

INFORMATION AGENCY “FOR HUMAN RIGHTS”
All-Russian Nongovernmental Movement “For Human Rights”
Executive Director Lev Ponomarev

Room 21, Bldg 1, House 7, M. Kislovsky Pereulok, Moscow, 125009
Tel: (095)291-62-33, Tel/Fax: (095)291-70-11, e-mail: info@zaprava.ru; <http://zaprava.ru/>

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The joint statement of the Society of Russian- Chechen Friendship, World Organization Against Torture(OMCT) and the International Federation for Human Rights Leagues (FIDH)

Please, find below the text of the joined statement of the Society for Russian- Chechen Friendship, World Organization against Torture (OMCT) and the International Federation for Human Rights Leagues (FIDH). The statement is entitled as “Russian Federation: the scandalous state charge by the Procurator before the court hearings on Stanislaw Dmitrievsky’s case”.

World Organization Against Torture(OMCT) and the International Federation for Human Rights Leagues (FIDH) within the framework of the joined program “The Observance of the Protection of Advocates’ Rights” would like to express the deepest concern by the statement of the Procurator of Nizhegorodskaya oblast concerning the criminal prosecution of Stanislaw Dmitrievsky, the executive director of the Society of Russian- Chechen Friendship and the editor-in-chief of the “Right- Defense” newspaper, the joined editorial of the Society of Russian-Chechen Friendship and the Nizhegorodsky Society for Human Rights (NSHR).

According to the existing information Vladimir Demidov, the Procurator of Nizhegorodskaya Oblast expressed his belief on the 11th of January, 2006 that Stanislaw Dmitrievsky will be found guilty. The procurator said: “I am sure that Mr. Stanislaw Dmitrievsky will be imprisoned; we, as a party supporting the prosecution will strive for the application of criminal liability towards him”. Then he said: “It is very important for our multinational society which supports the positive attitude to all the nations that the appeals of the bandits provoking the ethnic hostility are not published in the newspapers” he also noted that “we must not let any attempts to shake the situation happen”.

Mr. Dmitrievsky’s lawyers are going to file a motion to the RF Procuracy General against the statement of the oblast Procurator.

11 January, 2005 the Nizhegorodskaya oblast Procuracy initiated the criminal case on Mr. Dmitrievsky for the publication of the appeals by Akhmed Zakaev and Aslan Maskhadov, the leaders of Chechen separatist. They wrote about the peaceful termination of the Russian-Chechen conflict in “Right- Defense” newspaper. Stanislaw Dmitrievsky was the editor-in-chief of the mentioned newspaper. The criminal case was initiated on the basis of Professor Khokhlysheva’s conclusions. She was doing the text expertise on the Procuracy’s request. According to her conclusions the “publications in the “Right-Defense” newspaper can be treated as the serious violation of the RF Criminal Code that shakes the constitutional order”.

2 September 2005 Dmitrievksy was accused on Para 1 Article 282 of the RF CC- “actions, aimed at the provocation of hostility or odium as well as the humiliation of human dignity of a person or a group of persons on the sex, racial, national, language, origin, religious grounds as well as on the basis of belonging to any social group”. The article presumes up to five years of imprisonment.

World Organization Against Torture(OMCT), the International Federation for Human Rights Leagues (FIDH) and the Society of Russian- Chechen Friendship are worried by the statement which can be treated as a statement contradicting to the general lines on the role of Procurators adopted at the 8th Congress of the United Nations on the prevention of crime and appeal to the offenders. The congress was held in Cuba in 1999. The adopted statement also reads that the “Procurators are obliged to fulfill their responsibilities honestly, consecutively, by taking into account the position of the suspect and the victim, by paying attention to all the circumstances related to the case, irrespective of their being the suspect’s advantage or disadvantage”.

The court hearings and the debates on “Dmitrievsky’s case” will take place on the 18th of January, 2006 at the Sovetsky rayon Court of Nizhniy Novgorod.

World Organization Against Torture(OMCT), the International Federation for Human Rights Leagues (FIDH) and the Society of Russian- Chechen Friendship would like to remind to the Russian Federation authorities that it is necessary to agree the activity with the requirements of the Declaration on Human Rights' Defenders, adopted by the UN General Assembly in the 9th of December, 1998, especially the Article 1 of the Declaration which reads that “ everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels”, also Article 12.2, which reads that “ The State shall take all the necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.”

Signed by:
International Organization against Torture
International Federation on Human Rights,
Society of Russian- Chechen Friendship

RNO “Center of Public Information”
16 January 2006

The articles incriminated to Stanislav Dmitrievsky are published in other websites as a sign of support

17 January according to the information from the Center of Extreme Journalism, Union of Journalists of Russia, Alexander Podrabinek, the editor-in-chief of PRIMA-News Agency and Nikolai Khramov, the editor-in-chief of “Radikaly.ru” website wrote a joint statement to Vladimir Ustinov, the RF General Procurator. The statement was related to the ongoing judicial proceedings in Stanislav Dmitrievsky’s case in Nizhniy Novgorod. Stanislav Dmitrievsky is the editor-in-chief of “Right- Defense” newspaper and the executive director at the Society of the Russian- Chechen Friendship.

The authors would like to express their support to Dmitrievsky; they have organized the act of support for the editor-in-chief of the “Right-Defense” newspaper and published on their websites the addresses of Akhmed Zakaev and Aslan Maskhadov. Dmitrievsky is presently being charged for the publication of these addresses.

Please, find below the text of the joined address of Alexander Podrabinek and Nikolai Khramov to Vladimir Ustinov, the RF Procurator General:

Mr. Procurator- General!

The court hearings on Stanislaw Dmitrievsky's case (charged on Article 282 of the RF CC) will continue on the 18th of January in Nizhniy Novgorod.

