

[Crest of the Russian Federation]

**PUBLIC PROSECUTOR'S OFFICE
OF THE RUSSIAN FEDERATION**

**PUBLIC PROSECUTOR'S OFFICE
OF THE CITY OF MOSCOW**

27 ul. Novokuznetskaya
115184, Moscow

To the Chair of the Board
of Memorial Human Rights Centre
Inter-regional Public Organisation

A.V. Cherkasov

29.04.2013 No. 27-6-2013/51685

COMMUNICATION

regarding the elimination of violations of Federal Law
No. 7-FZ of 12.01.1996 on Non-commercial Organisations

Within the framework of executing supervisory powers in the field of public and religious associations and other non-commercial organisations' fulfilment of the legislation of the Russian Federation, the Moscow Public Prosecutor's Office has conducted a check on the activities of the Memorial Human Rights Centre inter-regional public organisation (hereinafter the Centre).

During the course of the check violations were discovered in Memorial HRC's activities in the form of the failure to undertake measures to register with the authorised agency in relation to acting as a foreign agent, contrary to the requirements of Federal Law No. 7-FZ of 12.01.1996 on Non-commercial Organisations.

Pursuant to clauses 3.1 and 3.2 of the Centre's Constitution, the aims, tasks and object of its activities include:

- publicising and disseminating reliable information on material violations of human rights and fundamental freedoms and bringing the attention of the public, State and international structures to such kinds of violation;
- exposing the truth about the crimes of totalitarian regimes, terroristic methods of controlling society, and studying their reasons and consequences;
- conducting and supporting research activities aimed at studying mass human rights violations in conflict zones;
- promoting society's and the State's efforts to resolve issues related to the observance of human rights;
- promoting the humanisation of the penitentiary system;
- promoting the protection of persons suffering politically motivated persecution or unlawful repression by the State authorities.

In line with carrying out its constitutional aims and tasks, the Centre currently implements a series of programmes (information about the programmes is posted on Memorial's website - www.memo.ru), among which are:

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- protecting human rights using international mechanisms (the UN European Court);
- the Hot Spots information and analytical centre;
- the fabrication of cases on Islamic extremism in Russia;
- supporting persons persecuted for political reasons and protecting civil activists;
- the Migration and Law network.

It has been ascertained that during the period from 23.11.2012 to 18.03.2013 the Centre received at least 23,750,000 roubles from foreign sources to carry out its constitutional aims and the programmes and projects devised.

Within the framework of implementing the Supporting Persons Persecuted for Political Reasons and Protecting Civil Activists programme, the Centre signed an agreement with the National Endowment for Democracy - NED (USA) on the provision of monetary funds to the Centre (30,000 US dollars in February 2013 and 13,571 US dollars in June 2013) to implement the project: Raising the Level of Russian Society's Awareness of Politically Motivated Arrests and Detentions in the Russian Federation.

An analysis of the activities envisaged by the Raising the Level of Russian Society's Awareness of Politically Motivated Arrests and Detentions in the Russian Federation project indicates that the Centre is using the funds provided by NED to create and ensure the operation of the OVD-info public information and news network via the website: www.ovdinfo.org.

The OVD-info project includes the systematisation of documents and news "on politically motivated arrests and detentions" in the Russian Federation, including information about concrete criminal cases, law enforcement practice, and the details of the official agents and employees of the law enforcement agencies involved in the cases divulged.

Moreover, OVD-info uses diverse mechanisms to collect and disseminate information "about politically motivated arrests and detentions" (monitoring and analysing communications from citizens, the mass media and social networks), including via the www.ovdinfo.org website. The monthly number of visitors to the website is around 12,000 people.

The project envisages the organisation of collaboration with regional branches of Memorial Human Rights Centre, and the organisations Golos, Solidarnost and Agora. OVD-info's long-term plan for expanding the target audience is to post quarterly analytical reports on the www.ovdinfo.org website on the number of "politically motivated arrests and detentions" in the Russian Federation in which there will also be statistical data compared against the information published by the authorities.

The OVD-info project also envisages creating and ensuring the activities of regional micro-networks and entrusting these with the task of being 'regional correspondents' on a paid basis.

The Internet monitoring carried out has established a web resource, www.ovdinfo.org, containing informational and analytical materials (articles, publications and news summaries), about "politically motivated arrests and detentions" and about violations of human rights and fundamental freedoms by the Russian Federation authorities. Analytical reports on OVD-info's activities for 2012 and for one quarter of 2013 are also posted on the website on the topic in question.

According to information about the www.ovdinfo.org website obtained from the public domain name search system, Whois.com, the website was founded on 08.12.2011 and registered to an unidentified person. Its technical platform (server) is geographically located in Scottsdale, Arizona (USA).

An analysis of the informational materials posted on the www.ovdinfo.org website about citizen detentions indicates that they do not contain objective information about

“politically motivated” detentions. The example detentions given are related to concrete facts of citizens violating the procedure for organising and conducting mass (public) events.

