

THE OBSERVATORY

For the Protection of Human Rights Defenders

L'Observatoire

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El Observatorio

para la Protección
de los Defensores de los Derechos Humanos

Report

International Fact-Finding Mission

Russia : Human rights Defenders faced with the "Dictatorship of the Law"

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INTRODUCTION : DEFENDING HUMAN RIGHTS WITHIN THE CONTEXT OF THE "DICTATORSHIP OF THE LAW", LAUNCHED BY PRESIDENT PUTIN

The situation of human rights defenders in Russia is closely linked to political changes in the country since 2000. Since his election as President of the Russian Federation, Vladimir Putin has made the reestablishment of order the core of his political project which he called the "Dictatorship of the Law". The concrete implementation of this project has translated into a growing tendency to control governmental and non-governmental actors, including political parties (with the creation of a powerful party in power), the media (by reassuming control over private television channels), entrepreneurs (with the arrest or exile of powerful oligarchs) and regions of the Russian Federation (with the installation of "super-prefects"). Today, the Russian state also intends to reestablish order in terms of relations with civil society and associative movements.

Since the early 1990s, the associative movement has grown and diversified considerably in Russia. The 1993 Constitution recognizes the right of association, and laws implementing this right have been adopted. Among associations, those devoted to defending human rights occupy a special place. Indeed, they defend the political and civil rights of their fellow-citizens, demonstrating their independence and analytical autonomy from political power. While the 1990s were marked by the State's relative indifference to the associative movement, Vladimir Putin is from now on very interested in this sector and has undertaken a policy of rapprochement between the State and the many non-profit associations created since the demise of the USSR. The current rapprochement is intended to ensure the efficiency, rationalization and coordination of the activities of the State and the associations. In reality, these words express a will to control the associations, particularly those devoted to defending human rights in the country. Their critical autonomy is today being challenged.

The Russian State has many instruments - direct and indirect - to control the associations. Directly, the State is the only authority entitled to authorize or not the registration of associations. Consequently, some associations have been the target of lawsuits threatening their legal existence. Indirectly, the State has tax-related instruments that allow it to apply pressure to the associations' finances. Tax legislation has been expanded in recent years.

Beyond these legal means of control, practices of police pressure against associations have been pointed out during the last months, as well as acts of violence against their members. In particular, direct attacks against those who criticize human rights violations carried out in Chechnya or defend the rights of soldiers have been registered. A number of anti-fascist activists are also the target of violent groups. In the regions, the associations are at the mercy of local authorities. The situation varies across the Russian Federation. Apart from the case of Chechnya, associations in the region of Krasnodar are particularly repressed.

This report is the result of interviews with the representatives of a dozen of human rights associations in Moscow and Saint Petersburg held in September and December 2003 and May 2004. This sampling is not exhaustive but is representative of the human rights movement in Russia. The analyzed associations were created at different times (in the 1970s, during perestroika or in the middle of the 1990s). They are run by a wide range of people: ex-dissidents, students, young people, men and women. In order to protect the people questioned, we did not include the name or exact job of the activists whose comments are reported below.

This report is also based on sources written in Russian: reports, press articles, laws, etc.

List of associations interviewed:

- Memorial Human Rights Center, Moscow
- Human Rights Institute, Moscow
- Moscow Helsinki Group
- Center for the Development of Democracy and Human Rights, Moscow
- Andrei Sakharov Museum and Public Center, Moscow
- The "Migration and Law" network, Moscow
- Memorial, Saint Petersburg
- Grazhdanskij Kontrol' (Citizens' Watch), Saint Petersburg
- Notchletchka, Saint Petersburg
- Soldiers' Mothers Organization, Saint Petersburg

I - HUMAN RIGHTS ASSOCIATIONS NEED TO BE AUTONOMOUS FROM THE STATE

Since the collapse of the USSR and the liberalization of the political system in Russia, the associative movement has gradually expanded. The adoption of a new law on social organizations has led to the registration¹ of many associations. Many of these associations engage in "charity" action, social support or the defense of specific interests. In this context, the situation of human rights associations is unique. Human rights defenders claim their independence from the State and from political power, which in return leads the administration to enact measures of control.

The development of associations in Russia

The number of non-profit associations registered in Russia is debatable. According to some sources, around 350,000 associations are currently registered.² This figure reflects an increase of nearly 20% over the past three years and around 60% relative to 1996. However, according to figures given by the Duma Committee on Public Associations, 150,000 social organizations were registered with the Ministry of Justice as of January 1, 2003, including around 2,500 international or pan-Russian associations (working at the federal level).³ Apart from this debate over numbers, it should be noted that the registered associations are mainly engaged in social and charity work. A study carried out in the Novosibirsk region in 1997 shows that, among the 1,200 social organizations registered locally, most are involved in union activities, sports and cultural action, or assistance for the handicapped, children and families.⁴ The government's official stance is that the activities of these associations favor the State's economic and social development. The State has a utilitarian view of the responsibility of associations, i.e. for conveying its policy or for filling its gaps, particularly in social affairs. This view is part of its plan to rationalize the links among government, society and economy. As the representatives of the Duma Committee on Public Associations are pleased to say, "in many regions of the country, the partnership relationship among the government, the business world and the non-profit associations is growing fruitfully."⁵ Vladimir Putin also focused on this point in his address to the Russian parliament in May 2004. On that occasion, he was pleased with the action of associations laboring in the social domain but offered thinly-veiled criticism of human rights defenders (see Part III of this report).

The specificity of human rights associations

Human rights associations come under a different philosophy. On the one hand, the scope of action of these associations is potentially very broad. The definition of human rights given in the Russian Constitution of 1993 consists of highly diverse provisions. Chapter 2, "Rights and Freedoms of Man and Citizen," comprises 47 articles. It asserts that "in the Russian Federation recognition and guarantees shall be provided for the rights and freedoms of Man and citizen according to the universally recognized principles and norms of international law and according to the present Constitution." The articles of the Constitution legally guarantee equality before the law, the right to life, the prohibition of torture, the right to freedom, the inviolability of private life, freedom of movement, freedom of conscience and thought, private property, work, maternity, housing, health, the environment, education, etc. Furthermore, Article 59 asserts that "defence of the Fatherland shall be a duty and obligation of citizens of the Russian Federation."⁶ This article was inserted in the chapter of the Constitution on human rights, without more precision, which sets the stage for very broad interpretation, notably by the State.

Moving beyond a strict definition of what human rights are, the associations that fall under this category are defined more by their actions, which are aimed at defending civil and political rights in the broadest sense.⁷ As noted on a site devoted to these associations, in Russia, human rights associations mostly deal with issues like the war in Chechnya, conscript law, the alternative civil service, refugee problems, detention conditions in prisons, legal reform, nationalism and xenophobia, torture, etc.⁸ To take a more specific example, the Memorial Human Rights Center has assumed the role of "observing the application of human rights and fundamental freedoms; supporting *glasnost* and the dissemination of accurate information concerning violations of human rights and fundamental freedoms; drawing the attention of society, government and international organizations to these violations; carrying out and supporting research devoted to massive violations of human rights; contributing, in the case of armed conflict, to respect for standards of humanitarian law and the peaceful resolution of conflicts..." Defending human rights presupposes the autonomy of associations from the State and their ability to adopt a critical position toward political decisions. These are rights granted to them by the Declaration on human rights defenders adopted by the United

Nations General Assembly on December 9, 1998. This text sets forth that "Everyone has the right, individually and in association with others, (...) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters."⁹

The demand for political autonomy

Human rights defenders consider themselves defenders of political rights,¹⁰ as opposed to "activists," who focus on resolving social problems. The question of defining the relations between the associations and the State appears in how the associations define themselves relative to the framework that the State has proposed to them. For several years, a semantic shift in categorizing associations in Russia has been observed: "non-governmental associations" (*Nepravitelstvennaia Organizaciia* - NPO) are increasingly called "non-profit associations" by the State and in laws (*Nekommertcheskaia Organizaciia* - NKO). Official texts favor

this shift, denoting the intention to distinguish between the associations and the economic sphere rather than between the associations and the State. Some associations have adopted this semantic shift and refer to themselves as NKO, while others, wishing to stand apart from the various charity associations that exist in Russia, are attached to the term NPO. As explained by a member of the Center for the Development of Democracy and Human Rights: "Legally, the term NKO is most accurate, as it is the one used by Russian law. In international practice, the preferred term is NGO¹¹, which corresponds to NPO. In Russia, to refer to social support organizations, which are not political or commercial, it is better to use the term NKO. However, for human rights associations and environmental movements, the term NPO is more appropriate."¹² The non-governmental nature of rights associations is the basis of their independence but is perceived by the government to represent potential opposition. This is why, as an activist explains, "human rights defenders are the most active part of civil society. The State tries to dissolve it within a larger context."¹³

1. The question of registration is developed in paragraph III.

2. RFE/RL (Un)Civil Societies. Vol. 4, No. 31, November 6, 2003.

3. http://www.ngopravo.ru/13/i4_27.htm.

