

**European Commission  
against Racism and Intolerance**

**Third report on the  
Russian Federation**

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# Table of contents

<b>FOREWORD</b> .....	<b>3</b>
<b>EXECUTIVE SUMMARY</b> .....	<b>4</b>
<b>I. FOLLOW-UP TO ECRI'S SECOND REPORT ON THE RUSSIAN FEDERATION</b> .....	<b>5</b>
INTERNATIONAL LEGAL INSTRUMENTS .....	5
CONSTITUTIONAL PROVISIONS AND OTHER BASIC PROVISIONS .....	5
- <i>Granting of citizenship</i> .....	6
CRIMINAL LAW PROVISIONS .....	6
CIVIL AND ADMINISTRATIVE LAW PROVISIONS .....	9
SPECIALISED BODIES AND OTHER INSTITUTIONS .....	10
EDUCATION AND AWARENESS-RAISING .....	11
RECEPTION AND STATUS OF NON-CITIZENS .....	13
- <i>Immigration</i> .....	13
- <i>Asylum seekers and refugees</i> .....	15
ACCESS TO PUBLIC SERVICES .....	16
ACCESS TO EDUCATION .....	17
EMPLOYMENT .....	18
VULNERABLE GROUPS .....	18
- <i>Chechens and other Caucasians</i> .....	19
- <i>Muslims</i> .....	20
- <i>Roma</i> .....	21
- <i>Jewish communities</i> .....	23
- <i>Religious groups</i> .....	23
- <i>Meskhethian Turks in the Krasnodar region</i> .....	24
ANTISEMITISM .....	25
MEDIA .....	26
MONITORING THE SITUATION .....	27
<b>II. SPECIFIC ISSUES</b> .....	<b>27</b>
THE RECENT INCREASE IN RACISM AND INTOLERANCE IN THE RUSSIAN FEDERATION .....	27
- <i>Escalation of racist violence</i> .....	27
- <i>Spread of racist statements and publications</i> .....	28
- <i>Exploitation of racist discourse in politics</i> .....	29
- <i>The reaction of the Russian authorities to the recent increase in racism and intolerance in the country</i> .....	30
CONDUCT OF LAW ENFORCEMENT OFFICIALS .....	31
THE PROBLEM OF RACIAL DISCRIMINATION IN THE SYSTEM OF RESIDENCE REGISTRATION .....	33
<b>BIBLIOGRAPHY</b> .....	<b>37</b>

## **Foreword**

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with "specific issues", chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

**The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 16 December 2005 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.**

### ***Executive summary***

Since the publication of ECRI's second report on the Russian Federation on 13 November 2001, progress has been made in a number of the fields highlighted in that report. The criminal law provisions aimed at combating racial discrimination, racism and extremism have been reinforced and there have been some prosecutions of hate speech. The Labour Code now contains an extensive provision prohibiting discrimination in employment. Some measures have been taken or are envisaged, notably at local level, to promote tolerance and to encourage interethnic dialogue.

However, a number of recommendations made in ECRI's second report have not been implemented, or have only been partially implemented. Despite some condemnations by the public authorities of racism and hate speech, there needs to be greater urgency at both local and national level in tackling the problem. The criminal law provisions aimed at combating racism are not adequately implemented particularly because the racist motive of an offence is not taken sufficiently into account. Following recent changes in the legislation, non-citizens encounter difficulties in regularising their legal status. Many immigrant workers, notably from CIS countries, experience oppressive working conditions. The situation of asylum seekers and refugees is precarious. There are still some problems of racial discrimination, particularly in education, access to public services and employment. The legal status and living conditions of the Meskhetian Turks in Krasnodar remain alarming despite indications of greater attention to the issue at national level. The number of antisemitic acts has increased as well as racism and intolerance in general. There has been a rise in racial violence, an increase in cases of racist expression, as well as the increasing use of racist and xenophobic discourse in politics. Visible minorities including Chechens, other Caucasians, Roma, Meskhetian Turks in Krasnodar, citizens from CIS countries, Africans, Asians and other non-citizens, as well as members of small religious groups including Jews, are the main targets of racially motivated attacks, and of racist inflammatory discourse. Police and Cossacks often adopt discriminatory and unlawful conduct in virtual impunity. Racial discrimination in the residence registration system remains serious. This system effectively has a negative impact on the basic rights of visible minorities throughout the country.

