



Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination by the Russian Federation

Alternative Report

February 2013

Anti- Discrimination Centre MEMORIAL



The NGO, Anti-Discrimination Centre MEMORIAL, was registered in 2007 and continued work on a number of human rights and anti-discrimination projects previously coordinated by the Charitable Educational Human Rights NGO “MEMORIAL” of St. Petersburg. ADC Memorial’s mission is to defend the rights of individuals subject to or at risk of discrimination by providing a proactive response to human rights violations, including legal assistance, human rights education, research, and publications. ADC Memorial’s strategic goals are the total eradication of discrimination at state level; the adoption of anti-discrimination legislation in Russia; overcoming all forms of racism and nationalism; Human Rights education; and building tolerance among the Russian people. ADC Memorial’s vision is the recognition of non-discrimination as a precondition for the realisation of all the rights of each person.

Tel: +7 (812) 317-89-30

E-mail: memorial@memorial.spb.ru

SOVA Center for Information and Analysis



SOVA Center for Information and Analysis is a Moscow-based Russian non-profit organization founded in October 2002. SOVA Center conducts research and informational work on nationalism and racism, relations between the churches and secular society, and political radicalism. It also focuses on human rights issues, especially government misuse of counter-extremism measures.

Tel: +7 (495) 517-9230

E-mail: mail@sova-center.ru

CONTRIBUTORS

Prepared by: Stephania Kulaeva, Olga Abramenko, Alexander Verkhovsky and Simon Papuashvili;

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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION BY THE RUSSIAN FEDERATION

EXECUTIVE SUMMARY

This report has been prepared with the coordinated effort of two Russian civil society organizations Anti-Discrimination Center “Memorial” and SOVA Center for Information and Analysis, in response to the Russia’s twentieth to twenty-second periodic report that was submitted in March 2012.

ADC “Memorial” regularly works with people who face discrimination in the Russian Federation through its key programs, which include: Protection of Child Rights Programme, Protection of Roma Rights Programme and Defending the Rights of Ethnic Minorities and Migrants in the North-West Regions of the Russian Federation. SOVA Center conducts research and informational work on, among others, nationalism and racism, and on law enforcement in such areas as hate crimes and hate speech.

A large part of the information provided in the report is first-hand empirical material that has been obtained through regular work of the two organizations. The contributors also cite research and other evidence that demonstrate significant areas where the Government of the Russian Federation has failed to meet its obligations under ICERD.

The report is structured according to the last Concluding Observations of the Committee that have been issued in respect to the Russian Federation on 22 September 2008. More specifically, the report examines the extent to which the Government of the Russian Federation has fulfilled the recommendation of the Committee, while highlighting those areas where more work needs to be done. Moreover, the report includes specific recommendations, the implementation of which, according to the authors, could facilitate the implementation of ICERD in Russia.

The report demonstrates that existing laws, policies and programs of the Russian Government have failed to sufficiently eliminate racial discrimination against most vulnerable groups such as migrant workers, Roma, asylum seekers and indigenous peoples. Significantly, in some areas there has been a retrogression marked by increased discrimination against members of the mentioned groups. The report shows that the Committee’s concerns and recommendations from the previous reporting period have gone largely unheeded by the Russian Government.

Russian law still lacks entrenched guarantees against racial discrimination and despite the Committee’s recommendation the Russian Government has not yet introduced a comprehensive anti-discrimination legislation, nor was the definition of racial

discrimination incorporated into the domestic law. Absence of sufficient legal framework in the form of domestic law constitutes a significant barrier for the implementation of the ICERD in Russia.

The Russian Government's apparent lack of commitment to promoting the rights of minority groups and eliminating discrimination is evidenced by the treatment of such groups by the law enforcement agencies. While ethnic profiling remains to be persistent, people from Caucasus and Central Asia seem to be particularly targeted. Abuses against such groups are common in police detention and prison system. Based on the surveys carried out by ADC "Memorial", migrants perceive abuse by law enforcement representatives as a primary threat to their lives, health and well-being. The Report contains numerous examples of such abuses.

While Russia remains to be one of the largest recipients of migrant workforce, at the same time it fails to protect migrant workers against serious forms of discrimination. Migrant communities endure extreme discrimination in employment, partly, due to the burdensome process of obtaining work permits. Those workers, who fail to obtain papers needed for staying and working in the country, fall victims to exploitation by both intermediary employment agencies and employers. The Report contains several examples of abuse of the rights of migrant workers, which in certain occasions can be equated to slavery.

The Government's apparent lack of commitment is also displayed in treatment of small indigenous peoples who endure harsh social and economic conditions. They experience problems in all key areas of life including access to education, healthcare, employment and housing. Literacy levels among the indigenous communities are exceedingly low compared to the rest of the population and experts emphasize the difficult situation in preserving national languages.

There is significant concern about the failure of the Russian Government to counter racist and xenophobic statements in the media. Politicians and public officials on certain occasions use mass media to attack ethnic minorities, with Roma being particularly beleaguered. The local media outlets often contribute to heightening the level of racial vilification and discrimination in Russia which affects the enjoyment of rights by the minorities.

Furthermore, the Russian Government failed to adhere to the Committees recommendation to give primary consideration to combating violent extremist organizations, and their members when applying the law on Combating Extremist Activities and article 282 of the Criminal Code. Regrettably, anti-extremist legislation is still being abused to impose unnecessary restrictions on civil society organizations and minority religious groups. There have been numerous cases of unjustified criminal prosecution of religious followers based on anti-extremist legislation within the reporting period.

While there was a considerable increase in Government's efforts to prosecute hate crimes and hate speech in the period 2008-2012, hate speech related verdicts were issued for insignificant statements and publications, so the overall level of hate speech did not decrease. Detailed statistics on racist and neo-Nazi violent attacks and convictions for violent crimes with a recognized hate motive and hate propaganda, which have been compiled by the SOVA Center, are included in the report.

Voluntary return of the IDPs to Chechnya remains slow due to security concerns. Government forces continue to perpetrate human rights violations including arbitrary detentions, enforced disappearances, torture and extra-judicial killings as part of their counter-insurgency campaign, and they continue to enjoy impunity for these acts. Widespread corruption represents an additional factor of instability. Most people are afraid of abuses by law enforcement and other officials and have no recourse to political or judicial mechanisms by which to hold local authorities to account.

Inhabitants of Roma settlements continue to be subject of expulsions, which are followed by the destruction of houses without providing alternative housing. The report contains several examples when the unregistered status of houses in Roma settlements is used as administrative 'pressure points' on the members of community. The segregation of Roma children in the education system remains a persistent problem. Monitoring conducted by ADC "Memorial" has shown that the segregation of Roma children in the form of separate classes and schools is widespread throughout Russian regions and is often approved and supported by local authorities and school administrations.

The report addresses two additional issues which have not been covered during the previous reporting period. These two issues relate to consequences of armed conflict of August 2008 between the Russian Federation and Georgia, and the use of Cossack patrols for maintaining public order.

The armed conflict of August 2008 was the cause of arguably largest scale ethnic persecution within the reporting period. However, the Russian government has failed to accept its share of responsibility for the grave human rights violations that have been committed during the conflict. As the report shows, at the time of writing nobody has been held accountable for grave crimes, neither in Russia nor in Georgia.

Finally, the report addresses the dangerous trend of using Cossack patrols as supplementary law enforcement units. Such a practice creates fertile ground for the abuse of rights of ethnic minorities and migrants and should be prevented before it becomes irreversible.

In sum, the authors of the report believe that in order to properly implement the ICERD, the Russian Government should take a more comprehensive approach. This should, as a first step, include the creation of sufficient legal framework that will allow direct application of ICERD by local judicial and administrative bodies, followed by the adoption of comprehensive government programs at federal, regional and local levels, to adequately address the integration of ethnic minorities, indigenous peoples and migrants into a modern Russian society.

SUMMARY OF RECOMMENDATIONS

Undersigned organizations urge the Government of the Russian Federation to:

With respect to discrimination-related legislation

1. Develop comprehensive anti-discrimination legislation at federal level, taking into consideration the recommendations of organizations active in the field of human rights;
2. Introduce a clear and adequate definition of discrimination into legislation, in order to make it compatible with Russia's international obligations. Such a definition, should, inter alia, cover direct and indirect forms of discrimination as well as segregation, incitement to discrimination, instructions to discriminate and support to discrimination;
3. Amend the Civil Procedural Code and the Law 'On Lawsuits Against Actions and Decisions Violating Citizens' Rights' so as to offer the possibility of lodging complaints in cases of direct and indirect discrimination as well as segregation, even when such acts do not entail restriction of rights;
4. Revise Article 136 of the Criminal Code (discrimination) in the light of the updated definition of discrimination, in order to make the article applicable in practice;
5. Monitor discrimination-related court proceedings and make such data public;

With respect to counter-extremism measures

6. Review the definition of extremism in the Law 'On counteracting extremist activity', so as to only include actual violent activities, public incitement to them or participation in such activities. Amend respectively articles 280, 282 282-1, 282-2 of the Criminal Code.
7. Review the articles from the Penal Code of the Russian Federation, which provides for criminal responsibility for public incitement (Articles 280 and 282), and bring them in line with the new definition of extremism. Insignificant intolerant statements shall be prosecuted administratively.
8. Renounce the current mechanism of banning extremist materials, due to it being one of the most unproductive elements of the anti-extremism legislation.

With respect to prevention of inter-ethnic conflict and promotion of tolerance

9. Consistently work to prevent inter-ethnic conflicts, aggressive nationalist speeches, fights and assaults on migrants and ethnic minorities. When such acts occur, it shall take measures to identify and punish those responsible;
10. Develop effective programs both at federal and regional levels, to combat aggressive nationalism among the youth;
11. Collect and publish hate crime statistics, highlighting the different types of crimes, regions where they have been committed and the number of victims. Such statistics should be based on court results and not on the number of opened criminal cases, taking into account both acquittals and convictions.
12. Carry out a thorough examination of the regional programs on culture of inter-ethnic dialogue in the community, for the purpose of improving their contents. Involve community organizations, informal groups of young people and specialized NGOs in implementing anti-racist initiatives;

With respect to Cossack organizations

13. Revise the policies adopted with regard to the Cossack movement; deprive the Cossack organizations of their privileged status, in particular, the right of their members to bear arms;
14. Deny the transfer of the function to establishing public order to Cossack organizations or other organizations with ethnic or religious character, and prevent any interference of the Cossack organizations in the realization of the rights of others;

With respect to small indigenous peoples of North, Siberia and the Russian Far East

15. Create the possibility of a real public overview over the ethnological expertise;
16. Develop an effective compensation mechanism for the industrial use and development of natural resources in traditional settlements of indigenous peoples of the North, Siberia and the Far East;
17. Provide full transparency and guaranteed payment of compensations to individual representatives of the people concerned;
18. Provide real enforcement of social, economic and cultural rights of indigenous peoples of the North Siberia and the Far East in the areas of education, employment, housing and health care;
19. Provide decent housing, quality school education, including the possibility to study in one's native language and culture;

20. Increase the number of medical teams that can respond quickly to emergencies in the Northern and Eastern regions; provide them with all the necessary facilities needed for basic medical treatment;
21. Promote employment by providing equally accessible opportunities for professional development and growth;
22. Provide children with all the necessary assistance for studying native languages and cultures, and train school personnel for teaching these subjects;
23. Provide opportunities for indigenous peoples of the North, Siberia and the Far East to have their representations, community organizations, cultural associations in the regions and on national level; provide support for such structures and prevent their liquidation for formal reasons.

With respect to Roma

24. Ensure the right to adequate housing for Roma; if possible avoid evictions of Roma from their settlements. Where persons have been expelled from their house, due remedy including restitution, alternative housing and/or compensation should be provided in the best timeframe. Adopt legal provisions against forced evictions in conformity with international law, and incorporate, in particular, the Basic Principles and Guidelines on Development-based Evictions and Displacement developed by the UN Special Rapporteur on the Right to Housing. Such legislation should prohibit forced evictions, allow evictions only in exceptional cases and provide for appropriate safeguards. The legislation should: integrate the Roma population in decision-making processes regarding development and infrastructure projects, which affect their right to housing; provide effective remedies for persons threatened by forced eviction, and legal aid for needy parties seeking redress; provide adequate compensation for evicted people, and impose sanctions in case of forced evictions.
25. Develop, adopt and ensure the implementation of the special Action Plan on Roma issues, in order to eliminate the social and economic marginalization of Roma, covering such areas as housing, employment, obtaining personal documents, education, medical assistance, provision of water, electricity and gas. Particular attention should be paid to issues of education.
26. Improve the education of Roma population, by guaranteeing access to school for all children, including those who cannot compile the necessary documents; abolishing the practice of segregation of Roma children in “gypsy classes”, based on ethnicity and a poor command of the Russian language, as discriminatory; integrating all Roma children with other students; and by providing all Roma children with the high quality education according to standards adopted in Russia. For this purpose, the following measures should be undertaken:

- a) Ensure the involvement of experts on integration, social workers and counselors for parents, in schools with Roma pupils;
- b) Organize and fund preschool preparation of Roma children. Create a system of evening classes for adults, as well as for those children, who for some reason have interrupted their education or have not been enrolled in school at the appropriate age.
- c) Ensure that the qualifications of teachers working with Roma children include knowledge of Roma history and culture, as well as the ability to teach Russian to non-native speakers.
- d) Ensure integration of Roma children with other children in all classes, as well as in in-school and out-of-school events (sport competitions, festivals, school trips, and so on).

With respect to registration procedures

27. Abandon all attempts (such as a bill № 200753-6) to reactivate the licensing procedure of registration, which limits the right to freedom of movement, freedom of residence and the associated right to social assistance;
28. Prevent the deterioration of the situation of vulnerable groups (internally displaced persons, migrants and stateless persons), caused by the introduction of criminal liability for fictitious registration and fictitious migration registration.

With respect to protection from racially motivated crimes

29. Ratify the International Convention on the Protection of all Migrant Workers and Members of their Families, adopted in 1990;
30. Guarantee protection from police abuse against members of vulnerable groups, including ethnic minorities. Ban the practice of profiling and prohibit police operations, document checks, and other discriminatory operations against vulnerable groups, including ethnic profiling operations (such as Operations “Tabor” against Roma settlements);
31. Effectively investigate all instances of racially motivated violence. Ensure protection of victims and effective investigation of the crimes committed against them, regardless of their status in the Russian Federation or the absence of official registration documents, work permit, etc.;
32. Ensure that those responsible for committing such crimes are prosecuted by law, to the fullest extent; and request from the state the adequate punishment of racism;
33. Use consistently the data provided by non-governmental organizations engaged in monitoring activities of racist groups;

34. Introduce disciplinary responsibility of officials, in particular for the staff of the Federal Migration Service, for expressing racial, ethnic and religious intolerance at the work place.
35. In order to facilitate more effective investigation of hate crimes, establish the practice of indicating hatred as the alleged motive of the crime, at the time of completing the primary protocol of the incident, and upon receipt of complaint about the alleged crime;
36. Provide the effective protection of minorities from violence, arbitrary detention, extortion and torture. Focus particular attention on the situation of vulnerable groups in correctional facilities (jails, colonies, investigative isolators, etc.). Demand effective investigation of all complaints of racially motivated violence;
37. Avoid ethnically motivated repression in prisons, particularly against North Caucasian people, and thoroughly investigate cases of ethnic and religious discrimination in closed institutions;
38. Do not allow visits of foreign intelligence officers in the prisons where foreign nationals are being held in detention, due to threats of torture; investigate cases of illegal intelligence cooperation, and prosecute Russian officials responsible for such violations;
39. Provide special trainings on the prevention of ethnic profiling among police and other law enforcement officials;
40. Include cross-cultural awareness and anti-racism programs into the selection, training and monitoring of justice officials. Institute comprehensive training and performance monitoring programs to ensure that all officials, including law enforcement officers, do not act in a discriminatory manner;
41. Organize programs of international exchange of experience, for the purpose of protecting vulnerable groups from abuse of authority by the police;
42. Extend an invitation to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

IMPLEMENTATION OF THE RECOMMENDATIONS OF THE COMMITTEE FROM THE LAST REPORTING PERIOD

RECOMMENDATION 9 – DEFINITION OF RACIAL DISCRIMINATION IN RUSSIAN LAW

The Committee recommended the Russian Federation to consider adopting a clear and comprehensive definition of racial discrimination in its legislation, including all acts of direct as well as indirect discrimination, that covers all fields of law and public life, in accordance with article 1, paragraph 1, of the Convention.

In its report the Government of The Russian Federation refers to the fact that the definition of racial discrimination is already contained in the Convention, and that the Constitution of The Russian Federation provides possibility of direct application of international treaties. Apart from general provisions on prohibition of discrimination that are scattered throughout the Russian laws, the national legislation still does not provide a definition for racial discrimination. Application of international treaties, including the Convention on the Elimination of All forms of Racial Discrimination, by domestic courts and administrative organs, is exceptionally rare. This is evidenced by the lack of judicial practice of applying the Convention and its definition of racial discrimination.

In sum, the absence of a clear and comprehensive definition of racial discrimination in domestic law creates obstacles for legal protection against the forms of discrimination contained in Article 1 of the Convention. Incorporation of the Convention's definition in Russian law will undeniably contribute to the implementation of the Convention in judicial and administrative practice.

RECOMMENDATION 10 – COLLECTION OF COMPARATIVE STATISTICAL DATA ON THE ENJOYMENT BY ETHNIC MINORITIES OF THE RIGHTS PROTECTED UNDER THE CONVENTION

The Committee requested the Russian Federation to provide detailed information in its next periodic report on the enjoyment by ethnic minorities and non-citizens of the rights protected under the Convention, including the rights to work, housing, health, social security and education, disaggregated by gender, ethnic group and nationality, and recommended that a mechanism for systematic data collection be developed for that purpose.

Collection of data on the enjoyment by ethnic minorities and non-citizens of the rights protected under the Convention has been interpreted very narrowly by the Russian Government. This is evidenced by the answers provided by the State Party in paragraphs 408 – 412. The report makes reference to the Censuses of 2002 and 2010 and states that the Census is the sole source of information on the ethnic composition of the population.

There is no information on the enjoyment, by ethnic minorities and non-citizens, of the rights protected under the Convention, including the rights to work, housing, health, social security and education, so it is impossible to estimate, for example, the effectiveness of the implementation of federal programs and affirmative action for minorities.

It is important to note that the development of a comprehensive system of information collection should not be done for the purpose of determining the ethnic composition of a country's population. Rather such a system should assist the government in determining the degree to which ethnic minorities and non-citizens enjoy the rights protected by the Convention.

RECOMMENDATION 11 - LACK OF ANTI-DISCRIMINATION LEGISLATION

Committee recommended the Russian Federation to consider adopting comprehensive anti-discrimination legislation, covering direct and indirect discrimination and providing for a shared burden of proof in civil and administrative court proceedings concerning acts of racial discrimination.

Despite numerous recommendations from various stakeholders, including the Committee, no comprehensive anti-discrimination legislation has been adopted by the Russian Federation. Lack of political will to introduce complex legislative measures to address the issue of discrimination is evidenced by absence of any state initiative in this direction within the reporting period. In practice the anti-discrimination legislation has been further worsened by introduction of certain legal initiatives that further limit rights of certain minority groups such as LGBT.¹

Existing norms related to the prohibition of discrimination have a largely declarative character and it is often impossible to enforce them in courts, for the purpose of ensuring protection of groups that are subject to discrimination, or to prevent future occurrence of such violations, and offer effective legal assistance to the victims. This is also witnessed by the virtual absence of court reviews of discrimination cases regarding women, national minorities, migrants, stateless persons and LGBT.

The government of the Russian Federation refused to take any legislative measures in regard to the Judgments of the European Court of Human Rights, according to which the State Party was liable to pay adequate compensation to victims.

