

IMPLEMENTATION OF THE EU GUIDELINES ON HRDS IN RUSSIA



The EU's human rights policy in Russia has long had to contend with divergent EU member state positions and political considerations related to Russia's perceived strategic and economic importance to Europe. The suspension of the political framework for EU-Russia dialogue following the 2014 annexation of Crimea and the increasingly tense EU-Russia relations characterized by occasional diplomatic and security flare ups, have presented a further obstacle to the EU's HRD policy.

Despite these challenges, the EU has taken some important steps in recent years towards enhancing its support and protection of Russian HRDs. Adopting a more vocal, flexible and at times better coordinated approach, some notable good practices have emerged. Consultation with HRDs has proven particularly important in developing a number of innovative and tailor-made initiatives.

Yet more needs to be done to ensure that such good practices become part of an overall and sustained shift in EU policy. As Russian HRDs face increasing restrictions, a more consistent EU policy that systematizes consultation with HRDs and seeks to enhance the visibility and impact of its actions can provide additional support to HRDs, which may be crucial in overcoming some of the challenges they face.

1.1 BACKGROUND AND MAIN CHALLENGES FACED BY HRDS

Russia saw the emergence of a diverse civil society landscape following the collapse of the Soviet Union. Groups working on human rights became increasingly well-established in the mid-1990s, alongside Russia's broader commitments to uphold human rights.¹ Russia's 1993 constitution guarantees a wide range of human rights, including the right to freedom of association, while the Human Rights Ombudsman (1997) and the Presidential Council for Civil Society and Human Rights (2004) were established to guarantee their protection. Russia is also a party to several regional and international human rights treaties, including the European Convention on Human Rights, as a member of the Council of Europe.

However, during Vladimir Putin's second presidential term (2004-2008), the situation for Russian HRDs gradually deteriorated as the government began tightening its regulatory control over civil society. In 2006, amendments to the NGO Law² enhanced the authorities' powers of scrutiny over the funding and activities of Russian and foreign NGOs.³ This trend accelerated in the wake of Putin's return as president in 2012, following months of anti-government protests regarding suspected electoral fraud. Since then, NGOs, human rights defenders, opposition movements, media outlets and journalists have been targeted and have seen their rights curtailed.

Russia has taken a leading role in the global crackdown on HRDs, combining legislative restrictions against civil society with targeted prosecutions, substantial delegitimization campaigns and a related effort to promote pro-government organizations.⁴ In many ways, Russia's efforts to restrict civil society have had a knock-on effect as other countries went on to adopt similar anti-NGO laws, both in the region and beyond.⁵

Referencing "national security threats by foreign governments", Russia's 2012 Law on Foreign Agents (LFA) compelled Russian NGOs to register as "organizations performing the functions of foreign agents" if they receive foreign funding and engage in what the authorities vaguely define as "political activities".⁶ This law and the accompanying delegitimization campaigns tarnished the image of HRDs and had a chilling effect on civil society organizations in Russia.⁷ Since then, many organizations have been forced to shut down or to stop accepting foreign funding, reducing their activities.

The LFA heralded a series of other legislative restrictions that further eroded the space for civil society between 2012 and 2018. In 2013, the Russian authorities adopted a law that outlaws the "propaganda of homosexuality among minors" and targets the work of LGBTI HRDs by brandishing rhetoric about "traditional values" and "child protection".⁸ The law had a negative effect on LGBTI NGOs' work, limiting their possibilities for constructive dialogue with education and health care professionals and with the authorities. The law also led to censorship and self-censorship in the media and social media based on fear fuelled by the case of an activist who was heavily fined for posting links to LGBTI-related stories on social media.⁹

In 2015, the "undesirable organizations law" empowered the Prosecutor General to ban, without any judicial proceeding, foreign and international organizations deemed "undesirable". This law had a particularly negative impact on donor organizations, forcing many to cease operations in Russia, in turn further limiting the funding opportunities for Russian NGOs.¹⁰ It also bars foreign-registered organizations and is increasingly being used to penalize Russian NGOs and civil society activists. In January 2019, the Russian authorities for the first time expanded the use of this law to open a criminal case against Anastasia Shevchenko, coordinator of the Otkrytaya Rossiya (Open Russia) movement.¹¹ She was charged with "repeated participation in the activities

¹ Civil Rights Defenders, *Never Give Up: Russian Human Rights Defenders keep on swimming under the ice*, March 2018, <https://crd.org/wp-content/uploads/2018/03/never-give-up-human-rights-defenders-keep-swimming-under-the-ice-1.pdf>.

² For English and Russian texts of this legislation, see: International Centre for Not-for-Profit Law, "Russian President Vladimir Putin signs new NGO law", 19 January 2006, <http://www.icnl.org/news/2006/19-Jan.html>.

³ Amnesty International UK, "Russia: Putin must amend NGOs law" (Press release, 6 July 2006), <https://www.amnesty.org.uk/press-releases/russia-putin-must-amend-ngos-law>.

⁴ Carnegie Endowment for International Peace, *Delegitimization and Division in Russia*, 18 May 2017, <https://carnegieendowment.org/2017/05/18/delegitimization-and-division-in-russia-pub-69958>.

⁵ Amnesty International, *Laws Designed to Silence* p. 22; Free Russia Foundation, *Human Rights First, Russia's Bad Example*, February 2016, http://www.humanrightsfirst.org/sites/default/files/Russias_Bad_Example.pdf.

⁶ 2012 Law on Foreign Agents, <https://rg.ru/2012/07/23/nko-dok.html>.

⁷ Amnesty International, *Russia: Agents of the people – four years of 'foreign agents' law in Russia: Consequences for the society* (Index: EUR 46/5147/2016), 18 November 2016, <https://www.amnesty.org/en/documents/eur46/5147/2016/en/>.

⁸ Amnesty International, "Russia's anti-gay 'propaganda law' assault on freedom of expression" (News, 25 January 2013), <https://www.amnesty.org/en/latest/news/2013/01/russia-anti-gay-propaganda-law-assault-on-freedom-expression/>.

⁹ Amnesty International, "Russia: Homophobic legislation used to persecute activist who shared LGBTI articles on Facebook" (News, 18 October 2017), <https://www.amnesty.org/en/latest/news/2017/10/russia-homophobic-legislation-used-to-persecute-activist-who-shared-lgbti-articles-on-facebook/>.

¹⁰ *The Guardian*, "American NGO to withdraw from Russia after being put on 'patriotic stop list'", 22 July 2015,

<https://www.theguardian.com/world/2015/jul/22/american-ngo-macarthur-foundation-withdraw-russia-patriotic-stop-list>.

¹¹ Amnesty International, "Russia: First criminal case under 'undesirable organizations' law marks a new level of repression" (News: 21 January 2019), <https://www.amnesty.org/en/latest/news/2019/01/russia-the-first-criminal-case-under-the-undesirable-organizations-law->

of an undesirable organization”, a criminal offence under Article 284.1 of the Criminal Code. Until then, cooperation with an “undesirable organization” had been punished as an administrative offence.

In late 2017, the Russian authorities introduced amendments to the media law that allowed for the branding of foreign-based media outlets as “foreign agents”.

These repressive measures have been accompanied by the targeted harassment and intimidation of HRDs, including through unfounded criminal prosecutions,¹² arbitrary detentions and unprecedented smear campaigns against NGOs and civil society activists. HRDs continue to be demonized in national and regional media as well as through coordinated social media campaigns. To date, NGO litigation efforts to combat smear campaigns against them have been rejected repeatedly by the courts.¹³

HRDs in Russia also face regular physical attacks¹⁴ and harassment that are rarely, if ever, effectively investigated.¹⁵ This is illustrated by the absence of effective investigation into the 2009 abduction and murder of prominent HRD Natalia Estemirova.¹⁶ Due to this hostile climate, some Russian HRDs have been forced to, at least temporarily, flee their places of residence or the country, such as Nadezhda Kutepova in 2015,¹⁷ Elena Milashyna in 2017¹⁸ and Irina Biriukova in 2018.¹⁹ Nonetheless, the overwhelming majority of HRDs remain in the country and continue to do their work despite the threats they face.



↑ Natalia Estemirova at an Amnesty International staff meeting, at the International Secretariat in London, 31 July 2008. ©Amnesty International

[marks-a-new-level-of-repression/](#).

¹² See, for example, Amnesty International, “Russia: Chechen human rights defender must be released as unfair trial looms” (News, 6 July 2018), <https://www.amnesty.org/en/latest/news/2018/07/russia-chechen-human-rights-defender-must-be-released-as-unfair-trial-looms/>.

¹³ See for example Planeta Nadezhda case, *The Moscow Times*, “Suck it up , Foreign Agent”, 10 March 2017, <https://themoscowtimes.com/articles/suck-it-up-foreign-agent-57397> and International Memorial, “Court comes out with a verdict on Memorial vs. REN TV case”, <https://www.memo.ru/en-us/memorial/departments/international/news/92>.

¹⁴ See, for example, Amnesty International, “Russia: Human rights defender badly beaten in another brutal attack” (News, 28 March 2018), <https://www.amnesty.org/en/latest/news/2018/03/russia-human-rights-defender-badly-beaten-in-another-brutal-attack/>.

