

REFERENCE:KF/fup-119

18 April 2017

Excellency,

In my capacity as Special Rapporteur for Follow-up to Concluding Observations of the Human Rights Committee, I have the honour to refer to the follow-up to the recommendations contained in paragraphs 7, 19 and 22 of the concluding observations on the report submitted by the Russian Federation ([CCPR/C/RUS/CO/7](#)), adopted at the 113th session in March 2015.

On 29 March 2016, the Committee received the reply of the State party. At its 119th session, held in March 2017, the Committee evaluated this information. The assessment of the Committee and the additional information requested from the State party are reflected in the Report on follow-up to concluding observations (see [CCPR/C/119/2](#)). I hereby attach a copy of the advanced unedited version of the relevant section of the report.

The Committee considered that the recommendations selected for the follow-up procedure have not been fully implemented and decided to request additional information on their implementation. The Committee would appreciate receiving the requested information by **18 July 2017**. The State party is kindly requested, when submitting its reply to the Committee, not to reiterate information that has already been provided to the Committee.

The reply should be sent in Microsoft Word electronic version to the Secretariat of the Human Rights Committee (Kate Fox: kfox@ohchr.org and ccpr@ohchr.org). In accordance with the Note by the Human Rights Committee on the procedure for follow-up to concluding observations (see [CCPR/C/108/2](#)), the follow-up report should not exceed a maximum of 3,500 words.

The Committee looks forward to pursuing its constructive dialogue with the State party on the implementation of the Covenant.

Please accept, Excellency, the assurances of my highest consideration.



Mauro Politi
Special Rapporteur for Follow-up to Concluding Observations
Human Rights Committee

H.E. Mr. Alexey Borodavkin
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Report on follow-up to concluding observations of the Human Rights Committee, [CCPR/C/119/2](#):

New assessment of replies¹

- A Reply/action largely satisfactory:** The State party has provided evidence of significant action taken towards the implementation of the recommendation made by the Committee.
- B Reply/action partially satisfactory:** The State party took steps towards the implementation of the recommendation but additional information or action remains necessary.
- C Reply/action not satisfactory:** Response received but actions or information not relevant or do not implement the recommendation. The action taken or information provided by the State party does not address the situation under consideration.
- D No cooperation with the Committee:** No follow-up report received after reminder(s).
- E Information or measures taken are contrary to or reflect rejection of the recommendation**
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Russian Federation

Concluding observations:	CCPR/C/RUS/CO/7 , 31 March 2015
Follow-up paragraphs:	7, 19, and 22
First reply:	CCPR/C/RUS/CO/7/Add.1 , 29 March 2016
Committee's evaluation:	Additional information required on paragraphs 7[C][C], 19[B][C][C][C][C][C] and 22[C][C]

Paragraph 7: Accountability for alleged human rights violations committed in the North Caucasus federal area

The State party should:

- (a) **Ensure that all human rights violations committed during security and counter-terrorism operations in the North Caucasus federal area are thoroughly, effectively, independently and impartially investigated, that perpetrators are prosecuted and sanctioned in a manner commensurate with the gravity of the acts committed, and that victims or their families are provided with effective remedies, including equal and effective access to justice and reparations;**
- (b) **Immediately end the practice of collective punishment of relatives and suspected supporters of alleged terrorists, and provide effective remedies to victims for violations of their rights, including for damage or destruction of property and forced expulsion.**

Summary of State party's reply

¹ Adopted by the Committee at its 118th session (17 October – 4 November 2016). The full assessment is contained in CCPR/C/119/3.

Russian Federation

(a) The State party elaborates on the procedure for investigation of criminal cases involving the death or abduction of residents of the Chechen Republic in the course of counter-terrorism operations, noting that victims are supplied with all the necessary information relating to the main investigative actions, including copies of procedural documents, and are given the opportunity to familiarize themselves with the criminal case files. The operational units and the investigating agency work together on solving historical offences.

