

RUSSIA

2012-2013: Attack on Freedom

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,



Cover photo: Demonstration in front of the State Duma (Russian Parliament) in Moscow on 18 July 2013, after the conviction of Alexei Navalny. © AFP PHOTO / Ivan Novikov

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Introduction

The stunning scale of popular protest that swept through Russia in 2011 – 2012¹ was followed by an equally shocking range of political repressions unseen since the late 1980s.

President Putin made a clear decision that the political climate in Russia would be divided into two periods: “before” and “after” the parliamentary elections (December 2011) and the presidential election (March 2012). Immediately following the disputed election that returned him to the highest position in the country after four years as prime minister, Putin made it abundantly clear that he had full control of the situation. This is evidenced by the politically-motivated trials involving Pussy Riot, Navalny, Greenpeace activists, and the events on Bolotnaya Square (all covered widely in the press), and the politically-motivated prosecution of anti-fascists (which was not covered as widely); the sudden and rapid advancement of laws flouting the main principles of democracy²; the appearance of propaganda, frequently quite aggressive, directed against the opposition and independent associations; and the open or tacit persecution of civil activists, members of the political opposition, and human rights defenders. Every day brings new developments, monitoring measures, checks, arrests, and violence. In its reactions to the emerging protest movement, which is based on moral and legal criticism, the government has shown that it is prepared to use all the means it has at its disposal to prevent similar eruptions of social activism in the future.

The high-profile trial of the feminist protest group Pussy Riot for the “punk prayer service” calling for Putin’s resignation held in the Cathedral of Christ the Savior on 21 February 2012 became a symbol of the repressions unleashed against all protest groups engaged in political, social, or simply civic protest. Opposition leaders and even regular citizens who dared to display their dissatisfaction with the current government were subjected to threats and attacks. For example, the Bolotnaya Square case, which involved some 30 people who participated in a demonstration against Putin’s reelection that was held on 6 May 2012, is a prime example of a politically-motivated trial meant as a show of the state’s political will to hand out strict punishments to protestors with the help of exposure in media outlets loyal to Putin.

The amnesty announced in December 2013 for several activists and members of the opposition (Maria Alyokhina and Nadezhda Tolokonnikova of Pussy Riot, 30 Greenpeace activists from the ship Arctic Sunrise, and eight people convicted in the Bolotnaya Square case, only three of whom were actually in prison) as well as the presidential pardon of the oligarch and opposition member Mikhail Khodorkovsky should not in any way be taken as a sign of change for the better. On the contrary, these actions only serve to intensify the feeling of arbitrary decision making, even in criminal prosecutions. This gesture of amnesty, which came two months prior to the start of the Olympics in Sochi, at a time when the world was raising its voice against the gross human rights violations committed by the Russian government, is clearly meant to show good will, but in essence does not change anything in the course of systematic repression directed against both opposition activists and regular people, critical or independent thinkers.

1. Human Rights in Russia: Recurrent Violations and New Concerns, FIDH, March 2012: <http://www.fidh.org/IMG/pdf/russia-march2012.pdf>

2. The Human Rights Situation in Russia: Repressive Legislation and Practices to Silence Civil Society, February 2013: <http://www.fidh.org/IMG/pdf/126436373-briefer-russie-updated.pdf>

Government critics have long been the subject of persecution and intimidation from security forces, particularly *Center E* (a police department to prevent extremism), which operates as the new political police. Since 2012, their methods have affected an every critical growing circle of people, including artists, journalists, activists, human rights defenders, and independent NGOs.

The situation for non-commercial non-governmental organisations (NGOs) is cause for extreme concern. Since 2006, NGOs have been subjected to strict administrative restrictions and many of them have been accused of “performing the functions of foreign agents” since the law on foreign agents took effect in November 2012. Under this law, NGOs receiving foreign financing and engaged in the nebulous concept of “political activity” must register as foreign agents in the appropriate registry maintained by the Ministry of Justice. This shameful label hearkens back to the country’s Soviet past and stigmatizes human rights defenders, in a violation of the Constitution and the Russian Federation’s international obligations.

FIDH representatives travelled to Russia several times during 2013, and were there at the time when the Public Prosecutor’s Office was conducting an unprecedented wave of checks of NGOs that occurred in parallel with the intensifying persecution of participants in the demonstration that took place on Bolotnaya Square in Moscow on 6 May 2012. The FIDH team was accompanied by colleagues from the FIDH Russian member organisation, the Anti-Discrimination Center Memorial (ADC Memorial), to four cities: Nizhny Novgorod, Moscow, Voronezh, and Saint Petersburg. FIDH was also present during the trial against ADC Memorial in December 2013. In the four cities mentioned, the authors of this report met with employees of NGOs that were subjected to checks, activists who were victims of the repressions, and their lawyers.



Police arrest participants of the demonstration in Moscow on 6 May 2012.
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1. Authoritarian Methods to Suppress Rights and Freedoms

The current government has been trying for many years to weaken civil society activists and the political opposition through court proceedings, attacks, and constant checks and in this way has gradually succeeded in strengthening its control over society. In recent years this tendency has manifested itself in the growing control of political space by government bodies, their publicly showed suspicion of NGOs, and the repressive measures that they take against any form of political criticism. Various groups considered as “problem groups” are under constant pressure, including journalists, anti-fascists, LGBT advocates, union activists, independent NGOs, and civic-minded artists. Political control intensified after mass protests against the falsification of results in the parliamentary elections in the winter of 2011 – 2012 and the presidential election of March 2012, in which Putin was elected to a third term. In 2012, the State Duma adopted a series of repressive measures at the initiative of the president that were basically aimed at suppressing popular protests and at persecuting independent NGOs.

Political Protest

The way the December 2011 parliamentary elections were conducted and the results of these elections triggered mass protest actions and a retaliatory strengthening of repressions manifested specifically in the hardening of laws concerning fundamental freedoms such as freedom of association and freedom of expression and the activities of independent non-governmental organisations. The election process was stained by mass falsifications. On the day of and in the days following the election, video recordings made by observers showing falsification of results in favor of United Russia at polling places in regions throughout Russia appeared on social networks. Accusations of mass falsifications gave rise to protest demonstrations in various Russian cities, primarily Moscow and Saint Petersburg, under the slogan “For Fair Elections!” On 5 December 2011, many thousands of people spontaneously gathered in Moscow. On election day and the days following it, hundreds of people in Saint Petersburg gathered peacefully by the *Gostiny Dvor* metro station. Each time the meetings were broken up by police and mass arrests were conducted. The country was swept by a wave of detentions under the pretext that the demonstrations did not conform to the current Russian legislation on holding public events.

In the following months, the opposition continued to organise both sanctioned and unsanctioned meetings and demonstrations. These actions touched on an ever-broadening range of topics, but they all expressed a general discontent with government actions and criticism of the activities of the Duma, which was formed based on the results of falsified elections. During these actions, civil society developed new forms of protest. Groups to provide assistance to people arrested during the demonstrations sprang up spontaneously as more and more citizens joined the movement of independent election observers. Human rights organisations also offered assistance to the protesters whose rights had been violated.

Vladimir Putin, who served as president from 2000 – 2008, was reelected president on 4 March 2012. Observers again announced that the voting had been tampered with, causing mass protest actions “against Putin.” New types of actions appeared alongside traditional demonstrations. These actions included protest camps, “civic walks”, and bike rides. Even in cases where these actions were not immediately shut down by the police, their organisers and participants were frequently taken to court under accusations of administrative violations, frequently under contrived grounds.

On 6 May 2012, the day before Putin’s inauguration, the opposition organised a demonstration called March of the Millions, which ended in confrontations between demonstrators and law enforcement officers. There are various opinions regarding the responsibility of each participant in these confrontations, but most experts accuse government authorities and police officers of provoking the participants in the demonstration. The authors of a recent report prepared by independent international experts and based on numerous eyewitness accounts concluded that accusations of mass unrest do not correspond to the collected evidence and introduce proof that this was all a provocation deliberately organized by the authorities.³

The authorities initiated prosecution of a number of protesters under charges of mass unrest and violence against police officers. A growing number of participants in the demonstration on Bolotnaya Square were arrested and detained. At the same time, complaints made by protesters about police violence have not been investigated, no charges have been filed against any police officers, and no official investigations regarding their conduct have been launched.

3. http://6maycommission.org/sites/default/files/iec_final_report_rus.pdf

2. Repressive Laws

In reaction to a surge in the number of opposition demonstrations, in the summer of 2012 the Duma made a series of amendments to laws that restricted fundamental rights and freedoms. For example, it raised the size of fines for “unsanctioned meetings”, criminalised “slander,” gave a broader definition to the term “treason,” and restricted freedom of information on the Internet. These laws legitimised the repressions against activists from various protest movements and became a tool for pressuring independent figures in civil society. The abovementioned laws contravene Russia’s constitutional and international obligations in the sphere of human rights.

2.1. Restrictions on Freedom of Assembly

The general rules for organising public events are set forth in Federal Law No. 54 “On Assemblies, Meetings, Demonstrations, Marches, and Picketing”⁴ and are elaborated on in the laws of various entities of the Russian Federation. In addition to existing federal restrictions, local authorities may place additional restrictions on freedom of action by setting their own rules for submitting notification of meetings, which is the practice for example in Saint Petersburg and Nizhny Novgorod.

Application is required in advance for all forms of events, with the exception of one-person pickets (the ambiguous legal definition of such pickets is an example of a loophole in the law that opens the way for abuse and violations). Although this application is considered to be a notification, in reality it is actually a request for permission, which is clear from terms the authorities use like “unsanctioned meeting” and “non-coordinated event.” In practice, it is not at all easy to receive permission for holding an event. The ambiguous wording and the loopholes in the federal law make it possible for officials to prevent any event for official reasons if they so desire.

In June 2012, on the eve on the opposition’s March of Millions, amendments were adopted that toughened responsibility for violation of rules on organising and holding public events and made the procedures for submitting notifications more complicated.⁵ Meanwhile, the legislative process for making these amendments took place in record time: the amendments were adopted by the State Duma on 5 June 2012, approved by the Federation Council on June 6, signed by the president on June 8, and published on June 9. They took effect on June 10. Amendments were made to the Code of Administrative Offenses and the federal law “On Assemblies, Meetings, Demonstrations, Marches, and Picketing.” In addition to increasing the size of fines (under the new rules, the administrative fine for participants in “non-coordinated” actions is 10,000 – 15,000 rubles, compared with the previous 500 – 1000 rubles), the amendments cover expanding the very notion of an unsanctioned event in the form of the “mass presence” of people. Under the new rules, anyone held to administrative responsibility for offenses connected with public events more than two times in a year cannot organize public events. The first day the new rules took effect, participants in Saint Petersburg’s annual

4. Law No. 54 “On Assemblies, Meetings, Demonstrations, Marches, and Picketing” (as amended on 8 June 2012).

5. Federal Law of the Russian Federation No. 65-FZ of 8 June 2012 “On Amendments to the Code of Administrative Offenses of the Russian Federation and the Federal Law ‘On Assemblies, Meetings, Demonstrations, Marches, and Picketing.’”

pillow fight flash mob, which has no political purposes whatsoever, were handed down fines of 10,000 – 15,000 rubles.

After these amendments were adopted, new changes appeared, including in regional laws. Among other things, lists of places where events cannot be held and of places specifically set aside for such events (Hyde parks) were created. Many regions hurried to introduce lists of prohibited places that were unjustifiably extensive. In Saint Petersburg, the law prohibits demonstrations from being held in places in the city's historical center like Nevsky Prospekt, Vosstaniya Square, Isaakiyevskaya Square, Senate Square, and Suvorov Prospekt, as well as on all territories within the proximity of train stations, churches, and administrative buildings. At the same time, the government of Saint Petersburg may itself hold official public events at any of these places.⁶ In October 2012, the City Ombudsman in Saint Petersburg criticised these amendments, calling them unconstitutional.