The criminal case was initiated in January last year on the fact of publishing the articles of Aslan Maskhadov and Akhmed Zakaev appealing for the peaceful regulation of the Russian-Chechen conflict in "Right- Defense" newspaper, S. Dmitrievsky being the editor-in-chief of the newspaper.

We treat the criminal prosecution of Stanislaw Dmitrievsky as a violation of the freedom of press in Russia and we want to express our support to the convict. The actions of the Procuracy bodies are anti- constitutional; they contradict to the conventions on human rights and other international norms, protecting the freedom of press.

We would like to demonstrate our solidarity with Dmitrievsky and our loyalty to the freedom of press in Russia. In doing this we have published on the 17th of January the materials for which Dmitrievsky is being prosecuted. The materials are published on our websites. If the law is not electively applied to Dmitrievsky exclusively and if he is really prosecuted for the publication of these materials, then the Procuracy should subject us to the same criminal prosecution.

We would like to make a statement- we are ready to defend the freedom of press together with Dmitrievsky at court.

At the same time, as long as Dmitrievsky is not sentenced, we are appealing to you with a request to resign the charge and not to bring back the times of the shameful prosecution of the uncensored literature and dissent in Russia.

Signed by:
Alexander Podrabinek,
Editor-in-chief of the information agency PRIMA-News
(www.prima-news.ru),
Nikolai Khramov,
Editor-in-chief of the "Radicaly.ru" website
(www.radicaly.ru)

RNC "Center of Public Information"

Action for the protection of Stanislaw Dmitrievsky

18 January in Moscow on Lubyanskaya square there took place a piquet for the support of Stanislaw Dmitrievsky, the editor-in-chief of "Right-Defense" newspaper. Dmitrievsky is charged for the "information of national, racial or religious hostility by using the professional occupation" (Art. 282 Para.2 RF CC) by publishing the articles in the newspaper he runs. On the 18th of November there took place the court hearings on the case in Nizhniy Novgorod.

The Nizhegorodskaya Procuracy requires sentencing Dmitrievsky to four years of imprisonment in the colony with general regime. The sentencing is appointed for the 3rd of February.

In spite of the severe cold, 15 people took part in the piquet. There were the representatives of the Moscow Helsinki Group, "Obschee Sodeistvie" group [General Assistance], participants of the pacifistic piquet on Pushkinskaya square and other organizations. The participants were holding a placard "Stop the shameful prosecution of advocate S. Dmitrievsky" and other placards.

Initially, Dmitrievsky was also charged for extremism, but this article was removed by FSB during the investigation. The Procuracy was dealing with the collection of evidence on the “fomentation of national hostility”. It was the Procuracy to initiate the linguistic expertise of the newspaper at the State Privolzhsky center of judicial expertise. The expertise proved that there were the appeals, provoking national hostility and violence in the publication.

The court hearings on Dmitrievsky’s case started in November, 2005. As it has been informed to the IA “IKD” by Nina Tagankina, the executive director of the Moscow Helsinki Group, the assumptions from the expertise were “distinct for their proximity but not for being concrete” of this entity. Larissa Kislenko, the expert of the center was invited to the court as a witness, but she failed to answer many questions of the hearings participants. At the same time, there has been undertaken an independent expertise which did not prove the existence of the nationalistic appeals.

The evidence of the witnesses of both parties was listened to at the court hearings. The advocates from Ingushetia, Chechnya, Moscow and other regions came to the hearings. The work of the judge has been positively evaluated by the group supporting Dmitrievsky: he has attentively listened to all the speeches and satisfied the appeals of the defense. The defense hopes for the verdict of not guilty, but it doubts whether it is possible in the situation we have in the Russian justice.

*Information Agency
“Instrument of Collective Action”*

Stanislaw Dmitrievsky’s speech at the court hearings of the 18th of January, 2006.

18 January 2006 there place the court hearings on Stanislaw Dmitrievsky’s case. He is the editor-in-chief of “Right- Defense” newspaper and the executive director at the Society of the Russian- Chechen Friendship. Dmitrievsky if charged by the Nizhegorodskaya oblast Procuracy. The court hearings were held at the Sovetsky rayon court of Nizhniy Novgorod.

We are drawing your attention to the text of Stanislaw Dmitrievsky’s statement.

*To the Sovetsky Rayon Court
of Nizhniy Novgorod*

Your Honor!

The assessment of the materials of the preliminary investigation has a supreme importance for the right solution of the present criminal case. Just like my advocates in their speeches and debates I have spoken enough about the other aspects of the inconsistency of the charges against me. I will basically stop on that.

It is strikingly obvious, when analyzing the charges against me, that all the arguments of the investigation on the existence of the appeals to the hostility and hate, or humiliation of human dignity and belonging to any social group are based on the assumptions of one and the only professional- Larissa Yuryevna Teslenko, an expert. However, according to Para. 2 Art. 17 of the RF CCP this evidence cannot have a preliminarily determined force and, therefore, the assumptions of the expert must be assessed by the court alongside with other evidence. But there is simply no other evidence. The other documents and evidence of the witnesses are but proving my responsibilities, but the responsibilities themselves cannot be the evidence of my illegal actions.

I think that the assumptions by expert Teslenko should not be taken into consideration by the court for four main reasons:

1. In fact the expert faces the regulatory tasks, which is unacceptable.
2. A non-competent professional was invited to carry out the expertise, during which this specialist went beyond the framework of his professional knowledge.

3. The assumptions of the expert are based on the suppositions, which is unacceptable according to Para. 3 Art. 49 of the Russian Federation Constitution and Para. 4 Article. 14 of the RF Code of Criminal Procedure.
4. The assumptions of the expert are not proven, but on the contrary, are denied by other materials of the criminal investigation.

