. At the request of the homeowners, the first instance court granted a one-year extension for enforcing the decision, but they still ended by having to take down one home.

Over 50 people have now been left homeless as the result of the second instance court's decision, which violates the practice of the European Court of Human Rights and constitutional law of Russia.

In its judgments, Russia's Constitutional Court declared that the demolition of unauthorized structures and residences essentially amounted to a sanction for breaking the law. To legally apply this sanction, it would be necessary to establish the guilt of the people who erected the structures and to identify the public interests that these structures harmed.

In our case, neither the claimant as represented by the administration nor the second instance court were able to name the public interests that could be put above the right to housing. The court simply side-stepped this question by ignoring the Constitutional Court's explanations.

However, the failure of the authorities to act over an extended period did lead to a significant violation of the Roma's rights: For almost 20 years, no official at any level took any systemic measures to legalize the structures or explain the negative consequences during construction.

In 2009, the administration also filed a lawsuit demanding the demolition of Roma homes located on this same plot. The court followed the practice of the European Court of Human Rights and denied the demolition.

The 2019 court decision ordering demolition is glaring evidence that the situation of compliance with human rights is changing for the worse: The court did not indicate any people or organizations whose rights were affected by the standing structures. Officials stated that the goal of demolition was to bring the location of the homes into compliance with the village plan. We attempted to point the problem out to the authorities after the demolition ruling. We asked for assistance finding housing for the families left homeless, but our requests were referred to the village administration, which was the official initiator of the demolition.

In this context, the authorities' continuing failure to take any action to establish the identity of the people who participated in the pogroms and the arson appears particularly cynical. The only arsonist whose involvement in the crime has been established has not been prosecuted. The investigation into his criminal case has lasted for almost a year and evidence of his guilt has been collected, but the case has yet to be referred to court. Investigators have not taken any measures to compensate victims or restore the rights violated as a result of the crime.

Since the destruction of their housing in 2018, the Roma have feared a repeat of these events and are trying not to spoil relationships with their neighbors. The administration and the police have built their opposition to protecting Roma rights on this fear of a resurrected conflict, and government representatives have been issuing regular reminders that active protection of Roma rights could lead to a conflict with the local population.

By comparing the two court decisions, we can see that in 2009 the court was guided by international human rights norms, while in 2019, the court took a token approach that, given the already biased and xenophobic treatment of the Roma, violated their rights.

*Lawyer Valery Zaytsev*



## POLICE RAIDS AGAINST ROMANI PEOPLE IN BELARUS

*Belarus is a party to most of the universal international human rights treaties. The tasks listed in the Interagency Plan to Implement the Recommendations of the UN UPR (2016) include analyzing legal acts for anti-discrimination norms and determining the expediency of preparing a comprehensive legal act banning discrimination. However, the position of state agencies in Belarus is that it would be unwise to adopt a single framework law, since non-discrimination provisions are already enshrined in a number of statutes and regulations.*

The unconscionable antimigrant raids in May 2019 only served to emphasize how inadequate government policy on national minorities is from the standpoint of banning discrimination.

On May 16, 2019, a police officer in Mogilev disappeared and was later found dead. A text message containing a vague reference to “three Roma” had been sent from his personal telephone. After this, urgent measures were introduced to increase vigilance among police officers.

Late in the evening of the same day, police officers conducted an operation to detain men, women, and adolescents 12 and over from Romani families in Romani districts of Mogilev. According to local residents interviewed, in most cases the officers acted cruelly, used obscenities, and took people into the precinct and the pretrial detention facility without any explanation. An official representative of the Investigative Committee said that no one had been arrested in a criminal case, but Romani people interviewed said that almost 80 people in Chapaevka and 150 people in Grebenevo were arrested.

According to a woman who was arrested and witnessed the incident, she and her husband were taken to the Lenin District Police Precinct of Mogilev, where she saw a line of men and women standing with their faces to the wall. They were all forced to undress for a search. One bottle of water was provided for 30 people. “When they started to question me, they screamed, cursed, said all sorts of terrible things,” she said. According to her, the women were released around 4am along with some senior citizens and minors. The men remained at the precinct and the detention facility; some of them were held in the gym of the Lenin and Oktyabr police precincts for a brief period. Almost 100 people were detained. They spent up to three days in

custody. After their release, several people reported that they were tortured to obtain a false confession.

These arrests were made outside the procedural framework of a criminal case investigation: they were recorded as administrative arrests for petty hooliganism (supposedly for relieving oneself in public). Thus, these people did not have the set of guarantees offered to suspects, including the right to defense, the right of minors to have a legal representative, the right to know the substance of the allegations, and so forth. The arrests were accompanied by abuse of power on the part of police officers and the use of cruel and degrading treatment.

Prior to the raids in May, the Roma community felt that it was under constant monitoring and pressure (residents of Chapaevka and Grebenevo were arrested, fingerprinted, and photographed). But the raids and the reporting on them made Roma families fearful of pogroms: An informant reported that “We didn’t allow our children to go to school; we ourselves were scared to go out. All of Mogilev was saying ‘The gypsies from Chapaevka killed the traffic officer.’ They threatened to burn us up. But what are we guilty of?”

The police operation was carried out under the direct control of senior Ministry of Internal Affairs staff. The Prosecutor General’s Office conducted a surface review of the violations committed by police officers, and I. Shunevich, Minister of Internal Affairs, stated that the police officer’s actions were correct and that he had no reason to ask for forgiveness from the Roma community. On May 23, the head of the president’s administration and representatives of local government bodies met with a group of



Roma (about 30 people) to convince the Roma that the authorities were favorably inclined to them. The president expressed himself in a similar vein. In and of itself, this rhetoric is offensive and discriminatory, as is the substitution of “oral excuses” for legal actions (effective investigation of abuse of power and other violations by the police).

In 2018, the UN Human Rights Council expressed concern about manifestations of discrimination against Roma people, including the incitement of hatred and racial profiling by law enforcement bodies. The Council’s recommendation to eradicate these phenomena has gone unfulfilled.

*Lawyer Pavel Sapelko,  
“Viasna” Human Rights Center,  
Belarus*

### THE UN COMMITTEE ON THE RIGHTS OF THE CHILD CONCERNS ABOUT THE SITUATION OF ROMA CHILDREN IN BELARUS

During the pre-session in May 2019, ADC Memorial raised the issue of Roma children rights, in connection with the recent anti-Roma raids and mass arbitrary detention of Roma in Belarus. Before, ADC Memorial covered the issue of social vulnerability of Roma population in Belarus in the alternative report to the UN CERD, including the problem of separation of families recognized as “being in socially dangerous situation”. The CRC requested from the government of Belarus detailed information about the grounds amounting to “socially dangerous situation” and measures on guaranteeing of the rights of vulnerable children, including Roma ones.

