

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	779
Land:	Rusland
Kilde:	Independent Human Rights Project 'Political Prisoners Support
Titel:	Memorial' og Memorial Human Rights Defence Centre. Joint Submission to the UN Human Rights Council's Universal Periodic Review Working Group in relation to the situation with the situation of political prisoners
Udgivet:	5. april 2023
Optaget på baggrundsmaterialet:	9. februar 2024

Submission to the UN Human Rights Council's Universal Periodic Review Working Group on its fourth review of the Russian Federation in relation to the situation with the situation of political prisoners in the Russian Federation

Overview

1. This submission is prepared jointly by [Independent Human Rights Project "Political Prisoners Support. Memorial"](#) and [Memorial Human Rights Defence Centre](#).
2. Up until 5 April 2022 Independent Human Rights Project "Political Prisoners Support. Memorial" was part of Memorial Human Rights Centre (Memorial HRC), one of the oldest human rights organizations in Russia founded in 1991, as "Support for political reasons and other victims of politically motivated repressions" programme. Memorial HRC was a non-profit organization committed to promoting universal respect and observance of human rights and fundamental freedoms, both in the Russian Federation and other states, with a particular focus on the most serious and prevalent human rights violations. On 29 December 2021, Memorial HRC was dissolved by the Moscow City Court for failing to label its publications with the 'foreign agent' label. On 5 April 2022, the judgment became final.
3. After Memorial HRC's dissolution, with the approval of its Board, the Programme's team started operating as an independent human rights project named 'Political Prisoners Support. Memorial'. The project builds on the existing materials of the Programme and retains the same approaches and methods of work. Decisions on recognising persecuted individuals as political prisoners, which were previously made by the Board of Memorial HRC, are now made by an expert council comprising both some former members of the Memorial HRC Board and other prominent Russian human rights defenders.
4. Memorial Human Rights Defence Centre was established in June 2022 by supporters of the dissolved Memorial Human Rights Centre with the aim of protecting and promoting human rights in Russia, including the rights of political prisoners and members of vulnerable groups.

Methodology

5. The definition of "political prisoner" used in this report is based on [PACE Resolution 1900 \(2012\)](#). Political prisoners are classified into two categories.

6. The first category includes individuals who are persecuted solely for exercising their civil or political rights, their nationality, religion, beliefs and opinions. These individuals are who Amnesty International refers to as prisoners of conscience.
7. The second category includes those who are prosecuted with substantial violations of the law or in an apparently selective manner, and with a political motivation.
8. The concept of 'deprivation of liberty' includes detention in correctional institutions or psychiatric hospitals upon conviction, pretrial detention or house arrest pending trial.
9. Those who have used violence against individuals or have called for violence based on race, religion, ethnicity, or other similar grounds are not included in the list of political prisoners. The International Guidelines on the Definition of Political Prisoner provide the full grounds for classification as a political prisoner.
10. The lists of political prisoners compiled by Human Rights Project "Political Prisoners Support. Memorial" are implicitly not exhaustive, as they only include individuals whose case-files have been analyzed and assessed against the established criteria. However, many cases that appear to be politically motivated, such as espionage, treason, and terrorism cases, cannot be analyzed due to being classified. Moreover, for obvious ground, the lists of political prisoners do not include those whose prosecution is politically motivated but who are not deprived of their freedom.
11. The list of political prisoners compiled by Human Rights Project "Political Prisoners Support. Memorial" consists of two parts: the list of "general" political prisoners and the list of those persecuted in relation to the exercise of freedom of religion and belief. The reason for that is the fact that those prosecuted for exercising their freedom of religion and belief are mainly members of Hizb-ut-Tahrir and Jehovah's Witnesses, and the criminal cases against them are similar in nature, relating to their membership or alleged membership in these organizations. Thus, dividing the list into two sub-categories gives an indication of the scope of both "general political" and "religious" repression.

General Information on the situation of political prisoners in the Russian Federation

12. As of 1 September 2018, the "general" list of political prisoners contained 46 individuals, while the list of those persecuted for exercising freedom of religion and belief included 137 individuals, resulting in a total of 183 people.