¹⁵ See, for example, the cases of Rudomakha (Amnesty International, “Andrey Rudomakha, Sochi”, 8 June 2018, <https://www.amnesty.org/en/latest/campaigns/2018/06/andrey-rudomakha-human-rights-defender-in-russia/>); Benyash (Caucasian Knot, “Defence of Mikhail Benyash claims inaction of investigators”, 23 October 2018, <https://www.eng.kavkaz-uzel.eu/articles/44830/>); and Datsiev (Human Rights Watch, *Russia: Events of 2018*, <https://www.hrw.org/world-report/2019/country-chapters/russia>).

¹⁶ Amnesty International, *Deadly but Preventable Attacks: Killings and Enforced Disappearances of Those who Defend Human Rights* p.32 and 38.

¹⁷ *The Guardian*, “Human rights activist forced to flee Russia following TV ‘witch-hunt’”, 20 October 2015, <https://www.theguardian.com/world/2015/oct/20/russia-activist-flee-nuclear-tv-witch-hunt>.

¹⁸ *The Washington Post*, “She broke the story of Chechnya’s anti-gay purge. Now, she says she has to flee Russia”, 15 April 2017, https://www.washingtonpost.com/news/worldviews/wp/2017/04/15/she-broke-the-story-of-chechnyas-anti-gay-purge-now-she-says-she-has-to-flee-russia/?noredirect=on&utm_term=.661f2c7ea121.

¹⁹ Amnesty International, “Russia: Lawyer covering torture case flees country after threats” (News, 23 July 2018), <https://www.amnesty.org/en/latest/news/2018/07/russia-lawyer-covering-torture-case-flees-country-after-threats/>.

HRDs themselves have said that women HRDs feel more at risk due to their families and children being targeted because of their work. They note that since a large proportion of the Russian human rights community is female, any overall repression of civil society is likely to affect WHRDs disproportionately. Organizations working with any type of minorities – sexual or ethnic – also feel at increased risk; in particular, LGBTI organizations are subject to legal restrictions under both the LFA and the “homosexual propaganda” law and are at increased risk of attacks, harassment, intimidation and discrimination. In the words of one HRD:

No matter what thematic issue an independent NGO is working on, when the NGO's interests cross the interests of the state, this thematic issue will become problematic and might lead to punitive measures.

Beyond serving as an example for other repressive governments, Russia has also taken the lead alongside China in seeking to thwart UN action to promote and protect HRDs, which, it argues, threaten its national sovereignty or undermine “traditional values”. This has included attempts to curtail funding to UN human rights programmes, to block UN discussions on human rights²⁰ and to question the established definition of HRDs as defined in UN resolutions.²¹

Some of these challenges are recognized by EU diplomats, who have expressed concern about the shrinking space for Russian civil society, the situation of LGBTI organizations, journalists’ ability to report freely, declining freedom of religion and disinformation campaigns against HRDs, human rights NGOs and indeed any individuals questioning the actions of the state.

1.2 ASSESSMENT OF ACTION BY THE EU AND EU MEMBER STATES

The establishment of an EU-Russia Partnership and Cooperation Agreement in 1997 and the increasing institutionalization of EU-Russia relations in the early 2000s, offered a promising political framework for cooperation and regular channels of discussion on human rights. The 1997 agreement was based on the principle of respect for democracy and human rights and was later complemented by a series of sectoral dialogues, including a human rights consultation and dialogues on justice, freedom and security.

In 2003, the EU and Russia agreed to reinforce their relations by creating four common spaces of cooperation in the fields of the economy and environment; freedom, security and justice; external security and research; and education and cultural exchange.²² Roadmaps were elaborated to set specific objectives for both parties to enhance their cooperation, while recurring dialogues were established to monitor progress. In 2008, the EU and Russia began negotiations for a new agreement that envisioned the possible establishment of an EU-Russia free trade area and visa-free travel. For the EU, enhancing cooperation on justice, freedom and security was a key component in the development of a strategic partnership with Russia.²³ Channels such as the visa liberalization dialogue, offered the EU further political space to address human rights concerns.

However, the suspension of this framework of cooperation following Russia’s 2014 annexation of Crimea has prevented the EU from using these channels to support and protect HRDs. Since 2014, the EU-Russia relationship has significantly cooled, with the EU introducing sanctions, including asset freezes, visa bans for selected individuals and entities and restrictions on economic exchanges with Crimea and Sevastopol.²⁴ While regular exchanges between the EU and its Russian counterparts continue at different levels, contacts at the highest political level have become less frequent. Standing political dialogues, including the EU-Russia human rights consultations, have been indefinitely suspended. This means the consultations the EU organized with HRDs ahead of these meetings have also been put on hold.

Despite this, the EU has since 2014 progressively adopted a more vocal policy in support of HRDs and has put more emphasis on the situation of HRDs in its relations with Russia.²⁵ In 2010, the EU-Russia political dialogue and human rights consultations (held on a bi-yearly basis between 2005 and 2013) were criticized

²⁰ *Radio Free Europe*, “Russia Blocks UN Meeting On Human Rights In Syria, Prompting Outcry”, 20 March 2018, <https://www.rferl.org/a/russia-blocks-un-meeting-human-rights-syria-prompting-outcry-zeid-/29110593.html>.

²¹ *Foreign Policy*, “At the U.N., China and Russia Score Win in War on Human Rights”, 26 March 2018, <https://foreignpolicy.com/2018/03/26/at-the-u-n-china-and-russia-score-win-in-war-on-human-rights/>.

²² EEAS, *The European Union and the Russian Federation*, 21 November 2017, https://eeas.europa.eu/headquarters/headquarters-homepage/35939/european-union-and-russian-federation_en.

²³ Commission of the European Communities, *A strategy on the external dimension of the area of freedom, security and justice*, 12 December 2005, [http://www.europarl.europa.eu/meetdocs/2004_2009/documents/com/com_com\(2005\)0491/com_com\(2005\)0491_en.pdf](http://www.europarl.europa.eu/meetdocs/2004_2009/documents/com/com_com(2005)0491/com_com(2005)0491_en.pdf).

²⁴ EEAS, *The EU non-recognition policy for Crimea and Sevastopol: Fact Sheet*, 12 December 2017, https://eeas.europa.eu/headquarters/headquarters-homepage/37464/eu-non-recognition-policy-crimea-and-sevastopol-fact-sheet_en.

²⁵ For trends in EU public stances on HRDs in Russia, see “Public action” section in Chapter 6.3 below.

by NGOs as a “mere diplomatic exercise” that was not used effectively to raise concern about HRDs.²⁶ This illustrates that while structured dialogue can be an important channel through which to raise human rights concerns, it is not the only tool available to the EU, nor is the mere fact of holding a dialogue a guarantee that it will be used effectively in support of HRDs.

Today, the EU Guidelines on HRDs appear to enjoy a significant degree of political support and ownership within the EU institutions, and in 2017 and 2018 were reinforced by clear commitments to further strengthen the capacity of Russian civil society and HRDs. Increasing support to civil society and HRDs is considered a key component not only of the EU’s human rights policy,²⁷ but also of its broader political approach towards Russia. This is reflected in the EU’s five guiding principles on EU-Russia relations,²⁸ adopted in March 2016. One of the five principles is the EU’s commitment to promote people-to-people contacts and increase its support to Russian civil society. This explicitly includes human rights defenders, as was underlined following the April 2018 Foreign Affairs Council.²⁹

In recent years, the EU’s HRD policy in Russia has come to combine financial assistance efforts with more public political support for HRDs. This is reflected in the claims by the EU and its member states to raise the situation of individual HRDs through: high-level exchanges (sometimes reflected in accompanying public messages); strong and more regular public statements in support of HRDs; the more frequent and comprehensive trial observation activities; and the occasional engagement of officials with HRDs during high-level visits. Where the EU’s engagement has been consistent, high-level and well-coordinated between the EU and key EU member states, these efforts have had a direct impact on individual HRDs.



 ↑ Valentina Cherevatenko, the founder and chair of the Russian NGO Women of the Don Union. @Amnesty International

²⁶ International Federation for Human Rights (FIDH), *Assessment of the EU-Russia Human Rights Consultations: “A good and constructive atmosphere” and 8 human rights defenders assassinated*, October 2010, <https://www.fidh.org/IMG/pdf/assessment.pdf> and Human Rights Watch, *EU-Russia Human Rights Consultations Human Rights Watch Recommendations - March 2008*, 7 May 2008, <https://www.hrw.org/news/2008/05/07/eu-russia-human-rights-consultations>.

²⁷ EEAS, *EU Annual Report on Human Rights and Democracy in the World 2017*, https://eeas.europa.eu/sites/eeas/files/human_rights_report.pdf.

²⁸ “Remarks by HR/VP Federica Mogherini at the press conference following the Foreign Affairs Council”, 14 March 2016, https://eeas.europa.eu/headquarters/headquarters-homepage/5490/remarks-by-high-representativevice-president-federica-mogherini-at-the-press-conference-following-the-foreign-affairs-council_en.