In this report, ECRI recommends that the Russian authorities take further action in a number of areas. The implementation of criminal law provisions against racism and intolerance should be improved. ECRI recommends the creation of an independent body specialising in the field of combating racism and racial discrimination. The Russian authorities should take measures to regularise the situation of non-citizens and protect them from labour exploitation. They should envisage a general strategy aimed at countering any discriminatory acts, racist violence or hate speech, through preventive measures and, where necessary, appropriate penalties against perpetrators. ECRI recommends that measures be taken to address patterns of police misbehaviour and that training in human rights and the need to combat racism be provided to police officers. The Russian authorities should review thoroughly the whole system of residence registration in order to ensure that it does not have a discriminatory impact on visible minorities.

## I. FOLLOW-UP TO ECRI'S SECOND REPORT ON THE RUSSIAN FEDERATION

### International legal instruments

1. In its second report on the Russian Federation, ECRI encouraged the Russian authorities to ratify the following international legal instruments, which the Russian Federation has already signed: the Protocol N° 12 to the European Convention on Human Rights (ECHR), the European Charter for Regional and Minority Languages, the European Social Charter (revised) and the European Convention on Nationality. ECRI also recommended that the Russian Federation sign and ratify the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.
2. ECRI notes with regret that since the publication of its second report, no progress has been made towards the signature or ratification of the international legal instruments mentioned above. The Russian authorities have indicated that they are working on the preparation of the ratification of Protocol N° 12 to the ECHR, of the European Social Charter, the European Charter for Regional and Minority Languages and the European Convention on Nationality. ECRI has not received any information from the Russian authorities as to whether they intend to sign or ratify the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level.
3. Since the publication of ECRI's second report on the Russian Federation, the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems has been opened for signature and ratification. In addition, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families entered into force on 1 July 2003. The Russian Federation has neither signed nor ratified the Additional Protocol to the Convention on Cybercrime and the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families.

### ***Recommendations:***

4. ECRI reiterates its recommendation that the Russian authorities sign and ratify the following international legal instruments as soon as possible: the European Charter for Regional and Minority Languages, the European Social Charter (revised) and the European Convention on Nationality. It also recommends ratifying the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level as swiftly as possible. ECRI particularly emphasises the importance of the ratification of Protocol N° 12 to the European Convention on Human Rights, which entered into force on 1<sup>st</sup> April 2005 and provides for a general prohibition of discrimination.
5. ECRI recommends that the Russian authorities sign and ratify the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, as well as the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families.

### Constitutional provisions and other basic provisions

6. In its second report, ECRI encouraged the Russian authorities to ensure that all identification and other official documents issued at the level of the regions are in

conformity with the constitutional guarantees to free determination and indication of one's nationality (here in the meaning of national origin and not citizenship). ECRI is pleased to learn that the new Russian passports, contrary to the old Soviet passports, do not contain any information concerning the nationality of the Russian citizens.

- ***Granting of citizenship***

7. In its second report, ECRI expressed concern at the situation of citizens of the former Soviet Union belonging to some ethnic groups who have encountered difficulties in obtaining Russian citizenship. It urged the Russian authorities to address this issue as a priority in order to ensure that the rights of the persons concerned were respected.
8. A Federal Law on Citizenship of the Russian Federation entered into force on 1<sup>st</sup> July 2002. ECRI notes with interest that according to this Law, the principles and rules governing citizenship of the Russian Federation must not contain provisions restricting the rights of citizens on social, racial, national language or religious grounds. The authorities have indicated to ECRI that following an amendment made to the Law in 2003, Article 14 of the Law provides for a simplified procedure for granting citizenship of the Russian Federation to former Soviet citizens. However, the requirement resulting from Article 14-4 to prove the existence of a residence registration or residence permit in the Russian Federation apparently remains the same and therefore also prevents members of visible minorities (who can encounter difficulties in obtaining such registration or permits) from obtaining citizenship<sup>1</sup>. There are concerns that the new Citizenship Law may make it even more difficult than before for citizens from the former Soviet Union who had permanently lived in Russia before the collapse of the Soviet Union, to apply for citizenship- particularly when the new law is applied in combination with the 2002 Federal Law on the Legal Status of Foreigners. Some former Soviet citizens, belonging to the Chechen and Roma communities for instance, are confronted with insurmountable obstacles in obtaining Russian citizenship. ECRI is also aware of the situation of some of the Meskhetian Turks living in Krasnodar Krai who have been seeking Russian citizenship for many years without success. According to NGOs, members of such vulnerable groups could even find themselves trapped in a situation of statelessness if the Russian authorities do not react promptly to find proper solutions in this field.