The state periodic report will be examined at the 83rd session of the UN CRC in January, 2020.

## THE LOSHCYNYIVKA TRAGEDY – A STRATEGIC CASE TO OVERCOME DISCRIMINATION IN UKRAINE



***On August 27, 2016, the body of a young girl showing signs of violent death was discovered in southern Ukraine in the village of Loshchynivka, Odessa Oblast. After this, local residents, believing that the crime was committed by a Romani person, launched mass pogroms, destroyed Roma homes, and drove the Roma out of the village while police and local officials looked the other way. As a result, on the very same day the police detained a member of the Roma community—a young man who lived next door to the girl—and charged him with this terrible crime before conducting an effective investigation or establishing all the circumstances of the case. Without making any assessment of this man’s involvement in the crime, police officers deprived him of his freedom and drove him to the premises of the village council, where they beat him in an attempt to force a confession. They illegally held him there for the entire day without writing up a report.***

Having reviewed the case file in detail and seen objective evidence of our client’s innocence (an alibi at the time of death, the presence of foreign DNA particles on the girl’s hands, which an expert opinion confirmed could not belong to our client, significant discrepancies between the indictment and the collected evidence), we under-

stood that this case is of strategic importance to eradicating discrimination in Ukraine and undertook this young man’s defense. To ensure the right to a fair trial, we were able to engage the public’s interest in this case with the help of our international and domestic partners—ADC Memorial, the Kharkiv Human Rights Protection Group, the Dignity Legal Monitoring Center, and other NGOs.

Despite resistance from the system, we were able to record the presence of bodily injuries on this man’s body, and later this fact was reflected in the opinion of the forensic medical expert; that is, evidence of torture was documented. On the basis of this opinion, our team of lawyers initiated criminal proceedings in connection with commission of torture by workers from law enforcement agencies—a criminally punishable action. At the national level, we succeeded in having our client acknowledged as a victim in a court ruling in these criminal proceedings and, for the first time, to establish evidence of racial discrimination in this case, since our client is a member of the Roma community. Now, after courts have reversed several judgments on the closing of the criminal case, the torture investigation continues. In parallel, the defense is preparing an application for the European Court of Human Rights concerning violation of the substantive and procedural aspects of the ban on torture guaranteed by Article 3 of the Convention for

the Protection of Human Rights and Fundamental Freedoms and the racial discrimination associated with this.

On August 9, 2018, two years after the pogroms in Loshchynivka, the Odessa District Administrative Court found that the actions of members of the local government during the expulsion of the Roma from the village were illegal.

The Loshchynivka case resonated widely with the public, which helped avoid a speedy and unjust sentence, but the judges could not reach a decision to vindicate our client. As a result, the case has been repeatedly forwarded from one court to another for various baseless reasons. This criminal case was considered by the first instance court for over three years and has been in four district courts; the Odessa Oblast Court of Appeals has changed jurisdiction three times. The case has been reviewed by 17 judges in first instance courts, while the accused has been held in difficult conditions in the Odessa Pretrial Detention Center the entire time.

*Lawyer Andriy Leshchenko*



## IF THE CHILDREN AREN'T OURS, THE PROBLEM'S NOT OURS?

If you go into any store on the eve of a new school year, you'll immediately see stacks of brightly colored notebooks, pencils, and backpacks featuring the hero of the latest popular cartoon. Children and parents will be running agitatedly around all the stores to buy everything required for school: not just classroom materials, but also clothes and new sneakers for gym class... And these seasonal worries do not end with purchases. Parents also have to sign their children up for clubs and sometimes even extra foreign language or math classes... Mothers and fathers plan out their children's school and extracurricular activities for the entire year and think about how they will help with homework... Loving parents do all of this with the understanding that school has a lasting effect on the shape of their children's lives and that their future well-being depends to a great extent on their level of education.

All children must attend school. This would appear to be an indisputable truth. It is enshrined in countries' constitutions and in the Convention on the Rights of the Child. But, in reality, this September many children will not sit down to a desk.

Few people care that Roma children are left out of school. After all, these are "other" children, "someone else's," "NOT OURS!" Some will disagree and say: "Well, what do you mean? I feel sorry for them. I sometimes give a beggar with her child change. Let her buy him a roll. That's their tradition—not to go to school." But these children need not just rolls, but an education so that at least they won't have to beg for change to buy bread for their children. So that they can break the vicious cycle of structural discrimination. Reference to "their traditions" is merely a pretense for not having to worry about "someone else's" children. Even if there are people who do not send their children to school for some reason—poverty, homelessness, or lack of education—society must still stand up for their children. Help them. Not leave them alone.

Many Roma children very much want to attend school, but they may be segregated from other children, given a poor education, or not accepted at all. This was the case with Alyona (not her real name), an adolescent from a tabor who was a good student and was excited to start secondary school. Unfortunately, the doors were closed to her and other children from the tabor. When these 11-year-olds started protesting under the school's win-



*A separate school for Roma children from the graphic history «Alena»*

dows, the principal threatened them from behind locked gates: "We don't have a fifth grade for Roma children, and no one will allow you in the general class. Leave before I call the police!" Did a parent from the "happy majority" stand up for these children? No—because nothing like this could happen to their own children, and these were "NOT OUR" CHILDREN.

The story is the same for migrant children: after all, these are also "other" children, "NOT OURS!" Everyone accepts that migrants are needed, that their hard work increases the receiving country's GDP, but their children are not accepted at schools if they do not have a residence registration. Imagine a family from Central Asia that migrated to Russia to work for a better future. As soon as September rolls around, their child, like all other children, must go to school, but he is not accepted because the family does not have a regulated migration status. Will another parent go remind the principal that it is illegal to deny a child an education, that every child in Russia has the right to education under Russia's Constitution? Generally not. The majority believe that "NOT OUR" child will make do without an education. After all, the family is at fault for not having its documents in order.

The situation is even worse for migrant children sent by the migration service to a closed "transit institution" because they do not have documents. These children, who have not commit-

ted any crime, are deprived of their liberty due to problems with their migration status. They are deprived of the right to communicate with their relatives, since these institutions are closed and high security. They are deprived of an education, since neither reception centers run by the Ministry of Internal Affairs nor the more humane transit institutions provide one. These children go unnoticed—they are "NOT OURS"—and remain outside the school system for extended periods. This is what happened to Anatoly (not his real name), who went without any schooling for the entire two years he spent in a reception center for not having documents.