²⁹ “Remarks by HR/VP Federica Mogherini at the press conference following the Foreign Affairs Council”, 16 April 2018, https://eeas.europa.eu/headquarters/headquarters-homepage/42996/remarks-hrvp-mogherini-press-conference-following-foreign-affairs-council_en.

One example is the EU's engagement in the case of Valentina Cherevatenko, the first head of an NGO to be criminally prosecuted for allegedly violating the LFA. When the charges against her were dropped in 2017, it was widely attributed to the international attention her case received. Particularly important was the fact that EU statements³⁰ and efforts by the EU ambassador to raise her case with the Russian Foreign Minister were complemented by EU member state actions. These included statements,³¹ trial monitoring, the raising of her case by high-level French and German officials and the Ambassador of Sweden writing to Valentina Cherevatenko to offer help.

The longstanding divergences in member state positioning on Russia have not prevented the EU from mobilizing the different tools at its disposal in pursuit of an effective HRD policy. Indeed, the complexity of EU structures allows for a degree of flexibility. For example, a lack of local statements by the EU delegation in Moscow has been compensated by statements by the spokesperson of the HR/VP in support of HRDs, which have, in some cases, been replicated by key EU member states.

Nonetheless, discord continues to hinder the EU from mobilizing all foreign policy instruments at its disposal to support HRDs, including local statements and Foreign Affairs Council conclusions. This lack of unity weakens the EU's efforts to support HRDs and undermines the consistency of its messaging at different levels of policy-making.

According to EU officials, some important steps have been taken to tailor the EU's support to the specific realities and challenges faced by Russian HRDs. As is the case in other countries, the EU has developed country-specific HRD guidelines that seek to guide the EU and its member states' actions towards Russian HRDs and that have been endorsed both at local level and at Council of the EU Working Party level.³² Although non-public, EU dialogue with civil society actors has facilitated the identification of the challenges these guidelines are supposed to overcome.

Consultation with relevant stakeholders has also contributed to the development of a few other innovative initiatives and approaches to supporting HRDs. These have included the elaboration of non-public EU guidelines that, according to diplomats, aim to streamline and facilitate the provision of visas for Russian HRDs.

A separate but also potentially innovative initiative is the EU's decision to establish a Russian-language website which, according to some diplomats, can be used to counter misinformation and smear campaigns against Russian HRDs. If used effectively for this purpose, it could offer an important tool to promote positive narratives regarding the work of HRDs and to respond to their increasing demonization in Russian media.

While recent improvements in the EU's policy towards Russian HRDs offer a good basis to build on, more remains to be done to ensure that good practices become part of a sustained and systematic policy shift. Indeed, although public messaging on HRDs has become more frequent, inconsistencies remain in the strength and level at which it is adopted and the individual cases that are addressed. EU statements are primarily reactive rather than preventive, often failing to offer protection to HRDs facing imminent threats and only occasionally replicated by EU member states at national level.

Moreover, there remains much scope to improve the visibility and impact of EU actions, be it through the more active dissemination of statements or by ensuring that trial observation efforts and meetings with HRDs reach the media and the general public. While engagement with HRDs has proven important, the EU's consultation of HRDs is not systematic, particularly outside of large urban centres, and HRDs' expertise is rarely drawn upon ahead of EU meetings with Russian officials. Indeed, EU dialogue with Russian officials remains opaque and is only occasionally complemented by clear public messaging on HRDs.

Finally, against the backdrop of Russia's increasingly assertive efforts to roll back international human rights standards, as recently seen at UN and other multilateral fora, the EU and like-minded partners will need to step up their defence of the international human rights framework. Bolstering support to HRDs and civil society space will be an important component of such efforts. However, these steps will need to fall within a broader, consistent and long-term strategy that is not conditional on favourable geopolitical considerations. The EU's

³⁰ EU statements were made both by the spokesperson of the HR/VP – “Statement on the criminal charges brought against Russian human rights defender Valentina Cherevatenko”, 2 June 2017, https://eeas.europa.eu/delegations/russia/27417/statement-criminal-charges-brought-against-russian-human-rights-defender-valentina_en – and by the EU delegation to the OSCE, “EU Statement on Recent Human Rights Developments in the Russian Federation”, 3 June 2016, <https://www.osce.org/pc/252396?download=true>.

³¹ See German Federal Foreign Office, “Russia Coordinator Erler on charges brought against Valentina Cherevatenko”, 3 June 2017, <https://www.auswaertiges-amt.de/de/newsroom/170603-erler-tscherewatenko/290386> and “Human Rights Commissioner concerned at prosecution of Valentina Cherevatenko”, 30 June 2016, <https://www.auswaertiges-amt.de/en/newsroom/news/160630-mrhh-b-tscherewatenko/281830>; the statement by the French Ministry of Foreign Affairs, “Russia – Human rights - Situation of Ms. Cherevatenko”, 6 June 2017, <https://www.diplomatie.gouv.fr/en/country-files/russia/events/article/russia-human-rights-situation-of-ms-cherevatenko-06-06-17>; and the efforts by the French Permanent to the OSCE to further disseminate an EU statement on its website: “Déclaration de l'UE au conseil permanent du 8 juin 2017”, 8 June 2017, <https://osce.delegfrance.org/Declaration-de-l-UE-au-CP-du-8-juin-2017>.

³² Officially known as *Guidelines on Practical Actions by the EU and the member states to support Russian HRDs and civil society*.

unconditional support to Russian HRDs, regardless of future political or economic developments, will therefore be crucial to upholding the credibility of the EU's human rights policy.

1.3 EU EFFORTS TO IMPLEMENT ITS HRD GUIDELINES

CLOSED-DOOR DIPLOMACY

Since the suspension of the EU's standing political dialogue with Russia, bilateral engagement has primarily taken place at heads of state level, with EU member states maintaining more frequent contact. Nonetheless, the HR/VP also has several meetings with the Russian Foreign Minister throughout the year,³³ while EU representatives hold dialogues with other Russian ministers and frequently engage with Russia's Human Rights Ombudsman and the Presidential Council on Human Rights.³⁴ At least once a year, EU ambassadors also meet the Russian Foreign Minister³⁵ and regional governors during visits to the regions.³⁶ While more limited than before 2014, these meetings offer ample opportunities to raise issues concerning HRDs.

In such meetings, the EU claims to systematically raise concern about the shrinking space for civil society and to inquire about individual cases of HRDs. EU and member state diplomats interviewed for this report confirmed their commitment to upholding this policy. However, the nature of closed-door diplomacy makes it difficult to determine the exact level and frequency of such engagement. While a few public statements and other public messaging around meetings with Russian officials confirm that this occurs on some occasions, these have remained relatively rare.³⁷

A positive example of such efforts was the statement by Finland's Foreign Minister who, during a joint press conference, confirmed that he had raised the case of Yuri Dmitriev with Russia's Foreign Minister, Sergey Lavrov, in February 2019.³⁸

On the other hand, during meetings with their Russian counterparts, the EU and in particular its member states, more often communicate publicly on issues related to security cooperation, economic opportunities and social and cultural exchanges.³⁹ The relatively greater attention given to these issues in public communications risks suggesting that they are also more prominently raised in private meetings.

Given that HRDs are rarely consulted ahead of meetings with Russian officials or briefed about their outcome, an important step to increase the transparency of EU actions could be to ensure that meetings are accompanied by statements that raise concerns about HRDs. This could also increase the effectiveness of EU actions as the more successful cases of closed-door diplomacy have often combined a mix of actions, including both private and public efforts.

³³ This includes at least four meetings on 18 February, 24 April, 11 July and 19 September 2017, and at least three meetings on 6 July, 25 September and 6 December 2018.

³⁴ Based on interviews with EU diplomats and public statements. See, for example: "Remarks by HR/VP Mogherini at the joint press conference with Foreign Minister of the Russian Federation Sergey Lavrov", 24 April 2017, https://eeas.europa.eu/delegations/russia/24982/remarks-hrvp-mogherini-joint-press-conference-foreign-minister-russian-federation-sergey_en; Delegation of the EU to Russia, "Duma hearing on Human Rights situation in the EU – Head of the EU Delegation participated in the hearing", 14 May 2012, http://eeas.europa.eu/archives/delegations/russia/press_corner/all_news/news/2012/20120514_en.htm.

³⁵ See press release "Foreign Minister Sergey Lavrov meets EU Ambassador to Russia Markus Ederer", 29 June 2018, <https://russiaeu.ru/en/news/foreign-minister-sergey-lavrov-meets-eu-ambassador-russia-markus-ederer>.

³⁶ Delegation of the EU to Russia, "Meeting with the Governor of Tomsk Region", 16 May 2018, https://eeas.europa.eu/delegations/russia_en/44940/Meeting%20with%20the%20Governor%20of%20Tomsk%20Region.

