

HUMAN RIGHTS WATCH

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May 7, 2008

Mr. Frank-Walter Steinmeier
Minister for Foreign Affairs
Federal Republic of Germany
Auswärtiges Amt
Werderscher Markt 1, 10117 Berlin

Dear Minister Steinmeier,

Human Rights Watch would like to take the opportunity of your upcoming visit to Russia to urge you to raise two priority human rights concerns: Russia's implementation of European Court of Human Rights judgments on abuses in Chechnya and Russian government curbs on independent civil society activism.

European Court of Human Rights and Chechnya

In 26 judgments to date, the European Court of Human Rights has found Russia responsible for serious human rights violations in Chechnya and for failing to conduct effective investigations into abuses committed by government officials. Under the European Convention on Human Rights, Russia is legally obligated to implement individual and general measures to rectify the violations impugned by the court and to prevent further abuses, and thus potential additional applications to the court. In a number of cases not related to Chechnya, Russia has honored this obligation. But in cases regarding abuses in Chechnya, Russia has not undertaken meaningful changes in policy and practice that will put an end to continuing abuses.

As a result, the same abuses continue in Chechnya and have spread to other parts of the North Caucasus, especially Ingushetia, where Human Rights watch recently documented executions, disappearances, and torture, as well as harassment of and violence against peaceful protestors. In the absence of proper investigations and prosecutions for these crimes, cases continue to flow to the court.

Russia's failure to implement European Court judgments not only violates Russia's legal obligations, but raises concerns similar to those identified by Chancellor Merkel in her April 15 speech at the Council of Europe in which she urged Russia to ratify Protocol 14 to the European Convention. Reforms envisioned under Protocol 14 would allow the court to act more efficiently and cope with the large backlog of applications. In her speech, Chancellor Merkel noted that reforms to the European Court are "vital for the

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credibility of the entire system of human rights protection in Europe.”

Effective implementation of European Court judgments are equally important as Protocol 14 reforms for the continued successful functioning of the court. Member states’ commitment to implement European Court judgments has served as the foundation for the court’s integrity and efficacy for more than 50 years of the court’s existence. Refusal to implement European Court judgments risks undermining Europe’s primary mechanism for ensuring states uphold human rights.

Furthermore, full implementation of European Court judgments would also contribute to a reduction in the number of applications sent to the court, one of the central aims of Protocol 14 as well. Some 20 percent of European Court applications now come from Russia. For these reasons, we urge Germany to prioritize Russia’s implementation of European Court of Human Rights judgments together with ratification of Protocol 14 as crucial to guaranteeing human rights protection in Russia and the continued effective functioning of the European Court.

As a concrete first step towards Russia’s implementation of European Court judgments, Germany should urge Russia to immediately conduct meaningful investigations to identify and prosecute the perpetrators of the violations identified by the European Court in the Chechnya cases, particularly those in which the court has identified senior officers to be responsible for human rights abuses. Russia should also:

- Undertake a thorough review and revision of domestic legislation and regulations regarding the use of force by military or security forces to ensure their compliance with human rights law;
- Conduct an in-depth inquiry into the conduct of investigations into abuses committed by Russian military servicemen, police and intelligence officials, and other forces in the Chechen Republic and in the republic of Ingushetia to establish why these investigations are so ineffective;
- Undertake an investigation to determine by what means secret detention has been allowed to occur routinely and on a large scale in Chechnya.

We hope that while in Russia you will urge the Russian leadership to adopt individual and general measures to fully implement European Court of Human Rights rulings regarding Chechnya.

State Curbs on Independent Civil Society

Two years after the Russian NGO law’s adoption the impact it has had, together with implementing regulations and a host of other administrative measures, is being used to harass organizations that work on controversial issues, who may be capable of galvanizing public dissent, or that receive foreign funding. This harassment is an unmistakable part of the Russian government’s reforms that have weakened—in some cases beyond recognition—the checks and balances needed for an accountable government.