4. Mersiánova, I.V. *Obščestvennye ob'edineniâ graždan. Novosibirskoj gorodskoj aglomeracii: opyt sociologiceskogo analiza* (Associations of citizens. The greater Novosibirsk region: an experiment in sociological analysis). In: *Vlast' i obščestvo v postsovietskoj Rossii : novye praktiki i instituty* (Power and society in post-Soviet Russia: new practices and institutions). Moscow: MONF, 1999. p. 188.

5. http://www.ngopravo.ru/5/i4_128.htm.

6. The Constitution of December 12, 1993. Translated from Russian by Michel Lesage and Patrice Gélard. In: *Les institutions de la Russie (Russian Institutions). Documents d'études, La documentation française*, N° 1.02, 1998. pp. 12-15.

7. They do not take part in political life strictly speaking, that is, in election campaigns and in elections, but contribute to organizing activities for the public in a broad sense.

8. As shown on the site of human rights organizations: <http://www.hro.org> and the site of the civic forum that they run, <http://www.civilforum.ru>.

9. Declaration on human rights defenders adopted by the United Nations General Assembly, December 9, 1998. In: Observatory for the Protection of Human Rights Defenders. Human rights defenders in a "security first" environment. 2003 Annual Report, FIDH, OMCT, Editions de l'Aube, 2004. p. 274.

10. Interview with a representative of *Graždanskij Kontrol'* (Citizens' watch), December 13, 2003.

11. Non-governmental organization.

12. Interview with a representative of the Center for the Development of Democracy and Human Rights, December 10, 2003.

13. Interview with a representative of the Institute of Human Rights, December 10, 2003.

II - THE RUSSIAN STATE'S POLICY OF REASSERTING CONTROL OVER ASSOCIATIONS

Since 2000, the Russian State's policy regarding the associative world has changed. While, during Boris Yeltsin's era, the State showed a lack of interest in civil society, Vladimir Putin's policy is notable for the intention to control the associative world and for regaining command over relations between the State and the associations. This control objective is officially justified by the need to rationalize relations between the government and the associations. In reality, this rationalization reflects a charity-oriented conception of associative action. The associations are seen as extensions of the State or as partners meant to fill some of its gaps (social assistance to disadvantaged classes of the population). This view does not allow for associations to criticize or challenge political decisions. The Russian government currently considers the whole of the public sphere to be a domestic space, where relations are based on "forced cooperation." Consequently, the State's policy is marked by the intention to co-opt or even "take over" some opponents and to marginalize or even exclude those that criticize it (this marginalization may be accompanied by the violent intimidation of the defenders). The functioning of the institutions in charge of human rights within the Russian administration is typical in this regard. These institutions are headed by important people respected in the area of human rights, who have agreed to cooperate with the government but who have no real power.

A - The State's new requirements with respect to human rights defenders

V. Putin's policy regarding human rights associations was publicly presented at the Civic Forum in Moscow in 2001 and at the Russian Forum (*Rossijskij forum*) in Nizhny-Novgorod in 2003. It was also laid out during the election campaign for the March 2004 presidential ballot.

The first civic forum, bringing together human rights defenders and political representatives in Moscow, was held in 2001. During this forum, V. Putin spoke of the need for a constructive dialogue between the government and the third sector (i.e. associations). As a human rights activist explains it, it is a question of strengthening the "society-business-government" triangle. The civic forum resulted in the setting up of "thematic platforms" These platforms are discussion groups that include representatives of both the administration and the associations on a given topic. Depending on the topic, the members of one of the ministries

would take part in the discussions and were supposed to listen to the associations and work with them. Concerning these platforms, an activist noticed that "most did not work"¹⁴.

A second forum took place in Nizhny-Novgorod in November 2003. It was called the "Russian Forum." This event was organized on the initiative of the Human Rights Commission to the Russian President. According to its organizers, the forum was "an event composed of experts, intended to encourage the emergence of effective solutions, taking into account the interests of society and the government."¹⁵ Through the terms that it uses (expertise, efficiency), the Human Rights Commission plans to take part in the work of rationalizing the relations between the government and the associative movement. In other words, and to draw from Vladimir Putin's speech to the participants, "your forum is asked to make decisions, upon which the successful development of civil society and the social partnership in the country depend directly. (...) The recognized authority of the Forum's participants will make its success possible. I am convinced that the Russian Forum will provide practical support to civic activity and will be able to favor the country's social life by strengthening stability and harmony."¹⁶ Vladimir Putin reiterated these themes during the March 2004 presidential election campaign. At the time, the president asserted that he was convinced that "only a developed civil society can ensure the inviolability of democratic freedoms, the guarantee of the rights of man and citizen. In the end, only a free Man is able to guarantee the State's economic development and prosperity." As a last resort, human rights associations are considered, through their expertise, authority and efficiency, as an instrument in the service of public power.¹⁷

These official initiatives gave rise to deep divisions within the associative movement, between partisans and opponents of such cooperation. Overall, the civic forums appear to have disappointed the participating associations. Those who attended emphasize the absence of concrete results of these meetings, the main objective of which was to display the State's interest in the civil sphere. To illustrate this disillusion, one may cite the example of the Memorial Human Rights Center, which, in an official statement on July 12, 2002, announced the end of its participation in the permanent working group on Chechnya formed during the civic forum of November 2001. The representatives of the association and

its partners noted that their proposals were not heard and that the State did not commit to an open and constructive dialogue with the non-governmental organizations.¹⁸ Concerning the Nizhny-Novgorod Forum, most of the associations expressed the same disenchantment. As an activist explains: "The government did not come to talk to us. We talked among ourselves. (...) We were not able to discuss the substance."¹⁹ Consequently, the State's initiatives toward the associations appear to be communication operations that do not lead to real cooperation between the public administrations and the associative movements.

B - Government human rights institutions: empty shells?

The rapprochement policy between the State and the associations has institutional repercussions. Several governmental institutions are in charge of human rights, particularly the Human Rights Commission to the Russian President. Some of its members are respected representatives of human rights organizations, trying to influence the governmental action. This action seems however limited due to the weakness of the cooperation between government departments (particularly the ministries of force²⁰) and human rights defenders. Those influential people who assumed their functions in this institution question their real power.

The Human Rights Commission to the Russian President was created by presidential decree in September 2001. According to this text, the Commission is a consultative organ attached to the President. It is charged of assisting the head of state in fulfilling his constitutional obligations, which consist notably in guaranteeing the rights and freedoms of Man and citizen in Russia, in accordance with the principles of international law and the Russian Constitution. The role of the Presidential Human Rights Commission, headed by Ella Pamfilova, is now controversial. The purpose of this Commission is to transmit requests from the associations to the government.

The Commission could play an important role, because the question of access to the President and the presidential administration is key for the associations to move their requests forward. As an associative leader explains, "no law can be adopted without the agreement of the presidential administration. This is why we lobby this institution. We have Mrs. Pamfilova's help."²¹ One of the members of the Human Rights Commission believes that the Commission represents "a unique link with the government. Following the elections of December 2003, this is the last direct link with the

government."²² The Commission temporarily improved the situation of displaced people in Ingushetia, introduced modifications into the law on citizenship (to expand the ways to gain citizenship), and transmitted recommendations to different bodies (ministries, especially the Ministry of the Interior). Human rights defenders generally maintain good relations with the members of this Commission but complain of the institution's lack of influence. "The Human Rights Commission is not influential, but Mrs. Pamfilova is close to us and we have good contacts," declared an association-based activist.²³ The Commission's fecklessness was illustrated by the elimination, in June 2004 and against the recommendation of Mrs. Pamfilova, of a government program for tolerance and against extremism. The head of the Human Rights Commission qualified this decision as shocking and objected to a short-term policy, but was clearly unable to modify it.