Before bringing the arguments on each of the mentioned points, it is necessary to say the following. The issues of the application of special knowledge on the cases similar to the mentioned forms of hostility are very weakly developed in the domestic judicial science and legal practice. In 1999 the RF Procuracy published the "Recommendations on the application of special knowledge on the materials and cases of national, racial and religious hostility" (approved by the Deputy Procurator General of RF M.B. Katyshev on 29.06.00). The recommendations were disseminated among all the Procuracies with a special letter No 27-19-99. It was done to help the workers of the law enforcement system and courts, as well as the experts to avoid the mistakes, subjective and non- professional assessments during the analysis of those materials. The document determines the type and qualification of the specialists allowed to carry out the expert's investigations; it also points at the main characteristic features of the national, racial or religious hostility from the viewpoint of public security.

As far as I know these "Recommendations" is the only methodological document, approved by the RF Procuracy General, concerning the application of special knowledge in those criminal cases? However, the investigation did not take into consideration the existence of the mentioned document when appointing and carrying out the expertise. It leads to nearly all the typical mistakes, mentioned in the text of the above spoken "Recommendations".

The Judicial Institute of the RF Procuracy General has also published the "Methodology of investigation of crimes committed on the basis of national or racial hostility and hate" (authors- A. Ya. Vinnikov, N.M. Girenko, O.N. Korshunova, A.V. Leukhin, Ye.B. Serova; editor O.N. Korshunova), Saint- Petersburg, 2002, page 92. The brochure gives wide recommendations on the application of special knowledge during the investigation of the crimes of this type, thus enlarging the contents of the "Recommendations". However, the methods enlisted in the book have also been ignored by the preliminary investigation.

Both methodological manuals have been entered upon the record of the criminal case during the last court hearings.

Then, taking into account the mentioned issues, let us discuss in details the four points I mentioned. According to these points the assumptions of expert Teslenko must not be taken into consideration by the Court.

1. When appointing the expertise of the publications, investigator Putanov in his rulings (vol.2. pages 137-139, 150-152) *is asking the expert about legal matters*, by using directly the disposition of Art. 280, Art. 282 of the RF CC, as well as the contents of Art. 1 of the Federal Law "On the counter- actions to the extremist activity". The following questions have been asked:

Does the text of the article "The address of Akhmed Zakaev, the vice- prime minister of the Chechen Republic of Ichkeria to the Russian people" published in Issue № 1 (58) March 2004 of the "Right- Defense" newspaper contain the appeals to fulfill the extremist actions, if it does, what are these appeals: (...)" The investigator here is directly using the disposition to the Article 280 of the RF CC, thus suggesting the linguistic expert to give an answer to the legal question.

Then the investigator is enlisting the phrases of the Article 1 of the Federal Law "On the counter- actions to the extremist activity", including: *"the fomentation of racial, national and religious hostility, as well as the social hostility, related to violence or appealing to violence" as well as the "propaganda of superiority, exceptionality or the inferiority of the citizens on the basis of their attitude to religion, social, national, religious or language inclinations"*.

The investigator is asking another question below: *"Are there the texts aimed at..... of the "Address of Akhmed Zakaev, the vice-prime minister of the Chechen Republic of Ichkeria to the Russian people" published in the article of issue № 1 (58) March, 2004 in "Right- Defense"*

newspaper “; and then again he brings the disposition of Article 282 of the RF CC: “the fomentation of racial, national and religious hostility, as well as the social hostility, related to violence or appealing to violence” as well as the “propaganda of superiority, exceptionality or the inferiority of the citizens on the basis of their attitude to religion, social, national, religious or language inclinations”.

In this way, here again the investigator wants to have an answer to the legal question from an expert-linguist. The questions concerning the address of Aslan Maskhadov to the European Parliament were put in the same way. When answering the questions the expert, in the unit “assumptions” is giving the direct answers to the legal questions:

In assumption № 697/33:

“2. The text of the article “Address of Akhmed Zakaev, the vice-prime minister of the Chechen Republic of Ichkeria to the Russian people” published in the issue № 1 (58) March, 2004 in “Right- Defense” newspaper contains the phrases aimed at the fomentation of racial, national and social hostility related to the violence” (vol.1 ,page.147).

In assumption № 698/33:

“2. The text of the article The address of Aslan Maskhadov, the president of the ChRI to the European Parliament” published in No 2 (59) in April-May, 2004 of the “Right- Defense” newspaper, contains the phrases aimed at the fomentation of racial, national and social hostility related to the violence”.

“3. The text of the article The address of Aslan Maskhadov, the president of the ChRI to the European Parliament” published in No 2 (59) in April-May, 2004 of the “Right- Defense” contains the “propaganda of superiority, exceptionality or the inferiority of the citizens on the basis of their attitude to religion, social, national, religious or language inclinations”.

However the solution of the legal matters is, according to the law, the exceptional competence of the investigating and court bodies. According to Article 16 of the Federal Law “On the state judicial- expert’s activity in the Russian Federation” an expert has no right to solve any matters that are beyond his special knowledge during the fulfillment of a specific judicial expertise. Thus, it is not acceptable to ask an expert legal question; the answers of the expert to the legal questions must be found judicially void.

At the same time, the “Recommendations” of the General Procuracy dated to 29.06.99 are directly presenting the questions an expert should be asked for the definition of the semantic nature of the texts on the initiated criminal cases of the given category. “The following questions are recommended to be asked from the expert:

Does the verbal (illustrative) means used in the text express the humiliating characteristics, negative emotional assessments and negative plans on this or that ethnic, racial, religious group (which exactly) or separate individuals, as its representatives? Does the given material contain information, indicting to the actions against any nation, race, religion (which exactly) for the purposeful transmission of the insulting characteristics, negative emotional assessments, and negative plans on this or that ethnic, racial, religious group (which exactly) or separate individuals, as its representatives?”