Nancy Gibbs, the director of the Shorenstein Center on Media, Politics, and Public Policy at Harvard University in the United States criticized Trump's cruel migration policy, noting that "It is not an act of particular virtue to love your children and treat them well; instinct and evolution privilege our own kids. It's how we treat other people's children that measures and tests us today."

Everyone can do something to protect children in need of assistance, even if the children are not their own, by simply publicizing the problems children from vulnerable groups have accessing education. Use social media to share Alyona's story and ADC Memorial's #CrossborderChildhood campaign, which fights to improve the lives of migrant children in transit, like Anatoly.

## HOSTAGES OF THE KREMLIN

***On July 10, 2019, several dozen Crimean Tatars protested at the Red Square in Moscow holding posters, which said: “Our children are not terrorists. Stop repressions against Crimean Tatars!”, “Stop ethnic and religious repression in Crimea!”, “The fight against terrorism in Crimea is a fight against dissent”. All of them were detained for violating the regulations concerning organizations of mass gatherings. The next day, dozens of people with the same demands gathered outside the Supreme Court of the Russian Federation, where the appeal against earlier sentences for terrorism against the “First Bakhchisarai group” of Crimean Tatars was being considered. On that day, July 11, 2019, Russian police detained about 50 people. All of them were presented with subpoenas on charges of illegal mass gathering.***

A week later, authorities in Kyiv and Moscow started talks about an exchange of prisoners (in an “all for all” format), for the first time with the participation of the newly elected president of Ukraine Zelensky. On July 16, the ombudsmen of the two countries exchanged lists of detainees. On July 18, the European Parliament adopted its resolution calling on Russia to release all political prisoners and illegally detained citizens of Ukraine.

Today there are at least 130 such Ukrainian citizens unjustly detained and imprisoned in Russia, of which 101 are Crimean Tatars. In 2019, at least 36 Crimean Tatars were arrested on charges of terrorism, and over the past year and a half, more people were detained in Crimea as part of politically motivated criminal cases than during the previous four years. There is no doubt, that such a long-awaited exchange of “all for all” would help to release dozens of illegally detained people and return them to Ukraine, but the Crimean Tatars would still remain hostages in their own land: not a single week passes without reports of new searches, detentions, arbitrary charges of terrorism.

In 2017, the UN Committee on the Elimination of Racial Discrimination (CERD) recognized that Russia discriminated against Crimean Tatars on ethnic grounds, and the Committee expressed concern about violations of the rights of Crimean Tatars. The CERD called on Russia to abolish all discriminatory practices and investigate human rights violations. In April 2019, Russia

provided the Committee with official comments on the situation in Crimea stating, as could be expected, that there was no discrimination on the peninsula and that “all reliable and noteworthy reports of possible violations of human rights standards are verified by the corresponding Russian authorities”.

Indeed, all rights are formally guaranteed by the Russian legislation, but the reality in Crimea is considerably different from these legislative guarantees. Since 2014, the Russian authorities have been trying to establish a “Russian society” on the peninsula, and to make the Crimean Tatars part of Russia’s modern civil nation — meaning their political loyalty and religious subordination to the pro-government Spiritual Administration of the Muslims of Crimea. Immediately after the annexation of Crimea, the Russian authorities tried to negotiate with the Mejlis of the Crimean Tatar people. For the first few months, the representative of the Mejlis even worked in local authorities. Trips to Tatarstan were organized for the leaders of Crimean Tatars, in order to acquaint them with how local Tatars live, ones who have been successfully integrated of the “Russian civil nation”.

But this did not work out. Crimean Tatars, their identity, culture and history do not fit into the concept of “the Russian Crimea”. The leadership of the Mejlis took a tough anti-Russian stance. In the spring of 2014, the Crimean Tatars participated in pro-Ukrainian street protests, helped the Ukrainian military, boycotted the so-called March 16, 2014

referendum. Since the fall of 2014, the forced transformation of Crimean Tatars into Russian citizens has become repressive: people started to disappear, others faced criminal prosecution, searches and detentions. In 2016, the Mejlis of the Crimean Tatar people was recognized as an extremist organization and banned in Russia, while the Russian authorities managed to force the Spiritual Administration of Muslims of Crimea to cooperate.

Over the next five years, Russia did not allow a single independent event organized by the Crimean Tatars, neither the commemoration of the anniversary of their 1944 deportation, nor any religious holidays. In cases where local authorities allowed rallies, as, for instance, on May 18 (deportation day of Crimean Tatars), they censored the program and the list of speakers. Private events were also banned. In 2017, activists wanted to organize a football match in honor of the kidnapped Ervin Ibragimov, but it was banned as an “unauthorized mass gathering” and the organizer was brought to administrative responsibility. Mosques are now open only on Fridays or at strictly fixed times and are equipped with surveillance cameras. Gathering in mosques is allowed only for religious rituals, any other gatherings are suppressed.

Despite the fact that formally the Crimean Tatar language is one of the official languages of Crimea, the authorities hinder its study and use. Lessons of Crimean Tatar language are only optional in local schools, and they

On May 18, 1944 by the decision of the government of the USSR the whole Crimean Tatar peoples were deported from the peninsula of Crimea to the countries of Central Asia. Only 50 years later with the dissolution of the Soviet Union, surviving Crimean Tatars managed to return to their Motherland.

However, the tragedy did not become history. During the last five years thousands of Crimean Tatars were forced to leave their Motherland due to occupation of Crimea by the Russian Federation. Dozens have been imprisoned, some were kidnapped and their whereabouts are still unknown. Almost on the daily basis, the detentions and searches of the Crimean Tatar activists, religious figures and just people who are devoted to their culture, religion and history are reported. The Russian authorities of Crimea suppress the Crimean Tatar identity. Culture of the Crimean Tatars, the language, the self-governance are systematically suppressed regardless of formal legislative guarantees on preservation of the cultural heritage. Today, as 75 years ago the Crimean Tatar identity is at risk, but now in Crimea, controlled by Russia.

Remembering the 75-years tragedy, we demand to stop persecution and discrimination of the Crimean Tatars in the present. We call the Russian Federation to guarantee human rights and freedoms to the Crimean Tatars, including freedom of consciousness, freedom of expression, cultural life, preservation of the language and truth about the past.



are often scheduled in the evenings or on weekends. School administrations often refuse to open classes or allow extracurricular lessons of the Crimean Tatar language. Teaching in high school is conducted only in Russian, and state authorities also use only Russian. This year one of the bosses of a private enterprise in Sudak even forbade her subordinates, who were Crimean Tatars, from speaking among themselves in their native language. In Crimean Tatar theaters, musical ensembles and other cultural institutions, the Russian authorities changed the leadership and even replaced part of the troupes. In 2017-2018 the Great Khan's Mosque in the Khan's Palace in Bakhchisarai partially lost its authenticity as a result of restoration work: the original roof and some paintings on the ceiling and walls were destroyed, and the Crimean Tatars took it very badly.