Human rights defenders observe a gap between politicians and civil servants. Civil servants are not motivated to act for human rights associations.²⁴ Generally, human rights defenders in Russia worry about the difficulties that they face with the security organs and the police. S. Gannushkina, a member of the Human Rights Commission to the Russian President who is involved in defending displaced people, presented a report on this topic on December 10, 2003. She wrote: "Unfortunately, we have been unable to establish working relations neither with the MVD [Ministry of the Interior] nor with the interministerial working group for the application of the migration law." This observation is shared by many associations, both at the federal and regional levels. Vladimir Lukin, human rights mediator in Russia, appointed to this position by V. Putin in February 2004, also expressed concern on June 16, 2004 on human rights violations committed in the country's police stations.

In most cases, the "ministries of force" in general and the Ministry of the Interior in particular turn a deaf ear to requests from human rights defenders. Whenever they agree to cooperate with the human rights associations, those in charge within the Ministry of the Interior act in such a way as to contradict the very interest of these associations. For example, in order to further its cooperation with civil society, the MVD proposed in June 2004 to "assign an employee of the Ministry Security Main Directorate of to each human rights organization. His mission will be to respond to citizen's complaints against the army which are filed with human rights defenders." If implemented, this proposal, de facto, would place the associations under direct control of the Ministry of the Interior.

C - The disappearance of parliamentary contacts: the marginalization of human rights defenders and the limitation of civil and political liberties

On the legislative side, particularly the State Duma, human rights defenders' contacts have considerably weakened since the parliamentary elections of December 2003. The current political context is very unfavorable to them. Since the early 1990s, they have relied on the democratic group (represented mainly by the party Yabloko) in the State Duma. Between 1999 and 2003, Vladimir Lukin, deputy chairman of Yabloko, was a member of the Duma Committee on Public Associations and Religious Organizations. His party suffered a major defeat at the elections of December 7, 2003. There will no longer be a liberal group in the lower house of parliament (which will sit from 2003 to 2007). The human rights associations have thus lost an important partner who was the only potential contact for their positions within parliament and with the government. The electoral defeat of the liberal parties Yabloko and SPS (represented by deputy Sergei Kovalyov, one of the most ardent human rights defenders in Russia) contributes to the weakening of human rights associations. "Before, there were several deputies with whom we worked in the Duma. Now, no one is left," stated an activist.²⁵ Human rights defenders are worried about the crushing domination of the nationalist and patriotic parties within the parliament.

The new composition of the Duma facilitates the adoption of restrictive draft laws in the domain of civil and political freedoms. On March 22, 2003, Duma deputies adopted by a large majority a modification of the Criminal Procedure Code, increasing the temporary detention period for suspicion of terrorism from 10 to 30 days. This modification and the absence of a precise definition of the notion of terrorism raised concerns among human rights defenders. Similarly, a draft law "On gatherings, rallies and demonstrations" was

adopted in its first reading by the Duma on March 31, 2004. This draft law, which provided for numerous restrictions on the right to demonstrate, ignited strong protests from civil society. This law was modified in its second reading. In the final version, much less restrictive, it still gives the authorities the power to ban planned gatherings. A request for prior authorization and the hour-by-hour program are necessary ten days in advance. In addition, there is a ban on demonstrations close to the president's residence, to court rooms, and to prisons. Furthermore, this law requires that all gatherings end by 11 pm, thus prohibiting long-term demonstrations. This law was adopted by the Duma on June 4, 2004 and signed by the President on June 21, 2004.²⁶

Similarly, a draft constitutional law "On referendums in the Russian Federation" was adopted in its first reading by the Duma in May 2004. The purpose of this draft law is to modify the law on referendums dated October 10, 1995, which included the legal requirements necessary for a referendum to be held by popular initiative in Russia. These requirements were already difficult for citizens to fulfill. The new bill does not reduce but rather strengthens these requirements, making it impossible in reality for a referendum of non-governmental origin to be held in Russia. In particular, it provides that the group sponsoring a referendum must comprise at least 100 people in half of the Federation's 89 regions, that is, more than 4,500 people (under the previous law, only 100 people throughout the Federation were necessary). The members of the group will have to collect two million signatures in less than 45 days in at least 40 regions of the Federation for a referendum to be held. This draft constitutional law was adopted in its final reading by the Duma on June 11, 2004 and should be approved in the near future by two-thirds of the deputies meeting for this law, which will amend the Constitution of 1993.

14. Interview with a representative of the Moscow Helsinki Group, December 11, 2003.

15. Excerpt from the information letter on the forum published by the Presidential Human Rights Commission. <http://www.h-rights.ru/obj/doc.php?ID=194530>.

16. <http://www.h-rights.ru/obj/doc.php?ID=196182>.

17. Ria Novosti, February 23, 2004.

18. <http://www.memo.ru/hr/news/index.htm>.

19. Interview with a representative of the Memorial Human Rights Center, December 11, 2003.

20. By "ministries of force" we mean all of the Russian government departments that wield armed force (e.g., Ministry of the Interior, Ministry of Defense and the Federal Security Service).

21. Interview with a member of the Center for the Development of Democracy and Human Rights, December 10, 2003.

22. Interview with a representative of the Memorial Center for Human Rights, December 11, 2003.

23. Interview with a representative of the Memorial Center for Human Rights, December 10, 2003.

24. Interview with a representative of the Memorial Center for Human Rights, December 11, 2003.

25. Interview with a representative of the Moscow Helsinki Group, December 11, 2003.

26. See the call from the Observatory dated July 13, 2004.

III - INDIRECT THREATS TO ASSOCIATIONS

In addition to injunctions to cooperate issued by the political authorities, it is state policy to exert indirect pressure on the associations. The Russian state, in fact, enjoys significant prerogatives with regard to the registration of associations and the taxation of their resources. Although the registration rules governing associations may vary in time and space, providing a certain amount of leeway for arbitrariness when it comes to administrative decisions, the taxation of the associations' resources is every bit as crucial. Using financing, some of the initiatives of the Russian political authorities are intended, on the one hand, to limit the relationships between the Russian associations and their international partners, by stigmatizing the international support of those who defend human rights. On the other hand, they denounce the financial ties between certain associations and the Russian entrepreneurs (oligarchs) in order to discredit the associations' actions. This devaluation is relayed by the state-controlled media.

A - Instruments for controlling the associations: the registration procedure

Since the collapse of the USSR, new Russian legal documents have been adopted concerning non-profit associations. In 1990, a new USSR law "concerning social organizations" went into effect. Five years later, in the mid-1990s, several other texts were adopted to replace that one. They are still in effect today. The texts that organize the activities of associations are the federal laws "Concerning non-profit organizations"²⁷, "Concerning social organizations", and "Concerning welfare activities and welfare organizations". The law concerning non-profit organizations applies to all non-commercial associations (religious and civil). The law concerning social organizations does not apply to religious organizations.

1°) The registration system

Article 30 of Chapter 2 of the Russian Constitution of 1993 states: "1 - Everyone is entitled to the right to association, including the right to found unions to defend their interests. The freedom of the associations' activities is guaranteed. 2 - No one can be constrained to join or remain a member of any association." The law concerning social organizations states that "citizens are entitled to found associations without the prior approval of government authorities (...). The associations created by citizens may be registered in conformity with the terms set by the law and enjoy a legal character as a result."

The associations may function without being registered but, in this case, they will have no legal character. Associations are registered with the Ministry of Justice at the federal or regional level. These authorities can either accept or reject a registration, providing the reasons for their decision. In theory, a rejection can be appealed to a court.

The case of the Youth Group for the Defence of Human Rights in Oriol illustrates the dependence of the associations on the Ministry of justice. This association has existed since September 2002. In 2004, the association applied to the Ministry of Justice for the Oriol region for registration. This registration was refused as a result of the difference between the date on which the association was founded in 2002 and the date of its official founding protocol following a constitutional meeting on February 7, 2004. This refusal does not seem to be justified since associations are officially entitled to exist without being registered.

