

## **APPENDIX**

**The following appendix does not form part of ECRI's analysis and proposals concerning the situation in the Russian Federation**

ECRI wishes to point out that the analysis contained in its third report on the Russian Federation, is dated 16 December 2005, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on the Russian Federation was subject to a confidential dialogue with the Russian authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Russian authorities requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.



**“Comments to the Third report of the European Commission against Racism and Intolerance “Situation in the Russian Federation”**

**(December 16, 2005)**

**Executive Summary**

For the purposes of objectivity it is worthwhile to mention the following.

The system of the Russian legislation pays adequate attention to the issue of combating racial discrimination. Criminal, civil, labour legislation in Russia, as well as legislation in the field of social security, education, health protection, culture, protection of rights and legal interests of children guarantees protection from all forms of discrimination, racism, manifestations of xenophobia and other forms of national intolerance.

In comparison with the past years in 2004-2005 during the trials against skinheads and representatives of other nationalist and radical groups racist, chauvinistic motivation or behaviors or attitudes appeared more often. Tendency of qualifying racist acts without motivation of racial hatred is gradually disappearing.

It is difficult to agree with a groundless and quite broad thesis that “Chechens, Caucasians, Roma/Gypsies, Meskhetian Turks, citizens of CIS countries, Africans, Asians, other non-citizens, as well as members of small confession groups, including Jews, are the main targets of racially motivated attacks and of racist inflammatory discourse”. It is necessary to specify that some of these groups of population are really from time to time being subjected to discrimination in extremist oriented editions or by a narrow range of persons (often marginal youth groups), but exclusively in particular cases. It is not a general practice or deliberate policy aimed at their discrimination or common everyday dislike to them on the part of the citizens of a title nationality. At the same time racial attacks and other manifestations of national hostility are often committed towards ethnic Russians as well by the people of another origin.

In order to solve the problems, related to manifestations of racial discrimination and other forms of intolerance, competent authorities of the Russian Federation work at present over the package of measures aimed at the realization of the State National Policy Concept, in which the special attention will be paid to the creation of necessary conditions for mutual respect and cooperation of all nationalities of Russia, raising effectiveness of eradication of extremist activities.

In particular the creation of a united expert commission, which would be given the authority to investigate and identify facts of propaganda of xenophobia, national and religious intolerance, and extremism is envisaged. The draft federal law “Principles of the State National Policy of the Russian Federation” and the draft Concept of cultivating the culture of inter-ethnic cooperation of the Russian Federation are being worked out. Drafting amendments to the State National Policy Concept of the Russian Federation is now completed.

It is to note that the term “non-citizens” does not exist in the Russian legislation and law enforcement practice. According to international standards in this field the term “stateless persons” is applicable towards the people who don’t have any nationality.

## **Para. 2**

Leading State bodies of the Russian Federation through the corresponding interdepartmental working groups continue to work over the preparation of the ratification of Protocol № 12 for the European Convention on the protection of human rights and main freedoms, European Social Charter, European Charter of Regional and Minority Languages and European Nationality Convention. It should be taken into account that the preparation to the ratification means, first of all, necessity of incorporating changes and amendments to the national legislation, and this entails the long-term character of the process.

## **Paras. 8-9 and 47**

Before the new Law on Citizenship comes into force in 2002 all citizens of the former Soviet Union living on the territory of Russia have been able to obtain Russian citizenship according to the simplified procedure. At the same time many of them didn't obtain it due to the legal ignorance. Lack of the proper information and explanatory campaign on this subject played its negative role in this field. It was a result of the insufficient work not only of State authorities but non-governmental organizations as well.

The new Law on Citizenship as amended in 2003 and 2006 provided the opportunity to grant Russian citizenship to all citizens of the former Soviet Union and those who arrived or have been arriving in Russia before January 1, 2008 from the Republics of the former Soviet Union (in the previous edition the term terminated in January 1, 2006).