Tatarophobic attacks are making their way both into the public sphere and into education. After the low turnout of the Crimean Tatars in the Russian presidential elections of 2018, the head of the Crimean Public Chamber, Grigory Ioffe, said that the Crimean Tatars refused to participate in Russian political life, so they cannot count on a "special status". This year, Crimean schools received a new textbook of the history of Crimea for the 10th grade, which indicated that the Crimean Tatars were more active than other ethnic groups in Crimea in greeting the Nazi German army during the Second World War and collaborated with the occupying authorities. Following the protests of the Crimean Tatar community, this textbook was later withdrawn for examination by the authorities.

Hate speech in the official sphere, mass searches and arrests of Crimean Tatars that have become everyday reality, all this provokes and legitimizes xenophobia among the "ordinary inhabitants" of the peninsula, who have been easily convinced that the Crimean Tatars and Ukrainians "pose a threat". Statements by local politicians and some publications in the official press here are not far removed from the 2014 graffiti on the fences demanding, "Tatars – get out of Crimea", which were so memorable. Unfortunately, the Russian authorities do not realize that it is impossible to control the snowball of interethnic conflict, and that a "civil nation" cannot be created without ensuring equality and guaranteeing human rights for all.

*Eugenia ANDREYUK,  
expert at the ADC Memorial*

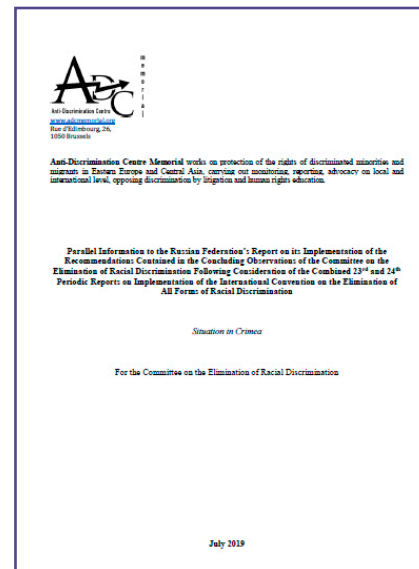
*First published  
in the blog of Radio Liberty*

## ADC Memorial submitted information regarding the situation in Crimea to Committee on Elimination of Racial Discrimination

In August 2017 Committee on Elimination of Racial Discrimination adopted the Concluding Observations on the report of Russia. In paras 19-20 the Committee expressed its concern regarding the ban and strict limitations on the operation of Crimean Tatar representative institutions, such as the outlawing of the Mejlis and the closure of several media outlets, and violations of Crimean Tatars' human rights, including allegations of disappearances, criminal and administrative prosecutions, mass raids and interrogations. The Committee also expressed concern regarding restrictions on using and studying the Ukrainian language since 2014. The Committee recommended that Russia allows OHCHR full access to Crimea to take stock of the human rights situation and urged the government to repeal any administrative or legislative measures adopted since it started to exercise effective control over Crimea that have the purpose or effect of discriminating against any ethnic group or indigenous peoples. The Committee recommended the State party investigate effectively the allegations of violations of human rights of the Crimean Tatars, in particular abductions, enforced disappearances, arbitrary detention and ill-treatment, and bring perpetrators to justice and provide victims or their families with effective remedies. CERD also recommended to Russia to take effective measures to ensure the Ukrainian language is used and studied without interference.

In the Concluding Observation the Committee requested the Russian government to provide the information about implementation of that recommendation within a year. In April 2019 Russia provided the follow-up implementation report in which stated that all the ethnic groups living in Crimea have equal rights, and that human rights violations are being investigated.

ADC Memorial prepared the alternative information regarding the situation in Crimea, and submitted to the Committee. Since August 2017, when the Committee considered the situation, it has not improved. On the contrary, ethnic discrimination of Crimean Tatars is documented in Crimea. The main reason for this discrimination is disloyalty of the Crimean Tatars to Russian control over Crimea. De-facto authorities attempt to integrate Crimean Tatars to Russian civil nation forcibly: all the spheres of public life of the Crimean Tatars are controlled by the local authorities, the illegal prosecution within criminal and administrative legislation continues. In 2018-2019 the persecution is focused on civic journalists, activists and human rights defenders. The situation with study and use of the Crimean Tatar and Ukrainian languages in the peninsula has not improved.



## KUZNETSK BASIN: INDIGENOUS PEOPLES THREATENED WITH EXTINCTION

### Report regarding the situation with Shor people and other indigenous peoples of Russia (CERD)

*On November 26, 2013, a fire broke out in Yury Kastarakov's house in the village of Kazas, Myski District, Kemerovo Oblast. The same thing happened in Vladimir Tokmagashev's house one month later, on December 29. There were no injuries, but both houses were seriously damaged. Another three houses burned down over the next three months. These fires were not accidental.*

Kazas is the traditional home of the indigenous Shors 1 and is located several hundred meters from a coal mine. The owners of the five homes destroyed by fire were the village's last residents; they had refused to sell their homes and land to the Yuzhnaya coal company. The village basically ceased to exist after the fires, and the residents did not receive any compensation. Yana and Vladislav Tannagashev—two activists who fought against the village's demise—were forced to flee Russia because of threats from government bodies and mining company representatives.

The situation in Kazas is not unique. Russia has over 40 officially recognized small indigenous peoples, whose rights are guaranteed by the Constitution and Russian law. The most important of these rights is the right to use and preserve traditional lands and participate in making decisions that affect the interests of indigenous peoples. Most of these groups live on territories in Siberia, the North, and the Far East that are rich with mineral resources, including coal (Kemerovo Oblast), oil and gas (Yamalo-Nenetsky Autonomous Oblast), and biological resources like fish (Kamchatka, Khabarovsk Krai). Today the extraction of mineral resources results in the destruction of places where indig-



View of the coal mine. Photo: Nelly Tokmagasheva

enous peoples have traditionally lived and subsisted. This has forced them to move to cities and turn away from their traditional lifestyles, customs, and cultures. Representatives of indigenous peoples call this ethnocide.

