

Russian Federation

Commissioner for Human Rights of the Russian Federation

Accreditation status and SCA recommendations

The Russian NHRI was last [reaccredited](#) with A status in October 2014. In October 2019, the SCA [decided](#) to defer its review of the Russian NHRI. The SCA will decide on the reaccreditation of the NHRI in [June 2021](#).

Independence and effectiveness of the NHRI

Changes in the regulatory framework applicable to the Institution

Several amendments to Constitutional and regular federal laws positively impacted the framework in which the Russian NHRI operates:

A. Federal Constitutional Law No. 5-FKZ of 9 November, 2020 "On Amendments to the Federal Constitutional Law "On the Constitutional Court of the Russian Federation" provided the High Commissioner (Russian NHRI), the commissioners for human rights in the constituent entities of the Russian Federation, other commissioners for the rights in certain spheres or certain categories of persons (1) with the right to appeal to the Constitutional Court of the Russian Federation with a complaint regarding the violation of the constitutional rights and freedoms of citizens by the law, the normative act of the Russian Federation, the normative act of a constituent entity of the Russian Federation, applied in a specific case (par. 1 of Article 96 of the Federal Constitutional Law No. 1-FKZ as of July 21, 1994 "On the Constitutional Court of the Russian Federation").

The High Commissioner's right to appeal to the Constitutional Court of the Russian Federation to defend the rights of citizens was already previously enshrined in Federal Constitutional Law No. 1-FKZ as of February 26, 1997, "On the Commissioner for Human Rights in the Russian Federation". However, the commissioners for human rights in the constituent entities of the Russian Federation did not possess this right and could only appeal to protect the rights of citizens when concluding an agreement on representation.

B. Federal Constitutional Law No. 6-FKZ of November 9, 2020 "On Amendments to Articles 6 and 11 of the Federal Constitutional Law "On the Commissioner for Human Rights in the Russian Federation", introduced additional requirements for the person holding the position of High

Commissioner for Human Rights in the Russian Federation, aimed at ensuring the integrity and ethics of the person holding the position of the High Commissioner. These new amendments were prepared with the participation of the High Commissioner.

C. Federal Law No. 48-FZ "On Commissioners for Human Rights in the Constituent Entities of the Russian Federation" was adopted on March 18th 2020. Its provisions were further developed, inter alia, in Federal Law No. 510-FZ of December 30, 2020 "On Amendments to Article 16.1 of the Federal Law "On the General Principles of the Organization of Legislative (Representative) and Executive Bodies of State Power in the Constituent Entities of the Russian Federation" in the development of which the High Commissioner was involved. The Law eliminated the conflict between the provisions of this article which regulated the status and activities of the Commissioners for Human Rights in the constituent entities of the Russian Federation and the provisions of Federal Law No. 48-FZ dated March 18, 2020 "On Commissioners for Human Rights in the Constituent Entities of the Russian Federation".

D. Federal Law No. 7-FZ of February 17, 2021, "On Amendments to Article 333.36 of the Second Part of the Tax Code of the Russian Federation", provides for the exemption of human rights commissioners in the constituent entities of the Russian Federation from payment of state fees when they file administrative claims in the courts in defence of human and civil rights and freedoms.

References

- (1) Regional commissioners for human rights are independent from the High Commissioner (Russian NHRI) however they work as a network on human rights matters in the Russian Federation
- Laws referred to (in Russian only):
- <https://rg.ru/2020/11/11/ks-dok.html>
- <http://publication.pravo.gov.ru/Document/View/0001202012300047>
- <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102045861>
- <https://rg.ru/2020/03/20/fz-upolnomochenniy-po-pravam-cheloveka-dok.html>
- <https://rg.ru/2021/02/19/nalogkodeks-dok.html>

Enabling space

Since 2017, the level of cooperation between the High Commissioner and the Parliament reached significantly improved. The Regulations of both Chambers of the Parliament were amended with provisions establishing a procedure of consideration of the High Commissioner's annual reports. Moreover, due to these amendments, parliamentarians are vested with the right to adopt decisions with instructions for the implementation of the recommendations and proposals contained in the High Commissioner's reports.