13. As of 5 April 2023, the "general" list of political prisoners has grown to 141 individuals, and the list of those persecuted for exercising their freedom of religion and belief has increased to 410 individuals, making a total of 558 people.
14. In less than five years, the minimum reliable estimated number of both "general" and "religious" political prisoners in Russia has tripled.
15. The number of political prisoners in Russia has been increasing since 2010 when the "Support for political reasons and other victims of politically motivated repressions" had been established. However, before Russia's full-scale invasion of Ukraine, the bulk of the increase was due to the "religious" political prisoners. However, since February 24, 2022, there has been an explosive growth in the number of people on the "general" subsection of the list.

Specific categories of political prisoners in Russia

16. The following subsections do not provide an exhaustive list of all individuals who have been deprived of their freedom for political reasons in Russia, but rather highlight the most notable patterns of politically motivated persecution. It is worth noting that some individuals included in the "general" list of political prisoners have been prosecuted in regard with the exercise of several rights guaranteed by the ICCPR and other international human rights instruments.

Political prisoners deprived of their freedom due to exercising the right to freedom of expression

17. In 2018, the Russian Federation received numerous recommendations to align its legislation and law enforcement practices with international standards on freedom of expression. These included suggestions to review anti-extremist legislation, repeal the so-called Yarovaya package of counter-terrorism legislation, and release individuals who were imprisoned in regard with their statements regarding the status of Crimea.
18. None of these recommendations have been implemented, and instead, the Russian Federation has substantially tightened legislation and law enforcement practices that restrict freedom of expression. The adoption of two articles of the Criminal Code criminalising anti-war speech marks the culmination of these restrictions. Article 207.3 (*"Public dissemination of deliberately false information about the use of the Armed Forces of the Russian Federation, the exercise of powers by state agencies of the Russian Federation, or of assistance provided to the Armed Forces of the Russian Federation by volunteer formations, organizations or individuals,"* which provides for a punishment of up to 15 years of imprisonment) criminalizes statements of fact about actions of the Russian army

or so-called "private military companies" that are not officially confirmed by the state authorities of the Russian Federation. Article 280.3 ("Repeated public actions aimed at discrediting the Armed Forces of the Russian Federation, *the exercise of powers by state agencies of the Russian Federation, or of assistance provided to the Armed Forces of the Russian Federation by volunteer formations, organizations or individuals,*" which carries a penalty of up to 5 years in prison) criminalizes statements expressing anti-war views.

19. The Russian authorities also use traditional tools of political repression, such as "hooliganism" (Article 213 of the Criminal Code), "incitement of hatred or enmity as well as humiliation of human dignity" (Article 282 of the Criminal Code) and others, to persecute participants in the anti-war movement. Thus, poets Nikolai Daineko, Artyom Kamardin, and Yegor Shtovba are being prosecuted under Article 282, para. 2, subpara. "a" ("Humiliation of the dignity of a social group by the threat of violence using the Internet") and Article 280.4, para. 3 of the Criminal Code ("Public calls for activities against state security committed by an organized group") for reciting anti-war poetry. Igor Maltsev was convicted under Article 213, para. 2) of the Criminal Code ("Hooliganism motivated by political and ideological hatred by a group of persons in prior collusion") for burning a straw man in a military uniform.
20. As of 5 April 2023, no less than 48 people are being imprisoned in connection with their anti-war speeches.
21. In addition, 27 other individuals are being deprived of their freedom for exercising their right to freedom of expression. Of particular concern are the cases where Article 205.2 of the Criminal Code ("Public calls to terrorist activities, public justification of terrorism or propaganda of terrorism") has been unjustly applied, which accounts for 15 cases, as well as Article 280 ("Public calls for extremist activity") and Article 282 ("Incitement of social, racial, national, or religious hatred"). Furthermore, local authorities at the regional level have used a range of general criminal articles to prosecute journalists and bloggers who criticize them.
22. The cases of Ivan Safronov and Vladimir Kara-Murza warrant special attention. Ivan Safronov, a former journalist for the newspaper Kommersant, was convicted of high treason (Article 275 of the Criminal Code) and sentenced to 22 years in prison for his analytical work with open-source data. Vladimir Kara-Murza has been accused of publicly disseminating false information about the Russian army, participating in the activities of an undesirable organization, and committing high treason in relation to his public speeches.