According to activists, all these changes related to rules for holding public events served in actual fact to legalise the already entrenched repressive practices of the authorities and the police in relation to protestors by making it possible for officials to deny requests for events or offer organisers locations far removed from city centers.

Legislative restrictions on the right to freedom of assembly contravene Russia's constitutional and international obligations. For example, freedom of assembly is guaranteed by Article 20 of the Universal Declaration of Human Rights, Article 21 of the International Covenant on Civil and Political Rights, and Article 11 of the European Convention on Human Rights. Article 31 of the Russian Federation Constitution stipulates that "Citizens of the Russian Federation shall have the right to gather peacefully, without weapons, and to hold meetings, rallies, demonstrations, marches and pickets."

2.2 Restrictions on Freedom of Information

Tightening of control over the Internet was made possible by the federal law "On the Protection of Children from Information Detrimental to their Health and Development (2012), the law banning the use of obscenities in the mass media (2013), the law to combat online piracy (2013), and other laws relating to "restricting access to illegal information online" that have made it possible to censor the content of websites and even shut them down.

Once the law on protecting children took effect on 1 November 2012, it became possible to suspend the activities of virtually any website under the pretext of protecting children from harmful information.

A special website was even created to maintain a list of "banned" websites. This website (officially named "Common Register of Domain Names, Internet Website Page Locators, and Network Addresses that Allow Identification of Internet Websites which Contain Information Prohibited for Distribution in the Russian Federation") can be accessed at <http://zapret-info.gov.ru/>. Unlike existing lists of websites containing "extremist content," websites can be added to the new blacklist, which was created in accordance with the new law, under decisions taken

6. Law of Saint Petersburg No. 83 26 of 19 March 2013 on amendments to the law "On Assemblies, Meetings, Demonstrations, Marches, and Picketing."

by “authorized bodies” and without a court ruling. It has been completely legal for web hosting companies to hand over information to Roskomnadzor⁷ for entry into this database since 1 November 2012. Officially, banned websites include sites showing child pornography; ads that attempt to persuade children to participate in activities of a pornographic nature; information about the means and methods for preparing and using drugs and about places where drugs, narcotics, and their precursors may be obtained; information about the means and methods for cultivating narcotic plants; information about methods for committing suicide, as well as calls to suicide – in other words, any information the authorities have decided children need protection from.

However, this law also presents wide-ranging opportunities for abuse when checking websites. If the web hoster for a site does not remove the banned information within 24 hours, the entire site must be shut down. If the site does not block access within this timeframe, the web hoster is placed on the blacklist and Internet providers are required to block access to the hoster’s platform. It is still possible to file an appeal within three months after a decision has been issued. In July 2012, when this law was still in the stage of preparation, Wikipedia and Yandex posted protests against it on their homepages and expressed concern about possible abuse. In the same month, Dunja Mijatović, OSCE Representative on Freedom of the Media, called for the adoption of this law to be suspended and for the organisation of a public discussion with participation from experts. The Russian government never responded to this appeal.

Fears about excessive control over the Internet were confirmed in a bill adopted by the Duma on 20 December 2013 that opened up the possibility of immediately blocking websites containing information that the Office of the Prosecutor General considers “extremist.” Along with incitement to commit hate crimes or terrorist acts, the bill mentions calls to participate in “unsanctioned” events. The right to defense will also be eliminated beginning in February 2014, after the law takes effect: a ban may be lifted only after Roskomnadzor checks the contents of the site.

Under the same pretext of protecting children, a law prohibiting propaganda of non-traditional sexual relationships among minors was adopted in Saint Petersburg in 2010. In practice, this law serves as a way to exclude LGBT activists and people fighting for equal rights for all⁸ from public discussion. A similar law was adopted at the federal level on 11 June 2013. This law punishes any act of “gay propaganda” among minors with a fine of 4,000 – 4,500 rubles (100 – 125 euro) for Russian citizens and a fine of up to 100,000 rubles, a prison sentence of 15 days, and expulsion from the country for foreigners. Legal entities face a fine of 800,000 to one million rubles (19,000 – 23,500 euro).

By as early as late July 2013, four Dutch citizens were required to pay fines of 3,000 rubles (70 euro) each and leave the country under this law. This law has generated many protests at the international level, as well as angry protests from LGBT organisations, making it one of the most important controversial issues surrounding the Olympic Games in Sochi.

7. The Federal Service for Supervision of Communications, Information Technology and Mass Media

8. Law of Saint Petersburg No. 238 “On Amendments to the Law of Saint Petersburg ‘On Administrative Offenses in Saint Petersburg.’”

On 11 June 2013, Russian deputies adopted a law making “insulting a person’s religious beliefs” punishable by deprivation of freedom for up to three years. The text of the law was proposed in September 2012, following the launch of a campaign to protect “traditional and religious values” after Pussy Riot performed an anti-Putin “punk prayer service” in the Cathedral of Christ the Savior. The history of this law protecting the feelings of believers is similar to the way in which many laws were adopted in 2012 – 2013. In areas where repressive practices had no legal basis, corresponding regulations were quickly drawn up to fill in legislative “loopholes” and justify repressive mechanisms that existed in practice. One of the arguments put forward by the defendants in the Pussy Riot case was that Russian laws lacked any mention of crimes consisting of “insulting the feelings of believers.” Needless to say, this loophole was quickly filled.

Two other legislative initiatives expanding the concepts of “state secret” and “treason” have served to supplement the offensive launched against freedom of information.⁹ A law adopted on 14 November 2012 toughens punishments for revealing state secrets and introduces criminal liability for the illegal receipt of such information. Moreover, spying can now be considered the forwarding of information to international organisations and not just to foreign governments. Criminal prosecution is possible when any information is forwarded to a foreign government or international or foreign organisation “if their [the government’s or organisation’s] activities cause damage to Russia’s security.” These amendments were adopted despite protests from the Presidential Council for Civil Society and Human Rights, Russian Human Rights Commissioner Vladimir Lukin, and numerous Russian and international human rights organisations.

Spokespeople for the FSB had the following to say about objections that this law might be used against human rights defenders sharing information about human rights violations in Russia with intergovernmental organisations: “*In the decades since these regulations were first developed, legal relationships in our country have changed and the methods and tactics foreign spy agencies use to collect intelligence have changed. They have become more covert and are masked under lawful activities.*”¹⁰

All the initiatives that go against the principles of freedom of information have generated strong reactions from people working in the information sphere: many mass media outlets have denounced censorship, and some websites have suspended their work as a sign of protest. Discontent has also been expressed in protest actions held by various parts of the population. For example, on 21 October 2012, the demonstration Against Censorship was held at the Field of Mars in Saint Petersburg. The organisers stated that the new law would be used against the opposition, particularly during times of public unrest and mass protest actions similar to the protests held in 2011 – 2012.

The abovementioned laws were adopted without regard for the fact that they violate constitutional and international provisions on human rights. Freedom of information is guaranteed by Article 29 of the Russian Constitution, as well as by the International Covenant on Civil and Political Rights and the Convention for the Protection of Human Rights and Fundamental Freedoms. The Russian Constitution guarantees freedom of religion and the equal standing of all religions before the law and the separation of church from state.

9. Federal Law of the Russian Federation No. 190-FZ of 12 November 2012 “On Amendments to the Criminal Code of the Russian Federation and to Article 151 of the Criminal Procedural Code of the Russian Federation.”

10. <http://news.rambler.ru/16349233/>

2.3 Restrictions on the Activities of Non-Commercial Organisations (NGOs)

Since the mid-2000s, independent non-profit organisations have found themselves subjected to more and more frequent attacks and checks that disturb their work. In Russia, the activities of NGOs are regulated by the law on NGOs and special laws such as the law “On Charitable Activities and Organisations.” Registration of NGOs is handled by the Ministry of Justice. In 2006, already tough law on NGOs was further tightened, and some pro-government press outlets even asserted that foreign donors were assisting the NGOs with their work in the interests of other governments. Putin stated that “the funding of illegal political activities from abroad is unacceptable.” The changes concerned rules on registration, activities, and financial reporting. Registration of NGOs has been based on permission and not application since April 2006. Moreover, these organisations are required to declare all their projects and events and present an accurate record of all their sources of funding. In April 2010, new legislative changes created the category of “socially-oriented NGOs.” These organisations receive priority for state support, but the nebulous definition of these organisations has been cause for serious doubts about the purposes of introducing this new concept in the first place.

The law on NGOs was made much more repressive in 2012. In accordance with the new law, the very activities of independent human rights organisations can be subjected to blatant persecution. Significant changes were made to laws governing NGOs immediately following the tightening of laws on public events that took place in the summer of 2012. NGOs that receive funding from abroad and are engaged in the ambiguous term of “political activity” must publicly declare themselves to be “a non-commercial organisation performing the functions of foreign agents” (this status must be displayed on all the organisation’s publications, including online publications), and as such must register in an official registry. In practice, speaking of human rights violations and demanding an end to disregard for the law qualify under the this law as “political” activities and an attempt to influence the work of government bodies. Thus, any human rights activity may be arbitrarily viewed as “political,” and people who work in this sphere must publicly declare themselves to be “agents” operating in the interest of foreign governments.

Fines for failure to observe the new rules for NGOs range from 100,000 to 300,000 rubles for individuals and from 300,000 to 500,000 rubles for legal entities. The directors of such organisations may be fined twice – once as an individual person and a second time as a legal entity. NGOs are punished with heavy fines if they meet the criteria of being a foreign agent but are not registered in the appropriate registry and have not published or distributed information indicating their status. The fines for NGOs that continue their activities without registering as an “agent” can reach 30,000 – 50,000 for directors and 3,000 – 5,000 rubles for participants. Article 330.1 of the Criminal Code stipulates criminal prosecution in the case of “gross violations” (as defined in the law on NGOs). Directors may be punished with fines of up to 300,000 rubles, up to 480 hours of compulsory community service, two years of corrective work, or even two years of imprisonment.

Following a chill in relations between Russia and United States that took place in late 2012, the law “On Sanctions for Individuals Violating Fundamental Human Rights and Freedoms of the Citizens of the Russian Federation” was adopted on 28 December 2012. This law, also known as the *Dima Yakovlev Law* after the Russian orphan who died in the United States due



Oleg Orlov, member of the “Memorial” board of directors, in front of the building housing the organisation’s offices the day after the introduction of the law on “foreign agents.” That night the building’s facade was vandalized with insulting graffiti.
© Human Rights Center Memorial

to negligence on the part of his adoptive parents, took effect on 1 January 2013. In addition to prohibiting American citizens from adopting Russian children, this law also prohibits the activities of NGOs that participate in political activities in Russia and receive funding from the United States, not just from organisations, but also from individual US citizens. Moreover, a Russian person holding American citizenship may not be a member or director of a “non-commercial organisation, a division of a non-commercial organisation, or a division of an international or foreign non-commercial organisation (branch, affiliate, or representative office) that is engaged in political activities in Russia.” If these terms are not observed, the activities of such an organisation may be shut down without a court decision. Under this law, the concept of “foreign agent” is essentially equated with the concept of “US agent.”

Many NGOs now find themselves subjected to harassment as a result of all these legislative initiatives. The first strike came against the *Golos* Association, which organised independent observations of the December 2011 and March 2012 elections, an activity that the government considered to be political in nature and carried out on behalf of foreign governments. Many independent organisations came out in support of *Golos* and condemned the illegitimate and repressive nature of the law on “foreign agents.” Not one Russian NGO has registered in the registry of foreign agents since the law took effect in November 2012. As of January 2014, this registry¹¹ lists only one organisation: “The Non-Commercial Partnership CIS Competition Support Association,” whose inclusion in the registry is curious as the nature of its activities is unknown and it does not seem to receive any funding from abroad. In reaction to what essentially amounts to a boycott of this repressive law by independent NGOs, in March 2013 the Public Prosecutor’s Office launched a campaign to check NGOs, which turned out to have serious consequences for many of these organisations. All the directors and employees at NGOs that the authors of this report spoke with see the law on “foreign agents” as a means to discredit NGOs and as an attempt to represent them as dangerous “spies” and put an end

11. <http://unro.minjust.ru/NKOForeignAgent.aspx>

to their necessary and lawful activities. Given this, most NGOs believe it is absolutely unacceptable to register as a “foreign agent.”

