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## Introduction

*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*

Article 19 Universal Declaration on Human Rights

*Everyone has the right to freedom of peaceful assembly and association.*

Article 20 Universal Declaration on Human Rights

On the eve of the Russian presidential elections on 2 March, Amnesty International is publishing its concerns relating to the exercise of the rights to freedom of expression, association and assembly in the Russian Federation. The organization concludes that all three fundamental rights have been curtailed in recent years. Human rights defenders, independent civil society organizations, political opponents, and ordinary citizens have all been victims of this roll-back on civil and political rights.

The right to freedom of expression, as well as the rights to freedom of assembly and association, which are ultimately specific forms of exercising the right to freedom of expression, are guaranteed in the Russian Constitution and are enshrined in international human rights law. The Russian Federation, as a party to human rights treaties including the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), is obliged to promote and protect these rights, to ensure that people can fully enjoy these rights.

However, there appear to be more and more limitations on these rights. Laws have been introduced whose overly broad provisions allow for arbitrary interpretation to the detriment of these rights, or which in other ways restrict these fundamental rights. The very existence of these laws has had a chilling effect on the right to freedom of expression. Moreover, Russian authorities have used laws to clamp down on dissent by human rights defenders and others expressing alternative viewpoints. The findings

of this report give cause for concern that the rights to freedom of expression, association and assembly in Russia are not guaranteed for all. Failure to protect these rights has serious implications for the whole civil society in the Russian Federation. The right to freedom of expression is a cornerstone for a functioning civil society and in itself a safeguard for the protection of other basic human rights.

### *Freedom of expression*

The space for dissenting views, independent media and independent organizations to operate is shrinking in the Russian Federation. Expressing dissenting views can lead to harassment and may put people at risk of being subjected to human rights violations. Amnesty International believes that human rights defenders and human rights organizations, which are funded from abroad, are particularly targeted for harassment and intimidation, in a context in which they have been accused by government representatives and media as “unpatriotic”.

The right to freedom of expression of human rights defenders and civil society activists has also been violated in the bringing of criminal prosecutions for the “extremist” offence of “incitement of racial hatred or enmity”. In at least two cases known to Amnesty International, the organization does not consider the individuals to have incited hatred or enmity towards any group and is concerned that the prosecutions were brought in order to silence dissent and alternative views.

Amnesty International is also deeply concerned that the investigation into the murder of human rights journalist Anna Politkovskaya appears to be making no progress in determining who ordered the killing. The authorities must not obstruct the work of journalists, and investigate thoroughly all harassment and attacks against them.

### *Freedom of assembly*

Freedom of assembly is the right to organize and participate in private and public meetings and demonstrations, including marches and pickets. While Amnesty International recognizes the state’s responsibility to uphold public order, the organization is concerned that law enforcement bodies have responded with excessive force to some demonstrations and public

meetings and have impeded the right of many to freedom of assembly by banning or preventing demonstrations on purported grounds of security considerations or protection of the public interest. The authorities violently dispersed demonstrations in the first half of 2007, while pro-government demonstrations appeared to go ahead without interference. The authorities also prevented scores of people from expressing their views during demonstrations of opposition movements by detaining them, taking them off trains or preventing them from boarding airplanes. Law enforcement bodies interfered with the work of human rights defenders and journalists who monitored demonstrations and public meetings.

### *Freedom of association*

The right to freedom of association concerns the right of individuals to group together and operate collectively, and includes the right to form civil society organizations. Amendments to Russian laws governing the work of non-governmental organizations were introduced in 2006, which have seriously impacted on the right to freedom of association. The laws came into full effect in early 2007, when Russian non-governmental organizations (NGOs) for the first time had to submit reports about their activities under the new regulations. Amnesty International is concerned that the amendments are unduly burdensome and open to arbitrary interpretation by the authorities. Therefore they can be and have been used to target some NGOs, including human rights organizations, because they are seen as a threat to state authority. Some NGOs, including human rights organizations, have had to suspend their activities due to the requirements of the law and in some cases are reported to be facing possible closure for alleged violations of the law.

These amendments are not the only legal instruments used to restrict the work of civil society organizations. Other laws have also been used to prevent the registration of an organization, or harass those who are perceived by the authorities to pose a threat to state authority. In some cases what appears to amount to a campaign of administrative harassment is targeted at an organization.

NGOs, including human rights NGOs, fulfil an important role in civil society, including in the Russian Federation and should be given space to exist and be able to contribute in a meaningful way to addressing issues relevant to the whole society. Guiding principles for the rights of NGOs and

individuals active in promoting and defending human rights are set out in the UN Declaration on the Rights and Responsibilities of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Human Rights Defender Declaration), adopted in 1999, which also addresses the responsibilities of activists towards the state.

To address the situation and to prevent further deterioration, laws need to be amended and instructions put in place which clearly define the role of law enforcement bodies and government officials in safeguarding public order and ensuring the protection of human rights of all people in the Russian Federation, be they in favour or critical of those in power.

At the end of this report, Amnesty International makes recommendations to the Russian government regarding steps which should be taken to uphold the respect of human rights. Amnesty International urges the Russian authorities to uphold the rights to freedom of expression, freedom of assembly and freedom of association. In order to meet its obligations under international human rights law, Amnesty International calls on the Russian authorities to: address the deficiencies in the NGO law and its implementing regulations; refrain from using laws such as the law to combat extremist activities to clamp down on independent media and civil society organizations; instruct law enforcement bodies on policing public meetings in line with the right to freedom of assembly; ensure journalists can conduct their lawful work without arbitrary interference from law enforcement officials; investigate fully, promptly and impartially any reported human rights abuses against civil society activists, journalists and members of the political opposition and bring to justice anyone suspected of involvement in such violations in trials which meet international standards of fair trial.

### *Methodology and scope of report*

Amnesty International has researched a number of cases of violations of the rights to freedom expression, freedom of assembly and freedom of association. Amnesty International spoke to victims, lawyers, non-governmental organizations in a number of towns and cities in Russia as well as government representatives. This report highlights a few of these cases which are illustrative of the restrictions affecting human rights

defenders, civil society activists, journalists as well as potentially any other person in the Russian Federation.

The scope of this report does not include the protection of the right to freedom of expression in the North Caucasus. Amnesty International's concerns in this region were addressed in a November 2007 report entitled *Russian Federation: Human rights defenders at risk in the North Caucasus* (AI Index: EUR 46/053/2007).

## Freedom of association and the law on non-governmental organizations

In January 2006 President Putin introduced controversial amendments to the laws governing civil society organizations in Russia (known as the NGO law), which came into force on 17 April 2006.<sup>1</sup> The amendments, which affect three federal laws – on closed administrative-territorial entities, on public organizations, and on non-commercial organizations – have placed a number of restrictions on civil society groups.<sup>2</sup>

Amnesty International is concerned that non-governmental organizations (NGOs) across the board and their rights to freedom of expression and association have been substantially affected by the changes in regulations. The new law has led to, among other things, onerous reporting requirements, and is open to abuse through arbitrary interpretation.<sup>3</sup> Amnesty International is concerned that some NGOs have been subjected to harassment, inspections amounting to administrative harassment, and threats of closure.

President Vladimir Putin repeatedly gave two reasons for introducing these amendments. One was that it was an attempt to reduce Western influence on Russian civil society<sup>4</sup> and to prevent outbreaks similar to “colour revolutions” in other parts of the former Soviet Union.<sup>5</sup> The other was to bring order to the activities of NGOs.

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<sup>1</sup> Federal Law of the Russian Federation, No. 18-FZ of 10 January 2006.

<sup>2</sup> Laws of the Russian Federation: No. 3297-1 of 14 July 1992: “O zakrytom administrativno-territorialnom obrazovanii”; federal law No. 82-FZ of 19 May 1995 “Ob obshchestvennykh obedineniyakh”; federal law No. 7-FZ of 12 January 1996 “O nekommercheskikh organizatsiyakh.”

<sup>3</sup> See Human Rights Watch, *Choking on Bureaucracy, State Curbs on Independent Civil Society Activism*, February 2008 for a detailed analysis of the law’s provisions.

<sup>4</sup> See for example, “Putin takes on social financing”, *Kommersant*, 25 November 2005

<sup>5</sup> Russian officials, including President Putin, have accused NGOs that receive Western funding of “fulfilling the interests of the Western donors rather than operating in the interests of Russian society”. The government therefore has allocated funds to support Russian NGOs. According to the 2007 report of the Public Chamber on civil society, 29 per cent of the overall money received by Russian NGOs comes from state bodies, be it federal, regional or local ones. (The Public Chamber is an institution, whose members are chosen by the President of the Russian Federation from different layers of society in order to coordinate public interest and government policies.)

Russian government officials, including President Vladimir Putin<sup>6</sup>, have on several occasions stated that the interpretation of the law should not lead to harassment of NGOs which fulfill their legal obligations. In January 2006, the Minister for Foreign Affairs of the Russian Federation, Sergei Lavrov, answered criticism of the law by stating that much depended on its implementation, and suggesting that implementing regulations should set out a framework for the activities of the relevant executive agencies.

