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Hate Speech in Russia: Overview of the Problem and Means for Counteraction

Public racist statements and comments as well as incitement to ethnic and religious hatred/hostility (i.e. *hate speech*) are becoming ever more widespread in Russia in recent years. Such an up-trend has been observed not only in the marginal circles but also in the mainstream, even among high-profile state servants and politicians.



HERE seem to be several reasons for the growth of hate speech in Russia. Among them we can particularly note the over-all expansion of racist feelings in society and decline in tolerance in relation to "other" cultures and religions in the context of difficult social and economic situation of the larger part of population. Another important reason is the connivance of the public officials with regard to open manifestations of racism as well as manipulation of racist views of the public by individual representatives of the authorities with the purpose of achieving their political goals. Misjudgment and underestimation of the problem of hate speech by journalists and editors, weak reaction of society in general and NGO community in particular are also conducive to further deterioration of the situation.

The combination of these negative factors results in the lack of public dialogue on hate speech and related issues. The current situation is paradoxical: - while dissemination of hate speech is advancing with alarming speed, practically everyone pretends that nothing out of the ordinary is taking place in the country. Consequently, many of those that spread hate speech move on from word to action, particularly youth groups of skin-heads and such. The number of incidents of violence against representatives of ethnic and religious minorities in different localities across the country is increasing at a distressing pace. The longer such a situation persists, the more difficult shall be the task of changing the attitude of the public towards this dangerous phenomenon and remedying the harm.

Hate Speech/Xenophobia and the Russian State

On the federal level, war propaganda or incitement to discrimination and violence are not carried

out, at least not openly. In 1999, militaristic rhetoric of the top federal officials during the first days of the Balkan crisis never ventured further than repetitive warnings of a "threat of the third world war," and their strong statements at the onset of military actions in Dagestan and, later on, in the Chechen Republic, were addressed exclusively to "terrorists," "bandits," "Islamic extremists," etc.

At the same time, it should be noted that fervent appeals to militaristic values in connections with military actions in Chechnya ("fight the war until the victorious end!") started to be used rather actively by the federal authorities as a political life factor. Vladimir Putin succeeded in gaining unanticipated popularity particularly due to the fact that he had positioned himself as a supporter of "decisive actions"¹.

Moreover, in 1999, the federal-level mass media was riddled with more than radical statements and comments. By way of an example, a host of a prominent analytical program regularly broadcast by the ORT Channel (country-wide coverage, state-controlled) publicly suggested to subject the entire territory of Chechnya to "carpet-bombings" and to "cover it with asphalt"².

It should be stated that the position of the authorities and the mass media bodies corresponded to the general public feelings. In 1999, according to sociological surveys, 64% of the Russian population approved of actions of the military in Chechnya and 55% were against negotiations with the Chechen leaders. By January 2000, this trend in public opinion was only reinforced: 67% and 62% respectively.

The public opinion is certainly sensitive to the influence of the state power and especially to that of the mass media. However, in this case, one can observe a very vivid contrast with the public attitude

dating back three years from 1999 to the period of the first Chechen war, when practically the same percentage of people that now approve of the campaigns had negative feelings about the military actions. This very contrast allows us to suggest that it is more likely that the authorities rather captured the attitude of the public than formed the requisite public opinion.

To develop this point further, we shall refer to a very thorough article by Lev Gudkov "Anti-Semitism in the Post-Soviet Russia"³ that sums up the results of numerous relevant surveys by the VTSIOM (All-Russian Center of Research in Public Opinion) up to 1997, not only in relation to Jews but concerning other traditionally "attention-getting" ethnic groups.

The author states that in the 1990s national xenophobia shifted from the peoples of the near abroad to Russia's own "aliens." The Chechens have been on top of this list since 1993, that is long before the first war and even much before the start of the pre-war organized propaganda. Let us note that in 1997, in response to the question "which peoples inflame national hatred?" 57% of the respondents referred to the Chechens, 38% -- to other peoples of the Northern Caucasus, 24% - to the Azerbaijani (referring to those residing in the territory of Russia). Only then came the turn of the so-called external "enemies," and in a very unobvious sequence at that: the Estonians, the Georgians, and the Tajiks. It is also interesting that the Azerbaijani, known to the great majority of the population of Russian localities as a people trading at clothing and farm markets, proved to be perceived far more negatively than the Vietnamese, also represented mostly at clothing and farm markets but still mentioned by only 2% of the respondents. Xenophobia, therefore, has no absolute character; on the contrary, it is directed rather clearly.