(b) There is no collective punishment of the relatives and suspected supporters of alleged terrorists. The protection of individuals is ensured through a combination of security measures and investigative activities that are pre-emptive in nature. 119 security measures were applied regarding 66 individuals in 2015.

Committee's evaluation

(a)[C]: The Committee notes the information provided by the State party, but requires further and specific information on measures taken since the concluding observations were adopted, including the number of investigations initiated, prosecutions conducted, convictions secured and the punishments imposed for serious human rights violations committed in the North Caucasus federal area, including unlawful and extrajudicial killings, abductions, torture and ill-treatment, secret detention and enforced disappearance and on reparations granted to victims of their family, including equal and effective access to justice since the concluding observations were adopted. The Committee reiterates its recommendation.

(b)[C]: The Committee regrets that the State party continues to deny that collective punishment of relatives and suspected supporters of alleged terrorists took place in the past and that it provided no information on the remedies granted to victims of such violations, including for damage or destruction of property and forced expulsions from Chechnya. The Committee reiterates its recommendation.

Paragraph 19: Freedom of expression

The State party should consider decriminalizing defamation and, in any case, it should countenance the application of criminal law only in the most serious of cases, bearing in mind that imprisonment is never an appropriate penalty for defamation. It should repeal or revise the other laws mentioned above^[2] with a view to bringing them into conformity with its obligations under the Covenant, taking into account the Committee's general comment No.34 (2011) on freedoms of opinion and expression. In particular, it should clarify the vague, broad and open-ended definition of key terms in these laws and ensure that they are not used as tools to curtail freedom of expression beyond the narrow restrictions permitted in article 19 of the Covenant.

Summary of State party's reply

(a) The State party notes that the right of freedom of expression under article 19 of the Covenant is not absolute and is subject to certain restrictions as set out in paragraph 3, and reiterates (see [CCPR/C/RUS/Q/7/Add.1](#), para.139) that the Russian legislature is entitled to choose for itself how it wishes to combat unlawful acts such as defamation, which may include criminalizing it. The addition of article 128.1 in the Criminal Code which criminalizes defamation fully complies with the State obligations under the Covenant. Furthermore, defamation is a punishable offence in a number of European countries, including Austria, Denmark, Sweden and Germany. Between 2013 and mid-2015, persons convicted under article 128.1 received fines (no custodial sentences). The provisions on defamation cannot, therefore, be deemed to restrict freedom of expression or run counter to

² See paragraph 19 of the concluding observations: (a) recriminalization of defamation in 2011; (b) Federal law No. 190-FZ of November 2012 expanding the definition of treason; (c) Federal law No. 136-FZ ("blasphemy law") of June 2013; (d) Federal law No. 398-FZ authorizing prosecutors to issue emergency orders to block any website containing, inter alia, calls to participate in "public events held in violation of the established order" or "extremist" or "terrorist" activities; (e) The law criminalizing, inter alia, distortion of the Soviet Union's role in the Second World War, signed 5 May 2014; (f) The law regulating the activities of blogs, signed 5 May 2014.

Russian Federation

the Covenant.

(b) Federal Act No.190-FZ of November 2012 clarifies the wording of article 275 of the Criminal Code and the amended text aims at improving criminal legislation relating to the protection of State secrets from criminal attacks and ensures the security of State more effectively. The reform was needed to correct the vague definition of one form of treason. The State party reiterates the definition of high treason under article 275 of the Criminal Code, including as provision of financial, material, technical, consultative or other assistance to a foreign State or an international or foreign organization or representatives thereof in carrying out activities that pose a threat to the security of the Russian Federation, and explains that the person is exempted from criminal responsibility for certain offences against the constitutional order and State security if he/she facilitates the prevention of further damage to the interests of State.