Over 60 percent of Russia's coal is mined in Kemerovo Oblast, generally using the technique of open-pit mining, whereby mining companies blast away part of a mountain to reach a coal deposit. The blasting creates pits—enormous quarries that look like lunar craters, from which the extract coal. The waste rock is not returned to the pit, but is instead piled at the surface. This technique results in the desertification of land and air, water, and soil pollution. International human

rights organizations assert that this technique is outdated and causes irreparable harm to nature and people.

Coal mining started near Kazas in the 1970s. The Sibirginsky Pit was opened in 1971, resulting in the demolition of the Shor village Kurya. This marked the beginning of the destruction of local mountains sacred to the Shor people and the taiga, where Shor people traditionally hunted and collected wild plants. At this point, two large grasslands were seized for coal mining companies. Later, the 8th section of the Mezhdurechensky Pit and the 3rd section of the Krasnogorsky Pit were opened. As these mines were developed, the Kazas River became polluted and shallower. The fish all but disappeared from it, and fishing faded as a traditional means of subsistence for the Shors.

In 2010, the Yuzhnaya coal company and the Beregovoy pit, which is part of the Sibuglemet holding company, started operating near Kazas. The Kiyzassky coal mine (Vostok Ugol), which is right next to another Shor village named Chuvashka, went online in 2012.

But to return to Kazas: The coal company installed a checkpoint at the entrance to the village, and people could only enter after presenting documents and agreeing to a search. The water in the river became unsuitable for drinking. The walls, windows, and foundations of homes started to crack from the constant explosions. After each explosion, a cloud of poisonous sediment descended over the village. Coal dust

In July 2019 ADC Memorial, Mysky local civic organization "Revival of Kazas and Shor people" and Institute for Ecology and Action Anthropology (Germany) submitted information regarding the situation with Shor people and other indigenous peoples of Russia to Committee on Elimination of Racial Discrimination (CERD).

The report was submitted as a parallel information regarding the implementation by the Russian Federation urgent recommendations of CERD in 2017.

In August 2017 the Committee on the Elimination of Racial Discrimination expressed its concern that the rights of Shor people from Kazas village were not restored. The Committee recommended the government of the Russian Federation to organize consultations with Shor people, to provide compensations for lost land and houses, and to provide access to indigenous land and cemetery as well as to respect the principle of free, prior and informed consent in all the decisions that affect the Shor people. In April 2019 the government provided its implementation report, in which it stated that the rights of indigenous people are observed, and that the situation with Shor people and the village of Kazas have been resolved.



settled into homes and garden plots, and the air became polluted. Residents also complained about the constant noise from the heavy equipment. It became impossible for them to live a traditional Shor lifestyle.

In 2012, Karagay-Lyash, a mountain sacred to the Shors where they performed their rituals, was blown up. The spirit of this mountain was considered to be the village's guardian.

In the summer of 2012, the Myski city administration entered into an agreement with Yuzhnaya, which included a provision on coordinating activities to eliminate Kazas and evict its residents. The company had started demanding that residents sell their homes and land by late 2012. People were called into the city administration one by one, where they were talked and threatened into giving up their property. The price offered by the company was 10 times below market rate. In December 2012, just over half of the residents were invited to an assembly at the City Cultural Center, supposedly to discuss resettlement. But the matter of shutting down the village entirely had been added to the agenda. Participants were pressured and hurried into making a decision without being offered individual consultations. In the end, the majority of participants voted to eliminate the village. This decision cannot really be called legitimate, however, because it violated procedure and half of the village residents were not present. Later, in 2015, representatives of the Myski administration officially announced that they knew nothing at all about the assembly, including who organized it, or if it had even been held at all. Yuzhnaya also denied that it had organized this assembly.

In 2013, the Myski Council of People's Deputies adopted a decision to move the village. The city social movement Shoriya, which had been created two months before, consented on behalf of the Shors, but the Shors themselves did not agree with the decision and denied that Shoriya represented their interests. In early November 2013, Ilgis Khalimov, the CEO of Yuzhnaya, threatened village residents, asking if they were scared that something could happen to their homes. This ended with the burning of the homes of the people who refused to sell. One home was demolished by bulldozers and removed.

The homes purchased by Yuzhnaya started to be razed in the summer of 2013. In the spring of 2014, the company bought the village council building for next to nothing. Then bridges and communication lines were stolen from the town. Officials opened criminal cases into these thefts, but have not conducted an investigation or located the perpetrators.

Kazas residents have repeatedly asserted that no coal companies or government bodies asked in any form for their permission to mine coal near the village. In 2014, the Myski Council of People's Depu-

ties discussed moving Kazas to a more suitable location, offering land near the village of Turala. But the residents refused because this land was not suitable for living. In 2012 to 2014, the mayor referred several times to moving the entire village, but no new houses were ever built. The Shors filed complaints about the actions of Yuzhnaya and Sibuglemet with all possible agencies, including the head of Myski Okrug, the administration of Kemerovo Oblast, the administration of the RF president, the State Duma, and the human rights ombudsman. According to them, they received perfunctory answers from all these places, while the coal company's activities continued.

The village has now been virtually destroyed. Entry onto its territory is banned and workers for the coal company do not allow anyone the pass through this area. A cemetery remains on the grounds of the former village, but residents cannot visit it unimpeded.

In 2016, the Shor activists Vladislav and Yana Tannagashev used UN mechanisms to report on the catastrophic situation in Kazas. As soon as they did this, they started receiving threats from the FSB and the police. Vladislav was called in for "conversations" and bribed. Unknown people started following their family. Yana received threats that she would become a widow, and she was fired from the school where she worked. The threats intensified after the Tannagashevs travelled to Geneva in 2017, and their children were put under surveillance. In 2018, the Tannagashevs were forced to flee Russia for the safety of their children.

After receiving appeals about the situation, the UN Committee on the Elimination of Racial Discrimination expressed its concern and issued recommendations to the Russian government, which included

restoring violated rights in close consultation with the Shor people by providing compensation for loss of land and homes, ensuring access to indigenous lands and the cemetery, and complying with the principle of free, prior, and informed consent. The government has not implemented these recommendations as of today.

The neighboring villages of Borodino and Chuvashka are in the same situation, and residents fear that their villages will also be demolished. They have repeatedly protested against the construction of the Kiizassky mine, and Rospotrebnadzor [Russia's consumer protection agency] specialists have warned that the pit presents a threat to residents' life and health. An environmental expert review of this pit cites a survey where 100 percent of residents participating came out against this construction. Over the course of five months of 2013, indigenous residents of Chuvashka held one-person pickets near city hall. Construction proceeded in spite of this; the coal mining continues.