In accordance with the Law foreign citizens and stateless persons who have been registered at their place of residence in Russia as of June 2002 (counting the term of their living in Russia since the date of registration) can be granted Russian citizenship. Moreover foreign citizens and stateless persons born on the territory of the Russian Soviet Federative Socialist Republic; persons living in the Russian Federation who have been married to Russian citizens for no less than three years; persons with disabilities having capable children of full legal age – citizens of Russia; Great Patriotic War veterans - may obtain Russian citizenship in a simplified manner.

As the result of the adoption of the Law on Citizenship and amendments to it, only in 2005 more than half a million persons were granted Russian citizenship.

The legal provision for the 5-years stay period after receiving a residence permit up before the claim to be granted Russian citizenship doesn't extend to all the mentioned categories of persons. In other words having a residence permit is not compulsory prerequisite for them for obtaining Russian citizenship, although in the ECRI report the situation is presented in a different way.

In para. 47 it stated erroneously that the Law on the Legal Status of Foreigners in the Russian Federation turns the majority of immigrants into illegal status. It is irrelevant. The Law only established a differentiated procedure of acquisition of foreigners' residence in Russia. During 90 days since his arrival a foreigner or a stateless person may stay in Russia on the grounds of the registration stamp. With the expiry of this term he must either leave the territory of Russia or obtain a residence permit or any kind of permission documents for labor activity or, if there is a good reason, apply for Russian citizenship.

Presently according to the official statistics more than 115 000 persons – citizens of the former Soviet Union haven't yet settled the legal status of their stay in Russia (not having any registration) and de jure don't have well established status. In view of the above the option of giving them a special document for temporary stay that will provide them an opportunity to legalize their residence in Russia is being considered. This will provide them an opportunity to obtain Russian citizenship in succeeding years.

In the Russian legislation and law enforcement practice there is no term like "permit to stay" mentioned in para. 47 of the report. An immigrant arriving in Russia can't get residence

permit without registration on the territory of the Russian Federation, although the report says so.

Taking into account the above mentioned the information para. 47 of the report appears to be biased and erroneous.

### **Para.16**

Changes which took place in the first half of 2005 in the attitude of the law-enforcement bodies towards the cases concerning propaganda of national hatred is a positive tendency in the opposition to the growth of national extremism and xenophobia. Courts started to pronounce quite heavy sentences for persons who had committed crimes in this field. For this period during six trials 21 persons were convicted to 4 to 19 years of prison, and several tens of persons remained under trial (for comparison: in the first half of 2004 only one person was convicted for stirring up national violence).

### **Paras. 20, 22, 23**

The assumption of the report that the comprehensive system of collection of statistic data on the implementation of criminal legislation concerning struggle against racist manifestations doesn't exist in the Russian Federation also appears to be erroneous. Prosecution bodies carry out this work, including systematic control over the implementation of the law for tackling acts of extremism and countering racist manifestations. According to the results of the above mentioned enforcement actions adequate measures of prosecution reactions have been taken.

New forms of statistic reports (451-KN and 451-KN 11) have been developed to get a more profound insight on the criminal situation. This new form will take proper account of the phenomena of extremist crimes. The list of corpus delicti concerning such kind of crimes is determined by special regulations. According to statistic reports 118 people were convicted for their extremist crimes by the courts of the Russian Federation in 2003-2004.

### **Para. 35**

The Russian Ministry of Regional Affairs is studying the issue of creating a united expert commission that would research and identify on different facts of the propaganda of xenophobia, national and religious intolerance, and extremism.

### **Paras. 37, 42**

In the time period of 2004-2005 in the framework of the Program on Tolerance and the Prevention of Extremism in Russian Society (2001-2005) the following measures have been taken:

- stimulating activities through mass-media and public life that would forge the principle lines of tolerance and counter different forms of social aggression, cruelty and extremism;
- integrating subprograms that would help cultivating tolerance, religious toleration, concord and tackling extremism into the educational programs for teachers, social and law enforcement personnel, mass-media stuff etc;
- developing and implementing further professional training programs for consulting and negotiating in situations of high social tension;
- encouraging development of a new trend in publishing that would cultivate tolerance, religious toleration, concord and counter extremism;
- using psychological tests in the work of law enforcement bodies and mass-media to reveal the slightest traces of extremism in different forms of public life;

- organizing centers for tolerance and monitoring public tension on the federal, regional and municipal levels, and social-psychological services for emergency situations, the aim of which is to reduce social tension and help victims of atrocities.