(c) Under article 28 of the Constitution, everyone is guaranteed freedom of conscience and religion. Federal Act No.136-FZ of 29 June 2013 regarding blasphemy amends article 148 of the Criminal Code and other legislative acts to address legal gaps relating to the liability of persons who insult the religious beliefs of Russian citizens. The State party elaborates on the content of each paragraphs of article 148 and clarifies that the offence consists of a public action that is committed openly and in plain sight and can be witnessed by others and that expresses clear disrespect for society and is intended to insult the religious feeling of believers, or the unlawful obstruction of the activities of religious organizations or the performance of religious rites. The State party reiterates information from the replies to the list of issues ([CCPR/C/RUS/Q/7/Add.1](#), para.141) that most foreign countries apply a similar legal instrument to protect the right to freedom of religion.

(e) The State party provides detailed information on the prohibitions introduced by the Federal Act No. 574-FZ of 4 November 2014 regarding, inter alia, the use of any form of Nazi symbol, and indicates that, pursuant to Federal Act No. 128-FZ of 5 May 2014, the Criminal Code was supplemented with article 354.1 (Rehabilitation of Nazism). Para. 1 of article criminalizes, inter alia, the denial of the facts established by the judgment of the Nuremberg Tribunal and the dissemination of deliberately false statements concerning the actions of the Union of Soviet Socialist Republics during the Second World War. The State party notes that the reassessment of the decisions of the Nuremberg Tribunal in the form of approval for the aggressive policy of Nazism, the denial of the facts of Nazi crimes in the occupied territories or description of the actions of the anti-Hitler coalition to resist the aggressor as criminal is an international crime; this follows from article 107 of the UN Charter.

With regard to the recommendation to clarify the “vague, broad and open-ended definition of key terms”, definitions of that nature are not permitted in the national legislation, therefore the inference that the provisions of Russian criminal legislation do not comply with the State’s obligations under the Covenant is not an accurate reflection of the situation.

Committee’s evaluation

(a)[B]: The Committee notes the information provided and welcomes the absence of any custodial sentences for defamation between 2013 and mid-2015, but regrets that the State party does not appear to have considered decriminalizing defamation. Updated information is required on the number of prosecutions and convictions under article 128.1 of the Criminal Code since the concluding observations were issued, including imprisonment as a sanction. The Committee reiterates its recommendation.

(b)[C]: The Committee notes the information provided by the State party but regrets that no measures appear to have been taken to implement its recommendation. It requires information on steps taken since the adoption of the concluding observations to bring the definition of treason in conformity with article 19 of the Covenant. The Committee reiterates its recommendation.

(c)[C]: The Committee regrets that no measures appear to have been taken to repeal blasphemy laws. It requires information on the number of prosecutions and convictions

Russian Federation

under article 148 of the Criminal Code, and clarification on whether the State party plans to repeal blasphemy laws, taking into account the Committee's general comment No. 34 (2011) (para. 48) concerning the incompatibility of blasphemy laws with the Covenant, except in the specific circumstances envisaged in article 20(2) of the Covenant. The Committee reiterates its recommendation.

(d)[C]: The Committee regrets that no information has been provided on Federal law No. 398-FZ authorizing prosecutors to issue emergency orders, without a court decision, to block any website. The Committee reiterates its recommendation.

(e)[C]: The Committee appreciates the information provided on the prohibitions introduced by the Federal Act No. 574-FZ of 4 November 2014 and the incorporation of article 354.1 (Rehabilitation of Nazism) in the Criminal Code, but regrets the lack of information on the compatibility of these provisions of article 354.1(1) of the Criminal Code that criminalize, inter alia, the dissemination of deliberately false statements concerning the actions of the Union of Soviet Socialist Republics during the Second World, with article 19 of the Covenant. The Committee therefore requires information on, inter alia, the necessity and proportionality of these restrictions in light of article 19(3) of the Covenant, on prosecutions and convictions for violations of those provisions and on sanctions imposed on perpetrators since the adoption of the concluding observations.

(f)[C]: The Committee regrets the absence of information on the law regulating the activities of blogs, signed by the President on 5 May 2014. The Committee reiterates its recommendations.

