

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 Derechos Humanos

URGENT APPEAL - THE OBSERVATORY

New information

RUS 011 / 1208 / OBS 207.1

Unlawful confiscation of material / Judicial proceedings / Harassment

Russian Federation

March 4, 2009

The Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), requests your urgent intervention in the following situation in the **Russian Federation**.

New information:

The Observatory has been informed by reliable sources, including the Memorial Research Centre of Saint Petersburg, about the decision of the Saint Petersburg City Court of 24 February to uphold the confiscation by the police of Memorial Research Centre of Saint Petersburg's material.

This decision overrules the verdict issued by the Derzhinsky district court on January 20, 2009, in which the court declared that the December 4, 2008 police search was illegal and asked for all archives confiscated during the search and held by the Prokuratura to be given back to the organisation. The said verdict pointed to a number of procedural violations during the search, in particular the obstruction made to the participation of the organisation's lawyer. Memorial plans to appeal the latest verdict. Nonetheless, in the meantime, the organisation has no access to its archives and research materials and its research activities on the history of authoritarian oppression in Soviet Russia remain at a halt.

The Observatory expresses its deepest concern about these further impediments against Memorial Saint Petersburg. The Observatory denounces the procedural irregularities that marred these events, and fears that such actions aim at sanctioning Memorial's human rights activities or to access their documents.

In addition, the Observatory recalls that the Russian Federation was elected to the Human Rights Council in June 2006 for three years and is committed, in this regard, to "uphold the highest standards in the promotion and protection of human rights". In addition, as a participating State of the Organisation for Security and Cooperation in Europe (OSCE), the Russian Federation acknowledges that "the [1998] UN Declaration on Human Rights Defenders [... places] a responsibility [...] on states to adopt and implement adequate legislation and administrative procedures that would provide for a conducive environment for human rights defenders to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels", and recognises "the need for particular attention, support and protection for human rights defenders by the OSCE, its Institutions and field operations, as well as by participating States"¹.

The Observatory also points out that under the terms of the Declaration of the Committee of Ministers of the Council of Europe for enhanced protection of human rights defenders, adopted on February 6, 2008, member-States are required to "create an environment conducive to human rights defenders, to take effective measures to protect, promote, and respect them, to ensure their access to effective remedies, to take action to prevent attacks and harassment against them, and to ensure their effective access to the European Court of Human Rights".

¹ See OP 6 & OP 8 of the Resolution on Strengthening OSCE Engagement with Human Rights Defenders and National Human Rights Institutions, adopted by the OSCE Parliamentary Assembly on July 10, 2007.

Background information:

On December 4, 2008 in the morning, a group of unidentified men, some of them masked, broke into the offices of the Memorial Research Centre of Saint Petersburg, and showed Memorial representatives who were already in the premises a search warrant issued by the Prosecutor's office of Saint Petersburg, in connection with an investigation against the *New Petersburg* newspaper, for publishing "extremist" articles. The warrant read the following: "case related to the publication of an article titled "*Here is the real candidate*" published in the *New Petersburg* newspaper", although Memorial and its members are not linked in any way to this newspaper and know nothing about the case against it. The Observatory was further informed that the search warrant would be based upon Article 282 of the Criminal Code ("incitement to racial and religious hatred", leading to the accusation of extremism), even though the newspaper article in question had led to a decision issued on October 21, 2008, in which the Court of Saint Petersburg had ruled that such document did not contain anything of an extremist character.

Throughout the day of December 4, the doors of the Memorial office were blocked, and telephone lines did not function. Memorial members and other individuals trying to enter the premises were prevented from doing so and were threatened by the masked men, who would include police, special forces and members of the investigative committee of the Prosecutor's Office.

Furthermore, a lawyer contacted by Memorial was prevented from being present during the search, in violation of the Russian legislation. A local police officer was also denied access.

All the digital material of the office - hard drives, USB keys and other data supports, including 20 years of archives on Soviet repression and gulags - as well as computer processors and some documents were seized. The door of the bureau of the Director of the Research Centre, which was locked, was broken.

The Observatory was also informed that among the unidentified men were one investigator, two members from the special rapid reaction unit (SOBR, which usually works on issues involving dangerous criminals or armed groups), and two police officers, assisted with two "eye witnesses".