¹ Discriminatory laws prohibiting “propaganda of homosexuality” have been adopted in many regions of the Russian Federation including: Ryazan Province, Arkhangelsk Province, Kostroma Province, Saint-Petersburg, Novosibirsk Province, Magadan Region, Samara Province, Republic of Bashkiria and Krasnodar Region. Despite objections from local civil society, the experts and international organizations, the Government has, by the end of 2012, proposed the adoption of the law on “propaganda of homosexuality” on federal level.

RECOMMENDATION 12 - FREQUENT IDENTITY CHECKS, ARRESTS, DETENTIONS AND HARASSMENT OF ETHNIC MINORITIES BY THE POLICE AND OTHER LAW ENFORCEMENT OFFICERS

The Committee recommended to the Russian Federation to take appropriate action, including disciplinary or criminal proceedings, against public officials who engage in racially selective arrests, searches or other unwarranted acts based solely on the physical appearance of persons belonging to ethnic minorities, provide continuous mandatory human rights training to police and other law enforcement officers to prevent such profiling and amend the performance targets for the police accordingly.

Based on the findings of ADC “Memorial”, frequent identity checks, arrests, detentions and harassment of ethnic minorities by the police and other law enforcement officers remained to be a persistent problem during the reporting period. In the majority of cases, abuse of power by representatives of law enforcement agencies goes unpunished.²

Ethnic profiling by the police exacerbates the already dramatic situation of minorities facing increasing xenophobia, aggressive racism, and chauvinism. Attempts by citizen initiatives, activists, and anti-fascists to oppose abuses of authority, discrimination, racism, xenophobia, and corruption, often lead to reprisals against individuals themselves. Various human rights violations, from threats and insults to murders at police stations, create an atmosphere of terror in which the primary victims belong to the most vulnerable social groups, especially ethnic minorities. Moreover, the planning and execution of “special operations” and “campaigns” against particular groups by law enforcement officials underscores the intentional and discriminatory nature of the actions systematically targeting these groups.

According to the information available to the "Memorial" Moscow-based human rights organization, the attitude of law enforcement towards the Chechen nationals is particularly discriminatory. They continue to be a high risk group and are often arrested based on trumped up charges. Memorial has also documented cases when Chechen nationals were prosecuted twice for the same offense.

While serving their sentence Chechens are constantly under threat of persecution, both on the part of the prison system, and from the other prisoners, who are also affected by the general mood of xenophobia. Personnel Memorial regularly receives complaints from Chechen prisoners and their relatives on ill-treatment in prisons. Allegations often relate to torture, beatings, punishment for no reason and placement in barracks for tuberculosis patients. Chechens lack access to prison medical care and are prohibited from performing Muslim religious ceremonies.

² For details on the topic please see report of ADC “Memorial” on abuse of the rights of Roma and the migrants by the police. Report can be found on: <http://adcmemorial.org/www/6107.html?lang=en>

Based on Memorial's reports, during some serious event, such as a terrorist attack, the position of prisoners, who originate from the North Caucasus, deteriorated and certain punishment measures are applied without any legal ground. For example, after the bombings in the Moscow subway on March 29, 2010, in almost all colonies, Caucasians were placed in punishment cells without any justification.

Violation of the rights of foreign nationals in detention also occurs as a result of illegal cooperation with the secret police of the Russian Federation and the States of origin. In Moscow, in December 2012, Abdusamat Fazletdinov, an Uzbek citizen, who was under arrest for extradition purposes, committed suicide in prison. Representatives of Special Forces of Uzbekistan, were given access to the detained Fazletdinov, who was subjected to threats of torture that led to his suicide.³

On 1 March 2011 the Law 'On police' entered into force. This Law forms the basis for the reform of the Russian law enforcement system. Article 7 of the Law emphasizes that wrongful treatment and punishment directed at ethnic minorities should be avoided and that discrimination on any grounds is prohibited. Police officials are required to "protect the rights, freedoms, and legal interests of a person and a citizen regardless of gender, race, ethnicity, language, origin, property status, official position, place of residence, or attitude towards religion" and "demonstrate respect for citizens' ethnic practices and traditions, consider the cultural and other characteristics of different ethnic and social groups and religious organizations, and facilitate inter-ethnic and inter-religious harmony" (Article 7.1-3).

However, despite the nominal recognition of the practices of ethnic profiling and discrimination against non-citizens and ethnic minorities, members of the reformed Russian police are by no means always governed by the above principles in their daily work. This has led to numerous violations, particularly against members of vulnerable groups. Following the re-qualification process for police officers carried out as part of the reforms, police abuses directed at foreign nationals continue unchanged.

There are numerous characteristics that underscore the "otherness" of nationalities and origins are being used as grounds for detaining someone purely on the basis of their being visually identified as an "alien" requiring a document check. These include "Caucasian nationality," "Asian features" or a "non-Slavic appearance." These formulations make it permissible to cast suspicion on any migrant from Central Asia or the Caucasus. Moreover, the police suspect all migrants of violating the rules governing foreigners, which offers an additional justification for checking identity documents. When extorting bribes during checks, corrupt members of the police often confiscate personal documents: passports, registration papers, migration cards, and work permits.

Law-enforcement agencies are used to planning and executing "special operations" and "campaigns" against particular groups on discriminatory grounds. These are operations

³ Source: <http://www.memo.ru/d/139176.html>

such as “Illegal Migrant” where systematic raids for "document checks" are regularly conducted against migrants, encouraging corruption and the violation of rights of foreign nationals. These operations often take the form of punitive anti-migrant expeditions accompanied by extortion, racist insults and beatings.

In their daily practice, law enforcement and other government agencies are guided by the basic assumption that ethnic migrants are guilty of illicit activity. For example, special “Illegal Migrant” operations are coordinated at the highest inter-agency level aimed at conducting systematic checks on those who have entered the country.

Sociological research has shown that both at the rank-and-file and officer level, the police and divisions of the Federal Migration Service use document checks, which are accompanied by insults and extortion, as a commonplace means of street-level “redistribution of resources.”

The Human Rights Watch report “Are You Happy to Cheat Us? Exploitation of Migrant Construction Workers in Russia” includes a chapter devoted to ‘Ill-Treatment and extortion by police and other law enforcement officials that recounts numerous instances of violence by police during raids and street checks targeting migrants. The report also documents police exploitation of labor migrants and collusion with unscrupulous employers.⁴

According to information compiled by ADC “Memorial” for 2010-2012, approximately 90 percent of surveyed labor migrants reported that they or someone they knew personally had suffered abuse from the police.

Surveyed migrants overwhelmingly listed abuse by members of law enforcement among the primary threats to the lives, health, and wellbeing of foreign workers in Russia. Actions aimed at exposing and victimizing “illegal” migrants, as well as the well-established practice of ethnic profiling, create an atmosphere of terror for migrants. Foreign workers are constantly forced to limit their movements out of concern that they could become a victim of abuse: they avoid travelling certain routes or going out on their own and try to spend as little time as possible outside or in the metro. Many migrants even try to alter their appearance in order to avoid looking like a “Gastarbeiter” (“guest workers”, a German term adopted in Russia) and thus draw the attention of the police. They avoid wearing clothing or accessories that could give away their ethnicity and dress like an average European, wearing baseball caps that partially cover their faces; women even lighten their hair color. Many migrants carry small sums of cash specifically to pay bribes in case they are stopped for a document check.

Ethnic profiling is far from being the only ground for police checks; they can be based on a whole range of agency regulations, guidelines and resolutions that criminalize migrants

⁴ See the report on: http://www.hrw.org/sites/default/files/reports/russia0209_webwcover.pdf

in general and foreign immigrants in particular. For example, despite the fact that Patrol and Checkpoint Service personnel are not officially authorized to check foreigners' registration and work permits (such authority rests with district police officers and Migration Service inspectors), during special campaigns against "illegal migration" they are authorized to conduct such checks under interagency "cooperation agreements" between the Migration Service and the Ministry of Internal Affairs.

Thus, the ubiquitous practice of exposing and victimizing members of ethnic minorities and labor migrants on the basis of race under the guise of "combating illegal migration" sees government agencies and law enforcement officials evoking almost emergency-like powers to limit human rights, whilst provoking a surge in xenophobia and chauvinism. The purpose of most "checks" is not to expose undocumented migrants. Both foreign workers and police officers describe them as a sort of "tribute" that migrants have to pay the police.

Case No 1

Dilnoza O., a citizen of Uzbekistan who works in St. Petersburg, was subjected to psychological abuse by a member of the police. On May 20, 2012, Dilnoza was returning from work after receiving wages of 11,000 RUB. She set out for home via the Sennaya Ploshchad metro station and was stopped by a police officer, who did not introduce himself and rudely demanded that she come with him. He brought Dilnoza to his office for a document check. Once there, he began to make disparaging comments about her personal appearance (she was wearing an Uzbek scarf) and then began finding fault with her migration documents, which were all in order and legal. The police officer spoke crudely with Dilnoza, insulted her, and made comments about her appearance. After searching her handbag, he took 2,000 RUB for himself as a "fine." He did not give her any kind of a receipt.

Case No 2

Mamuka Ts., a citizen of Georgia, was returning home from work in St. Petersburg on December 30, 2010, after receiving a large sum of money (100,000 RUB, compensation for three months' work). Near the Vasileostrovskaya metro station he was stopped by a police patrol. In the course of a "document check," the police confiscated Mamuka's money and made threatening remarks. Mamuka was reluctant to complain to the police after being traumatized and humiliated. For a month he fell into a state of severe depression and was afraid to leave his home.

Case No 3

On April 28, 2010, Ivan G., a citizen of Moldova who was working in St. Petersburg, was stopped by police officer P.V. Kardash near the Park Pobedy metro station. The reason for the stop and document check, according to Kardash, was Ivan's "non-Russian

appearance”. After subjecting Ivan to profanity and insults, Kardash demanded that he “be nice” and hand over 50 RUB. When Ivan refused, the police officer summoned a Patrol and Checkpoint Service unit, and despite the fact that Ivan had showed a work permit with his photograph, he was handed over to the unit to be taken to the 33rd Police district. When “Memorial” staff members asked on what grounds Ivan had been detained, they were told that nobody with his name had been brought in. Later that same day a written inquiry was submitted to the department. The response to this inquiry was that Ivan G. had actually been brought to the 33rd Police district but had been released after his documents were verified. There was no internal investigation into P.V. Kardash, an officer who actually detained Ivan G. because, according to the explanation that Memorial received, “he was on vacation.”

A law enforcement policy that seeks to terrorize migrants, together with the total sense of impunity enjoyed by law enforcement personnel, paves the way not only to ill-treatment, such as extortion and confiscation of documents, but also to acts of enforced disappearance, beatings, threats, psychological duress and other treatment amounting to torture as evidenced by the following cases:

Case No 4

On 26 August 2011, relatives of an Uzbek citizen by the name Erkin Khudoikulov came to ADC “Memorial” and reported that a week earlier he had been detained by the police and was being held at a construction site near the Chernaya Rechka metro station under guard by Migration Service agents. Inquiries were made with police from the departments near the Chernyshevskaya and Chernaya Rechka metro stations, as well as with local Migration Service personnel, but to no avail: duty officers claimed that it was not possible for them to hold Erkin or to detain him. The most candid statement was made by Migration Service agents for the Primorsky District: “We don’t know anything, and we won’t tell you, because this is private information.” Once communication with Erkin was re-established it turned out that the authorities had taken his passport and forced him to “work off” 4,500 RUB. Erkin was suddenly released only after human rights advocates reported his abduction to the police.

Case No 5

Tochiddin G., a Tajik citizen, turned to ADC “Memorial” in May 2011. He reported being threatened with retribution by Nikolai K., a senior lieutenant in St. Petersburg’s 35th police district. Earlier, after confiscating his passport, Nikolai had drawn Tochiddin into an illegal business of stealing and selling roadway slabs. After his passport was returned, Tochiddin refused to work with Nikolai, who, fearing that Tochiddin might tell others what had happened, drove him in an unknown direction “to settle things in the woods.” After Memorial personnel went to the 35th police district to report that one of their officers had abducted Tochiddin, he was released and threats against him ceased.

Case No 6

In February 2011, a group of Tajik citizens came to ADC “Memorial”. Between February 2009 and February 2011 they had been subjected to repeated illegal actions by a member of the police. Each of the victims, who had been making purchases in the Narodny store, were shown a police identification document by a man. The labor migrants were then searched without witnesses, handcuffed, put in a car, and driven to a nearby automobile service station, where accomplices were waiting. On instructions from the “police officer” the captives were robbed of their money and mobile phones and then beaten. After the beatings the migrants were told that they would be killed if they ever showed up at the Narodny store again and especially if they lodged a complaint. One victim, Nasimdzhon, recounted: “After they beat me at the service station for a whole day, they put me in a car and drove me across the Finnish border, where they handed me over to some unknown people to work. I worked on two plots – one day on one, the next on the other. I asked the owner of the plots to let me go. He told me that he’d bought me for 10,000 RUB and that I had to work for him for ten days. Beside me, there was another Uzbek fellow working there, and he had a telephone. I worked for three days and then was able to call my friends. After that I ran away, and my friends picked me up on the road and brought me back to St. Petersburg. I never went back to the Narodny department store. They told me they’d kill me if I ever showed up there again.” A complaint, concerning the beating and robbery of six Tajik citizens by a police officer and unknown accomplices at the Narodny company, was filed with the Personal Security Directorate, which forwarded the complaint to the Investigative Committee. The committee responded that, despite poor accounts of the character of the member of the 13th police district (the man accused by the victims of participating in the beatings), the investigators trusted him more than the petitioners. The committee therefore refused to initiate a criminal case. The refusal to initiate a criminal case has been appealed in the courts.

Police impunity creates conditions for hate crimes against migrants. Instances have been documented in which torture and physical violence has a pronounced racist quality.

Case No 7

On 19 May 2011, after being detained for possessing a forged work permit, Uzbek citizen Umid N. was badly beaten at the 68th police district. Here is how the victim describes what happened to him: “I entered, closed the door, and turned around – and he started beating me! He spat on me, beat me, and said, ‘You’re not going to be speaking Uzbek anymore, you’re going to lose your mind.’ He threw himself at me and started to punch me in the head with both his fists... He was like a beast... He beat me and spat on me, and when I fell down, he punched and kicked me... You know, I can’t describe it, if there was a video recording you’d see for yourself... I was like a human punching bag, I didn’t do anything, didn’t resist. One minute he was punching me, the next kicking me, then he’d get me to my feet and beat me more... He beat me for about two hours. He would

rest, smoke, spit – and then get back to beating me... ‘You’re an Uzbek, and I hate you!’ he said... The worst thing about it was that he spat on me, he was always spitting, and even later, when I was in the cell, he walked up to me and spat.” After the beating, Umid was hospitalized as an emergency patient, and only after paying the administrative fine, was flown to a hospital in Uzbekistan. In St. Petersburg, the only consequence for the policeman was a prosecutor’s inquiry which did not even result in administrative action.

Case No 8

On 10 July 2012, Kiyomiddin Saidov, who serves as both the general director of the St. Petersburg office of Tajik Air and a founder of the Society of Tajik Students in St. Petersburg, was beaten by members of the Patrol and Checkpoint Service in the Admiralteisky District of St. Petersburg. He was placed in the Mariinsky Hospital with two broken ribs and various contusions. As he describes it, he was standing near the exit of his restaurant on Moskovsky Prospekt, viewing departing customers. Three policemen approached him and asked him to produce his documents, which he did. Saidov replied “If you check everyone outside my restaurant like this, soon I won’t have any customers.” The policemen replied, “We’re not going to be asking you who to check and what to check.” After that, they handcuffed Saidov, and he was beaten by three of them. An open letter issued by the Society of Tajik Students in St. Petersburg, expressed the hope that “at least a criminal case against the three policemen and the dismissal of their chief” would be achieved.

Not only foreign migrants, but citizens of the Russian Federation who resemble members of non-Slavic minorities are subject to violence by law enforcement officials.

Case No 9

On December 2010, Agvan M., an ethnic Armenian who is a Russian citizen residing in St. Petersburg, approached ADC “Memorial”. On 9 November of that year, Agvan had gone to the Frunzensky District Federal Migration Service office to get advice on obtaining citizenship documents for his children. Agvan complained to a woman who worked there about intermediaries from commercial firms who manage to arrange expedited migration service processing for their clients. Agvan was invited to go through a door, supposedly to speak with someone more senior, but it turned out that this door led to the neighboring police station. Agvan was met by members of the police who assaulted him both verbally and physically. The fight ended when Agvan lost consciousness from a punch in his face. The EMS doctors summoned by the police identified four deep cuts on the face and a concussion, and Agvan was hospitalized. A complaint that had been submitted to the Frunzensky District Prosecutors Office remained without response. Furthermore, the police filed a counter-complaint claiming that it was Agvan who attacked and beat the police. Criminal proceedings were launched against Agvan. The court gave preference to the police testimony and Agvan was faced with the prospect of

imprisonment. Only as a result of intervention by Memorial lawyers, were charges against Agvan dropped and a “reconciliation of the parties” achieved.

Police violence towards Roma is widespread and persistent throughout Russia, including torture and inhumane and degrading treatment, occurs during arrest, detention, and search and investigation operations.

Many law enforcement personnel prejudicially believe that “criminal activities” such as theft, drug trafficking and kidnapping are the “traditional activities” of the Roma population. Roma often encounter xenophobia and racism from law enforcement personnel, expressed not only verbally, but through actions, aggression and violence. First and foremost these responses are received from police personnel whose actions affect basic human rights, such as the right to life, health and personal inviolability, as well as criminal proceedings and the collection of evidence. Any abuse and intolerance displayed by the police has practical consequences such as lack of objectivity in criminal proceedings, illegal detention and torture. Police officials intentionally direct criminal proceedings at Roma for the purpose of, for example, increasing their case clearance rate.

Case No 10

On December 12, 2011, at around 12 a.m. three female residents of the settlement of Dyagilevo in Moscow District of Ryazan (Maritsa Arturovna Mikhail, Grusha Buzovna Muiyuan, and Fatima Buzovna Mikhail), were detained by members of the Ryazan Department of Internal Affairs, (according to the victims, police officials from this station are well-known for their many years of mistreatment of the Roma population of Ryazan). The police officers did not identify themselves and without explanation took the women to the police station in the Soviet District of Ryazan, where their passports and phones were confiscated (Fatima Mikhail had only a telephone since her passport was not with her), and they were locked in and beaten. They were beaten on their legs and arms, but mostly on the head. There were four policemen beating the women, one of whom was clearly the “leader.” Then they cut off the women’s braids (some of the men held the women’s heads as they struggled, while others cut the hair), saying “we know you’ll be ostracized by the tabor,” and that now they were shamed. Photographs and video were taken of all the women, and they were shown pictures of other victims and told “we’ve cut off the hair of 21 Roma women already”), indicating the mistreatment is purposeful and conscious, and that it takes into consideration the cultural and distinct traditions of the Kalderash Roma, among whom cutting off braids is a great shame for a woman, comparable to sexual violence. This approach should be considered dual discrimination (on the basis of ethnicity and of gender, since it is Roma women for whom hair-cutting has a particularly offensive connotation).

The beatings and mistreatment continued till the evening, and then one of the policemen said: “Now call the tabor.” The women told their relatives what had happened. The first to arrive was the husband of one of the women, Artur, who was nearby. One of the policemen went outside and showed Arthur on his telephone the amount demanded for

the women's release: 40,000 RUB. Then the amount was lowered to 30,000 RUB. Artur said he only had 5,000 with him. The policemen took the money and released the beaten women. The women's passports and phones were not returned.

The same day the relatives took the victims to the hospital, where they were all diagnosed with concussions. The ambulance was also called to the settlement several times, and one of the nurses upon learning the reason for the injury, promised to file a report with the police on the beatings.