As a whole, the work on forming and practical application of norms of tolerance as the cornerstone of civil concord in a democratic state was carried out. To elaborate the follow-up mechanism the Federal program "Ethnic and cultural development of Russian regions (2006-2008)" is being elaborated.

#### **Paras. 48-49**

Acknowledging existence of essential problems of migrant-workers in Russia the Government of the Russian Federation intends to take a complex of appropriate measures aimed at solving the problem. It implies simplifying the labour procedures, in-depth study of multilateral simplification of regulations concerning residence and employment of citizens of the states participants of the EurAsEC and signing agreements on the readmission of the CIS countries.

One of the priorities of the migration policy is to reconsider the illegal status of labor migrants. The draft law is being prepared aimed at simplification and legalization of the flow of labor migrants into the Russian Federation.

#### **Paras. 57, 58, 61, 62**

Delays in consideration of the primary applications for the refugee-status (5 days) takes place only in Moscow since it is the place of the main refugee-applicants influx (50% of the overall applications are in Moscow and the Moscow Region). Russian Federal Migration Service (FMS) agencies so far are not able to provide necessary resources to consider all primary applications in the established 5-day period. This leads to a delay in providing this category of citizens with official documents confirming their status as asylum-seekers or refusing it. In other regions of the Russian Federation there are no such problems as stated in articles 57-58 of the report.

In an effort to solve the problems stated in the article 57 of the report the FMS of the Russian Federation with the support of UNHCR is currently drafting new version of the Law on Refugees aimed at diminishing the asylum-application consideration period. Temporary asylum, which has a humanitarian status, is now actively implemented in Russia.

#### **Para. 67**

The report ignores that there should be a clear distinction between the spheres of responsibility of the housing owner and local authorities concerning the issue of renting housing. The housing-rent is related to the rights of an individual, who is at power to manage his property according to his will.

In this context the problem mentioned in para. 67 is due to the regular violation of private contracts on renting flats committed by "persons of Caucasian nationality". As a rule, after the signing of a rent contract not only does the official renter move into the flat but also a group of persons (up to 10) in view to share rent price. That is the reason of occasional rent increase for "persons of Caucasian nationality".

#### **Paras. 72-74**

Attempts to present the creation of specialized school-classes for Roma and Meskhetian-Turks as an example of ethnic segregation in education are beneath criticism. In order to increase the effectiveness of the educational process pupils with good command of Russian are invited into Russian-language or mixed classes, while those with poor knowledge of the Russian language are invited into the classes where teachers work according to an adapted program.

### **Para. 76**

Information about the ethnic discrimination in the sphere of employment-placement existing in the Russian Federation on the “every-day basis” is far-fetched and groundless. According to the Labor Code of the Russian Federation any kind of discrimination in the work place is strictly forbidden. People who think they have fallen a victim of labor-connected discrimination can appeal to the Federal Labor Inspection bodies or to the Court demanding the rehabilitation of infringed rights, financial or moral compensations.

### **Paras. on the issue “Vulnerable Groups” and to para. 105**

As a whole, this issue is drawn up on a biased basis and distorts the existing reality connected to the current state of Chechens, Muslims, Roma, Meskhetian-Turks and Jews living in Russia.

The idea of overall intolerance towards national minorities by ethnic Russians is absolutely false. Even more erroneous is a reported assumption about so-called intolerance expressed by the orthodox Christians towards practitioners of other religions. Historically Russia has been a poly-ethnic and multi-confessional State, uniting many nationalities and religions. Moreover orthodox Russians are noted for their tolerance towards representatives of all nations, because tolerance is one of the key-features of the orthodox religion.

### **Para. 81**

In 2004 more than 19 000 IDPs (internally displaced persons) returned from Ingushetia into Chechen Republic. Representatives of UNHCR and its partners had the possibility of regular monitoring people returning to Chechen Republic with the purpose of confirming the free-will character of their return. During the period of 2004-2005 not a single case of IDP's forced return to Chechnya has been registered. It should be mentioned that those of the IDPs who decided not to leave Ingushetia have received decent lodgings.

