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Testimony for the Tom Lantos Human Rights Commission
Russia and Human Rights

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Introduction

- I would like to thank Chairman McGovern and the Members of the Tom Lantos Human Rights Commission for holding this very important and timely hearing on human rights in Russia, as the situation has become critical for my country.
- Given the Commission's leadership in promoting human rights and democracy in Russia I urge you to continue your efforts to make this the priority for the United States and Russia.

International Protection Center

- My name is Karinna Moskalenko and I am the founder of the International Protection Center (IPC), an organization that represents Russian applicants in human rights cases before the European Court of Human Rights (ECHR).
- In my country, where the conviction rate is 99.7 percent, the ECHR is used as a "last resort" court for Russian citizens whose rights have been violated.

Dire Situation in Russia

- I have been a practicing lawyer and human rights advocate for over 30 years and can state, the human rights situation in Russia is getting worse, not better.
- The most recent evidence is the murder of Eduard Chuvashov, a Moscow judge who was famous for his verdicts against political extremists. The death in pretrial detention of Sergey Magnitsky - legal counsel of the Hermitage Capital in November 2009 as a result of torture and inhuman treatment is another horrible example. Also I cannot forget about political

killings and political prisoners.

- The worsening human rights situation is most disturbing, given President Dmitry Medvedev's promises to overcome "legal nihilism," fight corruption, uphold the rule of law and ensure independence of the judiciary.
- Unfortunately, among the features of today's justice system are its lack of impartiality, using it as a political tool, and daily disregard of people's human and civil rights and rule of law in general.

High Profile Cases and Disturbing Trends

- Each of the cases I will outline today, that the IPC brought before the European Court of Human Rights, illustrates a bigger issue that is occurring in Russia today: including bias of the justice system, mistreatment of prisoners, harassment of lawyers and threats against them, and violations of due process and the rule of law.

Anna Politkovskaya

- More than three and a half years have passed since the murder of prominent journalist and government critic Anna Politkovskaya.
- Nevertheless, the only result of the investigation have been acquittals. NONE have been punished, and consequently, no redress has been afforded to the victims.
- Even more troubling, during the last few years, a number of other individuals were assassinated because of their professional activity or the public stand they had taken on behalf of Anna Politkovskaya, and similarly, none of those murders have been solved.
- The very fact that the assassinations never get solved shows that the domestic authorities have actually appeared unaware of their positive obligations to protect the right to life.
- This is a clear example of impunity, obstruction of justice and failure to ensure a diligent and effective investigation.

Olga Kudeshkina

- The second case I will discuss is Olga Kudeshkina. She was a senior judge with almost 20 years of experience who was dismissed from her duties in 2004 after speaking publicly about pressure placed upon her by Moscow City Court officials and senior officers of *General Procuratura*.
- In February 2009, the ECHR ruled that Ms. Kudeshkina's dismissal violated article 10 of the European Convention on Human Rights, which guarantees freedom of expression, giving her grounds for criticizing the functioning of the judicial system and, in particular, the pressure exerted on Russia's courts.
- If Russia is serious in following the implementation of judgments of the ECHR, it must not only pay the compensation awarded to the victim, but it also must restore the violated rights of the individual.
- Since the decision, Ms. Kudeshkina has applied to be reinstated as a judge in the Moscow City Court but she has been denied reinstatement by all domestic courts contrary to the ECHR judgment.