Interestingly enough, Jews proved to be far behind on the list of "enemies" - only 6% of the respondents indicated them. (By way of a comparison, 4% of the respondents referred to the Russians). Anti-Semitism now seems to be an ideological phenomenon rather than an everyday-life problem. Indeed, in 1997, in answer to the question "how would you feel if your sister, daughter married a Jew?" 55% of the respondents chose the answer "I would have nothing against it," which, taking into consideration the formulation of the question, testifies of a relatively high level of tolerance.

It is also worth noting that of all the social layers in Russia, the most xenophobic ones are students of vocational and training schools, students of troubled high schools, and surprisingly enough, offi-

cial and professionals with higher education of ripe age. It is rather sad to observe that the proverbial Soviet intelligentsia has fallen that low.

Going back to more current statistics, by 2000, as many as 70% of Muscovites entertained negative feelings towards the Chechens⁴. Notably, after the August 2000 explosion in the Pushkinskaya Square underpass, 65% of Muscovites started supporting the idea of having all members of Caucasus-origin ethnicities deported from Moscow; 57% of respondents demanded that terrorists' locations be attacked with the use of all available weapons⁵.

Although over the course of 2000, as in the 1990s, the authorities did not openly propagate war, discrimination or violence, there was no serious official effort made to check the propagation of the sentiments described above. It would suffice to recall the statements made by some politicians and officials following the aforementioned terrorist act on Pushkinskaya Square.

Admittedly, the remarks made initially by the President of the Russian Federation, Vladimir Putin, were balanced and appropriate:

Speaking about the terrorist act, I should point out that it would be a mistake to search for an ethnic or Chechen connection, or any other connection of that sort in the course of investigating this crime . . . It is not right to brand an entire ethnic community. The criminals and terrorists have neither nationality nor religious affiliation⁶.

However, while speaking on the subject of international terrorism, President Putin eventually linked the terrorist act to Chechnya:

Clearly, mankind has not produced any other cure [for terrorism] than an adequate response. We must bring our effort in the Northern Caucasus to its logical completion: the terrorists must be gotten out of their lair. People in the Russian Federation's other territories must be protected against such acts.

Unlike the Russian President, as early as the night following the underpass explosion Moscow Mayor Yuri Luzhkov had no doubt that there was "clear evidence of a Chechen connection" in the terrorist act. Admittedly, he then added: "Of course, one must distinguish between the rascals and normal people"⁷.

Since the early 1990-s, quite a number of open nationalists have been occupying top power offices in the country.

In 1994 the State Committee of Print (currently, Ministry of Print) was headed by Boris Mironov - a genuine Nazi. He used to say openly about himself, "I am a hard-core nationalist," and when accused of being a fascist proudly replied, "If Russian nationalism is fascism, then I am a fascist"⁸. Among his pub-

lications, there is book *On the Indispensability of a National Revolt*, whose opening paragraph runs as follows:

Kikes have captured Russia and hold it in their greedy sticky hands. They stole the power, courts, money, oil, gas, energy, plants, factories, TV, radio, newspapers... torment the Russian people, drive it to destruction it with hunger, clod, fear, unemployment, extreme poverty, eradicate Russian national spirit, Russian national consciousness, and turn the Russian youth into their slaves.

Admittedly, this piece of art came out only in 1999, long after the end of Mr. Mironov's ministerial career. However, the very fact that such an odious and grotesque character managed to stay in the office of a minister of print for almost one year testifies of a very high tolerance of the Russia's top executive power leaders to nationalism in all forms.

Today, the authorities keep more of a decent front and there are no ministers publicly professing such ideas. Unfortunately, this cannot be said of regional leaders. The biggest hate speech champion among Russian governors was indubitably the great crusader against Zionism and relentless persecutor of the Meskheti Turks Nikolai Kondratenko, the former Governor of Krasnodar Region. Among his many verbal gems, the following is quite illustrative:

I have always called for a rebellion. However, the Russian people refused to listen to me and went to the polls. 37% of voters cast their ballots for the Communists, and 60% for the Jews! . . . Look closer at what is happening in Moscow. One can already see a new Zionist, a la Kazan state taking shape. That is why we do not have Russians in high-level positions? Today's Moscow appears to have room enough to accommodate the Israeli Mossad, the American CIA, NATO, etc.⁹

Upon the expiration of his second term, Kondratenko left the gubernatorial office, allegedly, due to some pressure from the federal center. The pressure, if there was such, was put behind closed doors, and mass media could refer only to certain unconfirmed rumors in this respect. In any case, from the gubernatorial office Kondratenko proceeded straight to the Federation Council (Upper House of the Parliament), where he proudly represents Krasnodar region to this day.