Since the amendments have come into force, though, it has become clear that the legal changes and the implementing regulations have in fact undermined the work of NGOs. The authorities have gained increased powers to scrutinize the funding and activities of Russian and foreign NGOs, while the reporting requirements under the implementing regulations are unduly burdensome, diverting resources from substantive programmes.<sup>7</sup> The regulations have failed to clarify the new powers afforded to officials. This has serious implications where NGOs may be closed down for alleged failures to comply with the regulations.

The law on NGOs is not the only legal instrument which has been used to restrict the work of some civil society organizations. Other laws have also been used to harass those who are perceived by the authorities (local, regional or federal) to pose a threat to state authority. These include "extremism"-related legal provisions, the tax law and the Criminal Code of the Russian Federation.

## ***Implementation of the NGO law***

### **Burdensome re-registration**

Foreign and international NGOs were required to re-register their Russian branches or representative offices with the Federal Registration Service

<sup>6</sup> For example at a meeting with leaders of civil society organizations in July 2006 in Moscow, at which Amnesty International Secretary General Irene Khan participated.

<sup>7</sup> A study conducted by Moscow State University and the Moscow Higher School for Economics found in July 2007 that starting an NGO was now around three times more expensive than starting a business and that the process of registering an NGO was far longer than registering a business. "Dorogoi altruizm" (Expensive altruism), *Vedomosti*, 18 July 2007

(FRS) by 18 October 2006. However, the re-registration procedure was unclear and burdensome. During much of the six-month period allowed for re-registering, communication from the FRS was unclear, and the department did not have sufficient staff to advise NGOs on the complex process. According to Amnesty International's information, the office had fewer than 10 staff members. As a result, some organizations failed to meet the 18 October deadline and their activities were suspended pending approval of their registration. Other organizations were refused registration partly for minor oversights in their documents but were invited to resubmit their paperwork.

By 29 December 2006, 196 foreign and international<sup>8</sup> NGOs had been re-registered. Russian NGOs were not automatically required to re-register but Amnesty International is aware of some that did have to re-register in order to bring the wording of their official documents into line with the new law.

### **Intrusive reviews**

Under the new law, the FRS has the authority to conduct reviews of the work of NGOs once a year. The aim of these reviews is to check that their activities and expenses conform to the NGOs' stated aims. Several experts have criticized this aspect of the law on the grounds that it gives too much power to the FRS, which has no set framework of what it may check and what falls within the remit of other state bodies, such as tax inspection. The FRS has published a list on the internet of national organizations registered with the central office of the FRS which will undergo reviews of their work over the course of a year.

There is no publicly available single list of locally or regionally registered NGOs<sup>9</sup> which have to undergo such a review and, as a result, there is no overall list available of the total number of NGOs affected in the course of a year. Amnesty International was informed that regionally or locally registered NGOs were given less time to prepare for a review in

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<sup>8</sup> According to the law, foreign organizations are considered to be branches of organizations that have headquarters outside the Russian Federation, while international organizations are those based in the Russian Federation, which may have branches in other countries.

<sup>9</sup> This in itself seems to contradict the law, which repeatedly stresses that there is a single unified federal register.

comparison to national organizations and therefore were unable to ensure that their regular work was not hampered by the process of review. Amnesty International's representative spoke to several regionally registered NGOs which had to halt their planned activities for at least a week or two in order to fulfill the FRS demands.

### **Citizens' Watch**

The St Petersburg organization Citizens' Watch (Grazhdanskii Kontrol) was ordered on 23 July 2007 to provide copies of all outgoing correspondence during the period 4 July 2004 to 4 July 2007. Although the organization did provide this information, it also filed a complaint that this demand from the FRS was unjustified and a violation of the right of individuals with whom they were in contact to engage in private correspondence.

At the same time the organization was suspected of undertaking activities which were not in line with its stated aims and of failing to pay taxes. Citizens' Watch, which is registered as a regional NGO operating in St Petersburg and Leningrad Region, had invited judges from the region on study trips to Sweden and Strasbourg. The warning by the FRS stated that it was not legitimate for a regional NGO to organize meetings outside St Petersburg. Another claim concerned the mention of foreign donors in the organization's publications. The authorities considered this to be advertising for the donors, for which the NGO is liable to pay tax. Boris Pustyntsev, head of Citizens' Watch, told Amnesty International that one FRS representative had said to the organization's lawyer: "We will find something. Citizens' Watch will not get away without a warning." In late 2007, the warning had been withdrawn but Boris Pustyntsev was still awaiting a decision about the FRS's right to demand access to the organization's correspondence. Amnesty International is concerned that Citizens' Watch is being targeted because of its human rights work.

### **Voice (Golos)**

Voice (Golos) is an organization which focuses on observing elections, informing society about election procedures and the protection of the active voting right as well as the right to be eligible. Voice has its main office in Moscow, with branches in several other regions of the Russian Federation, including in Samara, where it is registered as a regional NGO for Samara Region as well as an inter-regional NGO for the Volga Federal

District.<sup>10</sup> The head of both branches, Ludmila Kuzmina, has been active in civil society organizations since the end of the Soviet Union. During recent years she has trained independent election observers as well as observers from different political parties, including the ruling parties. She also provided advice on civil society activities to NGOs and public action. She told Amnesty International that prior to a March of Dissenters , a demonstration organized by the political opposition around the EU- Russia summit, held in Samara Region on 18 May 2007, she had spoken to the media on 9 May about violations of the rights to freedom of assembly and freedom of expression of the organizers of the march. On 10 May police searched her office and confiscated computers, alleging that the software used on the computers was unlicensed.<sup>11</sup> She was subsequently charged under Article 146 of the Russian Criminal Code (violation of intellectual property rights). On 11 May, fire inspectors closed the building in which the office of Voice was located, citing fire safety reasons.

Amnesty International was told that the building was closed from May to September, when it was opened again because the period for which the closure had been ordered had expired. No improvements to the building had been undertaken during this period.<sup>12</sup> During these months Ludmila Kuzmina was unable to enter her office, access her files and documents.

On 14 September she was informed that the FRS would conduct a review of the regional and inter-regional NGOs and their activities covering the time from 20 September 2004 to 20 September 2007. Among others Voice was asked to provide information about all events organized by the NGOs (the inter-regional branch of Voice was only registered in 2007), financial plans as well as information about all financial expenses and income. In its reports about the review, sent on 19 and 22 October, the FRS noted a number of "gross violations" of the laws of the Russian Federation and on this basis requested a court to order the closure of the

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<sup>10</sup> Russia is divided into seven federal districts.

<sup>11</sup> The office of the regional branch of the newspaper *Novaya Gazeta* was searched the next day and computers were also confiscated.

<sup>12</sup> The building housed a number of organizations which expressed support for the March of Dissenters .It had been provided to civil society organizations by the municipality, which by the end of 2007 had offered to provide another building for use by NGOs and civil society activists. Ludmila Kuzmina told Amnesty International that the regional authorities strongly opposed the municipality providing such support to the NGOs.

regional NGO and a six-month suspension of the activities of the inter-regional NGO.

Among the violations found by the FRS were:

- The regional NGO has to hold regular meetings of its board members, about which the FRS was informed. However, as there had been no notes submitted from the meetings, the FRS stated there had been no confirmation that the meetings had taken place.
- According to the statutes of the regional NGO it is open for new members. The FRS considered it to be a violation of the statutes that no new members had joined the NGO.
- One of the aims of the organization, listed in the statutes, is to submit candidates for electoral commissions. This has not happened.
- The full name of the organization – “Public organization of Samara Region ‘for the defence of the rights of voters’ Golos” – did not appear on the seal of the organization.
- Not all receipts had been provided as originals.
- The inter-regional NGO does not have branches in regions other than in Samara but has conducted training and meetings in other regions.<sup>13</sup>

When Ludmila Kuzmina protested against the findings of the FRS, she was reportedly presented with a list of seven citizens who, it was stated, had approached the regional branch of Voice in September that year in order to become members but had not received an answer. Ludmila Kuzmina told Amnesty International she seriously doubts that these complaints were genuine as the text of the complaints was nearly identical<sup>14</sup> and none of those allegedly interested in joining the NGO had ever tried to get in contact with Voice beforehand.

She also learned that those people who had gone through training sessions as election observers organized by Golos had been excluded as observers during the December 2007 elections to the State Parliament, the Duma.

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<sup>13</sup> Information based on the order for suspension of the NGO issued by the FRS on 22 October.

<sup>14</sup> Amnesty International has seen these complaints and finds it reasonable to assume they are not genuine.

On 19 November a hearing regarding the closure of the regional NGO started at the Samara Regional Court, and concluded on 21 December. The court rejected the request for the closure of Voice. On 17 January 2008, Ludmila Kuzmina learned that the FRS had filed a protest against the decision of the regional court. The Supreme Court of the Russian Federation is scheduled to hear the complaint on 4 March 2008.