Political prisoners deprived of their freedom due to exercising the right to freedom of peaceful assembly

23. In 2018, Russia received numerous recommendations to align its legislation and law enforcement practices on freedom of peaceful assembly with international standards, but failed to do so. Furthermore, every significant peaceful protest since then resulted in criminal charges being brought against its participants and/or organizers, often resulting in imprisonment.
24. As of April 5th, 2023, 14 individuals have been deprived of their liberty in relation to their exercise of the right to freedom of peaceful assembly
25. One of the most important cases in this category is the 'Ingush opposition case', launched in 2019 in response to the protests against the agreement on the change of Ingushetia's administrative border with the Chechen Republic. Seven persons identified as having a particular public influence in Ingushetia were declared to constitute an 'organised group for preparing or committing crimes of an extremist nature' and thus charged with and convicted of establishing an extremist organization or participating in one (Article 282.1, paras. 1 и 2, of the Criminal Code), as well as of organizing of life-threatening violence against policemen (Article 318, para. 2, of the Criminal Code) despite the fact that it was them who stopped the escalation of the violence during the protest. Two of them were also found guilty of leading or participating in a non-profit organization that encouraged citizens to refuse to perform civic duties or commit other unlawful acts (Article 239, paras. 2 and 3 of the Criminal Code).
26. It is important to highlight the case of Vadim Khairullin, who was convicted deprived of his freedom under Article 212.1 of the Criminal Code ("Repeated violation of the established procedure for organizing or holding a meeting, rally, demonstration, procession or picketing"), i.e. for participating in peaceful assemblies without any violent or disruptive behavior.

Political prisoners deprived of their freedom due to exercising the right to freedom of association

27. In 2018, the Russian Federation received 10 recommendations urging legislative and law enforcement reforms to ensure that they are in line with international standards on freedom of association. However, changes in this area have been particularly negative. Among other developments, criminal penalties for participating in or organizing activities of an "undesirable organization" and for failing to comply with the obligations of "foreign agents" have been increased.
28. Currently, 32 individuals are imprisoned in Russia in connection with the exercise of their right to freedom of association.
29. In addition to the previously mentioned 'Ingush opposition case', which involved prosecution for exercising the rights to freedom of peaceful assembly and association, the cases against Alexey Navalnyy and his supporters are

particularly noteworthy.

30. Alexey Navalnyy is currently charged with or has been convicted under 10 articles of the criminal code for engaging in lawful political activity. Two former coordinators of regional offices of Alexey Navalnyy's political structures, namely Liliya Chanyшева and Vadim Ostanin, are currently deprived of liberty for their participation in associations established by Navalny. Effectively, anyone who has participated in these associations or even mentioned them on social media is today at risk of criminal prosecution and imprisonment.
31. Two individuals, namely Vladimir Kara-Murza (mentioned above) and Andrey Pivovarov, are currently deprived of their freedom with regard to participation in the activities of undesirable organizations (Article 284.1 of the Criminal Code). However, due to the significant increase in the number of undesirable organizations (from 15 as of August 24, 2018, to 80 as of April 5, 2023), the risk of prosecution of human rights defenders, journalists, and civic activists under this Article has become unreasonably high.

Political prisoners deprived of their freedom due to exercising the right to freedom of religion or belief

Hizb-ut-Tahrir members

32. In 2018, the Russian Federation did not receive any recommendations specifically addressing the persecution of members of Hizb ut-Tahrir al-Islami, but it did receive four recommendations calling for the protection of the right to freedom of religion.
33. The persecution of members and alleged members of Hizb ut-Tahrir al-Islami (hereinafter referred to as "HT") is based on a [judgment](#) by the Supreme Court of the Russian Federation of February 14, 2003, in which this organization was recognized as a terrorist one. However, neither this decision nor the criminal case-files against HT members investigated in Russia and the Commonwealth of Independent States contain specific facts indicating any terrorist or violent activity by the organization.
34. The judgment of the Supreme Court only dedicates three sentences to HT's activities. The first sentence declares the group's goal to create a global Islamic caliphate. The second sentence notes the group's conduct of massive Islamist propaganda, and the third sentence mentions the prohibition of its activities in Uzbekistan and some Arab countries. These statements alone cannot be considered sufficient grounds for recognising an organization as a terrorist one. Therefore, we believe that the Supreme Court's decision to recognise HT as a terrorist organization is unlawful. Consequently, it is also unlawful to impute

terrorism charges based solely on a person's membership of HT.

