



Written statement by SOVA Center for Information and Analysis and International Partnership for Human Rights to the OSCE Supplementary Human Dimension Meeting on Freedom of Religion or Belief, Vienna, 9-10 July, 2009

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The fight against religiously motivated hatred and violence remains a priority for the international community and its member states. This fight is ultimately about protecting the dignity and rights of citizens. It is therefore particularly alarming that it is sometimes used as a pretext for suppressing precisely such values.

SOVA Center for Information and Analysis and International Partnership for Human Rights (IPHR) would like to use this opportunity to highlight concerns about measures restricting the right to freedom of thought, conscience and religion and other fundamental rights in the fight against religious “extremism” in Russia.¹

The core of the problem is the country’s broadly and ambiguously worded legislation on extremism, which lends itself to arbitrary and discriminatory enforcement. As “extremism” currently is defined, for example, claims that certain religious beliefs are superior to others or critical remarks considered offensive by believers may be interpreted as “extremism” and used as grounds for outlawing an organization or a media outlet, prohibiting the distribution of a publication, or bringing criminal charges against an individual.²

Within the framework of existing legislation, members of Muslim groups that operate independently of recognized Islamic structures have been convicted of “extremist” crimes despite the lack of evidence that they have been involved in any activities of a violent character. In many cases, Muslim literature has also been deemed “extremist” without apparent foundation and added to a federal black-list of publications banned in Russia.³ Once a publication has been included on this list, distributing it may result in sanctions for “extremism”. There is no set procedure for removing publications from the list. Other religious minority groups, which are often depicted as “sects” in the media, have likewise been subject to pressure in the name of fighting religious “extremism”. Jehovah’s Witnesses have been a particular target.

¹ For a thorough discussion of developments relating to the fight against “extremism” in Russia, see SOVA, *Inappropriate Enforcement of Anti-extremist Legislation in Russia in 2008*, at <http://xeno.sova-center.ru/6BA2468/6BB4208/CD49ACB>. Available in Russian at <http://xeno.sova-center.ru/29481C8/CB5956B>

² Organizations and media outlets may be warned and closed down for “extremist” activities, and publications banned for “extremist” content, under the Russian Law on Combating Extremist Activity. Individuals may be prosecuted under the Criminal Code for making “public calls” to “extremism” or for crimes considered to be of an “extremist” character, such as “inciting hatred” or “humiliating the dignity” of others on the basis of religion, nationality or other grounds (article 282). For a detailed analysis of Russian anti-extremism legislation, see SOVA, *Anti-Extremist Legislation and Its Enforcement*, September 2007. The report is available in English at <http://xeno.sova-center.ru/6BA2468/6BB4208/9D8E370>, and in Russian at <http://xeno.sova-center.ru/29481C8/9CCB151>

³ For example, books written by Said Nursi, a well-known 20th century Muslim theologian of Kurdish origin from Turkey, have been black-listed.

- Jehovah's Witnesses' communities have received numerous warnings for engaging in "extremism" and attempts have been made to outlaw their publications, such as the magazines *Watchtower* and *Awake!*, which are widely distributed all over the world. Investigations into the activities of Jehovah's Witnesses are currently under way in several regions of Russia. Experts commissioned with analyzing Jehovah's Witnesses publications in the Sverdlovsk region have concluded that these publications contribute to "religious hatred" and "abasement of human dignity", among others by demonstrating that Jehovah's Witnesses consider themselves "exceptional" in comparison to other faith communities, as well as to the rest of the world.⁴

In another case, which has been dragging on for several years, a pagan priest has been accused of "extremism".

- Through a court decision in late 2006, Vitaly Tanakov, a priest of the animist religion of the Mari national minority, was found guilty of "humiliating the dignity" of citizens on grounds of nationality and religion (Criminal Code article 282) because he had published a polemic brochure about the Mari people and its religious beliefs. He was sentenced to 120 hours of compulsory work.⁵ A process was subsequently initiated by authorities of the Russian republic of Mari El to have the brochure declared "extremist". Repeated re-trials and six linguistic analyses later, the Supreme Court of the republic finally endorsed such a move in April 2009.⁶ Tanakov has been actively involved in the Mari Usher national movement, which defends the rights of the Mari and opposes the policies of the pro-Kremlin authorities of Mari El.⁷

In addition to members of religious minorities, individuals and organizations accused of "blasphemy" have been subject to repressive measures in the fight against religious "extremism". Among others, the organizers of an art exhibition have been singled out for such measures.