In the opinion of the authors of “Recommendations” the “questions asked should orient the expert in the deep psycho-linguistic examination of the material and should not allow him to do but general discussions and subjective assessment”. However we see not the specific, but subjective assessment in the assumptions of expert Teslenko- the assumptions contain no data on the presence of the insulting characteristics, negative emotional assessments, and negative plans on this or that ethnic, racial, religious group or separate individuals, as its representatives. The expert mentions no specific racial, social or national group, the rights and interests of which are observed by the law and could be violated by the present publications.

Also, the “Methods” published by the Institute of the Procuracy General present a number of questions an expert should be asked. Here are these questions:

1. What is understood from the scientific point of view by “aimed at the fomentation of national, racial or religious hostility and discord”?
2. What is considered to be an action, in the opinion of science, aimed at the humiliation of the national honor and dignity?
3. What is considered to be an action, in the opinion of science, aimed at the propaganda of superiority, exceptionality or the inferiority of the citizens on the basis of their attitude to religion, social, national, religious or language inclinations?
4. Does the given material use the linguistic means for the purposeful transmission of языковые insulting characteristics, negative assessments, negative plans and inclinations to the actions against any nation, race or individuals, as its representatives?
5. Which actions are, from the scientific point of view, humiliating the national honor and dignity?
6. How does the contents of the article and the caricature influence the human psychics, what are the associations it provokes; does it provoke the feelings of national hostility and hate, humiliation of national honor and dignity?
(pages 87-88 of the mentioned publication).

These and similar questions haven't been asked by the investigator- instead of them the expert was simply offered to answer the questions containing the disposition to the Article of the CC and the text of the Article of the “Law on the counter- actions against the extremist activity”.

The “Recommendations” of the Procuracy- General enlist the main characteristic features of the fomentation of national, racial or religious hostility from the viewpoint of public safety, which should help in giving a right assessment of the text. These are:

- Development and support of the negative ethnic stereotype, the negative image of an individual nation, race, religion;
 - Transmission of the different types of negative characteristics and the flaws of individual representatives on the whole ethnic or religious group;
 - Incrimination of all the representatives of ethnic or religious group for their intention to follow the ancient traditions, customs, beliefs that are negatively assessed by contemporary culture;
 - Sayings about the inborn superiority of one nation, race or religion and the inferiority and deficiency of others;
 - Incrimination of the hostile actions and dangerous intentions to one nation, race, religion towards others;
 - imposing the fault and the responsibility for the actions of individuals to the whole ethnic, national or religious group
 - Sayings about the initial hostility of one nation, race or religion towards others;
- Sayings about the polar diversity and the incompatibility of the interests of one ethnical or religious group with the interests of others;
- Sayings about the existence of secret plans, plots of one national or religious group against others;
 - Explanation of the past, present and future unfavorable conditions and misfortune by the existence and purposeful activity of separate ethnic, racial and religious groups;
 - Indictment to the actions against any nation, race or religion; justification, approval of genocide, deportations and repressions towards the representatives of any nation, race or religion;
 - Requirements to throw out of different spheres the representatives of a definite nation, race or confession;
 - Requirements to eliminate the freedoms and rights of the citizens or to create the privileges on the national, racial or religious basis;

– the threats and incitements to the violence towards the representatives of a certain nation, race or on the religious basis”.

A similar list of hostility, hate and insulting the national honor and dignity is given at the “Methods” of the Institute of the Procuracy- General on page 90.

1. Fomentation of national, racial and religious hostility and hate: public statements, dissemination of audio- video- and iso- materials, written texts and other public actions the semantic course of which is aimed at the by actions leading to the emerge and enforcement of the hostile resistance of the groups of population, unified on national, racial or religious basis and throwing out of the social sphere or a separate sphere of people or individuals in the basis of their belonging or non-belonging to a particular national or racial group (i.e. on national or racial grounds), as well as the similar public actions the meaning of which is to establish in the whole society or partly the public discrimination of citizens on national, racial and religious basis.
2. Humiliation of national or racial dignity and honor: public statements, dissemination of audio- video- and iso- materials, written texts and other public actions the meaning of which is to attain personal negative characteristics criticized by the society to a group or a group of persons of a particular race and nation, simply because they belong to this nation or race- these actions are considered to humiliate and insult the national or racial honor and dignity.

As you can see from the expertise by Teslenko, none of the listed characteristic features was revealed in either “Methods” by the Procuracy- General, or the Institute of the Procuracy- General. *The expert did not treat the text from the viewpoint of finding the mentioned features, she was just giving answers to the legal questions of the investigator.*

2. The investigation attracted a non- professional expert, who obviously went beyond the frames of his special knowledge during the expertise.

The “Recommendations” of the Procuracy- General are precisely defining what type of specialists should be attracted for the similar work: “To assess the illegal actions, related to the fomentation of national, racial and religious hostility, it is recommended to attract the experts with professional knowledge of social psychology and linguistics. It will enable to escape the arbitrary and sometimes mistaken interpretation of the texts of publication or other products of mass media”.

“The expertise- the recommendations read- can be done by both one specialist with professional knowledge of psycholinguistic methods and a commission of specialists from the sphere of social psychology and linguistics”.

As it can be seen from the case materials, expert Teslenko is not a specialist with professional knowledge of methods of psycholinguistics, which is the branch of the social psychology. The professional profile of Larissa Yuryevna Teslenko is the “study of speech and voice”. In such cases the Procuracy General recommends to organize an experts’ commission and to invite not only linguists, but also the professionals from the spheres of social psychology who “are qualified enough in the sphere of studies of mass communications, psychology of propaganda, inter- group and, particularly international relations”. It was not done and lead to the arbitrary and mistaken interpretation of publications incriminated to me.

