

Council of Europe contribution for the 30th UPR session (April-May 2018) regarding Russian Federation

Contents

<i>Prevention of torture (CPT).....</i>	<i>2</i>
<i>Council of Europe Commissioner for Human Rights</i>	<i>2</i>
<i>Fight against racism and intolerance (ECRI).....</i>	<i>4</i>
<i>Protection of minorities</i>	<i>4</i>
<i>Framework Convention for the Protection of National Minorities</i>	<i>4</i>
<i>European Charter for Regional or Minority Languages.....</i>	<i>4</i>
<i>Action against trafficking in human beings (GRETA).....</i>	<i>4</i>
<i>Preventing and combating violence against women and domestic violence</i>	<i>5</i>
<i>Fight against corruption (GRECO).....</i>	<i>5</i>
<i>Execution of judgments and decisions of the European Court of Human Rights.....</i>	<i>6</i>
<i>Statistical data</i>	<i>6</i>
<i>Main cases /groups of cases under Committee of Ministers' supervision.....</i>	<i>6</i>
<i>Social and Economic Rights (ECSR)</i>	<i>9</i>
<i>Venice Commission</i>	<i>9</i>
<i>Freedom of association and of assembly</i>	<i>10</i>
<i>International obligations.....</i>	<i>10</i>

Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

The most recent public [report on the Russian Federation](#) dates from 2012.

[Government response](#)

[News flash on the publication](#) for a summary

Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

On 29 September 2017 the Commissioner published a follow-up Memorandum on freedom of assembly in the Russian Federation. The document contains the Commissioner's assessment of the country's legal framework pertaining to the right to freedom of assembly, as well as certain aspects of its implementation in practice. In particular, the Commissioner highlighted that, by transforming a system of notification to hold a public event to one where authorisation must be sought, the legislative amendments introduced in 2012 and 2014 weaken the guarantees contained in Article 31 of the Russian Constitution. Apart from restricting the organisers' autonomy in deciding on the place and the manner of holding public events, the amendments introduced new offences and sanctions, including criminal liability for the repeated violation of rules governing public events, which fail to meet the criteria of necessity and proportionality. The Commissioner also referred to a growing intolerance towards "unauthorised" public events, resulting in many arrests of people participating in protests, even those who behave peacefully.

The Commissioner recommended that the legal framework on public assemblies in the Russian Federation be thoroughly revised in close consultation with the national human rights structures, so as to bring it in line with international and European human rights standards.

On 5 July 2017 the Commissioner intervened before the European Court of Human Rights on a group of cases brought by Russian NGOs in relation to the application of the law on non-commercial organisations, also known as the "Law on Foreign Agents". The submission was based on the Commissioner's previous analyses of the Russian legislation and practice on NGOs contained in his Opinions CommDH(2013)15 of 15 July 2013 and CommDH(2015)17 of 9 July 2015.

In the third-party intervention, the Commissioner assessed the legal framework in relation to the functioning of NGOs in Russia, observing that the provisions of the Law on Foreign Agents introduced unjustified discriminatory treatment for a particular set of organisations, and that subsequent amendments to the legislation had rendered the environment for NGOs deemed to be "foreign agents" even more restrictive. Apart from the pejorative label "foreign agent", the main concerns related to the broad and vague character of the term "political activity", lending itself to the law's arbitrary application, as well as the disproportionate sanctions, including criminal liability for "malicious" non-compliance. The Commissioner underlined that the activities qualified as

“political” under the Law on Foreign Agents were among the most commonly-practiced, basic and natural methods of work of NGOs, and the application of that law against civil society groups advocating for changes in law and practice or scrutinising the human rights compliance of actions by public authorities greatly undermined their role as a public watchdog in a democratic society.

The Commissioner found that the application of the Law on Foreign Agents had led to considerable interference with the free exercise of the rights to freedom of association and freedom of expression of many NGOs and human rights defenders, sometimes with severe consequences. Apart from the difficulties in securing funding, civil society groups had been subjected to ostracism, harassment, and even physical attacks. The Commissioner underscored that NGOs should be free to solicit and receive funding not only from public bodies in their own state but also from institutional and individual donors, another state or multilateral agencies, subject only to the laws on customs, foreign exchange and money-laundering, as well as those on elections and the funding of political parties.

On 14 March 2016, the Commissioner submitted his written observations to the European Court on the case of the killing of Natalia Estemirova, a prominent human rights defender from the Russian Federation who worked in the North Caucasus.

The observations highlighted the prevalent patterns of impunity for serious human rights violations in the North Caucasus, as well as their impact on the safety of human rights defenders working in the region. The Commissioner concluded that the absence of requisite determination on the part of the authorities was one of the main obstacles to pursuing accountability. He also observed that the local authorities in the Chechen Republic had frequently stigmatised human rights defenders and impeded their work, to the detriment of human rights protection in the region.