Field studies indicate that the period of time between the creation and registration of associations is generally lengthy. Before initiating the registration procedure, which is rather onerous, associations are able to function outside any legal framework. According to a study conducted in Novossibirsk in 1999, only 34% of the associations register during the year in which they are founded. The others register between one to five years after the informal constitution of the association²⁸. A person in charge at the Memorial Human Rights Center commented on the difficulties inherent in the registration procedure: "Our association was registered one year ago. I had many discussions with the Minister of justice. Finally, the outcome of these discussions was positive, in a certain manner. Each week, I went to the Ministry of Justice to defend our positions and to be able to continue our work. We found a solution."²⁹ In comparison, it should be noted that these provisions are not the same as those found in French law, for example. In France, the procedure for obtaining legal status for an association depends solely on its declaration to the government.³⁰

2°) Refusing registration

Human rights associations, as others, must respect the registration rules. In Russia, recent legislative changes have tended to expand the list of reasons for refusing to register an association. Up to 2002, registration could be refused on the basis of activities attempting on the national or religious

feelings of other citizens. The federal law adopted on July 25, 2002 (No. 112) prohibits the creation and activities of associations whose goals or actions are considered extremist activity. These provisions introduce slightly more subjectivity into the decision about whether or not to register an association. This may explain, in the words of an activist, the fact that the "period for developing human rights associations is over."³¹.

In addition to the initial registration procedure, campaigns may take place to re-register associations. In 1995, the adoption of the law "Concerning social organizations" led to the re-registration of all of the associations that had been registered prior to that, under the Soviet law. The new law set June 30, 1999 as the deadline for re-registration. Associations that did not re-register were officially dissolved. This procedure resulted in protests from activists. In fact, it gave the administration an opportunity to clean up the association sector by refusing to re-register a certain number of associations.

Re-registration procedures can also be determined on an ad hoc basis by the representatives of the Ministry of Justice during targeted inspections. This was the case for the Soldiers Mothers Organisation St. Petersburg. This association was inspected to ensure that its activities complied with its statutes in March 2003. Following the inspection, the Ministry of Justice informed the soldiers that they were violating the legislation in effect, and specifically the laws concerning "social groups" and "non-profit organizations". The infractions noted included the presence of religious posters and objects on the walls of the association's offices, in violation of the association's bylaws. In August 2003, the authorities initiated the process to re-register the Soldiers Mothers Organisation from St. Petersburg, requiring them to revise the bylaws of their association (see Part IV of this report).

On a regional level, the registration of associations depends on the regional branches of the Ministry of Justice. In certain cases, the opposition of regional authorities to human rights defense movements caused them to impede the registration of these associations. This regional aspect is discussed later in this report (see Part IV).

B - Threats to the international financing of associations

As a result of the limited membership fees paid by their members, human rights defense organizations in Russia depend on international funding or financing from patrons.

This support enables them to function but places them in a precarious position. Today, this precariousness is accentuated by the policy of the Russian government against international donors and patrons.

1°) The international financing of the human rights defenders

Since the collapse of the USSR, human rights associations in Russia essentially receive their financing from international aid. They receive subsidies from American or European foundations, international or bilateral programs. The associations operating in Moscow and St. Petersburg depend on these international resources.

Although this access to international resources provides support for the associations, it also results in a certain degree of fragility in terms of this financing. The activities of the international foundations or organisations that work to support the Russian associations are paradoxical in nature. Some of them strive to ensure that their assistance is ongoing while others finance programs of limited duration. The cessation of international financing occasionally places the Russian associations in very difficult situations. The example of the Sakharov Foundation is revealing in this respect. "Three years ago, the Museum was on the verge of closing. Until that time, it had received support from USAID³² but that financing could only last three years."³³ At the end of that period, the Sakharov Foundation had to find other resources. In some other cases, in terms of the sustainable support programs, certain foundations provide assistance to acquire offices. As an association manager explained, "before, we had offices that belonged to the administration. They tried to make us move. (...) Now, we are under less pressure, even if, of course, we can not avoid an inspection by the fire department".³⁴

Human rights defenders are concerned about the transparency of their sources of financing and publish their accounts on a regular basis. Moreover, their budgets are audited each year. However, the Russian government still works to discredit international aid and the associations that receive it. In Spring 2004, several major political stakeholders intervened in this respect. For example, in his speech to the Federal Assembly on May 26, 2004, Vladimir Putin explicitly raised the issue of the international financing received by the associations. In fact, he spent part of his speech discussing the role of "non-political associations" (*o roli nepoliticheskikh obchtchestvennykh organizatsij*). In this case, it is interesting to note the appearance of this new name for associations, which until yet were qualified as non-governmental or non-

commercial (see Part I of this report). Vladimir Putin declared: "Thousands of civil organizations and unions exist and are working in a constructive manner in our country. But far from all of them are devoted to defending the true interests of the people. The principal purpose of some of these organizations is to receive financing from influential foreign foundations, while others serve questionable commercial or individual interests. Meanwhile, the most important problems of the country and its citizens go unnoticed. I must say that when people refer to attacks on fundamental human rights, to the real interests of the people, these organizations remain silent. And there's nothing happenstance about that; they simply cannot bite the hand that feeds them." In this case, V. Putin is alluding to the foreign organizations that allegedly exploit the financial difficulties of the Russian associations in order to control them. And he continued: "Of course, such examples should not cause us to incriminate all civil organizations. I think that such exceptions are inevitable and temporary."³⁵ In his speech, the Russian leader made a direct attack on human rights associations and, while referring to the temporary nature of these exceptions, made a thinly veiled threat to their existence.

2°) A fiscal sword of Damocles?

The financial independence that human rights associations so preciously acquired over the last decade is now being put into question by the Russian government through the means of taxation.

In May 2002, Vladimir Putin signed a text modifying article 251 of the Tax Code. It establishes a tax of the order of 24% on subsidies given to non-profit making associations as from January 1st 2002. Such subsidies are now to be considered as profits. This amendment is obviously detrimental to the action of human rights defenders, for human rights do not benefit from the exemption of this tax as do the fields of arts, culture, scientific research and training.

Furthermore, a decree was passed on December 24 2002 which includes an arbitrary list of 88 international organizations whose subsidies are not taxable. This implies, de facto, that the subsidies of those that are not on the list are taxable. Because of this, a certain number of NGOs are in an illegal situation for they are obliged to declare the subsidies received from these organizations as gifts, which are not taxable.

The campaign of human rights defenders to get human rights on the list of fields that are not taxable seems at first sight to

have born fruit. A bill, adopted at first reading by the Duma on August 5 2004 broadens the field of non taxable subsidies to include those concerning the rights of man and citizen, health and services rendered to people who have no social security;

However, this bill (Federal Law no. 58666-4) concerning modifications to chapters 23 and 25 of the second part of the Tax Code of the Russian Federation as well as a few other legislative acts concerning taxes and tax collection is an additional move on the part of the Russian State to control the activities of NGOs³⁶. Indeed, it provides for the addition of Russian Foundations to the official list of international donors, on the basis of criteria that are as yet undefined. Furthermore, the new bill provides that NGOs, if they wish to benefit from the tax exemption provided by the law, must register their subsidies with a special commission. This commission has been in existence since 1999, but registering was optional. The new measure will probably lead to an increase in bureaucracy and thus to further obstacles to NGOs access to their funds as well as more corruption.

Human rights associations are currently living under a fiscal sword of Damocles. They worry about the risks associated with the new legislation and maintain that, unable to respect it, they might be shut down overnight if the law is strictly enforced. The result will be that associations and donors will not be able to pay these taxes and will practically be outlaws, living on the edge, and may be sued by law enforcement³⁷. A Memorial activist explains, "We feel pressure from power, but especially from taxes."³⁸ An association leader affirms, "We're not paying the new taxes. We don't have much money. We're acting as if nothing had changed."