Regarding the inter-regional NGO Voice, Ludmila Kuzmina received a report about the findings of the FRS, sent on 19 October, a Friday, but delivered on 27 October, giving the NGO until 6pm on Monday 22 October to address the violations of the law found during the review. On 22 October, the FRS ordered the suspension of the work of the inter-regional NGO for six months for failure to address violations. Golos filed a complaint against this decision, pointing out that the NGO should have been given a reasonable timeframe in line with the law to address any violations. According to the lawyer, on 4 February 2008 the district court in Samara declined to examine the content of the complaint. In addition, the FRS on 6 November 2007 sent another letter to Ludmila Kuzmina, raising further concerns about the violations of the law by Voice and giving a month to deal with these. Ludmila Kuzmina rejected these findings and pointed out in a letter to the FRS that all violations of the law identified during the review should be listed in one document. The FRS reportedly has not replied to this.

Ludmila Kuzmina also told Amnesty International that in late 2007 police had come to the apartment building she is living in on several occasions since May 2007 and had asked her neighbours if they had any knowledge of Ludmila Kuzmina coming home late or being drunk. Additionally, her neighbours were allegedly told that she had links to "extremists"; such allegations also reportedly appeared in the local media against her and other activists. At the same time, criminal proceedings against Ludmila Kuzmina are continuing. She had to pledge in writing that she would not leave the town. She does not deny having had unlicensed computer software in the organization's office but claims that she should not have been charged under criminal provisions for this.

## **Reporting**

Under the law on NGOs, all Russian organizations to which the law applies have to submit annual reports detailing their activities, plans, and finances.

Failure to submit these new style reports result in the FRS warning organizations that they will be taken off the register of NGOs. This does not automatically mean the organizations have to cease their work, but it does impact severely on their activities because being registered in line with the law allows them to exist as legal entities, receive funds, hire staff, and represent the interests of a particular group of people. Furthermore, the law states that a repeated failure to submit such reports allows the FRS to ask a court to order the closure of the NGO<sup>15</sup>.

Since April 2007, the deadline for Russian NGOs to submit these new style reports for the first time, a number of NGOs have been warned that they are being taken off the FRS's register of NGOs for failing to submit reports as required by the law. The Youth Human Rights Movement, together with other Russian NGOs, monitored how many NGOs were threatened with closure as a result of the amendments to the law. According to their survey, about 600 regional and local groups in eight of the Russian regions they monitored were crossed off the register by late August 2007, and the media reported that in the first half of 2007 the FRS issued 18,022 warnings to Russian NGOs and 34 to foreign organizations for failure to submit documents.<sup>16</sup>

The NGO AGORA, which provides legal advice to many NGOs regarding the implementation of the law and monitors the overall situation, expects that after April 2008 the FRS may call for the closure of a large number of NGOs, which have failed twice to submit a report.

Amnesty International urges the FRS to interpret its role as providing assistance to NGOs so that they can comply with the requirements of the law. Such an interpretation would be in line with Russia's obligation to guarantee the right to freedom of association as set out in Article 30 of the Russian Constitution, which states:

"1. Everyone shall have the right of association, including the right to establish trade unions for the protection of his (her) interests. The freedom of activity of public associations shall be guaranteed."

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<sup>15</sup> The law does not prevent the FRS from submitting a request for closure if an NGO has failed to submit a report only once.

<sup>16</sup> "NGOs buried by mountain of paper", *Moscow Times*, 24 August 2007. According to this article eight per cent of the Russian NGOs and 15 per cent of foreign NGOs were affected.

## **Youth Human Rights Movement**

Members of the international NGO Youth Human Rights Movement (YHRM, Molodezhnoe Pravozashchitnoe Dvizhenie) learned in August 2007 that two months earlier a district court in the city of Nizhnii Novgorod had ordered that it be taken off the FRS register of NGOs. The reason, they were told, was because they had failed to provide reports about the activities of the NGO to the regional department of the FRS. According to YHRM members, the regional FRS branch therefore claimed that the organization was inactive and should be removed from the register. Information about legal procedures against the NGO was sent to an address which was three years out of date, so its representatives were unaware of the threat to remove it from the register. During this period the NGO, which had been an inter-regional organization, had been re-registered as an international organization and was therefore required to submit documents to the federal office of the FRS. As the order to close the international NGO was issued in absentia, the organization asked the court to extend the appeal period, since it had complied with the law in providing all the required documents about its many activities to the FRS federal office in Moscow. After a worldwide solidarity campaign organized by the YHRM, the FRS of Nizhnii Novgorod Region in September 2007 wrote to tell members that there had never been any objections to the international NGO and that they had only initiated closure proceedings of the inter-regional NGO. The YHRM believes that there was confusion by the FRS itself as to which NGO it was attempting to close down. According to the YHRM, in November the FRS revoked its proceedings to close the organization down.<sup>17</sup>

## **Reform of the law delayed**

In July 2006 Amnesty International urged President Putin to amend the NGO law as soon as possible rather than waiting for confirmation of what had been clear from the start: that the wording is vague, which leaves the law open to arbitrary interpretation, and that it has a stultifying effect on Russian civil society.<sup>18</sup>

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<sup>17</sup> [http://yhrm.org/news/archives/11\\_2007/?vw=384](http://yhrm.org/news/archives/11_2007/?vw=384)

<sup>18</sup> See *Amnesty International: Russian Federation: New law stifles independent civil society*, AI Index: EUR 46/001/2006, 17 January 2006, and *Draft law – the latest in clamp down on civil society*, AI Index: EUR 46/055/2005, 22 November 2005.

The Presidential Council for the development of civil society and human rights, under its chair, Ella Pamfilova, conducted monitoring and consultations throughout the Russian Federation in order to establish how the law affected civil society and NGOs. Research institutes, such as the Moscow Higher School of Economics, and several NGOs published reports, highlighting the flaws in the law and the resulting problems. In April 2007 at a meeting at the Council of Europe in Strasbourg, Ella Pamfilova highlighted three areas for action: the need to change the registration regime for NGOs, so that NGOs are treated in the same way as other legal entities; much greater clarity as to NGOs' reporting obligations; and the need to ensure that monitoring of NGOs' compliance with the law did not amount to undue pressure.

Reportedly, the Presidential Council presented in May 2007 a number of suggestions to the Russian government for amendments to the law and to the implementing regulations to address the problems. In subsequent months, these suggestions were developed into draft amendments to be presented to the Duma. Ella Pamfilova as well as Russian NGOs and civil society representatives have repeatedly urged the authorities to address the issue and either to consider substantial amendments of the law or to draft a new one, as the current version does not serve its stated purpose.

However, it appears that the process of discussing and possibly amending the law has been halted due to the Duma elections in December 2007 and may be further delayed until after the presidential elections in March 2008.

## **Use of “extremism”-related laws to curb freedom of expression**

Some human rights defenders and NGOs have been targeted under extremism-related laws, which has seriously hampered their ability to exercise their rights to freedom of expression and association.

### ***The 2002 Law on Combating Extremist Activity***

The Russian federal law “On Combating Extremist Activity”<sup>19</sup> was signed into law on 25 July 2002. The law defined extremist activity, extremist organizations and extremist materials.

Extremist activity was defined as, among other things, the activity of public and religious associations or other organizations, mass media, or individuals in planning, organizing, preparing and carrying out activity directed at: forcible change of the foundations of the constitutional structure and violation of the integrity of the Russian Federation; undermining the security of the Russian Federation; seizure or usurpation of authority; creation of illegal armed units; carrying out terrorist activity; the humiliation of national dignity; inciting racial, ethnic or religious discord, as well as social discord, connected with violence or appeals to violence; carrying out mass riots, acts of hooliganism and vandalism on the grounds of ideological, political, racial, ethnic or religious hatred or hostility in relation to any social group; and advocacy/propaganda of exclusiveness, superiority or inferiority of citizens based on their religious, social, racial, ethnic or linguistic affiliation (Article 1).

The law also defined “extremist materials” as including printed documents which call for, justify or substantiate the necessity of carrying out extremist activity (Article 1), and an “extremist organization” as being an organization in relation to which a court has ordered their closure, on the basis that it has carried out extremist activity.

A number of laws were amended in the light of the law on combating extremist activities, including:

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<sup>19</sup> Federal law of the Russian Federation 114-FZ of 25 July 2002

the federal law on mass media (amendment to article 16, so that a mass media outlet can now be closed on the grounds set out in the law on combating extremist activities);

the federal law on public associations (a number of articles were amended including article 42, that a public association can be closed down for carrying out extremist activities in line with and on the grounds set out in the law on combating extremist activities);

the federal law on trade unions, their rights and guarantees for activity (article 4 amended so that they can be closed down in line with and on the grounds set out in the law on combating extremist activities);

Article 280 of the Russian Criminal Code, which was previously about “public calls for the violent overthrow of the constitutional order” and was replaced with “public calls to carry out extremist activity”;

The Russian Criminal Code was also amended by the addition of two new articles, Article 282<sup>1</sup> and 282<sup>2</sup>, on organizing an extremist society and its activities;

the federal law on freedom of conscience and on religious organizations;

the federal law on political parties.