The Commissioner recommended that the authorities in the Russian Federation, both federal and regional, adopt a series of measures at institutional, legal and political levels, to ensure the protection of human rights defenders at risk and promote an enabling environment for their work.

On 27 October 2014 the Commissioner published a report following his mission to Kyiv, Moscow and Simferopol which took place from 7 to 12 September 2014, containing the first in situ assessment of the human rights situation in Crimea by an international institution since March 2014.

In that report, the Commissioner referred to specific cases of deaths and missing persons, emphasising the need to ensure accountability for serious human rights violations and to conduct effective investigations, in line with the criteria of independence, thoroughness and transparency.

The Commissioner expressed concerns about certain groups rendered vulnerable by the unfolding events in the region, such as the community of Crimean Tatars, and about negative measures taken against them in the name of fighting extremism, including intrusive searches of religious institutions, business and private premises of members of the community.

In his report the Commissioner also addressed the status of “self-defence” forces, nationality-related issues, media freedom and the situation of human rights defenders in the peninsula. Lastly, the Commissioner stressed the need to ensure free and unimpeded access of international humanitarian and human rights organisations to Crimea.

Fight against racism and intolerance (ECRI)

The European Commission against Racism and Intolerance ([ECRI](#)) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.

ECRI adopted its [fourth report](#) on the Russian Federation on 20 June 2013.

ECRI adopted its [Conclusions on the Implementation](#) of the Recommendations in Respect of the Russian Federation Subject to Interim Follow-Up on 17 March 2016.

Protection of minorities

Framework Convention for the Protection of National Minorities

The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

European Charter for Regional or Minority Languages

The [Charter’s monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals. A committee of independent experts examines the state’s periodical report and addresses an evaluation report to the Committee of Ministers, including proposals

Action against trafficking in human beings (GRETA)

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

As of 29 March 2017, the Russian Federation is the only Council of Europe member state which is not Party to the Convention. GRETA once again urges the Russian Authorities to sign and ratify the Convention, in order to further its effectiveness as a tool against human trafficking throughout Europe, to reinforce the pan-European framework for co-operation between countries of destination, transit and origin and to assist in the promotion of international co-operation in anti-trafficking efforts.

Preventing and combating violence against women and domestic violence

The Council of Europe Convention on preventing and Combating violence against women and domestic violence ([Istanbul Convention](#), CETS No. 210) provides for two types of monitoring procedures: a country-by-country evaluation procedure and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention. [GREVIO](#), the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

Fight against corruption (GRECO)

The 'Group of States against Corruption' ([GRECO](#)) monitors all its members through a "horizontal" evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

Fourth Evaluation Round: "Corruption prevention in respect of members of parliament, judges and prosecutors".

GRECO's Fourth Round evaluation of the Russian Federation is ongoing and the evaluation report is due for adoption by GRECO at its meeting on 16-18 October 2017.

Execution of judgments and decisions of the European Court of Human Rights

Statistical data

At 31 December 2016, there were 1573 cases against Russian Federation pending before the Committee of Ministers for supervision of their execution (1549 at 31.12.2015). 204 of these cases were “leading cases” (197 at 31.12.2015), i.e. raising a new structural / general problem and requiring the adoption of general measures, the other cases being “repetitive cases” (including a number of friendly settlements) concerning issues already revealed by earlier judgments of the European Court of Human Rights.

In 2016, the CM was seized by 283 new cases (120 in 2015) against the Russian Federation of which 8 leading cases (7 in 2015) and the sums awarded in 2016 as just satisfaction amounted to 7 380 062 euro.

In 2016, 261 cases (44 in 2015) were closed by the adoption of a Final Resolution, of which 4 leading (0 in 2015).

Main cases /groups of cases under Committee of Ministers’ supervision

The main cases presently under the Committee of Ministers’ supervision cover notably the issues presented below. For a fuller overview of the situation see the [Country Factsheets](#) available on the website of the Department for the Execution of Judgments of the European Court of Human Rights and in the [Committee of Ministers’ Annual Reports](#) on its supervision activity. More detailed information on the status of execution in individual cases can be found through [HUDOC-EXEC](#).