The next day, December 13, 2011, the victims, their relatives, and other residents of the compact settlement personally went to the Investigative Committee, where their claim was accepted but they were told that they should have come the day of a crime. The victims also sent an electronic notice to the Ministry of Internal Affairs of Ryazan Province. On December 14 the victims were summoned to the Investigation Division where they were questioned and viewed a photographic line-up. They all identified the officers who had beaten them, but the victims were not provided with the names of the suspects.

Afterwards residents of the tabor began receiving threats (for example, Artur, the husband of one of the victims was threatened with being prosecuted for giving a bribe). On December 28, 2011 a policeman from another station arrived and attempted to take advantage of the women's low level of literacy and get them to sign false "statements", but the husband of one of the victims and other literate residents of the tabor noticed that the statements were inaccurate and therefore the women did not sign anything.

An attorney was hired by ADC "Memorial" to represent the victims' interests during the investigation. A case was filed only after the attorney filed a complaint, but was closed shortly thereafter since, in the investigator's opinion, there was insufficient evidence that the beatings had taken place at the station. Then the decision was reversed and re-start test continues till present. The attorney intends to wait for the final decision and provided it will be negative will prepare a complaint that will be launched at the ECtHR.

Training of Law Enforcement Officials to Prevent Ethnic Profiling

There is little information available from the open sources on the training courses related to the prevention of ethnic profiling that law enforcement officials have been undertaking within the reporting period. Even if such training took place, it was ineffective in practice, since racially motivated violence perpetrated by the police is on the rise.

RECOMMENDATION 13 - REPRESSIVE MEASURES AGAINST GEORGIAN NATIONALS AND ETHNIC GEORGIANS IN 2006

The Committee recommended The Russian Federation to undertake a thorough investigation, through an independent body, into allegations of unlawful police conduct

against Georgian nationals and ethnic Georgians in 2006 and adopt measures to prevent recurrence of such acts in the future.

The given issue was referred to the European Court of Human Rights for examination by the Government of Georgia. On 26 March 2007 the Georgian authorities lodged with the European Court's Registry an application against the Russian Federation under Article 33 (Inter-State cases) of the European Convention on Human Rights. The case (application no. 13255/07) concerns the alleged harassment of the Georgian immigrant population in the Russian Federation, following the arrest in Tbilisi on 27 September 2006 of four Russian service personnel on suspicion of espionage against Georgia.

The Georgian Government maintained that the reaction of the Russian authorities to the incident in September 2006 had amounted to an administrative practice of the official authorities, giving rise to specific and continuing breaches of the European Convention on Human Rights and its Protocols under the following provisions: Article 3 (prohibition of inhuman and degrading treatment and punishment), Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 13 (right to an effective remedy), Article 14 (prohibition of discrimination), Article 18 (limitation on the use of restrictions on rights) of the Convention; Articles 1 (protection of property) and 2 (right to education) of Protocol No. 1; Article 4 (prohibition of collective expulsion of aliens) of Protocol No. 4 and Article 1 (procedural safeguards relating to expulsion of aliens) of Protocol No. 7.

These breaches were said to have derived, in particular, from widespread arrests and detention of the Georgian immigrant population in the Russian Federation, creating a generalized threat to security of the person and multiple, arbitrary interferences with the right to liberty. The Georgian Government also complained of the conditions in which at least 2,380 Georgians had been detained. They asserted that the collective expulsion of Georgians from the Russian Federation had involved a systematic and arbitrary interference with these persons' legitimate right to remain in Russia – a right duly evidenced by regular documents – as well as with the requirements of due process and statutory appeal process. In addition, having closed the land, air and maritime border between the Russian Federation and Georgia, thereby interrupting all postal communication, it had allegedly frustrated access to remedies for the persons affected.

The Russian Government contested the Georgian Government's allegations. They stated that the events surrounding the arrest in Tbilisi of four Russian officers and their subsequent release had no relation, either chronologically or in substance, with the events described by the Georgian Government in their application. The Russian authorities had not adopted reprisal measures against Georgian nationals, but had merely continued to apply the ordinary law aimed at preventing illegal immigration, in compliance with the requirements of the Convention and the Russian Federation's international obligations. In particular, the end of 2006 had not been marked by an

increase in the number of administrative expulsions of Georgian nationals, who had breached the regulations governing residence on Russian territory.⁵

The European Court of Human Rights held a hearing on 16 April 2009 on the admissibility and merits in the case of Georgia v. Russia (No.1) and judgment of the Court is expected to be delivered in the near future.

Persecution of Georgian nationals in 2006 is not an exceptional case and similar forms of harassment of migrant population from former Soviet states is turning into a tool of political manipulation in the hands of the Russian Federation. Such persecutions typically occur when political relations between Russia and the other country deteriorate. Events of November-December 2011, involving persecution of Tajik nationals, serve as a good example for demonstrating this development.

Tajik nationals were targeted in the immediate aftermath of the political crisis between the Russian Federation and Tajikistan that arose from the arrest of Russian pilot Vladimir Sadvonichev and Estonian citizen Aleksey Rudenko. Reports on the conviction of the Russian pilot by the Tajik court have been followed by active persecution of Tajik nationals by the Russian law enforcement organs and activation of ultra-nationalist groups such as “Fair Russia” (Светлая Русь) and “Helpers” (помогающих) who were ‘assisting’ law enforcement structures in identifying and capturing illegal migrants. According to the Russian media sources over 300 individuals were detained in the Moscow center and placed in temporary detention wards. Detentions took place on market places and construction sites – places where migrant workers without work permit are usually to be found.⁶

Protectionist nationalistic statements publicly made by officials further encouraged privately acting nationalistic groups in targeting Tajik nationals. For example newspaper ‘Rosiiskaia Gazeta’ (Российская газета) has published an interview with the senior governmental official Mr. G. Onishenko, in which he spoke about the temporary ban on importing labor force from Tajikistan, due to the recent raise in the occurrence of contagious diseases such as HIV and tuberculosis. In the same period the Director of Federal Migration Service, Mr. K. Romodanovsky made a statement in which he spoke about the high level of criminality among the migrants of Tajik origin.

Such public statements combined with the rising number of spot-checks, detentions and arrests instilled the fear not only among Tajik nationals residing in Russia but among other migrant communities, who feared to be the next target.

⁵ Source: <http://www.echr.coe.int/echr/en/hudoc>

⁶ News flash on polit.ru: <http://www.polit.ru/news/2011/11/12/deportation/>

RECOMMENDATION 14 - ABSENCE OF FEDERAL GOVERNMENT PROGRAMME ADDRESSING THE SOCIAL AND ECONOMIC MARGINALIZATION OF ROMA

The Committee recommended the Russian Federation to adopt a national plan of action that included special measures for the promotion of access by Roma to employment, personal documents, residence registration and adequate housing rights.

Despite the fact that the recommendation to adopt a program was given in 2008 it took four years for the government of The Russian Federation to prepare such a program.

At the end of 2012 the Russian media reported about the Government plan for socio-economic and cultural development of Roma ethnic community for the period of 2012-2014. Even if, formally, the Plan covers the year 2012 by December 2012 it has only been presented for the signature to the Minister of Regional Development. At the time of writing this report the Plan has not been made public by the Government, nor were Roma experts or civil society representatives involved in the process of elaboration of the Plan.

As it was reported by the media, the purpose of the Plan is to contribute to the integration of Roma into the modern community, including all major areas such as: education, healthcare, access to media, employment and supporting start-ups for example in the farming sector. Other important issues that are addressed in the Plan are simplification of the procedure for the issuance of identity documents to Roma and legalization of the housing.⁷

Even if the plan is approved, **there are serious doubts about its implementation.** It seems that the plan was developed for formal purposes, and will not actually improve the situation of Roma. It can be assumed that the Plan is not meant for the use at federal level and will simply carry a character of a recommendation for regional administrations. This would also mean absence of financing from the federal budget, since such financing is only considered for the federal programs; therefore implementation of the plan, even if it will be adopted, will greatly depend on the will and possibilities of regional administrations.

In practice the living conditions in most Roma settlements are extremely low and Russian authorities do not take positive measures for improving them. In some Roma settlements, there are problems with access to water, gas and electricity.

Medical assistance is also faulty; often Roma are denied medical care on discriminatory grounds. For example, Roma are often prevented from benefiting from public medical services. Inhabitants of Roma compact settlements often complain that they are denied

⁷ News flash on izvestia.ru <http://izvestia.ru/news/541180#ixzz2Ej34tDiW>

emergency medical aid service, which sometimes leads to fatal outcomes. In certain cases, such as the hospital of Toksovo in Leningrad Province, Roma children and their accompanied parents are segregated from the rest of the hospital patients and endure much worse conditions of accommodation with lack of basic hygiene norms. Roma patients are strictly prohibited to enter ‘Russian sections’ of the hospital and are forced to remain in the wing of the building which is specially designated for them.⁸

RECOMMENDATION 15 – ECONOMIC AND SOCIAL DEVELOPMENT OF THE SMALL INDIGENOUS PEOPLE

The Committee recommended the Russian Federation to further intensify its efforts to effectively implement the federal target programme for the economic and social development of the small indigenous peoples, extend it to all peoples that self-identify as ‘indigenous’, and provide information on the concrete results achieved under the programme in its next periodic report.

Despite the attempts of the Government, via its Federal program for economic and social development of small indigenous peoples of the North, most of the problems highlighted during the last reporting period remain unresolved. As noted by N. Novikov in his recent report, “The north and northerners - the current situation of indigenous Peoples of the North, Siberia and Far East Russia”⁹ the social and economic situation of indigenous peoples, regardless of their area of residence, remains at a low level. Among the problems identified were access to education, housing, employment and health care. The report also pinpointed the fact that literacy levels among the indigenous people are remarkably low compared to the rest of the population.

Children of indigenous people often face the hard choice of either continuing to work the traditional way or trying to get an education, which is often associated with abandoning traditional occupations. Considering the difficulties associated with the choice, an extremely low number of students choose to follow secondary or higher education. Government subsidies to compensate part of the cost of education are not proving to be a sufficient incentive. Despite positive government action to boost employment among representatives of indigenous peoples, the unemployment rates remain at a very high level. Indigenous peoples are particularly underrepresented in the public sector, such as schools, hospitals, and other public institutions, mostly because of the lack of qualifications. The same problem often bars indigenous peoples to work in oil and gas industries. With the reduction of traditional occupations, small scale souvenir production

⁸ Information on the topic can be found in the archive of ADC “Memorial”.

⁹ / Ed. Ed. N. Novikov, DA Funk. - Moscow: IEA publication, 2012. - 288., 44 Tables. ISBN 978-5-4211-0071-3

and tourism can certainly not suffice to solve all the problems of employment of indigenous peoples.

Another problem which requires particular attention is the preservation of national languages of indigenous people. As noted by D.A. Funk, the situation with preservation of national languages is catastrophic. With extremely low level of teaching of native languages in schools, there is a shortage of literature and visual aids for teaching native languages. There is also a lack of media workers who work in the native languages of indigenous peoples.¹⁰

Most of the indigenous population experiences a dire need for new housing, since very often existing housing does not meet minimum standards necessary for sustaining normal health.

The long distances between indigenous settlements and urban centers create problems in health care. The problem is partly addressed by providing initial skills training to the members of the local communities. However, inability to use the ambulance in relatively urgent situations often leads to fatal outcomes.

RECOMMENDATION 16 - INCREASE IN NUMBER OF RACIST AND XENOPHOBIC STATEMENTS IN THE MEDIA

The Committee recommended the Russian Federation to intensify its efforts to combat ethnically motivated hate speech in the media, on the internet and in political discourse, by publicly condemning such statements, imposing adequate sanctions for publicly making racist statements, making full use of official warnings under articles 4 and 16 of the Federal Law on Means of the Mass Media.

As the Committee pointed out, in political discourse in Russia, there was an increase in the number of racist and xenophobic statements in the media and in the discourse of public officials and political parties, targeting ethnic minorities such as Chechens and other persons originating from the Caucasus or from Central Asia, Roma, Africans, as well as ethnic minorities of Muslim or Jewish faith. The situation in this respect has not improved since 2008. Officials continue to make xenophobic statements, often for political purposes and intentionally engage mass media. Following is an example of hate speech made by public official, Mayor of Sochi Mr. Pakhomov against Roma in 2009, made publicly and widely transmitted by the media.

Mr. Pakhomov, a mayor of Sochi (Krasnodar Province), publicly told his subordinates at the official planning meeting held at the mayor's office in Sochi on 19 October 2009, that all Roma people as well as homeless persons should have been expelled from Sochi and

¹⁰ Source: <http://arctic-teachers.ru/menyu2/kovhevieschkoly/norm/nomadconcept/moderned>

sent to perform involuntary round-the-clock work at the construction objects at the outskirts of the town, as it used to happen, according to Mr Pakhomov, in the Soviet Union.

Alexander Kleyn, of Roma ethnicity, appealed to the District Court to order Mr. Pakhomov to pay him compensation for non-pecuniary damage from ethnically motivated hate speech. Kleyn's attorney Ms. Dubrovina litigated the case in domestic courts with the support of ADC “Memorial” and with the experts and advocates working with ADC “Memorial”. Ms. Dubrovina requested the Russian authorities to open criminal proceedings against Mr Pakhomov for incitement to racial discrimination. Appeal contained evidence of in the form of the print-outs from the Russian news websites: www.interfax.ru, www.sochi-24.ru, www.news.km.ru and www.kavkaz-uzel.ru reporting the exact wording of the statement made by Mr. Pakhomov on 19 October 2009.

On 12 July 2010 the investigator refused to initiate criminal proceedings for the actions of Mr Pakhomov. On 30 July 2011 the investigator issued another decision not to open criminal proceedings against Mr. Pakhomov, based on his own testimony. The investigator concluded that Mr Pakhomov had committed no crime as he had not made the statements in question. Mr. Pakhomov being a public official of the the Russian Federation publicly incited racial discrimination against the population of the Roma ethnic origin, and the authorities of the Russian Federation failed to prosecute him for that hate speech according to criminal procedure.

Alexander Kleyn appealed to the District Court with a civil claim. In order to prove the 'hate speech' in the statements, two forensic examinations were held. The conclusions of the examinations clearly indicated that the statement made by the mayor of Sochi constituted hate speech. Experts who carried out the examinations labeled it as “an incitement to violence against Roma”, as the mayor of Sochi had proposed to use Roma for forced labor on the construction of facilities for the Sochi Olympic Games. Having analyzed the statements attributed by the aforementioned media reports to Mayor Pakhomov, the experts concluded that they had contained incitement to commit violent actions against the individuals on the basis of their ethnic background, to limit the freedom of movement of Roma and to force them to conduct involuntary labor. Moreover, the experts found that the statements in question had implied that the interests of Roma people and representatives of other ethnicities were incompatible.

Nonetheless, the court did not admit the results of the two forensic examinations, the information from media sources or the transcript of the audio recording of the mayor’s speech during the official meeting that was provided by the mayor’s office at the request of the court, as evidence against the mayor. On 8 November 2011 the Regional Court, having heard the applicant’s attorney and Mr. Pakhomov’s legal representatives, examined and dismissed the appeal. Considering the political weight of the Mayor of Olympic City of Sochi in the Russian political sphere and the difficult situation in the Krasnodar Region in general, this case proved to be hard to deal with.

Private media outlets often purposefully use anti-Roma information campaigns and readily publish articles on Roma as 'drug dealers' or 'swindlers' which reinforces anti-Roma sentiment among the general public.

On June 5, 2012, "People's Newspaper-region" ("NG-Region") based in Obninsk Kaluga Region, published an article about 'criminals'. As an illustration, the newspaper article posted photos, depicting Kelderash Roma living in the village Tryas, Zhukovsky District of Kaluga region. On the same day, residents of the settlements appealed to the newspaper "NG-Region." The editor, recognizing that the people depicted in the photographs were not related to the content of the paper, refused to print a clarification in the next issue. Refusal to print a clarification was associated with a reluctance to set a precedent.

The local newspaper "Krasnaya Sloboda" on August 5, 2011 published an article "Be careful!" signed by the Ministry of the Interior employee. The article, devoted to the problem of crime among the Roma addressed general public advising "when dealing with Roma to be extremely vigilant, not to enter into contact in order to avoid psychological pressure on their part and never invite them at home". The article also recommended to immediately contacting the police when "spotting a suspicious gipsy".¹¹

As a rule local authorities do not respond to the various forms of expression of hate speech. On certain occasions information on criminality and dangerousness of Roma are posted on official sites of the state organs.

RECOMMENDATION 17 – BROAD SCOPE AND APPLICATION OF THE LAW ON COMBATING EXTREMIST ACTIVITIES

The Committee recommended the Russian Federation to give primary consideration to combating extremist organizations, and their members, engaging in activities motivated by racial, ethnic or religious hatred or enmity, when applying the Law on Combating Extremist Activities as well as article 282 of the Criminal Code.

The alternative report prepared by Russian NGOs in 2008 has already emphasized the fact that opposing hate crimes, hate speech and non-violent forms of discrimination, is "immersed" in the term "anti-extremism" and the broad definitions contained in the law are often used to target activists. The situation in that regard did not improve in the last reporting period.

¹¹ Source: <http://svpressa.ru/society/news/49320>

The very existence of the politicized "anti-extremist" framework¹² pulls the least politicized elements, from the list of acts which are part of the definition of extremist activity, into the picture. The definition of extremism provided in the law gives no indication of general characteristics, but instead describes extremism through certain acts. The list of such acts may be changed at will and has in fact been changed twice already. The current definition includes very dangerous acts, such as attempts to overthrow the constitutional government, 'terrorist activities', and also hate crimes. But it also includes such vaguely described acts that do not necessarily cause serious public danger. This is true, for example, for such an important element of the definition as 'inciting social, racial, ethnic or religious discord' – not 'hatred' or 'hostility'.

Mixing in very serious crimes or misconduct, with low risk acts leads to diverting the attention of law enforcement agencies from the most serious crimes, and increases the number of cases related to unnecessary restrictions of fundamental rights and freedoms.¹³

Abuse of anti-extremist legislation leads to discrediting the idea of fight against racism in the eyes of society, and distorts the notion about what kind of actions should be considered illegal.

There have been instances where activists belonging to ethnic minorities were persecuted just for criticizing the federal government, or even for criticizing the government of the Russian Empire and the USSR.

Public self-regulation mechanisms are underdeveloped and do not work in practice. Initiating civil action against offensive statements towards ethnic or religious groups has so far not worked in practice.

More often anti-extremism legislation is inappropriately applied to groups and individuals that belong to "non-traditional religions", to use the wording of the report of the Russian Federation (see p.295). They are the largest group that has been wrongfully persecuted with anti-extremism legislation. Such a practice constitutes a serious threat to the freedom of conscience and religion in Russia.¹⁴

In the past two years, the followers of the famous Sufi master Said Nursi have experienced serious problems. His books have been banned in Russia as "extremist", and a group of his

¹² Proof of such politization can be found in the text of the report of the Russian Federation to the Committee. For example, in par. 304, inciting hatred and enmity, that is a crime directed at certain groups and individuals associated with these groups, is referred to as the crime "against the state".

¹³ Chronicle of such undue restrictions is available in the News section of "Misuse of anti-extremism" on the website of the SOVA Center (<http://www.sova-center.ru/misuse/news/>). See also the report Verkhovsky A. Misuse of anti-extremism legislation in Russia in 2011 // SOVA Center. 2012. March 29 (<http://www.sova-center.ru/misuse/publications/2012/03/d24014/>).

¹⁴ The analysis of the situation with freedom of conscience can be found in the section "Religion in a Secular Society" on SOVA Center web site: (<http://www.sova-center.ru/religion/news/>). See also the report: Problems of Freedom of Conscience in Russia in 2011 by Olga Sibireva // SOVA Center. 2012. March 1 (<http://www.sova-center.ru/religion/publications/2012/03/d23788/>).

followers have been subjected to criminal liability only for their religious beliefs. Just in 2011 for example there were nine cases of such convictions.

