

***Joint intervention by the IHF, the SOVA Center for Information and Analysis
and the Moscow Helsinki Group***

Tuesday, 25 September 2007:

Working session 2, Specifically selected topic: **Combating intolerance and discrimination and promoting mutual respect and understanding:**

Civil liberties under threat in the fight against "extremism" in Russia

The problem of hate crimes perpetrated by members of racist and nationalist groups in Russia is serious and requires effective and resolute measures by the authorities.¹ However, the International Helsinki Federation for Human Rights (IHF), the SOVA Center for Information and Analysis (Russia) and the Moscow Helsinki Group are concerned that the current fight against "extremism" in Russia is not limited to counter-acting racist and nationalist violence, but is also exploited to stifle the peaceful exercise of freedom of expression and other civil liberties. With the December 2007 parliamentary and the March 2008 presidential elections drawing closer, the term "extremism" has been increasingly used to target those who criticize official policies, a development reminiscent of Soviet-era campaigns against "anti-Soviet" propaganda.

Russian anti-extremism legislation is broad and ambiguous and therefore open to politically motivated implementation. A special law on combating "extremism," which was first adopted in 2002, provides a list of activities that are considered "extremist."² Some of the most problematic elements of this list were recently abolished, but it still contains a number of vaguely worded provisions that may be arbitrarily interpreted, such as "propagating exclusiveness superiority or inferiority of citizens on the basis of their religious beliefs" and "incitement to social, racial, ethnic or religious hatred." Under the anti-extremism law, NGOs and media outlets may be warned and closed down for organizing, committing, supporting or encouraging "extremist" activities, while related provisions of the Russian Criminal Code may be used to prosecute and imprison individuals for "public calls" to such activities. Individuals may also be sentenced for certain other crimes considered to be of an "extremist" character, in particular "inciting hatred" on the vague grounds spelled out in the anti-extremism law. Moreover, as a result of amendments passed in July 2007, any crimes motivated by "political" or "ideological" hatred now qualify as "extremist" crimes, and for example acts of petty hooliganism may be punished with up to five years in prison if they are deemed to have been perpetrated for such reasons.³

Recent developments have reinforced concerns about politically biased implementation of the country's anti-extremist legislation, with numerous political opponents and civil society activists summoned to be questioned on suspicion of "extremism"⁴ and a growing number of critics of the regime charged with "extremist" crimes.

In the last few months, there have been repeated attempts to publicly discredit political opposition activists as "extremists" and to prevent media coverage of political opposition events on similar grounds.

- In connection with a series of so-called marches of dissent held in major Russian cities in the spring of 2007, entire print-runs of newspapers devoted to the marches were confiscated to be reviewed for "extremism," and the Echo Moscow radio station came under scrutiny for providing airtime to prominent opposition figures.⁵

One of the opposition movements that visibly participated in the marches of dissent was banned as "extremist."

- In April 2007, a Moscow court prohibited and declared "extremist" the National Bolshevik Party (NBP), thus rendering participation in any activities of the party punishable by up to two years in prison. Although the ideology of the NBP contains fascist elements and it has engaged in offensive nationalist rhetoric in the past,⁶ the decision was disproportionately harsh and appeared politically motivated. It was made with reference to protests staged by the group, which involved acts such as invading an official meeting, scattering leaflets and shouting slogans that did not pose any danger to anyone, as well as hostile articles written by former party members who were criminally convicted on these grounds and subsequently excluded from the party.⁷ The ban on the NBP was upheld by the Russian Supreme Court in August 2007.⁸

Human rights defenders working on politically sensitive issues have also continued to face pressure in the struggle against "extremism."

- Human rights activist Lev Ponomaryev was questioned by the Federal Security Service (FSB) in June 2007 for allegedly shouting "extremist" slogans at a Moscow rally in support of businessmen against whom allegedly trumped-up charges of illegal trafficking of ethyl ether have been leveled.⁹
- The conviction of Stanislav Dmitrievsky, former head of the Russian-Chechen Friendship Society (RCFS) who in 2006 was found guilty of "inciting ethnic and religious hatred" for publishing political appeals by Chechen rebel leaders that in no way encouraged hatred or violence, remains in place.¹⁰ What is more, he was fined for participating in a march of dissent in Nizny Novgorod in April 2007 despite a warning not to do so, and a local court changed its prior verdict in August 2007, ruling that his two-year suspended prison sentence can be executed if he is found guilty of two administrative violations within a year during his probationary period.¹¹ The RCFS was closed down by the Russian Supreme Court in early 2007 for failing to distance itself from Dmitrievsky after his conviction for an "extremist" crime.¹² Russian authorities have since publicly depicted the RCFS as an "extremist" organization, although it has not been declared as such by court, and tried to prevent its participation in international events.¹³

Writers and intellectuals have, further, been singled out as "extremist" suspects.