The top hate speech governor for the year 2000 was the then-newly elected head of the Kursk region, Mikhailov, who stated in his after-election interview to *Kommersant-Daily* that the fact that he had managed to defend his main opponent in the election race, Rutskoj, signified that President Putin was on his side, also struggling with the Jewish dominance. To quote:

Do you know what AJC stands for? It means the All-Russian Jewish Congress. Today we are dealing with a whole organization here, rather than with some individual. You know who Rutskoj (Mikhailov's main opponent in the election race - T.L.) is, but you probably do not know that Boris Berezovsky has been backing him. And now we are the winners in this region. I believe this is indicative of a new effort underway to eventually liberate Russia from all the rot that has accumulated over the past decade. This is where we are allies with, rather than opponents of, the Russian President. To underscore, Vladimir Vladimirovich is a Russian man. So am I. For your information, Rutskoj's mother, Zinaida Iosifovna, is Jewish¹⁰.

The President, certainly, did not quite appreciate this remark. However, no official critique followed. Instead, the presidential plenipotentiary representative for the Central federal district had a closed meeting with Mikhailov. After that meeting, where no journalists were allowed and on which the plenipotentiary never commented, Governor Mikhailov publicly sent his "regrets to A.V. Rutskoj and his mother" and assured the public that he treated members of all ethnic communities with respect¹¹. His apology indirectly testifies to the fact that pressure must have been exerted over the too eloquent and unreserved Governor. But again, this pressure was rather covert.

The Mikhailov case, of course, can be viewed as a standard example of how Russian authorities handle manifestations of Anti-Semitism and other forms of xenophobia. The federal executives' position on those sorts of pronouncements was in that case quite explicit. However, it was voiced by a presidential representative rather than by the Russian President himself. Also, the plenipotentiary met with Mikhailov after a delay of several days, a fact read by the main-stream mass media as too lengthy a pause or even as an indication of confusion. Notably, the Prosecutor General's Office refused to open an investigation into the case, explaining that Mikhailov's remarks "were an isolated occurrence," "had no consequences"¹², and that Mikhailov himself had publicly expressed his regrets over the matter¹³. In addition, the regional prosecutor's office refused to see any signs of an offence in the given case¹⁴. Two State Duma deputies (from the CPRF and "Unity" factions) tabled a motion to have a special statement passed condemning all anti-Semitic manifestations and calling on the President of the Russian Federation to look into the developments in Kursk¹⁵. But the State Duma has been persistently refusing to put the issue on the agenda - four refusals up to August 2001.

The Parliament also represents a truly fascinating field for hate speech research. One of the most

infamous stories connected with former State Duma (Lower House of the Parliament) is the case of a then-deputy General Makashov, who made very strong antisemitic statements at a meeting in October 1998. A relevant criminal suite was filed but the case never moved to trial (the charges were modified and resubmitted several times, several expert evaluations were carried out, etc.). Meanwhile, several months later, in February of 1999, he spoke at an assembly of the Cossack Army of the Don and, in particular, declared that the Movement in Support of the Army led by him can be also righteously called the Movement against Kikes. Another leader of this movement, V. Ilyukhin, who also headed the national Security Committee in the former Duma, in the course of hearings on the issue of President Eltsyn's impeachment, stated that one of the reasons for Eltsyn's "anti-people" politics is that Jews are among members of the RF Government. Despite the fact that the situation with Makashov and Ilyukhin caused quite an outcry in the democratic circles and mass media, the CPRF, to which both Ilyukhin and Makashov belong and which they, accordingly, represent in the Duma, refrained from coming forth with a univocal condemnation of its members' anti-Semitic statements. Instead of that, the CPRF leaders uttered general comments on the inappropriateness of "disrespectful treatment of any people" and disapproval of Anti-Semitism together with "Zionism and Russophobia"¹⁶. Makashov did not make it into the new Duma but Ilyukhin succeeded in becoming a Duma Deputy again, along with some other sadly notorious figures. For example, Vladimir Zhirinovskiy, leader of the LDPR (Liberal Democratic Party of Russia whose fraction is represented in the State Duma) and Vice Speaker of the State Duma, who once organized a rally under the slogan, "A good Chechi¹⁷ is a dead Chechi"¹⁸. Or some deputies from the CPRF fraction, such as the already proverbial Pyotr Romanov, Vice-Speaker of the Duma, who in 1995 participated in the work of the Russian People Union (a small black-hundred organization that referred to itself as to a direct heir of the pre-revolutionary Russian People Union), or Yuri Nikoforenko, who recently stated that "the Zionist circles of China were interested" in the dismissal of E. Nazdratenko, Governor of the Primorye Territory.

It should be noted, though, that in every new convocation of Parliament, the number of avid nationalists is lower than in the previous one.