Jehovah's Witnesses and other religious minorities also experience similar problems. They are persecuted solely for the approval of the superiority of their beliefs over others. In 2011, there have been convictions of people who expressed strong criticism towards the leadership of the Russian Orthodox Church, as well as Christianity or religion in general. Anti-extremist legislation was applied in the same line to the punk group Pussy Riot in 2012, and led to a manifestly disproportionate punishment.

Apart from criminal prosecutions, the inappropriate use of the anti-extremism legislation results in administrative sanctions and various forms of pressure, primarily with respect to civic activists and journalists.

RECOMMENDATION 18 – INCREASE AND SEVERITY OF RACIALLY MOTIVATED VIOLENCE

The Committee recommended to the Russian Federation to further intensify its efforts to combat racially motivated violence, including by ensuring that judges, procurators and the police take into account the motive of ethnic, racial or religious hatred or enmity as an aggravating circumstance, and to provide updated statistical data on the number and nature of reported hate crimes, prosecutions, convictions and sentences imposed on perpetrators, disaggregated by age, gender and national or ethnic origin of victims.

There was a considerable increase during the reporting period in Government's efforts to prosecute hate crimes and hate speech. Criminal prosecution for hate speech for example increased from 15 sentences in 2005 to 96 in 2012. However, these verdicts were issued for insignificant statements and publications, thus the overall level of hate speech in the country did not decrease.

Paragraphs 117-125 of the State Report contain information on the enforcement of legislation against hate crimes. More precisely, this part of the report talks about the "extremist crimes", to which 33 articles¹⁵ of the Criminal Code are applicable. The report's authors rightly point out that the method of compiling the statistics, which is based on data provided by the Ministry of Interior, does not include court cases or procedures at investigative committees or prosecutor's office. Indeed, these statistics do not take into account the termination of cases, acquittal, removing "hate motive" from the charges or

¹⁵ This classification of articles is not specified in the law, but is used by the Ministry of Internal Affairs and other agencies for reporting purposes; articles containing direct references to the hate motive as an aggravating feature in the Criminal Code are less, but in terms of "extremist activity", the list is clearly not exhaustive; thus, it is not clear exactly which of 33 articles of the Criminal Code are referenced in the state reporting.

conviction, and the addition of such a motive at a later time in the investigation. In practice, information provided by MIA is centered more on the 'effectiveness' of its own performance, and does not reflect the realistic picture in terms of the level of hate crimes.

For clear reasons crime statistics collected by SOVA Center are also incomplete, so comparing the two data sources is difficult. Based on SOVA Center analysis, racist violence peaked in 2008, after which its level decreased steadily until 2011. Nonetheless, in 2012 the numbers were again comparable to the previous year. Data gathered by SOVA Center often comes with considerable delay, so that the data for the last year is always more incomplete compared to the preceding year. Taking this into account, by the end of 2012 it was already clear that the positive trend is over.

More detailed statistics of racist and neo-Nazi violent Attacks (with categorization of victims) as well as statistics of convictions for violent crimes with a recognized hate motive and hate propaganda that have been collected by SOVA Center is demonstrated in the following table:

Statistics of Racist and Neo-Nazi Violent Attacks in Russia in 2004 – 2012 (with categorization of victims)*

Year	2004		2005		2006		2007		2008		2009		2010		2011		2012	
	M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W
M - Murdered, W - Beaten or wounded	M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W
Total	50	219	49	419	66	522	93	623	116	499	94	443	44	410	25	195	19	177
Dark-skinned people	1	33	3	38	2	32	0	38	2	23	2	59	1	26	1	19	0	22
People from Central Asia	10	23	18	35	17	60	35	82	63	123	40	92	20	86	10	35	7	32
People from the Caucasus	15	38	12	52	15	72	27	64	27	76	18	78	5	45	6	17	4	14
From the Middle East and North Africa	4	12	1	22	0	11	2	21	2	13	0	2	0	2	0	5	0	0
From other countries of Asia	8	30	4	58	4	52	2	45	1	41	14	36	3	19	0	11	0	5
Other people of “non-Slav appearance”	2	22	3	72	4	69	20	90	11	56	9	62	7	100	1	25	1	10
Members of youth subcultures, anti-fascists and leftist youth	0	4	3	121	3	119	5	195	4	87	5	77	3	62	1	35	1	54
Homeless	-	-	-	-	-	-	-	-	-	-	4	0	1	3	3	2	6	2
Ethnic Russians	-	-	-	-	-	-	-	-	-	-	0	8	1	8	1	7	0	7
Jews	-	-	-	-	-	-	-	-	-	-	0	3	0	3	1	2	0	0
Religious groups	-	-	-	-	-	-	-	-	-	-	1	2	0	22	0	24	0	10
LGBT	-	-	-	-	-	-	-	-	-	-	0	0	0	3	0	3	0	12
Others or not known	10	57	5	21	21	107	2	88	6	80	1	24	3	31	1	10	0	9

* Victims in the North Caucasus and victims of mass brawls are not counted. Homeless, Russians, Jews, Religious groups and LGBT were included to Others before 2009.

Statistics of convictions for violent crimes with a recognized hate motive and hate propaganda, 2004 – 2012**

Year	Number of convictions			Number of offenders convicted			Convicted offenders who received suspended sentences or were released from punishment		
	For violence	For propaganda	For vandalism***	For violence	For propaganda	For vandalism	For violence	For propaganda	For vandalism
2004	9	3	-	26	3	-	5	2	-
2005	17	12	-	56	15	-	5	6	-
2006	33	17	-	109	20	-	24	7	-
2007	23	28	3	65	42	5	18	12	2
2008	34	44	2	110	60	2	25	21	2
2009	52	56	9	130	69	18	35	34	7
2010	91	72	12	297	78	21	120	38	5
2011	60	73	8	192	75	12	74	33	5
2012	29	88	6	71	99	7	13	23	1

* Estimated minimum ** The table is based on art.280 and 282 and does not include sentences which we see as open misuse of the law *** Art. 214, 244 with hate motivation

According to the State Report, in 2008 there were 102 identified violent hate crime, in 175 in 2009, 204 in 2010, and 174 in 2011. Until 2011, these figures are much lower than those known to the SOVA Center, whereas the data for 2011 is almost identical.

The first issue which is noticeable during the analysis of the statistical data of the Government is the presence of a significant number of cases under Article 119 of the Criminal Code (The threat of death or serious bodily injury). From SOVA's experience such cases are usually closed before they reach courts.

Combining the articles 280 and 282, we get the following results: in 2008 211 cases were filed, in 2009 - 268, in 2010 - 323 and in 2011 - 303. For these crimes the investigation process normally takes less than a year. By analyzing SOVA's statistical data on convictions it becomes apparent that the vast majority of cases related to "extremist propaganda" do not make it to the courts. In itself, this should be considered as a positive fact since most of the cases of such kind do not represent a significant danger to public safety.

Faster growth of convictions for such statements, as compared to the number of convictions for violent hate crimes, should be considered as a negative trend. In 2012, the first time in many years the number of those convicted of hate speech exceeded the number of those convicted of hate crimes (99 to 71), although the level of violent racist crimes at that time has not been decreasing.

Based on the information available to SOVA, in 2009 7 people were convicted based on article 282 (1) (participation in 'extremist group'), 30 in 2010, 21 in 2011 and 6 in 2012.

The fact that the similar data in the State Report indicates lower figures, could be due to the incompleteness of the information, which does not reflect most of the convictions where article 282 (1) of the Criminal Code was not the main item of the charges.

The State Report also provides information on preventive measures taken by the prosecutor's office and the Federal Service for Supervision of Communications, Information Technology and Mass Communications (Roskomnadzor), with regard to preventing hate speech in the media. As a preventive measure news agencies receive warnings about the possibility of their closure due to the contents of their publications. While it is difficult to comment on the activity of the prosecutor's office in this regard, as the office rarely publishes information on warnings that were handed down, SOVA Center believes that the Federal Service for Supervision of Communications, Information Technology and Mass Communications plays a useful prophylactic role. Nevertheless, yearly, an unreasonably high percentage of warnings are handed out unnecessarily. In 2006 out of 38 such warning, 5 of them were considered unlawful by SOVA, in 2007 - 8 out of 43, in 2008 - 6 out of 28, in 2009 - 15 of 33, in 2010 - 10 of 28 and in 2011 - 10 of 25.

RECOMMENDATION 19 – ABSENCE OF STATISTICAL DATA ON THE NUMBER OF ASYLUM APPLICATIONS AND APPLICATION FOR REFUGEE STATUS

The Committee requested the Russian Federation to include in its next periodic report updated statistical data on the number of asylum and refugee applications received per year and on the number of cases where such applications were granted, disaggregated by national or ethnic origin of the applicants.

Official statistical data on the number of asylum applications and applications for refugee status provided by the Russian Government does not reflect the real image of refugees and asylum seekers in Russia. Non-governmental organizations, that provide assistance to refugees and asylum seekers, regularly document abuse of fundamental rights of the two mentioned groups by law enforcement agencies. Numerous cases of extradition and deportation have been documented when the individual facing extradition/deportation is subjected to real threat of ill-treatment in the country of origin. This leads to situations in which many refugees and asylum seekers, despite being in a vulnerable position, often due to their lack of legal status, do not want to apply to the competent authorities, fearing extradition/deportation. The NGO-expert on refugees and asylum seekers Elena Ryabinina, pointed out some difficulties, with which refugees in Russia are faced.¹⁶ One of these problems is related to the sources used by the relevant Russian authorities for the determination of the refugee status. In the course of the administrative procedure of considering applications for refugee status, the authorities send requests only to the authorities of the country of origin and do not use alternative information. As a result, applicants are often unreasonably denied refugee status (many of them are from Uzbekistan, Tajikistan and Kyrgyzstan). There are a number of cases admitted to the European Court which relate to allegations of torture and ill-treatment in the states of origin.¹⁷

RECOMMENDATION 20 - REPRESENTATION OF THE SMALL INDIGENOUS PEOPLES IN THE STATE DUMA OF THE FEDERAL ASSEMBLY

The Committee recommended the Russian Federation to consider introducing guaranteed seats or mandatory quotas to ensure that the small indigenous peoples of the North, Siberia and the Russian Far East are represented in the legislative bodies, as well as in the executive branch and in public service, at the regional and federal levels, and ensure their effective participation in any decision-making process affecting their rights and legitimate interests.

¹⁶ Source: <http://www.hro.org/node/12535>

¹⁷ Source: <http://www.hrights.ru>

Small indigenous peoples of the North, Siberia and the Russian Far East remain to be underrepresented in the legislative bodies, as well as in the executive branch and the public service both at regional and federal level. The government of the Russian Federation refuses to accept the reality of underrepresentation of indigenous people in its decision-making process, basing its reasoning on the argument that “introduction of official representation in elected government bodies is contrary to established international legal norms”.

There were no steps undertaken within the reporting period to implement the recommendation No 20 of the Committee. One of the recent key policy document, “State Strategy on National Policy for 2012-2025”, adopted by the President of the Russian Federation on 19 December 2012, failed to address problems of small indigenous peoples of Russia.

Suspension of activities of the Association of Small Indigenous Peoples of the North, Siberia and the Russian Far East

After two years of pressure the Ministry of Justice of the Russian Federation suspended activities of the Association of Small Indigenous Peoples of the North, Siberia and the Russian Far East as of 1 November 2012. The Association, the task of which, among others, is to represent small indigenous people in state affairs, unites 41 indigenous peoples with the population exceeding 258 000. The formal reason for the suspension of the activities of the association was the discovery, by the Ministry of Justice, of the fact that the Statute of the Association did not include some 49 regional representations of the organization. It is worth mentioning that this detail was not contested for the 20 years of the Association’s existence. A concluding inspection by the Ministry of Justice, dated July 10 2010, states that the activities of the Association are in compliance with its Statute and with the requirements of Russian law. To correct the situation, the Coordination Council of the Association is preparing a General Assembly meeting, which will amend the organization’s Statute in order to comply with the requirements of the Ministry of Justice and to re-start its activities.

Regressive changes in Khanty-Mansiysk Autonomous District

Another step back taken during the reporting period was the change in the method of incorporation of the Assembly of Indigenous Minorities of the North, which is part of the regional Duma of the Khanty-Mansiysk Autonomous Okrug (KMAO). In 1996 KMAO became the first part of the Federation, where the institution for representation of small indigenous peoples was established in the form of the Assembly of Indigenous Minorities of the North. All issues related to the rights of small indigenous people were first discussed by the Assembly and then approved by the Duma of the District (Okrug). The Assembly consisted of deputies who were elected at a single three-mandate national-territorial election district. Traditionally, mandates were divided between the peoples of Khanty and Mansi. The Chair of the Assembly was at the same time a Deputy Chair of the District Duma. However, in February 2011 the Russian Ministry of Justice issued a conclusion according to which, having quotas of official representation in elected

government bodies of the Federation was against Russian law. Therefore, the Ministry recommended amending the District Charter, which provides for having the quota of 3 representatives of indigenous peoples. The advisors of the Ministry of Justice based their opinion on the decision of the Supreme Court of the Russian Federation, by which it confirmed the judgment of the court of Nenetsk Autonomous District on the election of deputies in the Assembly. The latter annulled the provision of the District Charter according to which, in a multi-ethnic territorial constituency, two members of the Duma are elected from among the indigenous people of the North.

After an appeal by the Ministry of Justice, the Duma of KMAO prepared amendments to the District Charter, which, in the opinion of the Assembly of Representatives of Indigenous Peoples, deprives the Khanty and Mansi of the guarantee for representation in the legislature of the District. The Assembly prepared an alternative amendment to Article 23 (2) of the Charter, which defines quotas for indigenous people, but there is no provision that the deputy candidates (for the three places in question) are nominated exclusively by indigenous peoples. Moreover, there is no provision that the candidates should be nominated on grounds of belonging to indigenous peoples, or which would prescribe that only representatives of indigenous peoples could vote for such candidates. At the time of writing, both drafts are under discussion.

RECOMMENDATION 21 – THE PROBLEM OF FORCED RETURN OF IDPs FROM CHECHNYA

The Committee Recommended to the Russian Federation to ensure that internally displaced persons from Chechnya are not pressured to return to their pre-conflict places of residence if they fear for their personal safety, that returnees who are relocated from temporary accommodation centres in Ingushetia and Grozny are provided with adequate alternative housing, and that all IDPs are granted forced migrant status.

Based on the estimates of the Internal Displacement Monitoring Center (IDMC), over 800,000 people were displaced by armed conflicts that broke out in Chechnya in 1994 and 1999. Most IDPs from Chechnya were repeatedly displaced. According to government sources, over 320,000 people have returned, during the post-conflict period. Some of them had gone back to their former homes, while others had moved into temporary accommodation or housing provided by the government or international organizations or stayed with relatives or acquaintances. Others live in makeshift accommodation with little means to become self-reliant.

In mid-2010 IDMC estimated that at least 45,000 Chechens were still internally displaced in the North Caucasus, including Chechnya itself. According to IDMC the total number of IDPs is probably much higher, including many people with their status and registration progressively expired or cancelled without any assessment of effective available solutions for them.

The voluntary return of the IDPs to Chechnya remains slow due to security concerns. Government forces continue to perpetrate human rights violations including arbitrary detentions, enforced disappearances, torture and extra-judicial killings as part of their counter-insurgency campaign, and they continue to enjoy impunity for these acts. Widespread corruption represents an additional factor of instability. Most people are afraid of abuses by law enforcement and other officials and have no recourse to political or judicial mechanisms by which to hold local authorities to account.

The European Court of Human Rights has, in over 200 cases, found the Government of the Russian Federation responsible for grave human rights violations in Chechnya, including torture, enforced disappearances and extrajudicial executions. In the majority of the cases, violation was found in relation to the failure of the Russian Government to investigate these crimes.¹⁸ A large share of judgments of the European Court remains unenforced and, over the years, Russia is failing to take general measures that would prevent future occurrence of human rights violations of similar character.¹⁹

The UN Human Rights Committee expressed its concern about the large number of convictions for terrorism-related charges, which may have been handed down by courts in Chechnya on the basis of confessions obtained through torture and inhuman and degrading treatment. It recommended the Russian Federation to consider carrying out a systematic review of all terrorism-related sentences pronounced by courts in Chechnya, to determine whether the trials concerned were conducted in full respect of the standards set forth in article 14 of the CCPR and to ensure that no statement or confession made under torture has been used as evidence.²⁰

Based on the information available to ADC “Memorial” many Chechens living in other regions of Russia are in constant danger of being falsely accused of crimes. Chechens, who are apprehended, often on reportedly fabricated charges, often find it difficult or impossible to see their legal representatives or family. There are many reports of torture and inhuman treatment of Chechens in custody. One example is the case of Shamil Khataev who was due to be released from imprisonment in October 2009 but was reportedly badly beaten by prison guards the day before. Following that, he was not allowed to see his lawyer or family and another criminal case was opened against him for disorderly behavior instead (Article 321 of the Criminal Code of The Russian Federation). Moreover, although in poor health condition, he was transferred from the prison hospital to a pre-trial detention facility.

Forced evictions of IDPs were frequent throughout the reporting period. Most IDPs lack a tenancy contract or residence registration at their temporary accommodations, and

¹⁸¹⁸ Judgments can be accessed on ECtHR web site: <http://www.echr.coe.int/echr/en/hudoc>

¹⁹ For more information please visit the web-site of Russian Justice Initiative: <http://www.srji.org/en/>

²⁰ CCPR/C/RUS/CO/6 par. 8

therefore cannot legally contest their eviction. Some are able to find a place to live, but others have nowhere to go and become more vulnerable once evicted.

In 2009 the Federal Migration Service's (FMS) accommodation contracts with 22 accommodation centers in Ingushetia expired. The local authorities received an order to close compact settlements. All the IDPs were supposed to return to Chechnya. Some IDPs in Ingushetia reported being de-registered from the FMS assistance lists because they signed applications for return to Chechnya, although they did it in the face of threats that their child allowances, pensions and unemployment benefits would otherwise be terminated. Some IDPs refused to sign the applications for return, but were later shown that they had been struck off the register on the basis of an FMS report that they were not residing in a government-provided "temporary settlement". Few took legal action, but those who did found it difficult to prove that they had signed the forms under duress.²¹

The limited income of most IDPs has them largely dependent on government benefits. Local NGOs estimate that in the last few years, more than 60 per cent of able to work IDPs in Ingushetia and Chechnya were unemployed. IDPs face obstacles in finding work that are linked to their displacement: some are unable to register as temporary residents in the place of refuge; others did not attend school. The armed conflicts left others with severe disabilities.

In its periodic report the Russian Government clarified that: "citizens who suffered as a result of the resolution of the crisis, who left the Chechen Republic permanently, have been paid compensation for loss of life or property pursuant to Government Decision No 510 of April 1997 on the procedure for the payment of compensation in such cases" (paragraph. 454). It is worth noting that the compensation for destroyed housing in the Chechen Republic equals to 120 000 RUB (approximately 3970 USD). This amount of money is not even sufficient to cover a year's rent in most regions of Russia, not to mention the purchase of a house or an apartment.²²

RECOMMENDATION 22 – PROBLEMS RELATED TO REGISTRATION

The Committee recommended the Russian Federation to carefully monitor the implementation of its system of residence registration, sanction officials who deny registration on ethnically discriminatory grounds, and provide effective remedies to victims, with a view to eliminating any discriminatory impact of the registration system on ethnic minorities.

²¹ ECRE Guidelines on the Treatment of Chechen Internally Displaced Persons, Asylum Seekers and Refugees in Europe, March 2011

²² Ibid

The Act No 5242 -1 of 25 June 1993 on the Right of Citizens of the Russian Federation to Freedom of Movement and Choice of Place of Temporary and Permanent Residence within the Boundaries of the Russian Federation continues to be an administrative hurdle, which prevents vulnerable groups such as migrants from enjoying their rights. So far, all the efforts to simplify the system of registration have been unsuccessful.