In 2020 the High Commissioner sent 47 proposals and opinions on different human rights issues to the governmental bodies, some of which were reflected in the adopted laws. These proposals relate to four main areas:

- laws guaranteeing realization of social and economic rights;
- laws guaranteeing realization of civil and political rights;
- laws aimed at maintaining the legality and the rule of law;
- laws aimed at ensuring the effective functioning of the institute of human rights commissioners (included in 'Changes in the regulatory framework applicable to the Institution').

In total, the High Commissioner's proposals were reflected in 17 normative legal acts adopted in 2020, including 13 Federal Laws and 4 by-laws. In total, over a period of 5 years (2016-2020), the proposals of the High Commissioner have been taken into account in 62 adopted regulations, including 45 Federal Laws.

In addition, in 2020, the High Commissioner and the staff of her Office participated in 46 events dedicated to various aspects of improving legislation. Of these, 14 events were held in the State Duma and the Federation Council; 6 events were organised by the High Commissioner herself.

Developments relevant for the independent and effective fulfilment of the NHRIs' mandate

The continuing spread of the COVID-19 pandemic has brought changes to public and political life in Russia - restrictions to free movement of citizens and holding of public events have been in place. In this context, the special COVID-related hotline set up by the High Commissioner for Human Rights in the Russian Federation (hereinafter – the High Commissioner) continued to operate. The results are summarised in the High Commissioner's thematic report "Human Rights Protection during the Spread of COVID-19" and in a separate chapter of the annual Report on the High Commissioner's activity in 2020 (see a link to the English summary of the special report in the references below).

One of the key events of the year was the constitutional reform of 2020. The amendments to the Constitution of the Russian Federation addressed a wide range of topics of social and political life. In doing so, they all directly or indirectly concern human rights, among which the emphasis is primarily placed on social rights.

The amended Constitution of the Russian Federation strengthens the guarantees of citizens' rights and establishes additional mechanisms to enhance the observance of human rights and freedoms.

During the discussion of the amendments to the Constitution proposed by the President of the Russian Federation, the High Commissioner advocated amendment of sections 5 and 6 of article 75 of the Constitution of the Russian Federation concerning the time limits for indexation of pensions, social benefits and other social payments, which was taken into account in the final version of the amendments.

The Federal Law No. 489-FZ of December 30, 2020 "On Youth Policy in the Russian Federation", drafted to develop the new constitutional provisions, takes into account the High Commissioner's conceptual proposals to expand the areas of youth policy by including support measures for orphans and children deprived of parental care.

References

- High Commissioner Report on 'Human rights protection during the spread of covid-19' (summary in English)
<https://www.theioi.org/downloads/2kanr/SUMMARY%20REPORT%20ON%20HR%20PROTECTION%20DURING%20COVID-19.pdf>

Human rights defenders and civil society space

The High Commissioner monitored developments in bringing the regional legislation on the procedure for holding public events in line with the legal position of the Constitutional Court of the Russian Federation, expressed in the Decision No. 33-P as of November 1, 2019. According to such decision, regional bans on holding public events in certain places cannot be based on arbitrary spatial and territorial restrictions on the right of citizens to assemble peacefully (for example, near the buildings of the state authorities or other state bodies).

During the monitoring, the High Commissioner found that, in 2020, regulations (independent from COVID-19 context) prohibiting the holding of public events on areas closer than 20 meters to residential buildings and buildings occupied by State and municipal institutions were removed from the legislation of most of the constituent entities of the Russian Federation.¹

A new impetus for the development of regional legislation on public events came from the Constitutional Court's Decision No. 27-P as of June 4, 2020, which found the bans on public events held near educational establishments, medical organizations, churches and military facilities to be unjustified. The introduction of these amendments is also being monitored by the High Commissioner.

According to information received by the High Commissioner, non-constitutional regulations have already been removed from laws in 24 constituent entities, in 36 constituent entities the work on improvement of legislation has not been completed yet and in 14 constituent entities regulations contradicting the Constitution of the Russian Federation do not exist.