The tax inspectorate and the Ministry of Justice are charged with monitoring the activities of NGOs. Under the law, the Ministry of Justice may start a check without warning if it receives information from any citizen, legal entity, or media outlet that “the activities of the NGO exhibit signs of extremism.” Monitoring may also be handled by the Public Prosecutor’s Office with the participation of “appointed specialists” from various agencies. Experts from the legal aid organisation *Agora* note that there are no precise regulations governing checks handled by the Public Prosecutor’s Office. For example, who leads the check? What sort of documents can be requested? What are the causes of the monitoring? How long can it last? What are the rules for reviewing elements of the case? Interestingly enough, the Russian Constitutional Court has already pointed this out in a judgment stating that “no timeframes or procedures for checks handled by the departments of the Public Prosecutor’s Office have been established by law.” The law “On the Public Prosecutor’s Office in the Russian Federation” states that the all-powerful Office of the Prosecutor General may carry out monitoring. Checks may be made on the basis of any information regarding violations of the law that require a response from this Office.

The lack of clarity and transparency in the rules for checks handled by the Public Prosecutor’s Office make it possible to use these checks as a means of pressure and persecution, which checks of NGOs conducted in 2013 under the law on “foreign agents” have shown.

These new Russian laws are in complete contradiction to the principle of NGO funding, which is guaranteed by a number of treaties and international norms, specifically Article 22 of the International Covenant on Civil and Political Rights and Convention No. 87 on Freedom of Association and the Right to Organise. This convention stipulates that “public authorities shall refrain from any interference which would restrict this right [of workers’ organisations to elect their representatives and formulate their programs] or impede the lawful exercise thereof” (Articles 3.1 and 3.2). The Declaration on Human Rights Defenders,¹² which was adopted in 1998, also clearly states that human rights defenders have the right to unhindered access to funding.

At the regional level, the right to freedom of association is guaranteed by Article 11 of the European Convention on Human Rights. In 2007, the Committee of Ministers of the Council of Europe adopted a recommendation to define the legal status of NGOs in the region. A special section of this recommendation was devoted to the issue of funding and reasserts the right of NGOs to have unrestricted access to funding.¹³

In February 2013, 11 associations (Golos, ADC Memorial, Citizen’s Watch, Civic Assistance Committee, For Human Rights, the Committee against Torture, MASHR, the Human Rights Center (HRC) Memorial, the Moscow Helsinki Group, Ecodefense! and Public Verdict) filed a complaint with the European Court of Human Rights regarding the clear danger that the law on foreign agents would violate many rights.¹⁴

12. The UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN General Assembly, 1998.

13. Recommendation CM/Rec(2007)14 by the Committee of Ministers of the Council of Europe, paragraph 50.

14. <http://www.memo.ru/d/156924.html>

3. Repression in Practice

3.1 Persecution of NGOs

Strict Monitoring of NGO Activities

At a meeting on FSB staff on 14 February 2013, President Putin demanded that the law stipulating stricter monitoring (including financial monitoring) of NGOs receiving foreign financing start being used as soon as possible. “Any direct or indirect interference in our internal affairs, any form of pressure on Russia, our allies, or our partners is unacceptable,” he stated.¹⁵ In response to this statement Prosecutor General Yuri Chaika demanded that all possible steps be taken to force NGOs to register in the “foreign agent” registry.

Mass checks of NGOs started in late February – early March 2013 and concerned the observation of various NGO laws and not just the law on foreign agents. During a trip to Europe in April 2013, Putin made it clear that only NGOs receiving foreign funding were subject to checks. On 8 April 2013, he stated in an interview with the German channel ARD that “*We have come to find that there are 654 nongovernmental organisations operating in the Russian Federation that receive funding from abroad. Six hundred and fifty-four organisations. This is an entire network throughout all of the Russian Federation, including all of its regions. In just the four months since we adopted this law, these organisations have received funds in their accounts... Well, can you guess how much? You can't. I myself had no idea. Twenty-eight billion 300 million rubles. That's almost one billion dollars.*”¹⁶ Immediately following this statement, NGOs asked for clarification of which specific organisations received this “billion dollars.”

In the end the prosecutor general was forced to admit that his main purpose was to expose “foreign agents” and force them to register in the appropriate registry (although in the beginning many checks were conducted under the pretext of finding “extremists”). In a letter to the chairman of the Presidential Council for Civil Society and Human Rights, the prosecutor general stated that “checks are not meant to limit NGO activities; they are of a preventative nature and are aimed at forcing organisations to meet the requirements of the law on foreign agents when violations are uncovered.”¹⁷

Demonstration of Force by Supervisory Bodies

In March 2013, the so-called “comprehensive” checks of NGOs started to be handled by groups consisting of representatives from the Public Prosecutor’s Office, the Ministry of Justice, the tax inspectorate, and sometimes with officials from the sanitary or migration services, the fire department, *Center E* (a special department for combating extremism), or *Center K* (a police department for combating cybercrime). The severity of the checks varied from region to region. However, it was determined in 2013 that from the very beginning some of the most

15. Wave of checks sweeps over NGOs. Kommersant, 19 March 2013. <http://www.president-sovet.ru/events/3764/>

16. Putin finds a billion dollars at foreign NGOs, 8 April 2013, RIA Noviy Region 2, <http://www.nr2.ru/policy/432980.html>

17. Website “Human Rights in Russia,” 30.04.2013. <http://hro.org/node/16466>

absurd instructions on conducting checks came directly from Prosecutor General Chaika. In other words, the idea of involving the sanitary service, the fire department, etc. in checks did not come from local department heads, but from Moscow.

Sometimes prosecutors simply fax or call an NGO to ask for specific documents. But more frequently groups of searchers led by a representative of the public prosecutor's office arrive at the NGO and conduct their checks *in situ*. Some human rights defenders see this as a way to divide up responsibility for repressions between several agencies. According to one of the directors of HRC Memorial who spoke to the authors of the report, "*Checks are conducted by the Public Prosecutor's Office, the Ministry of Justice, and the courts. This way no one has to take full responsibility for them. The Public Prosecutor's Office conducts the search, then hands the case over to the Ministry of Justice. Then the courts decide the issue of penalties. As a result, no single agency believes that it is fully responsible for what occurred.*"

Law enforcement agencies have demanded numerous documents from NGOs related to their activities like charters, budgets, funding information, activity reports, and sometimes even texts of speeches made at conferences. Most of the requested documents are part of the public domain or can be requested from other government bodies, which only serves to emphasize the absurdity of these demands. According to lawyers from the Agora Association, the checks contravene the law "On the Public Prosecutor's Office in the Russian Federation." They point out that government bodies already have information about NGO charters and activities and that the law states that a public prosecutor's office may not demand documents or information in the public domain that has already been presented to other agencies. Under Article 21 of this law, "checks for compliance with the law shall be carried out on the basis of information about violations of the law received by the Public Prosecutor's Office that require the public prosecutor to take certain measures." Thus, checks may be initiated only if reports are received from citizens, officials, or the mass media.¹⁸ The mass checks conducted by the Public Prosecutor's Office in March 2013 lacked any legal basis because no complaints or reports were received.

In some cases, the grounds for the search were false reports about violations committed by NGOs. Svetlana Gannushkina, who heads the association *Grazhdanskoye sodeystviye* [Civic Assistance] told representatives of FIDH and ADC Memorial that "*The checks started on March 27. Despite the critical attitude towards us, we decided to cooperate. We were open and honest. We handed over our charter, our tax information. We collected all the requested documents in one week. But then a representative of the Public Prosecutor's Office came back and demanded other documents. There was no reason for his requests. He demanded strange things like personal information on our employees. We refused to respond to this demand and asked for an explanation for this new check. It turned out the grounds for the new check was a report from a member of the Public Chamber. He accused us of the large-scale legalization of immigrants who have committed criminal acts.*"¹⁹ This accusation led to new, more scrupulous checks.

18. In accordance with the law "On the Public Prosecutor's Office (Article 21), "checks for compliance with the law shall be carried out on the basis of information about violations of the law received by the Public Prosecutor's Office that require the public prosecutor to take certain measures." <http://openinform.ru/news/pursuit/29.04.2013/28389/>

19. Interview with Svetlana Gannushkina, 23 April 2013

Arbitrary Treatment in Practice

Hundreds of NGOs have been subjected to checks. The Agora Association collected testimony from employees at over 250 NGOs about how the checks were conducted. In at least 34 regions, checks were conducted by the Public Prosecutor's Office on its own, without the participation of the Ministry of Justice. Initially the Public Prosecutor's Office justified the checks as attempts to combat extremism, but no displays of extremism were found. Later the office admitted that it had been acting to implement the law on foreign agents.²⁰ During its visit to Russia in April 2013, the joint FIDH-ADC Memorial mission met with many members of NGOs that have been subjected to checks, including the Committee against Torture (Nizhny Novgorod), Agora (Kazan), Civic Assistance, HRC Memorial, the movement For Human Rights, the Sova Center (Moscow), ADC Memorial, Citizen's Watch, the LGBT rights organisation Vykhod (Coming Out), LGBT Network, and the LGBT film festival Side by Side (Saint Petersburg). All these independent human rights NGOs were subjected to so-called "comprehensive" checks in March and April of 2013.

The abovementioned NGOs are officially registered as legal entities and have been socially active for many years. The directors of some of them were and/or remain members of the Presidential Council for Civil Society and Human Rights (A. Verkhovsky, P. Chikov, I. Kapyapin).²¹ Despite the fact that these people serve in an official capacity, their organisations were still subjected to scrupulous checks by the Public Prosecutor's Office.

The strict checks launched across the country were unexpected for many NGOs. They did not have a common strategy for responding to demands from the Public Prosecutor's Office. Many of their directors agreed to present all the required documents (which could amount to many thousands of copies, as it did in the case of HRC Memorial), many other filed complaints with a court because they believed that the checks conducted by the Public Prosecutor's Office were illegal. Their complaints, however, were not satisfied. In May 2013 the Zamoskvoretsky Court found that the checks were legal.

Dmitry Kolbasin from the Agora Association met with the FIDH-ADC Memorial mission in the spring of 2013, at the very height of the campaign of checks. He stated: "*We follow the law to the letter. We are not boycotting the law on foreign agents, but fighting it through legal means. At Agora we refused to hand over our documents. Our attorney previously worked for the Public Prosecutor's Office. We believe that the checks are illegal. The Ministry of Justice has all the information it needs about our organisation, as does the tax inspectorate. All this information is available on our website.*"²² In some cases, a refusal to meet the demands of the Public Prosecutor's Office resulted in sanctions, as it did in the case of the movement For Human Rights. As the movement's director L. Ponomarev said: "*We already went through a check in February – March 2013, before the current wave of mass checks. I presented everything to the Ministry of Justice, which as a result asked us to make a number of changes in our work. So when the Public Prosecutor's Office demanded additional documents in April, I refused. I was summoned there. I took my attorney with me. Then I was summoned to a magistrate. The organisation was fined 200 rubles.*"²³ On 21 June 2013, activists from the organisa-

20. Checks are not the time for a dialogue. Vedomosti, 19 April 2013.

21. <http://www.hro.org/node/16621>

22. <http://www.hro.org/node/16621>

23. Interview conducted by the FIDH-ADC Memorial mission with Lev Ponomarev, Moscow, 24 April 2013.

tion were forcefully removed from their offices by representatives of government agencies, the police, and OMON troops. What's more, the police refused to let the human rights commissioner into the seized office.

