

Russian Federation

Commissioner for Human Rights of the Russian Federation

Independence and effectiveness of the NHRIs

International 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 the review of the Russian NHRI to its second session of 2020.

Changes in the national regulatory framework applicable to the NHRI change since the last review by the SCA

On March 18 2020, the Federal Law 48-FZ «On Human Rights Commissioners in the Constituent Entities of the Russian Federation» was adopted. The law is taking the institution of regional human rights commissioners to a new level of development, establishing equal opportunities for citizens in various regions of the Russian Federation to have access to mechanisms for the protection of rights and freedoms, and ensuring more effective guarantees for the protection of citizens' rights by regional human rights commissioners. The Law defines the procedure for the election of regional ombudsmen, the legal basis and the main fields of their activities, as well as provides guarantees for their independence and the powers to investigate citizens' complaints.

On 24 April 2020, the Federal laws №130-FZ «On the Amendment of Article 56 of the Code of Criminal Procedure of the Russian Federation» and Federal Law №131-FZ «On the Amendment of Article 69 of the Code of Civil Procedure of the Russian Federation» were adopted. The Laws introduced new clauses to prohibit interrogation of the High Commissioner for Human Rights in the Russian Federation and regional human rights commissioners without their consent on circumstances that have come to their attention in connection with the performance of their duties.

There are amendments to the Constitution of the Russian Federation to establish increased requirements for candidature for the position of the High Commissioner for Human Rights in the Russian Federation.[1]

The Commissioner for Human Rights in the Russian Federation and the commissioners for human rights in the constituent entities of the Russian Federation are provided with more power to participate in the screening of the members of the Public Monitoring Commissions (PMC) by the Federal Law of 7 June 2017, 112-FZ «On Amendments to Article 10 of the Federal Law «On Public Monitoring of the Observance of Human Rights in Places of Forced Detention and on Assistance to Persons Held in Places of Detention», by the Law of 19 July 2018, 203-FZ «On Amendments to Article 18.1 of the Federal Law «On Detention of Suspects and Accused Persons», and by the Federal Law «On Public Monitoring of the Observance of Human Rights in Places of Forced Detention and on Assistance to Persons Held in Places of Detention».[2]

References

- (1) See Para. "e", part 1, Article 103 of the Constitution of the Russian Federation as amended by the Law of the Russian Federation of 14 March 2020 "On Introducing an Amendment to the Constitution of the Russian Federation" 1-FKZ "On Improving the Regulation of Certain Aspects of the Organization and Functioning of Public Authority".
- (2) See Parts 6 and 16, Article 10 of the Federal Law of June 10, 2008 «On Public Monitoring of the Observance of Human Rights in Places of Forced Detention and on Assistance to Persons Held in Places of Detention».

Human rights defenders and civil society space

In her annual reports for the years of 2018 and 2019 the High Commissioner for Human Rights in the Russian Federation, based on the results of the monitoring conducted by the Russian national human rights institution, pointed to the need to simplify and enhance the transparency of the procedure between the organizers and the authorities to agree upon organisation and holding of a public rally or any other public mass events. The High Commissioner proposed the participation of the Russian human rights commissioners in the constituent entities of the Russian Federation in the procedure as well as supplementing the relevant federal law with a provision allowing an organizer of a public event to submit a notice in the form of an electronic document.[1]

References

- (1) See Annual Reports on the Activities of the High Commissioner in the Russian Federation for the years of 2018 and 2019: http://ombudsmanrf.org/upload/files/docs/lib/doclad_2018.pdf, http://ombudsmanrf.org/upload/files/docs/lib/doc2019_fin_compressed.pdf

Checks and balances

The Commissioner would like to point to the following issues as relevant to the exercise of legislative and executive powers.

For several years, the Commissioner raised the issue of granting the executive authorities of the constituent entities of the Russian Federation the authority to execute state control (supervision) and draft protocols on administrative offenses in the field of providing an accessible environment for persons with disabilities. The Government of the Russian Federation launched a relevant legislative initiative, and on June 7, 2017, the President of the Russian Federation signed Federal Law No. 116-FZ "On Amending the Federal Law «On Social Protection of Persons with Disabilities in the Russian Federation»", which entered into force on January 1, 2018.

In 2016-2017 the Commissioner raised the issue at the domestic sites about the need to ratify the Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health. The Commissioner notes with satisfaction that the corresponding Convention was ratified by Federal Law No. 439-FZ on December 29, 2017.

The Commissioner's annual reports have repeatedly indicated that placing defendants in cells in the courtroom is a violation of the principle of the presumption of innocence. Such practices should be prohibited. On this occasion, in 2019, during a visit to the ECHR, the Commissioner presented her comment on the implementation by Russia of the ECHR judgment to ban the placement of defendants in cells in the courtroom. Pursuant to this judgement, a group of deputies and senators introduced a bill that received the support of the Government of the Russian Federation and is under consideration by the State Duma.