At the same time, we are also quite distressed by the fact that within the framework of election campaigns candidates strive to manipulate racist feelings in society in order to enhance their popularity with the electorate, and such attempts on their part are growing both in frequency and in frankness.

For example, in 1999, during the Parliamentary campaign and regional election campaigns, the candidates' ethnicity was often used in nationalistic speculations. In Novossibirsk, Perm and Sverdlovsk regions, Anti-Semitism was used a means to defeat the opponents. Moreover, in many regions, anti-Semitic leaflets were spread with the aim of discrediting the leader of the election bloc "Motherland - The Entire Russia," Moscow Mayor Yuri Luzhkov.

Reports of regional human rights organizations-partners of the Moscow Helsinki Group comprise extensive data on the activities of extremist groups and crimes committed on the grounds of racial and ethnic hatred. The Russian National Unity (RNE) is the strongest and most visible, and skin-heads' activity has been on the raise. It is very important that the RNE sometimes find the support of regional and local authorities. In the Briansk Region, for example, members of the local RNE branch are on the gubernatorial public chamber¹⁹. In the spring of 2000, in the Saratov Region, RNE agents were elected (with 38 votes in support and only one against) to sit on the public advisory council with the Saratov mayor and on the public council with the regional Duma²⁰.

It is evident that Russian law-enforcement bodies frequently cover extremists. A very vivid case of such collaboration took place in Oryol. As was reported by a correspondent of a human rights periodical Express-Chronicle, Alexander Romanov, representative of the local Regional Department of the Federal Security Service (FSB) stated that the appeals "Kill the Kikes!" that regularly appear in the city of Oryol "have nothing to do with Jews." The Oryol FSB believes that "such inscriptions neither manifest extremism nor inflame national hatred"²¹.

As concerns incidents involving violence towards or undignified treatment of representatives of ethnic minorities, their major part in 1991-97 and their significant part in 1998-2000 are related to the activity of the militant organizations identifying themselves as "Cossacks," calling for the revival of this estate and fighting for special and group privileges for all members of the movement. Cossack organizations of Krasnodar and Stavropolye actually demand that the respective regional authorities restrict the rights of persons of Caucasus origin or even deport such persons. At the same time, Cossack units, in cooperation with police and independently carry out documents checks in the streets and markets, detain people, search them and their cars. Such activities are often accompanied by threats and acts of violence towards representatives of ethnic minorities. Despite the frequency of these incidents and the

extreme nationalist orientation of leaders and members of Cossack units, federal and regional authorities support them in various ways, give them power mandates and attempt to integrate them within the power system. In a number of regions, Cossack organizations receive direct and indirect financial support from the authorities. In some regions, special normative acts were passed, endowing Cossack units with the right to carry out joint actions with law enforcement bodies²².

Religious xenophobia is also quite relevant for Russia. Even more so, the level of hate speech which would be unacceptable with regard to national relations, would be, on the other hand, quite "normal" when directed to religious minorities, the so-called "sects." Direct propaganda of their discrimination can be found even in the programs of centrist parties (for example, "Motherland - The Entire Russia"). This very fascinating topic, however, deserves a separate study and we will, therefore, refrain from discussing it in this report. Instead, we shall turn our attention to from elaborating upon the situation with hate speech to the actual means that can be used to combat it.

Legal Mechanism to Combat Hate-Speech

Persecution of an Individual. The basis is provided by Article 282.

Article 282 reads:

1. *Actions directed toward incitation of ethnic, racial, or religious hostility, humiliation of ethnic dignity, as well as promotion of the ideas of exclusiveness, superiority or inferiority resulting from religion, ethnic or racial affiliation, if such actions are committed publicly or involve the use of mass media, - shall be punished with a fine in the amount of from five hundred to eight hundred minimum wages or in the amount of the salary or other personal income of the convict earned within the period from five to eight months; or with restraint of liberty for a term of up to three years; or with imprisonment for a term of from two to four years.*

2. *The same actions committed:*

a) *with resort to violence or the threat of violence;*

b) *by a person abusing his/her official position;*

c) *by an organized group, - shall be punished with imprisonment for a term of from three to five years.*

The Constitution and the laws on mass media, organizations and rallies reproduce almost literally the same formula for the prohibited actions.

It is important that, as compared with the old Article 74 of Criminal Code of RSFSR, the publicity

of the actions and the need to prove the intent are noted, however, the corpus delicti is still unclear. It needs to be clarified actions of what kind incite hostility, and what actions do not. It is hardly likely that the legislator meant that such utterances as "All Armenians are stupid" or "All Jews are traitors" made publicly, in the street should constitute a criminal offence. This lack of clarity has for years been the subject of discussion, and finally the General Prosecutor's Office came up with its "Methodological Recommendations"²³. In some respects, the Recommendations have made the issue clearer, in others, they have only made the situation more complicated.