The 2006 NGO law also includes “extremism”-related provisions. Firstly, a public association cannot be registered if it is “extremist”, according to the definition contained in the law on combating extremist activities. Moreover, anyone convicted for an “extremist” criminal offence is not permitted to be a head or a member of an NGO, according to the NGO law (the law on public associations).

At the time that the law was passed, human rights groups strongly criticized it, stating that its overly broad and subjective terms of what constitutes “extremism” could be used to restrict, intimidate and punish the legitimate activities of human rights and other public organizations. The UN Human Rights Committee also concluded, in November 2003, that the law “is too vague to protect individuals and associations against arbitrariness in its application”.<sup>20</sup>

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<sup>20</sup> *Concluding observations of the Human Rights Committee: Russian Federation*, 1 December 2003. 06/11/2003. UN doc. CCPR/CO/79/RUS. (Concluding Observations/Comments), 6 November 2003, paragraph 20

The law was amended in 2006, making the definition of “extremism” even broader, but was amended again in 2007, removing some of the very problematic provisions, but still remaining unacceptably broad (see below). Amnesty International is concerned that the overly broad definition of extremism in the law has restricted the rights to freedoms of expression and association.

Amnesty International is concerned that in at least one case an organization has been wrongfully refused registration, possibly in connection with the law on combating extremist activity.

### **Denial of registration for “Rainbow House”, an NGO of LGBT activists**

Amnesty International is concerned that the NGO law, possibly together with the law on combating extremist activities, has been used to prevent the registration of the NGO Rainbow House (Raduzhnii Dom), an organization of lesbian, gay, bisexual and transgender (LGBT) rights activists from Tiumen, Siberia. Their registration as an NGO has been repeatedly denied by the FRS. Without registration, the organization’s activities, including cooperation and dialogue with other NGOs and state bodies, are severely hampered. It also prevents the organization opening a bank account.

The regional department of the FRS in Tiumen found in December 2006 that the charter of the organization listed activities which amounted to propaganda for a non-traditional sexual orientation, which could constitute “extremist activities”, and therefore was one reason not to register the organization. The FRS also allegedly argued that the aims of the organization were in conflict with the spiritual values of Russian society, were directed towards reducing the population and were therefore considered to be a threat to state security.<sup>21</sup>

Rainbow House made a complaint to the federal office of the FRS in Moscow, about the first decision of the Tiumen office, in particular, the reference to extremist activities. The FRS in Moscow said that it was within the remit of the Tiumen office to make such decisions, but did not address the complaint about the reference to extremist activities. Rainbow House filed complaints against the FRS in Moscow as well as in Tiumen,

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<sup>21</sup> Information received by legal representatives of Rainbow House, the NGO AGORA.

questioning the authority of the FRS to claim that an NGO was attempting to undertake “extremist” activities, without any judicial process or explanation for its decision. .

According to information received from the legal representatives of Rainbow House, the NGO was again denied registration in April 2007 following a renewed application for registration by the activists to the Tiumen office. The second denial was based on the FRS’ statement that the charter of the organization was not in line with the legal requirements, and that there were some irregularities in the paperwork. In November 2007, the court in Tiumen refused to consider the complaint, as the second refusal of the FRS in Tiumen to register the NGO no longer contained the allegation that the NGO was planning “extremist activities”. The court also found that the denial to register the organization did not violate the constitutionally guaranteed right to freedom of association, because the founders of Rainbow House were still able to engage in activities, although not registered as a legal entity.

According to the charter supplied to Amnesty International by Rainbow House, the organization’s aims are:

- “1) Defending universal human rights and freedoms of the citizen, irrespective of their sexual orientation, based on the principles contained in the provisions of legislation of the Russian Federation;
- 2) Fighting discrimination against people on the basis of their sexual orientation, in accordance with legislation of the Russian Federation in force;
- 3) Promotion of the development of self-awareness of citizens, irrespective of their sexual orientation, as fully accepted members of society enjoying equal rights, based on the principles contained in the provisions of legislation of the Russian Federation.”

In Amnesty International’s view, nothing in the organization’s charter indicates “extremist” views or could be said to be a threat to state security.

## ***Article 282 of the Russian Criminal Code***

Article 282 of the Russian Criminal Code creates the following offence:

“Incitement of Hatred or Enmity, as Well as Abasement of Human Dignity

1. Actions aimed at the incitement of hatred or enmity, as well as abasement of dignity of a person or a group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, as well as affiliation to any social group, if these acts have been committed in public or with the use of mass media,

shall be punishable by a fine in the amount of 100,000 to 300,000 roubles, or in the amount of the wage or salary, or any other income of the convicted person for a period of one to two years, or by deprivation of the right to hold specified offices or to engage in specified activities for a term of up to three years, or by compulsory community service for a term of up to 180 hours, or by corrective community service for a term of up to one year, or by deprivation of liberty for a term of up to two years.

2. The same deeds committed:

- a) with the use of violence or with the threat of its use;
- b) by a person through his official position;
- c) by an organized group,

shall be punishable by a fine in the amount of 100,000 to 500,000 roubles or in the amount of the wage or salary, or any other income of the convicted person for a period of one to three years, or by deprivation of the right to hold specified offices or to engage in specified activities for a term of up to five years, or by compulsory community service for a term of 120 to 240 hours, or by corrective community service for a term of one to two years, or by deprivation of liberty for a term of up to five years.”<sup>22</sup>

The 2007 amendments (see below) spelled out that the offence set out in this article is to be considered as “extremist”. In fact, prior to the 2007 amendments it appears already to have been considered by the authorities to be “extremist”. Article 282 is one of the articles listed in Article 2821 as being “extremist”, is included in the chapter of the Russian

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<sup>22</sup> Translation at

<http://www.legislationline.org/upload/legislations/d1/a1/0cc1acff8241216090943e97d5b4.htm>

Criminal Code concerning crimes against the basis of the constitutional order, and state security, and moreover the definition of incitement contained in the article is almost identical to that in the law to combat extremist activity.

Amnesty International is concerned that prosecutions under Article 282 have been used to stifle the peaceful exercise of the right to freedom of expression.<sup>23</sup>

### **Russian-Chechen Friendship Society (RCFS)**

Amnesty International has been concerned about the clampdown on the Russian-Chechen Friendship Society (Obshchestvo Rossisko-Chechenskoï Druzhby), an organization which collects and distributes information about the human rights situation in Chechnya and other parts of the Russian Federation. The RCFS was closed down in October 2006 after a court had found the then head of the organization, Stanislav Dmitrievskii, guilty of inciting racial and ethnic enmity (under part 2 of Article 282 of the Criminal Code).<sup>24</sup>

On 3 February 2006 Stanislav Dmitrievskii had been convicted for publishing articles by Chechen separatist leaders in the newspaper *Pravozashchita*<sup>25</sup>. A district court in Nizhnii Novgorod imposed a two-year suspended sentence and a four-year probationary period on Stanislav Dmitrievskii. During this four-year period, he has to inform the authorities of any change of residence or travel plans, and must report regularly to the local authorities. Any violation of these conditions or further criminal conviction could result in him being imprisoned for two years. In addition, following a sentence for violating the Administrative Code in relation to his participation in a demonstration in Moscow in April 2007, the Federal Service for the Implementation of Punishment appealed to a court in Nizhnii Novgorod to change the conditions of Stanislav Dmitrievskii's probationary period. As a consequence, any violation of the Administrative

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<sup>23</sup> Extremism-related provisions have also been used to prosecute individuals in relation to racist attacks or racially motivated crimes (see: *Amnesty International: Russian Federation: Violent racism out of control*, AI Index: EUR 46/022/2006, 4 May 2006).

<sup>24</sup> *Russian Federation: Russian Chechen Friendship Society closed under new NGO law*, AI Index: EUR 46/048/2006, 13 October 2006.

<sup>25</sup> *Pravozashchita* means rights protection, an expression which is often used synonymously with human rights protection.

Code of the Russian Federation could have led to a decision to imprison him. As of February 2008, the appeal by the Federal Service for the Implementation of Punishment has not been successful.

The decision to close down the RCFS was confirmed by the Supreme Court of the Russian Federation in January 2007. Following the hearing at the Supreme Court, Stanislav Dmitrievskii told Amnesty International that the RCFS would seek justice at the European Court of Human Rights in Strasbourg.

Amnesty International, along with many Russian and international human rights organizations and experts, considered that the allegations that the texts published in *Pravozashchita* incited racial hatred or enmity were unfounded. Amnesty International considers that Stanislav Dmitrievskii would be a prisoner of conscience, should he be imprisoned on these charges. The organization believes he was wrongfully convicted, solely for exercising his right to freedom of expression.<sup>26</sup> Accordingly, it believes that the RCFS should not have been closed down.