On the initiative of the Commissioner, Federal Law No. 96-FZ "On Amending the Punishment Code of the Russian Federation" of April 1, 2020, establishing the right of a prisoner to transfer to a correctional institution located near the place of residence of the

convicted person or his relatives, was adopted. This bill takes into account the interests of a significant number of citizens, their relatives and close ones.[1]

References

- (1) <http://publication.pravo.gov.ru/Document/View/0001202004010064>

Functioning of justice systems

In the Report on the Activities of the Commissioner for Human Rights in the Russian Federation for 2019, submitted to the President of the Russian Federation and the legislative body, the issue of the victim's right to access to justice was raised.

In the case of an unjustified refusal to initiate criminal proceedings, the person applying to law enforcement agencies is not able to obtain the punishment of the guilty person and compensation for the harm caused. As a result of the Commissioner's appeal to the prosecutor's office in 2019, 241 unjustified decisions to refuse to institute criminal proceedings were canceled.[1]

References

- (1) Annual Report 2019 of the High Commissioner for Human Rights in the Russian Federation. http://ombudsmanrf.org/upload/files/docs/lib/doc2019_fin_compressed.pdf P.197

Media pluralism

It is clear that journalists today urgently need additional protection by the state and the law. This is evidenced by cases of obstruction of journalistic activities both in Russia and abroad.

At the legislative level, it seems necessary to consider the possibility of endowing the media representatives conducting journalistic investigations with procedural immunity. This measure could increase the security guarantees for the press and strengthen the right to freedom of thought and speech laid down by the Constitution of the Russian Federation.

International principles for protecting journalists also need a system reboot. Ethical standards, technically existing at the international level under the auspices of various

organizations, are not actually enforceable today, since they do not imply liability for their violation. According to the Commissioner, international organizations should pay increased attention to this problem, monitor offenses against journalists over the past few years and, taking into account the analysis of the data obtained, develop new mechanisms for protecting media employees in the line of professional duty.

Today we expect more active action from the international community and would like them to respond with appropriate decisions.

On September 7, 2019 the editor-in-chief of RIA Novosti Ukraine news agency Vyshinsky returned to Moscow from jail in Ukraine. This was made possible, among other things, by joint efforts of the Russian Human Rights Commissioner and the Ukrainian Parliament Commissioner for Human Rights.[1]

The problem of protecting the rights of journalists in the framework of their professional activities remains relevant for Russia as well.

The Commissioner received an appeal about the criminal prosecution of Russian journalist Ivan Golunov, accused of drug trafficking. After the appeal of the Commissioner, an inspection was carried out and the case against the journalist was dismissed.[2]

References

- (1) http://rapsinews.com/judicial_news/20190909/303693321.html;
http://eng.ombudsmanrf.org/events/news/news_of_the_commissioner/view/meeting_of_russia_n_and_ukraine_ombudswomen
- (2) <https://ria.ru/20200123/1563782390.html>

In-focus section on COVID-19 measures

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law in the country

Restrictive measures inevitably affected the work of public authorities providing services to the population and complicated the lives of citizens. In this regard, the compensation and recovery measures that were introduced by the Russian state for citizens and organisations (interest-free loans, monthly benefits for citizens who have lost their jobs, families with children, etc.) played a major positive role for the observance of the rule of law during the

pandemic. However, the need for assistance from the Commissioner was very high. From March 27 to June 4, 2020, the Commissioner's Help Line received 1,857 requests from citizens asking for help in the difficult life situation in which they found themselves during the pandemic.

The applicants reported that they had difficulty applying to the territorial employment centers for registration as unemployed. Citizens could not fulfill the requirements for the provision of the necessary documents, noted the incorrect operation of online services, and also found it impossible to find a job again in case of loss of job in compliance with restrictive measures. In this regard, the Commissioner sent appeals to the leadership of the Federal Service for Labor and Employment with a request to take measures to overcome this situation.

Based on the analysis of complaints regarding unemployment status, the Ombudsman also asked the Minister of Labor and Social Protection of the Russian Federation to consider the adoption of additional measures to ensure the availability of federal social support for citizens who have lost their jobs and to improve the procedure for its provision by institutions providing employment services.

In most cases, officials quickly and skillfully took corrective measures. In connection with the peculiarities of work in remote regions of the country, problems arose associated with the organisation of necessary conditions for the implementation of restrictive measures.

It is necessary to note cases when citizens working on a rotational basis due to quarantine were not evacuated in a timely manner. They complained that the employer did not provide them with the necessary protective equipment and medical supplies.