Actions of security forces and effectiveness of investigations

Actions of security forces during anti-terrorist operations, most linked to the situation in the Chechen Republic between 1999 and 2006 (unjustified use of force, killings, enforced disappearances, unacknowledged detentions, torture and ill-treatment, unlawful search and seizure operations and destruction of property), but some linked to that in other Republics of the Northern Caucasus and to post 2006 events; absence of effective investigations, including insufficient efforts to establish the fate of missing persons, and also of effective domestic remedies to obtain reparation - [Khashiyev and Akayeva group of cases](#) ,_application No. 57942/00, judgment final on 06/07/2005, enhanced supervision

Absence of effective investigations into the disappearance in St Petersburg of persons from Republic of Ingushetia - [Dobriyeva and Others](#),_application No. 18407/10, judgment final on 14/04/2014, enhanced supervision

Mass rescue operation of hostages in a theatre in Moscow: failure to take all feasible precautions, with a view to avoiding, or at least, minimising, incidental loss of civilian life; lack of effective investigations into the events - [Finoqenov and Others](#),_application No. 18299/03, judgment final on 04/06/2012, enhanced supervision

Ill-treatment and/or torture in police custody with a view to extracting confessions and ineffective investigations in this respect - [Mikheyev group of cases](#) ,_application No. 77617/01, judgment final on 26/04/2006, enhanced supervision

Lawfulness of detention and related issues

Different irregularities surrounding detention on remand, linked notably to repeated unlawful extensions of detention, lengthy appeal proceedings, failure in certain circumstances to adduce relevant and sufficient reasons to justify continued detention, absence of an enforceable right to obtain compensation - [Klyakhin group of cases](#), application No. 46082/99, judgment final on 06/06/2005, enhanced supervision

Conditions of detention

Poor detention conditions in pre-trial detention in remand centres (“SIZO”) under the authority of the Ministry of Justice and lack of effective remedies in this respect; absence of adequate medical care - [Kalashnikov group of cases](#), application No. 47095/99, judgment final on 15/10/2002, enhanced supervision

Poor detention conditions of criminal suspects held in temporary police holding facilities (“IVS”) under the authority of the Ministry of the Interior, mainly resulting from overcrowding - [Fedotov group of cases](#), application No. 5140/02, judgment final on 25/01/2006, enhanced supervision

Adequateness of legal and organizational guarantees against torture and ill-treatment in detention facilities, including effectiveness of investigations - [Buntov](#), application No. 27026/10, judgment final on 05/09/2012, enhanced supervision

Reception / Expulsion / Extradition

Absence of clear legal provisions establishing the procedure for ordering and extending detention awaiting expulsion or extradition; absence of judicial review at the initiative of the person concerned of lawfulness of detention pending extradition and deficiencies of review proceedings initiated by procurators; detention unduly imposed (in the absence of concrete action with a view to removal or expulsion); absence of due assessment of risks faced in receiving countries; illegal transfers and abductions of aliens to other countries (mainly persons subjected to extradition requests from Tajikistan and Uzbekistan) - [Garabayev group of cases](#), application No. 38411/02, judgment final on 30/01/2008, enhanced supervision

Absence of judicial review of the continued lawfulness of detention pending expulsion, notably in special detention centres for aliens, and poor detention conditions in the centres - [Kim](#), application No. 44260/13, judgment final on 17/10/2014, enhanced supervision

Administrative removals (expulsions) orders without taking due account of close family ties established in the Russian Federation - [Gablshvili](#), application No. 39428/12, judgment final on 26/09/2014, enhanced supervision - [Alim](#), application No. 39417/07, judgment final on 27/12/2011, enhanced supervision

Insufficient judicial review of administrative expulsion decisions based on national security grounds, notably absence of proportionality test and of a procedure allowing an adequate examination of the relevance and sufficiency of the national security reasons invoked - [Liu \(No. 2\)](#), application No. 29157/09, judgment final on 08/03/2012, enhanced supervision

Functioning of justice

Degrading treatment of accused persons on account of their confinement in metal cages in the courtroom - [Svinarenko and Slyadnev](#), application No. 32541/08, judgment final on 17/07/2014, enhanced supervision

Non-enforcement or lengthy enforcement of domestic judicial decisions concerning in-kind obligations, notably in the area of housing, and absence of effective remedies - [Gerasimov and Others](#), application No. 29920/05,

judgment final on 01/10/2014, enhanced supervision - [Gizatova](#), application No. 5124/03, judgment final on 13/01/2005, enhanced supervision

Unfair criminal convictions: arbitrary construction of law leading to conviction for facts indistinguishable from ordinary commercial activities (Navalnyy and Ofitserov); absence of public trial and right to effective cross-examination of the key witness (Pichugin) - [Navalnyy and Ofitserov](#), application No. 46632/13+, judgment final on 04/07/2016, enhanced supervision - [Pichugin](#), application No. 38263/03, judgment final on 18/03/2013, enhanced supervision

Home / Private and family life

Shortcomings in the legal framework governing secret surveillance of mobile telephone communications - [Roman Zakharov](#), application No. 47143/06, judgment final on 04/12/2015, enhanced supervision