The deficiency of the judicial expertise was especially obvious during the questioning of the expert at Court. Thus, the expert repeated her assumption on the presence of three types of hostility – racial, national and social hostility, and refused to give the definitions of the terms “race”, “nationality” and “social group”, by telling the court that she was incompetent in these matters and sent the court to the professionals in sociology. The expert told at the Court that it was also the racial hostility emerging between Russian and Chechen peoples, but she could not tell what were the races the Russian and Chechen peoples belong to one and the same European race that is why the racial hostility between them is simply impossible.

To clarify the question on if the fomentation of racial, national or social disparity incriminated to me, was really true, the expert had, first of all, to define the commonly

understood meaning of “racial”, “national” and “social”, since it is basic for the solution of the matter. However the expert had no idea on the meaning of these terms.; the expert did not even have the relevant mechanism of understanding of these ideas. Meanwhile, without understanding and revealing the meaning of these terms the expert had no right to state that the publications contain the appeals aimed at the fomentation of racial, national and religious disparities. Without being a specialist of social sciences and without having any idea of these fundamental meanings, the expert insisted on the existence of racial, social and national hostility elements in the publication and went beyond the frameworks of her special knowledge and responsibilities. Meanwhile, according to Article 16 of the Federal Law “On the state judicial-experts’ activity in the Russian Federation” an expert has no right to solve the issues beyond his special knowledge during the particular judicial expertise. Moreover, according to the same article and also Para 6 Part.3 Article 57 of the RF CCP the expert has the right to refuse giving conclusion on the matters that are beyond his special knowledge. However, in spite of her incompetence in the critical sociological ideas, the expert did not refuse to do the expertise and thus committed the further rude mistakes.

It was the incompetence of the expert in the basic ideas to bring her to the false assumptions on the presence of the appeals to the mentioned forms of hostility in the publications. In Maskhadov’s Address, the expert, being a linguist, is quite correctly noting the presence of the phrases characteristic by the “scornful, angry- expressive stylistic coloring, containing the negative assessment of the actions of Russian militarists and the supreme military-political authorities of Russia ” (page of the case materials No. 159), but then, further on, nearly all the phrases are non- motivated and are attained to the fomentation of national, religious and racial hostility. *It is apparent, that an expert, who, in her own opinion, has no special knowledge in social sciences, cannot see the difference between the ideas of state, power and its institutes on one hand, and the term “race” on the other hand. Teslenko was arbitrarily mixing up the ideas of state and ethnicity and introducing her everyday world vision in the expert’s conclusion on the identity of national and governmental, she was making long- tailed, but not scientific assumptions. It is quite apparent that these assumptions are based not on the special knowledge but on the subjective political views of the expert; they cannot be a basis for the court sentence.*

Besides, the analyzed texts contain a number of historical facts on Russian- Chechen relations over the last decade. In her conclusion the expert is making completely unjustified assumptions on that a number of historical facts are provoking racial, national and social disparities. The following examples are brought, among others: “...The deportation of 1944 года was the 9th largest act of genocide by the supreme military political authorities of Russian Empire. The very first deportation of Chechens was done by Russia in 1792 году...”. However the analysis of the statements is not only beyond the knowledge of the only expert, but also beyond the knowledge of an expert in the field of social psychology and social linguistics.

This type of cases are also presumed by the “Recommendations” of the Procuracy- General dated to 29.06.99: “the matters of the genuineness of facts and the righteousness if information,- the “Recommendations” say, - are beyond the scope of the psycholinguistic analysis and should be treated by other experts- historians, economists, experts in religious, political, genetic, ethic sciences, anthropologists and others. These specialists, together with social psychologists should be attracted to the mentioned type of analysis, so that each of the professionals has its own idea within the framework of his competence”. It was not done during the preliminary investigation; no analysis of the facts, published in the Address was carried out. Under these circumstances, the assumptions of the expert on the existence of three types of hostility, are beyond the expert’s competence.

The attraction of the specialists of different profiles is even more insistently recommended by the “Methods” published by the Institute of the Procuracy- General; there is a term “socio-humanitarian expertise” for this type of expertise.

“Apparently, - the authors of the “Methods” say,- the research and the assumptions that can be used during the investigation of crimes, have a complex nature. The knowledge of philology,

social sciences, philosophy, history, psychology, ethno-sociology and ethnology as well as some other sciences is needed to carry out such expertise. The complex nature of the cases is beyond any doubts, because the specialists of one single field of science, technology, art or craft, cannot give an answer to the investigation” (pages 86-87).

However, the expertise we are discussing was done by the expert of only one field-philology, this led to the mistakes.

Besides, I think that the philological competence of expert Teslenko, is also doubtful. In her phrase we find on page 9 of the expert’s conclusion No 698/33 (page 159 of the case materials), during the analysis of the phrase “putin’s regime”. The expert says: “In this example the phrase “putin’s regime” is written with small letter and not capital “Putin”. It is a stylistic device to express the scornful attitude”. Meanwhile, on one of the highly respected manuals on the orthography of modern Russian Language “manual on Orthography, Spelling and Literary Edition”, (D.E. Rosental, Ye.V. Dzhandzhakova, N.P.Kabanova, Second Edition, corrected, Moscow, CheRo, 1998- page 400) mentions in Para 16 Point 4: “*The adjectives derived from proper names but not meaning the belonging in the direct meaning of the word, are written with small letter, for example: pushkinskiy style (i.e. Pshkin’s style), tolstovskiy (Tolstoy’s) world vision.* In this way the expert showed her unawareness of the simple forms, commonly accepted in Russian language.

3. *The assumptions of the expert are based on the suppositions, which is unacceptable, according to Para 3 Article 49 of the Russian Federation Constitution and Para 4 Art 14 of the RF CCP.*

The assumption from the linguistic expertise № 697/33 on the presence in the “Address...” of Akhmed Zakaev of the idea aimed at the fomentation of racial, national and social disparity is based only and exclusively on the suppositions of the expert, on the subjective interpretation of the text, which is not the only possible interpretation. The assumption is made not only without the proven reference to the assumptions, but also without taking into account the semantics of the terms “racial”, “national” and “social” the meanings of which, as it has been noted above, are not understood by the expert.