In order to resolve this situation, the Commissioner promptly appealed to the Chairman of the Government of the Russian Federation, the Chairman of the Management Board of PJSC Gazprom and the Plenipotentiary of the President of the Russian Federation in the Far Eastern Federal District with a request to take measures to evacuate shift workers from this territory of the field, to introduce quarantine and provide the shift workers with the necessary protection and medical preparations. As a result, the situation was resolved, people were provided with protective equipment and delivered to their places of permanent residence.[1]

The Commissioner, in cooperation with her foreign ombudsman colleagues, resolved the situation that arose in connection with the introduction of restrictive measures in different

states, which affected the procedure for crossing state borders. In April 2020, the Commissioner appealed to the Ombudsman of Azerbaijan with a request to assist in organizing the return to the territory of Azerbaijan of several hundred citizens of the Republic of Azerbaijan who had accumulated on the Russian-Azerbaijani section of the border due to the closure of the crossing from the Azerbaijani side. As a result of the joint actions of the two national human rights institutions, more than 200 Azerbaijani citizens were able to return to their homeland. In addition, thanks to the initiative of two ombudsmen, the authorities of Russia and Azerbaijan organized the return to the country of citizenship of 12 citizens of the Republic of Azerbaijan who were in temporary detention centers for foreign citizens on the territory of the Russian Federation until decisions on administrative expulsion and deportation were executed.

The Commissioner, together with the Ministry of Foreign Affairs of the Russian Federation, participated in resolving the issue of the departure of Russian citizens from abroad. As a result of these actions, it was possible to assist in the return of Russian citizens from Thailand, Tanzania, the United Arab Emirates, South Africa, India and the United States. As a result, several thousand people were returned.[2]

A special area of work of the Commissioner during a pandemic was the protection of the rights of persons in prison and other vulnerable categories of citizens. In this regard, the Commissioner appealed to the Prosecutor General of the Russian Federation with proposals to reconsider approaches to the formation of the position of representatives of the prosecution authorities involved in the consideration by the courts of applications of the investigating authorities for the selection (extension) of a preventive measure in the form of detention for the accused (suspected) of non-violent crimes of small and medium severity, as well as minors, people with disabilities, women, people of retirement age, and in each case, evaluate it in accordance with the primary task of ensuring the human rights to life and health[3].

References

- (1) <https://59.ru/text/world/69241204/>
- (2) http://ombudsmanrf.org/news/novosti_upolnomochennogo/view/dejatelnost_upolnomochennogo_po_pravam_cheloveka_v_period_pandemii

Most important challenges due to COVID-19 for the NHRI's functioning

The outbreak of the novel coronavirus (COVID-19) pandemic at the beginning of 2020 had a significant impact on all spheres of social, political and economic life in the Russian Federation and on the activities of the Russian national human rights institution.

The actors of the Russian human rights system have been obliged to take extraordinary steps to handle the challenges under the conditions of a regime of self-isolation and temporary restrictions on a suspension of work of enterprises taken by the Government of the Russian Federation and the authorities of the constituent entities of the Russian Federation to counter the spread of the disease, as well as extraordinary governmental measures taken to support citizens and businesses financially, adopted to mitigate the social and economic shortcomings resulting from the imposed restrictive measures.

In particular, the High Commissioner for Human Rights in the Russian Federation, in cooperation with the regional human rights commissioners (who are often members of the regional headquarters to combat COVID-19) organized joint work on the prompt processing of citizens' complaints and the resolution of local crises related to coronavirus outbreak.

Since March 27, 2020 the Office of the High Commissioner has been operating a day-and-night telephone helpline. To ensure even more efficient dealing with citizens' complaints there has been established an online chat-room where the staff lawyers are able to process urgent petitions and immediately apply to the relevant authorities to take necessary actions to restore citizens' rights. If necessary, we still hold face-to-face interviews with applicants though in the video-conferencing format. The applicants are provided with legal consultations, assistance and advise whether in written or on a phone.

The realities of the restrictive measures have not interrupted the international cooperation. Thus, we regularly hold bilateral online meetings with foreign counterparts while in 29th April 2020 there was held a video-conference meeting of the Eurasian Ombudsman Alliance (EOA) with participation of the heads and representatives of 10 national human rights institutions of the Eurasian area.

Moreover, regular meetings with human rights commissioners in the constituent entities of the Russian Federation are held via videoconference (an online meeting of the Council of Commissioners for Human Rights in Russia was held on 29 April 2020).

On April 17, 2020, in connection with the applications lodged to the Russian Federal human rights institution, the High Commissioner for Human Rights in the Russian Federation inspected the Pre-trial Detention Centre №2 of the Russian Federation in Moscow.

The experience and results of the human rights protection work of the Russian national human rights institution under the conditions of the pandemic will be summarized in the High Commissioner's thematic report.