### **Para. 82**

The assumption of the on-going unpunished human rights abuses on the every-day basis in the Chechen Republic is contrary to fact.

According to the available materials Chechen fighters dressed in military or police uniforms willing to discredit the state authorities deliberately commit crimes against civilians.

All facts of socially dangerous acts are due to close scrutiny, and there is some positive progress in the dynamics and structure of delinquency. In particular, as a result of the measures taken the number of kidnappings has drastically diminished during recent years. In comparison with the year 2003 the number of reported kidnappings has fallen by 35,5%, the number of corresponding criminal cases has reduced by 61%, the number of people kidnapped – by 61,1%. Since the beginning of counter-terrorist operation in Chechnya 1793 proceedings have been pursued as a result of 2503 kidnappings, while 642 people were found, and 912 research-proceedings were opened. 93 people were convicted for such kind of criminal acts.

### **Paras. 88-90**

The All-Russia Census of 2002 states that from 13 to 14,5 million Muslims live in Russia. Historically Muslims have been an integral part of the multicultural Russian State, and they have never been subjected to racial discrimination or intolerance. People practicing Islam have always been widely represented in all branches of power: legislative, executive and judicial.

Extremist crimes against Islamic religion do take place sometimes, but they are not widespread as assumed in the ECRI report. All similar misdeeds are subject to thorough investigation and penalty by the law-enforcement bodies.

We have to admit that after the notorious acts of terrorism in many countries, fanatic-terrorists' ideology has been associated with Islam as one of the world religions. The media have played quite an instrumental role in that not always covering this topic correctly and using sometimes such wrong combinations of words as "Islamic terrorists" or "Islamic threat". As a result of that many people get an unfair idea of this confession; they transfer their negative attitude from some sectarian individuals to the whole Islamic community.

The Russian services have every reason to state that the North Caucasus Conflict Situation has nothing to do with religious intolerance religious problems. But two complex developments are clearly visible: worsening of the criminal situation in the region and virtual exterior aggression against the Russian Federation, pursued by many foreign actors including the special services of a number of foreign countries.

A certain percentage of rank and file terrorist groups members connect the reasons of the acts of terrorism to their leaders' quest for separatism and integration into the Islamic world and "the victory of Islam". But this is nothing more than an attempt to split up the integrity of the Russian Federation. Therefore we proceed from the idea that the main components of our anti-criminal and antiterrorist strategy are the harmonization of economic, political, social and religious aspects of life, and ensuring the country's security against exterior aggression in its different variants. Henceforth, proper religious education and prevention of religious fanaticism and intolerance are vital.

To justify terrorism many prisoners under prosecution mostly prefer to assume that Russia has invaded Chechnya and has been killing republic's Muslim population because of their religion. It is to note that VHS cassette-recordings containing undermining and propagandistic materials on the above-mentioned topic are imported from abroad and distributed by the terrorist organizations.

As counterargumentation to the prisoners' under prosecution statements it was said that about 14 million Muslims live in different regions of Russia, but troops have been sent to none of these regions. The reason for sending troops to Chechnya has nothing to do with Islam, but is due to the fact that at that time the power in the country was in the hands of extremists and gangsters, striving to turn Chechnya into a criminal entity.

### **Paras. 91-101**

The general policy of the Russian Federation towards Roma is built upon its own national experience and recommendations elaborated by international organizations, namely by OSCE and the Council of Europe.

In that context the Russian authorities are seeking to take measures to improve the relations between the police and the Roma. Regarding recent steps in this field it is worth to mention the "Ethnic Minority – Police Workshop" held in the region of Moscow on November 23–24, 2005. The workshop was organized by OSCE and the Federation National-Cultural Autonomies of Russian Roma under the aegis of the OSCE Program "Policing and Criminal Justice: Toward Safety for Multi-ethnic Communities". The workshop provided a forum to exchange the experiences of Europe and Russia in the area of cooperation between ethnic minorities and police and brought together representatives of Moscow Police Department and regional police authorities. Concrete recommendations have been elaborated to tackle the problems arising in the field of relations between the police and the Roma community.