The case of For Human Rights is not unique. On 6 May 2013 in Ufa, Natalya Karayeva, the director of the International Standard Foundation, was found guilty of failing to comply with the legal demands of the Public Prosecutor's Office (Article 17.7 of the Code of Administrative Violations) and fined 2,000 rubles. Beginning 5 April 2013, the government tightened sanctions under this article and raised the maximum fine from 3,000 to 100,000 rubles. Now a refusal to meet the demands of the Public Prosecutor's Office may lead to a suspension of the organisation's activities for a period of 90 days. Agora attorneys believe that this tightening is related to the refusal of a number of NGOs to present documents in response to requests from the Public Prosecutor's Office during the mass checks.

The Courts and Sanctions against NGOs

The checks took place in two stages and basically came to an end in late April 2013. Based on the testimony and observations FIDH collected, it can be concluded that the process of NGO checks had the serious effect of destabilizing their activities and threatening their effectiveness and very existence, even given the absence of direct repressive legal consequences. In the short term, the checks prevented the normal operations of these organisations in March and April of 2013. The NGOs had to find funds for preparing the thousands of pages of documents requested by the Public Prosecutor's Office and workers were sidetracked from their main activities to meet the endless demands from the Public Prosecutor's Office. In the long term, the very existence of NGOs working with international organisations was placed under threat. NGOs had faced the unacceptable options of registering as a foreign agent or facing repressions from government bodies. The trial of the *Golos* Association, which took place on 25 April 2013, served as an example of these repressions.

The variety of sanctions that NGOs have been subjected to are astonishing in and of themselves: trials in administrative and civil cases, demands from the Public Prosecutor's Office to register as a "foreign agent," warnings, fines for various violations, and, finally, lawsuits "on behalf of unnamed individuals" that would force "agents" to register in the registry under a court decision. At the same time, the actions of the Public Prosecutor's Office can be characterized as completely arbitrary in terms of both its demands and its methods of conducting checks.

Court Proceedings against NGOs

After the checks conducted in March and April of 2013, the NGOs that found themselves under greatest threat were those that were found to be "foreign agents" and had not registered in the appropriate registry. These NGOs included the *Golos* Association (Moscow), ADC Memorial, the Kostroma Civic Initiatives Support Center, the LGBT rights organisation *Vykhod* (Coming Out) (Saint Petersburg) and the LBGT festival Side by Side in Saint Petersburg (see below).

The *Golos* Association was one of the first NGOs to be subjected to a check. This association became known for observing polling places in Moscow and the regions during the December 2011 parliamentary elections and the March 2012 presidential election. The Public Prosecutor's Office took *Golos* to court on the grounds that this organisation was engaged in political activi-

ties (participating in developing a draft of the Electoral Code) and that it received money from abroad (the Sakharov Prize, which it refused) after 21 November 2012 (the date on which the law on foreign agents took effect).

During a court session on 25 April 2013, which members of the FIDH - ADC Memorial mission were able to attend, a magistrate of the Presnensky District Court of Moscow convicted *Golos* of “violating the rules governing activities of non-commercial organisations that are foreign agents” (Article 19.34, Part 1 of the Code of Administrative Offenses). The association and its director were fined 300,000 rubles and 100,000 rubles respectively. On 14 June 2013, an appellate court upheld the sanction rendered by the first instance court, and on 26 June 2013, the Ministry of Justice suspended the association’s activities. The association filed a complaint with the European Court of Human Rights in late June 2013.

The Anti-Discrimination Center Memorial (ADC Memorial), an FIDH member organisation based in Saint Petersburg, suffered serious consequences from the law “On Foreign Agents.” ADC Memorial, which offers support to victims of discrimination, was the third organisation against which an administrative case was opened for violation of the NGO law. The accusations against the organisation were related to the publication of a report on arbitrary treatment by the police that was sent to the UN Committee against Torture before the law took effect. The report was presented in Geneva on 8 – 13 November 2012, while the law took effect on 21 November 2012.

In addition to violations of the law on foreign agents, the checks uncovered other violations as diverse as they were absurd: ADC Memorial and its senior directors were the subject of persecution by various agencies, including the Ministry of Emergency Situations, for failure to observe fire safety rules; *Rospotrebnadzor*, for absence of a sign indicating office hours on the office door and failure to measure noise level and the microclimate in the office; and the Public Prosecutor’s Office, for failure to register its “logo” (which is merely the organisation’s abbreviated name).

In the course of a year, the organisation was forced to participate in numerous court hearings for a number of trials in both administrative and civil courts.

On 30 April 2013, the Public Prosecutor’s Office for Admiralteysky District in Saint Petersburg opened an administrative case against ADC Memorial under Article 19.34, paragraphs 1 and 2 (not registered as a “foreign agent”) since the check that was conducted in early 2013 established that ADC Memorial received funds from abroad and, in the opinion of this Office, was engaged in political activity, i.e. the publication of a report presented to the UN Committee against Torture titled “Roma, Migrants, Activists: Victims of Police Abuse”.

On 7 May 2013, ADC Memorial asked the UN Committee against Torture to appear as a witness for the defense during its upcoming court proceeding. The Committee sent an official letter to the Russian authorities expressing concern that Memorial was being prosecuted for its work with the Committee.

On 27 May 2013, the judge handling the administrative case against ADC Memorial adopted a ruling to return the administrative material in the ADC Memorial case to the Public Prosecutor’s Office, citing numerous procedural violations and violations concerning the subject of the

charges. The Public Prosecutor's Office filed a protest against the judge's decision without even attempting to correct the problems with the case materials. On 27 June 2013, a judge at Leninsky District Court shelved the protest to the original decision filed by the Public Prosecutor's Office of Admiralteysky District (as well as a similar case against Olga Abramenko, director of ADC Memorial, since a court ruling may not be appealed or protested. After this, the Public Prosecutor's Office filed a new protest, this time with the Saint Petersburg Municipal Court, which refused to consider the protest on 16 June 2013. The court, guided by the procedural rules for appeal, noted that the Office made a mistake and sent the case back to the district court. Later, in October, a judge at the Leninsky District Court reviewed the case and acknowledged that the decision issued by the first instance court was fair and also noted that the check of ADC Memorial was illegal. The Public Prosecutor's Office protested this decision, and this time the protest was signed by the acting chief prosecutor for Saint Petersburg. The third instance court – the Municipal Court – upheld the decision of the courts of first and second instance.

Thus, all the courts confirmed that the conclusions reached by the first instance court regarding the lack of grounds for the charges against ADC Memorial, the absence of proof, and the illegal nature of the check itself.

In spite of the fact that administrative charges were rejected numerous times during the appeals process, the Public Prosecutor's Office opened a new case against ADC Memorial in the form of a civil suit, which it filed on behalf of "an unnamed group of individuals," demanding that ADC Memorial be forced to register in the registry of "foreign agents." Furthermore, the Office again cited only "political activity," as evidenced by the writing and publication of a report on the violation of minority rights by the police. Hearings in this case started on 5 August 2013 at Leninsky District Court in Saint Petersburg. In response to a formal inquiry from the UN Committee against Torture, which was concerned that the report presented to it was being used to prosecute this NGO, the Russian authorities responded on 24 September 2013 that "conclusions on the political nature of ADC Memorial's activities [...] do not have any connections with the report that ADC Memorial presented to the UN Committee against Torture," which is in direct contradiction to the charges filed.

At a hearing on 11 November 2013, the Public Prosecutor's Office called "expert political scientists" Vladimir Rukinov to establish that the report presented to the UN could be considered "a political activity aimed at influencing public opinion with a goal of changing government policy." This expert, who in the past served as the director of an organisation that was openly and directly connected with the FSB, stated that the report does not contain any calls to change the constitutional system, incitements to hate, or endorsements of unrest, but he also concluded that the report is clearly of a political nature and could be "unconsciously" assimilated by the "masses," which could have a political influence over them. In its ruling, the court ignored the opinion of all the experts, including two qualified experts for the respondent, who affirmed that the organisation's activities were not political in nature.

In spite of the weakness and unsubstantiated nature of the charges and the fact that the court regularly rejected all the evidence and petitions presented by counsel for ADC Memorial (request for a second expert review of the report, request to postpone a final hearing until the Constitutional Court of the Russian Federation and the European Court of Human Rights issued their rulings on federal law 121-FZ), the court issued a ruling against ADC Memorial on 12 December 2013. Normally, a court does not make any decision on an NGO's status and

can only force an NGO to register with the Ministry of Justice as a foreign agent. In this case, however, the district court of Saint Petersburg actually declared ADC Memorial a “foreign agent” at the request of the public prosecutor. This is a sad precedent, since the procedure for being entered into the registry of “foreign agents” did not anticipate such possibility.

The practice seen in this case might be used with greater frequency against other organisations. It has already been also used against the Saint Petersburg-based LGBT NGO *Vykhod* (Coming Out), the Saratov-based Center for Gender Studies, and Women of the Don Region in Novocherkassk.

The Obligation to Register

There are a number of organisations in addition to those directly involved in court cases that have received notifications from the Public Prosecutor’s Office demanding them to register in the “foreign agents” registry within one month of receipt of this notification. These organisations include HRC Memorial and Agora, which both refused to follow this demand and protested the notifications in court.

Warnings

The Public Prosecutor’s Office sent a number of warnings to organisations that it suspected of performing the functions of foreign agents even though it had not specifically observed them acting as foreign agents. About 30 organisations received this kind of warning, including the Committee against Torture (Nizhny Novgorod), the Center for the Development of Democracy and Human Rights (Moscow), Citizen’s Watch (Saint Petersburg), and Levada Center, an independent polling and research organisation. This less harsh form of punishment is officially called a warning, but actually signifies the likelihood that the NGO will be prosecuted under the law if it continues engaging in political activities that received funding from abroad. This danger of subsequent prosecution forces the organisation to censor itself, turn down foreign funding, and abandon its so-called “political activities” (in the very wide and ambiguous sense introduced by the Russian government). Many organisations have protested these warnings in court, and some like Ryazan Memorial and the Ingushetia-based MASHR, have won their trials and had their warnings revoked.

Other Sanctions

During checks, individual agencies can hold organisations liable for violating rules and regulations that have nothing to do with registering as a “foreign agent.” These include compliance with sanitary standards, fire-safety rules, employee vaccinations rules, workplace ergonomics, software licensing, etc. The sheer range of sanctions that may be applied is wide and entirely arbitrary.

For example, arbitrary demands presented to NGOs include:

- revising charters;
- officially registering logos;
- operating only within their regions;
- being held responsible for employee vaccinations and defects in fire-safety systems.

The sizes of the fines issued to organisations for these kinds of violations and the expenses associated with “correcting” the violations are not insignificant for NGOs.

These sanctions have the overall effect of threatening an organisation’s work. The procedures for correcting violations take up a great deal of time and the cost of legal services is quite high if the organisation has to dispute the violations in court. Fees, summonses to court, and legal expenses are costly, while trials raise the question of how to fund an organisation’s defense. The Agora Association is prepared to offer legal assistance to organisations protesting decisions issued by the Public Prosecutor’s Office, but this association itself is the object of notifications demanding it to register as a “foreign agent.”

It should be noted separately that government officials often make attempts to discredit organisations in their public speeches. The Saint-Petersburg based Historical, Educational, Human Rights and Charitable Society “Memorial” is one organisation that has been the victim of this kind of discrediting. No administrative prosecutions have ever been initiated against this organisation as the result of a check, but during an official speech at a meeting of the Federation Council on 10 July 2013, Prosecutor General Chaika stated that the organisation misappropriated funds. In response, HEHRChS “Memorial” wrote an open letter²⁴ to the Prosecutor General demanding a retraction of this patently false information, which would harm its business reputation. No refutation was forthcoming.