C - Instrumentalization of oligarchs against associations

1°) Patronage

Among the difficulties linked to the financing of NGOs the problem of contributions by Russian oligarchs who amassed fortunes during the privatizations in the 1990s. When their international funding comes to an end, some associations cannot get help from Russian banks. Sometimes, only a few oligarchs have responded to the demands of associations, which have had to make a difficult choice: accept funds coming from questionable sources and risk being misunderstood, or close. Trying to resolve this dilemma, associations who accept funding from oligarchs are playing the card of transparency and not keeping it a secret. Without state help and in a context of declining international financing,

receiving aid from important Russian businessmen is sometimes the only solution. Over the last several years, Boris Berezovski, currently in exile abroad, and Mikhail Khodorkovski, head of the oil group Loukos, have both been involved in patronage by financing diverse associations and research institutions in the fields of social sciences and humanities. They justify this patronage saying it challenges state authority and helps anchor pluralism they need in reality.

The support given by some oligarchs to human rights associations and the choice of the date of Mikhail Khodorkovski's arrest in October 2003 may help to explain the commotion that this event caused among activists. Symbolically, the arrest occurred after Khodorkovski participated in the Nizhny-Novgorod civic forum. An activist explains, "During the first forum, in 2001, Grigory Pasko (a journalist and environmental activist) had taken part in a round table on press freedom with Lessine he was arrested right after. During the second forum, Khodorkovski had been invited to participate in a round table on links between economics and society, and was arrested right after."³⁹ The coincidence of dates between the Nizhny-Novgorod forum and Khodorkovski's arrest on October 25, 2003 greatly shocked defenders of human rights. An activist recalls that Khodorkovski had received a medal during the forum, right before his arrest. He adds: "I don't like Khodorkovski but I don't understand why he was arrested."⁴⁰

The Russian government is using the fact that important Russian businessmen are financially backing human rights associations as a pretext to discredit the latter. It is trying to have the unpopularity of the oligarchy rub off on the associations they are supporting. On May 7, 2004, during a press conference, General Valerii Kraev, head of the General Direction of Sentence Enforcement of the Ministry of Justice of the Russian Federation, affirmed that "according to the Ministry of Justice's information, some criminal groups are financing human rights associations." He explicitly cited the businessman Boris Berezovski. Kraev accused human rights associations of working in connection with criminals to destabilize the work of sentence enforcement services, by putting pressure on the administration and penal execution institutions, and by airing false information in the media. This press conference and Kraev's criticisms arose right when several associations were working to denounce prison conditions. In his speech to the Parliament, President Vladimir Putin used these same ideas, saying that some associations serve commercial or particularly questionable interests⁴¹.

In a radio interview on July 19, 2004, the representative of the Russian orthodox Church asked the human rights movement to find new leaders, and claimed that "the most well-known so-called human rights organizations do not like Russia. They try to find human rights violations all over this country, but never investigate into violations against Russians in Baltic countries and in the North Caucasus or elsewhere." He added that newly-elected leaders of such associations should "be able to face up to bureaucrats, to be incorruptible and not even to think of accepting foreign subsidies."

These statements, defamatory for human rights associations, particularly those working for prisoners' rights, gave way to protests among the Russian associations. General Kraev's statements, like Putin's, illustrate the Russian authorities' desire to shatter the unity of human rights defenders. In his speech, Kraev denounced 163 organizations that were financed by oligarchs. But he also mentioned that it was possible to work with 360 other human rights organizations. This effort to distinguish between "good" and "bad" associations directly aims to weaken the human rights movement in Russia.

2°) The role of the media and the disrepute of associations

In a context where press freedom is more and more often openly threatened by government policies, human rights associations no longer have access to major media channels and cannot make the reality of their actions known. Moreover, medias are propagating the image of human rights defenders working for the benefit of foreigners or in league with oligarchs. These unfavourable images are transmitted by state media and are detrimental to the future of associations.

Since the government took over the independent channel NTV in 2001, one has witnessed several cases of censorship, and also self-censorship. Except for Moscow and St. Petersburg, where alternative medias still exist, the rest of the country doesn't have access to pluralistic information. In spring 2004, new political decisions hindered media independence. In early June 2004, the television show *Namedni*, aired by the TV channel NTV and hosted by journalist Leonid Parfenov, was denied airtime after a proposal to hold an interview with the widow of former Chechen president Zemlikhan Yandarabiev. Parfenov was fired. He had been one of the few journalists who had remained on NTV after the company Gazprom took over the channel in 2001⁴². This last development once again illustrates the control that the government has over the media, and particularly over

television channels . Not having access to the media will have long-term repercussions for the image of human rights associations, and can be linked to the fact that they are facing difficulties to recruit new members and volunteers.

Because of the stigmatization of associations, the gap between the population and activists seems to be widening.. An activist believes that human rights defenders have got further and further away from the public ("*otdalennye ot publiki*")⁴³. Only a small portion of the population who have problems search advice from human rights defenders.. The population does not currently support human rights defenders⁴⁴, whereas it did in the early 1990s.

In this difficult context, priority needs to be given to solidarity amongst human rights defenders, who have been significantly reduced in number. As an activist explains, "When there are protests, not many people come. It's just the intelligentsia and a few students who participate. It's a small group. We have a hard time getting information out. Invitations are distributed among people who already know each other."⁴⁵ But the memory of authoritarianism and repression is one of the common threads that unites association activists. An activist explains, "We're carrying out long-term work. After 70 years of silence, we're spending our lives paying for it. We're in a period of post-totalitarian rehabilitation. I don't accept people in my association who expect immediate results. We're working in the interests of our grandchildren."⁴⁶

Russian associations are working together and helping each other. Maintaining this solidarity and collective work is important at a time when the State is putting more and more

pressure on associations. On October 27 and 28 2003, human rights associations organized a Pan-Russian Conference for civic organizations. The declaration adopted at the end of this conference states: "We have come together here and now, as citizens of this country, as representatives of official and unofficial, of social and non-governmental organizations, to declare that only by working together and overcoming differences of opinion and individual conflicts will we be able to help our country get out of the current impasse and really make progress on the road to democracy. We are striving to achieve prosperity, equality and dignity for all. Our methods are based on open-mindedness and non-violence, on consensus-building and on dialoguing with our opponents." By organizing this conference days away from the Russian forum in Nizhny-Novgorod, human rights defenders were trying to reaffirm their fundamental solidarity and freedom in the face of power.

27. See http://www.ifes.ru/library/laws/federal/7_fz/index.html

28. Mersiánova, I.V. *Obščestvennye ob'edineniá graždan...* op.cit. p. 196.

29. Discussion with a representative of the Memorial Human Rights Defense Center, December 10, 2003.

30. The declaration founding an association must be sent to the Prefecture, which issues the acknowledgement of receipt. The authority of the Prefecture is limited to noting the material fulfilment of the declaration. Charles Debbasch, Jacques Bourdon. *Les associations*. Paris : PUF, QSJ ?, 2002. p. 37.

31. Discussion with a representative of the Human Rights Institute, December 10, 2003.

32. American Agency for International Development

33. Discussion with a representative of the Sakharov Center, December 11, 2003.

34. Discussion with a representative of Graždanskij Kontrol' (Citizens' watch), December 13, 2003.

35. <http://www.kremlin.ru/text/appears/2004/05/64879.shtml>

36. Information given by a representative of Memorial, Caucasian Knot (<http://kavkaz.memo.ru>), after the mission.

37. A.K. Tolmasova. *Problemy nalogoobloženíá nekommerceskih organizacij*. Moscow: Aspekt Press, 2003. p. 8.

38. Interview with a representative of the Memorial Human Rights Center, December 10, 2003.

39. Interview with a representative of the Helsinki Group in Moscow, December 11, 2003.

40. Interview with a representative of the Memorial Human Rights Center, December 11, 2003.

41. Note: open letter of the Observatory to Russian authorities, May 24, 2004.

42. <http://www.rferl.org/newsline/2004/06/1-RUS/rus-020604.asp>

43. Interview with a representative of the Human Rights Institute, December 10, 2003.

44. Interview with a representative of the Human Rights Institute, December 10, 2003.

45. Interview with a representative of the Sakharov Museum, December 11, 2003.

46. Interview with a representative of Graždanskij Kontrol' (Citizens' watch), December 13, 2003.

IV - DIRECT THREATS TO THE ASSOCIATIONS AND THEIR MEMBERS

Despite incitement from the State to cooperate and fiscal and media pressure, numerous human rights associations are still attempting to operate independently. However, "where concrete questions are concerned (even excluding the Chechnya issue), there is confrontation," states an association representative⁴⁷. Confrontation with the State can be both open and violent, as illustrated by the difficulties recently encountered by associations in carrying out their activities.