Paragraph 22: Freedom of association

The State party should repeal or revise the legislation requiring non-commercial organizations that receive foreign funding to register as “foreign agents” with a view to bringing it into line with the State party’s obligations under the Covenant, and take into account the opinion of the European Commission for Democracy through Law in that regard. It should, at the very least: (a) drop the term “foreign agent” from the law; (b) clarify the broad definition of “political activities”; (c) remove the power granted under the law of registering non-commercial organizations without their consent; and (d) revisit the procedural requirements and sanctions applicable under the law to ensure their necessity and proportionality.

Summary of State party’s reply

The State party elaborates on the meaning of Federal Act No. 121-FZ of 20 July 2012, requiring non-commercial organizations that receive foreign funding to register as “foreign agents” and on the grounds for removal from the register and the procedure thereof. It notes that as of 26 January 2016, 20 non-commercial organizations performing the functions of foreign agents had submitted applications for removal from the register: 7 applications were granted, 7 rejected and the remaining are pending. Organizations may contest a negative decision in court, which has been the case for one organization. Organizations can also reapply to be removed from the register a second time. There is therefore no evidence that the current removal procedure is complex.

In order to clarify the concept of “political activity”, the Ministry of Justice has prepared a draft federal act, according to which political activity takes place in areas such as nation-building and the federal system; the sovereignty and territorial integrity; the rule of law, public order and security; national defence; foreign policy; the integrity and stability of the political system, the socioeconomic and national development and the operation of State authorities and local government bodies; and the regulation of civil and human rights and freedoms. The clarifications will facilitate the elaboration of clear and comprehensive criteria for defining political activity and ensuring the uniformity of legislative and regulatory compliance practices. The draft law will also set out the possible forms that political activity may take.

With regard to the Committee’s observation relating to the “ban on undesirable foreign



Russian Federation

companies, organizations or groups”, Federal Act No. 129-FZ of 23 May 2015 entered into force on 3 June 2015 and its main objective is to protect State security in relation to the activities of foreign and international organizations. The Act contains an exhaustive list of grounds for the recognition of an organization as being undesirable, which are based on threats to the constitutional order, national defence or State security and fully complies with the Covenant which allows for the restriction of certain rights, including for the purposes of protecting State security and public order. Decisions under the Act are taken by the Procurator-General or his or her deputy and the list of undesirable foreign or international NGO is disclosed through the publication on the official website of the Ministry of Justice and in a periodical with a national circulation. The absence of an established procedure for appealing against the decisions relating to the recognition of organizations is due to the very nature of the Act: it does not aim at the self-regulation of a specific area of social relations but simply amends certain laws. Decisions can, however, be contested according to the legally established procedure as set out in the Civil Code, the Code of Civil Procedure, the Code of Commercial Procedure, and the Act on Actions and Decisions Infringing Civil Rights and Freedoms (Court Appeals).

Committee’s evaluation

[C]: The Committee appreciates the information regarding applications for removal of non-commercial organizations from the foreign agents register and notes that initial steps have been taken to define “political activity” in the Act on Non-Commercial Organizations by way of a draft federal act. However, the Committee remains concerned that as described, the draft does not clarify or narrow the concept of political activity in a manner that would ensure consistency with the Covenant. It requires specific information on the definition of “political activity” contained in the draft under consideration, the possible forms that political activity may take, and how those satisfy the requirements of article 19(3), as well as on whether the draft federal act has been submitted for discussion and adoption and on the progress of its adoption. Furthermore, information is required on other measures taken to bring the Act on Non-Commercial Organizations in conformity with the Covenant, including clarifications on whether the term “foreign agent” and the power of registering non-commercial organizations as “foreign agents” without their consent or a court decision will be removed from the law and whether the procedural requirements and sanctions applicable under the law will be revisited to ensure their necessity and proportionality. The Committee reiterates its recommendation.

[C]: The Committee regrets that, despite the concerns expressed about its adverse human rights implications, the draft law banning undesirable foreign companies, organizations or groups was signed into law (Federal Act No. 129-FZ) and entered into force. The Committee requires information on the compatibility of the Act with the requirements of article 19(3) of the Covenant.

Recommended action: A letter should be sent reflecting the evaluation of the Committee.

Next periodic report: 2 April 2019