The High Commissioner continues to supervise the improvement of regional legislation with regard to the implementation of Constitutional Court Decision No. 27-P as of June 4, 2020² and Constitutional Court Decision No. 33-P as of November 1, 2019.

In view of the unauthorized public events of January 23 and 31 and February 2, 2021, the High Commissioner established a working group to immediately review and take urgent measures to respond to all appeals received by the High Commissioner's hotline related to violations of citizens' rights during administrative proceedings related to participation in these events, non-admission of lawyers to detainees, obstruction of journalists' activities, violation of conditions of administrative detention and other issues. 83 requests for verification of reports from detainees and persons under administrative arrest were submitted to the procuratorial authorities, the Ministry of Internal Affairs and the Federal State Guard.

The facts set out in the communications were confirmed in respect of some citizens, and the violations were eliminated. In particular, a lawyer was allowed to see a citizen under administrative detention, and the time period for accepting parcels for persons held in short-term detention centers for citizens who had committed administrative offences was shortened.

The High Commissioner held in-person meetings with representatives of the human rights community on the above-mentioned issues, and members of her Office visited internal affairs departments and special detention centers for persons under administrative detention.

In addition, the High Commissioner has repeatedly stressed the importance of introducing amendments to federal and regional legislation on public events. In the Annual Report on the High Commissioner's Activities for 2020, it was proposed to amend Federal Law No. 54-FZ of June 19, 2004 "On Meetings, Rallies, Demonstrations, Marches and Pickets" and regional laws respectively in terms of establishing a clear legal status for participants in "mass single pickets" and the so-called "picket queues".

References

- <http://publication.pravo.gov.ru/Document/View/0001201911070023>
- <http://publication.pravo.gov.ru/Document/View/0001202006080001>
- https://ombudsmanrf.org/news/novosti_upolnomochennogo/view/upolnomochennu_p_provela_vstrechu_s_pravozashhitnikami
- https://ombudsmanrf.org/news/novosti_upolnomochennogo/view/komentarij_upu_polnomochenno_po_pravam_cheloveka_v_rossijskoj_federacii11022021

(in Russian only, news related to the meeting of the High Commissioner with civil society and her comments on the right to peaceful assembly)

Checks and balances

In 2020 the process of improvement of the legislation of the Russian Federation continued. The majority of 551 adopted federal constitutional and federal laws, to varying degrees, concerned human rights, mechanisms and guarantees of their realization. The legislative process, in which the High Commissioner took part, was carried out in three main areas:

- Amendments to the Constitution of the Russian Federation;
- Human rights guarantees during COVID-19;
- Protection of human rights in different areas of social life.

The High Commissioner's legislative activities included the work within the Governmental Commission on legislative activities, reports during the plenary sessions of the Parliament, interaction with the special committees of the Parliament, proposed amendments sent to the President of the Russian Federation, the Russian Government, Parliament and federal

governmental bodies, preparation of the draft laws within the High Commissioner's Office, participation in the working groups on legislative drafting, public debates on draft laws.

The constitutional amendments made in 2020, directly or indirectly, addressed human rights, established additional guarantees of their realisation (e.g. regarding minimum wage, social insurance, rights of children, persons with disabilities and indigenous peoples). The connotational amendments established additional requirements for judges, prosecutors and the High Commissioner (already mentioned above).

The High Commissioner supported legislative initiatives by the Russian government aimed at strengthening guarantees of the rights of citizens and organisations when exercising state control (oversight). The laws formed a new system of coordinates in the relationship between the control (oversight) bodies and supervised persons: recognition, observance and protection of the rights of supervised persons is seen as a principle of state control (oversight) and at the same time as the most important duty of the control (oversight) bodies.

The High Commissioner submitted proposals to the State Duma to amend the draft law No. 955380-7 "On amendments to the Federal Law "On the Police". While supporting the overall outline of the bill, the High Commissioner underlined that, in addition to expanding the powers of the police, the first priority should be to ensure that the rights of citizens under the Constitution of the Russian Federation are unconditionally guaranteed. In this regard, the main task is to refine the wording of the law to make it as precise and specific as possible in order to rule out the possibility of misinterpretation and abuse.