The NGO law subjects NGOs to a level of government scrutiny, interference, and punitive measures that violate Council of Europe standards and principles established in European Court of Human Rights case law on freedom of association. Accounts of unreasonable bureaucratic hurdles encountered by organizations described above

continue to mount. Hope of reform of the law and its provisions has been dashed down by recent efforts to harshen the law, and public pronouncements by the Federal Registration Service (FRS), the Federal Security Service (FSB), and other officials warning NGOs of increased future scrutiny.

The law grants state officials excessive powers to interfere in the founding and operation of NGOs. For example, the Federal Registration Service may reject registration applications or notifications of organizational and operational changes, such as it repeatedly did with the Tyumen-based Rainbow House, whose advocacy for the rights of lesbian, gay, bisexual, and transgendered people, the FRS found to undermine the "sovereignty and territorial integrity of the Russian Federation." Recently released FRS statistics, which show that more than 11,000 NGOs were denied registration in 2007 and that more than 30 percent of applications were denied in some regions, only hint at the challenges NGOs face in registering and operating in Russia.

The 2006 law and implementing regulations impose onerous reporting requirements on NGOs, especially relating to any foreign sources of funding. One regional Registration Service official, following an unsubstantiated claim by the head of the FSB that unspecified foreign-funded NGOs are helping to recruit terrorists in Russia, recently warned that all NGOs which have received foreign funding will be audited by the Registration Service in 2008.

The law allows state officials to conduct intrusive, "planned" inspections of NGOs every two years, and "unplanned" inspections in response to complaints by citizens or requests from state agencies. Organizations can, in effect, be under permanent inspection, and can face spurious charges of non-cooperation with an inspection if they are anything but docile.

The 2006 law has a punitive dimension. The FRS may issue warnings to NGOs for a wide variety of, in many cases, minor violations. FRS petitions for the dissolution of an organization that has received as few as two warnings regarding the same violation have been consistently greeted favorably in legal proceedings. The Vladimir -based Organization of Refugees and Forced Migrants "Sodeystvie" was recently liquidated for not submitting yearly reports in a case marked by procedural irregularities and arbitrary legal interpretations. What is more, the FRS has ominously warned that liquidation suits will be brought against all organizations that do not submit the required yearly report.

The NGO law is not the only tool wielded by the authorities against civil society organizations. Organizations that are working on particularly controversial subjects have been targeted for harassing tax inspections, inspections for fire code or labor code compliance, and police raids, and some have faced politically motivated criminal charges.

In some instances the harassment is orchestrated at the local, regional, and national levels. The European University, a Saint Petersburg university which was to train Russian elections monitors and conduct research as part of an EU grant, was recently audited by the Federal Registration Service, the fire safety authorities, and the local science committee. It was recently shut down for several months because of fire safety violations, despite successive clean audits.

While it is true that Russia still has a large and active civil society, organizations that are most critical and that would be most likely to challenge government policy spend enormous amounts of time and money preparing for and coping with inspections, challenging warnings and dissolutions in court, and fighting other kinds of administrative interference.

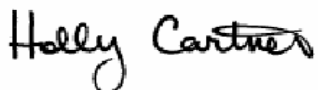
The combined corrosive effects of these laws, regulations, and their implementation on civil society cannot be understated. We ask that Germany take every opportunity to raise concerns about the shrinking space for Russia's independent civil society with Moscow, and push Moscow to amend the laws, rules, and regulations which are being used to stifle civil society activity.

The Russian government responded only partially to Council of Europe experts' concerns that the law violated Council of Europe standards for best practices for the regulation of NGOs as well as the European Convention on Human Rights. Yet members of the Russian parliament and other government leaders made misleading public statements suggesting, incorrectly, that the law as adopted reflected Council of Europe concerns and was not substantially different from its counterparts in European states.

We ask that during your visit to Russia you convey that several of the NGO law's provisions and their implementation clearly violate international human rights standards and are more restrictive than NGO regulatory practices in Europe despite Moscow's statements to the contrary. We ask that you urge the Russian leadership to amend the law to bring it into line with European standards. An attached note outlines some of the law's most restrictive provisions that should be amended.

We thank you for your attention to the concerns raised in this letter and wish you a productive trip.

Sincerely,



Holly Cartner
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