The positive inputs include:

- the accrual of the consequences of the inciting actions is not required;

- incitement of hostility must be distinguished from statement of facts (although it should be noted that there is room for doubt as to the universal recognition of some facts);

- in the event the punishable ideas are expressed openly, an investigator or a prosecutor may evaluate them without special qualifications, i.e. without obtaining an expert opinion (which, in Russian practice, often only complicated the case: the court or the investigators obtained two opposite expert opinions, and had to drop the case on this basis);

- on the other hand, disguised utterances now also qualify as punishable;

- a list of categories of utterances has been provided that should be regarded as inciting hostility; however, this list, along with the right examples of wording, contains a number of clearly ambiguous ones - see below.

The negative aspects include:

- the concept of "direct intent" has been reconstituted;

- "a statement of absolute opposition and incompatibility of the interests of an ethnic or religious group with those of another" - however, it is clear that most religions try to convert followers of other religions;

- "relating grieves and calamities of the past, present, or future to the existence and targeted activities of definite ethnic, racial, or religious groups" - this imposes unthinkable restrictions on the historical science and thus departs with the idea of a simple statement of facts being distinguishable and non-punishable.

On the whole, there is no clear-cut solution to the collision between suppressing hate speech and upholding the freedom of speech and expression. In transition from the total disregard of this freedom to its constitution in the Russian society, a respective discussion has sparked. It is still going on albeit no new arguments have been offered.

There is a choice of model to be made - between the United States where the First Amendment has unconditional priority, and most of Europe where clear legislative restrictions are in place. These include explicit prohibition of particular actions related to the Nazi past: denial of the Holocaust or the use of fascist symbols.

The American experience in its pure form is in any case impossible to reproduce in Russia, since this would mean a manifest disregard by Russia of its international obligations resulting from the country's participation in the International Pact on Civil and Political Rights and the International Convention on Elimination of All Forms of Racial Discrimination ratified long ago by the Soviet Union and binding on Russia as the Soviet Union's successor. Moreover, in accordance with Part 4 of Article 15 of the Constitution of the Russian Federation, international treaties "constitute an integral part" of Russia's legal system.

Under the above documents of international law, each member state assumes the obligation to implement decisive and effective measures to ban racial discrimination and its incitement in any form and by any individuals, groups or organizations. Each member state must declare a punishable crime any dissemination of ideas based on concepts of racial superiority or hatred; and any acts of violence arising there from, as well as provision of any assistance to racist activities, including financing thereof. All organizations and any propagandistic activities fostering or inciting racial discrimination must be declared illegal and banned. All individuals must be guaranteed effective protection by the State against racial discrimination. However, these obligations are followed with no list of particular bans. For instance, the ban of denying the Holocaust is an initiative of individual countries. Russia should also formulate a list of its own of prohibited actions. As we can see, now this issue is regulated only at the level of departmental instructions, which is not a solution since the instructions have nothing to do with courts and generally is a regulation of the lower tier.

At the same time, specification at the level of laws is highly problematic, since the society still lacks even a shadow of a consensus. The courts also feel this and evade definite decisions, so no precedents are established.

In those cases when law enforcement agencies take steps against extremist groups, they try to avoid referring from bringing charges on inciting ethnic hostility or discrimination. As a rule, in such cases, rare as they are, suits are brought under other articles, such as "hooliganism," "causing bodily injury," etc. The investigators are usually reluctant to consider the organized nature of such crimes and

their relation to activities of extremist groups. Thus, the above-mentioned Article 282 is practically dormant. Article 239 of the Criminal Code of the Russian Federation ("Setting up of an Association Encroaching Upon Individuals and their Rights") is virtually never used either. Neither is invoked paragraph "e" of Article 63 of the Criminal Code that establishes as an aggravating circumstance committing a crime for reasons of ethnic, racial, or religious hostility.

By way of example, we can refer to the following case (one of the many):

In October 2000, a trial was held in St. Petersburg of skinhead racists who had mercilessly beaten up a Chinese national a year before. The skinheads Rummyantsev, Razin, and Grebnev (the last one is also the leader of the St. Petersburg regional branch of the National Bolshevik Party) were declared guilty and sentenced to various terms of imprisonment.

However, an amnesty was immediately granted to the convicts, since Article 282 of the Criminal Code of the Russian Federation (incitation of ethnic, racial, or religious hostility) while covering, among other things, violent actions against the victim and not covered itself by the amnesty had not figured in the indictment.

