



## ARTICLE 19'S STATEMENT

### ON THE CONVICTION OF RUSSIAN NEWSPAPER EDITOR

#### BORIS STOMAKHIN

**23 November 2006**

ARTICLE 19, the Global Campaign for Free Expression, is greatly concerned at the sentencing of Boris Stomakhin, editor of Moscow-based monthly *Radikalnaya Politika*, to five years' imprisonment for incitement to ethnic hatred. His conviction came as a response to Mr Stomakhin's coverage of the conflict in Chechnya.

According to our information, Boris Stomakhin has long been highly critical of Russia's actions in Chechnya. Among other things, he has contributed opinion articles to the Kavkaz Center website, an Islamic Internet agency covering events in Chechnya and promoting Chechen independence. He has called the presence of Russian troops in Chechnya an 'occupation' and compared President Vladimir Putin to Saddam Hussein and Slobodan Milosevic.

Stomakhin was first accused of inciting hatred in *Radikalnaya Politika* in 2003, in relation to his reports on the Chechen conflict. A criminal case was filed against him in December 2003. His home was raided in April 2004 and his property, including computers and books, were confiscated. Stomakhin was questioned in April 2004, and later fled to Ukraine seeking political asylum, which was not granted. Having returned to Moscow, he was arrested on 21 March 2006, following an attempt to escape which caused him to fall from the fourth floor of a building, in an incident that injured his spinal cord.

The Butyrsky Court in Moscow found Mr Stomakhin guilty of incitement as, among other things he "... approved of the terrorists' actions, which were aimed at destroying the Russian people as a race."

Although ARTICLE 19 appreciates that the comments on President Putin may have caused offence, we do not believe Mr Stomakhin's comments can be interpreted as

incitement to ethnic hatred. We are also greatly concerned that this case will further undermine media freedom in Russia, particularly in regard to reports of the Chechen conflict.

We are concerned that the Moscow court has failed to take into account long-established international standards on freedom of expression. International law attaches great importance to the expression of political criticism, even that which is stridently worded. The European Court of Human Rights has often emphasised that the right to freedom of expression does not only guarantee the protection of ideas and information that are favourably received but also of “those which offend, shock or disturb the State or any other sector of the population ... such are the demands of pluralism, tolerance and broadmindedness without which there is no ‘democratic society’”.<sup>1</sup>

While States are permitted to take measures under their criminal law against incitement to hatred, a clear distinction should be drawn between speech that truly incites to discrimination, hostility or violence, and speech that does not. Statements that are strongly critical of government actions, or that merely sympathise with or even attempt to justify acts of violence cannot be prosecuted unless they truly incite to violence. Mr Stomakhin’s statements clearly do not constitute incitement.

This case has implications for the entire journalistic community, and it is a clear warning to those in the journalistic community who do not espouse the official line, particularly in regard to Chechnya. It continues a pattern of intimidation six weeks after the murder of Anna Politkovskaya, another journalist who was strongly critical of Russia’s actions in Chechnya.

The Chechen conflict is an issue of the greatest public interest both in Russia and internationally. Despite this, for years the Russian authorities have hindered free and open debate on events in Chechnya, including by holding media representatives responsible for encouraging extremist activities. For example, in 2004 Stanislav Dmitriyevsky, director of the Russia-Chechen Friendship Society (RCFS), was sentenced to a two-year suspended prison sentence for publishing comments from rebel Chechen leaders, despite the fact that the comments called for a peaceful resolution of the conflict. In addition, a judgement to close RCFS, which provides independent news on Chechnya, was handed down in October 2006.

ARTICLE 19 therefore calls upon the Russian government to:

- immediately pardon Mr Stomakhin;
- create the conditions for pluralistic expression on all issues, including on the Chechen conflict, and discontinue attempts to control information on politically-sensitive issues;
- ensure that journalists are able to operate free from intimidation or other interference from public authorities.

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<sup>1</sup> *Handyside v. the United Kingdom*, 7 December 1976, Application No. 5493/72 (European Court of Human Rights), para. 49.