There is no doubt that legislation on human rights and freedoms needs further improvement, both in terms of filling existing gaps and the need to improve its quality.

Further development is the legislation on commissioners for human rights. In light of the constitutional amendments, it seems advisable to revisit the discussion on expanding the available toolkit of these officials. A working group is currently examining this issue in the Federation Council with the participation of representatives of the High Commissioner.

Functioning of the justice system

In 2020, the legislators made important amendments according to which, when determining the reasonable length of criminal proceedings, the period from the date of filing an application or reporting a crime to the day of termination of criminal prosecution or conviction will now be taken into account. Previously, when determining the reasonable length of criminal proceedings, only the period after the initiation of a criminal case was considered. These amendments are an

additional guarantee of respect for the rights of the victim of a crime to access justice and to conduct legal proceedings within a reasonable time.

During 2020, the High Commissioner submitted proposals to the Supreme Court of the Russian Federation for the preparation of five reviews and plenums of the Supreme Court, on improving the practice of the courts:

- in applying legislation on preventive measures in the form of detention, house arrest and bail;
- in applying legislation governing specific features of criminal liability for crimes in the field of business and other economic activities;
- in applying rules of civil procedure legislation, regulating the proceedings in the court of appeal, on issues arising in judicial practice when considering cases of administrative offenses related to non-payment of funds for the support of children or disabled parents, etc.

D. Federal Law No. 7-FZ of February 17, 2021, "On Amendments to Article 333.36 of the Second Part of the Tax Code of the Russian Federation", provides for the exemption of human rights commissioners in the constituent entities of the Russian Federation from payment of state fees when they file administrative claims in the courts in defence of human and civil rights and freedoms.

In 2020, the High Commissioner published a thematic report "Observance and protection of the rights of victims in criminal proceedings", which summarizes the results of the High Commissioner's activities in this area and, based on the analysis, formulates recommendations to the Government of the Russian Federation, State bodies of the constituent entities of the Russian Federation, the Prosecutor General's Office of the Russian Federation, the Supreme Court of the Russian Federation. The main findings of the report are the following.

In spite of the measures taken by the State, in practice the constitutional requirement to protect the rights of victims is not always fully and promptly implemented nowadays. There are shortcomings related to the protection of victims' rights, such as delays in the initiation of criminal proceedings and the ineffective investigation of crimes, as well as the compensation of the damage caused by the crime. In 2020, the High Commissioner conducted a large-scale analysis of the problems of protecting the rights of victims of crimes to ensure access to justice and the effective and timely investigation of crimes and provision of compensation for damage caused by the offence.

The majority of cases are related to irregularities at the initial stage of the criminal procedure while filing a criminal complaint. The large-scale nature of the violations at the stage of instituting criminal proceedings illustrates the inadequacy of the legal means of ensuring access to justice for the victims of crimes.

The resolution of the problem of legality in criminal proceedings would be facilitated by the speedy resolution of the dispute over the place of the Public Prosecutor's Office within the system of public authority during the investigation of crimes. The powers of the Prosecutor's Office to monitor compliance with the law at the preliminary investigation stage have been unduly restricted. That is why, it would seem advisable to align the legal practice with the nature of the powers of the Public Prosecutor and to extend the prosecutor's powers in general in this respect.

Protection of victims of domestic violence is a major challenge. The ineffectiveness of legal remedies has led to a trend of citizens' recourse to the European Court of Human Rights, which concluded that the Russian authorities had failed to establish a legislative basis for combating domestic violence and investigating and prosecuting domestic ill-treatment. We believe there should be introduced administrative regulations aimed at preventing future incidents, as well as a system of sanctions for their violation, that could significantly reduce the risk of domestic violence and of recidivism in general.

Furthermore, there should be improved the practice of participation of persons with physical and mental conditions as a party to criminal proceedings. The particularities of proceedings in such criminal cases require the development of recommendations to the preliminary investigation authorities and the amendment to article 5, paragraph 12, of the Code of Criminal Procedure of the Russian Federation that does not currently include the concept of a legal representation for an incapacitated adult who, due to physical and mental conditions, cannot understand the nature and meaning of the proceedings with his/her participation; and (or) independently protect their rights and legitimate interests.