A - A Taboo Subject: Chechnya⁴⁸

All human rights activities relating to Chechnya are today limited. Human rights defenders in Chechnya and Ingushetia are in a very difficult position. Since the beginning of the conflict, Chechen territory and neighbouring Ingushetia have been practically off-limits to humanitarian organisations, journalists and international NGOs. Local human rights defence NGOs trying to work in Chechnya are subjected to daily pressure and are faced with an extremely precarious situation.

Coalition for the inter-regional movement for the protection of human rights and civil liberties

The members of the Coalition for the inter-regional movement for the protection of human rights and civil liberties, a Russo-Chechen association based in Grozny, have been subjected to particularly serious persecution since 2002. Mr Gusigov Khac-Mohammed disappeared on 7 August 2002 and Mr. Djabrailov Khampacha on 10 April 2003. The association and their families still have no news of them. On 13 January 2003, a group of Russian soldiers searched the organisation's premises and arrested Mr Uctalkhanov Kazbek. The Coalition had to pay a fine of 500 euros for his release. Released on 20 February, Mr Kazbek reported that he had suffered degrading and inhuman treatment and had been tortured on a regular basis. Mr Murstaliy Okhazur Khazayevitch was arrested on 28 November 2002 and died on 3 April 2003 from bullet wounds. Shortly before his death, witnesses saw him at a check-point in the Grozny area under the guard of Chechen soldiers working for Russian forces.

The case of Mrs Zura Bitiyeva

During the night of 21 to 22 May 2003, Mrs Zura Bitiyeva, a well-known activist, was killed in her home along with three members of her family. Eleven soldiers belonging to an

unidentified military group burst into her house and tied up Mrs Zura Bitiyeva, her husband and her brother, then shot them in the head. Her youngest son was suffocated with a pillow.

Mrs Bitiyeva was publicly opposed to the first and second Chechen wars. The Russian authorities accused her of hiding Russian deserters and putting them in contact with their families. Before her murder, Mrs Bitiyeva was harassed several times but did not cease her activist efforts.

The Society for Russian-Chechen Friendship Information Centre

In March 2003, Mr Imran Ezhev, chairman of the Society for Russian-Chechen Friendship (SRCF) Information Centre in North Caucasus and coordinator of the Moscow Helsinki Committee, conducted an investigation in the Shali region with a view to drawing up a SRCF annual report on the human rights situation in Chechnya. On 15 March 2003, Mr Ezhev was kidnapped from near to Shali by a group of armed, masked men. Mr Ezhev was found on 19 March 2003, bearing numerous signs of beatings.

On 19 October 2003, Mr Ezhev was arrested again by Russian armed forces at the Chechnya-Ingushetia border. The soldiers, who were drunk, stated that their mission was to arrest all human rights activists. Following a remark about their state of inebriation, Mr Ezhev was arrested and tied up. He was released an hour later thanks to the actions of a colleague who was accompanying him. For more than two years, Mr Ezhev has been arbitrarily arrested and detained by the authorities on a regular basis.

On 9 January 2004, an SRCF volunteer, Aslan Davletukayev, was abducted from his house by armed men. On 17 January 2004, his body was found by a Russian army reconnaissance unit. His body bore signs of torture and mutilation. Due to the current situation in Chechnya, SRCF members and their families fear that the investigation into the murder of A. Davletukayev will be inconclusive.

On 26 January 2004, Mr Ezhev told his colleagues that several unknown people were permanently watching his house and office in Ingushetia. He also said that he had been followed by four vehicles without registration plates (a tactic used when kidnapping Chechen refugees). This surveillance

was connected to the investigation he had undertaken regarding the murder of Mr Davletukayev.

On 12 July 2004, members of the police penetrated and searched SRCF premises in the Ingushi village of Karabulak without a search warrant. This operation was carried out by the Ingushi Republic chief of police, Mr Ruslan Khamkhoyev. The police officers confiscated computers, office equipment and documents as well as individual declarations and testimonies addressed to the organisation and to Ella Pamfilova, president of the human Rights Commission, working under the president of the Russian Federation. Shortly afterwards, armed men produced a jar of black powder and asked neighbours to sign a blank form. The police officers then took away SRCF correspondent Mr Khamzat Kuchiyev, who was present at the premises when the search was carried out. He was released shortly after. Mr Ezhiev expressed fears that the jar of powder had been planted in their office by the police.

Memorial-Grozny

In Grozny, Memorial members live in a situation of permanent insecurity. On 19 October 2003, a group of armed men burst into the house of Libkan Bazayeva, a Memorial Human Rights Centre member⁴⁹. At that time, Mrs Bazayeva and her family were not at home but in Nazran in Ingushetia. The armed men questioned neighbours and the temporary occupants of the house about Mrs Bazayeva's whereabouts. This operation seems to have been directly linked to Mrs Bazayeva's commitment to Memorial since 2000. Indeed, the activist filed a complaint with the European Court of Human Rights against Russian soldiers who bombarded a group of refugees. This complaint was considered to be admissible. In the absence of any guarantees of safety, the Memorial Human Rights centre fears for the safety and integrity of Mrs Bazayeva.

The Martin Ennals Foundation announced on 5 December 2003 the nomination of Mrs Lida Yusupova as laureate 2004 for the Martin Ennals prize for human rights defenders, rewarding exceptional courage in the field of human rights. Mrs Yusupova is a lawyer and has been head of the Russian Memorial Human Rights Center in Grozny for three years. She was awarded the prize at the UN Human Rights Commission in April 2004.

Elsewhere in Russia

In the rest of the country, associations supporting human rights in Chechnya are also experiencing difficulties. This is the case, for example, for the Sakharov Centre which wanted

to organise a festival of documentary films about Chechnya in October 2003. The Moscow cinema that was to host the festival withdrew at the last moment, meaning that the festival could only take place in a confidential manner in a small room in the Sakharov centre. Similarly, the Sakharov Centre was visited on several occasions by police representatives demanding that they take down the "End the War in Chechnya" banner from the front of the building; but they did not succumb to the pressure. The current legal problems experienced by the Centre director described below could be linked to this support of Chechnya.

More recently, an association head received a fine for intending to organise a demonstration commemorating the deportation of Chechens in 1944. On 17 March 2004, the Court in the Mechtchanskij district of Moscow examined the administrative matter concerning Nikolai Khramov, Secretary of the "Radical Russians" and one of the organisers of the meeting for peace and democracy in Chechnya, organised on 23 February 2004. This meeting in Lubyanka square was prohibited by the government and its participants were arrested by the police. N. Khramov was accused of breaking the rules for organising a demonstration. At the trial he was found guilty and made to pay a fine of 1500 roubles (approx. 50 euros). A similar decision was made concerning Lev Ponomarev, executive director of the movement "For Human Rights" and co-organiser of the 23 February meeting⁵⁰. It is advisable to note that on 23 February 2004, in numerous Russian towns, groups commemorating the deportation of Chechen people by Stalin were attacked by fascist extremist movements. In Ijevsk, an activist was seriously hurt during one such attack.

B - Activists Threatened

For several years, cases of targeted assassinations of political opponents have occurred in Russia. Despite the emotion aroused by these assassinations, no measures seem to have been taken to put an end to this practice. On the contrary, the definition of these murders as foul crimes limits investigation procedures and helps to relieve the political power from its responsibilities.

Among recently reported cases, particularly those directly concerning human rights defenders, is the assassination of Nikolai Girenko⁵¹, head of the Minority Rights Commission of the Saint Petersburg Scientific Union, who was killed at his home on 20 June 2004. He was shot dead through his house door while enquiring after the identity of the visitors. Mr Girenko died immediately. Aged 64 years, he was an

experienced activist in the fight against fascism. He carried out official consultative functions with local authorities concerning the issue of minority rights. He was known for his expertise provided at trials of fascist groups like the Russian National Unit (RNE) and Schultz 88. At the beginning of the 1990s, N. Girenko worked with Galina Starovoitova, a democratic politician, assassinated in Saint Petersburg in November 1998. In August 2003, he was an expert in legal proceedings against the director of the Sakharov Centre in Moscow (cf. *Infra*).