The Teleuts, another small indigenous people in Kemerovo Oblast numbering just over 2,000 people, have also lost their native habitat to coal companies. Residents of Teleut villages and the villages of Bekovo, Shanda, and Razrez 14km are living in a state of environmental catastrophe and face threats to their existence.

In August 2018, President Putin announced that more coal should be delivered for export. The government of Kemerovo Oblast plans to increase coal mining by more than 50 percent by 2035. Today the government has taken the side of companies that are gradually destroying indigenous peoples' traditional places of residence and subsistence, thus threatening the existence of these very people and their languages and cultures.

*The bridge on the way to Kasas: dozens of such cars drive every day.*

*Photo: Nelly Tokmagasheva*



## THE BARENTS OBSERVER TAKES RUSSIAN CENSORS TO COURT WITH SUPPORT FROM ADC MEMORIAL



*Moscow city court has accepted a claim by The Barents Observer to challenge Russia's censorship and media regulation agency Roskomnadzor's arguments to ban the newspaper.*

The Norwegian-based, bi-lingual newspaper has been blocked in Russia since February after it refused to unpublish an interview with Dan Eriksson, a homosexual Sami man from northern Sweden. The story, originally published by Swedish newspaper Arjeplognytt, tells about Eriksson who lived through years of hardship, and twice tried to end his life, because of taboo and prejudices connected with his sexu-

ality. He is now a happy man who works with mental health issues among young Swedish gays.

In its decision to block The Barents Observer from all readers in Russia, Roskomnadzor argues that the interview propagates suicide and is in conflict with the Russian Federal Law «On Information, Information Technologies and Information Protection.»

ADC Memorial has decided to support bringing the case in for court.

«We support the Barents Observer's decision not to unpublish this story from its website; we think that the interview with the gay Sami man is very important and the ban of this article is a clear case of discrimination», says Director of ADC Memorial, Stephania Kulaeva.

«Anti-Discrimination Centre (ADC) Memorial has always been and continues to be the defense of the rights of minorities, indigenous peoples and other vulnerable groups, opposition to racism, sexism, homophobia and all other forms of xenophobia,» Kulaeva says.

The Barents Observer is thankful for the support from the prominent human rights group.

«We are a small newspaper in the Norwegian-Russian borderland with very limited financial resources. The help from ADC Memorial is essential for bringing this case to court,»

says Thomas Nilsen, Editor of the Barents Observer.

He explains the decision not to unpublish the interview.

«I will argue that the interview with Dan Eriksson will help others overcome traumatic taboos. This is the opposite to propagate suicide,»

Nilsen says.

The court hearing will take place on July 12th. After that, the court is will consider the documents and arguments by the two parties and is expected to render a decision in September.

## THE EUROPEAN REGIONAL FORUM ON EDUCATION, LANGUAGE AND HUMAN RIGHTS OF MINORITIES WAS HELD IN BRUSSELS

*The rights of ethnic minorities to their native language, its free use and development, education in their native language – this is the theme of the upcoming 12th annual UN Forum on minority issues to be held at the end of 2019. Three regional conferences are planned to be organized in 2019 in order to collect more information and prepare recommendations on the study of native languages and teaching in them; the first of these conferences – the European regional forum on education, language and Human Rights of minorities took place in the European Parliament on May 6-7, 2019. In the Forum, under the chairmanship of the UN Special Rapporteur on minorities Fernand de Varennes, the experts, representatives of international organizations (UN, OSCE, Council of Europe, EU), governments and civil society participated.*

In its presentation, ADC Memorial expressed concerns about the recent changes in the Law on education of the Russian Federation (2018); according to them, the study of non-Russian languages in school is no longer mandatory and can be carried out optionally by the choice of parents. This will naturally lead to the fact that parents will choose the Russian language of their children's education, and the non-Russian languages will be forced out of the public and educational sphere to the private communication only. The languages of small indigenous peoples that are already at danger of extinction, with this approach, run the risk of completely disappearing, as the choice of the Russian language of education made for their children by parents for good reasons (in order to give them an education in a more promising language), will make children not to be able to communicate in their native languages.

ADC Memorial also raised the problem of inadequate education and segregation of Roma children in schools, with complete ignoring of the Romani language and its non-inclusion in the school curriculum. These problems are rooted in the Soviet national and language policy and are still existing in many countries of the Eurasian region whose authorities often deny discrimination against the Roma population and insist on the practice of segregated schools and classes. ADC Memorial called the authorities of the countries that share European values and seek to join the EU to end the practice of segregation of Roma children and ensure their rights, including the right to education and mother tongue.



## SIDE EVENT OF FIDH AND ADC MEMORIAL ON GENDER DISCRIMINATION AT THE OSCE ODIHR MEETING

*Anti-Discrimination Centre “Memorial” took part in a side event on “Gender Discrimination Issues in Eastern Europe and Central Asia: Inequality at Work, Domestic Violence”, which was organized together with the Federation for Human Rights (FIDH) during the OSCE Human Dimension Meeting.*

Various experts spoke about violations of women's rights in the sphere of employment in the region, as well as the problem of lack of protection from gender-based violence in Russia and Belarus.

ADC “Memorial” welcomed the recent abolition of the lists of professions prohibited for women in Ukraine and Uzbekistan, as well as reduction of respective lists in Kazakhstan and Russia. After 2021, thanks to the struggle of the heroines of the #Alljobs4allwomen campaign, Russian women will be able to get access to dozens of jobs, including popular and well-paid occupations in the transportation sector (truck drivers, drivers of buses, subway trains, navigators in maritime and riverine fleet). Some employers will open special courses

in educational institutions of various levels, which will provide instruction for professional occupations previously inaccessible for women (for example, representatives of the Moscow metro have already announced their plans in this respect).

Lawyer Valentina Frolova, who is involved in dealing with the widespread problem of domestic and gender-based violence for Russia, spoke about significant achievements in the field of strategic legal cases in international institutions. In 2017, for the first time for Russia, United Nations' Committee on the Elimination of Discrimination against Women (CEDAW) recognized the lack of proper reaction to domestic violence against women on the part of state authorities was gender discrimination. The Committee's observation that in Russia the cases of domestic violence were subject to private prosecution, while the state was clearly obliged to provide adequate protection to women, was of particular importance. Thus, the victim should not be forced to independently play the role of the prosecutor in a criminal case, collecting evidence herself and supporting the prosecution, including having an obligation

to constantly appear in person during the court proceedings. In 2019, the European Court of Human Rights (ECtHR) supported the position, which recognized private prosecution of domestic violence as unacceptable in the case of ‘Volodina v. Russia’. Valentina Frolova emphasized that Russia was the last country-member of the Council of Europe, which lacked legislation against domestic violence; and, together with Azerbaijan, one of the two countries that have not joined the Istanbul Convention.