***Recommendations:***

9. ECRI encourages the Russian authorities in their efforts to facilitate the acquisition of Russian citizenship by former Soviet citizens who have been permanently living in the Russian Federation. It draws the attention of the Russian authorities to the difficulties still encountered by some ethnic groups in the naturalisation process and encourages them to find reasonable solutions rapidly in order to avoid cases of statelessness as much as possible.

**Criminal law provisions**

10. In its second report, ECRI expressed concern at the fact that criminal law provisions aimed at combating racism were rarely applied. It called for a more active policy in this respect and notably for awareness-raising measures in this field in order to ensure a better implementation of the law.
11. ECRI is pleased to learn that the Russian authorities have recently reinforced and complemented the already existing Criminal Code provisions aimed at combating

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<sup>1</sup> Concerning residence registration, see below under "Specific issues – the problem of racial discrimination in the system of residence registration".

racism and intolerance<sup>2</sup>. Article 136 of the Criminal Code provides for the punishment of the violation of equality of citizens through direct or indirect advantages or disadvantages for a group of citizens on the grounds of race, language, residence, nationality, religion or conscience. This clause was amended in 2004 in order to mention expressly that it prohibits “discrimination”, and notably racial discrimination.

12. Article 282 of the Criminal Code prohibits “actions aimed at the incitement of hatred or enmity, as well as the debasement of dignity of a person or a group of persons on the grounds of sex, race, nationality, language, origin, attitude to religion or affiliation to any social group, if these acts have been committed in public or through the use of mass media”. This provision was amended by the 2002 Federal Law “on Counteracting Extremist Activities”<sup>3</sup>. The new Law defines “extremist activity” as “violent actions against the state and any actions aimed at inciting national, racial, religious and social enmity in connection with violence or threat to violence, humiliation of national dignity; vandalism and mass disorder; propaganda of the exclusivity, superiority or inferiority of people on the grounds of their social, racial, religious, national and linguistic group, propaganda and public demonstration of Nazi or similar symbols”. According to the Law, a court can prohibit the broadcasting or publication of a media expressing extremist views. The Ministry of Interior keeps a list of the material which has been prohibited on the ground of extremism.
13. In commenting on the 2002 Federal Law on Counteracting Extremist Activities, many NGOs have argued that its definition of extremism is too broad, giving room for abusive interpretation and implementation. NGOs have suggested that there are already some examples of abusive proceedings introduced against local human rights and humanitarian NGOs on the grounds that they have been inciting racial hatred or violence against the State. ECRI understands that the problem lies more in the interpretation of the Law by the police and prosecutors - sometimes confirmed and other times rejected by the judges – than in the content of the Law itself. It is therefore important that Article 282 be implemented in full respect of the European Convention on Human Rights and notably its Articles 10 (freedom of expression) and 11 (freedom of association) as interpreted by the European Court of Human Rights.
14. In ECRI’s view, certain provisions aimed at combating racially motivated hate speech in the media should also be reviewed in the light of experience. At present, the only possible sanction is the mere closure of the media concerned after a certain number of official warnings. This cumbersome procedure and its serious consequences do not encourage the police and the prosecutors to introduce an action against a media on the ground of racist statements. It has been suggested that the Russian authorities introduce a wider range of penalties aimed at media or journalists responsible for hate speech, allowing the judges to choose the most appropriate sentence.