By virtue of this regulation, access to education is denied to vulnerable groups, including Roma from the compact settlements all over the Russian Federation, who are born Russian citizens, but are forced to go to court to prove their residence and citizenship or to acquire the citizenship again (since they or their parents have no documents).²³

The fact that most of the Roma housing is not officially registered creates a number of fundamental problems and consequently the inability of Roma to realize their social and economic rights. The problem starts with the inability to obtain registration (which under Russian law is same as residence permit) by Roma who do not have officially registered residence. According to the administrative practice, the lack of registration then results into inability to exercise key social and economic rights such as the right to health care, right of children to education, labor rights and the right to state pension.

Formally the 'registration' is a notification issued to the local authorities of the place of residence by a particular individual. Considering that a significant portion of houses occupied by Roma is non-registered, it is difficult for the inhabitants of such houses to be registered and, therefore, to have access to social services such as education and health care.

The regulation also indirectly affects the housing rights of Roma. For example, in 2010 the court of Tula Province issued an order concerning demolition of an unregistered house located in the town of Plekhanovo (Tula Province). The occupants of the house are a family which includes two under-aged children, one of whom is disabled. The house in question is presently the only shelter available to this family and its demolition would be in breach of the Russian Constitution which, according to the interpretation of the Constitutional Court (Judgment of June 8 2010), guarantees the right to adequate housing for children.

According to the local administration, the demolition of the house does not violate the right to adequate housing of the two under aged children, who are officially registered at a different address.

²³ For more details on the violations of social and economic rights of Roma please see report of ADC "Memorial": *"Discrimination in the enjoyment of Social and Economic Rights by Ethnic Minorities and Migrants in Russia"*, 2011: [2011: http://adcmemorial.org/www/740.html?lang=en](http://adcmemorial.org/www/740.html?lang=en)

Such a formalistic approach, which links housing rights to the mere fact of registration, makes exercise of the housing rights illusory and leaves many thousands of Roma, who live in unregistered properties, unable to effectively enjoy such rights.²⁴

RECOMMENDATION 23 - DIFFICULTIES IN OBTAINING CITIZENSHIP BY FORMER SOVIET CITIZENS

The Committee recommended the Russian Federation to facilitate access to residence registration and Russian citizenship by all former Soviet citizens on the basis of a simplified procedure and irrespective of the ethnicity of the applicants.

On November 12 2012 Russian legislature adopted amendments to the Federal Law on "Citizenship of the Russian Federation" (law N 182 FL) which defined the procedure for granting Russian citizenship to the "persons with uncertain legal status". The list of such persons includes:

- Former citizens of the Soviet Union who have been residing on the territory of the Russian Federation before July 1 2002 and who do not have citizenship of the Russian Federation or a citizenship of another country, their children and disabled dependents;
- Persons who obtained Russian passport before July 1 2002, but whose citizenship was not confirmed due to the procedural errors of the administrative organs;
- Persons having citizenship of another country, but not having documents that could prove the rights to reside in their country of citizenship; and
- Persons not having citizenship of another country.

The new Chapter of the Federal Law on "Citizenship of the Russian Federation" defines terms for granting and/or recognizing the citizenship of the Russian Federation to the above listed persons through a simplified procedure. The law sets a two-month term for recognition and six months for granting of citizenship. These terms can be prolonged to maximum of three months in relation to clarification of the identity of the applicant.

The amendments also introduced new grounds for refusing requests for recognition or granting of citizenship. More specifically, Russian citizenship will not be granted/recognized in relation to those individuals who participated in international or internal armed conflict or committed/planned illegal acts which, under Russian criminal legislation, are qualified as extremist acts.

²⁴ In practice it is common that inhabitants of the Roma settlements are registered on one or several 'legal' properties, since, as it often happens, the majority of the housing in the settlement is unregistered and has no legal status.

The extent to which the above mentioned changes will affect the rights of stateless persons residing on the territory of the Russian Federation, still needs to be seen, since by beginning of 2013 no practice of application of this legislation has been established.

Under the acting legislation, one of the requirements for recognizing/granting citizenship is the necessity for the applicant to prove the fact of his/her residence on Russian territory and the burden of proof in the court proceedings lies on the applicant. Thorough and formalistic application of this requirement often proved to be a barrier that many of the applicants fail to overcome.

The adoption of new regulations has not affected the Roma population, whose representatives, despite holding Soviet passports and residing on the territory of the Russian Federation without interruption, are unable to obtain the Russian citizenship. Problems arise from the difficulty of Roma to prove before the courts their uninterrupted habitation in Russia. Due to their vulnerable conditions they often experience difficulties in obtaining relevant documentation that could be used before the courts. This is particularly challenging without the assistance of a lawyer, which most of the Roma cannot afford.

The voluntary resettlement program, mentioned in the state report, was found to be ineffective even by the authorities themselves. For example, Mr Zatulin a member of the State Duma Committee on CIS Affairs and Relations with Compatriots and the Director of the Institute of CIS stated: "The program of resettlement of compatriots is well-intentioned, but poorly implemented in practice. I support the principle of resettlement of our countrymen, but this plan has failed".²⁵

An example of a vulnerable group, who was unable to benefit from the program, relates to Korean nationals, who were repressed in the Soviet period. They face difficulties in obtaining Russian citizenship as well as residence permits. According to representatives of diaspora organization "Koreans, whose ancestors were forcibly evicted from Russia and who want to move back from the Central Asian republics are unable to obtain Russian citizenship".²⁶

RECOMMENDATION 24 – FREE AND NON-COMPETITIVE ACCESS TO LAND, FAUNA AND BIOLOGICAL RESOURCES BY INDIGENOUS PEOPLE

The Committee recommended the Russian Federation to take legislative and other effective measures to implement the Federal Law on Territories of Traditional Nature Use

²⁵ News flash of July 7, 2011: <http://www.km.ru/v-rossii/2011/07/08/migratsionnaya-politika-v-rossii/programma-pereseleniya-sootchestvennikov-prova>

²⁶ Source: <http://www.arirang.ru/archive/kd/18/5.html>

(2001); reinsert the concept of free-of-charge use of land by indigenous peoples into the revised Land Code and the Law on Territories of Traditional Nature Use, and the concept of preferential, non-competitive access to natural resources into the Forest and Water Codes; seek the free informed consent of indigenous communities and give primary consideration to their special needs prior to granting licences to private companies for economic activities on territories traditionally occupied or used by those communities; ensure that licensing agreements provide for adequate compensation of the affected communities; and withdraw support for the Evenkiiskaya dam and other large scale projects threatening the traditional lifestyle of indigenous peoples.

Legal restrictions on the use of natural resources in the territories of indigenous peoples are preconditioned by the relationship of indigenous peoples and industrial companies who extract natural resources from the land inhabited by such peoples. Regulatory mechanisms often do not work, which leads to the infringement of the interests of the population of territories where industrial companies extract natural resources. Interests related to fishing activities, which are often vital for indigenous peoples, as a rule are not considered in the development of projects, which sometimes threaten the survival of these territories. Practice shows that the extraction of natural resources and indigenous traditional activities, such as fishing and reindeer herding, are often incompatible.

In order to resolve the situation, the Government has developed a legal framework.²⁷ However, in practice, the principles outlined in the law are often violated. Compensation for the exploitation of the territories inhabited by indigenous people is often insufficient and does not replace their traditional activities. As UN Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya, noted, the legislation of the Russian Federation on indigenous people is one of the best in the world; however, the practice is rich with examples of gross violations of their rights.

A case that occurred in the District of Penzhina in Kamchatka District serves as an example of the harmful effects of industrial companies on the habitat of indigenous people.²⁸ As a result of the activities of the company doing industrial scale fishing, an entire population of indigenous people was put under the threat of extinction.

RECOMMENDATION 25 -DISCRIMINATION AT WORK AND EXPLOITATION OF NON-CITIZENS AND ETHNIC MINORITY WORKERS

The Committee recommended the Russian Federation to intensify its efforts to protect non-citizens and ethnic minority workers against exploitative work conditions and discrimination in job recruitment, e.g. by providing effective remedies for victims and by

²⁷ Source: <http://www.peoples-rights.info>

²⁸ Source: <http://pk.russiaregionpress.ru/archives/3978>

training judges and labor inspectors on the application of articles 2 and 3 of the Labor Code.

Regardless of the recommendations of the Committee, the ethnic minorities and non-Russian citizens continue to be discriminated during the recruitment and exploited on the job. While legalization of migrant workers is seen by the Government as a factor which could reap tax revenues, persistent anti-immigrant sentiments, poor enforcement of existing regulations, and a thriving shadow economy that counts on illegal workers have conspired to make it harder for migrants to legalize themselves. Migrants are frequently victims of xenophobic assaults, lacking protection from the police and the justice system generally. In some cases the police target migrants for bribes and extortion.

As the Government of The Russian Federation is trying to overcome the major demographic problem of a declining and aging population, taking in the young foreign workforce is seen as a necessity. The country remains to be one of the largest recipients of migrant workforce, with a significant proportion originating from the countries of Central Asia (Uzbekistan, Tajikistan, Kirgizstan, Kazakhstan), followed by the South Caucasus (Armenia, Azerbaijan and Georgia). Migrant workers from these countries are mainly working as unskilled and low-skilled labor in areas such as construction, transportation, retail, housing and services, making up 10% of Russia's GDP.

Labor migrants are usually linguistically different from the ethnic majority, as a significant portion of their number is non-Slavic language speakers. Besides, they usually come from traditional patriarchal societies and their religion is other than Orthodox Christian. Ethno-cultural and national 'otherness' of migrants, coupled with their low social status, are the reason for the emergence of complex forms of discrimination resulting in the neglect of social and economic rights of immigrants, as well as in widespread racism, xenophobia, and chauvinism. In such circumstances, only balanced and consistent state policy to combat discrimination in labor relations can contribute to eradication of racial discrimination. Nonetheless, policies of the Russian government and the practice of application of legislation do not pursue the objectives affirmed in the Convention.

Discrimination and exploitation of foreign migrant workers

One of the key challenges that migrant workers are faced with and which leads to multiple related problems is a difficulty in obtaining work permits. The process of acquiring a work permit is hampered by the use of a quota system for migrant workers, which was introduced in 2007. According to the Federal Law "On the Legal Status of Foreign Citizens in the Russian Federation" quotas for issuing permits to foreign citizen's work are set annually by the subjects of the Russian Federation, upon the request of employers.

As stated by the Ministry of Health and Social Development of the Russian Federation "the formation of quotas is relative to the employment of citizens of the Russian Federation which is viewed as a priority". In practice Russia's position with respect to

employment of foreign citizens is strictly restrictive, since the quotas are set without taking into consideration the true extent of labor migration.

For example, in 2012, the quota for migrant workers in St. Petersburg was reduced by 10 000 permits, amounting to 167 000 permits, while according to the estimates of the Federal Migration Service the actual number of labor migrants is in the range of 300 000 to 500 000 individuals.

The determination of the quota carries an arbitrary character and depends on the political situation. This finds its expression in attacks on migrant workers, where the existence of a quota system is justified by the desire to "protect the Russian labor market" from the "influx of migrants."

The quota allocation system among specific employers is not transparent, and is based on the crooked connections, whereas quotas for foreign workers are bought and sold in advance by numerous intermediary companies, organizing the exploitation of migrant workers in the interests of big businesses.

These intermediary companies (private employment agencies) are responsible for the formation of a widespread practice of "labor leasing" of migrant workers and offer staff outsourcing services. The practice of outsourcing allows large employers to use migrant labor, without having them on regular payroll, and thus bypass the quota system. So, despite the quota for foreign workers in the retail sector being 0% (actual prohibition), most major retailers are actually staffed by foreign migrant workers.

The use of labor outsourcing helps big businesses to get away from social responsibility and security in their relationship with foreign workers. Instead, such a responsibility is assumed by an outsourcing company which has a role of an intermediary. While recruiting foreign workers, employment agencies often issue false work permits, the cost of which is deducted from the wages of the migrant, and which are based on false employment contracts.

Establishing relationships with labor immigrants carries a formal character. They are asked to sign a contract, a copy of which is never shared. In certain cases the company may choose to have a civil contract, instead of a labor contract with a labor migrant to get away from the scope of application of the Labor Code of The Russian Federation. Communication between migrants and outsourcing companies is not formalized and is mostly verbal. Migrants are often simply told when, where, in what capacity and how much they have to work, and are often redirected from one job to another. Work is often associated with severe exploitation, with the usual working day of a migrant working through an outsourcing company lasting 12-14 hours a day, 6-7 days a week.

There are normally no holidays and lunch breaks, nor is overtime work compensated. Managers, who are in charge of administering the work of migrant workers, use arbitrary systems of punishment for conversations at work in workers' native language, for being late after a meal, etc. Neglect and racist abuse at work in these conditions are the norm.

Payments are made with significant delays. Often workers receive monthly wage every 45 working days. Management outsourcing companies avoid any formalization of labor relations. The wage is determined by them arbitrarily, money delivered to the migrant in his hands, and not transferred to the payroll card.

Arbitrary dismissal is also very frequent. After having worked for several months without receiving compensation workers are dismissed with a promise that they would be compensated sometime in the near future. Such compensation either takes place after a delay of several months or does not take place at all.

Often outsourcing companies are subsidiaries of large business groups: for example, one well-known examples in The Russian Federation is X5 Retail Group, the founder of a commercial and retail hypermarket operator Lenta, Pyaterochka, Perekrestok and Carousel, which oversees several of the companies working with different networks respectively. There are dozens of complaints of foreign citizens in the archive of ADC "Memorial", who complain about violation of their labor rights by outsourcing companies and agencies of employment such as: "Lingtoniya", "Metropolis", "Alliance", "A-BEST", "Fadcher +", "Technoservice" and so on .

Intermediary services provided by employment agencies, are used not only in trade but also in the construction, transportation, and housing sector. In all these areas, there are intermediary networks, which include private employment agencies, outsourcing companies, a group of managers and team leaders, specializing in organizing the exploitation of migrants and evading compliance with the immigration and labor laws. In all these areas of economic activity forced labor is widely used, and is often accompanied by confiscation of personal documents as collateral, restriction of liberty and ill-treatment. ADC "Memorial" receives regularly such complaints from migrant workers who fall victims to exploitation.

The following are several typical cases that demonstrate the scale and specificity of the violation of migrant worker's rights:

Case No 1

On October 30, 2012 human rights activists from Moscow have rescued 12 people from de facto slavery, including nine women, who were held in the basement of a house in the Moscow area of Golyanovo. According to these individuals, the owners of the store - citizens of Kazakhstan - forced people to work, kept them in poor conditions, regularly beat and raped the women, some of whom also gave birth during captivity.

According to the account of the women who gave birth, store owners took the children away from their mothers, who were told that infants would be given to their relatives in Kazakhstan. However, later they were all told that the children died. Some of the captives spent over 10 years in the store and during that time never went outside. Human rights activists have learned about the slaves from two women who came from Uzbekistan and Kazakhstan, and who, for several years, had not received any news of their daughters

since they left for Russia in search of jobs. The two women claimed that their daughters were kept in captivity.

On October 30, 2012, 15 activists and human rights defenders accompanied by the lawyer and the two teams of journalists arrived at the shop, "Products", located on the address: Novosibirsk 11, in Moscow, and brought out 12 captives who were held in slavery.

On November 4, 2012, Preobrazhenskaya Inter-district Investigation Department opened a criminal investigation against unidentified persons in relation to illegal deprivation of liberty of two or more persons. On November 6, 2012, Preobrazhenskaya Inter-district Prosecutor's Office in Moscow overturned this ruling as illegal and unjustified. This cancellation was challenged by the victim's legal representative, but the prosecutor's office of the Eastern Administrative District of Moscow, after having studied the materials of the investigation, found that the decision to discontinue the investigation was correct. Despite the obvious nature of the evidence and the wide public interest, law enforcement authorities, instead of providing assistance, tried to deport the victims from Russia.

Case No 2

Seven Uzbek nationals invited to work in the city of Vyborg in the middle of January 2010 ended up in a similar situation. In the given case the "employer" was a private person Mr. Ruslan Veredyuk, who introduced himself as a foreman, supervising work on the construction of a 16-storey luxury residential complex "Saima", owned by JSC "Lenstroytrest." The company, after having failed to meet contractual obligations, decided to urgently complete the construction with the help of criminal intermediaries and cheap migrant labor.

The 'foreman' offered to migrants to install partitions in -25 degree Celsius frost. The amount of compensation for the whole team for completing the work on one floor equaled to 11 000 Russian RUB (approximately USD 362). Unsatisfied with the terms of the "contract" (which in practice was an oral agreement) the migrants refused to work.

In turn, Ruslan Veredyuk decided to make his 'subordinates' work. At night, he, accompanied by two pseudo-policemen (strong men in camouflage clothing), broke into the apartment where the migrants were settled. The "Police" confiscated the workers' passports and mobile phones, and threatened them with beatings. Ruslan told the workers that they will only receive their documents back, after the work on the construction of "Saima" was completed. The workers were locked from outside with a padlock. Ruslan has repeatedly threatened his captives, forcing them to work on the construction site. They only ate bread and water.

Fortunately, one of the workers managed to hide his cell phone and report the incident to his friend, a resident of St. Petersburg, who contacted ADC "Memorial". After negotiations via phone with the FMS, as well as human rights activists and a journalist of "Novaya Gazeta", Ruslan Veredyuk agreed to return their captives four passports.

On the evening of 22 January 2010, immediately after the departure of ADC “Memorial” representatives from the city of Viborg, Ruslan Veredyuk, armed with firearms broke into the apartment of seven workers and forced them to "get out of town." Hence, after many days of detention, and with no money and mobile phones, the victims fled the inhospitable city.

Neither the Company "Lenstroytrest" nor the private individuals who were responsible for the abuse of migrant workers were held responsible. Initiation of a criminal case under Article 330 (arbitrariness) of the Criminal Code was denied due to lack of evidence.

Case No 3

In mid-November 2009, ADC “Memorial” was approached for assistance by 10 Uzbek and Tajik nationals working at the fish processing plant belonging to LLC "ROCK - Baltika” located in the village Vistino Kingisepp district of Leningrad Region. For several years, migrant workers were recruited to work in the fish processing plant by intermediary firms - LLC "Victoria" and LLC "Prodservis" (both firms headed by Nina Victorovna).

According to the workers, at different times, there were around 80 migrant workers who worked at the plant. Most of them were accepted to work as acquaintances, with no employment contracts. Only three out of ten had a contract, temporary registration and work permits in St. Petersburg.

At a certain point, six workers needed a work permit in the Leningrad region, gave their passports to the Secretary of the fish processing plant "Rock Baltika" Galina Petrovna, which in turn gave the documents to the company named "Prodservis." Since July 2009, these people remained without personal documents. In the meantime «Prodservis” was subjected to criminal investigation as a result of which all documents, including the passports of the migrant workers, were confiscated by the local Economic Crimes Unit. All six persons continued to work in the fish processing plant without getting paid despite the hard labor of 12 hour of work per day. Only H.K. Urunov, who continued to work as a driver, was compensated for the month of July.

Undocumented workers have become easy targets for the police and the Federal Migration Service. They were arrested five or six times during regular raids and were forced to pay fines in the amount of 2,000-2,500 RUB each time.

On repeated requests of workers to be compensated for the work done, managers of the fish farm answered with promises to pay "tomorrow", so the migrants continued to work. The employer provided them with accommodation, but they had to cover the rest of expenses. The forced labor lasted until November 8 when workers who were unloading the trailer refused to work, demanding the return of passports and compensation for their work. Since then, they have continued to live in the barracks, reminding their demands to the ‘employer’, eating fish and homemade bread. To their requests to get compensated for the work that was completed, management of the fish farm continued to reply with derision: "Why do you need money?"