³⁷ See, for example, "Remarks by High Representative/Vice-President Federica Mogherini following a meeting with Foreign Minister of the Russian Federation, Sergey Lavrov", 11 July 2017, https://eeas.europa.eu/delegations/russia/29710/remarks-high-representativevice-president-federica-mogherini-following-meeting-foreign_en, or the meeting between French President Macron and President Putin in Versailles on 29 May 2017, where President Macron affirmed he had raised concerns about the repression of Russian NGOs with President Putin, <https://www.facebook.com/groups/150412991995455/permalink/521270241576393/> and the full press conference: YouTube, France24 English, 'Putin in France: President Macron and Russian Leader hold press conference', 29 May 2017, https://www.youtube.com/watch?v=VgTE4B_mg7w&fbclid=IwAR2akw8WUaGPOT2QyFAqK6WYzwZ-72xtBjHfCsXabGS4YFvFp1gqz04hlw.

³⁸ Urgent Response Center, Министры иностранных дел России и Финляндии обсудили дело Юрия Дмитриева, <https://www.facebook.com/urgent.response.center/photos/a.314633071988339/2037870899664539/?type=3&theater>; YouTube, Ruptly, 'Lavrov and Finnish counterpart Soini hold joint press statement in Moscow', 12 February 2019, <https://www.youtube.com/watch?v=VwFgek0oaxM>.

³⁹ See, for example, the German embassy's communications around the Ambassador's visit to Krasnodar in April 2019 (https://twitter.com/germania_online/status/1116624424881364992), or the French ambassador's communications around the development of tourism in the North Caucasus in February 2019 (<https://twitter.com/SylvieBermann/status/1097465330685882368>), or the EU's communications around the HR/VP's meeting with Foreign Minister Lavrov in February 2019 ("High Representative/Vice-President Federica Mogherini met with Russian Foreign Minister Sergey Lavrov", 15 February 2019, https://eeas.europa.eu/delegations/ecuador/58229/high-representativevice-president-federica-mogherini-met-russian-foreign-minister-sergey_en).

In Russia, closed-door diplomacy is most effective when it is sustained, takes place at a high level and features coordinated and complementary EU and member state action. The involvement of EU member states is particularly key in this context, given the greater importance the Russian authorities accord to bilateral relations with EU member states.

Nonetheless, further steps can be taken to increase the effectiveness and impact of closed-door interventions, including by enhancing the use of preventive outreach, for example to prevent a physical attack on HRDs facing threats, and by broadening the targets of the EU's closed-door efforts to authorities at all levels. In addition to the Ministry of Foreign Affairs, this could include regional authorities and/or law enforcement bodies who may be able to prevent physical attacks against HRDs and with whom they could inquire about the progress of investigations related to HRDs.

PUBLIC ACTION

Between January 2014 and April 2019, at least 40 official EU statements⁴⁰ addressing the situation of HRDs and/or the clampdown on NGOs in Russia were issued by the HR/VP, her spokesperson or by the EU delegation to the UN HRC in Geneva. The EU issued between five and 10 statements annually through these channels.

By contrast to other countries analysed in this report, there is also a large body of EU statements issued at regional fora such as the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe. Between January 2014 and April 2019, the EU delegations to the OSCE in Vienna and the Council of Europe in Strasbourg issued a total of at least 54 statements addressing the situation of HRDs and/or the clampdown on NGOs in Russia. Taking these into account, the total number of EU statements issued between January 2014 and April 2019 increases to at least 94 statements, with between 12 and 27 statements published annually.

Overall, there was a rise in the number of EU statements addressing the situation of HRDs and/or the clampdown on NGOs in Russia between 2014 and 2018,⁴¹ despite the suspension of structured dialogues in 2014 and increasingly tense EU-Russia relations during this period.⁴² Between 2016 and April 2019, there was also an increase in the proportion of statements that adopted strong language in support of HRDs.⁴³

EU statements have predominantly been used to express concern about restrictive legislative developments and the broader crackdown on NGOs in Russia. Nonetheless, at least 37 of the 94 statements issued since 2014 focus on or refer to the situation of individual HRDs. This practice of naming HRDs in statements has become more common since 2016.⁴⁴

⁴⁰ These figures relate only to official EU statements and therefore do not take into account other forms of public communications by the EU, such as speeches by the HR/VP at the European Parliament (of which at least two address HRDs or civil society in Russia, see for example [speech of 17 April 2018](#) and [12 March 2019](#)), Foreign Affairs Council Conclusions (while none were issued on Russia during the reporting period, the EU does address HRDs and the right to freedom of association in Russia in its *Council Conclusions on the EU's priorities at UN human rights fora*, see [conclusions of 18 February 2019](#) and [26 February 2018](#)), or other EU communication on social media. Moreover, these figures do not take into account other EU statements that address the broader human rights situation in Russia such as the crackdown on demonstrations and LGBTI persons, but do not specifically refer to HRDs or the clampdown on NGOs.

The EU also issued several statements on Russia's imprisonment of Ukrainian citizens, including critics and human rights defenders from Russian-occupied and illegally annexed Crimea. This includes at least eight statements and declarations by the HR/VP or her spokesperson related to HRDs and issued between January 2014 and April 2019, including statements delivered at the Council of Europe's Committee of Ministers. However, given the politically specific nature of these cases and that according to international law Crimea remains part of Ukraine, such statements are not included in this report's count of EU statements on HRDs in Russia.

This report's count of EU statements is based on statements that were published and readily available on the EEAS and/or EU delegation websites at the time of writing. While more statements may have been delivered orally in specific settings such as the Council of Europe, all statements that remain unpublished are neither visible nor accessible to HRDs and states, and thus could not be counted for the purposes of this report.

⁴¹ The total number of statements addressing HRDs and/or the clampdown on NGOs in Russia issued by the HR/VP, her spokesperson or by the EU delegations to the UN HRC, the OSCE or the Council of Europe has evolved as follows over the years: 12 in 2014, 15 in 2015, 15 in 2016, 20 in 2017, 27 in 2018 and five by end of April 2019.

⁴² These dialogues, particularly the EU-Russia human rights consultations, provided the EU with a further platform to voice concerns about HRDs through the statements that accompanied the dialogues. Nonetheless, their suspension in 2014 did not lead to an overall reduction in EU statements on HRDs.

⁴³ Strong language was defined based on the following criteria: Does a statement address individual HRDs? When appropriate, does it call for the release of HRDs, for charges to be dropped or for attention to due process concerns? Does it celebrate the importance of civil society or the work of HRDs? Does it make explicit calls on the Russian authorities, for example to abandon a specific practice or law? The percentage of statements relating to civil society and HRDs that include such language has steadily increased over the years as follows: 27% in 2016, 35% in 2017 and 54% in 2018.

⁴⁴ The number of statements addressing individual HRDs which were issued by the HR/VP, her spokesperson or by the EU delegations to the UN HRC, the OSCE or the Council of Europe has evolved as follows over the years: three in 2014, two in 2015, four in 2016, six in 2017, 17 in 2018 and five by end of April 2019. The increase in 2018 and 2019 is partially explained by the EU's sustained and vocal attention to the case of Oyub Titiev and his colleagues at Memorial.

In cases where HRDs face prosecution, these statements are often made before the court has issued a sentence⁴⁵ and, at times, also highlight the shortcomings of the judicial proceedings HRDs face. Of 25 statements specifically relating to HRDs facing prosecution and/or detention and issued by the HR/VP, her spokesperson or the EU delegations to the HRC, the OSCE and the Council of Europe since 2014:

- 14 statements called on the authorities to release and/or drop charges against HRDs; and
- 11 statements questioned the legitimacy of the charges against HRDs and/or raised due process concerns.

More generally, the EU has used statements to express concern about the broader context in which HRDs operate, support their work and promote an enabling environment for civil society in Russia. Of the 94 EU statements issued by the HR/VP, her spokesperson or the EU delegations to the HRC, OSCE and the Council of Europe since 2014:

- 51 expressed concern about restrictive legislation against NGOs. These included 34 with explicit calls varying from 23 urging the authorities to live up to or align their legislation with Russia's international commitments, three urging the authorities not to implement legislation, seven calling on the authorities to abandon, suspend or reconsider the practice of stigmatizing or branding NGOs as foreign agents, two calling on the authorities to remove restrictions on civil society and one calling on the authorities to remove a specific NGO from the list of undesirable organizations.
- 28 celebrated civil society and the work of HRDs. These included statements announcing human rights prizes, marking anniversaries and describing the work of HRDs and civil society as "courageous", "legitimate", "peaceful", "widely appreciated", "invaluable" and "to the benefit of Russian society".
- 33 addressed cases of violence or threats against HRDs. These included 16 calling for the perpetrators to be brought to justice, four calling on the authorities to condemn threats and/or violence against HRDs and six reminding the authorities of their responsibility to protect HRDs.

Beyond official statements, the EU delegation's official Twitter (@EUinRussia) and Facebook accounts have also been used to communicate about EU activities and issue statements in support of HRDs. This has included tweeting to publicize EU trial observation,⁴⁶ to call for the release of imprisoned HRDs⁴⁷ and to publicize meetings with HRDs or visits to human rights organizations.⁴⁸

In the absence of local EU statements, the EU delegation's Twitter account offers an important way to communicate the EU's human rights concerns. This, together with the use of spokesperson statements, helps the EU to ensure that possible discord among member states and the need for unanimity does not paralyse its HRD policy in Russia.