35. Although HT's program provisions are largely incompatible with the values of democracy and human rights, and discrimination based on religion and gender is entrenched in the structure of the Caliphate proposed by HT, its activities are legal in democratic North American and Western European countries, with the exception of Germany, there are no criminal cases solely for membership in the organization. Germany's ban on its activities is related to anti-Semitic publications and statements.
36. The charges against HT members who are included in the list of political prisoners are related solely to their membership in HT (reading HT literature, attending HT meetings), and not to any violent, let alone terrorist, activity. The sentences for the above activities range from 10 years to life imprisonment."
37. According to our data, as of February 23, 2023, there are at least 334 individuals facing prosecution for their involvement with Hizb ut-Tahrir al-Islami. Of these:
 - 253 have been convicted, with 115 receiving sentences ranging from 10 to 15 years, and 107 receiving sentences of 15 years or more;
 - at least 53 individuals are currently being investigated or tried in court; and a further;
 - 27 are wanted by the authorities;
 - the status of one person is unclear as we have no information on their whereabouts.
38. The persecution of HT members and alleged members residing in Crimea deserves particular attention. Apart from the general illegality of such persecution (as HT activity in Ukraine is not prohibited), the persecution of HT members and alleged members in Crimea is clearly aimed at suppressing Crimean Tatars, their civic activism, and solidarity.

Jehovah's Witnesses

39. The persecution of Jehovah's Witnesses in Russia stems from a judgement by the Russian Supreme Court on April 20, 2017, which declared 395 Russian organizations of Jehovah's Witnesses to be extremist. Despite receiving four recommendations in 2018 urging it to cease persecution of Jehovah's Witnesses, Russia has not implemented these recommendations.
40. According to our data, as of April 3, 2023, at least 707 Jehovah's Witnesses have been persecuted.
41. At least 129 Jehovah's Witnesses are currently in detention.

- 85 of them have been sentenced to actual terms of imprisonment.
 - 44 are in pre-trial detention awaiting sentencing.
 - at least 10 are under house arrest awaiting sentencing.
42. Most Jehovah's Witnesses are charged under Article 282.2, para. 1, of the Criminal Code ("Organization of activities of a religious organization in respect of which a decision has been taken to liquidate in connection with the carrying out of extremist activities", up to 10 years' imprisonment). Some are also charged under para. 2 of the same article ("Participation in the activities of a religious organization in respect of which a decision has been taken to liquidate in connection with the carrying out of extremist activities", up to 6 years' imprisonment) and of article 282.2, para. 1.1 ("Incitement, recruitment or other initiation of a person into the activities of an extremist organization", up to eight years' imprisonment). In addition, some cases involve charges under Article 150, para. 4 of the Criminal Code ("Involvement of a minor in a criminal group", with a maximum sentence of 8 years' imprisonment). Furthermore, in addition to art. 282.2, para. 1, of the Criminal Code, cases are also being prosecuted under art. 282.3 para. 1 of the Criminal Code ("Financing of extremist activities", up to 8 years' imprisonment).

Recommendations to the Russian Federation:

1. Release all individuals deprived of their freedom on political grounds;
2. Repeal Articles 280.3 and 207.3 of the Criminal Code, which criminalize anti-war speech;
3. Repeal Article 212.1 of the Criminal Code, which criminalizes participation in peaceful assemblies;
4. Repeal Article 330.1 of the Criminal Code, which criminalizes failure to perform the duties of a "foreign agent," and Article 284.1, which criminalizes participation in the activities of an "undesirable organization," as well as the rest of the "foreign agents" and "undesirable organizations" legislation;
5. Ensure that anti-terrorism and anti-extremism laws are narrowly interpreted in practice and are not used to prosecute individuals peacefully practicing their religion or those lawfully engaging in political activities;
6. Ensure that the legislation restricting freedom of expression is predictable, and its application meets the proportionality requirement;
7. Ensure that Article 275 of the Criminal Code (treason) is interpreted in a way that the collection and analysis of open data is not prosecuted.