- Yuri Samodurov, a prominent human rights activist, and Andrei Yerofeev, a respected art critic, have been charged with inciting ethnic and religious hatred (Criminal Code article 282) for staging the exhibition *Forbidden Art 2006* at the Sakharov Museum in Moscow in the spring of 2007. The exhibition featured controversial art works that had been refused at other exhibitions in Russia, including several works with religious themes. While the stated purpose of the exhibition was to stimulate discussion of the problem of censorship in arts, rather than to promote the works at display,⁸ it sparked angry protests from the Russian Orthodox Church for allegedly being anti-Christian and anti-Orthodox. The prosecutor who brought charges against the two men similarly argued that the exhibition was aimed at expressing a "degrading and insulting attitude" towards Christianity and, in particular, the Orthodox faith.⁹ A court hearing in the case is currently under way. If the two men are found guilty, they could face up to five years in prison.¹⁰

⁴ See commentary by SOVA in Russian at <http://xeno.sova-center.ru/89CCE27/89CD1C9/CB35F0E>

⁵ Tanakov was also found guilty of inciting social hatred. The decision was subsequently upheld on appeal. See SOVA, "B Республике Марий Эл вынесен приговор «верховному жрецу»" ("Supreme pagan priest" sentenced in the Republic of Mari El"), 26 December 2006, at <http://xeno.sova-center.ru/89CCE27/89CD1C9/878F999>

⁶ Prior to this decision, the Mari El Supreme Court three times reversed the decision made by a lower court in the case and sent it back for re-consideration. An application in the case has been submitted to the European Court of Human Rights. See statement by the NGO Chelovek i zakon ("Man and Law"), which provided legal assistance to Tanakov, at <http://mariuver.wordpress.com/2009/04/29/tanakov-ekstremistskoi/>

⁷ See International Helsinki Federation for Human Rights (IHF) and Moscow Helsinki Group (MHG), "Russian Federation: Mari National Activists Prosecuted for Exercising Freedom of Expression," 1 September 2006, at <http://www.mari.ee/eng/news/polit/2006/09/01.html>; and IHF and MHG, *The Human Rights Situation of the Mari Minority of the Republic of Mari El*, February 2006, at http://www.ihf-hr.org/viewbinary/viewdocument.php?doc_id=6654

⁸ See open letter by Yuri Samodurov, at <http://www.sakharov-museum.ru/museum/exhibitionhall/forbidden-art/letter-english/>. See also appeal (in Russian) by a number of Russian human rights NGOs, at <http://www.zaprava.ru/content/view/1858/1/>

⁹ The indictments against the two men are available (in Russian) at the website of the Sakharov museum, at <http://www.sakharov-center.ru/>

¹⁰ Samudurov was convicted on similar charges and fined 100,000 rubles (approx. EUR 2,300) in 2005 for an exhibition called "Watch Out: Religion!", which was also considered to contain "blasphemous" works.

Recommendations:

In view of the concerns described above, SOVA and IPHR would like to make the following recommendations.

To the Russian authorities:

- Revise anti-extremism legislation in force to limit the applicability of provisions on “extremism” to actions that involve the use of violence or incitement to violence and to ensure that such provisions do not lend themselves to arbitrary enforcement infringing freedom of thought, conscience and religion, freedom of expression and other fundamental liberties;
- Publish official guidelines on the implementation of Criminal Code article 282 (incitement of hatred on religious, ethnic and other grounds), clarifying that this article should only be used to prosecute hate speech against individuals, not criticism of beliefs or religious practices, although such criticism may offend the feelings of some parts of the population;
- Put an end to ongoing investigations, and reconsider previous cases against individuals and organizations who have been accused of “extremism” merely for exercising rights protected under international law, for example by preparing and distributing publications that proclaim the righteousness and superiority of particular beliefs or by engaging in scrutiny or criticism of issues relating to faith;
- Abolish the current system of black-listing publications found “extremist” for distribution in the country, or at least, as a first step, change the system so that only regional-level courts can make decisions to include publications on the federal black-list and so that such decisions can be appealed through a special procedure.

To all OSCE participating States:

- Ensure that measures taken in the fight against religiously motivated hatred and violence are consistent with the framework provided by international law and safeguard the right of all citizens, whether they profess religions considered traditional, belong to minority religious communities or are atheists, skeptics or unconcerned, to express their beliefs, convictions and opinions in a peaceful manner;
- Ensure that incitement to hatred legislation is clearly and unambiguously worded so as to strictly limit its scope to advocacy of hatred that constitutes incitement to discrimination, hostility or violence against individuals on the basis of religious or other characteristics, and so as to rule out the possibility that this legislation can be used to punish criticism of religions, beliefs or schools of thought.¹¹

¹¹ Compare *Joint Declaration on Defamation of Religions, and Anti-terrorism and Anti-Extremist Legislation* made by the freedom of expression rapporteurs of the United Nations, the OSCE, the Organization of American States and the African Commission on Human and Peoples' Rights, at http://www.osce.org/documents/rfm/2008/12/35705_en.pdf