These efforts have been reinforced when EU messages are echoed by EU member states,⁴⁹ including high-level EU member state representatives. This was notably the case of the German Human Rights Commissioner, who, in January 2019, replicated an EU statement a year after the detention of Oyub Titiev;⁵⁰ of the Swedish Foreign Minister, who, in January 2018, called for the rights of Oyub Titiev to be respected;⁵¹ and of the UK Minister for Europe, who, in January 2018, echoed the EU's concerns following Oyub Titiev's arrest.⁵²

The EU's public response to the detention and sentencing of Oyub Titiev is particularly noteworthy. In March 2019, shortly after Oyub Titiev's sentencing, the spokesperson of the HR/VP issued a strongly worded statement that called for his immediate and unconditional release. It also mentioned that the evidence against

⁴⁵ See, for example, "OSCE Permanent Council: EU Statement on the Rule of Law and Human Rights Defenders in the Russian Federation", 10 July 2018,

https://eeas.europa.eu/delegations/russia_ga/48194/OSCE%20Permanent%20Council:%20EU%20Statement%20on%20the%20Rule%20of%20Law%20and%20Human%20Rights%20Defenders%20in%20the%20Russian%20Federation.

⁴⁶ See, for example, trial observation on the case of the NGO Man and Law, @EUinRussia, 13 August 2018, Twitter,

<https://twitter.com/EUinRussia/status/1029041475752022017>; trial observation in the case of Memorial, 9 August 2018,

<https://twitter.com/EUinRussia/status/1027572814612717568> and 13 September 2018,

<https://twitter.com/EUinRussia/status/1040255500171071489>.

⁴⁷ See, for example: @EUinRussia call for the release of Lev Ponomarev, 10 December 2018, Twitter,

<https://twitter.com/EUinRussia/status/1072049565065510913>.

⁴⁸ See: @EUinRussia, 2 April 2019, Twitter, <https://twitter.com/EUinRussia/status/1113107157195636736>.

⁴⁹ See the joint German-French statement following the award of the Franco-German prize to Oyub Titiev, "Statement by Foreign Ministers Maas and Le Drian on the award of the Franco-German prize in 2018", 21 November 2018, <https://www.auswaertiges-amt.de/en/newsroom/news/franco-german-prize-for-human-rights/2162932>.

⁵⁰ German Federal Foreign Office, "Human Rights Commissioner Kofler on the detention of Oyub Titiev", 10 January 2019,

<https://www.auswaertiges-amt.de/en/newsroom/news/kofler-titjew/2176662>.

⁵¹ @margotwallstrom, 11 January 2018, Twitter, <https://twitter.com/margotwallstrom/status/951442913069805568>.

⁵² UK Foreign and Commonwealth Office, "Minister for Europe's statement on human rights in Russia following the arrest of Oyub Titiev", 18 January 2018, <https://www.gov.uk/government/news/minister-for-europe-statement-on-human-rights-in-russia>.

him appeared to have been fabricated, and underlined that the EU considered his trial to have been unfair.⁵³ This statement was replicated at various levels of policymaking, including by the German Human Rights Commissioner,⁵⁴ the EU delegation's Russian language Twitter⁵⁵ and Facebook accounts,⁵⁶ the Twitter accounts of the German,⁵⁷ French,⁵⁸ Lithuanian⁵⁹ and UK⁶⁰ foreign affairs ministries, as well as that of the Dutch Human Rights Ambassador.⁶¹ All these factors contributed to the statement being widely covered in both English and Russian language media.⁶²

As the cases of Oyub Titiev and Valentina Cherevatenko illustrate, when EU public action is consistent, high-level and well-coordinated between different levels of policy making, it can have a direct impact on the situation of individual HRDs. The value of public action was confirmed by HRDs and diplomats alike. As one HRD stated:

Public reaction [raises] the price for the Russian authorities to continue doing what they are doing, as... it carries reputational damage, necessity to explain themselves and necessity to provide some grounds for why it is happening.

While the above-mentioned figures illustrate that the EU has been vocal in expressing its support for HRDs in Russia, they also reveal that some of these good practices are not yet systematically applied across all statements and communications. For example, EU statements are not used as frequently as they could be to celebrate the work of HRDs (28 of 94 statements). Given the stigmatization campaigns Russian HRDs face, EU statements that offer a positive counter-narrative and underline the importance of their work are particularly important. This can be done by referencing the reports and findings of local NGOs in order to reinforce their credibility⁶³ or through interviews and op-eds in Russian-speaking media that highlight their contribution through personal stories. Despite the EU delegation's regular communications with Russian media, such interviews are rarely used to communicate about the situation of HRDs.⁶⁴

One positive example was the interview given by Sweden's Foreign Minister, Margot Wallström, following a meeting of the Barents Euro-Arctic Council in October 2017. She criticized the LFA as an obstacle to EU-Russia cooperation and highlighted the valuable work of local NGOs she had met on the margins of the meeting.⁶⁵

Further inconsistencies exist with regard to the level at which EU statements are adopted. Of the 94 statements recorded since January 2014, the EU issued:

- 51 from the EU delegation to the OSCE;
- 22 from the spokesperson of the HR/VP, including statements delivered at the Council of Europe's Committee of Ministers;
- 15 from the EU delegation to the UN HRC;

⁵³ EEAS, "Statement by the Spokesperson on the sentencing of Oyub Titiev, Director of the Memorial Human Rights Centre, Russian Federation", 18 March 2019, https://eeas.europa.eu/delegations/russia/59819/statement-spokesperson-sentencing-oyub-titiev-director-memorial-human-rights-centre-russian_en.

⁵⁴ German Federal Foreign Office, "Human Rights Commissioner Kofler on the conviction of Oyub Titiev", 18 March 2019, <https://www.auswaertiges-amt.de/en/newsroom/news/kofler-oyub-titiev/2200452>.

⁵⁵ @EUinRussia, 18 March 2019, Twitter, <https://twitter.com/EUinRussia/status/1107914677957394432>.

⁵⁶ European Union in Russia Facebook profile, 19 March 2019, <https://www.facebook.com/EUinRussia/photos/a.10150323106535652/10161590689480652/?type=3&theater>.

⁵⁷ @germania_online, 18 March 2019, Twitter, https://twitter.com/germania_online/status/1107692139029377027.

⁵⁸ @FranceenRussia, 18 March 2019, Twitter, <https://twitter.com/FranceEnRussie/status/1107879328455581697>.

⁵⁹ @LithuaniaMFA, 18 March 2019, Twitter, <https://twitter.com/LithuaniaMFA/status/1107705340622188544>.

⁶⁰ @Jeremy_Hunt, 19 March 2019, Twitter, https://twitter.com/Jeremy_Hunt/status/1108005809546543104.

⁶¹ @MarietS, 19 March 2019, <https://twitter.com/MarietS/status/1107972851909443584>.

⁶² See, for example: Znak, 19 March 2019, https://www.znak.com/2019-03-19/evrosoyuz_potreboval_nemedlenno_i_bezogovorochno_osvobodit_oyuba_titieva; Meduza, 18 March 2019, <https://meduza.io/news/2019/03/18/evrosoyuz-potreboval-nezamedlitelno-i-bezogovorochno-osvobodit-oyuba-titieva>; Svoboda, 19 March 2019, <https://www.svoboda.org/a/29829389.html>; Interfax, 18 March 2019, <https://www.interfax.ru/world/654729>.

⁶³ As the EU has done by referring to reports of international NGOs. See, for example: EEAS, "Statement by the Spokesperson on the persecution, torture and killing of LGBTI persons in Chechnya", 18 January 2019, https://eeas.europa.eu/headquarters/headquarters-homepage/56744/statement-spokesperson-persecution-torture-and-killing-lgbti-persons-chechnya_en.

⁶⁴ See, for example, the interviews given by the Head of the EU delegation: *Govoritmoskva*, 5 April 2017, <https://govoritmoskva.ru/interviews/1691/>; *Caspian Energy Newspaper*, "EU has a substantial interest in unlocking the maritime route between the Southern Caucasus and Central Asia, - EU Ambassador to RF Vygaudas Ušackas", 29 April 2016, <http://caspianenergy.net/en/ambassador-en/33586-eu-has-a-substantial-interest-in-unlocking-the-maritime-route-between-the-southern-caucasus-and-central-asia-eu-ambassador-to-rf-vygaudas-usackas>; and Delegation of the EU to Russia, *Speeches and interviews*, http://eeas.europa.eu/archives/delegations/russia/press_corner/speeches_and_interviews/index_en.htm.

⁶⁵ 7x7 Journal, "Head of Swedish Ministry of Foreign Affairs Margot Wallström: Cooperation with Russia is productive, considering the problems in our relationship", 20 October 2017, <https://7x7-journal.ru/item/99785>.

- Three from the EU delegation to the Council of Europe⁶⁶; and
- Three from the HR/VP in the form of remarks.