The nation-wide operation "Tabor" was launched due to the credible information that some Roma communities have been involved into organized drug trafficking. The outcome of this operation confirmed such facts.

One of the main Roma's problems caused by low level of education is the widespread unemployment. In spite of it, during last years we could enlarge their participation in industrial sphere – basically in small and middle business, trade and show business.



The main problem of getting education is that most Roma's families consider education unnecessary for their children. That is why Roma's children are permitted by their parents to study in schools only 4 years. Number of Roma's youth studying in professional colleges and universities is lower: only some Roma's students study in professional colleges as well as in the universities of Sverdlovsk and Chelyabinsk regions.

In spite of the Roma's distinct way of life, Russian Social Agencies are able to help all Roma population. For example, in Adyg Republic 156 Roma's families get such help, in Ryazan district – 242 families and 55 unwed mothers, in Vologda district – 402 families, and so on. Such help is also given in Astrakhan, Voronezh, Saratov, Orenburg districts, Komi Republic and Kabardino-Balkaria.

Mass media plays a very important role in the forming of ethnic co-operation and data ware of the activities of Roma's' public unions. A newspaper "Roma's news" (Tsyganskie Vesti) is established with the support of the administration of Vologda district. Also information notes and booklets of Federation of national-cultural autonomy of Roma appear regularly. Reports on Roma's public unions were published in newspapers and appeared on TV.

Therefore the assumption of ECRI that a lot of Roma don't have passports and other documents so they cannot be reiterated, they have no access to social services and their children have no possibility to study, we consider groundless.

This conclusion of ECRI is supposed to be fair only to those Roma's who are citizens of other CIS States (Commonwealth of Independent States). Roma's generic groups and families could travel illegally across Russia for searching a job because of assumed instability of their living in those states. It is regretful that this category of Roma are very often using the pretext "searching for a job" in order to perpetrate crimes on the territory of Russia. That is why these Roma-travellers as a rule don't have documents to make more difficult the process of their identification. They use their children for begging, perpetration of trivial offences and don't take measures for their education in Russian schools. Such action for many Roma became regretfully a traditional way of life.

Many times Russian media gave publicity to the results of journalist investigations of Roma-travellers who came for a time from the member-states of CIS. And at the same time journalists found out that a lot of such migrants are very wealthy people in their home-countries (they have luxury houses, expensive cars etc).

The Ministry of Foreign Affairs of the Russian Federation together with the Ministry for Regional Development consider the possibility of reestablishing in the near future the expert interdepartmental mechanism on Russian Roma which would contribute a lot to implementing State policies and recommendations of the Council of Europe as regards Russian Roma.

### **Paras. 110-113**

Solving the problems of Meskhetian Turks in the Krasnodar Region, federal and regional authorities act is based according to legal status of each individual living on the territory of the State, and not on their national identity. According to the data of the passport-visa police department of Krasnodar Region, there were 11 999 Meskhetian Turks living in the region, 4943 of whom had Russian citizenship and 7056 were persons without citizenship.

Those of the Meskhetian Turks who have Russian citizenship enjoy all the rights of Russian citizenship, including the right of free movement and choice of the place of residence.

In accordance with the Federal Law (of 25 July 2002) "On legal status of foreign citizens in the Russian Federation" those Meskhetian Turks who are not Russian citizens are to be registered at police departments and to get migration cards there. Only those people, who have migration cards, can get working-permit, temporary residence, and subsequently Russian citizenship. But a portion of the Meskhetian Turks were actually unwilling to get the

registration, and therefore got the status of illegal migrants. Only 774 of the people who have no Russian citizenship got migration cards. 6207 Meskhetian Turks consciously refused to be registered according to the Russian Legislation.

From the beginning of the year 2005 about 217 Meskhetian Turks got Russian citizenship, 11 – got other types of documents.