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<sup>2</sup> Among other provisions, Article 63 section 1 (f) stipulates that “national, racial or religious hatred or enmity” is considered as an aggravating circumstance and gives rise to more severe penalties for some offences. Article 105-2 provides for the punishment of murder on the motive of national, racial, religious hatred or enmity or blood feud; Article 111-2. provides for the punishment of the deliberate causing of grievous bodily harm on the motive of national, racial, religious hatred or enmity; Article 117-2 provides for the punishment of torture on the motive of national, racial or religious hatred or enmity; Article 357 provides for the punishment of genocide.

<sup>3</sup> The Federal Law N° 114-FZ “On Combating Extremist Activity” and amending the penal code entered into force in August 2002.

### ***Recommendations:***

15. ECRI encourages the Russian authorities to review and complement the criminal law provisions aimed at combating racially motivated hate speech in the media. In this respect, they should take account of the sections on criminal law provisions contained in ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. In particular, the criminal law should provide for effective, proportionate and dissuasive sanctions for all racist offences. It should also provide for ancillary or alternative sanctions such as: participation in training courses, refusal or cessation of public benefit or aid or publication of all or part of a sentence<sup>4</sup>.
16. Despite the above mentioned issues, the existing criminal legislation contains appropriate provisions for prosecuting most of the instances of racially motivated offences or hate speech. However, ECRI notes with concern that according to many NGOs the current implementation of these provisions is far from satisfactory, in spite of some very recent positive developments. According to official<sup>5</sup> and non-official sources, in the last three years, the average number of cases where a provision aimed at combating racially motivated violence or hate speech has been applied is less than 50 a year. The number of cases resulting in a conviction is even lower as some proceedings result in acquittals or are discontinued. NGOs and officials working in this field have all concurred to say that such numbers are far from reflecting the current situation as regards racial violence and the dissemination of hate speech in the Russian Federation<sup>6</sup>.
17. In ECRI's view, the discrepancy between the real number of racist acts and the number of persons convicted of such acts could be the result of several factors. The implementation of criminal law provisions aimed at combating racism and intolerance seems to ECRI to suffer from a lack of awareness of the police and the prosecutors about what should be considered as racist. Such attitudes could also lead to a situation whereby people feel discouraged from bringing a case before the court as they tend to believe that this would only be a waste of time and money. The general conduct of the police towards visible minorities has also been put forward as a reason for the reluctance of members of these minorities to bring a complaint to the police<sup>7</sup>.
18. As regards racially motivated violence, particularly in cases where skinheads are involved, the police and the prosecutors apparently adopt a restrictive approach, for instance by applying the provisions prohibiting hooliganism rather than the more appropriate provisions relating to racially motivated murder or assault. Therefore, the racist motivation of the perpetrators is not sufficiently taken into account, even in cases where it is very obvious or easy to prove. Concerning racist statements made in public or contained in publications, the police and prosecutors apparently invoke two main arguments for not implementing the relevant provisions. They sometimes consider that publishers distribute racist material, such as the Protocols of the Elder of Zion, without any racist intent and only for commercial reason. In some cases, the police and prosecutors do not see any racist element in the material submitted to them, in total contradiction with the assessment made by several independent experts. Another argument

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<sup>4</sup> See paragraph 23 of ECRI's General Policy Recommendation N° 7 on the national legislation to combat racism and racial discrimination and paragraph 49 of its Explanatory Memorandum.

<sup>5</sup> Information provided by the Office of the General Prosecutor and the Ministry of Interior.

<sup>6</sup> See below, "Specific issue –The recent increase in racism and intolerance in the Russian Federation".

<sup>7</sup> See below, under "Specific issue: - The conduct of law enforcement officials; - The problem of racial discrimination in the system of residence registration".



put forward to justify the lack of prosecutions is freedom of expression, implying that people should be free to say and write anything they wish. However, ECRI recalls that the European Court of Human Rights has admitted in successive judgements that, under certain conditions, State authorities may restrict the exercise of this freedom by taking criminal sanctions against the authors of racist acts<sup>8</sup>.

