



Автономная некоммерческая организация «Юристы за конституционные права и свободы»

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### STATEMENT

- 1) Libel should be decriminalized in all countries of OSCE region. In any case, imposition of both civil and criminal sanctions on the same person for the same publication should be avoided as a double penalty for the same action.

Recent cases in Russia reveal a troubling tendency to impose both civil and criminal sanctions on journalists, activists and politicians for critical remarks about heads of regional administrations. Thus, in 2010 Oleg Orlov, a known human rights activist and a member of *Memorial* non-governmental organization, lost a defamation case, initiated against him and *Memorial* by President of Chechnya Ramzan Kadyrov, and was obliged to pay compensation for injury to dignity and honor of 20,000 Roubles. NGO “Memorial” had to pay 50,000 Roubles. Soon after that a criminal libel case was initiated against Oleg Orlov for the same publication. Next hearing is scheduled for December 16, 2010.

On November 16-17, 2010 a criminal libel trial took place in Tula. The defendant Vladimir Timakov, a journalist and a deputy of Tula City legislature, in his interview to Tula edition of “Moskovsky Komsomolets” newspaper and Internet-portal “Tula news” made critical comments about the activities of Tula Governor, saying that as a manager the Governor deserved a good mark, but level of corruption during his term in office had increased. The newspaper stated, that Governor deserved “Good” mark for performance of his functions and “Excellent” for corruption. Vladimir Timakov firstly lost the defamation suit, initiated against him by the Governor, with an obligation to pay 1,000,000 Roubles for injury to Governor’s dignity and honor, and later, in November 2010, was charged with criminal libel, which allegedly contained in his statement.

Such practice de facto punishes twice for the same offense, and is used by public officials to silence critical remarks.

- 2) Broad interpretation of anti-extremist provisions by the law enforcement and courts should be avoided, and their application to freedom of expression cases, where there is no direct call for violence, should be excluded.

Today, anti-extremist legislation in Russia is often used to curb free expression of journalists, bloggers, artists, political opposition members and human rights activist.

For instance, official Warning of the prosecutors' office was issued to the Novorossiysk Human Rights Committee and its Executive Director Tamara Karasteleva about inadmissibility of extremist activities, which law enforcement bodies and courts found in display of the slogan "Freedom is not to be given, freedom must be taken", used at the picket of regional authorities in 2009. The Warning was issued on the grounds, that experts had found this slogan as calling for disobedience and unlawful conduct. The extremist character of the slogan was later confirmed by judicial decisions of a district court and Krasnodar Krai Court.

- 3) Prosecution for the expression of unpopular or anti-clerical views under the pre-text that they may receive unfriendly response from a certain part of the society or hurt a group of people with opposite views must be avoided. Hate speech legislation and anti-extremist legislation should not be used to prosecute for artistic freedoms.

On October 4, 2010 Yuri Samodurov and Andrey Erofejev were found guilty in criminal proceedings for the incitement to hatred on religious grounds, which consisted in organization of "Forbidden Art" exhibition in Sakharov Center in Moscow, where allegedly blasphemous paintings and installations were on display.

- 4) The Participating States are recommended to fix on the legislative level, that public officials should not have legal standing to sue for defamation, when they are criticized in press for bad performance of their duties. In no case public officials may enjoy higher level of protection in defamation cases, than private persons.

In Russia, courts in the last years awarded compensation for moral damages to former Moscow Mayor Yuri Luzhkov in his lawsuits against politicians and journalists in the average amount of 500,000 Roubles per case, while the average amount of compensation in defamation cases initiated by private persons rarely exceeds 50,000 Roubles. Governor of Tula Oblast was awarded 1 mln. Roubles in his lawsuit against journalist and deputy Vladimir Timakov. Such practice illustrates, that public officials enjoy higher protection and their dignity and honor are estimated higher.

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