Actions requested:

The Observatory urges the authorities of the Russian Federation to:

- i. Guarantee in all circumstances the physical and psychological integrity of the members of Memorial and more generally of all human rights defenders in the Russian Federation;
- ii. Order a thorough and impartial investigation into the above-mentioned events, in order to identify all those responsible, bring them before a civil competent and impartial tribunal and apply to them the penal sanctions provided by the law;
- iii. Put an end to all acts of harassment against all human rights defenders in the Russian Federation, and ensure in all circumstances that they be able to carry out their work without unjustified hindrances;
- iv. Comply with all the provisions of the United Nations Declaration on Human Rights Defenders, in particular with Article 1, which provides that "everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels", as well as with 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");
- v. Comply with the provisions of the Document of the Copenhagen Meeting of the 2nd Conference on the Human Dimension of the Cooperation and Security Conference in Europe (CSCE) (1990), and uphold in all circumstances the principles and provisions enshrined in the international and regional human rights instruments ratified by the Russian Federation and which, in particular, guarantee freedoms of association, demonstration, expression and opinion, in particular the European Convention on Human Rights and the International Covenant on Civil and Political Rights;

vi. More generally, ensure in all circumstances the respect for human rights and fundamental freedoms in accordance with in accordance with the Universal Declaration of Human Rights and with international and regional human rights instruments ratified by the Russian Federation.

Addresses:

- Dmitri Medvedev, President of the Russian Federation, Kremlin, Moscow, Russia, Faxes:+ 7 095 206 5173 / 230 2408, Email: president@gov.ru;
- Mr. Yuriy Chaika, General Public Prosecutor of Russian Federation, 125993, Moscow, GSP-3, 15a B. Dimitrovka str. RUSSIA, Fax: +7 (495) 692-96-00
- Mr. Sergey Romanyuk, Public Prosecutor of Leningrad region, 194044, Saint Petersburg, av. Lesnoi, str. 20, kor. 12, RUSSIA. Fax: +7 812 542 00 15
- Chairwoman of the Presidential Human Rights Commission of the Russian Federation, Ella Pamfilova, 103132 g. Moskva, Staraya ploshchad, d 8/5,pod 3, Russian Federation, Fax:+70952064855;
- Vladimir Lukin, Russian Federal Ombudsman for Human Rights, Fax: +7 495 207-53-37;
- Minister of Internal Affairs, Rashid Nurgaliev, ul. Zhitnaya, 16, 117049 Moscow, Russian Federation, Telegram: Rossiia, 117049, Moskva, Fax: + 7 095 237 49 25;
- Minister of Foreign Affairs, Sergey Lavrov, Smolenskaya-Sennaya pl, 32/34, 121200 Moscow, Russian Federation, Telegram: Fax:+ 7 095 244 2203;
- Permanent Mission of the Russian Federation to the United Nations in Geneva Av. de la Paix 15, CH-1211, Geneva 20, Switzerland, e-mail : mission.russian@ties.itu.int, fax: +4122 734 40 44;
- Embassy of the Russian Federation in Brussels, 31-33 boulevard du Régent, 1000 Brussels, Belgium, Fax: + 32 2 513 76 49.

Please also write to the diplomatic mission or embassy of the Russian Federation in your respective country.

Paris-Geneva, March 4, 2008

Kindly inform us of any action undertaken quoting the code of this appeal in your reply.

The Observatory, a FIDH and OMCT venture, is dedicated to the protection of Human Rights Defenders and aims to offer them concrete support in their time of need. The Observatory was the winner of the 1998 Human Rights Prize of the French Republic.

To contact the Observatory, call the emergency line:

E-mail: Appeals@fidh-omct.org

Tel and fax FIDH + 33 (0) 1 43 55 20 11 / +33 1 43 55 18 80

Tel and fax OMCT + 41 (0) 22 809 49 39 / + 41 22 809 49 29

FIDH

International Federation for Human Rights
17, Passage de la Main d'Or
75 011 Paris, France

OMCT

World Organisation Against Torture
Case postale 21 - 8 rue du Vieux-Billard
1211 Geneva 8, Switzerland