At this point, workers approached ADC “Memorial”, whose representatives tried to clarify the situation with the administration of the firm. Under the pressure of human rights activists, LLC "ROCK - Baltika" started paying salaries. However, the employer could easily circumvent the conditions of a verbal agreement with migrants, underpaying what was initially agreed upon, including refusing to pay "premium" payments in amount of more than 3,000-4,000 RUB. For example, Farhodbek Huseynov received the full salary for August only; Hassan Urunov received only 30,000 RUB (USD 990) for his more than five-months working as driver; Gul Kabilov received a salary only in August and September in the amount of 21,000 RUB (USD 690), or only half of the promised; Rasul Choriev, maintenance worker, received 6,000 (USD 200) RUB for five months of labor. In addition, managers of the farm invented another way to cash in on the migrants' account. The strikers were ordered to pay 70 RUB per person per day for the time spent on the territory the farm - allegedly to offset the costs of electricity. After five months of forced labor at the fish farm the migrant workers have collected 97,000 RUB (USD 3192) in total. In such circumstances, the deceived workers decided to leave the farm and gradually, without documents and money started to move to St. Petersburg to find some work.

None of the actors involved in the blatant violations of the rights of migrants workers, were held accountable. The same intermediary firm, which was involved in the given story, continues to ‘offer employment’ to the migrant works, benefitting at the cost of violating their rights.

Exploitation of foreign workers in similar harsh conditions is the cause of high injury and increased mortality rates from work related accidents. Particularly frequent are cases in the construction sector, where migrants are dying because of neglect of minimum safety standards by the employer.

Case No 4

On January 23 2012, the bodies of five unidentified men of Central Asian origin were found at the premises of a house under construction in the residential area "Slav", in Shushary of Pushkin District, near St. Petersburg. The men worked on the construction of the house at the site which was operated by the developer Ltd. "NSC-Monolith". One of the workers was admitted to the hospital with serious poisoning. Among the versions considered as the cause of death, the predominant one is food poisoning, potentially caused by unknown alcoholic liquids.

The pre-investigation was under special control of the leadership of the Main Investigation Department of the Investigative Committee of Russia in St. Petersburg.

ADC “Memorial” requested initiation of a criminal investigation against the employer in the interests of the victims' families. Moreover, ADC “Memorial” was aware of the large debt of Ltd. "NSC-Monolith" owed to the deceased employees. Nonetheless, the investigative authorities declined the request and did not open an investigation.

It is important to note that the forms of exploitation and discrimination in employment, described above, affect almost exclusively immigrant workers, the majority of whom come from Central Asia. Russian citizens, who are employed in similar sectors, usually receive written employment contracts and payroll cards and their working time is within the framework of Russian legislation. ADC “Memorial” has never encountered cases of forced labor and exploitation of Russian citizens, which is an important argument to make in assuming that discrimination in labor relations carries racial, ethnic, cultural and national character.

Unscrupulous brokers, outsourcing firms, private employment agencies and direct employers consider workers from Central Asia as a group which has no rights, who can be abused since they are "non-Russian, illiterate and non-citizens", believing that they will not be held responsible for such discrimination.

Effective protection of victims of discrimination, especially by judges and state employment inspection

Based on the practice of ADC “Memorial” migrants' access to the mechanisms of legal protection against discrimination, especially in the field of labor relations, is severely hampered. The organization regularly sends complaints to the state structures, with regard to illegal actions of employers, emphasizing instances of discrimination of ethnic minorities and migrant workers. The responsible state structures to which ADC “Memorial” usually applies include: Prosecutors Office, State Labor Inspectorate, the Department of the Federal Migration Service, the Commissioner for Human Rights, and the Office for Combating Economic Crimes of the Ministry of Internal Affairs.

Complaints to the prosecutor's office, as a rule, are not answered on the merit. In their responses the prosecutor's office often refers to the inadmissibility of complaints made by foreign nationals and requires written statements from victims directly. Even in cases where such statements are present the prosecutor's office does not take action.

The State Labour Inspectorate (SLI) of St. Petersburg is also a constant target of ADC “Memorial” applications. These appeals are also often left unanswered, with SLI claiming that they do not have authority to accept such application because of the absence of employment contracts between migrant workers and their employers. This is done despite SLI's direct competence to deal with working conditions, unequal pay, and failure to have employment contracts with foreign nationals. For the settlement of labor disputes SLI also recommends to contact the judicial authorities.

The Federal Migration Service (FMS) responds to violations of immigration law by reprisals against foreign citizens, who are often victims of trafficking, preferring to fine employers of illegal workers. This is done only after exploited foreign nationals will be identified and punished in turn. This practice excludes the possibility of migrants, who are victims of human trafficking, to apply to FMS for protection from discrimination and exploitation.

The Department for Combating Economic Crimes ignores requests from ADC “Memorial” to conduct audit of a particular company or an intermediary employment agency, referring to the lack of written evidence proving the fraudulent activity of the firm.

Objective investigation of violations of labor rights of foreign nationals and discrimination on racial grounds in the court is virtually impossible, due to the lack of law enforcement and anti-discrimination legislation.

The Russian government constantly stresses the need to fight "illegal immigration" and introduce tougher immigration laws. On 10 December 2012, the Commissioner for Human Rights stated at the conference in St. Petersburg that "the number of migrants in the city is too high" and that "while the rights of migrants must be respected, the government should give priority to the natives." Meanwhile, the fight against discrimination of foreign citizens in the Russian Federation is virtually absent from the political discourse.

Discrimination against ethnic minorities in employment

ADC “Memorial” once again reiterates that the problem of discrimination in employment of the Roma minority is still persistent. Employers, often guided by xenophobic stereotypes, refuse to employ ethnic Roma. ADC “Memorial” is repeatedly faced with complaints from members of the Roma minority who are unable to find a job. A typical statement made by a disappointed Roma is: "We will not be taken, who needs the gypsies?". There are cases when representatives of the Roma minority have to hide their ethnic identity in the interests of self-employment.

Another visually identifiable vulnerable group that is subjected to discrimination in employment is the people from Russia's North Caucasus. Despite the fact that they are citizens, North Caucasians are often titled as the so-called "persons of Caucasian nationality" and are discriminated. Moreover, it is against people from the North Caucasus that the migration regime is particularly tightened. In addition to the external labor migrants, their movements and employment relations are especially closely controlled by FMS. Employers often receive inquiries regarding the number of employees who have a permanent residence in the regions of the North Caucasus Federal District.

After a brief overview of the conditions that migrant workers have to endure, it is revealed that discrimination and exploitation of ethnic minorities and non-citizens in the field of labor relations is the rule rather than the exception.

Under current immigration law, more than half of the migrant workers in St. Petersburg, are doomed to have a label of ‘illegal’ or ‘semi-illegal’ which directly affects their relations with the employers. Such practices that do not provide effective protection to victims of discrimination in employment and in certain cases incite discrimination, are in contradiction with the principles of the Convention.

RECOMMENDATION 26 -DESTRUCTION OF ROMA SETTLEMENTS

The Committee recommended the Russian Federation to review its policy of demolishing illegally constructed Roma settlements when the dwellings have existed for a long time, legalize existing settlements to the extent possible, and provide adequate alternative housing whenever forced evictions take place.

The recommendations regarding the ban on evictions have not been applied. As was the case during the previous reporting period, there is no legal prohibition on evictions. Moreover, **in 2012, after 3 years without evictions of Roma, local authorities started real demolishing of Roma houses.**

Thus, **in October 2012 in the village of Topki, Kemerovsk Province (Siberia) 5 Roma houses were demolished.** Demolition was executed based on the decision of the local court, which was triggered by the application from the local administration in 2011. The demolition took place just before the Siberian winter, during which the temperature goes down to –45 degree Celsius. It left 35 individuals, including children, without shelter. None of the affected families were offered alternative accommodation, nor were child welfare authorities interested in the fate of the children who became homeless.

Local authorities continue to rely upon the principle of “formal legality” in performing evictions and destroying unregistered houses, they apply to the court to confirm the illegality of the unregistered houses and therefore a lot of Roma settlements are currently under the threat of demolition. It is the settlement in the town of Kurgan, where the threat of demolition was triggered by the requests of the inhabitants of the village Zatobolnii, who requested from the local administration to take action against Roma. In December 2012 the local court in Tula Province has issued a decision for the demolition of 11 houses belonging to Roma in Plekhanovo settlement. 12 more complaints are pending before the court. The case was initiated by the regional administration who applied to the court requesting it to issue a ruling on demolition of non-registered houses. According to the court ruling, inhabitants of the house have been asked to demolish the houses by themselves before May 1 2013: otherwise they will be demolished by the government representatives.

The destiny of Roma settlements continues to be completely dependent on the local authorities. In autumn 2011 the local authorities in Volgograd leased the land, where the Roma houses are situated, to a private investor. The investor leased the land on which lived Roma families of 12 people, including 6 children and 2 disabled people.²⁹ When taking this decision, the administration did not take into account the interests, or the unique position of the Roma communities. In Shekinsky District of Tula Province, the local administration not only did not assist Roma in property legalization, but it also changed its own decision on the allocation of the plot of land for the purposes of

²⁹ The case also had media coverage: <http://www.eng.kavkaz-uzel.ru/articles/18791/>

construction of residential housing, as soon as it learned that the houses being built belonged to Roma.

The unregistered status of houses in Roma settlements is used as one of the administrative “pressure points” on members of the community. For example, a group of Roma from Kalinichi settlement in Tambov Province initiated a complaint with the local court, asking to end the segregation of their children at school. The local administration started threatening the authors of the complaint with the demolition of their unregistered property, unless they withdrew the complaint from the court. A similar story has surfaced in December 2011, in the village of Peri, Leningrad Province, where officials from the local administration made open statements about the demolition of the Roma settlement, after its inhabitants openly expressed their discontent with the segregation of children at school. In order to resolve the situation, a meeting between local Roma (accompanied by ADC “Memorial” representatives) and Mr. Armen Ananian, a Head of the local Municipal Administration was organized on December 23 2011. During the meeting Mr. Ananian declared: "without my signature there will be no demolition. I could easily do this, but I will not..." This statement is a simple but representative example of the dependence of Roma on the goodwill of local authorities.

Legalization of existing settlements

The Official State Party Report (pg.73, 500) indicates that: “The Russian Federation is of the view that a legalization of home ownership will prevent forced evictions”. ADC “Memorial”, as an organization which is specialized in providing assistance to Roma in Russia, is often facing opposition from both regional and local authorities while working on the property and land legalization issues. Moreover, as it was already demonstrated in the previous part of the report, local authorities are often themselves initiators of the court proceedings which lead to the demolition of housing.

The examples mentioned in the State Report, regarding the provision of several Roma families with housing, relate to the Roma who live in towns or relatively large urban areas and not to those living in the Roma settlements. Therefore the State Report fails to properly address the issue of legalization of property in Roma settlements, as it was described in the recommendation of the Committee.

Roma settlements constantly face issues of property legalization and threat of demolition. In certain cases, the property registration is achieved when the inhabitants of Roma settlements apply for assistance to human rights organizations, although the procedure is long, costly and bureaucratic. The status quo is maintained to keep the population of Roma settlements under control; the absence of a property’s legal status makes it easier to carry out acts, such as searching houses without a court order, as it happened in Bryansk in March 2012, or privatizing land as "empty plots", which also happens frequently.

Moreover, ADC “Memorial” documented several cases in which the neighbors of Roma with unregistered property "successfully cooperated" with local authorities to expel their

Roma neighbors, in order to expand their land ownership and get rid of undesired neighbors.

Provision of adequate alternative housing when forced evictions take place

Based on the observations of ADC “Memorial” in none of the cases, when Roma houses were demolished or when they were forcefully evicted for other reasons, has the government offered alternative housing. After the demolition of 5 houses in Kemerovo Province, none of the five families were offered alternative housing, nor were child welfare authorities interested in the fate of the children who just remained without shelter. No investigation into the children’s living conditions was carried out, and no social agencies and services were involved.

RECOMMENDATION 27 - SEGREGATION OF CHILDREN BELONGING TO ETHNIC MINORITIES, IN PARTICULAR ROMA CHILDREN

The Committee recommended the Russian Federation to carefully review the criteria by which children are allocated to special remedial classes and take effective measures to ensure that ethnic minority children, including Roma, are fully integrated into the general education system as well as to ensure that local school authorities admit all children, irrespective of ethnicity and registration status of their parents.

The problem of segregation of Roma children in schools remains acute. This practice includes segregation in so-called ‘special schools’ for Roma, segregation in ‘Roma classes’, and denial of enrolment in mainstream schools. Monitoring conducted by ADC “Memorial” has shown that the segregation of Roma children in the form of separate classes and schools is widespread throughout Russian regions and is often approved and supported by local authorities and school administrations. It is common that Roma children attend schools that are located within the vicinity of Roma settlements. Pupils from ‘Roma classes’ are usually isolated from other pupils at schools and are not permitted into the corridors or bathrooms designated for common use. Conditions in the "Roma schools" are often much worse than in mainstream schools³⁰.

Taking effective measures to ensure that minority children, including Roma, are fully integrated into the general education system

While The Russian Federation recognizes non-segregated education to be an effective mechanism of integration into the general education system, no measures are undertaken for the realization of this principle. Segregation effectively starts at the pre-school level

³⁰ Discriminatory conditions in Roma schooling are thoroughly documented in the 2009 report ‘Discrimination and Violation of Roma Children’s Rights In Schools of the Russian Federation’ Report can be downloaded from: <http://www.memorial.spb.ru/www/838.html?lang=en>

and continues throughout the whole education cycle up the university education to which very few Roma arrive.

In Russia's periodic report it is stated that: "the practice of placing Roma children in special classes exists in a number of constituent entities, in particular the Volgograd province, but it is not a measure of forced segregation. Instead, it has to do with the low level of pre-school preparation of some Roma children upon enrolling in school" (par. 507). Instead of taking a positive stand, Russian authorities are trying to justify existing segregation and link it to the poor preparation of Roma children at school level, which is a result of the vulnerable position and poor socio-economic conditions of the Roma living in Russia.

The development of the ethno-cultural component in the education of Roma children, mentioned as an achievement in Russia's report, is a result of the work of non-governmental, non-profit organizations. For example, ADC "Memorial" publishes pilot textbooks, which are aimed for bilingual Roma children and which receive no state support. An alphabet for Roma children, which is mentioned in Russia's report (par. 510) and which has been developed by the Faculty of Inter-ethnic Communication at the A.I. Gertzen State University was prepared within the framework of a special project of ADC "Memorial" and has little to do with the efforts of the Russian Government.

The example regarding the teaching of Roma culture and language at the secondary school in the Village of Verhnie Oselky, Leningrad Province, which is mentioned in the State Party report (par. 509), does not correspond to reality. For many years ADC "Memorial" has been assisting Roma children studying in this school, and has been facing opposition from the school administration in undertaking any kind of positive measures towards Roma children. School preparation and post school hours' assistance is carried out by the staff and volunteers of ADC "Memorial".

Despite certain improvements in some of the regions, actions at the local level in this area do not sufficiently and adequately implement Roma children's right to education. Some affirmative actions are intended for Roma children but are ineffective due to the general socio-economic living conditions in Roma communities and the overall discriminatory system of relations between the Roma population and the state agencies, local authorities and school administrations. Local and regional government bodies, that are responsible for organizing the education system in constituent territories, often do not keep-up with their responsibilities towards Roma children, including the need for positive measures in support of the most vulnerable groups.

Teachers and school administrations often do not have a clear understanding of the inadmissibility of segregation and ethnic discrimination against pupils. Thus, the headmistress of one of the schools with Roma students had publicly (before the court) divided the schoolchildren into two groups - "Gypsy" and "our children", and felt that this was normal. Another example was in one of the schools in the Leningrad Province (Verhnie Oselky), where there were held two separate contests called "Super Schoolgirl"-

one for Roma and one for non-Roma students, and the results were published on the website as “Super Schoolgirl” and “Roma Super Schoolgirl”.

Ensuring that local school authorities enroll all children, irrespective of ethnicity and registration status of their parents

Despite general guarantees that are spelled out in the relevant legislation, the practice of discrimination against migrant children at the school admission level is widespread. No comprehensive anti-discrimination legislation has been introduced to eliminate the problem of discriminatory treatment at school admission level, nor were any acts, regarding the implementation of measures to improve education for groups that are subjected to discrimination, implemented during the reporting period. The new bill “On Education in the Russian Federation”³¹ which was exposed for public discussion does not provide any specific rules prohibiting discriminatory practices. Replacing the term “citizen” with the term “student” (and therefore formally eliminating the requirement to provide proof of citizenship when enrolling a child in the school) will almost certainly not lead to a change in the schools’ current practice. School administrations continue to demand personal documents for both parents and children, as well as permanent and temporary registration documents, since there is still no formal ban on refusing applications from children without such documents, and since the educational institutions are free to decide which additional documents are required for enrollment. ADC “Memorial” has documented several cases in which children were not admitted to schools because their parents were labor migrants.

Moreover, school administrations are under threat of administrative and criminal prosecution if they admit migrant children, whose parents have document related problems. Schools with high concentration of migrant children are subject to regular checks from the office of the prosecutor.

Based on the information provided by S.Yu. Agapitova, Head of the Child Rights Division at Saint Petersburg Regional Administration, on December 6 2012, regional migration services are obliging schools to report on children who are ‘illegal residents’ of Russia. In order to keep updated information on residence permits and places of registration, school representatives have to make regular visits to the homes of the pupils. Failure to carry out regular checks can result in administrative procedures against the school administration. By this mechanism schools are closely involved in the migration control system, which also results in turning down the admission applications from those children, whose residence related documentation is not entirely in compliance with the requirements of the Russian law.

³¹ Details can be viewed here: <http://zakonoproekt2010.ru/edu/01-12-20>

In the same letter to ADC “Memorial”, S.Yu. Agapitova explained that such practice does not violate the rights of children since ‘first and foremost migrant children should comply with the migration legislation’ and a decision on admitting or keeping an ‘illegal child’ in school can only be made in exceptional circumstances’.

Paragraph 504 of the Report submitted by the Russian Federation states: “In accordance with Federal Act No 115 of 25 July 2002 on the Legal Status of Foreign Nationals, foreign nationals in the Russian Federation enjoy the same right to education as Russian citizens”. According to the observations of ADC “Memorial”, neither applicable laws nor the practice that is implemented by the relevant authorities correspond to this statement. Based on the Federal Act No 115, the right of a family member of the foreign national to reside in Russia does not depend on the residence right of such foreign national. The only exception from this rule are high skilled workers, whose family members have the right to reside within The Russian Federation in correspondence to the duration of the employment contract of the person in question. Therefore, this regulation gives only children of high skilled workers the right to reside with their parents, while children of those migrant workers who are not classified as high skilled, cannot enjoy the same rights.

On November 27 2012, ADC “Memorial” was approached for assistance by the Uzbek nationals Davron T. (born in 1974) and Iuldzukhon A. (born in 1977). According to the couple their three children Mardjon (born in 1998), Sitora (born in 2000) and Ulugbek (born in 2002) were experiencing problems with admission to school. The couple and their children have been legally residing in Russia (Saint-Petersburg) since September 14 2012.

From the day of their arrival the couple tried unsuccessfully to have their three children registered in the schools No 3 and No 73 of the Petrograd District. Their requests for admission were also turned down by the District’s regional authorities. Eventually, after continued efforts all three children were admitted by the School No 3, on October 18th of 2012. Soon after enrollment, the children have received a notice from the local migration authorities which explained that, according to Russian law, their continuous stay in Saint-Petersburg (despite the fact that their parents have the right to stay for one year) should not exceed 90 days. As a result, the family is forced to leave the country every three months in order to get new migration cards for their three children, which restart the 90 day count automatically.

After two years of failed attempts to have her daughter admitted to school, Farida Z. Uzbek National (born on 1974), mother of Shakara A. (born on 2003), approached ADC “Memorial” for assistance. It appears that the official reason for failing to have her daughter admitted by the school is Shakara’s migration card, which expires every three months without crossing the border of the Russian Federation. As a consequence, and despite the fact that both of Sharaka’s parents are legally staying in Russia she is unable to attend school.