To save the NGO from closure, Stanislav Dmitrievskii's colleagues would have had to remove him from his post, and publicly condemn his opinion, which they refused to do. Several members of the NGO set up new organizations: the Nizhnii Novgorod Foundation for the Support of Tolerance and the Russian-Chechen Friendship Society in Finland.

Prior to its closure, the RCFS had been subjected to numerous checks by different authorities in a way which amounted to administrative harassment. Twice in 2005 the organization faced a tax inspection; the tax inspectors ordered its accounts to be closed at the same time as the prosecutor's office conducted its investigation against Stanislav Dmitrievskii. In 2005 threatening leaflets were distributed in the respective neighbourhoods of Stanislav Dmitrievskii and Oksana Chelysheva.<sup>27</sup>

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<sup>26</sup> See *Amnesty International: Russian Federation: Amnesty International calls for the guilty verdict against Stanislav Dmitrievskii to be overturned*, AI Index: EUR 46/006/2006, 3 February 2006.

<sup>27</sup> See *Amnesty International: Russian Federation: Appeal case update: The Russian-Chechen Friendship Society under threat*, AI Index: EUR 46/036/2005, 12 September 2005.

### **Andrei Sakharov museum and public centre**

In March 2007 the Andrei Sakharov museum and public centre in Moscow held an exhibition called *Forbidden Art 2006*, showing items which had been rejected by other museums and galleries the previous year. Some of the art objects depicted religious paintings combined with cartoon figures. Several organizations and individuals, including members of the Duma, protested against the exhibition and called for the organizers to be punished, referring to the museum as a “sewage pit”. In May 2007 a Moscow district prosecutor started criminal investigations against the organizers of the exhibition for inciting hatred or enmity against a religious or ethnic group (under part 1 of Article 282 of the Criminal Code). In late November 2007 the district prosecutor questioned the curator of the exhibition, Andrei Yerofeev; in December the director of the museum, Yuri Samodurov, received a letter from the district prosecutor, requesting information about Andrei Yerofeev, his work contract and the planning process of the exhibition. On 18 January 2008, police conducted a search in the museum and confiscated documents relating to the exhibition.

As of February 2008, no further steps have been taken against the organizers of the exhibition, but Amnesty International is concerned that the museum, the public centre and its director may be targeted not only because of organizing an exhibition and thereby exercising their right to freedom of expression but also because the museum offers a space for discussions on various themes, including on human rights. Already in 2005 Yuri Samodurov and curator Ludmila Vasilovskaia had been found guilty of violations under part 2 of Article 282 of the Criminal Code and sentenced to pay a fine of 100,000 roubles each.<sup>28</sup> The charges – “carrying out action aimed at inciting enmity and humiliating the dignity of a group of people due to their nationality or religious affiliation, carried out in public,” concerned an exhibition, held in the museum in 2003 under the title “Caution! Religion!”. Amnesty International did not consider the art objects exhibited as inciting enmity and would have considered Yuri Samodurov and Ludmila Vasilevskaia as prisoners of conscience had they received prison sentences.<sup>29</sup>

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<sup>28</sup> A third person, artist Anna Mikhailchuk, was acquitted of any violation of the Criminal Code.

<sup>29</sup> See Amnesty International, *Urgent Action: Russian Federation: Further update on possible prisoner of conscience, legal concerns* (AI Index: EUR 46/010/2005), 31 March 2005.

## **Amendments to the law on combating extremist activities**

In 2006, amendments to the law on combating extremist activities broadened the definition of “extremism” yet further<sup>30</sup>. While the sponsors of the amendments presented them as aiming to tackle “extremism” and xenophobia, in fact the amendments, in the eyes of a number of analysts, blurred the difference between political debate, expressing dissent and expressing extremist views. The new amendments, signed into law on 27 July 2006, included in the definition of extremism:

activity undertaken by individuals, civil society organizations, religious organizations or other organizations or the media which is aimed at publicly defaming state officials in the carrying out of their duties, when the defamation includes an accusation that the official has him/herself committed an extremist act and when the defamation has been established by a court;

activity aimed at use of violence or threat of use of violence against a state official during the carrying out of his/her duties;

public calls to carry out extremist activity and distribution of materials containing such calls, or containing justifications for extremist activity.

In July 2007, there were further amendments introduced to laws relating to “extremism”, including to the 2002 federal law “On combating extremist activity”<sup>31</sup>.

The 2007 amendments changed yet again the definition of “extremism”. It extended the definition by characterizing “ideological, political, racial, ethnic or religious hatred or enmity” or “hatred or enmity against any social group” as “extremist” motivation. This definition was also applied to the Criminal Code in relation to hate crime.<sup>32</sup> The 2007 amendments

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<sup>30</sup> See federal law of the Russian Federation No. 148-FZ of 27 July 2006.

<sup>31</sup> Federal law of the Russian Federation 211 – FZ of 24 July 2007

<sup>32</sup> Article 63 of the Criminal Code lists a number of aggravating circumstances which apply to all crimes. Following the amendments, Part 2 (e) now states “the commission of an offence with the motivation of political, ideological, racial, ethnic or religious hatred or enmity, or with the motivation of hatred or enmity of any social group”. A number of other articles of the code setting out individual offences were also amended in line with the new definition of hate crime.

narrowed the definition in other respects, including by removing some of the overly broad elements of the definition that had been included in 2006, such as the element of justification of “extremism”.

To hold extremist views is not punishable as such. For example, in some cases the publisher of a text has been found guilty of inciting hatred or enmity while the author of the publication has not been targeted. The mass distribution of publications which are considered to be of “extremist” content is now prohibited under the Administrative Code, but this does not necessarily involve criminal responsibility for those who wrote or published the text. The sanctions for such distribution vary depending on the distributor: individual citizens can be fined between 1,000 and 3,000 roubles or given up to 15 days’ administrative detention, officials can be fined between 2,000 and 5,000 roubles, and legal entities can be fined or their activities be suspended for up to 90 days. In all cases the “extremist” materials can be confiscated.

Amnesty International remains concerned that the broad terms of the law, as it stands in 2007, could be applied arbitrarily and that the fact of the existence of the law is having a chilling effect on freedom of expression in Russia.

## **Other forms of harassment and intimidation**

### **International Protection Centre (IPC)**

The International Protection Centre (Tsentr sodeistvia mezhdunarodnoi zashchite), a human rights organization which provides legal advice and support for applicants to the European Court of Human Rights, is run by lawyer Karinna Moskalenko. She is also a member of the legal team for former head of the Yukos oil company, Mikhail Khodorkovskii. Since 2004 – even before the legal amendments to the law on NGOs came into force – the IPC had numerous visits from tax inspectors, the FRS and the prosecutor's office. Karinna Moskalenko told Amnesty International that a substantial part of her and her colleagues' time is spent submitting documentation to the different authorities that are conducting investigations into or reviews of the work of the NGO. Amnesty International believes that the targeting of the IPC for repeated inspections may be the result of Karinna Moskalenko's role in the defence team of Mikhail Khodorkovskii.

When Karinna Moskalenko and several of her colleagues from the legal team of Mikhail Khodorkovskii travelled to Chita in Eastern Siberia in February 2007 to meet with their client, they were ordered to meet with representatives of the office of the Russian Prosecutor General in the office of the head of the administration of the pre-trial detention centres (SIZO). Reportedly, the lawyers were pressured to sign documents relating to the exchange of information about the case. As all members of the defence team refused to sign these papers, they were made to sign a statement confirming their refusal in order to be able to leave the SIZO. On 7 February, Karinna Moskalenko was threatened with being taken off the flight back to Moscow if she did not sign a document, stating that she would not reveal any details about a specific criminal case against her client, of which she was not even aware.

In May 2007, the Office of the Prosecutor General initiated a complaint procedure against her at the Moscow Bar Association, calling for her disbarment, accusing her of having failed to represent Mikhail Khodorkovskii with due diligence. However, the Bar Association rejected the complaint in June as they could find no evidence in her conduct for taking disciplinary measures against her.

### **Educated Media Foundation (Internews)**

In January 2007 the head of the Russian NGO Educated Media Foundation (formerly Internews Russia)<sup>33</sup>, Manana Aslamazian, was stopped at customs at Moscow's Sheremetevo airport. She had failed to declare money that she had brought back to Russia from a private trip to Paris. According to Russian law, the maximum amount one may bring into the country is the equivalent of US\$10,000, whereas Manana Aslamazian was carrying €9,950 and 5,000 roubles.

She admitted her mistake, and declared she had been confused about the permissible amount of money one can bring into the country. She said she had brought the money to Russia as a private person, not in her capacity as a head of an NGO.