Furthermore, Russian legislation does not hold persons guilty for actions committed for political motives.

According to the evaluation plan for the project: Raising the Level of Russian Society’s Awareness of Politically Motivated Arrests and Detentions in the Russian Federation, OVD-info is used to “monitor society’s reaction to famous cases of politically motivated arrests and detentions” and “to monitor trends in the readership and improve the human rights situation in Russia”, which indicates that the aim of the Project in question is to form an opinion among Russian citizens on the negative nature of the policy implemented by the State on the basis of partial information about persons persecuted for political reasons.

It should be noted separately that pursuant to the information posted on the www.memo.ru website, the head of the Supporting Persons Persecuted for Political Reasons and Protecting Civil Activists project is S.K. Davidis, who is simultaneously a member of the Office of the Political Council of the Solidarnost united democratic movement. The project: Raising the Level of Russian Society’s Awareness of Politically Motivated Arrests and Detentions in the Russian Federation, implemented by Memorial HRC within the framework of the indicated programme, envisages the participation of the Solidarnost united democratic movement.

Furthermore, during the course of 2012, Mr S.K. Davidis, being an opposition political figure, repeatedly acted as an organiser of public events (including of a political and protest nature), held in Moscow (including the march and rally from Kaluzhskaya Square to Bolotnaya Square on 06.05.2012).

The foregoing indicates that, in the future, the implementation of the Raising the Level of Russian Society’s Awareness of Politically Motivated Arrests and Detentions in the Russian Federation project will be linked to holding public events and other political activities.

Furthermore, an agreement was signed between Memorial HRC and the National Endowment for Democracy - NED (USA) for the provision of monetary funds to the Centre (20,000 US dollars for the period from October 2012 to August 2013) to implement the project - Developing Respect for and Observance of International Human Rights, the Rule of Law and Democratic Values by the State authorities of the Russian Federation.

One of the aims of this project is opposing the politically motivated persecution of public figures by the State.

The project’s implementation envisages actively monitoring instances of State persecution of public figures and civil activists for their political views, opinions and participation in civil activities, initiating the examination of the most resonant cases at the European Court of Human Rights and organising broad coverage of issues of State persecution of civil activists in the mass media and on the Internet.

Deeming the legislative measures taken by the State Duma of the Russian Federation to be regressive in advance, upon completing this project Memorial HRC plans to hold an extended round table on the subject: Political Persecution in Russia Today, which will serve as a platform to develop a strategy for civil groups. It is planned that representatives of the public, mass media and the State authorities of the Russian Federation will participate in the round table.

Thus, Memorial HRC is using funds from foreign sources to carry out its constitutional aims and tasks, and programmes and projects developed, which in turn are aimed at forming the opinion of citizens of the Russian Federation on violations of human rights and fundamental freedoms on political grounds, propaganda of the shortcomings of the policy

implemented by the authorities of the Russian Federation, and analysing and evaluating the political processes in Russia.

Pursuant to clause 6 of article 2 of Federal Law No. 7-FZ of 2.01.1996 on Non-commercial Organisations, non-commercial organisations acting as foreign agents are Russian non-commercial organisations that receive monetary funds and other property from foreign States, their State agencies, international and foreign organisations, foreign citizens, stateless persons or persons authorised by them and/or from Russian legal persons that receive monetary funds or other property from the sources indicated and that participate, including in the interests of the foreign sources, in political activities conducted on the territory of the Russian Federation.

A non-commercial organisation, with the exception of political parties, is deemed to be participating in political activities conducted on the territory of the Russian Federation if, regardless of the aims and tasks indicated in its founding documents, it participates in (including by funding) organising and conducting political actions for the purpose of influencing the decisions taken by the State authorities aimed at changing the State policy implemented by them and also at forming a public opinion for the purposes indicated.

Pursuant to clause 7 of article 32 of Federal Law No. 7-FZ of 12.01.1996, after State registration, non-commercial organisations intending to implement activities in the role of a non-commercial organisation acting as a foreign agent must, before commencing such activity, submit, to the authorised agency, an application to be included in the register of non-commercial organisations acting as a foreign agent.

Thus, the foregoing indicates that Memorial HRC is acting as a foreign agent without being registered with the authorised agency, contrary to the requirements of the legislation in force.

On the grounds of the foregoing and guided by article 24 of the Federal Law on the Public Prosecutor's Office of the Russian Federation, and articles 2, 13.1 and 32 of Federal Law No. 7-FZ of 12.01.1996 (with amendments of 16.10.2012 No. 174-FZ) on Non-commercial Organisations,

I DEMAND:

1. The elimination of the violations of the Federal legislation indicated in this submission.
2. That the communication be examined with the participation of a representative of the Moscow Public Prosecutor's Office.
3. That the results of the examination of the communication be communicated in writing to the Moscow Public Prosecutor's Office no later than one month from the date of receipt.

Deputy City Public Prosecutor

Senior Justice Advisor

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V.V. Vedernikov