It is evident that differential treatment of children based on social status or national identity of their parents is unacceptable and the right of every child to live together with his/her own parents must be unconditional. The provisions of Russian law, which do not guarantee the right of residence to children of migrant workers, are such 'conditions', and they need to be immediately brought in line with Russia's international legal obligations.

RECOMMENDATION 28 – ABSENCE OF INFORMATION ON COMPLAINTS OR COURT DECISIONS IN CIVIL OR ADMINISTRATIVE PROCEEDINGS CONCERNING ACTS OF RACIAL DISCRIMINATION

The Committee requested the Russian Federation to provide updated information in its next periodic report on the number of complaints about acts of racial discrimination and on the decisions taken in civil and administrative court proceedings and to ensure that victims of racial discrimination have access to effective legal remedies enabling them to seek redress, and to inform the public about such remedies.

As the Russian Government confirmed in its report, there are no statistics on the number of civil and administrative court proceedings involving complaints of racial discrimination. The reason is not only the imperfection of the information systems of national justice, but also the absence of practice of effective protection of victims from discrimination in national courts. The absence of such a practice does not mean that there are no violations in the various areas of social life; rather it is related to the difficulties faced by the Russian courts in applying the term 'discrimination'. This issue was confirmed by the European Court of Human Rights in its judgment in the case Kiyutin v. Russia (Application № 2700/10).

In relation to Recommendation No 28, the Russian government underlined the pilot project of state legal aid offices (in the Republic of Karelia, the Chechen Republic and Volgograd, Irkutsk, Magadan, Moscow, Samara, Sverdlovsk, Tomsk and Ulyanovsk provinces), through which low income citizens receive free legal aid. While such assistance is important for equal access to justice, according to Federal Act No. 324 most vulnerable groups such as foreign citizens, stateless persons and even persons without documents and income certificate are unable to benefit from such services. Clearly these groups are the most frequent victims of various forms of discrimination. As a consequence, most of the free legal aid for the above-mentioned vulnerable groups is provided by the local NGOs.

RECOMMENDATION 29 – INCREASE OF RACIST AND XENOPHOBIC ATTITUDES AMONG YOUNG RUSSIANS

The Committee recommended the Russian Federation to further intensify its education and awareness-raising campaigns to combat prejudices against ethnic minorities and to promote inter-ethnic dialogue and tolerance within society, in particular among the Russian youth.

The events of recent years have again demonstrated the relevance of issues raised by the Committee in its recommendation No 28. Numerous incidents related to so called "ethnic conflicts" between ethnic minorities and Russian xenophobic youth have been reported by the local media, particularly during the years 2010 – 2012. Some of the examples include clashes between natives of Chechnya and a group of local residents, that took place in a children's camp "Don" in the Tuapse district of Krasnodar Region in the summer of 2010, and massive clashes between armed groups of local residents and representatives of national minorities, including those from Caucasus, that took place in the summer of 2011 in the village of Kobralovo, Leningrad Region and the village of Sagra, Sverdlovsk Region. A similar clash took place between local residents and individuals from the North Caucasus republics of the Russian Federation in the village of Demyanovo, Kirov Region, in the summer of 2012.

In addition to regular tensions, there are frequent street fights with representatives of ethnic minorities (mostly from the North Caucasus) that are instigated by nationalist youth groups of football fans. In those cases where the outcome of such a fight is the death or injury of representatives of the ethnic majority, this is used as an excuse for football fans to mobilize their supporters around the anti-Caucasian racist slogans. Hence, the death of Yegor Sviridov in such a clash in Moscow was used by the fans of Moscow "Spartak", a popular football team, to mobilize nationalist, racist and anti-Caucasian-minded Russian youth on December 11, 2010, at the 'Manege Square' in Moscow. Demonstration was followed by riots that swept 12 Russian cities until 20 December 2010, involving beatings of ethnic minorities. None of the nine individuals who were arrested for the organization of nationalist unrest, which was attended by more than 10 thousand people, were leaders of nationalist organizations.

According to opinion polls, and informational and analytical agencies, more than 76% of young people in Moscow expressed support for the rioters, who spoke against "ethnic crime" (crimes committed by ethnic minorities). Thus, surveys record growth of ethnic intolerance and xenophobia, especially anti-Caucasian and anti-immigrant sentiments among the local Russian youth. Racism and xenophobia are recognized common values among football fans. They do not accept the involvement of players with black skin or homosexuals in their football clubs. Unfortunately, the rapid growth of xenophobia was not sufficiently condemned by the Russian authorities. For example, on December 21, 2010, Prime Minister Vladimir Putin, at a meeting with representatives of football fan groups and the North Caucasus youth associations, expressed the need to tighten the rules for registration of "newcomers" from other regions of Russia into the major cities, including Moscow and St. Petersburg. In Moscow, a police unit to combat "ethnic crime" was established.

Racist and xenophobic acts against members of ethnic minorities became more frequent during 2011-2012. During the summer and fall of 2011, there were recorded a number of attacks by ultra-right-wing fan-clubs of "Spartak" (Moscow) and "Zenit" (St. Petersburg). Victims of these attacks were the fans of the club "Anji" from Dagestan, the North Caucasus. The attacks in Moscow and St. Petersburg were accompanied by the use of traumatic weapons and anti-Caucasian and Islamophobic slogans. On August 12, 2011, one of the players of FC "Anji", Boussoufa was poured urine during the match "Anzhi – CSKA". Such actions of ultra-right-wing football fans did not receive adequate reactions from the authorities.

Promotion of tolerance and intercultural dialogue remains the prerogative of the regional authorities. However, the regional initiatives have so far also been inadequate. For example, local authorities in St. Petersburg launched the government program called 'Tolerance'. The program, the implementation of which started in 2006, aims to contribute to "the formation of mutual respect based on ethnic and cultural values of the multinational Russian society, the Russian civic identity and cultural awareness in St. Petersburg." It involves large-scale cultural events, the implementation of educational and training programs for urban students, development of integration of ethnic minorities and migrants, support for civil society initiatives and volunteering. Despite international recognition, the activities carried out within the framework of "Tolerance", raise many questions. The quality of educational programs is poor, and in some cases directly discredits the principles of tolerance due to ignorance and bureaucratic negligence. The city-wide "competition tolerance", widely known among high school students, held at the end of 2010, was won by a team named "14/88" (an anagram of veiled Nazi principles and the slogan "Heil Hitler").

Promoted principles of "St. Petersburg cultural identity" actually coincide with the views of nationalists who support regional identity above the foreign non-permanent population of the city, and sometimes have the character of racist provocations.

The publication of the "Handbook of labor migrants" in the fall of 2012, within the program "Tolerance" received wide publicity. In this brochure migrants were depicted in the form of construction and harvesting tools (scrapers, mops, paint brush), while interacting with them, "St. Petersburg" is displayed in the form of human figures. A separate section of the handbook was devoted to the "code of conduct of a migrant worker", indicating a visiting student in St. Petersburg in "European" clothes and speaking Russian. Such "Codes of Conduct for visitors", strictly regulating standards of conduct for migrants, and those from other regions in major cities, are widely advertised in various regions of the Russian Federation as a means of preventing "disrespectful behavior of visitors who often 'provoke ethnic conflicts'. It is noteworthy that the creation of these "codes" often involves representatives of extremist nationalist organizations. For example, Dmitry Demushkin, leader of the banned "Slavic Union" (abbreviated in Russian as SS) and "ethno-political association" Russian, was invited to work for a 'code of Chechen conduct' by the government of the Chechen Republic.

Such initiatives, endorsed by the authorities, discredit the principles of tolerance, legitimize discrimination against particularly vulnerable groups and encourage chauvinism and xenophobia, turning prevention of inter-ethnic tension into the propaganda of ethno-regional superiority of "local culture" over the "wild newcomers" in Russian society.

Obviously, the adoption of cultural and educational programs cannot suffice in promoting real tolerance in the absence of rigid anti-racism and anti-discrimination policies of the government. In line with "Tolerance", in St. Petersburg, anti-fascist youth civil initiatives are harassed, and do not enjoy any government intervention. The recent law of St. Petersburg "to ban promotion of homosexuality" equates nontraditional sexual orientation to pedophilia. Thus, in its policies the government does not follow the principles they advocate as tolerance and antiracism.

ADDITIONAL ISSUES

CONSEQUENCES OF THE ARMED CONFLICT OF AUGUSTS 2008 BETWEEN THE RUSSIAN FEDERATION AND GEORGIA

Following an extended period of ever-mounting tensions, provocations and incidents between South Ossetian and Georgian forces, a full blown armed conflict has erupted in August 2008. The conflict was rendered international by involvement of the Russian Federation.

Based on different estimates between 160,000 and 190,000 people were forced from their homes, hundreds of civilians were killed, thousands of houses, including several dozen of Georgian villages destroyed, and approximately 20,000 ethnic Georgians remain permanently displaced.³²

According to Human Rights Watch: “after Georgian forces withdrew from South Ossetia on August 10, South Ossetian forces, over a period of weeks, deliberately and systematically destroyed ethnic Georgian villages in South Ossetia that had been administered by the Georgian government. They looted, beat, threatened, and unlawfully detained numerous ethnic Georgian civilians, and killed several, on the basis of the ethnicity and imputed political affiliations of the residents of these villages, with the express purpose of forcing those who remained to leave and ensuring that no former residents would return. From this, Human Rights Watch has concluded that South Ossetian forces attempted to ethnically cleanse these villages.”³³ HRW further reported that: “as an occupying power in Georgia, Russia failed overwhelmingly in its duty under international humanitarian law to ensure, as far as possible, public order and safety in areas under its effective control, instead allowing South Ossetian forces, including volunteer militias, to engage in wanton and wide scale pillage and burning of Georgian homes and to kill, beat, rape, and threaten civilians.”³⁴

On the same subject, Amnesty International reported: “as the occupying power, Russian armed forces failed to ensure and protect the human rights of the ethnic Georgian populations living there. Russian military forces did not uphold their obligation to maintain law and order and prevent looting by South Ossetian militia groups in areas

³² Internal Displacement in Europe, the Caucasus and Central Asia, Internal Displacement Monitoring Center, 2011

³³ See the report of Human Rights Watch: *Up In Flames Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia*, 2009

³⁴ *Ibid*

under their control, and Russia must assume responsibility for human rights violations committed in these circumstances”.

The August 2008 armed conflict situation was put on the agenda of three international courts: the International Court of Justice, the European Court of Human Rights and the International Criminal Court.

With the application filed before International Court of Justice (ICJ) on 12 August 2008, the Government of Georgia instituted proceedings against Russian Federation in regard to a dispute concerning actions ‘on and around the territory of Georgia’, in breach of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The application relied on Article 22 of CERD.

The Russian Federation claimed that ICJ had no jurisdiction to hear the case on merits due to the procedures defined in Article 22 of CERD; the Russian Government argued that before going directly to ICJ, Georgia should have at first raised the issue before the UN’s Committee on the Elimination of Racial Discrimination and should have engaged in negotiations with Moscow on the matter. ICJ upheld this argument and stated that Georgia neither attempted to negotiate specifically CERD-related matters with the Russian Federation, nor used another method of dispute resolution contained in Article 22, before referring the case directly to ICJ. Consequently Georgia’s case against Russia “cannot proceed to the merit phase.”³⁵

In its inter-state application to the European Court of Human Rights, the Georgian Government argued that the consequences of the conflict and the subsequent lack of any investigation engaged Russia’s responsibility under Articles 2, 3, 5, 8 and 13 of the European Convention, together with Articles 1 and 2 of Protocol No. 1 and Article 2 of Protocol No. 4.

The Russian Government denied the allegations and argued that the Russian armed forces had acted in defense of the civilian population of South Ossetia. They also raised a series of preliminary objections: that the alleged violations did not fall within the “jurisdiction” of the Russian Federation for the purposes of Article 1 of the European Convention; that the application was incompatible *ratione materiae* with the Convention, as it concerned an international armed conflict, more appropriately governed by the rules of international humanitarian law; that the Court was precluded from examining the application, because the Georgian Government had already lodged a similar application with the International Court of Justice; that domestic remedies available in Russia had not

³⁵ Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v Russian Federation), Judgment of 1 April 2011

been exhausted; and that the six-month time-limit had not been complied with in respect of certain complaints.

With the admissibility decision of 13 December 2011, the European Court dismissed the Russian Government's objection concerning the allegedly similar application lodged with the ICJ, after noting that that court had declined jurisdiction in a judgment of 1 April 2011 and that, in any event, the Convention rule precluding the Court from dealing with applications already submitted to another international body applied only to individual, not Inter-State, applications.³⁶

The Office of the Prosecutor of the International Criminal Court (ICC) has recognized that ICC has jurisdiction over the crimes committed during the August conflict. Currently, the Prosecutor's Office is "seeking clarification as to whether the respective national investigations have halted and whether any additional information remains to be provided to the Office; as well as whether the lack of cooperation identified as an obstacle both by Russian and Georgian authorities may be overcome through enhanced mutual legal assistance between the two States".³⁷

In its Concluding Observations, the UN Human Rights Committee noted the following: "notwithstanding the position of the State party that no crimes were committed by Russian military forces or other military groups against the civilian population on the territory of South Ossetia and that the State party does not take responsibility for possible crimes by armed groups, the Committee remains concerned about allegations of large-scale, indiscriminate abuses and killings of civilians in South Ossetia during the military operations by Russian forces in August 2008. The Committee recalls that the territory of South Ossetia was under the de facto control of an organized military operation of the State party, which therefore bears responsibility for the actions of such armed groups. The Committee notes with concern that, to date, the Russian authorities have not carried out any independent and exhaustive appraisal of serious violations of human rights by members of Russian forces and armed groups in South Ossetia and that the victims have received no reparations." In this regard the Committee recommended Russian Federation to "conduct a thorough and independent investigation into all allegations of involvement of members of Russian forces and other armed groups under their control in violations of human rights in South Ossetia. The State party should ensure that victims of serious

³⁶ For more details see: <http://www.echr.coe.int/echr/en/hudoc>

³⁷ Office of the Prosecutor of the International Criminal Court, Report on Preliminary Examination Activities, 2012

violations of human rights and international humanitarian law are provided with an effective remedy, including the right to compensation and reparations”.³⁸

The Norwegian Helsinki Committee (NHC), which has been closely following the progress of investigations, both in Georgia and Russian Federation, recently reported that four years after the conflict, not a single person, neither in Russia nor in Georgia, has been convicted for the crimes committed in the context of the August 2008 conflict.³⁹ Failure to investigate grave human rights violations reinforces the climate of impunity that is already very strong in the Caucasus region, and creates welcoming environment for the future reoccurrence of such violations. Such an attitude contradicts the spirit of CERD and puts Russia in violation of Article 5 (a) and (b) of the Convention.

UNSUCCESSFUL EXAMPLE OF POSITIVE DISCRIMINATION – COSSACK PATROLS

Modern Cossacks are the descendants or alleged descendants of a particular military class in the peasant population of the Russian Empire, settled in the North Caucasus, in the basin of the Don, Kuban, Volga, Urals and Siberia. As a result of repressions during the Civil War, the Cossacks have merged with the rest of the peasantry. In the post-Soviet period active attempts have been made to revive the Cossacks as a system of preferred mass organization that is controversially used as a complement to the public policing system.

Currently, there are several Cossack organizations registered in Russia. These organizations often use administrative powers granted to them in the form of participation in the protection of public order. Cossack communities have a rigid internal structural organization, which is similar to the structure of law enforcement agencies. It is partly due to this internal hierarchical subordination that Cossacks are ‘used’ for establishing public order. For example, members of the Kuban Cossacks report to the Ataman, who in turn reports to the Chief of Department of Internal Affairs, so the Cossacks are within a single hierarchy of the state apparatus.

An almost mandatory criterion for joining Cossack society is Slavic appearance and adherence to Orthodox religion, so people of non-Slavic appearance or non-Orthodox believers cannot become members of the society.

³⁸ Par 13, CCPR/C/RUS/CO/6, 24 November 2009

³⁹ Waiting for Russian Justice – The Ineffective Investigation of Crimes Committed During the August 2008 Armed Conflict Between Russia and Georgia, Norwegian Helsinki Committee, 2012

In the reporting period there have been several incidents in which Cossacks used violence against religious or ethnic minorities. Regular Cossack patrols began to appear in 2012 in various regions of Russia. They carry out a law enforcement function together with the police on so called "contractual conditions". Some of the functions that Cossack patrols are tasked with include the protection of public order, protection of important public facilities and protection of state and municipal lands.

On 15 of September 2012, Cossack patrol in Sochi did not allow Krishna followers to carry out the religious procession "Harinama". They were blocked near the beach "Majak" by a Cossack patrol together with the police department representative and the mayor of the Central District of Sochi, Alexander Pakhomov. The representative of the community, Constantine Sklyarov was detained for about an hour.

On 15 May 2012 in Krasnodar, about twenty men in Cossack uniforms blocked the area in front of the entrance to the exhibition hall, in order to disrupt the exhibitions' opening of the gallery owner Marat Gelman, «Icons», chanting "Gelman! Get out from Kuban", while three young men were holding a poster with words: "Hands off from the Orthodox Church!".

On 20 September 2012 in Moscow, ten Cossacks blocked the entrance to the exhibition hall of the Center of Contemporary Art "Winery", to prevent the opening of the exhibition of works by artist Eugenija Maltseva. Orthodox Cossacks were outraged by "icons", presented at the exhibition "Spiritual Combat". The protesters staged a fight in which a "France Press" journalist was beaten.

In St. Petersburg a group of Cossacks caused cancellation of a solo performance "Lolita" by Vladimir Nabokov, which was held at the Museum of Modern Art "Erarta" on 21 October 2012. The Cossacks considered it as an insult play to "all decent people," promoting pedophilia and sin.

On August 2 2012 the Governor of Krasnodar Region, Alexander Tkachev announced about the formation of a "Cossack police" to protect law and order in the province along with the police. Governor Tkachev stressed that one of the main objectives of the Cossack brigades is to maintain control over migration processes in the region. Local media sources reported that Cossack 'law enforcers' in Krasnodar Region receive monthly remuneration equaling to 26 000 Russian Rubles (USD 860). A. Tkachev explained the need to strengthen the Cossacks in connection with "the influx of representatives of Caucasian republics and the fact that the Cossacks were not legally related to the police could make them act more decisively". Given the apparent xenophobic character of Cossack organizations, such statements contribute to the incitement of ethnic hatred and are potentially dangerous.

These are just a few examples of the close affiliation of government structures with Cossack organizations. This 'cooperation' often leads to the abuse of the rights of minorities by the Cossacks who feel fully supported by the state. In order to prevent future occurrence of abuse of power, which is often granted beyond the limits set by law, the Russian Government should review its policy on the Cossack movements, deprive the Cossack organizations of their privileged status and prevent their formation.

ADDENDUM

This addendum represents detailed information on Recommendations 26 and 27.

DESTRUCTION OF ROMA SETTLEMENTS

The Committee recommended Russian Federation to review its policy of demolishing illegally constructed Roma settlements when the dwellings have existed for a long time, legalize existing settlements to the extent possible, and provide adequate alternative housing whenever forced evictions take place.

The recommendations regarding the ban on evictions have not been applied. As it was the case during the previous reporting period, there is no legal prohibition on evictions and local authorities continue to rely upon the principle of “formal legality” in performing evictions and destroying unregistered houses. The destiny of Roma settlements continues to be completely dependent on the local authorities. The unregistered status of houses in Roma settlements is used as one of the administrative “pressure points” on members of the community. Specifically, it is used as a means of preventing appeals to law enforcement agencies and thus functions as one of the elements of systemic discrimination against the Roma population.