Criminal proceedings were instigated against her. While the authorities had not yet presented evidence about the alleged purpose of the money, police from the Department for Economic Crime searched the organization's offices in April 2007, confiscating computers, training equipment and files, and in May its bank accounts were closed. As a result, Educated Media Foundation was forced to close its offices since staff and students were unable to continue their work without the necessary equipment and documents. In June 2007, her lawyer was informed that Manana Aslamazian had been charged with Article 188 of the Criminal Code (smuggling). Manana Aslamazian requested to be able to get acquainted with the allegations against her while abroad. This was rejected by the investigation committee which insisted that she should return to Russia, after which they would hand her case over to the court.

Reportedly, during a meeting between journalists and President Putin in late August 2007, the latter stated in relation to the Educated Media Foundation that a foundation sponsored with foreign money cannot teach Russian journalists anything good. He also reportedly stated that Manana Aslamazian cannot be relieved from administrative responsibility, but that a mistake and a crime should not be confused.<sup>34</sup>

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<sup>33</sup> Internews is an international independent organization based in the USA, with branches in various countries throughout the world, which promotes independent media worldwide.

<sup>34</sup> See: *President obeshchaet prikryt*. Novaya Gazeta, 29 August 2007.

At least 1,000 Russian journalists, many of whom had been trained by Internews / Educated Media Foundation, signed a letter to President Putin, expressing concern about the targeting of an NGO and its staff members, who had provided professional training to journalists.

In July 2007 the council of founders decided to close down the Educated Media Foundation.

## ***Journalists under attack***

### **The investigation into the murder of Anna Politkovskaya**

The murder of human rights journalist Anna Politkovskaya in October 2006 sent shockwaves through the journalistic and human rights communities. Amnesty International believes that in all likelihood she was murdered because of her investigative journalistic work, in particular on abuses in the Chechen Republic.

Anna Politkovskaya knew that she was under threat. There had been several previous attacks on her, including when she tried to travel to the town of Beslan in North Ossetia, where in September 2004 more than 1,000 children, parents and teachers had been taken hostage. She fell ill on the flight to Rostov-on-Don, en route to Beslan, and had to receive emergency care in hospital. She was told that doctors suspected she might have been poisoned. The doctors could not provide an official explanation for her sudden ill-health. Reportedly, she continued to suffer physically from the effects of this incident to her health.

In June that year, she had interviewed the then Chechen Prime Minister Ramzan Kadyrov. She stated afterwards that he threatened that her life might be in danger if she continued her reporting about the situation in Chechnya.

After her murder in Moscow on 7 October 2006, the Prosecutor General took the lead in the investigation as an especially important case. In August 2007 the Office of the Prosecutor General informed the media about the detention of a number of suspects in the murder. In October 2007, around the anniversary of her murder, it was announced that

charges had been brought against nine of the detainees. No further information had been published by early 2008.

### **The death of journalist Ivan Safronov**

When investigative journalist Ivan Safronov was found dead outside the apartment building where he was living, on 2 March 2007, the prosecution initially concluded it was suicide. However, neither his colleagues nor his family were satisfied with this explanation and eventually an investigation into the crime of driving someone to suicide under Article 110 of the Criminal Code was initiated. On 12 September 2007, the Moscow prosecutor's office closed the case, claiming that all evidence pointed to suicide. Colleagues and activists from NGOs working to protect press freedom were not satisfied with the investigation and claimed it had failed to question people in government authorities relating to the journalist's investigation. Ivan Safronov had been writing about arms deals for the Russian daily *Kommersant*; most recently he had investigated a large arms deal between Russia and Syria.

### **Restrictions on freedom of expression of the media**

A number of Russian and international organizations working for the protection of human rights and press freedom have repeatedly stated in recent years that there is less and less media freedom in the Russian Federation. The space for independent journalism has become smaller, as different laws have put restrictions on journalists, which may violate their right to conduct their professional work and may constitute in some cases a violation of the right to freedom of expression.

There have been numerous investigations opened against journalists during the last year regarding allegations that they had committed a crime, such as inciting hatred or enmity or for libel and slander of officials. In the majority of these cases the investigation has not led to the opening of a criminal case. However, the frequent threat of criminal responsibility may have a chilling effect on the media. Amnesty International recognizes the obligation of the authorities to protect citizens against hatred and the discrimination, hostility and violence it engenders. However, states also have an obligation to protect the right to freedom of expression and laws

which restrict this right should not be used to curtail dissenting views or independent media.

Changes to the law on combating extremist activities, for example, have affected the media in Russia. The radio station *Ekho Moskvy* was repeatedly asked to provide transcripts of their programmes to the prosecutor's office in relation to preliminary investigations into allegations that they had aired extremists' views. This was the case following a programme with Eduard Limonov, leader of the now banned National Bolshevik Party. The interview was conducted around the time when the ban of his organization had not yet fully come into force. This request also concerned interviews with opposition politician Garry Kasparov. While the requests to provide such information did not lead to any further action against the radio station, journalists working for *Ekho Moskvy* told Amnesty International they considered that the way in which the prosecutor's office had officially demanded the transcripts had been done in order to intimidate the station since the text of all programmes is accessible on the internet.

## **Freedom of assembly**

During 2006 and 2007, Russian police, including the special police units (OMON), have repeatedly used force to disperse peaceful demonstrations, rallies, pickets and meetings. Amnesty International is concerned that on several occasions the use of force appears to have been unprovoked or excessive, and scores of people have been beaten up and arbitrarily detained. Many participants in these events have later been sentenced for violations of the Administrative Code of the Russian Federation in proceedings that appear to fall short of international standards on the right to a fair trial. Such occurrences have been mainly, but not only, noted during so-called Marches of Dissenters, held in several Russian cities, including St Petersburg, Nizhnii Novgorod and Moscow, where opposition groups and civil society activists have been prevented from expressing dissenting opinions at peaceful meetings and demonstrations. On several occasions the authorities have declared these marches banned or "unsanctioned". They have also used questionable methods to stop people from attending such meetings, including taking people off trains or detaining them and preventing them from participating in the demonstrations.

Amnesty International recognizes the responsibility of law enforcers to police public meetings and rallies, which includes the protection of the rights and the security of both participants and those who may be affected by the meeting. However, it should be made clear in orders given to law enforcement officials on the ground that their task is to *enable* the right to peaceful assembly and not to obstruct it. The task of the police and law enforcement officials on occasions such as demonstrations and pickets is to curb the possible spread of violence by proportionate means. Force should be used only when it is absolutely necessary, in line with the protection of public order, national security or in order to prevent a crime. If the authorities consider it to be necessary to disperse a crowd, other, non-violent means should be used first.

### ***The law on the right to freedom of assembly***

Amnesty International is concerned that some of the measures taken by the authorities in relation to demonstrations and meetings appear to have

been in violation of Russian and international law, which protect the right to freedom of assembly. These include Article 21 of the International Covenant on Civil and Political Rights (ICCPR) and Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), both of which Russia has ratified. Article 11 of the ECHR states:

“Freedom of assembly and association:

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.”

In connection with Article 1 of the ECHR, which puts an obligation on member states of the Council of Europe to “secure to everyone under its jurisdiction the rights and freedoms” of the ECHR, the duty to protect the right to freedom of assembly puts positive obligations on states beyond simply not interfering in public meetings, demonstrations, pickets and so on. The state has to establish circumstances in which this right can be fully enjoyed.<sup>35</sup>

In line with these international obligations, Russia has included the protection of the right to freedom of assembly in its constitution and in national law.

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<sup>35</sup> In a recent judgment, the European Court of Human Rights concluded: “[A] genuine and effective respect for freedom of association and assembly cannot be reduced to a mere duty on the part of the State not to interfere; a purely negative conception would not be compatible with the purpose of Article 11 nor with that of the Convention in general. There may thus be positive obligations to secure the effective enjoyment of these freedoms.” Case of *Baczkowski and Others v Poland*, para 64, European Court of Human Rights, judgment, 3 May 2007.

Article 31 of the Russian Constitution states:

“Citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, meetings and demonstrations, marches and pickets.”

The constitutional right to freedom of assembly is further governed by the Law of the Russian Federation on rallies, meetings, demonstrations, processions and pickets (Law on Public Meetings) and other laws such as the Criminal and the Administrative Codes of the Russian Federation. According to the Law on Public Meetings, organizers of any event which falls under the definition of the law (except for pickets held by a single person) must notify the relevant authorities in writing, not more than 15 days and not less than 10 days prior to the planned event about their intentions (Article 7, part 1). The notification must contain information about the aim, the format of the meeting (rally or picket, for example), the place or route, the date, the planned time of the beginning and end of the event, the expected number of participants and a plan of how public order and security will be safeguarded (Article 7, part 3). If it appears that the aims of the planned meeting or its format may violate the Russian Constitution or Russian law, the authorities have to inform the organizers and warn them in writing that they may face legal consequences for any violations of the law that may occur (Article 12, part 2). Failure to comply with the provisions set out in the Law on Public Meetings is considered to be a violation of the Administrative Code.

Under the Criminal Code, an official who unlawfully prevents or hinders the carrying out of a rally, meeting, demonstration, procession or picket can be sentenced to up to three years' imprisonment.