While recognizing the specificities of the different levels at which the EU can issue statements and the added value of each of these levels,⁶⁷ it is striking that only three statements were issued by the HR/VP in the form of remarks,⁶⁸ while no official statement was made by the EU delegation to Moscow. This inconsistency likely results from a lack of consensus among EU member states and, although partially compensated for by spokesperson statements and the EU delegation's social media communications in Moscow, this gap undermines the strength and consistency of EU messaging. Taken together with the lack of Foreign Affairs Council Conclusions on Russia, this means that official statements in support of HRDs and civil society are not being made locally and are only rarely made at the highest levels of decision-making. Nonetheless, it is often such statements that are the most likely to have impact and be reported in the local press. Moreover, communications via the EU delegation's Twitter account – while important – have often been descriptive in nature and lacked substantive calls on the authorities.⁶⁹

Depending on the level at which EU statements are issued, there are also some discrepancies in the strength of the language adopted. Indeed, statements issued by the EU delegations to the OSCE or the Council of Europe have often been more explicit in their calls on the authorities than those adopted by the spokesperson of the HR/VP.⁷⁰ Despite the different nature of EU statements depending on the fora at which they are delivered,⁷¹ more could be done to ensure that the strong language adopted by the EU delegations to the OSCE and the Council of Europe is consistently replicated at all levels of policymaking.

It is also important to note that EU communications addressing the situation of individual HRDs have primarily focused on high-profile cases. While it is important to address emblematic cases, more could be done to broaden the range of individual HRDs addressed in EU statements and to ensure that statements are not merely reactive but also preventive when HRDs face imminent risks or have received threats. This is particularly important given the protection public attention can give individual HRDs.

Finally, the EU needs to pay more attention to enhancing the visibility, reach and impact of its public actions, including by consistently translating EU communications into Russian. Since 2014, the EU has translated at least 14 of its 94 official statements referring to the situation of HRDs or civil society. While translation has become more frequent since 2016, more could be done to systematize this practice. This also applies to the EU and its member states' global reports on human rights, which periodically review the human rights situation in Russia but do not publish the country reviews in Russian.

The further dissemination of EU statements or their replication through member states' own statements also remains exceptional, even though it can greatly enhance the impact and visibility of EU statements. Similarly, EU communications via social media are not always as visible or widely disseminated on popular social media as they could be.

TRIAL MONITORING

Trial monitoring activities are carried out by the EU delegation and EU member state embassies and are coordinated by the EU delegation.

⁶⁶ This figure is based on the statements that were published and readily available on the EEAS and/or the EU delegation to the Council of Europe's website at the time of writing, see: Delegation of the EU to the Council of Europe, *Council of Europe Press Material*, https://eeas.europa.eu/delegations/council-europe/search/site_en?f%5B0%5D=sm_specific_content_type%3Aeeas_press%3Aall&f%5B1%5D=im_field_eeas_organisation%3A51 and EEAS, *Archive (Delegation of the EU to the Council of Europe)*, http://eeas.europa.eu/archives/delegations/council_europe/press_corner/all_news/index_en.htm. While more statements may have been delivered, all statements that remain unpublished could not be considered for the purposes of this report.

⁶⁷ For example, statements issued by the EU delegation to the OSCE, the HRC or the Council of Europe are negotiated by all 28 member states and therefore represent the joint position of all EU member states.

⁶⁸ "Remarks by HR/VP Mogherini at the press conference following the Foreign Affairs Council", 16 April 2018, https://eeas.europa.eu/delegations/russia/42996/remarks-hrvp-mogherini-press-conference-following-foreign-affairs-council_en; "Remarks by the High Representative/Vice-President Federica Mogherini following a meeting with Foreign Minister of the Russian Federation, Sergey Lavrov", 11 July 2017, https://eeas.europa.eu/delegations/russia/29710/remarks-high-representativevice-president-federica-mogherini-following-meeting-foreign_en; "Remarks by High Representative/Vice-President Federica Mogherini at the press conference following the Foreign Affairs Council", 14 March 2016, https://eeas.europa.eu/headquarters/headquarters-homepage/5490_en.

⁶⁹ See, for example, @EUinRussia, 13 August 2018, Twitter, <https://twitter.com/EUinRussia/status/1029041475752022017>.

⁷⁰ See, for example, the statement on the charges brought against Valentina Cherevatenko issued by the [EU delegation to the Council of Europe](#) on 14 June 2017 compared to a statement on the same topic issued by the [spokesperson](#) on 2 June 2017. The spokesperson statement does not call for the charges against her to be dropped.

⁷¹ For example, depending on the fora at which a statement is delivered, some statements allow the EU to elaborate its concerns in more detail than others.

Since 2016, the EU has monitored a minimum of between five and seven HRD and/or NGO trials annually⁷² and taken steps to ensure a more comprehensive approach to these activities. This has included steps to ensure more consistent and sustained monitoring of individual cases throughout various stages of their proceedings⁷³ by seeking to establish a system of responsibility sharing among member states in some HRD cases⁷⁴ and by extending trial observation activities beyond large urban centres.

Some EU member states with consulates in the regions have sent their consular staff to trials in these regions, while in other cases EU and member state embassy staff have travelled to attend trials of HRDs in regions including Chechnya, Murmansk and Tambov.

The EU's efforts to monitor Oyub Titiev's hearings have been particularly noteworthy. On 25 June 2018, the Dutch and German embassies sent diplomats to monitor his hearing in Grozny, Chechnya. This was the first time diplomats were sent to the North Caucasus, an effort coordinated by the EU delegation. Since then, there have been at least five trips by diplomats from EU member states and the EU delegation. Representatives of the EU, France and Germany together with other non-EU countries also attended Oyub Titiev's sentencing hearing in March 2019.

This example illustrates the importance of effective responsibility sharing between the EU and its member states as it allows diplomatic services to overcome staff and resource limitations.

Other measures that could be taken to improve the impact of trial observation include more consistently following up on and publicizing these activities through public statements and social media. While on some occasions the EU has issued statements expressing due process concerns following trial monitoring,⁷⁵ these have rarely explicitly referred to the EU's trial monitoring efforts or the irregularities that have been observed. Similarly, while it is positive that the EU has used social media to increase the visibility of its trial observation activities,⁷⁶ this is not yet being done systematically nor has it been used to underline irregularities observed during the proceedings.

One positive example is the statement issued by the EU delegation to the OSCE following the sentencing of Oyub Titiev in March 2019.⁷⁷ In this statement, the EU states that the trial observation of diplomats, among other things, leads the EU to believe that Oyub Titiev did not receive a fair trial. By communicating about its observations, the EU can ensure that it is not lending credibility to flawed proceedings and that its concerns regarding violations of the right to fair trial are substantiated.⁷⁸ This is all the more important given that officials in Russia have pointed to the presence of international diplomats to legitimize proceedings, as the spokesperson of Ramzan Kadyrov attempted to do during Oyub Titiev's trial.⁷⁹

In the first four months of 2019, the EU's trial monitoring efforts have focused primarily on the case of Oyub Titiev. Though an important case, it is crucial that EU trial observation efforts do not benefit solely high-profile cases. Indeed, there are several emblematic cases of HRDs that, according to Amnesty International's findings, have not been monitored by the EU or its member states in 2019.⁸⁰ To ensure the most effective allocation of

⁷² Amnesty International is aware of the following trial observation activities by the EU and/or member states: 2019: 1 HRD (Oyub Titiev); 2018: 6 HRDs/NGOs (Oyub Titiev, Ali Feruz, Svetlana Gannushkina, Oleg Orlov, the NGO Man and Law, Ponomarev); 2017: 5 HRDs/NGOs (Ali Feruz, SOVA Centre, Memorial, Tatiana Kotlyar, Ildar Dadin); 2016: 7 HRDs/NGOs (Sergei Alekseenko, Levada Center, Memorial, Yekaterina Vologzheninova, Sakharov Center, Planeta Nadezhd, Valentina Cherevatenko). In addition, Amnesty International is aware of EU efforts to monitor trials of Ukrainian citizens and HRDs detained in Russia, including that of Emir Kuku in 2018.

⁷³ In particular, seeking to attend hearings throughout the proceedings, rather than one-off appearances. See, for example, the case of Oyub Titiev.

⁷⁴ Primarily in the case of Oyub Titiev.

⁷⁵ See, for example: EEAS, "Statement on the cases of Russian human rights defenders Oyub Titiev and Yuri Dmitriev", 27 June 2018, https://eeas.europa.eu/headquarters/headquarters-homepage/47471/statement-cases-russian-human-rights-defenders-oyub-titiev-and-yuri-dmitriev_en.

⁷⁶ See, for example: Trial observation on the case of the NGO Man and Law, 13 August 2018, <https://twitter.com/EUinRussia/status/1029041475752022017>; trial observation in the case of Memorial, 9 August 2018, <https://twitter.com/EUinRussia/status/1027572814612717568> and 13 September 2018, <https://twitter.com/EUinRussia/status/1040255500171071489>.