Mikhail B. Khodorkovsky and the YUKOS case

- The next case that I would like to discuss – that of Mikhail B. Khodorkovsky and his business partner Platon L. Lebedev – is perhaps the one that the Kremlin is the most concerned about, because this case shows the most blatant violation of due process and human rights, arbitrary confiscation of property, and cynical manipulation of judiciary in the interest of certain Russian officials.
- Courts, governments, international organizations and human rights NGOs around the world agree that the Khodorkovsky case is really about 7 years of regular extreme abuse of state power that continues to this day, for two main reasons:
 - first, to eliminate Khodorkovsky as an outspoken critic of government corruption and supporter of opposition political forces; and

- second, to seize the assets of YUKOS, which by 2003 had been transformed by Khodorkovsky into the most successful, modernized and transparent energy company in contemporary Russia.
- It is my strong belief that the new case against Khodorkovsky was launched with the only purpose to prevent him from ever being released. There is no legal basis for the new trial that started more than a year ago.
- In July 2009, President Obama criticized the current case against Khodorkovsky, characterizing it as “odd”, and an apparent “repackaging of the old charges.” We fully agree: it is indeed a double jeopardy and the State’s clear abuse of power.
- As stated by the late Congressman Tom Lantos, a passionate supporter of Khodorkovsky and one of the leading U.S. voices underlining the significance of this case, “Khodorkovsky was the first in Russia to make his company transparent and compliant with international standards. But President Putin saw an opponent in him, and now Khodorkovsky is behind bars.”
- This is why I would like to thank Chairman McGovern for the introduction of House Resolution 588 in June 2009, declaring that the persecution of Khodorkovsky constitutes “a politically-motivated case of selective arrest and prosecution that serves as a test of the rule of law and independence of Russia’s judicial system.”
- We intend to call witnesses to testify in Khodorkovsky and Lebedev’s defense. However, our witnesses will never be heard in the courtroom, because some of them, including several foreign nationals, fear for their life and freedom.
- Finally on this case, I wish to add a personal note:

I was very grateful for the support by leading U.S. Congressmen, including members of this Commission, who sent a letter to President Putin in May 2007 to stop efforts to disbar me for defending Khodorkovsky as my client.

Chechen Victims of Torture and Murder

- Lastly, IPC represents the relatives of Chechen civilians who have been tortured, murdered or who have disappeared in Russian "counterterrorism" operations in Chechnya.

Last month, on April 8, the ECHR ruled against Russia in seven cases brought by the relatives of several Chechen victims who were allegedly killed by the State representatives in Chechnya after detention and disappearance during security operations.

- The Court found that in all seven cases, as in the other 200, the domestic authorities violated right to life (positive obligations as well as negative obligations), particularly because they had failed to carry out an effective investigation into the allegations. Other violations included inhuman and degrading treatment and unacknowledged detention. Facts in these cases show that mistreatment of Chechens is far beyond how any civilized nation should treat civilians in a conflict.
- Although these cases are a victory in which all the families were awarded monetary compensation, there is still no sum of money large enough to compensate for their personal suffering. But the main obstacle is non-implementation of the European Court's judgments, which are binding. The crucial problem with these cases is that the authorities must not only pay the compensation to the victims but also to ensure proper investigation of all these killings and disappearances in order to find those personally responsible, bring them to justice and prevent similar violations in future. As this is not the case, people suffer from the impunity and moreover, this situation provokes facts of individual and collective acts of terrorism. In these cases we also represent victims (hostages and their relatives in Nord-Ost and Beslan cases).

Conclusion

I am very grateful to the Commission for supporting human rights in Russia, organizing this hearing and for inviting me here to testify. This is an important opportunity to raise awareness for those who are most vulnerable and suffer from the continued impunity of the authorities.

Today I am testifying here, I am bringing the issues for your attention from my own legal perspective, using examples from the cases which we have taken to the European Court.

I am not in a position to tell you what has to be done. It is this Committee which will decide what it wishes to do to convince the Russian Federation authorities to take the appropriate measures to respect the rule of law and to eliminate the grave violations and infringements of human rights, which we unfortunately continue to see in my country.

Dear Sirs

Thank you for having me hear and for the wonderful opportunity to address this panel. I would like to make one important remark. By mistake a draft testimony was forwarded to you before it received my approval. This draft should be completely disregarded. The presentation I make today is different and the only one that I have to make.