To change the situation regarding the rights of victims, there is also a need for a system of measures involving extension of state statistical observation data.

A victim who reports a crime should be entitled to free legal assistance from the moment of filing a complaint. At the stage of instituting criminal proceedings, it is also advisable to introduce the possibility of keeping the identity of the complainant secret if there is a real threat to his/her life and health and to the life and health of his/her relatives.

Moreover, the improvement of the investigation efficiency of crimes, particularly those related to the protection of the rights of victims, will ensure that all investigations should begin as soon as a

crime report has been filed and granting of victim status to the applicant should coincide with the commencement of the criminal proceedings.

The idea to eliminate “the criminal proceedings initiation stage” has been in the focus of professional attention for several years, but there has not yet been conducted sufficient study and public discussion of the concept.

The mechanism for protecting the rights and legitimate interests of the victim if a person who has committed a crime has not been identified during the pre-trial proceedings in a criminal case is not regulated. In these circumstances, criminal proceedings are limited to formalities which in no way protect the rights and legitimate interests of the victim.

The issue of compensation for victims has also received particular attention. Legal mechanisms to encourage accused persons (suspects) to make compensation to victims are far from being perfect. For example, there are no legal means for natural and legal persons (in possession of the property or other assets on behalf of the perpetrator), to be employed as civil co-defendants.

The practice of enforcing civil claims for compensation that have been granted by the courts for the damage caused by the crime also requires special attention, as the convicted person is often unable to work in a penal institution. The consequences of the shortcomings of the legislation governing compensation for damage caused by crime and of adequate law enforcement practices are the low level of effective compensation for victims. The solution to this situation is to establish a State fund to compensate the victim for the harm caused by the crime. The State, in its own turn, could, as a form of recourse, recover damages from perpetrators.

In 2020, the High Commissioner made proposals for legislation in the area of law enforcement. Most of them concerned criminal, criminal procedure and criminal enforcement legislation. Certain proposals by the High Commissioner were aimed at improving administrative legislation on human and civil rights and freedoms.

The High Commissioner sent proposals to the Russian Ministry of Justice based on the results of the analysis of the draft Code of Administrative Offences of the Russian Federation and the draft Code of Administrative Procedure of the Russian Federation which were made public in 2020. The High Commissioner also believes it is necessary to provide for the right of commissioners for human rights to appeal against rulings and decisions in cases involving administrative offences in the new legislation.

Following a proposal by the High Commissioner, the State Duma is considering a draft law submitted by the Supreme Court on the introduction of the concept of "criminal misconduct" into

the Criminal Code and the Code of Criminal Procedure, aimed at the humanisation of criminal legislation and proposing the reclassification of 112 offences as criminal misconducts.

The High Commissioner's unimplemented proposals include a reform of the process of instituting criminal proceedings, the introduction of the concept of "criminal misconduct", the restriction of the time limit for detention after a criminal case has been referred to a court, and the introduction of an independent provision in the Criminal Code on liability for torture and cruel, inhuman and degrading treatment.

The High Commissioner has repeatedly advocated the expansion of the powers of public monitoring commissions to monitor respect for the rights of suspects, accused and convicted persons in court premises and vehicles.

References

- https://ombudsmanrf.org/news/novosti_upolnomochennogo/view/upolnomochennyj_prinjala_uchastie_v_zasedanii_kollegii_fsin_rossii

Media pluralism and freedom of expression

The issue of detention and the imposition of administrative sanctions on journalists and bloggers covering unauthorized public events is of concern. Recently, the audience of new electronic media, YouTube channels, and bloggers has significantly expanded, and they have begun to play a crucial role in covering a wide range of meetings and events that often remain outside the attention of traditional media. At the same time, their work is not always perceived by representatives of law enforcement agencies as journalistic activity, which does not provide them with the same degree of protection (see below).

This practice requires additional attention, since it affects the exercising of the right of citizens to receive information about public events, and does not contribute to the objective coverage of such events by online media.