During recent demonstrations the police are reported to have accused demonstrators of participating in “unsanctioned” meetings. However, as the Ombudsman for Human Rights of the Russian Federation pointed out in his report, “On the observance of the constitutional right to peaceful assembly in the Russian Federation”,<sup>36</sup> the law does not refer to sanctioned or unsanctioned meetings, nor does the Administrative Code use these terms.

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<sup>36</sup> Spetsialnii doklad Upolnomochennogo po pravam cheloveka v Rossiiskoi Federatsii: *O sobliudenii na territorii Rossiiskoi Federatsii konstitutsionnogo prava na mirnye sobraniia*, July 2007, <http://www.ombudsman.gov.ru/>

Instead, the Law on Public Meetings lists the duties of the organizers of public meetings as well as those of the authorities when the latter have received notification of a planned public meeting. The authorities are obliged to confirm receipt of the notification and, if deemed necessary, suggest changes to the location or timing of the meeting as well as request amendments to those parts of the notification that are not in line with the law or which may lead to violations of the law.

## ***Curtailing the right to freedom of assembly***

### **Gay Pride parade**

Amnesty International is concerned that the Moscow authorities have unlawfully banned the right of activists to hold a Gay Pride parade on two consecutive years, and thereby failed to protect the rights to freedom of expression and assembly.

In February 2006, when gay rights activists announced their intention to hold a gay rights festival in Moscow, including a Gay Pride parade on 27 May that year, the authorities announced they would not allow such an event to go ahead. According to the news agency *Interfax*, a spokesperson for Moscow Mayor Yuri Luzhkov said on 16 February 2006: "The Moscow government is not even going to consider allowing a gay parade." He also stated that plans for the Gay Pride parade "have evoked outrage in society, in particular, among religious leaders." He reportedly added that "Moscow Mayor Yuri Luzhkov was determined that the city government would not allow a gay parade in any form, open or disguised, and any attempts to organize an unsanctioned action would be resolutely quashed."

On 15 May 2006, organizers of the march officially informed the Moscow authorities of their intention to hold a Gay Pride march with 2,000 participants through central Moscow. In violation of Russian law, the Moscow authorities suggested neither a different time nor place for the demonstration. Instead, on 18 May, the authorities issued an official response, stating that they "did not agree" with the planned march, citing the number of letters they had received from the general public objecting

to the march, and citing security concerns should the march go ahead. The organizers appealed against this decision at Tverskoi District court; the court upheld the authorities' decision on 26 May. On 27 May the organizers announced that they had decided not to go ahead with a full-scale march. Instead they invited individuals to come and lay flowers at the tomb of the unknown soldier near the Kremlin in Moscow and later to participate in an authorized demonstration organized by another group near the Moscow City Hall. However, at both venues, lesbian, gay, bisexual and transgender (LGBT) activists were met by counter-protestors shouting homophobic abuse and in some cases violently attacking the demonstrators. A number of LGBT activists, including German parliamentarian Volker Beck, as well as some journalists, were injured by counter-demonstrators. The police, including officers from the OMON special police unit, reportedly failed to differentiate between peaceful and violent protestors, and detained individuals in a rough manner.

At the same time the organizers of a gay pride festival and the Gay Pride parade made a legal complaint against the authorities' refusal to allow the May 2006 parade to go ahead. In June 2007 the Supreme Court of the Russian Federation confirmed its decision that the Moscow authorities had the right to ban the parade for security reasons. They cited the Russian Constitution and the European Convention on Human Rights, claiming that this allows for restrictions to the right of freedom of assembly "in the interest of national security or public safety".<sup>37</sup> Just a few weeks earlier, the European Court of Human Rights found, in a case on a gay rights campaign in Poland, that the State's obligation to protect and to enable the right to freedom of assembly "is of particular importance for persons holding unpopular views or belonging to minorities, because they are more vulnerable to victimisation."<sup>38</sup>

The European Court, in considering the circumstances surrounding the gay rights campaign in Poland, found that, even where the initially banned meetings had taken place, "the assemblies were held without a presumption of legality, such a presumption constituting a vital aspect of effective and unhindered exercise of the freedom of assembly and freedom

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<sup>37</sup> On 3 May 2007 the European Court of Human Rights in the case of *Baczkowski and others v Poland* had found a violation of the right to freedom of assembly by Poland, where the authorities had attempted to ban a march by LGBT rights activists in 2005.

<sup>38</sup> Case of *Baczkowski and others v Poland*, para 64, European Court of Human Rights, judgment, 3 May 2007.

of expression. The Court observes that the refusals to give authorization could have had a chilling effect on the applicants and other participants in the assemblies. It could also have discouraged other persons from participating in the assemblies on the ground that they did not have official authorization and that, therefore, no official protection against possible hostile counter-demonstrators would be ensured by the authorities.”<sup>39</sup>

In mid-May 2007 the Moscow authorities banned a gay parade for a second time. On 27 May activists, including parliamentarians from different countries, attempted to hand a petition to Mayor Yuri Luzhkov, asking him to respect and protect the rights of sexual minorities. Again, the group was attacked by anti-gay rights activists, who beat them and threw eggs and tomatoes at them. The police detained several of the attackers and also briefly detained gay rights activists, including Volker Beck and Italian Member of the European Parliament, Marco Cappato. The Russian organizer of the event, Nikolai Alekseev, was charged with violation of the law on public meetings. In June 2007 he and some 25 other activists held a picket outside the Delegation of the European Commission in Moscow, calling on the European Union to deny Mayor Luzhkov a visa. Again, several of the activists were detained briefly, allegedly for violating the law on public meetings. Nikolai Alekseev told Amnesty International that he had two letters from the authorities, apparently signed by the same person, one confirming that the picket could go ahead, one – which was received later – denying the right to hold such a picket at the intended place.

### **Marches of Dissenters**

Police repression in relation to the right to freedom of assembly has recently been most evident during the Marches of Dissenters.

A coalition of opposition groups, The Other Russia, organized several demonstrations known as Marches of Dissenters in different Russian cities in 2006 and 2007 in advance of elections or to coincide with international high-level meetings in Russia. Such Marches of Dissenters were held in Moscow, St Petersburg, Samara and Nizhnii Novgorod, among other places. Some were “sanctioned” by the authorities; others, for example in Nizhnii Novgorod, were not.

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<sup>39</sup> Case of *Baczowski and others v Poland*, para 67, European Court of Human Rights, judgment, 3 May 2007.

Amnesty International is concerned that during some of these marches and the surrounding events, people were denied the rights to freedom of expression and assembly. In addition, scores of people were beaten up and arbitrarily detained by riot police, in violation of international human rights standards on the use of force and on detention.

Organizers of the March of Dissenters in Moscow on 14 April 2007 had submitted their plan to hold a meeting in Moscow's Pushkin Square, one of the capital's main squares, which is often used for public demonstrations. The authorities informed the organizers that a pro-government organization had already submitted an application to hold a meeting on that day in Pushkin Square. Instead, the authorities sanctioned a meeting on Turgenev Square, which is about 2km to the east of Pushkin Square. The organizers of the March of Dissenters considered the authorities' objections to be insufficient in terms of the requirements of the law and decided to attempt to meet at Pushkin Square.

The day before the meeting, on 13 April, the head of the Moscow Police Department, Vladimir Pronin, announced that participants in the different public meetings would be treated "politely and civilly" by law enforcement officials, who would – in line with the law – strictly suppress any provocation by the participants.<sup>40</sup> On the day, though, the square was heavily guarded by police, so opposition demonstrators and passers-by were unable to reach it. The head of the opposition group United Civil Front<sup>41</sup>, Garry Kasparov, and human rights defender Stanislav Dmitrievskii were detained before they could reach Pushkin Square. Stanislav Dmitrievskii had been distributing the Russian Constitution when he was detained. He was released after five hours without charge. Garry Kasparov was also released on the same day and fined for public order offences.

OMON units also attempted to stop demonstrators from walking from the area around Pushkin Square to Turgenev Square. It was reported that the OMON punched and kicked demonstrators and journalists, and beat them with batons. A doctor at a hospital close to the meeting place in Moscow told Amnesty International on the evening of 14 April that more than 50 people had come for treatment that day because of injuries received during the violent break-up of the meeting.

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<sup>40</sup> press release of the Ministry of Internal Affairs on 13 April 2007, [www.mvd.ru](http://www.mvd.ru)

<sup>41</sup> In Russian: Obiedinennyi Grazhdanski Front

Several of the participants from the Moscow March of Dissenters on 14 April travelled overnight to St Petersburg to participate in the meeting there. According to Marina Litvinovich, a political advisor to Garry Kasparov, they were stopped at a train station in St Petersburg, their passports were taken away and they were held at a police station for more than three hours, preventing them from participating in the meeting.