The assumption on that the “Address...” of Zakaev is aimed at the fomentation of the definite types of hostility is based on the following assumptions of the expert we find in the research unit of the conclusion:

– “Zakaev, therefore, requires the Russian people to get rid of the persons, residing in Kremlin (must get rid of). And if it does not happen, the vice- prime minister of the ChRI promises that the blood will be shed in Russia and Chechnya” (page. 7 conclusion 697/33).

– Zakaev’s phrase: “As long as they reside in Kremlin the blood will be shed in Russia and Chechnya” is a verbal threat, addressed to the Russian people.

The text of the “Address” contains a phrase, aimed at the fomentation of racial, national and social disparity, related to violence: “It is still not late for us to agree on the arguable issues. But to do this, the Russian people should get rid of the persons, for whom peace would mean the loss of power and, possibly, a prisoner’s box. As long as they reside in Kremlin, the blood will be shed in Russia and in Chechnya” (page 8 of the conclusion 697/33).

The phrase “Zakaev requires the Russian people to get rid of...” is used by the expert as a synonym to the words of Zakaev “should get rid of” (in her (expert’s) opinion) Zakaev. However it does not follow from the context, time conditions and aims of the publication.

The words “requires” and “promises” are used by the expert to attain another meanings to Zakaev’s words, not the meaning the author himself implied- in this interpretation Zakaev is seen as a threatening party of the conflict; “requires” means he is threatening them by the negative consequences in case of the failure to fulfill the requirement, “promises” means that he (and the forces he is supported by and on behalf of whom he is promising) will himself be an active party, i.e. they will shed the blood. Actually, we can see the substitution of ideas, which was necessary for the expert to justify her badly shaped arguments.

The expression “should get rid of” does not mean Zakaev’s requirement, it points out at the objectively necessary condition. The expert attained another meaning to the words of Zakaev “Blood will be shed in Russia and Chechnya”; in her opinion it means that the blood will be shed by Zakaev and the people he is representing. However, in my opinion, it would be more correct to give the following explanation to these words: “Zakaev supposes (the use of the relevant stylistic constructions shows us that he is sure of his suppositions) that the “people residing in Kremlin” are to be blamed for shedding the blood; and the blood will be shed because they are staying at power.

No issues of racial, national and social disparities are mentioned in these phrases at all. On the contrary, we can see the address to the Russian citizens “...it is still not late to agree on the arguable issues”. The following phrase: (“But to do this, the Russian people should get rid of the persons, for whom peace would mean the loss of power and, possibly, a prisoner’s box. As long as they reside in Kremlin, the blood will be shed in Russia and in Chechnya”) is Zakaev’s personal assessment of the conditions, necessary for such agreements, namely the removal of the current political elite by means of democratic elections; in author’s opinion, it is these elite to be interested in the continuation of war.

The expert’s conclusion contains only one phrase taken out of the context of Zakaev’s Address, which, in the opinion of expert herself, cannot be treated apart from the rest of the text. Meanwhile the publication contains other phrases, together with which, the meaning of the address is revealed to the maximum.

Akhmed Zakaev in his address says that the “War in Chechnya is necessary to no one but him (he means V.V. Putin, the President of the Russian Federation)”; neither rights, nor lefts, neither poor, nor rich”. Then Akhmed Zakaev “on behalf of Aslan Maskhadov, the president of the ChRI” is turning to the Russian people with a request on the peace in Chechnya. Он He is saying directly: “I am stretching the hand of peace to the Russian people...”.

Akhmed Zakaev is associating peace with the change of power in the Russian Federation, since, as he says, As long as they (i.e. people, ruling the country) reside in Kremlin, the blood will be shed in Russia and in Chechnya”. In Zakaev’s opinion, the change of authorities in Russia should not be done by force, but as a result of free democratic elections, according to the Constitution and the Russian Federation. He is writing: “Vladimir Putin did not leave a choice to the Chechens, but you still have the choice, you can still choose peace, by voting against Putin in March 2004” There were no other appeals but the appeal to vote against Putin in presidential elections.

In this way the interpretation of Zakaev’s Address, suggested by the expert, is not the only possible one. The possibility of another interpretation means that the suggested version has a nature of supposition, which is unacceptable according to Para 3 Article 14 of the RF CCP.

The above mentioned things concerning the linguistic expertise № 697/33 also refer to the assumptions of the expert on that the Address of Aslan Maskhadov is aimed at the fomentation of hostility between Russian and Chechen peoples. The similar assumption was made by the expert at the court hearings. It was based on the following supposition of the expert- is Maskhadov calls the war a “Russian- Chechen war”, then the author understands it as a war between Russians and Chechens, as two ethnic groups. And since this term in the context of the article, is related to other fragments, it means that Russians are treated as ethnos in those fragments, too. Assuming from this, the word “Russian” [Rossiyskiy] should be everywhere understood as “Russian” [Russkiy]. Such terms as “Russian occupants’ and “Russian terror” [Rossiyskiy] should be perceived as “Russian occupants” and “Russian terror” [Russkiy].

However, this assumption is based on the arbitrary and subjective reading of the text; it is one of its possible interpretations. As I have witnessed at the court hearings, the more convincing version is that Maskhadov, as an educated person, has just used a common language scheme to mention the military conflicts, which is known to him, at least since the time of studying at the highest military educational institutions.