The result of all this is that human rights organisations must now devote a significant portion of their human and financial resources to their own defense.

Regions where Repressions are the most Severe

Some regions of the Russian Federation are known for being especially strict in applying repressive articles of various laws.²⁵ These regions include Krasnodar Krai, Nizhny Novgorod, Saint Petersburg, and Voronezh. Members of the FIDH-ADC Memorial mission, who were notified of the especially strict methods of control, intimidation, and repression used in these regions, were able to visit three of these cities (Nizhny Novgorod, Voronezh, and Saint Petersburg) in April 2013, which was an especially tense time for local human rights defenders.

For example, in March and April of 2013, Voronezh-based NGOs were subjected to checks carried out by the Public Prosecutor’s Office. In December 2012, organisations in Voronezh were subjected to searches along with other offices being leased in the building that has come to be known as the Human Rights House. They were suspected of cooperating with Sergey Udaltsov’s political movement The Left Front, which held a civic summer camp in the region in July 2012. The apartments of several Voronezh residents were also searched as part of the Bolotnaya Case. In May 2013, the Public Prosecutor’s Office for the Voronezh Region sent a warning to the Democratic Center, which it believed could potentially be a “foreign agent.” Specifically, the Public Prosecutor’s Office discovered funds received from foreign organisations while it was examining the Center’s participation in observations of the 2011 Duma elections. This funding, however, was received before 21 November 2012, which was the date on which the law took effect. In the aftermath of the checks, in May Voronezh authorities threatened to

24. <http://www.memo.ru/d/165262.html>

25. <http://hro.org/node/16476>

deprive human rights associations in the city of their office building, which they had leased for many years. In response to this, these organisations launched a community campaign to protect Human Rights House and draw attention to the fact that local authorities were placing illegal pressure on NGOs.

Forced Reductions in International funding

The new law limits the ability of international organisations to fund associations. USAID was forced to stop its work on 1 October 2012 at the request of the Russian government. In light of new laws, several Russian organisations have themselves been obliged to limit their international cooperation.

Golos was forced to turn down the Sakharov Prize, and a representative of the awards committee for this prize testified during the 25 April 2013 trial that the monetary component of the prize was never transferred to *Golos*. This testimony, however, did nothing to prevent the court from handing down a guilty ruling.

Some organisations have started preemptively turning down foreign (especially American) funding in accordance with the so-called *Dima Yakovlev law*. Under this law, any NGO that receives American funding and is engaged in political activity may be shut down. Thus, these organisations were forced to reduce their work and abandon fruitful international cooperation. Moreover, as they had to deal with court proceedings and checks more frequently and seek legal advice, many organisations were forced to find funds to cover these expenses while avoiding foreign funding, meaning that sometimes they could not afford the most effective form of defense.

The larger problem is that Russian funding cannot compensate for lack of access to foreign funding. Human rights organisations do not trust presidential grants, which are distributed by politically connected organisations and institutes that have recently held contests for awarding state funds. This mistrust grew especially strong after Mikhail Savva, a human rights defender from Krasnodar, was placed in custody under dubious allegations of stealing state subsidies. This only goes to show that the allocation of government funding does not in any way guarantee immunity from prosecution and, given the current political situation in Russia, could lead to significant self-censorship, including restrictions on activities if such grants are received.

Ambiguity of Terminology in the Law on Foreign Agents

All collective initiatives came into question once the law on “foreign agents” came into effect and started to be applied in a repressive manner. The lack of a definition of “political activity” has made it impossible to provide effective defense for organisations and form a safe plan for future work. “*The problem with the definition is what to call politics,*” notes Alexander Verkhovsky of the Sova Center. In the case of *Golos*, participating in developing the Electoral Code was considered political activity. For ADC Memorial, it was publishing an analytical report on police abuse. So it would appear that any social activity can be viewed as political.

Even when evidence of receiving funds from abroad can be clearly established, it appears the government officials are unable to explain the terminology in the law that they are applying. Igor Kalyapin, chairman of the Committee against Torture, gave the following description

of the kind of uncertainty he lives with. “We never received an explanation of which specific actions we should not hold to avoid becoming ‘agents.’ So naturally I asked officials from the Nizhny Novgorod Public Prosecutor’s Office about this. They told me, ‘We can’t even say ourselves.’ So I asked, ‘Well, what’s the purpose of your warning then? What are you warning me off from? Please explain what conclusion I am supposed to reach, because next time you’ll come fine me 800,000 rubles, so I really need to understand what specifically I am not allowed to do so that I won’t be punished.’ But the public prosecutor, who was a very nice lady, said, ‘Igor Sanych, this isn’t a question for me. Maybe the district prosecutor can explain it to you.’ So I went to the district prosecutor, and he couldn’t tell me anything either. And the regional prosecutor didn’t know anything either. In other words, I could not receive an official answer from either the person who executed the warning or from the prosecutor who signed the warning.”²⁶

Dmitry Kolbasin, from the Agora Association stresses that “what really worries us now is attempts to make the law retroactive.” And it is true that a number of NGOs have been prosecuted for actions that took place before the law on “foreign agents” took effect, which contravenes the principals of both Russian and international law.

3.2. The Suppression of Voices of Protest

Both the parliamentary elections of December 2011 and the presidential election of March 2012 led to increased activity from civil activists, including in the political sphere. Although the protests against falsification during the elections continued throughout 2012, during this year the number of protesters fell and the activities of activists took on a greater range of form and subject. Society’s solidarity with political prisoners grew stronger due to an increase in the number of arrests and political prosecutions. Supporters organised the defense of detained activists and provided legal and informational assistance, while several famous people who had never before shown an interest in civic activities started to get involved.

In response to this diversity of civic mobilization and on the basis of a collection of repressive laws that were hastily slapped together, the authorities started to implement a policy of prosecuting all manifestations of criticism on the part of activists, journalists, human rights defenders, and the political opposition by using made-to-order justice.

Silencing Political Protest

The restrictions placed on the right to association are used as a means for the selective prosecution of activists for participating in protest actions and demonstrations. Significant changes were made to laws during 2012 (see above). Opposition activists have been hindered by legislative restrictions on freedom of association, difficulties receiving permission to hold demonstrations, and arbitrary treatment by law enforcement officers. As a result, they have frequently been forced to organize unsanctioned demonstrations.

Spontaneous demonstrations and protest actions were held in many cities after the parliamentary elections in December 2011, sometimes without advance authorisation. Regardless

26. “Once there are a dozen of us, the machine will rise.” Interview with Igor Kalyapin. Olga Allenova. Kommersant, 31 May 2013.

of the form the protests took, demonstrators were viewed as participants in “unsanctioned” events and many of them were arrested and convicted of violating the law. Furthermore, the police were unable to accommodate such a large number of people, so these people were held in conditions that violated current regulations. However, it has been the exception that these violations of the rights of detainees were proven in court. For example, in the fall of 2013, the Saint Petersburg Municipal Court acknowledged violations against one citizen who was detained during the mass protest actions in December 2011. The court found that he should be compensated for psychological damage he suffered at the police department.²⁷

Prosecutions for “violating public order” and “failure to comply with the requests of a police officer” (Article 19.3 of the Code of Administrative Offenses) were frequently conducted with numerous violations of legal procedure. The rights of detainees to counsel and to review the materials associated with their cases were frequently not observed. Court decisions related to detainees were made only on the basis of declarations made by police that had been filled out in advance.

Silencing Protests in Nizhny Novgorod

Testimony collected by FIDH and ADC Memorial in Nizhny Novgorod clearly demonstrates the dangers of legislative changes at the federal level and their application. Activists in the anti-fascist movement in Nizhny Novgorod reported that law enforcement authorities (particularly officers from *Center E*) arrested known activists for various reasons before public events (even ones sanctioned by the authorities) started. Thus, it has become virtually impossible to hold even “sanctioned” demonstrations, since some activists are well-known to the police and can be “preemptively detained.”

The example of Ilya Myaskovsky, a history teacher and civil activist in Nizhny Novgorod, serves as a good illustration of the difficulties that local activists can face. The city maintains a list of recommended places for holding demonstrations, all of which are in thinly populated or isolated districts, while events organized by the municipal administration can be held in the city center. Myaskovsky was arrested for participating in an unsanctioned demonstration in the city center. After his release, he was mailed two court decisions regarding administrative arrest related to failure to pay fines imposed at the end of the demonstration in which he was accused of taking part (Article 20.2 of the Code of Administrative Offenses). During execution of the court ruling in January 2013, Myaskovsky was arrested at his place of work, at the school where he taught, in front of his students and colleagues, with the clear aim of discrediting him. During his arrest, police officers threw him down on the ground and tore his clothing.

According to Myaskovsky, the detention conditions in the cells were “normal.” However, it was very cold in the cell in the winter, the food was bad, and inmates had the right to only one walk a day in the prison’s courtyard. Many procedural violations related to the rendering of a decision were also uncovered. The detention conditions at police departments were even worse, and people who were arrested had to spend some time there before appearing in court. It is interesting to note that both prison personnel and police officers openly referred to people arrested at public demonstrations as “political prisoners.”

It is fairly common to see relatively violent actions during sanctioned and unsanctioned

27. <http://adcmemorial.org/www/8063.html>

demonstrations alike. In most cases only the actions committed by demonstrators against police officers are investigated, no matter how insignificant they are. Complaints filed by activists about violence, including gross violence, committed by police officers are not taken into account. Even in cases where activists insist on opening a case against a police officer or appeal a refusal to launch an investigation, it is virtually impossible to prove that a specific police officer caused someone bodily harm due to the fact that during demonstrations OMON troops (special forces of the Russian Ministry of Internal Affairs) usually wear masks or helmets that cover their faces.

In Nizhny Novgorod, the authors of this report met with Yuri Staroverov, an activist from The Other Russia party, who was accused of “violent actions against government representatives” during a civil demonstration on 15 September 2012. Specifically, he was accused of “using force that poses no threat to life or health against government representatives” (Article 318.1 of the Criminal Code). If found guilty, he faces up to five years in prison. Staroverov denies this accusation and asserts that he did not use force, but simply tried to defend several activists who were being beaten by police officers right in front of his eyes. As of January 2014, the investigation of this case is continuing and the court is hearing the accusations of witnesses. According to the testimony of numerous activists and human rights advocates in Nizhny Novgorod, the activist Yekaterina Zaitseva was beaten during this demonstration. Despite a video that was made public showing her receiving serious wounds that placed her in the hospital, the police officer accused of beating her has not been produced.²⁸ The same investigator who opened the case against Yuri Staroverov refused to open a case in the beatings of both Zaitseva and Myaskovsky (see above).

These examples serve to illustrate numerous violations of international norms on freedom of association, including obligations undertaken by the Russian government. The multiple restrictions on freedom of association have the clear goal of interfering with the expression of dissent and the development of demands for social justice and democracy.

Faced with restrictions on freedom of association, opposition activists are now trying to come up with new ways to occupy public space. Whenever protest actions take the form of organized demonstrations, long-term campaigns, or the “seizure” of symbolic places, the government reacts with predictable aggression, despite the peaceful nature of these actions. After the mass demonstrations that were held in 2012 in large cities, the number of “protest camps” like Occupy Abay in Moscow and Isaakiyevskaya in Saint Petersburg, where activists organized round-the-clock speeches, debates, and exhibitions, has multiplied. Police officers, who initially made no effort to drive participants away, later used any pretext to accuse them of various violations or restrict demonstrations. For example, Isaakiyevskaya Square in Saint Petersburg was closed for technical reasons whenever a demonstration was scheduled to be held there, and activists were regularly detained for “walking on the grass” or “hindering the work of utility companies.”