According to Article 49 of the Law «On Mass Media» the State guarantees a journalist, in connection with his professional activity, the protection of his or her honour, dignity, health, life and property as a person performing a public duty. However there is no similar rule for bloggers, while, in fact, they perform the same important function as journalists.

In this regard, the High Commissioners proposed to amend the legislation defining the legal status of bloggers when covering public events; to recommend that law enforcement agencies refrain from detaining journalists and bloggers who are present at the venue of an unauthorized public event in order to cover this event, and not to participate in it.

In 2020 the High Commissioner received 21 complaints related to the realization of the journalists' activities. They were devoted to the illegal criminal prosecution, arrests while covering public events, labour rights and inability to conduct their professional activities abroad.

The High Commissioner takes actions to protect the rights of journalists if they believe they have been violated. For example, the High Commissioner appealed to the Prosecutor General's Office of the Russian Federation with requests to evaluate the applicants' arguments and take the necessary measures in the cases of journalists Abdulmumin Gadzhiev, Svetlana Prokopyeva, Anastasia Shevchenko, Ivan Golunov, Elena Milashina and others. At the request of the High Commissioner, the Commissioner for Human Rights in the Republic of Dagestan visited Abdulmumin Gadzhiev in the pre-trial detention center. The Commissioner assisted him in obtaining subscription publications, meeting with lawyers (22 meetings in 4 months), and providing him with hot water. Ivan Golunov was released after the request of the High Commissioner addressed to the President of the Russian federation. Other cases are being monitored by the Commissioner and regional human rights commissioners.

References

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- https://ombudsmanrf.org/news/v_rossii/view/ombudsmen_dgestana_posetil_sizo1_re giona

Other relevant developments or issues having an impact on the national rule of law environment

Penitentiary conditions

The High Commissioner carried out substantive investigation of the use of physical force, cruel and degrading treatment against suspects, accused and convicted persons.

For example, from January 18, 2021, the Federal Penitentiary Service of Russia (hereinafter referred to as FSIN), in connection with the appeals of the High Commissioner, began work on the observance of human rights in the institutions of the Main Directorate of the Federal Penitentiary Service of Russia (hereinafter Main Directorate of FSIN) in the Irkutsk region. On February 17, 2021, due to numerous shortcomings in the work of the unit identified by the commission of FSIN, the head of the detention facility SIZO-1 was dismissed, and several officers of the Irkutsk Region Main Directorate of FSIN were suspended after an inspection by the commission of FSIN. The deputy head of SIZO-1, the head of the operational department of SIZO-1, the deputy head of the correctional facility IK-6 were temporarily suspended from their official duties.

Regarding ill-treatment of convicts held in the detention facilities SIZO-1 and SIZO-6 of the Irkutsk Region Main Directorate of FSIN, who previously served their sentences in the correctional facility IK-15, a criminal case was opened on February 1, 2021, which is under control of the High Commissioner. The commission of the Federal Penitentiary Service of Russia will work in the Irkutsk region until the investigation of criminal cases is completed and all guilty persons are brought to justice.

In order to prevent and suppress the illegal use of physical force and special means to persons held in penitentiary institutions, the High Commissioner proposed, at the Board of the Federal Penitentiary Service of Russia held on October 7, 2020, to consider the installation of video surveillance systems located in the penal institutions of the territorial body of FSIN⁴.

At the initiative of the High Commissioner, Federal Law No. 96-FZ of April 1, 2020 "On Amendments to the Executive Penal Code of the Russian Federation" was adopted, and entered into force in September 2020. The law established the right of a prisoner to be transferred to a correctional facility close to his or his relatives' place of residence, and has had a positive impact on law enforcement practice. As a consequence, already by the end of the year the number of appeals to the High Commissioner for transfer closer to the place of residence decreased (last quarter of 2020 - 129 appeals, last quarter of 2019 - 192 appeals).