The ineffectiveness of the investigators and courts must be addressed through clarifying their objective for them. There are the following options:

1. An idea strongly promoted by a prominent expert and human rights activists Lev Levinson is: to move Article 282 to the category of private prosecution thus depriving the investigators of the right not to initiate a case. (However, numerous other experts in the human rights community are not happy about this suggestion, as it "takes down" the status of the crime, thus perceivably relieving the prosecutors from taking the initiative.)

Another idea, more popular in the Russia human rights milieu and academic milieu, is to divide the two crimes currently covered by Part 1, Article 282 and referred to as incitation of ethnic, racial, or religious hostility into two sub-groups:

1) negative references to nations, ethnic or religious groups that humiliate their ethnic or religious feelings;

2) calls for violent actions, discrimination or humiliation by racial, ethnic or religious features.

The punishment for the first sub-group could be limited to measures unrelated to imprisonment (fines, etc.)²⁴ while crimes of the second sub-group can indeed be punishable with imprisonment.

Such a measure could also be a response to the opinion popular both with rank-and-file policemen and judges that it is wrong to put people behind the bars "for words." At the same time, this would be a

bow to the First Amendment, a certain compromise that at this stage appears reasonable since it creates the opportunity to apply Article 282 in a consistent manner and removes the effect of impunity.

However, there are political concerns. In the view of a number of human rights organizations operating in the Russian Federation, including the Moscow Helsinki Group and the Memorial, the very possibility of a broad interpretation of Article 282 may in certain conditions make for restrictions on the freedom of speech and other abusive practices. For instance, in some Russian Regions (the Krasnodar Region, the Republic of Kabardino-Balkaria, Bashkortostan), human rights or ethnic minority rights activists received threats of prosecution under Article 282 from officials.

Persecution of organizations and media.

Persecution of organizations and media is based on respective laws (on civil associations, mass media, political parties, trade unions, rallies). The procedure for their closure is rather complex.

The situation in the field of application of prohibitive measures provided by civil law is hardly better than in the field of criminal law.

The effective Law "On Mass Media" in its Article 4 prohibits "abuse of the freedom of speech," i.e. dissemination of the same ideas of violence, incitement of hostility and the like referred to above. Article 16 of this law prescribes a procedure for applying sanctions against a publication that infringes on the requirements of Article 4. Termination of media against the will of their owners is possible only through a court procedure. The very filing of a suit by the "registration authorities" is only possible after repeated violations within 12 months by the media of Article 4 of the Law "On Mass Media," for which it has been warned in writing at least twice. As a rule, the accused media challenge every such warning in the court, consequently before the court rules on such a challenge, hearing of a suit for termination of the media is impossible. Also, faced with a threat of termination, a media body can take a new name, with the same editorial staff, the same owners, the same address, the same team of authors. Such, for example, was the story with an extremist edition Den' (Day), which resurfaced unchanged under the title Zavtra (Tomorrow). There is another even easier way to avoid termination: changing some of the owners. In both cases - after a change of the name or the composition of the owners - the paper is subject to re-registration, and denial or delay of the re-registration over a clearly prescribed period are punishable. After such a re-registration a new periodical comes into existence, the warnings automatically become void, and all the extremely complex procedure has to be started from the very beginning.

On the positive side, such easy transformations of their legal statuses are only practicable for marginal media. For big media, re-incorporation means major administrative and subscription problems.

In those rare instances when cases against media reach the stage of a court hearing, the defendants have many opportunities to delay the hearing by not showing up, filing concocted petitions for more new evidence, etc.

Putting an end to the activities of extremist civil associations is also very difficult. Articles 41-45 of Chapter V of the Law "On Civil Associations" regulate the responsibility of civil associations for breaches of laws of the Russian Federation, including suspension of the association's activities and its liquidation. Both such suspension and liquidation can only be affected through a court procedure after repeated written warnings "if such warnings have not been challenged in the court in accordance with the due procedure or have been recognized by the court as legally ungrounded."

Both prosecutor's offices and offices of the Ministry of Justice keep voicing their concern with the too sophisticated procedure for suspension and liquidation of extremist civil associations. One more difficulty that is faced in practice is that illegal activities of civil associations' members caught in the act - and certainly such activities are not in their Charter; not a single civil association has ever attempted to include in its Charter any kinds of activity that are prohibited by the Constitution and federal laws, which has not at all hindered some civil associations being involved in exactly those kinds of activity - are not at all easy to be related to the activities of the association as a whole, the more so if there are no relevant program documents - resolutions, records of meetings, etc. In such cases the association's leaders simply dump the unlucky functionary and disavow any responsibility.

In reality, no media or organization's closure through court procedures have been scored to-date. To address this collision in regard to organizations, the bill "On Countering Political Extremism" is being drafted. (Similar provisions are also contained in the new bill "On Political Parties.")