28. The video may be viewed at <http://grani.ru/Politics/Russia/Regions/m.214971.html>

Silencing Criticism

Dmitry Kolbasin of the Agora Association reported that since 2011, many bloggers and journalists have asked his colleagues for assistance after being charged with distributing information that the authorities did not want distributed as part of administrative cases for insulting “honor and dignity” and as part of criminal prosecutions. For example, in March 2011, the human rights ombudsman in Tatarstan filed a libel suit against the blogger Yuri Yegorov., who was sentenced to a five month suspended sentence in June 2011.²⁹ In June 2012, the blogger Maxim Efimov posted an article critical of the role of the church in state ideology titled “Karelia Tires of Priests,” which state security agencies regarded as a call to inciting religious hatred. Yefimov’s apartment was searched, while he was sent to a psychiatric hospital under the pretext that he was likely to cause harm to the people around him. The results of an expert evaluation, however, showed that he was healthy. In May 2012, Yefimov was granted political asylum by Estonia³⁰, but he was placed on the wanted list in Russia.

Members of the mission heard many reports of teachers being fired for their activities as civil activists. A teacher in Tyumen was let go in late 2011 for his anti-fascist views and for distributing leaflets.³¹ Biology teacher and journalist Ilya Kolmanovsky was forced to resign from a Moscow lycée in January 2013 after he participated in an action against the law prohibiting “gay propaganda” that took place in front to the State Duma.

Threats and Violence against Defenders of LGBT Rights

Government policy has for many years favored intensifying the nationalistic attitude in Russian society and strengthening the social and political position of the Russian Orthodox Church, and it has lent open support to Orthodox radicals and less open support to radical nationalists. This trend partly explains the severe pressure felt by the LGBT movement, which has become an easy target of repression and does not find much support in society.

The Russian press presents the fight for equal LGBT rights as the “propaganda” of “western values” as opposed to “nationalist values” based on religious dogma. Openly aggressive behavior towards members of sexual minorities is widely encouraged in official speeches against “the propaganda of non-traditional sexual relations” and also in the open support of Orthodox Church leaders. In its report “The LGBT Community – Outside Russia’s Legal Framework,” the Agora Association shows that the government’s homophobic activities and initiatives serve to condone attacks on LGBT activists by religious and nationalist extremists.³²

In Saint Petersburg, many leaders and activists in the LGBT movement have been subjected to various types of pressure, from the banning of actions to attacks on activists by religious extremists and radical nationalists. The law banning homosexual propaganda has had the clear effect of heightening aggression against LGBT activists, particularly during street protests.

29. <http://openinform.ru/news/unfreedom/30.03.2012/26621/>

30. <http://rus.delfi.ee/daily/estonia/opalnj-rossijskij-bloger-poluchil-v-estonii-politicheskoe-ubezhische-i-vid-nazhitelstvo.d?id=65135912>

31. <http://www.svoboda.org/content/transcript/24336894.html>

32. http://openinform.ru/fs/j_photos/openinform_396.pdf

During an authorised march down Nevsky Prospekt on 1 May 2012, only LGBT activists were detained under the pretext that they were wearing rainbow symbols (including as part of their clothing, for example rainbow suspenders), which had not been “approved.” On 17 May 2013, an officially-approved LGBT rally in Saint Petersburg was disturbed by a group of LGBT opponents twice as large as the rally itself. A criminal who shot and wounded one of the participants in the rally explained his actions by saying that as a believer he “suffered” when he saw the slogan “Jesus loves men and women equally.” He was prosecuted, but received only a suspended sentence of one year. On 2 August 2013, the activist Kirill Kalugin was beaten by Russian commandos, who are known for being aggressively homophobic, in the center of Saint Petersburg.³³

In January 2013, nationalists attacked an LGBT action in Voronezh, sending many activists to the hospital.³⁴ According to testimony from witnesses, police officers did not take any measures to protect the demonstrators during the attack.

A young man was killed in Volgograd on 9 May 2013. The perpetrator justified his actions by stating that the victim’s sexual orientation caused him to experience “patriotic feelings.”³⁵

On 25 May 2013, LGBT activists faced open aggression during an action in Moscow’s “Hyde Park” (the place where actions may be held without special permission), but, again, the police arrested the demonstrators and not their nationalist attackers.

The NGO Russian LGBT Network³⁶ notes that attacks on LGBT activists have become much more frequent since homophobic laws were adopted. According to a statement released by this organisation, only four out of 20 attacks over the past several months ended with the opening of a criminal case, and only one of those four cases made it all the way to court.³⁷ Igor Kochetkov, who is one of this group’s leaders, was himself attacked in November 2013.

The law on “foreign agents” has also been used against LGBT organisations, and it’s no accident that the first court rulings under this law (which were later quashed by higher courts) dealt with these NGOs. The Kuybyshevsky District Court in Saint Petersburg issued a ruling on 16 July 2013 that the LGBT film festival Side by Side must register as a foreign agent and pay a fine of 500,000 rubles, with the festival’s director being fined an additional 100,000 rubles. The defense showed that the festival was a cultural event and thus not included in the law on “foreign agents,” but the judge in the court of appeals rejected this argument and reduced the fine. The ruling was finally overturned by the court of supervisory instance, just as the organisation was completing the liquidation process. The judgment against another LGBT organisation called *Vykhod* (Coming Out) (a fine of 500,000 rubles against the organisation and of 100,000 rubles against the director and the obligation to register as a “foreign agent”) was quashed by the Vasileostrovsky District Court and sent back to the court of first instance for reconsideration on 25 July 2013. On 14 August 2013, the court of appeals also canceled the fine against the organisation’s director. The case was closed for official reasons on 27 September 2013.

33. http://www.youtube.com/watch?v=8B20cige_Fo

34. <http://grani.ru/Politics/Russia/activism/m.210783.html>

35. <http://www.rosbalt.ru/federal/2013/05/11/1127097.html>

36. <http://lgbtnet.ru/en>

37. <http://www.theguardian.com/world/2013/sep/01/russia-rise-homophobic-violence>

Prosecution of Environmentalists and Human Rights Defenders

Activist environmentalists and defenders of cultural heritage have made robust use of various forms of protests since mobilizing against the construction of a highway through Khimkinsky Forest near Moscow. In cases where protestors prevent private companies from doing their work, confrontations between employees from private security companies (PSC) and activists frequently occur, with law enforcement generally taking the side of the private guards. At the same time, local authorities make no efforts to get a dialogue going between the parties, listen to the opinion of the protestors, or resolve the situation. Generally the authorities simply ignore the activists' demands, thus reducing the situation to open conflict. If the situation does result in open confrontations and the use of force on both sides, the authorities detain and charge only the activists, presenting them as the instigators of the conflict.

In Novokhopersky District of the Voronezh Region, a conflict arose between environmental activists from the *Save Khover* movement,³⁸ who oppose the mining of nickel in the district, and PRC employees hired by *Voronezhgeologiya*, which was about to start developing nickel deposits. Members of the FIDH-ADC Memorial mission met with the coordinator of *Save Khover* Konstantin Rubakhin, who told them how the authorities tried to open a criminal case against him and how they searched his apartment. Meanwhile, aggressive actions taken by employees of the PSC were not investigated. The confrontation continued to worsen: in May 2013, the media reported that *Save Khover* activists were severely beaten by guards and had to be hospitalised. Activists reported that “participants in the eco-camp approached a metal fence surrounded by barbed wire which, in their opinion, had been installed illegally. PSC employees opened the gates and started beating activists. Then they grabbed three people, dragged them into the enclosed area, and pushed back the remaining activists and police officers. After they closed the fence, they all started beating the activists and then tossed several of them over the metal fence, which was almost two meters high.”³⁹ A criminal case was opened based on the evidence of these events.

In February 2013, city defenders and activists in Saint Petersburg attempted to stop the demolition of a historical complex of buildings at Warsaw Station, which was purchased by a private company. Activists took over one of the buildings on the station's territory and announced their intention to turn it into a social and cultural center for exhibitions and events. The city defenders ordered an expert review, which confirmed that the building had historical value. Nevertheless, district and municipal authorities refused to start a dialogue with them. The rejection of any kind of cooperation and the construction company's continued activities to demolish the building led to an open confrontation between activists and private guards and police officers. In the end, the building was “taken by storm” and the activists were driven out of the building by force. Two police officers were wounded during the confrontation. Force was also used against the activists and they were beaten while being detained. One activist named Denis Levkin was arrested under suspicion of using force against a member of the authorities. Levkin's attorney explained that the investigation does not have any proof of his client's guilt and that criminal prosecution in this case is simply a matter of revenge. The historical building was demolished immediately after the protesters were driven out of it.⁴⁰

38. <http://savekhover.ru/>

39. <http://grani.ru/Society/ecology/m.214616.html>

40. <http://grani.ru/Society/ecology/m.214616.html>

The case that made headlines across the world and led to a powerful mobilization, especially outside of Russia, was the case of the Greenpeace activists, who on 19 September 2013 were preparing a peaceful protest onboard the Arctic Sunrise in the waters of the Pechora Sea, near the Prirazlomnaya oil platform, which is owned by the state corporation Gazprom. Russian border guards boarded their ship and detained everyone on board. The activists were initially charged with piracy, but these charges were later changed to “hooliganism.” Soon after this ruling, on November 22, the International Tribunal for the Law of the Sea demanded that Russia release the activists and the icebreaker. The activists were released on bail, but the charges of hooliganism were not dropped. A presidential amnesty order issued on December 18 included all the Greenpeace activists, but the ship was never returned to Greenpeace and the criminal case has not been closed. Even though the activists were released not long before the start of the Olympic Games in Sochi, the very fact of their detention and holding at pretrial detention facilities first in Murmansk and then in Saint Petersburg, along with gross violations that occurred as part of the court proceedings against them, demonstrate that the Russian authorities are prepared to take repressive measures when the interests of the state or a state corporation are challenged.

Violence and Threats against Activists

Physical threats against civil and political activists are still going unpunished four years after the “terrible year” of 2009, when nine human rights defenders were killed.

Mikhail Beketov, the editor-in-chief of Khimkinskaya Pravda, died on 8 April 2013. As a journalist who criticized local authorities and the mass media, he received numerous anonymous threats. He survived a serious attack carried out by unknown people in 2008, but he lost his legs and the ability to speak. His attackers were never found, even though a criminal case was opened against them.⁴¹

In April 2013, information appeared on the website of the foundation “In Defense of the Rights of Prisoners” about an attack on the human rights defender Aleksey Dmitriyev, which took place at around 18:30 on 6 April 2013 in Kemerovo. Six agents from the special forces of the headquarters for the Federal Penitentiary Service kidnapped him, drove into a forest, and then beat him and threatened him with death. This harassment was connected with his human rights activities and his fight against corruption.⁴² The official response to the claim filed by the victim was that “counsel for the Federal Penitentiary Service intends to file a slander complaint.”

Many human rights defenders report that they have met with threats in connection with their professional activities. In October 2012, Tatyana Lokshina, deputy head of the Moscow office of Human Rights Watch, reported that she had received threats against her via text message.⁴³

In general, criminal cases against these criminals are never opened, even when complaints about threats or violence are made. This general sense of impunity helps to justify and increase pressure, threats, and attacks.

41. For various articles on this topic, see: <http://www.rbcdaily.ru/news/562949985666352>; <http://spb.ria.ru/society/20130207/501582796.html>; http://www.dp.ru/a/2013/03/30/Vice-gubernator_Peterburg/

42. <http://www.mk.ru/politics/article/2013/05/21/857434-smert-mihaila-beketova-neschastnyiy-sluchay.html>

43. <http://zashita-zk.org/alert/1365712367.html>

The Judiciary's Role in the Service of Political Persecution

The courts, which have at times handed down severe sentences (many years in prison) to activists, have played a large role in suppressing all forms of civic activity. Since defendants are often charged under “non-political” articles of Russian criminal law, it is frequently quite difficult to prove which trials have been initiated for political reasons. When such criminal cases are initiated, the accused is taken into custody, even if his or her actions were not dangerous, making it very difficult to communicate with him or her. And quite frequently it is the accused's actions as an activist, regardless of their circumstances, that serve as the cause for stricter punishment.