In connection with the complaints received against the conditions of detention of citizens in penal institutions (detention centres and correctional institutions), following the initiative of the High Commissioner, Federal Law No. 494-FZ "On Amendments to Certain Legislative Acts of the Russian Federation" was developed and adopted, which provides for the right of prisoners to receive financial compensation for violation of detention conditions. During 2020, 1,450 administrative suits were brought before Russian courts to declare conditions of detention inadequate and to award consequent compensation. During 2020, 74 decisions were issued,

totalling 5,192,683,000 Rubles, for partial satisfaction of claims for compensation for breaches of conditions of detention; which have entered into force.

The significance of the adopted law for the protection of human rights was noted by the ECtHR in April 2020, indicating that the newly introduced procedural requirements for access to the compensation scheme are simple and accessible; the new compensation procedure has the necessary procedural guarantees, such as independence and impartiality, the right to legal aid; the courts are sufficiently informed about the criteria to be considered when awarding compensation.

References

- <https://rg.ru/2020/04/03/fz-96-dok.html>; <https://rg.ru/2019/12/31/fz-494-dok.html>
- https://ombudsmanrf.org/pravo/news/ggorjachie_dokumenty/view/prezidium_vs_rf_o_bobshhil_praktiku_po_sporam_svjazannym_s_predostavleniem_grazhdanam_mer_soc_podderzhki
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Impact of measures taken in response to COVID-19 on the national rule of law environment

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection

The High Commissioner produced a special report on 'Human rights protection during the spread of covid-19', covering the period from February to October 2020 (the English summary of the report is available in the references below).

In general, the analysis conducted by the High Commissioner indicates that the measures that restricted human rights were justified, were not of arbitrary or discriminative nature, did not tolerate humiliation of human dignity or torture and were commensurable with the goals of protecting the lives and health of the population, that was being informed about these measures in a timely and consistent manner.

The restrictions on human rights and freedoms were excessive in some regions. In Stavropol and Krasnodar regions there were problems regarding the issuance of electronic passes which blocked all traffic by introducing types of electronic passes. This resulted in a commotion and large gatherings of people in local administrations, in turn creating a greater risk of further infection spread. Details of these events were urgently conveyed to the relevant government bodies by the High Commissioner. Subsequently, these measures got improved.

Likewise, the analysis of regulatory legal acts adopted to combat the spread of the new coronavirus infection conducted by the Ministry of Justice of the Russian Federation indicates that the implemented measures conform to the constitutional goals of protecting life and health, are proportionate to the threat of the spread of the epidemic and have been accompanied by full-scale state support for the most vulnerable sectors of the economy and economic support for broad categories of citizens.

Further to these general findings, some more specific issues were also highlighted by the High Commissioner in the context of the 2021 rule of law reporting.

Measures taken by the authorities to counter the pandemic

Due to the suspension of air traffic during the COVID-19 pandemic, thousands of people wishing to return to their homeland gathered at the state border of the Russian Federation in the areas of automobile checkpoints. The most difficult situation was in the Samara and Orenburg regions, where citizens of the republics of Uzbekistan, Tajikistan and Kyrgyzstan gathered simultaneously to transit through Kazakhstan to their countries of citizenship. People came from 20 regions of Russia and, as Kazakhstani authorities did not give permission to enter.

The High Commissioner requested the Russian Railway Company and ombudsmen of the above-mentioned countries to assist in transporting people. Due to the measures taken by the authorities, more than 12 thousand foreigners returned to their homeland.

The High Commissioner addressed the President and the Prime Minister of the Russian Federation on the most pressing issues regarding the protection of the rights of citizens in the context of the pandemic. Appropriate measures were taken, solving a number of systemic problems. For example, the problem of lack of personal protective equipment (masks) in the first wave of the COVID-19 spread was solved. In order to rectify the situation, the High Commissioner sent appeals to the Chairman of the Government of the Russian Federation, the Deputy Chairman of the Government of the Russian Federation, the Minister of Health of the Russian Federation. Requests and appeals were understood by the authorities. A decision was made to purchase personal protective equipment in the amount of 40 million units under a foreign trade contract.