The Roma settlement in Volgograd consists of approximately 50 unregistered houses. In autumn 2011 the local authorities leased the land to a private investor, not taking into consideration the interests of the Roma families, whose unregistered houses are situated on that land. The investor leased the land on which lived the Roma families of 12 people, including 6 children and 2 disabled people. When taking this decision the administration did not take into account the interests or the unique position of Roma communities. No investigation into the children’s living conditions was carried out, and no social agencies and services were involved. In the documents on the allocation of the land it was stated that “there are no buildings or structures” on this land, which is clearly a false statement. Thus, the authorities preferred “not to notice” Roma houses located on this land, and gave the private investor the formal right to evict Roma with the assistance of bailiffs.

ADC “Memorial” sent advocacy letters to state bodies of the city of Volgograd on behalf of the Roma settlement, attracting the attention of the decision-makers to the illegality of disposing of lands without taking into consideration the interests of the Roma families with children. This actions violated international standards (first and foremost the right to adequate housing guaranteed by the International Covenant on Economic, Social and Cultural Right), as well as the Roma recommendations, proposed by international agencies. In international practice the right to adequate housing includes a state’s affirmative obligation to take all possible measures to create safe and adequate living

conditions and the impermissibility of arbitrary eviction, as has been stated many times by the Committee on Social, Economic, and Cultural Rights.⁴⁰

Local authorities have been particularly active in demolishing Roma settlements in 2012. In December 2012 – January 2013, a local court in Tula Province has issued a judgment on demolition of 46 houses belonging to Roma in Plekhanovo settlement. 78 more complaints are pending before the court.

The procedure was initiated by the regional administration, who applied to the court requesting it to issue a ruling on demolition of non-registered houses that have existed for several decades; all of them belonging to Roma. According to the court ruling, the inhabitants of the house have been asked to demolish the houses by themselves before May 1 2013; otherwise they will be demolished by the government representatives. None of the families, the majority of whom live there with under-aged children, have the possibility to find alternative housing. The administration of the region did not offer any assistance to local Roma in legalising their property. According to the locals of the Tula Province, the administration is staffed by high ranking officials with anti-Roma ideas. Moreover, the complaints regarding the demolition of the Roma settlements were in fact initiated in court by the local administration.

A significant part of the Roma settlement was demolished in October 2012 in the village of Topki, Kemerovo Province (Siberia). The demolition was executed based on a decision issued by the local court, which was triggered by the application from the local administration in 2011. The demolition took place just before the Siberian winter, during which the temperature goes down to –45 degree Celsius. It left 35 individuals, including children, without shelter. None of the affected families were offered alternative accommodation, nor were child welfare authorities interested in the fate of the children who became homeless. ADC “Memorial” has been informed by local Roma inhabitants that the administration of the village is preparing more court appeals, in order to achieve more demolitions, which could leave 75% of the inhabitants of the settlement without shelter.

Another example of a Roma settlement which is **currently under the threat of demolition is the settlement in the town of Kurgan.** In this case, the threat of demolition was triggered by the requests from the inhabitants of the village Zatobolnyi, who requested

40 The case also had media coverage: <http://www.eng.kavkaz-uzel.ru/articles/18791/>

local administration to take action in order to protect their land rights, which were apparently challenged by local Roma requests for land legalization. Following the recommendations of human rights groups, the administration of the town of Kurgan, headed by C.V. Rudenko has created the special working group on the legalization of Roma settlements. However, at the time of writing of this report the threat of demolition still exists.

In June 2012 **Roma from the village of Diagilevo (Ryazan) applied to the local authorities with the request to stop the demolition of their houses**, which are the only available shelter for the families with children. In their answer the local authorities requested the families to remove all temporary facilities adjacent to the house themselves; otherwise the entire settlement will be subjected to demolition. The attorney of the ADC “Memorial” prepared an appeal to the local authorities as well as prosecutor’s office, and the human rights office of the town of Ryazan administration, requesting to prevent the demolition of the settlement. So far ADC “Memorial” has only received an answer from the prosecutor’s office, which mentions certain measures that are undertaken to prevent the possible breach of housing rights of the settlement’s inhabitants.

Despite the ongoing property legalization procedures in **Belgorod** settlement, the local administration recently launched the case to the court, requesting the demolition of two houses. Owners are represented in the court by the attorney S. Malanovskiy.

Legalization of existing settlements

The Official State Party Report (pg.73, 500) indicates that: “Russian Federation is of the view that a legalization of home ownership will prevent forced evictions”. ADC “Memorial”, as an organization which is specialized in providing assistance to Roma in Russia, is often facing opposition from both regional and local authorities while working on the property and land legalization issues. Moreover, as it was already demonstrated in the previous part of the report, local authorities are often themselves initiators of the court proceedings which lead to the demolition of housing.

The examples mentioned in the State Report, regarding the provision of several Roma families with housing, relate to the Roma who live in towns or relatively large urban areas and not to those living in the Roma settlements. Therefore the State Report fails to properly address the issue of legalization of property in Roma settlements, as it was described in the recommendation of the Committee.

Roma settlements constantly face issues of property legalization and threat of demolition. This fact, as described in the previous section of this report, is often used by local authorities to exert pressure on Roma. For example, a group of Roma from Kalinichi

settlement in Tambov Province has filed a complaint with the local court asking to end the segregation of their children in schools. The local administration, which was not prepared to take positive action towards resolving the problem, started threatening authors of the complaint with the demolition of their unregistered property unless they withdrew the complaint from the court. As a result of this pressure, the village inhabitants concluded a "friendly settlement" agreement with the local administration, by which the complaint was finally withdrawn from the court. Consequently, the Roma children from Kalinichi are still segregated and go to a "Roma school".

A similar story has surfaced in December 2011, in the village of Peri, Leningrad Province, where officials from the local administration made open statements about the demolition of the Roma settlement, after its inhabitants openly expressed their discontent with the segregation of children at school. In order to resolve the situation, a meeting between local Roma (accompanied by ADC "Memorial" representatives) and Mr. Armen Ananian, a Head of the local Municipal Administration was organized on December 23 2011. During the meeting Mr. Ananian declared: "without my signature there will be no demolition. I could easily do this, but I will not...". This statement is a simple but representative example of the dependence of Roma on the goodwill of local authorities.

In certain cases the registration of the property is achieved when the inhabitants of Roma settlements apply for assistance to human rights organizations, although the procedure is long, costly and bureaucratic. The status quo is maintained to keep the population of Roma settlements under control, so that in certain circumstances, as described in preceding paragraphs, authorities can exert pressure and achieve desired outcomes in resolving tensions. The absence of a property's legal status makes it easier to carry out acts, such as searching houses without a court order, as it happened in Bryansk in March 2012, or privatizing land as "empty plots" which also happens frequently.

Moreover, ADC "Memorial" documented several cases in which neighbors of the Roma with unregistered property "successfully cooperated" with local authorities to expel their Roma neighbors, in order to expand their land ownership and get rid of undesired neighbors. Furthermore, local authorities themselves repeatedly used dissatisfaction of Roma neighbors as a pretext to start expulsion and demolition procedures.

In **Shchekinsky District of Tula Province** the local administration not only did not assist Roma in property legalization, but it also cancelled its own decision regarding the allocation of land for the purposes of construction of residential housing, as soon as it learned that the houses that were being built belonged to Roma. The situation unfolded in the following sequence: in July 2012 the local administration concluded a lease

agreement with the inhabitants of the Shekinsky District, concerning a plot of land to be used for construction purposes; the land was later subleased to the group of Roma who moved from Novgorod Province; permission for construction was granted in September 2012, after which 9 houses were built by Roma themselves; after local authorities have learned about the construction of a "gypsy camp", they reversed their own decision regarding the construction and initiated a case in court for the demolition of already constructed houses. The case was resolved in favor of local authorities and Roma families who started construction in full compliance of the applicable law were forced to abandon the land.

Provision of adequate alternative housing when forced evictions take place

Based on the observations of ADC "Memorial" in none of the cases, when Roma houses were demolished or when they were forcefully evicted for other reasons, has the government offered alternative housing. The demolition of 5 houses in Kemerovo Province which left 35 individuals, from which 17 were children, without a shelter, is a characteristic example. None of the five families were offered alternative housing nor were child welfare authorities interested in the fate of the children who just remained without shelter.

SEGREGATION OF CHILDREN BELONGING TO ETHNIC MINORITIES, IN PARTICULAR ROMA CHILDREN

The Committee recommended Russian Federation to carefully review the criteria by which children are allocated to special remedial classes and take effective measures to ensure that ethnic minority children, including Roma, are fully integrated into the general education system as well as to ensure that local school authorities admit all children, irrespective of ethnicity and registration status of their parents.

The problem of segregation of Roma children in schools remains acute. This practice includes segregation in so-called 'special schools' for Roma, segregation in 'Roma classes', and denial of enrolment in mainstream schools. Monitoring conducted by ADC "Memorial" has shown that the segregation of Roma children in the form of separate classes and schools is widespread throughout Russian regions and is often approved and supported by local authorities and school administrations.

It is common that Roma children attend schools that are located within the vicinity of Roma settlements. Pupils from 'Roma classes' are usually isolated from other pupils at schools and are not permitted into the corridors or bathrooms designated for common

use. Conditions in the "Roma schools" are often much worse than in mainstream schools⁴¹.

The segregation is solely based on ethnic grounds and no measures are undertaken by the government for the proper integration of the Roma children into the basic education system.

Efforts to protect Roma children through legal proceedings proved to be ineffective and providing protection of children's rights in local courts is often practically impossible. The legal proceedings in Tula and in Tambov District courts are good examples thereof.

Lack of equal and effective access by Roma to the justice system was demonstrated in the case in **Tula** (segregated school №66 with separate classes just for Roma children). The Roma applicants argued the violation of their right not to be subjected to discrimination, as well as their right to be educated, their family rights, and the dignity of the children in Russian courts. The Tula Court dismissed several complaints without any consideration and paid attention only to a complaint from Roma parents of an adopted Russian child.

The Court of **Tambov** District in 2010 accepted the claims of the Roma parents about discrimination of their children and violation of their right to education. The parents supported the claims during the first court hearing. By the next court session the parents had been threatened by the local authorities (they used the fact that the Roma houses were unregistered and could be demolished). As a result, the plaintiffs have signed a refusal application. So **the case of Roma children's right to education was dismissed due to the pressure faced by their parents** in relations with the local authorities.

Thus, the ineffectiveness of legal protection for children is often related to the vulnerable position of their parents. Also Roma parents often do not understand the importance of education for their children, being themselves illiterate and facing the lack of support from state. For example, the school administration in one of the regional Roma schools called a meeting of the Roma parents and made them vote for separate classes for their children. In doing so, the school administration attempted to legitimize illegal segregation of Roma children, not taking into consideration the fundamental nature of children's right to education.

41 Discriminatory conditions in Roma schooling are thoroughly documented in the 2009 report 'Discrimination and Violation of Roma Children's Rights In Schools of the Russian Federation' Report can be downloaded from: <http://www.memorial.spb.ru/www/838.html?lang=en>

Likewise, Roma children are deprived of the possibility to protect their own right to education in cases when parents are unwilling to ensure their school attendance. This is often combined with the reluctance of public and school authorities to intervene in the best interests of the children.

Taking effective measures to ensure that minority children, including Roma, are fully integrated into the general education system

While Russian Federation recognizes non-segregated education to be an effective mechanism of integration into the general education system, no measures are undertaken for the realization of this principle. Segregation effectively starts at pre-school level and continues throughout the whole education cycle up the university education to which very few Roma arrive.

In certain schools, the administrations provided some measures for inclusion of Roma children, but improvements have been fragmentary and depend mostly on the intervention of NGOs and the “goodwill” of the local authorities, e.g. the case in Nizhniye Vyazovye settlement (Tatarstan Republic): “Roma from the settlement requested help in ensuring their children’s rights to education and complained about poor results (4th and 5th grade children still had difficulties with reading and arithmetic). Roma students from the school in the NizhniyeVyazovye settlement have complained that after several years of schooling they cannot even read and that they are kept separate from other students at the school”.

In August of 2009, ADC “Memorial” officially requested the administration of Zelenodolsky District to focus on the implementation of the right to education, and to ban segregation in the NizhniyeVyazovye School. On September 4, 2009, the school administration called a meeting of the Roma parents; the parents unanimously voted for separate classes. In doingso, the school administration attempted to legitimize illegal segregation of Roma children, not taking into consideration the fundamental nature of children’s right to equal education, and government’s and parents’ obligation to provide secondary education in compliance with federal rules and regulations.

Since the school and the Zelenodolsky District administration had not taken any effective measures by January 2010, ADC “Memorial” addressed a complaint to the district’s public prosecutor’s office about violations of children rights and legitimate interests. The prosecutor’s inspection confirmed the violations: children were still studying in a small separate classroom and were not receiving a proper education and an opportunity to continue their education. Because of the importance of the problem and the continued violation of the children’s rights, ADC “Memorial” filed a second complaint, calling for an independent examination of the children’s scholastic results and the introduction of

specific measures to ensure the children's rights. In response of the second complaint the public prosecutor's office has informed ADC "Memorial" that children will be studying together as of the new 2010/2011 school year. A reply to an inquiry addressed to the school also stated that the classes would be integrated. According to the latest reports from Roma parents, their children are actually studying in common classes, attend school on a regular basis, and their educational level has risen significantly.

A similar situation in the nearby Aisha village settlement encouraged the prosecutor to reply about the need for Roma children to attend integrated classes. Improvements occurred only after repeated appeals from ADC "Memorial" to the state agencies, even though the enforcement of all children's right to education is a direct obligation of responsible authorities and local governments, and should not require "reminders" on the unacceptability of discrimination.

Discriminatory conditions in Roma schooling, which are thoroughly documented in the 2009 report, make it impossible for Roma students to reach an educational level that meets government standards. This was verified and confirmed in an independent examination of the level of subject knowledge among Roma students that was carried out by ADC "Memorial" experts in Roma settlements in different regions of Russia: Tatarstan Republic, Tambov, Bryansk and Leningrad Province. The expertise aimed to determine the level of knowledge and skills of Roma pupils and showed that the school competence of Roma pupils does not correspond to the level set by state education standards and requirements.

In order to prove the difference in quality of education received by Roma and non-Roma pupils, and to prove the fact that the majority of children who are segregated in Roma classes have very poor level of knowledge in basic school curriculum, ADC "Memorial" provided professional expertise on education standards, carried out by an appointed expert.

For example, an expertise on the level of education, received by Roma pupils from segregated classes in Verkhniye Oselky village (there is a school with segregated classes for Roma children from Peri Roma settlement), took place in October 2010. This expertise has identified a "low level of knowledge and poor level of skills" of all Roma pupils.

The results of the expertise were presented as a written document (evaluations)⁴² in order to use it in court, including the European Court of Human Rights, as well as for reporting on the Roma educational rights situation.

Ensuring that local school authorities admit all children, irrespective of ethnicity and registration status of their parents

Despite general guarantees that are spelled out in the relevant legislation, the practice of discrimination against migrant children at the school admission level is widespread.

On November 27 2012, ADC “Memorial” was approached for assistance by the Uzbek nationals Davron T. (born in 1974) and Iuldzukhon A. (born in 1977). According to the couple their three children Mardjon (born in 1998), Sitora (born in 2000) and Ulugbek (born in 2002) were experiencing problems with admission to school. The couple and their children have been legally residing in Russia (Saint-Petersburg) since September 14 2012.

From the day of their arrival the couple tried unsuccessfully to have their three children registered in the schools No 3 and No 73 of the Petrograd District. Their requests for admission were also turned down by the District’s regional authorities. Eventually, after continued efforts all three children were admitted by the School No 3, on October 18th of 2012. Soon after enrollment, the children have received a notice from the local migration authorities which explained that according to Russian law their continuous stay in Saint-Petersburg (despite the fact that their parents have the right to stay for one year) should not exceed 90 days. As a result, the family is forced to leave the country every three months in order to get new migration cards for their three children, which restart the 90 day count automatically.

Thus, both Federal Act No 115 and the faulty administrative practice of admitting children of migrant workers to schools violate basic child right standards. According to Article 28 of the UN Convention on the Rights of Child, “States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular take measures to encourage regular attendance at schools and the reduction of drop-out rates...”. Article 9 of the same Convention obligates States Parties to “ensure that a child shall not be separated from his or her parents against their will, except when ... such separation is necessary for the best interests of the child”. Furthermore, in accordance to Article 2 of the Convention, “States Parties shall take all appropriate measures to ensure that the child is

42 The documents are available at the ADC Memorial archive

protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.”

The same line of reasoning is further supported by the UN Convention against Discrimination in Education, Article 3 of which states the following: “in order to eliminate and prevent discrimination within the meaning of this Convention, the States Parties thereto undertake to abrogate any statutory provisions and any administrative instructions and to discontinue any administrative practices which involve discrimination in education; to ensure, by legislation where necessary, that there is no discrimination in the admission of pupils to educational institutions and not to allow any differences of treatment by the public authorities between nationals, except on the basis of merit or need, in the matter of school fees and the grant of scholarships or other forms of assistance to pupils and necessary permits and facilities for the pursuit of studies in foreign countries”.

It is evident that differential treatment of children based on social status or national identity of their parents is unacceptable, and the right of every child to live together with his/her own parents must be unconditional. Such are the requirements under the European Convention of Human Rights and Fundamental Freedoms to which Russian Federation is also a party. In accordance to the well-established case law of the European Court of Human Rights – creation of conditions under which children will be forcefully separated from their parents is in violation of Article 8 of the Convention (right to privacy and family life). The provisions of Russian law, which do not guarantee the right of residence to children of migrant workers are such ‘conditions’, and they need to be immediately brought in line with Russia’s international legal obligations.

Paragraph 503 of the State Party Report explains: “Article 5, paragraph 3, of the Education Act prohibits the use of an entrance examination as a basis for the admission of children to the first class of all State and municipal schools. In compliance with Circular No. 03-51-57/13-03 of the Ministry of Education of 21 March 2003, which contains recommendations on the organization of admissions to the first class, all children who have attained school age are enrolled in the first class of primary school, regardless of their level of preparation.” Paragraph 505 of the State Party Report further clarifies that: “when enrolling their child in the first class of a primary school, parents or legal representatives must submit an application for admission, the child’s medical record and a document certifying the child’s place of residence”.

The list of documents required for admission into schools are defined by relevant provisions of the “Law on Education” and by the statute(s) of the school. The list of documents necessary for admission into the municipal educational institutions is defined by the local self-governance authorities. Therefore, the existing legal framework effectively decentralizes the decision-making during the admission process, which, among others, includes establishing the exhaustive list of required documentation.

The Order N: 1674 of the Education Committee of Saint Petersburg, dated July 7 2012, states that parents (legal representatives) of the child who are not citizens of Russian Federation are required to submit the following documentation upon application for admission into school: 1. personal identity document of the child of a foreign national, or personal identity document of a stateless child who resides within the territory of the Russian Federation; 2. documents that could prove the legality of the residence on the territory of the Russian Federation by a child who has the nationality of another state, or stateless child – visa or migration card.

Parents (legal representatives) of a child who are not citizens of the Russian Federation, are in addition required to present duly certified copies of the documents proving the relationship of the applicant (or legal representation rights of pupil), and proof of the applicant's right to stay in the Russian Federation.

The Order N: 1674 effectively creates conditions under which access to education is relative to the migrant status of the child, as well as the migrant status of the parents of the applicant child. Such requirements are in contradiction to the spirit of the recommendation 27 of the Committee.

After two years of failed attempts to have her daughter admitted to school, Farida Z. Uzbek National (born on 1974), mother of Shakara A. (born on 2003), approached ADC “Memorial” for assistance. It appears that the official reason for failing to have her daughter admitted by the school is Shakara’s migration card, which expires every three months, without crossing the border of the Russian Federation. As a consequence, and despite the fact that both of Sharaka’s parents are legally staying in Russia, she is unable to attend school.