The use of “non-political” articles as grounds for sentencing opposition activists makes it difficult to object to the verdicts. The problem of establishing objective criteria for determining the “political” nature of a sentence has been widely discussed by international organisations and independent researchers. In September 2002, an official report issued by the Council of Europe's Committee on Legal Affairs and Human Rights stated that a person deprived of his or her personal liberty is to be regarded as a “political prisoner” “if the detention has been imposed for purely political reasons without connection to any offense.” Political prisoners are also people for whom “the length of the detention or its conditions are clearly out of proportion to the offense the person has been found guilty of or is suspected of.” Also, people who are “detained in a discriminatory manner as compared to other persons” are considered political prisoners. In accordance with these principles, the criminal prosecutions that the majority of activists in Russia have been subjected to fall within this definition.

Russia does not maintain a single list of political prisoners or coordinate the process for recording these kinds of court cases. The Union for Solidarity with Political Prisoners did make an attempt to maintain such a list.⁴⁴

Generally work to recognise prisoners as political prisoners begins with relatives or attorneys as the basis for their arguments during the trial. Independent human rights organisations studying the issue of political prisoners usually have their own criteria for answering the question of whether or not a trial is of a political nature.

An April 2013 study done by the Sova Center shows that laws to combat extremism are being used more and more widely in politically-motivated criminal and administrative prosecutions.⁴⁵ Prosecutions for insulting or defying the police are also frequently used against activists. The Antifa-RASH case in Nizhny Novgorod, the Bolotnaya Case in Moscow, and the Warsaw Station Case in Saint Petersburg are all examples of this.

In many cases, detention conditions do not meet international norms and frequently border on inhumane treatment. At the beginning of a criminal investigation, threats of deprivation of freedom are commonly used as a way of pressuring the accused. The conditions in pretrial detention cells are very bad (stuffy, cold in the winter, poor food and lighting, lack of privacy). At police precincts, detainees can be left a long time without food or water.

44. <http://www.politzeky.ru/>

45. http://www.gazeta.ru/politics/2012/10/04_a_4799477.shtml

Activists that the authors of the report met with also mentioned illegal methods of investigation like wiretapping, blackmail, incitement to whistleblowing, and steamrolling, which is particularly widespread in the regions, where activists are easy to recognize.

Prosecutions Related to Participation in Demonstrations

The authors of this report noted three methods that can be applied to the prosecution of members of the opposition: prosecution for activities committed (or ascribed) during sanctioned or unsanctioned events; the application of “political” articles (for example, organizing an extremist society); and application of criminal articles for political reasons.

Since Russian criminal laws do not stipulate criminal prosecution for unsanctioned events in and of themselves, administrative actions are taken against activists for these events. Since administrative prosecutions offer limited opportunities for repressive actions, attempts may be made to open criminal cases against individual activists under various articles of the Russian Criminal Code. To add to this, prosecutors use confrontations that actually involve the use of force, as well as fabricated accusations. The article most frequently applied is Article 318, “The Application of Force against Government Authorities,” a crime punishable by a maximum of ten years in prison. In the cases of activists, this is usually force used against police officers. For example, resisting arrest at a public event may result in the initiation of a case under Article 318. It is difficult to determine political persecution in these cases if police officers have medical proof of injury or video recordings of the application of force by activists. However, the political motive is abundantly clear in these cases. First of all, if both protesters and police officers suffer bodily harm, statements by activists are never reviewed as part of the case and a case is almost never opened against the police officers. For example, no criminal cases were opened against OMON troops on duty on Bolotnaya Square (see below), even though there are numerous photographic and video materials showing the unjustified application of force against the protestors. Second of all, even in cases where force is actually used against police officers, there is no way of proving who exactly applied the force, so the officers detain and accuse random activists or the most active activists (this is how the accused were selected in the Warsaw Station Case and the majority of the accused were selected in the Bolotnaya Case). Finally, it is the authorities themselves who frequently create situations where confrontations might arise (by refusing to negotiate, provoking conflicts), which is of course never taken into account during an investigation.

Other articles applied in addition to Article 318 include articles concerning insulting the authorities, damage and destruction of property, and hooliganism (which is used with special frequency due to its ambiguity). Generally the article applied is related to the nature of the protest action (this refers specifically to peaceful protest actions). In these cases the political motive manifests itself in discrepancies between the dangers posed by the actions and the severity of the consequences (including the pretrial restrictions selected). In other words, law enforcement officials will not even bother to initiate a criminal case if a person suspected of certain actions is not associated with protest activities.

Prosecutions Connected to Anti-Extremism Laws

Two of the best known attempts to initiate a prosecution for organizing and participating in the activities of an extremist organisation took place in 2011 – 2012. These were the anti-fascist case in Nizhny Novgorod and the so-called “case of 12” in Saint Petersburg.

According to a press release issued by the press office of the Public Prosecutor’s Office of the Nizhny Novgorod Region, the members of this group, which was allegedly called Antifa-RASH, were engaged in “criminal activities motivated by ideological hatred and hostility towards members of the youth movements “Skinheads—Soccer Fans” and “Affluent Russian Citizens.” According to the activists, officers from Center E created fake credentials for an organisation that does not exist and planted these credentials during a search. Experts from the Sova Center found that this was a case of unjust anti-extremism. Dmitry Dinze, an attorney from Agora, intervened and was able to stop the prosecution for participating in an “extremist organisation,” even though the investigation of accusations under other articles continued.⁴⁶ Law enforcement authorities (Center E) used threats and pressure in this case. For example, “witness for the prosecution Alexander Cherny stated in court that he gave evidence against the defendant under pressure from officers at the local Center for Countering Extremism.”⁴⁷ The absurdity of the accusations in this case made society as a whole focus more on the issues of harassment of activists, specifically anti-fascists, and on the illegal methods used by Center E officials in the so-called “fight against extremism.” The case of the Moscow-based anti-fascist Igor Kharchenko also initially included accusations of participating in the activities of an extremist organisation, but these charges were withdrawn during the investigation.

In Saint Petersburg, 12 activists from The Other Russia were charged with founding an extremist organisation, or, to be more precise, with continuing the activities of the banned National Bolshevik Party. Among other things, the activists were charged on the basis of their participation in organizing mass public actions like Strategy-31. Many materials in the charges were based on provocations made by police officers. For example, the activists were offered an apartment for their meetings which contained a hidden camera and recording devices. Through the efforts of their lawyers, the prosecution of five activists was terminated because the statute of limitations had expired, and seven people were fined, but the court waived their punishment, also due to the expiration of the statute of limitations.⁴⁸ One of the lawyers for the accused believes that the court’s ruling was a compromise: on the one hand, it was impossible to acquit the activists, but on the other hand, given the obvious political nature of the case, it was clear that any actual punishment based on evidence gathered through procedural violations would be totally disproportionate even to actions committed by the accused that were not proven.

Charges of organising or participating in mass unrest are used relatively rarely in cases of political prosecution, mainly due to the difficulty of proving their objectivity. Nevertheless, this article is applied in certain cases and was used to charge the accused in the Bolotnaya Case in 2012 – 2013.

46. <http://www.sova-center.ru/misuse/news/persecution/2013/03/d26618/>

47. <http://www.sova-center.ru/misuse/news/persecution/2012/09/d25186/>

48. <http://www.kommersant.ru/doc/2100702>

Prosecution under Various Articles for Political Purposes

Many anti-fascist activists in Moscow and Nizhny Novgorod and relatives and attorneys of people detained who met with the FIDH and ADC Memorial representatives spoke about how slow trials, long detention periods, and contrived charges also characterise these less well-known cases as politically motivated.

Aleksey Sutuga, an anti-fascist, was charged with premeditated hooliganism carried out by a group (Article 213.2) after a fight at the Vozdukh disco in December 2011 (Olesinov and Volinov were named as accomplices in his case.) Both his lawyers and he himself stated that the case was fabricated by the security services, who wanted to put away one of the leaders of Moscow's anti-fascist movement just to get him out of the way. Sutuga spent 14 months in prison without a trial or conclusive evidence of his guilt. He was released under bail on 19 June 2013, and his case was concluded on 10 January 2014, when he was included in the amnesty announced 12 December 2013. Many anti-fascists who were victims of investigations that could not collect conclusive evidence to forward to a court were also freed in this way. While the termination of these prosecutions is welcome news, it is important to note that the charges against these activists were not dropped. Instead, they were granted amnesty while their participation in incriminating actions was never proven. It is also significant that some of the charges brought against them which would have not allowed amnesty to be applied in their cases (violent acts, involvement of minors in illegal activities, etc.) were dropped on the day amnesty was granted or shortly before in order to create a way out of these dead-end investigations.

Relatives of detained people spoke about difficulties they had launching campaigns for their release while they were in custody. It is true, though, that these people were charged under a wide variety of articles and that it was not always easy for human rights organisations to see the political nature of their prosecution. Sutuga's attorney Dmitry Dinze insisted that his client's anti-fascist activities were the main reasons behind the charges against him. The illegal pressure and threats that he was subjected to from the authorities also made it possible to draw conclusions about the political nature of his case.

The anti-fascist Igor Kharchenko was arrested on 11 June 2011 and charged with attacking two far-right activists under articles 213.2 (hooliganism committed by a group for reasons of contempt for society, with the use of objects used as weapons), 111 (intentional infliction of injury), 115 (light bodily injury), and 282 (participating in the activities of an extremist group). Despite the fact that Kharchenko had an alibi, which was confirmed by his lawyer and numerous witnesses, the court extended his detention many times. According to information from the Sova Center, in early 2013 the prosecutions under articles 115 and 282 were closed since the investigation was unable to establish that Kharchenko participated in any "extremist groups." The two victims in this case, who were neofascist activists, identified Kharchenko and Denis Solopov as their attackers. Solopov was able to produce his stamped passport and information from customs showing that he was abroad on the day of the attack. Even though the charges were never really proven, Igor Kharchenko was sentenced to three-and-a-half years in a maximum security penal colony on 16 August 2013.

Spokespeople for foundations to assist anarchists and anti-fascists in Moscow and Saint Petersburg assert that many instances of prosecuting and pressuring activists remain unknown, especially in more remote regions.

The Pussy Riot case was one of the highest profile cases to be covered in the media in 2012. On 17 August 2012, Yekaterina Samutsevich, Nadezhda Tolokonnikova, and Maria Alyokhina were sentenced to two years in prison for “hooliganism” and “incitement of religious hatred and subversion of the country’s values and spiritual foundation.” Their punk prayer “Mother Mary, Please Drive Putin Away,” which they performed in Moscow’s Cathedral of Christ the Savior on 21 February 2012, lasted 30 seconds and was meant to condemn links between the church and the current regime and Patriarch Kirill’s support for President Putin and United Russia. While the young women insisted that their actions were political in nature, the charges claimed that their actions were “blasphemous” and that the group desecrated a place holy to the Russian Orthodox Church. On 10 October 2012, Yekaterina Samutsevich was released after being sentenced to conditional release instead of actual time as part of the review of the appeals complaint, but the sentences handed down to the other two activists were upheld.

On 19 December 2013, Nadezhda Tolokonnikova and Maria Alyokhina were granted amnesty, just three months before their sentences were due to end.

Following on the heels of the infamous punk group came the famous Saint-Petersburg based conceptual artist Petr Pavlensky, who was charged with “hooliganism” in late 2013 for hatred towards an unspecified group of people for his notorious protest on Red Square called Fixation, during which he nailed his scrotum to the cobblestones. A photograph of this dramatic gesture of despair, conceived as a symbol of society’s apathy and its loss of the ability to resist violence, was widely viewed throughout the world. Pavlensky is currently under investigation. Accusing this peaceful artist under criminal charges was one of the most odious acts of late 2013.