- On 18 September 2007, a Moscow court upheld a decision by a lower court to declare as "extremist" the Russian translations of books written by well-known 20th century moderate Turkish Muslim theologian Said Nursi, as a result of which distribution of these works became illegal in Russia. According to the court's decision, Nursi's fourteen-part commentary on the Quran and Islam "aims to incite religious hatred, propagandise the exclusivity, superiority and inferiority of citizens according to their attitude towards religion, as well as to substantiate and justify the necessity of such activity."¹⁴ An expert study commissioned by Russian Ombudsman Vladimir Lukin concluded, on the contrary, that his works did not contain any appeals to religious hostility or intolerance or any evaluation of citizens based on their convictions.¹⁵ In Turkey, Nursi's books are in free circulation.
- A hearing in the case of Andrei Piontkovsky, a senior member of the liberal Yabloko party whose Kremlin-critical books have been alleged to contain "extremist" statements, began in a Moscow court in August 2007.¹⁶ The Krasnodar branch of the Yabloko party had already previously received a warning for distributing his books.¹⁷

- The sentence against Vitaly Tanakov, a Mari pagan priest who in December 2006 was found guilty of “inciting religious, ethnic and social hatred” for publishing a booklet about the particularities of the Mari people and its religious beliefs,¹⁸ was upheld by the Supreme Court of the Republic of Mari El in March 2007.¹⁹ Tanakov has been actively involved in a national movement that defends the rights of the Mari – a Finno-Ugric minority – and opposes the policies of the pro-Kremlin president of Mari El.²⁰

Even ordinary citizens voicing dismay about the current state of affairs have faced “extremism” charges.

- A court case is currently pending against Petr Gagarin, an elderly man from Orel who was charged with “public calls to extremist activities” because of a comment he made at a public meeting in his home city in January 2007. At this meeting, where rising costs for communal services were discussed, Gagarin said that he “would like to execute the governor.”
- In August 2007, Savva Terentyev, a 22-year-old Internet blogger from Syktavkar in the Komi Republic, was charged with “inciting hatred against a social group” for making offensive comments about police in a February 2007 posting on LiveJournal. In his posting, he *inter alia* criticized the actions taken by police in connection with a raid of the office of an opposition newspaper.²¹ Also this case is currently pending in court.

All the cases described above illustrate how the fight against “extremism” has become a tool for intimidating and putting pressure on critics and opponents in contemporary Russia, with serious implications for the protection of human rights in the country.

Recommendations:

The Russian authorities should concentrate their efforts in the fight against “extremism” on combating violent hate crimes and make sure that it is not misused to restrict the expression of pluralist views. To this end, they should:

1. Stop using the term “extremism” to discredit and stigmatize individuals, groups and media that express and represent views different from and critical of those in power;
2. In consultation with civil society, initiate further revisions of anti-extremism legislation to ensure that all provisions on “extremist” crimes are precisely and unequivocally worded so as not to lend themselves to arbitrary or discriminatory enforcement infringing protected rights such as freedom of expression, association or assembly;
3. Terminate all ongoing investigations into cases in which individuals, groups and media have been accused of “extremist” crimes for merely exercising internationally protected rights and ensure that any sentences handed down on such grounds are reversed.

To all OSCE participating States:

4. The authorities of all OSCE participating States should exercise care and responsibility when using the politically and emotionally charged term “extremism” in public debate so as to avoid reinforcing suspicious and distrustful attitudes toward certain groups in society and ensure that all their efforts to combat hatred and violence are carried out within the framework provided by international human rights law. They should hold each other accountable for human rights violations perpetrated in the purported fight against “extremism.”