⁷⁷ Delegation of the EU to the OSCE, "OSCE Permanent Council No. 1221, EU statement on the sentencing of Mr Oyub Titiev of Memorial Human Rights Centre in the Russian Federation", 28 March 2019, https://eeas.europa.eu/sites/eeas/files/pc_no_1221_eu_statement_on_the_sentencing_of_mr_oyub_titiev_of_memorial_human_rights_centre.pdf.

⁷⁸ For example, following Oyub Titiev's sentence hearing in March 2019, the spokesperson of Ramzan Kadyrov claimed that the EU's concerns about Oyub Titiev's trial "were based on emotions and had no real ground". In such a context, reference to the EU's trial observation activities helps to substantiate concerns. See *Rambler*, "Власти Чечни отреагировали на призыв ЕС «немедленно освободить» Титиева", 19 March 2019, <https://news.rambler.ru/other/41891836-vlasti-chechni-otreagirovali-na-prizyv-es-nemedlenno-osvobodit-titieva/>.

⁷⁹ In February 2019, the spokesperson of Ramzan Kadyrov stated that "[a]t each court hearing on the" Titiyev case "there is a Russian and foreign press, diplomats, and experts with a lot of judicial practice and well-known lawyers." He argued that this pointed to the objective nature of the proceedings. See *Tass*, "Пресс-секретарь Кадырова прокомментировал резолюцию Европарламента", 14 February 2019, <https://tass.ru/obschestvo/6118331>.

⁸⁰ These include the cases of Mikhail Benyash, Igor Kochetkov, Anastasia Shevchenko and Tatiana Kotlyar.

the EU's limited staff and resource capacity, the EU and its member states should elaborate a list of priority cases for trial monitoring, as has been done in other countries analysed in this report.

ENGAGEMENT WITH HRDS

In its HRD Guidelines, the EU has committed to consult HRDs, a practice that is crucial to developing and enhancing the effectiveness of its actions in support of HRDs. Indeed, on some occasions the EU has taken advantage of its engagement with civil society to help tailor its support to the specific needs of Russian HRDs. This has included when it developed and revised its Russia-specific HRD guidelines, which seek to guide the EU and member state actions towards HRDs in the country.

Consulting HRDs and NGOs before undertaking actions on their behalf is also crucial to ensuring that EU action is consented to, effectively tailored and takes into account possible benefits and drawbacks of the action. A positive example was the EU's decision to consult Amnesty International before issuing a statement on the temporary closure of its office in 2016.⁸¹

In the absence of a structured dialogue, the EU should also consult HRDs ahead of its meetings with Russian officials and ensure HRDs are adequately briefed about the outcome of these meetings. This should especially be the case ahead of meetings with the Russian Foreign Minister, the Chairman of the Presidential Council for Civil Society and Human Rights, the Russian Human Rights Commissioner and any meetings with regional governors. Indeed, the contents of these meetings are often opaque, and the EU does not appear to take the opportunity to consider the concerns of HRDs in this context.

EU engagement with HRDs, particularly when publicized, can increase their legitimacy and help to counter the stigmatization they face. A good example was when, during a joint press conference in April 2017, the HR/VP underlined that she had met HRDs prior to her meeting with the Russian Foreign Minister Sergey Lavrov.⁸² Similarly, the awarding of the Franco-German Prize for Human Rights and the Rule of Law to journalist Elena Milashina and subsequently to Oyub Titiev,⁸³ as well as other efforts such as inviting HRDs to events organized at or by the EU delegation and embassies of EU countries, can further legitimize the work of HRDs and enhance their safety. For example, on 11 December 2018, the EU delegation in Moscow organized a joint event with International Memorial to mark the 70th anniversary of the Universal Declaration of Human Rights.⁸⁴

During his visit to Russia in May 2018, French President Emmanuel Macron also met the head of Memorial, Alexander Cherkasov, a meeting which was publicized in the press.⁸⁵ The EU could expand its efforts to offer visible recognition by publicizing these meetings through social media as it has previously done during the EU delegation's visit to the Public Verdict Foundation in October 2018,⁸⁶ and the visit of EU officials to the NGO Man and Law in Yoshkar-Ola in August 2018.⁸⁷

At the same time, EU engagement with NGOs and HRDs based in more remote areas remains limited. Finland has an explicit policy of engaging with HRDs outside of the capital and urban centres, through its consulates.⁸⁸ On some occasions, EU and member state missions also seek to meet HRDs during diplomatic visits to the regions. Amnesty International is aware of at least three occasions in 2017 and five in 2018 when EU and/or member state missions met HRDs during visits outside of Moscow. This occurred during individual visits coordinated by the Dutch, German, Swedish and EU delegations as well as during a visit coordinated between the EU delegation and 18 heads of EU member state missions. For example, in August 2018, the Swedish embassy reported meeting civil society groups during visits to the regions around football's 2018 World Cup.

⁸¹ EEAS, "Statement by the Spokesperson on the closure of the Moscow Office of Amnesty International", 3 November 2016, https://eeas.europa.eu/delegations/uganda/13916/statement-by-the-spokesperson-on-the-closure-of-the-moscow-office-of-amnesty-international_ko.

⁸² "Remarks by HR/VP Mogherini at the joint press conference with Russia's Foreign Minister, Sergey Lavrov".

⁸³ *France Diplomatie*, "Prix franco-allemand des droits de l'Homme et de l'État de droit", 4 December 2017, <https://www.diplomatie.gouv.fr/fr/dossiers-pays/Allemagne/relations-bilaterales/prix-franco-allemand-des-droits-de-l-homme-et-de-l-etat-de-droit/article/les-15-laureats-du-prix-franco-allemand-des-droits-de-l-homme-2017>.

⁸⁴ See Delegation of the EU to Russia, "The EU Delegation to the Russian Federation and International Memorial jointly mark the 70th anniversary of the Universal Declaration of the Human Rights", 4 December 2018, https://eeas.europa.eu/delegations/russia/54804/eu-delegation-russian-federation-and-international-memorial-jointly-mark-70th-anniversary_en.

⁸⁵ *Reuters*, "Macron meets in Russia with head of rights group, Solzhenitsyn's widow", 25 May 2018, <https://uk.reuters.com/article/uk-russia-france-rights/macron-meets-in-russia-with-head-of-rights-group-solzhenitsyns-widow-idUKKCN1IQ054>.

⁸⁶ European Union in Russia Facebook profile, 2 October 2018,

[https://www.facebook.com/EUinRussia/posts/10160964399890652?_xts__\[0\]=68.ARDSX0s61AQuGFM1DgZ6AE97AsMkUoCrlOnubmEr0HwoyCd8mvgHZHc29dTzDd8d1ELT-6UF8DQZLSTRn37A92kSEZ9ZGpXdf9h5pjtWuPMVKUb1kBgqLFZCkMte9WpEUSOGacdGg6OXZBixa65JlwYg79Qi-tQxVZ27REHNBCtx5HkuY1SAs9KqkcwbJnZ307azwsr2Hj0ioCX2cPaZ-4NhXA&_tn_=-H-R](https://www.facebook.com/EUinRussia/posts/10160964399890652?_xts__[0]=68.ARDSX0s61AQuGFM1DgZ6AE97AsMkUoCrlOnubmEr0HwoyCd8mvgHZHc29dTzDd8d1ELT-6UF8DQZLSTRn37A92kSEZ9ZGpXdf9h5pjtWuPMVKUb1kBgqLFZCkMte9WpEUSOGacdGg6OXZBixa65JlwYg79Qi-tQxVZ27REHNBCtx5HkuY1SAs9KqkcwbJnZ307azwsr2Hj0ioCX2cPaZ-4NhXA&_tn_=-H-R).

⁸⁷ @EUinRussia, 13 August 2018, Twitter, <https://twitter.com/EUinRussia/status/102904147572022017>.

⁸⁸ Finland does this through its consulate in Murmansk.

HRDs have reported that these visits give moral support and encouragement to NGO staff who often have less contact with European diplomats than HRDs based in Moscow.

However, more could be done to ensure EU and member state visits to the regions are more systematically used to reach out to HRDs. The EU and its member state missions organize several individual visits to the regions every year and at least one visit of the heads of EU missions to meet regional governors annually. Given the difficulties diplomats cited in maintaining outreach with HRDs in the regions, such visits should systematically include meetings with local HRDs as part of the official agenda and – provided the participants agree – should be publicized. The EU should also consider increasing the participation of HRDs from remote areas in EU events and consultations taking place in Moscow or in Europe.

ENABLING ENVIRONMENT

In the absence of structured dialogue on human rights and justice, EU efforts to promote an enabling environment have been more limited.

In this context, some diplomats claim that the East StratComm Task Force platform can promote an enabling environment. Indeed, as it uses a Russian-language website,⁸⁹ some diplomats claim that the platform can be used to counter misinformation and smear campaigns against Russian civil society actors.

If used effectively, a platform that aims to counter smear campaigns against HRDs and promotes positive narratives about their work can be an important mechanism to support and protect HRDs. However, the extent to which this platform has been used for this purpose is not clear. Between January 2017 and April 2019, Amnesty International recorded only six articles related to the situation of HRDs and/or the crackdown on civil society in Russia.⁹⁰ It is also unclear whether this platform has the necessary legitimacy and reach to effectively counter the magnitude of the smear campaigns being propagated on both traditional and social media in Russia. This raises questions about whether the EU has the necessary tools to confront the type of challenges HRDs face in the 21st century. The HRDs interviewed felt that EU interventions on such systemic challenges faced by Russian civil society have been limited.