The Bolotnaya Case

The most famous political trial that is also still in progress is, without a doubt, the Bolotnaya Case, which was opened against multiple participants in the March of Millions on 6 May 2012 in Moscow. The investigation into alleged mass violations of public order and violence against the police is being conducted by the Investigative Committee of the Russian Federation. Twenty-eight people have been charged in this case and many activists from different cities have been subjected to searches. Some were forced to request political asylum abroad. The political nature of this case has been recognized by Russian and international organisations and the mass media. Numerous public actions in defense of the political prisoners in this case have been organised (bike rides, meetings, actions held by relatives of the accused).

Members of the May 6 Committee⁴⁹ have been providing the accused with legal defense, conducting an independent investigation into the events on Bolotnaya Square, and supporting relatives of the accused. A large group of lawyers from Agora and the *RosUzник* foundation have been providing legal assistance.

Various organisations, human rights defenders, and activists have been conducting independent investigations into the events of 6 May 2012. In June 2012, For Human Rights published a collection of testimony about this demonstration. On 22 April 2013, the conclusions of an independent investigation into the May 6 events were presented in Moscow: these conclusions

49. <http://6may.org/>

stand in complete contradiction to the official version⁵⁰ and assert that the police made a decision to change the route of the demonstration without advising its organizers of this in advance, leading by design to a confrontation between the police and participants in the demonstration.

In 2013, a group of international human rights organisations⁵¹ instructed the May 6 Committee to investigate the events on Bolotnaya Square. The Russian authorities assert that the violent acts that took place there were planned by opposition forces and were made possible by foreign funding. The Committee's purpose was to "analyze the events in terms of the human rights guaranteed by Russian law and international standards that Russia is obliged to observe." The Committee, which consisted of international experts and specialists, particularly in the areas of freedom of association and political repressions, evaluated the legitimacy and validity of actions taken by the police, OMON, and demonstration organisers and participants.⁵² After studying 200 documents and over 50 hours of video recordings, the Committee published its conclusions on 19 December 2013.⁵³ Of particular note, the experts established the presence of provocateurs who incited demonstrators to commit violent acts against law enforcement officers. The report shows that actions taken by the police (setting up of barriers, use of metal detectors, lack of communications) forced demonstrators to try to find a way past the police cordon.

Fifty-five police officers were listed as injured as a result of the events on Bolotnaya Square. Not even one demonstrator was found to be a victim of police force in spite of numerous photographs, video recordings, and medical opinions proving otherwise. According to testimony collected, dozens of people were wounded by OMON troops, but most of them did not file complaints. People who did file complaints were denied investigation of these complaints, and some of them even found themselves given the status of accused.

For example, the anti-fascist Aleksey Gaskarov complained that he received numerous head wounds needing stitches, and his statement was forwarded to the Ministry of Internal Affairs by the Investigatory Committee. In April 2013, several days after meeting with members of the FIDH-ADC Memorial mission and telling them about the political pressure he was facing, Gaskarov was arrested as part of the Bolotnaya Case. Extremely serious charges were filed against him under Article 318 of the Criminal Code, and the number and severity of the accusations and evidence against him have continued to mount. For a year, this well-known activist and anti-fascist did not try to hide and worked actively on evidence to show that on May 6 the demonstrators needed protection from police actions.

The trial of the demonstrators started in Moscow on 6 June 2013. The demonstrators were charged under various articles of the criminal code. The anti-fascists and left-wing activists Stepan Zimin, Alexandra Dukhanina, Aleksey Polikhovich, the independent activists Denis Lutskevich and Aleksey Barabanov, the national democrats Yaroslav Belousov and Artem Savelov, and liberal opposition activist researcher Sergey Krivov were charged with mass violations of public order (Article 212.2) and violence against authorities (Article 318.1). Left Front activist Vladimir Akimenkov, civil activist and human rights defender Nikolai

50. <http://newtimes.ru/articles/detail/65657>

51. FIDH, Amnesty International, Human Rights Watch, Article 19, European Association of Lawyers for Democracy and Human Rights, the International Civic Initiative for the OSCE, Civic Solidarity, the Center of International Protection.

52. <http://www.6maycommission.org/ru/about>

53. <http://www.themoscowtimes.com/news/article/there-were-no-bolotnaya-riots-international-experts-say/491854.html>



Arrest during
an individual
protest in Saint
Petersburg.
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Kavkazsky, and Leonid Kovyzin, a correspondent for the newspaper *Vyatsky Observer*, were only charged under Article 212.2. Maria Baronova (an assistant to a Duma deputy) was charged with incitement, failure to comply with legal demands made by the authorities, and mass unrest (Article 212.3).⁵⁴ In honor of the anniversary of the Constitution, four people (Maria Baronova, Vladimir Akimenkov, Nikolay Kavkazsky, and Leonid Kovyazin) were granted amnesty on 19 December 2013. Another four people, including two people in pretrial detention, were granted amnesty in the following weeks. One person (Anastasia Rybachenko, who had earlier been put on the wanted list) was abroad when the amnesty was granted. The trial for the remaining accused was extended in mid-January 2014. Attorneys fear that the sentences will be severe in this “show trial.”

Three people have already been sentenced as part of these complicated proceedings. In October 2012, Maksim Luzyanin was sentenced to four-and-a-half years in prison and in April 2013, Konstantin Lebedev received a sentence of two-and-a-half years in prison, both for “organising violations of public order.” On 8 October 2013, Mikhial Kosenko was committed to a psychiatric hospital for an unlimited period of time on the basis of an expert study ordered in the indictment. This use of punitive psychiatry against people fighting the regime is reminiscent of the worst moments of the Soviet period.

Two activists from the opposition party The Left Front are awaiting their trial, which was due to begin in January 2014. Party leader Sergey Udaltsov has been under house arrest for over six months now. Leonid Razvozhayev, who tried to receive political asylum in Ukraine in October 2012, was kidnapped there by special forces, returned to Russia, and arrested. He later filed a complaint about harsh treatment in detention facilities.

54. http://www.gazeta.ru/politics/news/2013/05/27/n_2936041.shtml

A number of participants in the demonstration (including Aleksey Gaskarov) are under investigation. One activist named Alexander Dolmatov, who left the country, committed suicide under suspicious circumstances after he was denied political asylum in Holland.

Conclusions and recommendations

The Russian government embarked on a course of systematic repression of civil society and the political opposition after the presidential election in March 2012. The diverse directions that the repressions described in this report have taken reflect a united political will aimed at suppressing not just social and political protests, but civil society as such.

A series of legislative innovations that restrict fundamental rights and freedoms and give security forces the authority to persecute bloggers, journalists, independent NGOs, political and civil activists, and human rights defenders have served as the legislative basis for repressions.

It is no longer surprising to see civil and political activists in Russia regularly taken into custody, placed under house arrest, or detained as part of a fabricated case. It comes as no shock that voters were first unable to express their political will during elections due to mass falsifications and later were deprived of the rights to freedom of association and expression.

The work of NGOs, which have operated effectively at a professional level in Russia for years, was destabilized by a wave of checks in March and April of 2013. The subsequent repressions threatened both the reputation and effectiveness of NGOs and their very existence. Deprived of free access to funding, under constant threat of prosecution, and publicly accused of plotting against the government and the values of the Russian people, human rights organisations have not been in such a vulnerable position since Soviet times.

Excluded from the political system since the early 2000s, the political opposition in all its diversity bears the brunt of the sharpening repressions. Trials against its leaders and participants have followed one after the next since the spring of 2012. Meanwhile, court proceedings are riddled with numerous violations from arrest to imprisonment and from investigation to trial. The role of justice comes down to a show of government power and the reflection of the nuances of its policies and strategies. Little is known about many instances of persecution, especially those that occur in regions far from Moscow and Saint Petersburg, where it is more difficult to receive information.

Meanwhile, the Russian government has made a conscious effort to discredit “Western” democratic values by relying on the active support of the Russian Orthodox Church, constantly setting democracy and human rights against the values of Orthodoxy and patriotism, and aggressively asserting the superiority of the latter. The church hierarchy’s approval of the repression of protesting artists and the Russian government’s adherence to narrowly interpreted Orthodox doctrines create a dangerous amalgam of arbitrary will in the name of “superior” moral values, the interests of the nation, and the security of the state.

FIDH and ADC Memorial call on the Russian government to observe the country’s Constitution and the international obligations it has undertaken, and on the international community to vigorously strive for their implementation.

Recommendations

To the government of the Russian Federation:

- Put an immediate end to repressions against the opposition and all of civil society;
- Bring laws and law enforcement practices into conformity with international human rights treaties ratified by the Russian Federation;
- Take measures to eliminate existing practices of violation of the principles of an independent judicial system and freedom of speech, expression, and association, and guarantee their observance under any circumstances;
- Observe international human rights obligations that Russia has undertaken, including obligations undertaken by Russia before its election to the UN Human Rights Council. Cooperate fully with the UN Human Rights Council and its mechanisms;
- Admit UN special rapporteurs, who have sent requests to visit Russia and have yet to receive invitations. Some of the many special procedures which the United Nations is expecting a response to include: the Special Rapporteur on the Situation with Human Rights Defenders (a request to visit was sent in 2004), the Special Rapporteur on the Right to Freedom of Opinion and Expression (a request to visit was sent in 2002), and the Special Rapporteur on the Right to Freedom of Assembly and Freedom of Association (a request to visit was sent in 2011).

To the United Nations:

- Investigate evidence of the pressuring and prosecution of NGOs that have presented information to UN bodies and demand a report from the Russian Federation on these grievous events, demand a review of the law equating forwarding of information to international organisations with treason;
- Demand that the Russian government grant entry to UN special rapporteurs who have made requests to visit the country;
- Observe the right of NGOs accredited to the UN Human Rights Council to speak, in accordance with corresponding UN rules, and not apply pressure on them.

To the European Union:

- In talks with the Russian Federation, raise, in public and systematically, including at the highest levels of political dialogue, the issue of political repressions and pressure on civil society in Russia and call upon the Russian Federation to bring its laws into conformity with international norms;
- Monitor observance of EU guiding principles on human rights defenders and, in particular, continue consultations with civil society to develop a new strategy for support that the EU may provide to NGOs. Special attention must be paid to the situation for organisations and activists that became the victims of judicial prosecutions due to their human rights activities and cooperation with international organisations and the UN in particular;
- Broadly strengthen and expand cooperation with human rights defenders and civil society in Russia, including, among other things, observing trials, visiting detention facilities, and including representatives of civil society in meetings on political, sectoral, and human rights topics. The results of these meetings must be evaluated systematically, and the possibility of creating an official, permanent forum for the EU and civil society in Russia must be examined;

- Use all existing means to support reforms of the justice system, support the rule of law, combat impunity, and engage civil society in developing, creating, and evaluating cooperation programs between the EU and Russia;
- Clearly specify, for example in conclusions issued by the Council of the European Union, the political criteria required for signing a treaty to replace the current Partnership and Cooperation Agreement to bring it more in line with EU obligations on external relations and the guiding principles for the EU's creation: democracy, rule of law, universality, and the indivisibility of human rights.



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Establishing the facts

Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

Supporting civil society

Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

Mobilising the international community

Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

Informing and reporting

Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.



Anti-Discrimination Center «Memorial» protects the rights of the most vulnerable groups in Russian society, such as ethnic minorities, Roma, migrants and sexual minorities (LGBT). Memorial fights against discrimination by various means, including written and oral reactions, legal aid, legal education,

research and publications. Over the last few years, one of ADC «Memorial»'s priorities has been the protection of human rights defenders and civil society activists.

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FIDH represents 178 human rights organisations on 5 continents



inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement

FIDH was established in 1922, and today unites 178 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organisation

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

fidh

Find information concerning FIDH's 178 member organisations on www.fidh.org