

**SOVA Center for Information and Analysis****Phone/Fax: +7 (495) 517-9230****E-mail: mail@sova-center.ru****News and publications: <http://sova-center.ru>****Address and recommendations at the working sessions 12 and 13
“Tolerance and non-discrimination II”**

Mr. Chairman, distinguished members of the conference!

The problems our organization registers in Russia in the sphere of countering racism, hate crimes and the activities of the ultranationalist groups remain mainly the same as a year ago. Therefore, it is necessary to start with what has radically changed in this particular sphere. I have in mind the problems associated with the armed conflict in Ukraine.

These problems cannot be called unique in the modern European history, but that does not make them less sharp. They represent a qualitatively new challenge for Russia, Ukraine, and other countries.

In the war on the territory of Ukraine, there are many foreigners participating from both sides, most of them from Russia; but there are also participants arrived from a number of other European countries. Of those, there are quite a few ultra-right, and even neo-Nazi views, fighting from both sides. No one can accurately estimate the number of these ultranationalists who were converted into an organized armed force, or became a part of such a force, however, we can definitely talk about hundreds of militants.

Firstly, a high concentration of armed ultranationalists on a small part of Eastern Ukraine that it not controlled by Ukrainian authorities represents a potential danger far beyond its geographic scope, and is closer to the one the international community faced in Afghanistan, although, of course, not on such a scale. The Ukrainian armed forces that are either under the influence or under control of the ultranationalists represent a serious national problem and possibly a wider problem than that.

Secondly, most of these ultranationalists, participating this war will return from it to the peaceful life of their own countries, whether that be Ukraine, Russia, or other countries in the region, and they will contribute to the growth of xenophobia and racist violence, etc. In fact, the level of violence in domestic politics has grown significantly both in Ukraine and in Russia

Efforts to restore peace in the Ukraine, including those undertaken with the guidance of the OSCE, should include measures to minimize these two threats. We all know how difficult it is to develop these measures under the current situation of confrontation. However, in this case, as we understand, all the OSCE States are interested in minimizing these threats, and therefore the coordinated solutions still seem possible, and perhaps, even joint actions may still be achievable. We need to restore at least the same level of security of our societies that we had before the outbreak of military actions in Ukraine.

To return to the situation in Russia, it should be emphasized that significant political development in society has not changed those negative tendencies in policies of counteracting various demonstrations of intolerance we spoke of a year ago.

Despite systematic criticism, including that leveled by the Venice Commission, Russia has not changed the existing anti-extremist legislation substantially, except for adopting new amendments to the legislation, which make it even worse. Each new amendment is motivated by tolerance concerns in our society. Still, the new norms de facto do not contribute to more tolerance. Specifically, they result in the tightening of the anti-extremist articles of the Criminal Code, which criminalize denial of the crimes during the Second World War as well as criminalize insults to religious sentiment. Each time we are dealing with formulations that are too broad and unclear. As a result, the new laws are at the best just not being applied.

The anti-extremist legislation, which has essential weaknesses that have been pointed out time and again, also has two major negative consequences:

First, unjustified restrictions of rights and freedoms and lawless prosecution still continue. This concerns society as a whole, but first and foremost it applies to some religious minorities - peaceful Muslim groups (primarily, "Tablighi Jamaat" and the followers of Said Nursi) and the Jehovah's Witnesses. The irregular or excessive response of law enforcement agencies is sometimes directed against activists from ethnic minorities.

The second consequence: countermanding racism is increasingly displaced from pursuing those who perpetuate violent crimes to the persecution of insignificant public statements made by lesser-known people. This year, we know of 31 people convicted for violent hate crimes, and about 102 persons convicted for fomenting hatred (not counting wrongful convictions). And this number is growing from year to year. For example, last year the same figures showed 55 and 126 respectively, but in 2010 the opposite was the case with 297 and 78.

As a result of such a policy, the number of hate crimes, which had been reducing at an earlier stage, is no longer reducing.

A continued practice of illegal raids by ultranationalists of the workplaces and residences of migrants remains unpunished.

The scope of hate speech has not been reduced, as dozens of people have been arbitrarily convicted: their statements are no different from hundreds and thousands of others, which have not been investigated. Such a practice does not create an image of what is, in a fact, unacceptable.

We are studying the situation in Russia, and therefore speak here about the situation in Russia. But we are aware that there are the problems in the sphere of legal counteraction against hate crimes and fomenting hatred in many other countries of the OSCE as well.

Our recommendations:

For the OSCE

1. In the context of the conflict in Ukraine, establish a working group that would monitor military activities of the ultranationalists. An agreement between Ukraine and Russia on the format of such a group should be reached.

2. Compile and distribute experience gained from prior comprehensive efforts against groups that practice racist violence, including specific criminal investigations, detection and destruction of the groups' infrastructure, isolation of their funding sources, identifying organizers and coordinators of violent actions, etc. Hold an international expert workshop on this topic, if needed.

3. Establish a working group to assess the effectiveness of national legislation in terms of countering not only hate crimes, but also incitement of hatred. We understand that it is impossible to create recommendations for legislation on incitement to hatred in the framework of the OSCE. However, it should be possible to respect existing laws and their implementation. The

Rabat plan of action, developed in the framework of the United Nations at the beginning of last year, can be taken as a fundament.

4. Organize a seminar – or better a series of seminars - for law enforcement officials from different countries, presenting a summary of successful practices for collecting information and recording hate crimes statistic.

For the OSCE Participating States

1. To investigate the activities of the groups involved in the war crimes in one way or another; to investigate other especially grave crimes during the conflict in Ukraine.

2 Strictly prevent and adequately punish any instances of violence directed against political opponents, both in the course of public events as well as outside them. (These two recommendations relate primarily to the Ukraine and Russia, but not only them.)

3 To give an evaluation to the national laws on incitement to hatred and their implementation, with reference to the Rabat Action Plan.

4. More actively use the information collected by non-governmental organizations that perform systematic monitoring of racist groups, and consult NGOs on law enforcement issues. Despite methodological, and even political, differences, such cooperation can be very productive.

5. Adjust the legislative framework covering hate crimes and related activities, including public incitement, organizing, financing, etc. Legislation should focus law enforcement efforts, first and foremost, on prosecuting the most dangerous crimes against the person. The internal policies and regulations of law enforcement agencies should reflect the same priorities.

6. Change the crime reporting system so that suspected hate motive could be recorded at any stage, including the earliest one. Specialized police units are more effective in investigating hate crimes, but regular police should conduct such investigations as well..

7. Publish hate crime statistics, highlighting the different types, regions, and number of victims. Official statistics should be based on court decisions (for both proven and unproven cases), and not on the number of opened criminal cases.

8. Actively participate in the TAHCLE training program for police officers.

9. Train law enforcement personnel in detecting and deterring any unusual forms of offenses motivated by racial and similar hatred.

10. Adopt and develop comprehensive anti-discrimination legislation or a series of individual acts containing effective rules and procedures of proving discrimination.

11. When enforcing the laws relating to violations of the rules of entry and residence in the country, obtaining work permits, etc., officials should avoid making public statements linking these disorders with specific ethnic groups, and avoid holding large campaigns. Such enforcement should be carried out systematically and uniformly.

12. Public officials should have no right to express publicly their intolerance or even disrespect to any minorities. Civil service legislation should include effective sanctions against such actions. These penalties also need be made public.