The names of the wars that are common for the literature, publications and everyday speech, always include the word “Russkiy” in case when it is spoken about the wars where the Russian state was participating. The war of 1904-1905 between Russian Empire and Japan is commonly called the Russian- Japanese war [**rus**sko-yaponskaya voina]. The wars between Russia and Turkey are also traditionally called not “Rossiysko-”, but “Russko- Turetskaya voina”. The version “Rossiysko-” would simply be incorrect. The same concerns the Russian-French wars of the beginning of the XIX century and also the Russian- Polish wars of XVI-XVII centuries. My evidence includes the detailed list of historical research published in Russia; the titles of these works contain the above mentioned term “Russkiy”.

It is quite apparent that these titles do not mean the ethnical conflicts between Russian and Japanese, Turkish, French or Polish peoples. They mean the wars of the Russian state with other states. Anyway, the names of these wars contain the term “Russkiy” and not “Rosskiyskiy”- it is a firm tradition of the national history and is a norm of language, in other words it is the norm of the Russian language. In my opinion, it is this norm that was used by Maskhadov. On the contrary, when in some parts of the text he is speaking about the illegal actions of the Russian party, the law- enforcement structures, he is consecutively using the term “Rosskiyskiy” and not “Russkiy”, thus implying that it is not the Russian people, but the Russian authorities to be responsible for the criminal actions.

During the questioning of Usama Baysaev it became clear that another supposition can be also made. This suppositions concern Maskhadov’s calling the war “Russian- Chechen war” [Russkiy]. The reason is that the terms “Russkiy” and “Rossiyskiy” are translated into Chechen language in the same way, by word «оьрси». The phrases “Russian- Chechen war” [Russkiy] and “Russian- Chechen war” [Rosskiyskiy] will sound in the same way in Chechen- «оьрсийн-нохчийн тIом». Maskhadov, as a native speaker of Chechen language, could just not to pay attention to the difference of the terms in Russian. Tough this interpretation seems to be not so convincing to me, also has its linguistic argumentation; we should not neglect it.

In this way, *the interpretation by expert Teslenko of the meaning of Aslan Maskhadov’s Address is, at minimum, one out of the three possible ones. Therefore, it has a nature of supposition, provided by Para. 3 Article 49 Russian Federation Constitution and Para 4 Article 14 RF CCP.*

The assumptions of expert Teslenko are not proven by any of the proofs found in the materials of the preliminary investigation and submitted at the Court. On the contrary, all the witnesses (including the witnesses of the prosecution, both Russians and Chechens, people of different ages and inhabitants of different cities) showed that the publications are in no way insulting their feelings of national dignity. They all saw but the appeals to peace, the sharp criticism of the political authorities of Russia, the expressively angry characteristics of the persons committing the crimes or contributing to the crimes. It was proven by the evidence of witnesses Banina, Lavrentyeva, Tagankina, Amirkhadzhieva, Yusupova, Kovaleva, Baysaeva, Davydova, Romanova and Politkovskaya. The witnesses living in Chechnya, or frequently visiting in on business affairs said that the facts Maskhadov presented in his address are true and said that Maskhadov, in their opinion, really had all the grounds for the angry and expressive evaluation of the actions of Russian militarists and statesmen. The righteousness of Maskhadov’s arguments is especially obvious from the evidence of Usama Baysaev, a researcher from “Memorial” Advocatory Center, Sergey Kovalev, the former pleimpotentiary on Human Rights in Russia and Anna Politkovskaya, the journalist from “Novaya Gazeta” holder of the highest national awards in journalism “The Golden Feather of Russia” as well as her publications. The objectiveness and the highest competence of these people is beyond any doubts. The Procuracy of Nizhegorodskaya oblast, on the contrary, failed to present even one witness, whose national dignity was insulted by the incriminated publications, though the UFSB of Nizhegorodskaya oblast was trying hard to find such a witness. The pages of volume 1 315-318 of the case contain the errand on undertaking individual investigatory actions, where M.I. Dudnik, the investigator of the oblast Procuracy is asking the UFSB “to find and question the students from Universities

(...), ask them what is their attitude to Chechens after reading these articles”. However the UFSB did not manage to find such a witness. Besides, during the preliminary and criminal investigation the righteousness of the facts from Maskhadov’s publications was neither rejected, nor even found doubtful.

Taking into account the things mentioned above, I think that the Court should not take into consideration the assumptions of expert Larissa Yuryevna Teslenko.

I also think that the Court should not take into consideration the so-called “Consulting” of expert Larissa Teslenko to the Prosecution party, because of the letter of the state prosecutor A.N.Maslova, dated to 8.12.05 № 12/3 – 723-05, entered upon the record at the last court hearings. It is necessary to mention that neither the RF CCP, nor the Federal Law “On the state judicial- experts activity in Russian Federation” admit such a form of judicial- experts activity as “Consulting” during the preliminary investigation. The consulting of the law- enforcement bodies with a professional is usually done on the stage of pre-investigatory audit, according to Article 6 of the Law on the Procuracy. The pre- investigatory audit is aimed at obtaining enough information, which indicates the crime had been committed, but it is not done during the court hearings. The mentioned “Consulting” cannot be an expertise either, since it has not been appointed by the Court (the Court can appoint an expertise at the stage of investigation); other requirements provided by Article 283 of the RF CCP haven’t been observed, either. The basis for the so-called “Consulting” was the letter of the state prosecutor, however, such a way of addressing to the expert is not provided even by the RF CCP; the state prosecutor in general is not entitled to issue any rules on the expertise. In this way the mentioned document has no procedural status.