Participants in the St Petersburg meeting as well as journalists told Amnesty International that the police detained and beat up a large number of people who were about to leave the "sanctioned" meeting. The police alleged that these people had attempted to march towards the Smolny, the seat of the administration of St Petersburg. However, Amnesty International was informed that the police started beating and detaining people indiscriminately right after the meeting ended. In any event, the stated reason by the police for their actions would not justify excessive use of force.

Those who were detained in Moscow or St Petersburg claimed that in those cases where a record of the detention was made, the time of the events was given incorrectly or the names of the police officers who had carried out the detention were illegible. According to international standards, such as the UN Body of Principles for the protection of all persons under any form of detention or imprisonment, when arresting a person the law enforcement officials should record the date and time of the arrest as well as the identity of the officials concerned in the arrest. During the trials that followed the marches, police officers, who had detained demonstrators, were not present, and only in a few cases were they called to a second hearing once the demonstrators and their lawyers had complained. Most of the accused were denied the opportunity to question the police officers who had detained them.

According to St Petersburg human rights lawyer, Yuri Shmidt, several of the people who were taken to court in St Petersburg after the March of Dissenters in April 2007 were not given the right to be represented by a lawyer during trials by justices of the peace, in which they were sentenced to administrative fines for acts of minor hooliganism. According to Yuri Shmidt the accused were not even allowed to speak for themselves.

Possibly as a result of worldwide as well as internal criticism<sup>42</sup> about the actions of the police and OMON, the marches that took place in subsequent months in 2007 were policed with less violence or none at all. While a spokesperson for President Putin, immediately after the April 2007 marches, admitted that the police action had been disproportionate, the subsequent investigations by the Moscow prosecutor's office failed to "identify any infringements of the law in the activities of police officers"<sup>43</sup> when policing the marches. Amnesty International is concerned that the response of the Russian law enforcement bodies to the marches reflects a view by the authorities which does not consider freedom of assembly a basic right but a right which they may grant or withdraw. Such a view would contravene Russia's international obligations and it is the duty of the state to ensure that law enforcement officials carry out their functions in accordance with international and domestic law, including by training police in human rights standards.

### ***Restrictions on monitoring public meetings***

Furthermore, Amnesty International is concerned about the harassment of human rights activists attempting to monitor public meetings, including through arbitrary detention and attempts to prevent individuals from arriving at the location of a planned demonstration by opposition groups. Several people, including a representative from Human Rights Watch (HRW), who had attempted to monitor a March of Dissenters in mid-May 2007, were prevented from flying to Samara in the Volga Federal District, where opposition parties had organized a protest march to coincide with the EU-Russia summit there. Under the pretext of checking the validity of their tickets, several people were detained at the airport until the flight to Samara had left. Others who had planned either to monitor or participate in the march, were taken off the train to Samara and held until it was too late to get there.

### ***Detention and ill-treatment of journalists***

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<sup>42</sup> The Chair of the Presidential Council of the Russian Federation for Cooperation of the Development of Civil Society Institutes and Human Rights, Ella Pamfilova, on 16 April 2007 called for the resignation of Russian Minister of Interior Rashid Nurgaliev.

<sup>43</sup> According to *Ria Novosti*, 4 July 2007

On several occasions during demonstrations and rallies, police and OMON officials have ill-treated and detained journalists who were performing their professional function of observing and reporting.

During the March of Dissenters in Moscow in April 2007, a Japanese journalist was beaten up by police when he tried to film the events. He had to undergo medical treatment. Staff members of the German Television station *ZDF*, who filmed the events in Moscow, were detained on Turgenev Square despite showing their accreditation as members of the press. An Amnesty International representative witnessed how police officers laughed at the journalists when they showed their press cards, ridiculing them for demanding to have their right to monitor the situation respected. According to *ZDF*, their staff members were released after an hour. The Moscow local authority is reported to have made a pledge after the marches in April 2007 to improve the way the police handle the press during such events.

In policing public events, the law enforcement officials should distinguish between demonstrators and journalists covering events such as public meetings. While this may not always be possible, especially in situations of heightened tension, identifying oneself with a press card should be sufficient to differentiate oneself from participants of the demonstrations and should lead the police to abstain from detaining or otherwise interfering with the journalists' right to monitor a demonstration or rally, irrespective of whether or not it is considered to be sanctioned.

In response to a number of instances of interference with the work of journalists during political demonstrations in Member States of the Organization for Security and Co-operation in Europe (OSCE), in June 2007 the OSCE representative on freedom of the media issued a report and recommendations on "handling media during political demonstrations". He found that "safe reporting on demonstrations is demanded not only by freedom of the media and free flow of information principles: uninhibited reporting on demonstrations is as much a part of the right to free assembly as the demonstrations are themselves the exercise of the right to free speech."<sup>44</sup>

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<sup>44</sup> OSCE Representative on freedom of the media: *Special Report: Handling of the media during political demonstrations*, 21 June 2007, p.1.

### ***The right to hold individual pickets***

According to Russian law on public meetings, only pickets held by a single person are permitted without notifying the authorities. However, Amnesty International received information about cases in which this provision was also not applied.

In June 2006, human rights defender Vladimir Shaklein held such a picket outside the Sverdlovsk Regional Court in Yekaterinburg (Sverdlovsk Region) in support of imprisoned lawyer Mikhail Trepashkin<sup>45</sup> and in protest against human rights violations in penal institutions in Sverdlovsk Region. Vladimir Shaklein was charged and found guilty of violations of the Administrative Code of the Russian Federation for trespassing on the territory of the court building, despite him reportedly being some 25 - 30 metres away from the building, standing behind an iron chain, which he had believed to be the boundary of the court's territory. The decision of the court has been confirmed by the regional court as well as by the Supreme Court of the Russian Federation. The Ombudsman for Human Rights of the Russian Federation has asked the Constitutional Court of the Russian Federation to establish whether this court decision does or does not violate Russian land law, which defines the boundaries of a territory occupied by a building as the corners of the building.<sup>46</sup>

In a similar incident, a human rights activist in the city of Chita, Eastern Siberia, who had been charged with violations of the law on public meetings after protesting on her own against violations of the human rights of former head of the Yukos company, Mikhail Khodorkovskii, was acquitted by a justice of the peace in Chita in May 2007.

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<sup>45</sup> See Urgent Action, Russian Federation, *Health concern / Denial of medical treatment, Mikhail Ivanovich Trepashkin*, 31 May 2006 (AI Index: EUR 46/027/2006).

<sup>46</sup> See Spetsialnii doklad Upolnomochennogo po pravam cheloveka v Rossiiskoi Federatsii: *O sobliudenii na territorii Rossiiskoi Federatsii konstitutionnogo prava na mirnye sobranii*, July 2007, <http://www.ombudsman.gov.ru/>

### ***Use of the law to attempt to impede private meetings***

On 23 January 2007 members of the human rights organization FRODO and the Committee for Human Rights in Novorossiisk, Krasnodar Region, held a meeting with two foreign visitors in a public art school, where the group was discussing a project on tolerance among youth. The meeting was broken up by a group of police officers, staff from the Federal Migration Service and the Federal Security Service. Human rights defenders Vadim and Tamara Karastelev, who had not informed the authorities about this meeting, were accused of holding an unsanctioned meeting and were charged with violations of Article 20.2 of the Administrative Code (“Violations of the regulations for organizing and holding meetings, demonstrations and vigils”) and ordered to pay a fine. After several reviews of the case, a court decided in September 2007 that the two had not broken the law and that there had been no obligation to inform the authorities about this meeting. Vadim and Tamara Karastelev then filed a civil complaint for moral and material damages against the authorities. This complaint was dismissed in December 2007.

## **Recommendations:**

Amnesty International urges the Russian authorities:

To uphold the rights to freedom of expression, freedom of assembly and freedom of association and to allow restrictions only when prescribed by law and where they are strictly necessary, in accordance with international human rights law;

To address the deficiencies in the NGO law and its implementing regulations so that the law enables the exercise of the right to freedom of association; to address suggestions brought forward by the Presidential Council on human rights and the development of civil society organizations;

To give clear instructions to the Federal Registration Service on how to review the activities of civil society organizations in a manner that does not restrict the rights to freedom of expression and association

To amend the overly broad provisions in the law to combat extremist activities which have a chilling effect on freedom of expression and association;

To refrain from using "extremism"-related and other laws to clamp down on peaceful dissent, independent media and civil society organizations;

To promote awareness of and adhere to the principles of the UN Declaration on Human Rights Defenders;

To recognize, and refrain from violating, the rights of members of the LGBT community to freedom of expression, association and assembly;

To instruct law enforcement bodies on policing public meetings in line with Russian law and international human rights standards guaranteeing the right to freedom of assembly;

To ensure journalists can conduct their professional work, including observing sanctioned and unsanctioned public meetings and demonstrations, without arbitrary interference from law enforcement officials;

To investigate fully, promptly and impartially any reported human rights abuses against civil society activists, journalists and members of the political opposition and to bring to justice anyone suspected of

| involvement in such abuses, in trials which meet international standards of fair trial.