Shortcomings in the procedure for home searches in the absence of criminal proceedings (insufficiently precise judicial authorisations - Operational-Search Activities Act); lack of effective remedies - [Avanesyan group of cases](#), application No. 41152/06, judgment final on 18/12/2014, standard supervision

Adoption

Absence of a possibility to apply for restoration of parental rights of adoptive parents in order to take into account new circumstances - [Ageyevy](#), application No. 7075/10, judgment final on 09/09/2013, standard supervision

Environmental protection

Large-scale flood in the area around the Pionerskoye reservoir near Vladivostok in 2001: Absence of legislative, regulatory and supervisory measures aimed at protecting the lives of persons exposed - [Kolyadenko and Others](#), application No. 17423/05, judgment final on 09/07/2012, enhanced supervision

Freedom of assembly

Repeated bans on gay prides and similar public events imposed by local authorities and upheld by courts - [Alekseyev](#), application No. 4916/07, judgment final on 11/04/2011, enhanced supervision

Electoral rights

Blanket ban to vote in elections imposed all persons deprived of liberty under a court sentence - [Anchugov and Gladkov](#), application No. 11157/04, judgment final on 09/12/2013, enhanced supervision

Protection of property

Different violations related to tax and enforcement proceedings brought against the applicant oil company, contributing to its liquidation in 2007 - [OAO Neftyanaya Kompaniya Yukos](#), application No. 14902/04, judgment final on 08/03/2012, enhanced supervision

Manager held personally responsibility for the company's unpaid taxes although such responsibility was not foreseen in legislation or in any existing judicial practice - [Khodorkovskiy and Lebedev](#), application No. 50187/06, judgment final on 25/10/2013, enhanced supervision

Right to education

Forced closure of schools located in the Transdniestrian region of the Republic of Moldova ("MRT") teaching in Latin script followed by different measures of harassment. ¹ - [Catan](#), application No. 43370/04, judgment final on 19/10/2012, enhanced supervision

Inter-state and related cases

Arbitrary arrests, detention and collective expulsions of Georgian nationals in the autumn 2006; absence of effective and accessible remedies in this regard - [Georgia v. Russian Federation \(I\)](#), application No. 13255/07, judgment final on 03/07/2014, enhanced supervision

Individual cases regarding arbitrary arrests, inhuman conditions of detention of Georgian nationals prior to collective expulsion in the autumn 2006; lack of review of the lawfulness of detention and absence of effective remedy to complain about the conditions of detention - [Berdzenishvili and Others](#), application No. 14594/07, judgment final on 20/03/2017, enhanced supervision

Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

[The Russian Federation and European Social Charter](#)

Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

Since 2013 the Commission adopted opinions on the freedom of assembly and association as well as opinions concerning the international obligations of the Russian Federation (the power of the

¹ Whilst observing that there was "no evidence of any direct participation by Russian agents in the measures taken against the applicants" nor "any evidence of Russian involvement in or approbation for the "MRT"'s language policy in general", the Court nonetheless found that "by virtue of its continued military, economic and political support for the "MRT", which could not otherwise survive, Russia incurs responsibility under the Convention for the violation of the applicants' rights to education" (see notably the Committee of Ministers interim resolution (2015)157;

Constitutional Court to declare decisions of international courts, notably of the European Court of Human Rights, as “unenforceable”; “admission” of Crimea as a new Federation subject).

Freedom of association and of assembly

[CDL-AD\(2016\)020](#)

Opinion on Federal Law no. 129-FZ on amending certain legislative acts (Federal law on undesirable activities of foreign and international non-governmental organisations)

[CDL-AD\(2014\)025](#)

Opinion on Federal Law n. 121-FZ on non-commercial organisations (“law on foreign agents”), on Federal Laws n. 18-FZ and n. 147-FZ and on Federal Law n. 190-FZ on making amendments to the Criminal Code (“law on treason”)

[CDL-AD\(2013\)003](#)

Opinion on Federal Law No. 65-FZ of 8 June 2012 amending Federal Law No. 54-FZ of 19 June 2004 on assemblies, meetings, demonstrations, marches and picketing and the Code of Administrative Offences

International obligations

[CDL-AD\(2016\)016](#)

Final Opinion on the amendments to the Federal Constitutional Law on the Constitutional Court

[CDL-AD\(2016\)005](#)

Interim Opinion on the amendments to the Federal Constitutional Law on the Constitutional Court of the Russian Federation

[CDL-AD\(2014\)004](#)

Opinion on “Whether draft federal constitutional Law No. 462741-6 on amending the Federal constitutional Law of the Russian Federation on the procedure of admission to the Russian Federation and creation of a new subject within the Russian Federation is compatible with international law”