The contents of the “Consulting” is nothing else but the remarks on the conclusion of another expert (it is mentioned directly by the expert himself on page 2). However, this action- the criticism of the assumptions of one expert by another expert is not provided either by the RF CCP, or the Federal Law “On the state judicial- experts’ activity”. It is not clear from the document what the regulatory acts the expert was observing during the preparation of the document. It is necessary to note that expert Teslenko was invited to the Court as a witness of the prosecution (the information about it can be found in the bill of particulars), specialist Vronskaya was invited by the defense party. During the analysis of the arguable publications, specialist Vronskaya came to the conclusion that contradicts to the assumptions made by Teslenko. In this way, Teslenko cannot be an objective and uninterested scientific reviewer of the conclusion of her colleague Vronskaya. They were invited to the court by the opposing parties and their opinion on the publications is oppositional, too. Such a criticism is not justified and correct from the procedural point of view; it is a sincerely incorrect and unethical action for the representative of the experts’ community.

Besides, the “Consulting” contains no data on that the expert was warned about the responsibility for the initially false conclusion; there is no list of questions the expert was asked by the state prosecutor. All these circumstances make it impossible to use the mentioned document as evidence at the judicial proceedings.

In my opinion the sentence of the Court should be based in the evidence of witnesses and on the assumptions of expert Galina Vronskaya. She wrote a scientific- consulting assumption (extra- judicial linguistic expertise) on the 24th of October, 2004 and during her questioning at Court. Galina Vronskaya in her assumptions, did not go beyond the border of her special knowledge, her assumptions are based on the analysis of the addresses, but on the free-will interpretations and suppositions. The specialist was writing the assumption on the basis of methods; these methods have been published and the publications have also been submitted to the Court. Besides, the specialist showed to the court her knowledge and understanding of the general meaning of the basic ideas for the terms “racial” and “national”, without which it is impossible to define the racial and national hostility.

Besides, it is necessary to note that before the court session at which the scientific- consulting conclusion was read out, Vronskaya gave written subscription on the responsibility

for the initially false evidence, thus, her conclusion can be treated as a fully procedural document.

Let me remind you that the mentioned specialist came to the following assumptions:

On the text of Maskhadov's address to the European Parliament:

The arguable text in general, cannot be the proof of the crime committed by the editor of the "Right- Defense" Nizhegorodskaya newspaper in the form of the planned actions, aimed at the provocation among the Russian- speaking population (readers) of the racial, social or national disparities, if there are no facts proving that the facts, presented in the argues articles *do not correspond to the reality*.

The author of article "The address of President Maskhadov to the European Parliament " published in "Right- Defense" newspaper № 2(59) April-May 2004 by the phrase "the gene pool of the unique and special Chechen people" has created a literary image, aimed at the perception of the tragedy, which, in the author's opinion, can lead to the incorrigible outcomes. *However, the perception of a definite literary image (the gene pool, grinded by the mills of terror) can in no way be the topic of a linguistic expertise, since it is not the text, but its perception, which can be arguable.*

The expression "...the new total Russian terror in the cruel mills of which the gene pool of the unique and special Chechen people, one of the aborigines of the ancient Caucasus, is being grinded ..." in the text cannot be related only to the idea "the Chechen people". The author underlines, that it is not only the Chechen people to be the aborigine of the ancient Caucasus, a unique and special people. The specific pointing out at other peoples in the text cannot be the proof of the propaganda of Chechen people's superiority over other peoples, since the text contains no corresponding linguistic features.

On the Address of Akhmed Zakaev to the Russian people:

The expression "*It is still not late for us to agree on the arguable matters. But to do this, the Russian people should get rid of the people for whom the peace would mean the loss of power or, possibly, a prisoner's box. As long as they reside in Kremlin the blood would be shed in Chechnya and Russia*" can be perceived by the native speakers as the opinion of the writer who is addressing to the audience. No verbal threats have been found in the text, since there are no lexical forms, directly expressing the imperative or executive appeals that could be perceived by the readers as a real threat to life and health. The text "The address of Akhmed Zakaev, the vice-prime minister of the Chechen Republic of Ichkeria to the Russian people" contains no phrases, aimed at the provocation of racial, national disparity, related to violence, since the arguable text contains no words and phrases, indicting to violence and associated with *the concrete representatives of the nations and nationalities*.

I think that the following materials of the judicial investigation:

– Scientific- consulting conclusion (extra-judicial linguistic expertise) and the evidence of expert Galina Vronskaya,

– My evidence;

– Evidence of the witnesses;

– The materials entered upon the case- have convincingly proven that neither the texts of the publications I am charged for (being treated as a whole), not the separate fragments of it contain any phrases aimed at the provocation of hostility or disparity, the humiliation of human dignity or a group of people on racial, national or religious and social grounds.

I think that it has been proven during the investigation that the given publications do not touch at all upon the racial, national and social differences; they are exclusively devoted to the relations of Chechen people and Russia. The addresses of Maskhadov and Zakaev are characterized by the sharp negative assessment of the actions of the statesmen, violating human rights in Chechnya, the norms of humanitarian rights and military crimes (irrespective of their racial, national or social belonging) . They are also sharply criticizing the Russian policy in

Chechnya and the supreme military- political authorities of Russia. However the addresses contain no characteristics of racial, national or social groups or individuals; they do not contain any requirements to eliminate the freedoms and rights of the citizens or to create any racial, religious or national privileges; they do not argue about the inborn superiority of one nation, race or social group over another one; neither do they argue on the inferiority and deficiency of others; they do not provoke violence towards an individual or a group of individuals, belonging to this or that race, nation or social group and other similar phrases and appeals aimed at the provocation of hostility in racial, national and social grounds.

The facts from the mentioned publications haven't been denied during the preliminary investigation and were proven during at court hearings.

On the basis of this I am asking the Court for the
VERDICTNOF NOT GUILTY

S.M. Dmitrievsky

*RNO "Center of Public Information"
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*Information provided by
The Society of Russian- Chechen Friendship
(Nizhniy Novgorod)
Tel. (8312) 17-16-66
E-mail: friend@sinn.ru
<http://ria.hrnnov.ru/>
<http://www.uic.nnov.ru/hrnnov/rus/friend/>
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