Irina Solomatina described the situation in Belarus, she said that the country's authorities intended to reduce the list of professions prohibited for women, which should provide additional jobs for women in rural areas and industrial cities, where they were often forced to accept unofficial work in difficult and hard working conditions without receiving proper compensation. The problem of gender-based violence in Belarus is further complicated by the taboo on the discussion of this topic within a sizeable part of society and the unwillingness of women to seek protection of their rights because of fear of facing negative consequences.

## UN HRC HAS PUBLISHED RECOMMENDATIONS FOR TAJIKISTAN AND COMPILED LIST OF QUESTIONS ON GENDER EQUALITY AND SOGI TO UZBEK AUTHORITIES

*The United Nations' Committee on Human Rights Committee (HRC) has examined the implementation of the International Covenant on Civil and Political Rights by the Republic of Tajikistan and Uzbekistan during its 126th session.*

The Committee's experts pointed out the negative consequences of the absence of comprehensive anti-discrimination legislation in Tajikistan, despite the creation in 2018 of a working group for this project, and the earlier recommendations of the UN HRC concerning providing protection to members of vulnerable groups against all forms of discrimination, including sexual orientation and gender identity (SOGI), as well as effective provision of compensation for damage.

The Committee noted the difficult situation of people with HIV in Tajikistan, due to biased attitude from representatives of various services and existing barriers in access to healthcare led to the spread of infectious diseases.

UN HRC members recommended that the authorities of Tajikistan provide effective protection against all forms of discrimination based on SOGI, provide for the inadmissibility of approving discriminatory and violent behavior towards LGBTI people, and provide compensation of damages to victims; as well as fight against homophobic and transphobic discourse, includ-

ing through trainings for law enforcement officers and other officials and other educational activities aimed at a broader public; examine existing law enforcement practices and ensure that LGBTI people were not listed in the special registry, and finally put an end to the violation of the right to privacy, freedom and security.

Noting the existing problems of inequality between men and women, as well as domestic violence and polygamy, the Committee recommended adopting measures to ensure gender equality, particularly by increasing women's representation in political and public life, ensuring compliance with effective legal prohibition of polygamy and organizing adequate information campaigns.

Mentioning a special operation in Khorog in 2012, UN HRC experts regretfully noted the lack of information on the results of the investigation of violent crimes against civilians and recommended once again to draw to responsibility the perpetrators of these crimes, as well as to provide adequate compensation to the victims.

Members of the UN HRC requested to report on measures to ensure legislative protection against direct, indirect and multiple discrimination in all spheres and on all grounds, including sexual orientation and gender identity (SOGI), as well as effective remedies against discrimination. In this respect, a question

was posed about Uzbekistan's plans to adopt comprehensive anti-discrimination legislation.

The UN HRC has asked the Uzbek authorities to implement the Committee's long-standing recommendation to decriminalize sexual contact by mutual consent between adult men.

Assessing the level of gender equality, members of the UN HRC inquired about the progress in adopting the law on equal rights and opportunities for women and men; on steps to effectively solve the problem of forced and early marriages, and of de facto polygamy, which prevail despite contradicting legislation, especially in rural areas; on adopted measures and actual achievements in increasing the representation of women in political and public life, including judicial, legislative and executive bodies, paying particular attention to high-level leadership positions.

UN HRC experts inquired about the progress in eliminating violence against women, including the status of the draft of a law on the prevention of domestic violence, the creation of psychological, rehabilitative and legal services in legal and social support centers for women and their families, as well as measures adopted to better inform about the cases of violence, their effective registration and investigation by law enforcement agencies.

## ARMENIAN CIVIL SOCIETY FIGHTS FOR THE ADOPTION OF AN ANTI-DISCRIMINATION LAW

*The NGO Pink began fighting for the adoption of an anti-discrimination law in Armenia in 2012. Since then, several drafts have been submitted for public debate, but these have been criticized by the Armenian Apostolic Church and several homophobic groups. The final version of the document, which was posted online for public consultation in 2017, contained a number of problematic provisions that could lead to its discriminatory application: aside from the fact that sexual orientation and gender identity are not listed as grounds for discrimination, one of the articles stipulates that the norms may only be applied if they correspond to the Law on the Armenian Apostolic Church. We released a statement that any law containing these kinds of provisions would not have a legitimate mechanism for ensuring protection under certain grounds and could potentially lead to discriminatory practices. One of Pink's major achievements has been getting this article removed from the final version of the law.*

At the same time, the draft fails to stipulate effective legal mechanisms for combatting discrimination in general and in relation to the LGBTI community in particular. We shared the following misgivings and recommendations with legislative bodies of Armenia:

- Even though the LGBTI community is one of the most vulnerable and discriminated groups in Armenia, the list of characteristics protected by the anti-discrimination law does not include sexual orientation or gender identity. The fact that the European Court of Human Rights and the UN Human Rights Council have recognized SOGI as no less important than other protected characteristics has unfortunately not been a good enough argument for law enforcement bodies in Armenia, even though the country's Constitution establishes the requirement to interpret human rights with account for the precedent law of international bodies and treaties. It is doubtful that national courts will actually apply the anti-discrimination

law in cases where rights are violated because of SOGI if SOGI is not listed as a protected characteristic.

- Add Article 8, which gives NGOs, nonprofits, and other interested parties the right to bring an action before a court in response to cases of discrimination to protect public interests (Actio popularis), thus guaranteeing access to justice for victims.
- Add norms regarding burden of proof in discrimination cases that correspond to international human rights principles. In particular, when an applicant files a complaint with a court about alleged discrimination, that applicant should not have to prove an actual instance of discrimination, but should only have to set forth, prima facie, the circumstances and arguments that, in their opinion, led to discrimination and are sufficient to warrant consideration of the case in the absence of a proper rebuttal.
- Another problem concerns the Council of Equality. This body's independence is doubtful since, under the draft law, it must be integrated with the Office of the Human Rights Defender and is not given the authority to influence the course of proceedings in discrimination cases. A study on the legal possibilities of creating an independent and effective body was forwarded to the Ministry of Justice after negotiations between the government and the Non-Discrimination and Equality Coalition. The Ministry, however, has ignored this recommendation.

All of these recommendations have been rejected by the Ministry of Justice.

Armenian laws stipulate that public consultations must be conducted offline, but these consultations are now only happening on an online platform. We are waiting for the Ministry to respond to our request to organize public consultations offline. The next step is for parliament to discuss the bill, which is expected to happen in the fall.