In a document published in 2003, the Moscow Helsinki Group expressed concerns about the development of espionage accusations made by the FSB against activists, lawyers, researchers, etc. In addition to the trials against Aleksandr Nikitine and Grigori Pasko, the FSB was also at the origin of accusations against a diplomat, Valentin Moiseyev, and scientists such as Igor Soutiagine, Valentin Danilov, Vladimir Sojfer, Vladimir Surov and Anatoli Babkine⁵². L. Alekseyeva noted that the FSB's accusations concerned people who communicated with foreign countries in the course of their functions⁵³. According to Lev Ponomarev, pressure against lawyers is also increasing and will be backed by accusations from the FSB⁵⁴.

On 28 January 2004, the editor of the human rights information agency "Prima", ex-dissident Aleksandr Podrabinek, was questioned by the FSB as a witness in a case of disclosure of State secrets linked to the publication of two books: "The FSB Explodes Russia" and "LPG, The Lubyanka Criminal Group". The authors of the first book, Aleksandr Litvinenko and Yuri Felchtinski show that the FSB participated in the 1999 Moscow and Volgograd bombings. A. Podrabinek was questioned about the fact that the "Prima" information agency had bought some copies of this book to distribute. A. Podrabinek refused to answer the questions. An FSB investigator thus told him that he may be accused.

C - Associations in difficulty⁵⁵

i. The Social Center - Sakharov Museum

The Sakharov Center was also subjected to pressures in Spring 2003 concerning an exhibition about religion. It is advisable to note that heads of the Sakharov Center refused to take part in the State's initiatives, particularly in the civic forums, and took a firm stance against the war in Chechnya. In January 2003, the Sakharov Center organized an exhibition called "Beware, religion," which was destroyed by a group of orthodox radicals. The affair reached the State Duma, which

asked the prosecutor for "an investigation into incitement to religious hatred by the organizers of the exhibition 'Beware, religion'". The official institutions and the Orthodox Church took the side of the aggressors against the management of the Sakharov Center. On May 29, 2003, the prosecutor of the central district of the city of Moscow ordered an expert appraisal from specialists in art history. This expert's report was prepared from June 4, 2003 to November 28, 2003. The experts submitted their report, and the legal inquiry into the affair ended on February 17, 2004. Following this procedure, the director of the Sakharov Center, Yuri Samodurov, was accused of "incitement to hatred" and of violating the honor of certain religion-related groups of the population⁵⁶. Thus it is the assaulted party that is about to be found guilty and not the group of attackers, with the support of the Russian Orthodox Church. An indictment against Mr. Samodurov, the museum director, and two of his staff members was issued by the prosecutor of the central district of the city of Moscow on April 20, 2004. Mr. Samodurov is accused of inciting to hatred and violating the honor of groups of the population according to nationalistic and religious criteria. His trial began on June 15, 2004. He could receive up to five years in prison⁵⁷. On June 15, 2004, the Taganka Court sent the case back to the prosecutor for further investigation and reformulation of the indictment. The judges obviously do not know how to try this case.

ii. The Soldiers' Mothers Organisation of Saint Petersburg

The Soldiers' Mothers of Saint Petersburg, an association that is leading an independent action to defend conscripts and that openly opposes the Russian army and the war in Chechnya, was subjected to verification that its activity complied with the bylaws of the association. Following insinuations by the Defense Minister, Sergei Ivanov, concerning the financing of the soldiers' mothers organization, the Military Prosecutor of the Leningrad district, Mr. Igor Lebed, demanded that an inquiry be opened into the activities of this association in a letter dated January 20, 2003, sent to the Minister of Justice. Mr. Lebed accused the association of slander and of incitement to desertion and alleged that the activities of the association - particularly monitoring enlistment conditions - did not comply with its bylaws.

The verification procedure ended on June 4, 2003. A letter dated June 23, 2003, sent by the Ministry of Justice for Saint Petersburg, indicated to the soldiers' mothers that they were in violation of current laws, particularly the law on "social groups" and the law on "non-profit organizations." On June 26, the soldiers' mothers association presented a new version of

its bylaws. On August 13, 2003, the authorities of the Ministry of Justice informed the Soldiers' Mothers of Saint Petersburg that the association would be refused the right to register as an association in the absence of a number of documents. Despite these petty administrative annoyances, the Soldiers' Mothers of Saint Petersburg continued to work and hold information seminars every week for young draft dodgers in 2003. The Soldiers' Mothers organization of Saint Petersburg was forced to modify the terms of its bylaws twice, which were finally registered with the Ministry of Justice. The organization was also pressured by the Municipal Property Management Committee (KUGI). Following threats of eviction, the association finally entered into a new three-year lease. All of these threats to the association and the unrelenting pressures from the government gave rise to significant tensions among its members, leading to a split in 2003. The association continues its activities, however, and enjoys widespread international renown, reflected by the Aachen Peace Prize that it was awarded in 2004.

The Memorial association of Saint Petersburg

On August 14, 2003, two people attacked Vladimir Schnittke, the president of the Saint Petersburg association Memorial, and two of his colleagues, after having asked to meet the members of the anti-fascist commission of the organization in vain. Their computers and address books were taken. Owing to the inaction of the police after a complaint was filed, the association Memorial hired private detectives, who identified the attackers. The work of the private investigators paid by Memorial led to the identification and arrest of one of the two assailants, Vladimir Goliakov, on September 26, 2003 (the other has not been found). . . The assailants, members of violent splinter groups, appear to have been sent by the Federal Security Services (FSB) in order to obtain information on Memorial's activities. As proof, an FSB officer is reported to have tried to provide an alibi for the jailed attacker. According to Mr. Schnittke, a man tried to enter Goliakov's prison cell and give him a letter containing names of people able to provide him with an alibi (on the day of the attack, Goliakov's alibi is weak, as he was allegedly among family members). This man was caught and arrested and turned out to be an FSB officer. Mr. Goliakov's case was heard on June 22, 2004. The Court sentenced him to a five-year suspended jail sentence. He was thus set free.

D- Regional problems

The situation of human rights defenders depends on regional powers. A representative of the Helsinki Committee in

Moscow explains: "We get along well with the Ministry of Justice, and are working together to reform the penal system. But we have a lot of problems with the Ministry of Justice's regional departments."⁵⁸ The situation is particularly problematic in the Krasnodar region, but human rights defenders have also come across difficulties in Tatarstan, Kalmykia and Bashkiriya⁵⁹.

1) The example of the Krasnodar region

The situation is particularly problematic in the Krasnodar region. activist maintains that authorities in the region "constantly adopt local acts that contradict federal legislation."⁶⁰ The year 2003 saw many procedures carried out simultaneously against numerous associations in the Krasnodar region. In general, the accusations are mostly unfounded, and the legal procedures last a long time.

The Security Counsel of the Krasnodar region, believing human rights activists to be guilty of defending the rights of the Meshket Turks, asked for the closing of the "Ecole de la paix" foundation. On November 25, 2003, the Court met at the request of the Ministry of Justice's Head Office in the Krasnodar region to evaluate the possible closing of this foundation. The government representatives didn't show up, and the investigation was postponed to December. On December 8, the Court of the city of Novrossiysk (Krasnodar region) requested the closing of the "Ecole de la paix" foundation under the pretext that only one of the organization's three founders still worked there.

The association "Ioujnaia Volna" was also underwent pressure, but came out on top thanks to protests by different associations all over Russia.

The Krasnodar Human Rights Centre was also pressured by regional authorities. In 1998, V. Rakovitch, president of the Krasnodar Human Rights Association and editor of a news bulletin on the same topic was attacked by a group of strangers. In 1999, he was arrested for 5 days. In Spring 2002, the Ministry of Justice in the Krasnodar region led an investigation against the association. Since June 2002, when the law against extremism was adopted, it is no longer necessary to submit a case to a court to bring about the temporary closing of an association for 6 months. On September 24, 2002, this clause was applied against V. Rakovitch's association, which was suspended until April 2003 for activities that went against the association's status (they criticized security forces in the region). The Ministry of Justice called for a three-year suspension. On November 1,

2002, the association went to the Krasnodar Regional Court to contest the Ministry of Justice's decision, but the court did not treat its request. Since April 2003, no official decision has been made, neither to close nor to reopen the association. In September 2003, V. Rakovitch launched an appeal on the Internet drawing attention to the Ministry of Justice's actions against human rights associations in the Krasnodar region and to the dysfunction of the local justice. In February 2004, lawyer Karina Moskalenko (head of the International Protection Centre) got the Supreme Court of the Russian Federation to restore the rights of the Krasnodar Human Rights Centre. The Krasnodar Regional Court must now examine the case on the merit..

