

CONFERENCE REPORT: HUMAN RIGHTS EDUCATION IN RUSSIA AND OTHER EUROPEAN STATES

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Abstract

This article summarises the results of the international conference "Teaching Human Rights in Russia and Other European States," which was attended by 150 experts in the field of law and education from 8 countries. The article provides a synopsis of all the main conference presentations. Readers are encouraged to access the presentations in video and audio format.

Key words: human rights, teaching, the Convention for the Protection of Human Rights and Fundamental Freedoms, domestication of international human rights norms.

On October 21-22, 2013 an international conference discussing human rights education in Russia and other European states was held at the Legislative Assembly of the Sverdlovsk region, Yekaterinburg (Russia). The conference was organised by the office of the Ombudsman in the Sverdlovsk region, the Legislative Assembly of the Sverdlovsk region, the Sverdlovsk Regional Branch of the Association of Lawyers of Russia, the University for Humanities in Yekaterinburg, the Urals State Law Academy (now University), and the non-governmental organisations Sutyajnik and the Academy of Human Rights, with the support of the MATRA Programme of the Embassy of the Netherlands in Russia, the Consulate General of Germany in Yekaterinburg, and the Embassy of France in Russia.

150 participants from eight countries attended the conference. Besides legal and educational experts, the regional authorities were well-represented. The German, French and US consuls in Yekaterinburg, as well as a representative of the French Embassy in Russia, were also among the participants. The conference was opened by welcoming speeches by representatives of the organising institutions whilst the key note speaker of the second day was Mr. Markus Meckel (Foreign Minister of the German Democratic Republic (1990), member of German Bundestag (1990-2009)). Aca-

This law makes Russia the leader among European continental jurisdictions in the area of access to judicial decisions. But more could (and should) be done: for example, to mandate full publication of case materials (the pleadings of all the parties in full-text form, the complete minutes of court hearings) which should result in a more complete appreciation of the judicial resolution of disputes in the Russian Federation. Professor Simons also suggested that attorneys and judges begin citing the works of leading Russian scholars (and perhaps even academics from other jurisdictions in the European legal space) in legal documents to help nuance definitions and use of rules and regulations from all parts of the Russian legal fabric.

Interventions by representatives of Russian academia started with Prof. Svetlana Glushkova, who exposed the main tendencies and challenges in teaching human rights at her home institution and other Russian law schools. She mentioned that although most of the universities in Yekaterinburg run special human rights courses and the majority have special human rights departments, what is missing is a resource centre in human rights.

Other Russian speakers of the first day referred to a variety of issues relating to teaching human rights starting with the fashionable topic of 'legal nihilism' (a thought that denies the social value of law and considers it to be the least perfect means of regulating social relations, a concept introduced by Dmitri Medvedev at the time he was President of Russia and his determination to fight 'legal nihilism') of students during teaching discipline on human rights (Associate Professor Dina Efremenkova, Ural Academy of Civil Service) to the specifics of teaching human rights in an 'administrative society' (Sergey Denisov, University of Humanities).

Some presenters spoke of teaching methods (Vera Ilchenko, Head of the Department of Law and Methods of Teaching at the Ural State Law Academy — now University) and development and implementation of "Additional Professional Education" programmes in the field of human rights protection (Inessa Krutya, Head of licensing and accreditation, Ural State Law Academy). Others shared experience in human rights education in their departments (Prof. Olga Bogatyreva, Ural Federal University).

The *second day* was devoted to the issue of the application of human rights knowledge in legal practice in Russia and other European states. Participants were welcomed by Andreas Klassen, Consul General of the Federal Republic of Germany in Ekaterinburg, Michel Baran, Consul General of France in Yekaterinburg and Ida Chafai, representative of the Embassy of France. The tone to the second day of the conference was set by an introductory speech by Mr. Markus Meckel who reflected on the German and European experiences with both the ECHR as well as the EU Charter of Fundamental Rights.

The first two presenters, a French judge and a French human rights activist, provided the participants with an understanding on the application of the Convention in France. Providing specific examples, Judge Timothée Paris (also in audio in Russian <http://sutyajnik.ru/audio/333.mp3>) explained that a French administrative judge applies the ECHR and the case-law of its Court in the same way as domestic law. Questions from the floor led the speaker to admit that it is not the courts' custom to actually acknowledge or cite in the text of a judgment that the judge took into account norms of international human rights law. Me Hugues de Suremain, a member of the Paris Bar association, and a former legal officer at the International Observatory of Prisons, spoke of how European law on the rights of the prisoners had led to the emergence of prison law of France. The speaker addressed primarily the law governing the legal status of prisoners (awaiting trial or sentenced), which concerns the life inside the prison, the 'internal legal status' (as opposed to the "external legal status" of the detainee, which is to do with the duration and the different ways of the execution of sentences and the possibilities of conditional release). Just like what happened in the USA, where it is the federal judge who has developed the right of detainees, the construction of the prison law in France mainly took the form of a dialogue between, on the one hand, the associations and the chief of the International Observatory of Prisons, which, together with academics, took to courts the bulk of complaints of inmates, and, on the other, the administrative courts and the ECHR. One of the presidents of the Supreme Administrative Court has analysed the process of litigation of the International Observatory of Prisons and described it as a 'collective action.'