FINANCING, TRAINING AND CAPACITY BUILDING

Since the 1990s, the EU has been a steady and consistent funder of Russian civil society and has come to play a particularly important role following the withdrawal of the leading US-funded donor organizations in 2015. This withdrawal came in reaction to the 2015 law on undesirable organizations and left an estimated shortfall of at least US\$20 million (around €18 million).⁹¹

Today, EU emergency funding to HRDs is primarily provided through the EIDHR and the EU's Protect Defenders mechanism. In order to respond to the restrictive environment in Russia, EU funding has become increasingly tailored to the specific challenges Russian HRDs face. This has included funding to boost the safety features of working spaces of HRDs and to build organizational capacity.

The EU and its member states have also sought to provide more flexible funding to Russian HRDs as illustrated by the 2014 decision to include Russia in the programmes of the European Endowment for Democracy. This mechanism allows for swift and flexible funding, including to groups that are not formally registered, and seeks to minimize bureaucracy.⁹² Certain EU member states, such as the Netherlands and Sweden, also provide short-term financial assistance to HRDs.

Nonetheless, funding to HRDs has predominantly been project funding or support for specific activities rather than much-needed core funding. Moreover, HRDs said they felt that EU funding rules exclude many smaller groups who need smaller grants and more flexible funding.⁹³ Overall, HRDs also said they felt that EU and member state funding to civil society fell short of the needs of Russian civil society.

Beyond financial assistance, measures to promote networking between EU diplomats and HRDs as well as between HRDs themselves were widely appreciated. Such activities have allowed organizations to build their capacity and acquire new skills while fostering networks among CSOs in Russia and internationally.

⁸⁹ *EU vs Disinfo*, <https://euvsdisinfo.eu/>.

⁹⁰ *EU vs Disinfo*, articles of [26 January 2017](#), [18 December 2017](#), [30 January 2018](#), [4 June 2018](#), [17 September 2018](#) and [1 October 2018](#).

⁹¹ Barbara von Ow-Freytag, 'Filling the Void. Why the EU Must Step Up Support for Russian Civil Society', *Wilfred Martens Centre for European Studies*, April 2018, p. 8, https://www.martenscentre.eu/sites/default/files/publication-files/eu-support-russian-civil-society_0.pdf.

⁹² 'Filling the Void. Why the EU Must Step Up Support for Russian Civil Society', p. 8.

⁹³ 'Filling the Void. Why the EU Must Step Up Support for Russian Civil Society', pp. 18-19.

HRDs also expressed the need for further support in networking, including with journalists, and capacity building to facilitate their engagement with UN mechanisms.

RELOCATION AND VISA SUPPORT

HRDs and diplomats alike recognize that the ability to receive facilitated access to multiple-entry Schengen visas is one of the most tangible risk prevention measures available to HRDs. Defenders particularly stressed the importance of being able to leave the country temporarily at short notice, both for security and networking purposes (such as attending international conferences).

Recognizing the value of visa support to Russian HRDs, the EU has sought to provide HRDs with better information on the procedures to follow when applying for multiple-entry Schengen visas. The EU is said to have taken steps to streamline and facilitate the provision of Schengen visas for Russian HRDs through the development of guidelines for European embassies and consulates. These non-public guidelines reportedly aim to advise consular officers in embassies on how to implement already existing visa regulations by facilitating the issuing of multiple-entry visas with long-term validity to Russian HRDs.

Nonetheless, the experiences of HRDs with obtaining Schengen visas remain mixed, with procedures varying between different embassies or consulates. The most frequently cited problem given by HRDs was the apparent disconnect between the political and consular staff within embassies. This resulted in diplomats charged with issuing visas not being aware of the HRDs' work or related risks. Moreover, some embassies have outsourced the granting of visas to commercial firms, which will likely widen the gap between European embassies and HRDs while also increasing the costs of obtaining a visa.

As one HRD told Amnesty International:

In my everyday life and in the everyday life of the majority of my colleagues the only kind of support that would be relevant for us is [long-term] visa support... We tried to apply for this visa support but in vain... it's different officers who are responsible for visa issues and for political issues. So, when we apply for a visa and do not inform the relevant political officer, or do not receive his/her "sanction", or receive it too late, or in the wrong way, nothing happens.

LGBTI defenders facing risks also reported problems with having their same-sex partners recognized as family members when applying for visas.

With regard to urgent funding for temporary relocation or rest and respite leave, defenders shared mixed experiences. One individual reported having received the urgent support requested from Protect Defenders only nine months later, when the assistance was no longer required. Others reported never receiving visas for relocation programmes. One stated that a three-month shelter programme was too long for them to consider applying for it.

ENGAGEMENT AT REGIONAL AND INTERNATIONAL FORA

EU embassies reported holding meetings with NGOs ahead of UN human rights processes such as the UPR. In these meetings, European diplomats sought to gather recommendations from NGOs and ensure that the civil society perspective was adequately reflected in their interventions. However, Russian HRDs believed that the EU's response to Russia's subsequent answers on the UPR was too lenient.

EU officials further reported having contact with the Council of Europe and organizing ad hoc debriefings on relevant issues. In the absence of structured political dialogues, the EU reported that many of its human rights discussions with Russia are also conducted at the level of the OSCE – the weekly meetings in Vienna provide an opportunity to raise HRD cases directly in the presence of the Russian delegation.

1.4 CONCLUSIONS AND RECOMMENDATIONS

Despite the numerous challenges related to engagement with Russia on human rights, the EU has in recent years made some headway in improving its support to Russian HRDs. Adopting a more vocal, flexible and coordinated approach, the EU's HRD policy in Russia offers some important examples of how to engage with HRDs in a context where bilateral dialogue has been reduced and divergent member state positions risk undermining EU action.

Nonetheless, challenges remain. The EU will need to ensure that some of the good practices observed set the scene for a wider policy shift. Among other things, this shift in policy should systematize the consultation of HRDs, ensure the consistency of public messaging across different individual cases and at the different levels of EU decision-making and enhance the visibility and impact of EU actions to support HRDs.

Moreover, the experience in Russia also opens areas for further thinking:

- How could the EU and its member states better equip themselves to counter coordinated stigmatization campaigns against HRDs both online and offline?
- How to bring about systemic change in a hostile climate with a limited framework of cooperation, rather than change on a case-by-case basis?
- How to deal with Russia's challenge to established human rights norms at the international and multilateral levels?



TO IMPROVE IMPLEMENTATION OF THE EU GUIDELINES ON HRDS IN RUSSIA, THE EU AND ITS MEMBER STATES SHOULD:

- **Ensure consistent and strong public messaging in support of HRDs at all levels of decision-making**, including by ensuring that robust messages in Council of Europe and OSCE statements are maintained and replicated in other EU and member state communications, by pursuing Foreign Affairs Council Conclusions and local statements and by increasing the number of statements issued at the highest levels. This would entail more frequent statements on behalf of the HRVP, heads of state and Ministers of Foreign Affairs. The EU should also continue to seek alternative avenues through which to express this support, such as tweets and op-eds by the head of the EU delegation and inviting HRDs to Foreign Affairs Council meetings.
- **Enhance the visibility and dissemination of EU public messaging on Russian HRDs**, including by ensuring that such communications are high level, further disseminated by EU member states and channelled through popular social media platforms in Russia such as Facebook and Telegram.
- **Ensure timely and visible responses to attacks on HRDs**. The EU and its member states should respond through a mix of measures, including public and closed-door diplomacy, as well as by providing practical support to HRDs, their organization and their family. The speed of the EU response is paramount for its effectiveness (for example, statements should be issued shortly after an incident or a trial when the press is reporting on a case), as is the coordination of action between different EU bodies and member states.
- **Raise concern about HRDs and individual cases** in the meetings of EU and member state officials with the Russian Foreign Minister, the Chairman of the Presidential Council for Civil Society and Human Rights, the Russian Human Rights Commissioner and during the EU ambassadors' meetings with regional governors. The EU should also increase the transparency of closed-door meetings by consulting and debriefing HRDs on the outcomes of these meetings and accompanying these meetings with statements that both reaffirm the EU's support for HRDs and specify what key issues and cases were raised during the meeting.
- **Improve the impact of trial monitoring efforts by systematizing follow up and increasing visibility**. Use public statements, media interviews, social media and participation of high-profile individuals to publicize the EU's trial monitoring activities, raise due process concerns and call for the release of the HRDs in question.
- **Make increased and more flexible funding available to CSOs and HRDs**. The current levels of funding made available through the EIDHR, the CSO fund and the European Endowment for Democracy are not sufficient to meet the needs of Russian civil society, which has been additionally weakened by the withdrawal of major US donors from the country. The facilitation of the provision of EU funding, in particular core rather than project-based funding, will be important to strengthen civil society's resilience.

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