The leaders of a mothers' association for the protection of prisoners' rights were arrested in the Krasnodar region on May 17, 2004. Activists had tried to get into one of the region's penal colonies to verify the prisoners' conditions. They were arrested and accused of having links with crime circles. They vigorously denied this claim.

2) The Republic of Tatarstan⁶¹

Attacks against human rights activists may be the most systematic in the Krasnodar region, but these kinds of repressive measures have not spared other regions of the Russian Federation.

In the republic of Tatarstan, pressure against the Kazan Human Rights Center started after the April 2, 2004 publication of a report entitled "The law and its victims, Tortures in Tatarstan." Local journalists, present when the

report was published, were at first pressured to limit its distribution. Then the publishing house that printed the report was inspected by the police. On May 15, 2004, the association's finances were inspected, and all of its accounting papers were checked. Employees of the association and their families also faced pressure. On May 17, 2004, a MVD (Ministry of the Interior) representative in Tatarstan called the father of one of the program directors and former association director, P.V. Tchikov. On May 25, 2004, P.V. Tchikov's father found a grenade near his apartment. Bomb experts defused the device. On May 25, 2004, the Ministry of Justice's Head Office for the republic of Tatarstan announced the official launch of an investigation concerning the activity of the Kazan Human Rights Center.

47. Interview with a Human Rights Institute representative, 10 December 2003.

48. See Observatory annual report, : "Human Rights Defenders in a Security First Environment", April 2004.

49. See Letter from the Observatory, sent on 16 July 2004 to the minister of the interior and the state prosecutor.

50. For more details see <http://www.hro.org/war/2004/03/19.php>

51. See appeal from the Observatory on 16 July 2004.

52. Ernst Cernij. " *Spiony*" *roždaŭtsâ na Lubânke* ("Spies" are created at the Lubyanka). Moscow Helsinki Group: Moscow, 2003. 121 p.

53. Ernst Cernij. " *Spiony*" *roždaŭtsâ ... op.cit.* p. 5.

54. On this subject, see: Lev Ponomaryov. *Basic Problems of Respect for Human Rights in Modern Russia. All Russian Public Movement "For Human Rights".*

55. See the annual report of the Observatory (a joint program of the FIDH and the OMCT): "Human rights defenders in a security-first environment," April 2004.

56. For more details, visit <http://www.hro.org/editions/sovok/2004/03/19.php>.

57. Details on this case are available on the Sakharov Foundation internet site: http://www.sakharov-center.ru/Taganskij_sud/title.htm.

58. Interview with a representative of the Helsinki Group in Moscow, December 11, 2003.

59. Interview with a representative of the Memorial Human Rights Centre, December 11, 2003.

60. Interview with a representative of the Memorial Human Rights Centre, December 11, 2003.

61. <http://www.hro.org/ngo/about/2004/02/04-1.php>

CONCLUSION

The situation of human rights activists in Russia is worsening as the party in power is strengthening its political domination and the administration is working in the party's interests.

Recently adopted legal texts illustrate the Russian authorities temptation towards authoritarian tendencies concerning civil and political liberties. In this regard, the situation has regressed compared to the Perestroika and the 1990s. The adoption of new laws on protests and referendums illustrates the desire to limit society's available means of expression.

It is in this context that the situation of human rights activists is worsening. State demands of associations are increasingly insistent and aim to submit activists to the orders of those in power. Adding to these demands are indirect threats concerning the lawful existence of associations (registration), their financing and their image. In a context characterized by those in power taking over control of the media, news concerning human rights activists is not objective. This media bias is detrimental to the public image of human rights defenders and has negative consequences for the possible recruitment of new activists.

While human rights defenders are trying to preserve their independence and their right to criticize those in power, more and more cases are being seen of associations undergoing pressure, whether it be at the federal or regional level. The situation of human rights defenders in Russia is getting worse and the most recent statements of those in power, particularly the President, donot suggest that much improvement will be seen over the short or medium term.

RECOMMENDATIONS

On the basis of their joint program of Observation for the Protection of Human Rights Defenders, the FIDH and the OMCT make the following recommendations to the authorities of the Russian Federation:

- Regarding the registration of organizations:
Reform legislation governing the registration of organizations, streamlining the registration procedure by moving towards a system of declaration;

- Regarding taxation of organizations:
Reduce the fees levied on human rights organizations; rule favourably on the request by human rights defence organizations to be placed on the list of tax-exempt organizations;

- Regarding direct and indirect attacks against human rights defence organizations:

- Guarantee the physical and psychological/integrity of human rights defenders and put an immediate end to all acts of violence and harassment towards them;

- Carry out a complete and impartial investigation in the cases of murder, attacks, and harassment cited in the present report, so as to identify the perpetrators of these deeds, to bring them to trial, and to punish them according to current law;

- Put an end to all acts of defamation against human rights defenders;

- Regarding specifically the situation of human rights defenders in Chechnya:

Guarantee free access to Chechnyan territory for human rights defenders and independent journalists, so that they may exercise their charge in complete freedom and safety;

- More generally:

- Abide by the terms of the Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, observing in particular the following articles:

-Article 1:

"Everyone has the right, individually and in association with others, to promote and to strive for the protection and the realization of human rights and fundamental freedoms at the national and international levels."

-Article 5 a and b:

"For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

a.] To meet or assemble peacefully;

b.] To form, join and participate in non-governmental organizations or groups;

c.] To communicate with non-governmental or intergovernmental organizations."

-Article 6:

"Everyone has the right, individually and in association with others:

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters."

-Article 12.2:

"The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration."

-Article 13:

"Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration."

- Respect, in all situations, the principles and terms appearing in the international and regional instruments which protect Human Rights and which have been ratified by Russia, guaranteeing in particular the freedoms of association, of assembly, of public demonstration, of speech and opinion, especially the International Covenant on Civil and Political Rights and the European Convention on Human Rights.

- Respect, in all situations, the freedom and independence of the medias, in accordance with international and regional norms, notably those deriving from documents adopted within the scope of the OSCE "Human Dimension".

- Invite to Russia the Special Representative of the United Nations Secretary General on Human Rights Defenders.

THE OBSERVATORY

For the Protection of Human Rights Defenders

L'Observatoire

pour la protection
des Défenseurs des Droits de l'Homme

El Observatorio

para la Protección
de los Defensores de los Derechos Humanos

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Activities of the Observatory

The Observatory is an action programme, based on the conviction that strengthened co-operation and solidarity among defenders and their organisations, will contribute to break the isolation of the victims of violations. It is also based on the necessity to establish a systematic response from NGOs and the international community to the repression against defenders.

With this aim, the priorities of the Observatory are:

- a) a system of systematic alert on violations of rights and freedoms of human rights defenders, particularly when they require an urgent intervention;
- b) the observation of judicial proceedings, and whenever necessary, direct legal assistance;
- c) personalised and direct assistance, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- d) the preparation, publication and diffusion at a world-wide level of reports on violations of human rights and of individuals, or their organisations, that work for human rights around the world;
- e) sustained lobby with different regional and international intergovernmental institutions, particularly the United Nations, the Organisation of American States, the Organisation of African Unity, the Council of Europe and the European Union.

The activities of the Observatory are based on the consultation and the co-operation with national, regional, and international non governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria for the examination and admissibility of cases that are communicated to it. It also targets action based interpretations of the definition of "Human Rights Defenders" applied by OMCT and FIDH.

The competence of the Observatory embraces the cases which correspond to the following "operational definition" : "Each person victim or risking to be the victim of reprisals, harassment or violations, due to its compromise exercised individually or in association with others, in conformity with international instruments of protection of human rights, in favour of the promotion and realisation of rights recognised by the Universal Declaration of Human Rights and guaranteed by several international instruments".

Un programme de la FIDH et de l'OMCT - An FIDH and OMCT venture - Un programa de la FIDH y de la OMCT

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