According to Articles 13 and 14 of this bill, an organization can be banned if its leaders, a division or even a single member was involved in extremist activities with the leaders' knowledge and the leaders did not denounce such activities of their organization's member. Notably, the ban also means the impossibility to re-create the organization upon pain of criminal prosecution (however, no specific details have been drafted so far).

Such novelties in themselves can only be hailed. In the aforementioned case with General Ma-

kashov, whose statements have never been denounced by the leaders of his party, the CPRF, conviction of Makashov (if it had taken place) would have led to a ban on the Communist Party of the Russian Federation. In practice it would have forced the CPRF to disavow Makashov without even waiting for the trial in order to avoid such a risk.

However, Article 3 of the bill that provides a definition of political extremism effectively puts the equality mark between such offences as attempted coup d'etat, separatist rebellion, and chauvinist propaganda.

In our view, such mixing up is intolerable - in the Criminal Code where they are crimes of totally different gravities. Apparently, purely propagandistic actions should also be classed by their gravity - along the lines of our proposals on Article 282 of the Criminal Code.

How could sanctions against organizations be graded? For example, as follows. Violent actions should surely entail a ban. "Soft" nationalistic propaganda -- considerable fines. "Hard" propaganda -- suspension for a period to be established by the court or ban, depending on the gravity of the offence.

It should be also noted that the bill makes no reference to mass media. In our opinion, it is only correct, since a mechanism of this kind for media closure would be at clear variance with the concept of the freedom of speech.

Means other than Legal. However, apart from legal novelties, there exists the issue of defining the general policy in relation to radical nationalism (moderate hate speech is a different issue).

As long ago as 1998, a concept of suppressing extremism with all legal methods was offered in a report by the Informatics for Democracy Center (INDEM). The authors suggested that the existing legal base was sufficient, and the problem was in the lack of political will. Official implementation of the concept has never been initiated. However, some developments did begin.

The most numerous examples of "strong-will decisions" were provided by the Moscow Mayor Yuri Luzhkov. The Moscow Organization of the Russian National Unity lost its registration on two charges: membership of minors and membership of citizens of the Moscow Region, i.e. citizens of a different constituent of the Russian Federation. Quite obviously, the same charges could have been put forward against a multitude of other organizations of all orientations. The more prominent of newspapers shut down recently - *Shturmovik* and *Russky Poryadok* - were closed on formal grounds and not because of their contents. The RNE and the National Bolshevik Party (the NBP) were expelled from their offices on accusations of their failure to observe fire safety rules (for comparison, the editorial office of the authoritative paper *Kommersant* that spoke against Luzhkov was suspended in the same manner).

Also, there are cases of plain violations of law. For instance, again in Moscow in May 1999, a street praying service organized by "Pamyat" National Patriotic Front was dispersed: the municipal authorities had withdrawn their previously issued permission for this action only two hours before it was supposed to start.

A peculiar way to counter hate speech should be also mentioned: it is the practice of banning any symbols that can be interpreted as Nazi. Such a ban is contained in the federal law of 1995 on perpetuation of the memory of the Victory in the Second World War, and in a number of regional laws, including the Moscow law. This ban helped restrict the circulation of national-radical press: it is easier for the police to sort out symbols than texts. However, the ban still remains somewhat blurred, in particular, it is not clear whether the symbol of the RNE that looks very much like swastika is illegal.

The above-mentioned examples all represent "negative" manifestations of strong will, which, on the other hand, can be also exercised from a positive perspective. Compelling meaningful declarations on the unacceptability of nationalism in all forms could make a good start. Admittedly, Putin has already made a number of declarations on the subject, but those statements always remained quite general, while with regard to specific cases the authorities are, as a rule, passive (the trend of comportment which we illustrated above on the example of Governor Mikhailov). We hope that from general declarations the State will proceed to concrete statements and actions.

Another important positive manifestation of strong political will could be in the development and implementation of educational programs targeting the growth of tolerance in the society. After all nationalism and xenophobia certainly thrive on the traditionally low educational standards in our country. To remedy this situation the State should promote research addressing the roots of the problem and implement effective educational programs for children, youth, adults and, particularly, civil servants and journalists. A countrywide public campaign receiving certain support from the State and addressing precisely the moderate forms of hate speech can be also very useful. (One of the pilot project currently implemented with the support of the Open Society Institute by the Moscow Helsinki Group in cooperation with three other NGOs, namely Center for Development of Democracy and Human Rights, Glasnost Defense Foundation and Panorama Information and Research Center, implies thorough monitoring of manifestations of hate speech in mass media in the federal center and in 5 selected regions in order to develop, on the basis of the monitoring findings and their analysis, effective regional-level and federal-level campaigns).

