



RUSSIA: HARASSMENT OF STANISLAV DMITRIEVSKY CONTINUES

28 August 2007

ARTICLE 19, the Global Campaign for Free Expression, is extremely concerned at the new measures taken against human rights activist Stanislav Dmitrievsky.

On 17 August 2007, the Nizhni Novgorod District Court decided to approve a motion by the Regional Department of the Implementation of Criminal Sentences to increase the sentence handed down against Stanislav Dmitrievsky in February 2006. He was then sentenced to a two years' suspended prison term for 'inciting hatred and enmity on the basis of ethnicity and religion' under Article 282 of the Criminal Code. Mr Dmitrievsky's conviction was based on the publication of articles written by Chechen separatist leaders in 2004, which were non-violent and merely called for the peaceful resolution of the conflict. The new decision means that if Mr Dmitrievsky, in the course of his four-year probation, commits two administrative offences in the same year, the suspended sentence can be replaced by a two-years prison sentence.

In this case problematic recent amendments to Russia's extremism legislation were applied.¹ The amendments expanded the definition of extremism to include 'hatred or hostility towards any social group' without giving a definition of 'social group' and made the offence punishable with imprisonment of up to five years.

In early July, Mr Dmitrievsky asked the Department of the Implementation of Criminal Sentences for a copy of the motion, so he could appeal it, but the Department refused to provide it. Due to late notification, Mr Dmitrievsky had only two days to prepare for the hearing.

A complaint on Mr Dmitrievsky's conviction has already been submitted to the European Court of Human Rights.

¹ The amendments were included in the Law 'on Changes to Several Legal Acts of the Russian Federation to Enhance the Counteracting of Extremist Activities', adopted in July 2007. This law amended the Law 'on Counteracting Extremist Activity', the Administrative Code, the Criminal Code and the Law 'on Surveillance'. The Law 'on Counteracting Extremist Activity' was also amended in mid-2006. See ARTICLE 19, "Proposed amendments to Russian extremism law", July 2006, <http://www.article19.org/pdfs/press/russia-extremism-law.pdf>.

ARTICLE 19's Comments

ARTICLE 19 considers Mr Dmitrievsky's February 2006 conviction to be a violation of the internationally protected right of freedom of expression. While States are permitted to take measures through criminal law against hate speech, a clear distinction should be drawn between speech that genuinely incites to discrimination, hostility or violence, and statements which are rather intended to contribute to a debate about conflicts, their causes and solutions.

International standards permit restrictions to freedom of expression on the grounds of national security only in cases in which an act is intended to incite violence and where there is a direct and immediate link between the act and the likelihood or occurrence of violence. The Russian Law 'on Counteracting Extremist Activity', outlawing activities that *might* lead to extremist activity, fail to meet this standard.

In the Dmitrievsky case there have also been serious procedural irregularities, calling the fairness of the trial into question, as the defendant was given a mere two days to prepare for the hearing. He was also not given the opportunity to appeal the motion.

ARTICLE 19 therefore calls upon the Russian authorities to:

- reverse the decision on the motion to toughen the sentence against Mr Dmitrievsky;
- amend extremism legislation, to ensure that it restricts only statements that are intended to incite violence and where there is a direct and immediate link between the statement and the likelihood or occurrence of violence;
- take measures to create the conditions for media pluralism in Russia, including the free expression of opinions and information on the situation in Chechnya which may be critical of the authorities.

Background Information

Mr Dmitrievsky was one of the organisers of the Dissenters' March that was held in April 2007 in Nizhni Novgorod. Similar marches were organised in Moscow and St. Petersburg and all were severely repressed by the Russian authorities. Mr Dmitrievsky was briefly detained following the march; he was fined and received a court warning not to organise similar activities.

He has also headed the organisations Russian-Chechen Friendship Society (RCFS), which was closed by decision of a court in Nizhny Novgorod in 13 October 2006; the decision was upheld by the Supreme Court on 23 January.² Before its closure, RCFS was a well-respected NGO, which monitored the human rights situation in Chechnya and other republics in the North Caucasus and, through its Russian-Chechen Information Agency, disseminated news from the region, including allegations of 'disappearances', torture and killing of civilians by the Russian army. RCFS has also campaigned for an end to the conflict. The organisation has now been registered in Helsinki.

² The main reason for this was that the 2006 NGO Law prohibits a person with a criminal record from heading an NGO. Under this law, Stanislav Dmitrievsky should have stepped down as director.

ARTICLE 19 has repeatedly witnessed abuses of Article 282 of the Criminal Code and extremism legislation as a means to illegitimately silence dissenting voices rather than to respond to genuine cases of incitement to hatred or violence.³ Meanwhile, the Russian authorities have virtually banned all voices criticising Russian policy and law enforcement measures in Chechnya, ensuring that the official line is the only one to which the Russian public may be exposed. This undercuts full public debate on the conflict, which is an essential building-block in conflict resolution.

³ For more on this, see the ARTICLE 19 report, *Art, Religion and Hatred. Religious Intolerance in Russia and its Effects on Art*, <http://www.article19.org/pdfs/publications/russia-art-religion-and-hatred.pdf>.