The relay race was continued by the Chair of the Presidium of Collegium of Advocates "Sverdlovsk Oblast Guild of Advocates", Honorary Advocate of Russia Natalia Sukhareva who, by referring to her own litigation experience, revealed that the ECHR is not taken into account by courts of the Yamalo-Nenetsky Autonomous district. Judge Kazantsev, a judge of the Chapter court of Sverdlovsk oblast, spoke of 'legal enlightenment' as one of the directions of activities of the Chapter Court of Sverdlovsk oblast. This is a Soviet courts' tradition to use the administration of justice as a tool for raising awareness of the law amongst the population. However, as one of the participants noted in his reply, it is not unclear how the court may legally enlighten the population if this court does not cite the ECHR and the relevant case-law. One could easily draw parallel to the practice adopted by French judges in civil cases.

The remaining part of the second day was filled with presentations of Russian human rights activists and legal practitioners, which made the conference particularly interesting as these presentations gave an opportunity to see whether existing human rights education was working.

Igor Golendukhin, a former prisoner, now the Head of the NGO 'Protecting the Rights of Prisoners,' and expert of the State Duma Committee on Public Associations and Religious Organizations' working group for the protection of citizen rights in places of detention, reflected upon his three-year practice of appealing against prison administrative penalties on the basis of incongruity with international human rights law. If prisoners decide to fight against disciplinary penalties, they in fact fight the system in which the head of the prison is the law. He admitted that there are examples of good practice of direct application of international human rights norms in courts, but this is due to the applicants and their representatives making judges aware of the international legal framework regulating prisoners' rights. The speaker asked the academics a rhetoric question whether all is well in the educational system and where particular heads of correctional institutions come from.

Aidar Sultanov, Head of the Legal Department of JSC 'Nizhnekamskneftehim' and judge of the Arbitration Energy Court, gave an optimistic view on the domestication of international law, notably referring to his own litigation experience. Russian law enforcement organs use a type of administration of justice which involves comparing the disputable situation with norms of positive law without looking into case-law for interpretation in order to make a decision. As the Russian law enforcement authorities consider ECHR provisions too abstract to be used as a template that matches the facts of a case, it is not easy to convince a judge to refer to such provisions. However, in the opinion of the speaker, this difficulty does not emerge from a poor application of international law norms but rather from the lack of positive norms on the domestic level with regard to the protection of the inalienable human rights and freedoms. Despite this and other difficulties, he concluded that European human rights law is slowly but surely coming to Russia.

Anton Kudryakov, member of the NGO Sutyajnik of Yekaterinburg, presented his strategic litigation campaign for the right to respect for private life of witnesses of administrative offences as understood in the ECHR and the relevant case-law. An analysis of a variety of examples relating to national courts practice (from a district court all the way up to the Supreme Court and the Constitutional Court of Russia) revealed the judicial and police ignorance of international human rights law guarantees of the right to private life of witnesses of administrative offences. This, the speaker concludes, is the source of the lack of will of witnesses to cooperate with law enforcement organs.

Prof. Andrew Suslov, Head of the Department of Modern and Contemporary History of Russia at the Perm State University of Humanities and Education, speaking of teaching human rights in Russia and Russia's international obligations and

their fulfillment, stated that "...human rights education is not a matter of discussion; it is the duty of the state to fulfill its international obligations". This idea is not often considered but certainly attracted a lot of attention from the participants.

The short concluding intervention by Mihail Kuchin, former Head of the Urals Institute of Regional Legislature, focused on the method of teaching law in Russian law schools. He urged a reform of the way law is taught, stressing that it was important to teach not just the statutes, but also how to apply and interpret the law as well as how to look into legal practice the way the ECHR does it. Commenting statutes is no longer enough commenting legal practice must be employed.

One of the main outcomes of the conference is the recognition by the region's leaders that the teaching of 'human rights' is the most important criterion for evaluating higher education institutions as well as courses of post-graduate and continuing education. Statements made by representatives of the regional government on the need for the creation of the Urals Human Rights School, supported by participants in the conference resolution, are important from a political point of view. This political will to have the school initiated will eliminate some of the political obstacles. The actual creation of the school depends on the will of the participants, including the ones from Europe. It is crucial to understand that human rights are never national business and that international cooperation is the key to raising a certain level of awareness and respect for human rights. This conference came true only thanks to the international cooperation of Russian authorities, academics, human rights activists and legal practitioners and their European (e.g. French, German and Dutch) counterparts.