Notes

- ¹ See the Collection of Reports of the Moscow Helsinki Group, Human Rights in Russian Regions - 1999, Section «Ban on Propaganda of War and the Instigation of Discrimination and Violence» (available on www.mhg.ru).
- ² A. Ivanov, «Will They Drop an Atomic Bomb on the Terrorists?» In: *Argumenty i Fakty* (#37, 1999).
- ³ Collection of articles under the editorship G. Vitkovskaya and A. Malashenko Intolerance in Russia: Old and New Forms (Moscow Center Carnegie; Moscow: 1999; p. 196).
- ⁴ T. Muzaev, «When There is no Tap Water...». In: *Russkaya Mysl* (#4338, 2000).
- ⁵ I. Buldakova, «Balanced Comment On Pogroms». In: *Argumenty i Fakty* (#33, 2000).
- ⁶ Cited from a report carried by the Lenta.ru website (August 9, 2000).
- ⁷ Cited from a report carried by the Lenta.ru website (August 8, 2000).
- ⁸ Quoted from A. Verkhovsky, A. Papp, V. Pribylovsky, Political Extremism in Russia (Moscow: 1996).
- ⁹ Quoted from the Collection of Reports of the Moscow Helsinki Group, Human Rights in Russian Regions - 1999, Section «Ban on Propaganda of War and the Instigation of Discrimination and Violence» (available on www.mhg.ru).
- ¹⁰ E. Kondratyeva, «From Governor to Anti-Semite-National Discord». In: *Kommersant* (December 7, 2000).
- ¹¹ A report carried by the Strana.ru website (January 15, 2000). Notably, this failed to prevent another incident in the same vein. The former Vice Governor Sergey Maksachev was beaten in the regional administration building. Maksachev's attackers were from the newly elected governor's staff (with one of those, according to the victim, introducing himself as a GRU (Main Intelligence Directorate) lieutenant general and Deputy Governor Vasily Oleinikov) and accompanied their assault with antisemitic invective.
- ¹² This description of the assault on Maksachev is incorrect, for obvious reasons.
- ¹³ E. Kondratyeva, «Governor to Anti-Semite - National Discord». In: *Kommersant* (December 7, 2000).
- ¹⁴ «Asked and Was Forgiven». In: *Tribuna* (December 25, 2000).
- ¹⁵ A. Sadchikov, «Jews Are the Engine of Progress». In: *Izvestiya* (November 23, 2000).
- ¹⁶ *Nezavisimaya Gazeta* (February 27, 1999).
- ¹⁷ «Chechi» - a derogatory slang term referring to Chechen combatants fighting the federal forces.
- ¹⁸ I. Buldakova, «Balanced Comment on Pogroms». In: *Argumenty i Fakty* (#33, 2000).
- ¹⁹ See the Collection of Reports of the Moscow Helsinki Group, Human Rights in Russian Regions - 1999, Briansk regional report.
- ²⁰ M. Shirokova, «RNE Assumes Power in Saratov». In: *Kommersant* (July 11, 2000).
- ²¹ Quoted from A. Verkhovsky, A. Papp, V. Pribylovsky, Political Extremism in Russia (Moscow: 1996).
- ²² The relevant acts are listed in the Report of the «Memorial» Society Compliance of the Russian Federation with the Convention on the Elimination of All Forms of Racial Discrimination. The Report was published in March 2001 and can be found at <http://www.memo.ru>
- ²³ Methodological Recommendations No. 27-79-79 of June 23, 1999 «On the Use of Special Knowledge in Cases and Materials on Incitement to Ethnic, Racial, or Religious Hostility». Have never been published. The Author's archive.
- ²⁴ Another option is to treat such offenses as administrative, introducing a relevant article into the Administrative Code.

Татьяна Локшина

Язык вражды в России: обзор проблемы и механизмы противодействия

В своей статье Татьяна Локшина, исполнительный директор Московской Хельсинкской Группы делает обзор недавней истории России (1990-е годы) и роль ксенофобного фактора в политической деятельности, используемого политическими лидерами России. Как показывает автор, ксенофобия и такое ее проявление как "Язык вражды", сопутствуют пост советской России на протяжении всей ее недолгой истории. При этом масштабы этого явления никак не говорят в сторону снижения ксенофобного уровня в обществе, а, напротив, целый ряд политических деятелей активно используют и воспроизводят этот язык в своей политической деятельности. Во второй части своей работы г-жа Локшина приводит целый ряд правовых механизмов, предназначенных для борьбы с этим явлением, а также конкретные примеры и способы применения этих механизмов в реальности.