Moreover, the following pressing issues were resolved:

- extension of the migration registration documents (Decree of the President of the Russian Federation No. 274 as of April 18, 2020);
- departure of the Russian citizens legally residing in a foreign country to their permanent place of residence (Decree of the Government of the Russian Federation No. 1170-r as of April 29, 2020);
- lift of certain restrictions to enter and exit the Russian Federation territory (Decree of the Government of the Russian Federation No. 1511-r as of June 6, 2020).

Following the request of the High Commissioner, non-profit educational private institutions were included in the list of sectors of the Russian economy most affected by the deterioration of the situation due to the pandemic. Previously, the Resolution of the Government of the Russian Federation No. 685 (as of May 15, 2020 "On Amendments to Resolution of the Government of the Russian Federation No. 409 as of April 2, 2020") provided benefits only to the subjects of small and medium-sized enterprises, which do not include non-profit educational private institutions.

The High Commissioner appealed to the Mayor of Moscow to resolve the problem of blocking social cards (for free travel) of people over 65 years living in Moscow. By the Decree of the Mayor of Moscow No. 13-UM as of March 5, 2021 "On Amendments to the Decree of the Mayor of Moscow No. 68-UM as of June 8, 2020" the restrictions on the movement of citizens of the age category 65+ were removed and their social cards were unblocked.

Penitentiary system

In order to prevent the spread of COVID-19, a set of sanitary and anti-epidemic (preventive) measures were implemented within penitentiary institutions both for the persons held there and the staff. In accordance with Federal Law No. 103-FZ as of July 15, 1995 "On the Detention of Suspects and Accused of Committing Crimes"⁷, a special conditions regime was introduced in the penitentiary institutions.

The set of measures taken made it possible to prevent the mass penetration of COVID-19 into the institutions of FSIN (federal authority for the detention of suspected and convicted persons, the security and maintenance of prisons in Russia), to prevent a sharp increase in the incidence, to create the necessary conditions for isolation, treatment of patients, and to increase the scope of testing. All mentioned efforts ensure the sustainable functioning of penal institutions and safety from infection.

Observatories were established to monitor contact persons. For isolation and outpatient treatment of patients with a new coronavirus infection, 31.5 thousand places are provided in the institutions of the penitentiary system. To provide medical care in inpatient conditions, 609 beds have been deployed in hospitals of medical and sanitary units. Patients with the most severe forms of the disease are sent to medical organizations of the state and municipal health systems according to approved routing schemes.

In the medical and sanitary units of FSIN, a stock of all necessary medicines for the treatment of a new coronavirus infection and its complications was formed. At the same time, the schemes and volumes of medicines strictly comply with the standards approved by the Ministry of Health of the Russian Federation, as well as the recommendations of the World Health Organization.

During a speech at the Board of FSIN held on October 7, 2020 the High Commissioner proposed to discuss issues that could improve the protection of persons in the context of the pandemic in the institutions of the penitentiary system, including increasing the number of telephone calls, the equipment of additional offices with glass partitions for lawyers who will be able to visit their clients more often, as well as other measures⁸.

Other NHRI's activities

The meeting of the Coordinating Council of Human Rights Commissioners on November 24, 2020 was devoted to the topic "Protection of human rights during the pandemic and the gradual removal of restrictive measures: experience and problems", which resulted in the recommendations of the human rights commissioners being formulated and sent to the state authorities.

On November 25, 2020, the High Commissioner, in cooperation with the Scientific and Educational Center for Human Rights, organized a scientific and practical conference "Protection of human rights in the context of the spread of a new coronavirus infection: theory and practice", which took place in Human Rights House (Moscow).

In connection with the ongoing pandemic of COVID-19, international cooperation activities were held in video conference mode.

In April and November 2020, the third and fourth Annual Meetings of the Eurasian Ombudsman Alliance were held in this format. On November 17, 2020, the IV International Conference "Protection of human rights in Eurasia: exchange of best practices of ombudsmen" was held in Moscow under the auspices of the High Commissioner.

References

- High Commissioner Report on 'Human rights protection during the spread of covid-19' (in English)
<https://www.theioi.org/downloads/2kanr/SUMMARY%20REPORT%20ON%20HR%20PROTECTION%20DURING%20COVID-19.pdf>