¹ See intervention by the IHF and SOVA to the OSCE HDIM 2006 on "The problem of racist violence in the Russian Federation," at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4307; and SOVA, *Radical nationalism in Russia and efforts to counteract it in 2006*, available in English at <http://xeno.sova-center.ru/6BA2468/6BB4208/93A572E> and in Russian at <http://xeno.sova-center.ru/29481C8/8F76150>

² For background information about the anti-extremism law, see the chapter on "Vague, arbitrary and overly broad definitions of terrorism in criminal law," in IHF, *Anti-terrorism Measures, Security and Human Rights*, April 2003, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4082; and IHF, "Open Letter to the Leaders of the G8: New and Dangerous Amendment to the Russian Anti-extremist Legislation," 3 July 2006, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4277

³ For more detailed information about current Russian anti-extremism legislation as well as recent amendments, see SOVA, *Anti-Extremist Legislation and Its Enforcement* (written by Alexander Verkhovsky), 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>

⁴ In many cases, opponents and activists have been summoned by the procuracy following a request by political leaders to investigate alleged "extremist" tendencies. Under Russian law, the procuracy is responsible for investigating all "signs" of "extremism."

⁵ SOVA, *The Sowing Season in the Field of Russian Nationalism*, available at <http://xeno.sova-center.ru/6BA2468/6BB4208/9845B8E>; IHF, "Russian Federation: Newspapers Seized and People Detained in Connection with the Planned 'March of Dissent' in Nizhny Novgorod," 22 March 2007, at http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=7270; *Interfax*, "FSB Checking Kasparov's Radio Address for Extremism," 16 April 2007.

⁶ SOVA, *Misuse of Anti-Extremist Legislation and Enforcement in Russia: A Brief Analysis and Recommendations*, 7 May 2005, at <http://xeno.sova-center.ru/6BA2468/6BB4254/926DD8E>

⁷ SOVA, *The Sowing Season in the Field of Russian Nationalism; Transitions Online*, "Crackdown: The Thugocracy Lands Another Punch"; and SOVA, "Why the decision to ban the NBP should be revoked," (written by Alexander Vehovsky), 4 August 2007, in Russian at <http://xeno.sova-center.ru/29481C8/99C0ACC>

⁸ *The Christian Science Monitor*, "Russia Stretches 'Extremism' Laws," 9 August 2007.

⁹ *The Moscow Times*, "Skinhead Law Being Applied to Liberals," 8 June 2007.

¹⁰ See the chapter on Russia in IHF, *Human Rights in the OSCE Region. Report 2007 (Events of 2006)*, at http://www.ihf-hr.org/cms/cms.php?sec_id=71

¹¹ IHF, "Another Abuse of Russian Anti-Extremism Legislation: Computers of a Nizhny Novgorod NGO Seized on Suspicion of Extremism," 29 August 2007, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4434

¹² IHF, "Flawed Court Case Based on Flawed NGO Law Leads to Ruling to Close Down the Russian-Chechen Friendship Society," 13 October 2006, at www.ihf-hr.org/documents/doc_summary.php?sec_id=58&d_id=4323; Statement of the International Helsinki Federation for Human Rights (IHF) regarding the decision of the Russian Supreme Court to deny the appeal against closure of the Russian Chechen Friendship Society," 23 January 2007, at www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4364

¹³ IHF, "Exclusion of Nongovernmental Organizations a Violation of the Helsinki Principles," 13 September 2007, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4436; SOVA, *The Sowing Season in the Field of Russian Nationalism*.

¹⁴ As quoted in *Forum 18*, "Russia: Said Nursi ban brands moderate Muslims as extremist," 27 June 2007, at http://www.forum18.org/Archive.php?article_id=981

¹⁵ See letter by Vladimir Lukin to the court dealing with Nuris's case, 8 May 2007, available in Russian at <http://www.muslim.ru/1/cont/4/5/1157.htm>

¹⁶ *Glasnost Defense Foundation Digest*, No. 344, 22 August 2007, at <http://www.gdf.ru/digest/index.shtml>

¹⁷ *The Christian Science Monitor*, "Russia Stretches 'Extremism' Laws," 9 August 2007; *RIA Novosti*, "Court upholds 'extremism' warning to liberal Yabloko party," 14 August 2007, at <http://en.rian.ru/russia/20070814/71517809.html>

¹⁸ See IHF and the 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>

¹⁹ SOVA, *The Sowing Season in the Field of Russian Nationalism*.

²⁰ For more information, see 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

²¹ International Freedom of Expression Exchange, "Blogger faces criminal charges over on-line writings about law enforcement officials," 16 August 2007, at <http://egypt.ifex.org/en/content/view/full/85589/index.html>