After a long road of editing and revision, the draft was republished in July 2019 after the Velvet Revolution. The new government is resisting holding public consultations on the draft to avoid criticism from homophobic groups. In a changed situation, political opponents are manipulating LGBTI issues to discredit the new government. Under these circumstances, the Ministry of Justice intends to ignore any appeals or requests to consider the bill.

*Asmik PETROSYAN,  
Pink attorney*

Debates about the need for a comprehensive anti-discrimination law in Armenia began in 2013. In the spring of 2017, the Plan to Develop a National Strategy to Protect Human Rights for 2017–2019 envisaged the adoption of such a law, which was also a part of the EU budget support program for human rights. A number of UN committees reviewing Armenia's implementation of its obligations under international treaties have stressed that a comprehensive anti-discrimination law must be adopted, including to improve the situation of ethnic minorities and women.

A draft of the law "On Ensuring Equality" was submitted for public consultation in early 2018, but the revised version was never published because of the political situation. In late 2018, over 20 NGOs sent proposals for the draft, but these were unfortunately not accepted. The draft was published in June 2019, but only 16 days were allotted for public consultation.

Civil society noted the following problems with the draft:

- incomplete list of characteristics protected from discrimination, including absence of SOGI;
- incomplete list of types of discrimination: absence of the terms "reasonable accommodation" and "hate crime," incomplete description of the term "victimization," and lack of definitions of multiple and intersectional discrimination, despite recommendations from UN CEDAW experts to include a broad definition of discrimination against women encompassing not just direct and indirect discrimination, but also interrelated forms of discrimination;
- the model of the equality body (Council on Equality) is not effective: the body has no authority to investigate cases of discrimination in the private sector, there are no legal guarantees regarding implementation of its decisions, there are insufficient human and financial resources, and there is no institutional insulation or visibility, given that Armenia's Ministry of Justice emphasized that the Constitution does not allow for the creation of a separate equality body;
- the draft does not envisage administrative sanctions or a mechanism for compensation for non-material damages caused by discrimination, or criminal liability for hate crimes.

Even though international experts recommended that the government accelerate the process of adopting an anti-discrimination law as far back as the spring of 2017, it is unlikely that the draft will be adopted by the end of 2019.

ADC Memorial has repeatedly raised the need for an anti-discrimination law in its reports to UN CEDAW and UN CERD and hopes that Armenia will soon join other countries in the region that have effective means of protection from discrimination.

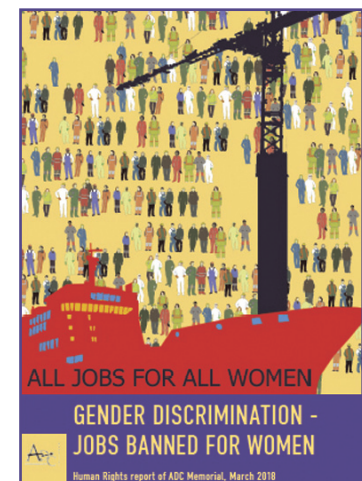
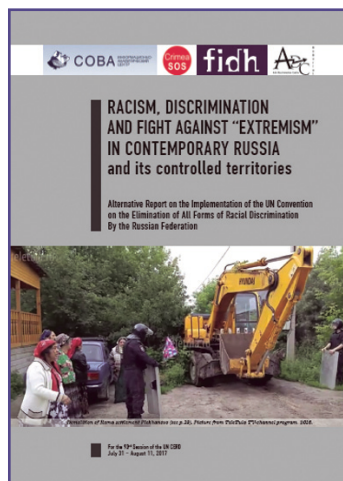
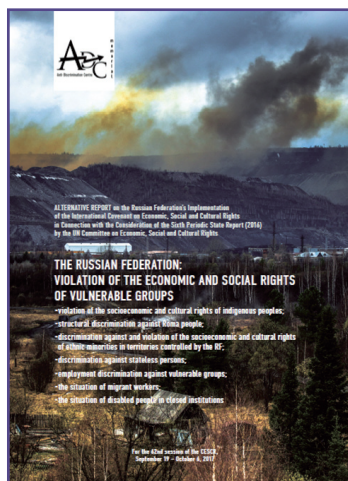
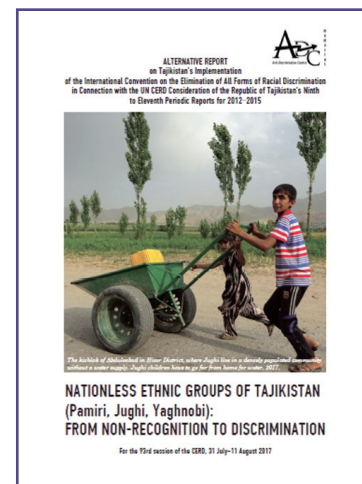
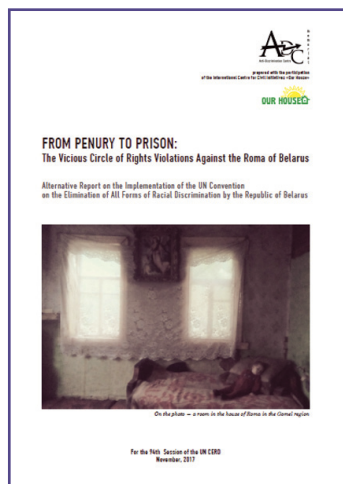
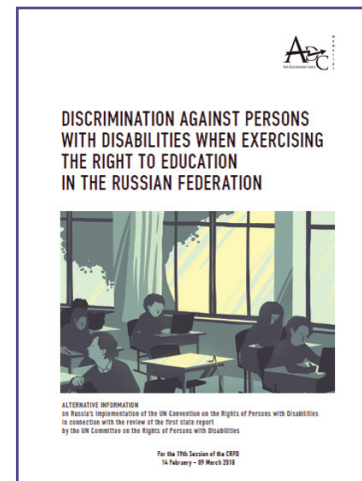
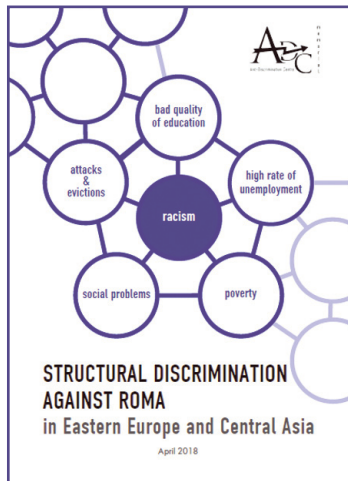


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