The process of getting any legal status by the Meskhetian Turks is hampered by the fact that almost all of them consider their living in Russian districts as temporary and intend to return back to their historic home country - Georgia.

Some facts of forced extradition of foreigners and non-citizens, who lived in the Krasnodar Region illegally, in accordance with the Krasnodar Region Law “On residence on the territory of the Krasnodar Region”, were caused by the fact that the people under extradition made their homes close to the guarded strategic objects.

In spite of the fact that the majority of Meskhetian Turks have no medical insurance cards, they get medical care together with the citizens, although these expenses are not foreseen by the budget of various levels. In the educational institutions, situated in the places of Meskhetian Turks compact living, additional and group lessons for Meskhetian Turk children are organized. If it is necessary parents are offered special corrective education for their children.

As a whole it is necessary to underline that even those of the Meskhetian Turks who have no legal status, enjoy all the civil rights (right of residence, education, medical care, cultural development) as Citizens of the Russian Federation.

832 Meskhetian Turks applied neither for Russian nor for USA citizenship. Regional Authorities made a questionnaire of this group about their intention to get legal status (stay in Russia or move to the USA, Georgia or Turkey).

The first reason of “transitory” status of Meskhetian Turks in the Krasnodar Region is that Georgia doesn’t keep to the agreements, signed in 1997, when Georgia entered the Council of Europe. In April 2005 Secretary General of the Council of Europe visited Georgia. During this visit the agreement to use the term “Georgian Meskhetians” was achieved.

#### **Paras. 118-121**

After a short break caused by the Administrative reform, the Federal Service for Legislature supervision in the field of media and protection of cultural heritage has been reestablished. This agency issued a rising number of warnings orders towards newspapers for the prevention of provocation of racist hatred.

#### **Paras. 122-123**

The assumption concerning the lack of reliable information on the situation of the different minority groups living in the Russian Federation appears to be erroneous. Both reliable All Russia statistic, based on the 2002 All Russia Census of population, and regional database are available for public. Appropriate data base is also available in the Ministry for Regional Development, Duma’s Committee for Nationalities and General Procurator’s Office. Russian periodic reports on the implementation of the Framework Convention on the Protection of National Minorities also contain such information.

#### **Paras. 128-129**

Competent Russian authorities continue to work out a complex of measures aimed at increasing the effectiveness of combating racism and intolerance, creating environment for mutual respect and co-operation of all nations living in the Russian Federation.

Besides, the lawsuit statistics of racially motivated crimes of 2004-2005 changed in a positive way. In 2004 racial motivation was identified only in seven sentences among finished trials on violent crimes. In total at the outcome of these trials 32 persons were convicted, 26 of them were imprisoned up to 17 years. In 2003 there were only three sentences for the racial behavior of the crime and only 8 cases have been sent to the courts.

More active prosecution of ideologists and masterminds of radical national propaganda should also be noted. During the first half of 2005 nine persons in eight trials were convicted for propaganda of racially motivated violence.

As a whole juridical evaluation of national-radical crimes became more competent. It is reported that as a consequence it led to the decrease in number of racially motivated murders.

#### **Paras. 140, 145, 151**

As a result of the State policy towards Cossacks, it is expected that modern public Cossack communities should become one of the social intermediaries of Federal Power. Presidential Draft Law "On State Service of Russian Cossacks" has been sent to the State Duma in April 2005. This draft law will determine legal and practical grounds for permitting Russian Cossacks units to exercise functions as public service. It is foreseen that the major principle of Cossacks' activities is compliance with the rule of law and protection of individual rights and freedoms.

Duma's adoption of the Draft Law is expected to be a new, more crucial stage in the development of Cossacks Units, its transition from public movement to the association, seen as an emerging State resource.

#### **Para. 149**

The General Prosecution and its regional offices are the competent independent investigatory bodies monitoring the observance of legislation, including investigations of police misbehavior.

#### **Paras. 152-164**

A number of measures for simplifying the system of residence registration application has been recently undertaken. In particular, from the end of 2004 Russian and Ukrainian citizens according to the bilateral agreement are free from the residence registration within the term of 90 days.

New legislation modifying public registration is being drafted."