19. However, NGOs have stressed that, throughout the Russian Federation, the police and particularly the prosecutors are paying growing attention to racist elements in the cases reported to them and are more willing than before to take such elements into account in their work. The Russian authorities have indicated that, while in the first half of 2004 only one person was convicted for stirring up national violence, during the first half of 2005, there were six trials whereby 21 persons were convicted to 4 to 19 years of prison. They also stated that, while in 2003 there were only three sentences on the grounds of racist motivation and only 8 cases were sent to the courts, in 2004 racist motivation was identified in seven sentences among completed 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. ECRI is pleased to note this recent change of attitude, which still needs to be confirmed and developed. It also notes with interest that the Russian authorities are conscious of the need to raise the awareness of the police and the prosecutors of the importance of taking effective measures for this purpose.
20. ECRI notes that for the moment there is still no public, clear, unified and comprehensive system for collecting statistics on the implementation of the criminal law provisions aimed at combating racism in the Russian Federation. The Russian authorities have indicated that a new form of statistical reports has been developed by the Prosecution services, which will ensure a better overview of the implementation of criminal law.

#### ***Recommendations:***

21. ECRI recommends that the Russian authorities considerably strengthen their efforts to train police, prosecutors, judges and judicial candidates on issues pertaining to the implementation of legislation concerning racist offences.
22. ECRI recommends that the Russian authorities undertake special efforts to improve the methods of recording, classifying, investigating and prosecuting complaints of racist offences. To this end, there is a need to devote further human and financial resources and to consider adapting working methods to ensure that complaints receive the necessary follow-up.
23. ECRI furthermore recommends that the Russian authorities monitor the implementation of criminal law provisions aimed at combating racist offences in a more thorough and detailed manner.

#### **Civil and administrative law provisions**

24. In its second report, ECRI strongly encouraged the Russian authorities to consider the adoption of a comprehensive body of civil and administrative antidiscrimination provisions covering discrimination in different fields of life.

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<sup>8</sup> See also ECRI's General Policy Recommendation N° 7 on national legislation to combat racism and racial discrimination, Paragraph 3: "The constitution should provide that the exercise of freedom of expression, assembly and association may be restricted with a view to combating racism. Any such restrictions should be in conformity with the European Convention on Human Rights". See also the Explanatory Memorandum to Paragraph 3 and Paragraph 18 of General Policy Recommendation N° 7 which indicates the acts that the national legislation should penalise.

25. ECRI welcomes Article 3 of the new Labour Code (Federal Law No. 197-FZ of 2001), which entered into force in 2002 and which contains detailed and progressive provisions aimed at combating racial discrimination in the field of employment. This clause, entitled “Prohibition of discrimination in the sphere of work”, provides that everyone should be guaranteed “equal opportunities to realise his/her rights to work. No one can be constrained in his/her rights and freedoms in the sphere of work or obtain any advantages on the grounds of sex, race, colour, nationality, language, origins, property, social or hierarchical status, age, domicile, religious beliefs, political convictions, affiliation or non-affiliation with public associations as well as other factors not relevant to the professional qualities of the employee. Persons who consider themselves discriminated against in the sphere of work shall be entitled to petition the federal labour inspectors and/or courts in order to obtain a restoration of their violated rights, compensation of the material loss and redress of the moral damage. However, ECRI is not aware of any case of implementation of these recent provisions by labour inspectors or courts.
26. To ECRI’s knowledge, there is no other comprehensive provision in civil and administrative law which would prohibit racial discrimination in the same way as the Labour Code. ECRI understands that, in many laws, there is a clause prohibiting discrimination but that it is usually drafted in a broad way and is therefore not as precise and comprehensive as Article 3 of the Labour Code.

#### ***Recommendations:***

27. ECRI strongly encourages the Russian authorities to continue adopting precise and comprehensive provisions prohibiting racial discrimination in order to ensure that all fields of life such as education, access to housing, public services, and public places, as well as contractual relations between individuals are covered. In this respect, ECRI calls on the Russian authorities to draw inspiration from its General Policy Recommendation No 7 on national legislation to combat racism and racial discrimination.

#### **Specialised bodies and other institutions**

28. In its second report, ECRI expressed its strong support for the establishment of regional ombudsmen. It also called for the setting up of a body specialising in the field of combating racism and racial discrimination.
29. ECRI understands that 31 out of 89 regions have appointed an ombudsman, and that since 2004, there is an acting ombudsman for Chechnya. ECRI welcomes the increasing number of regional ombudsmen. It believes that each region should have its own ombudsman, as the ombudsman of the Russian Federation does not currently have sufficient means to deal with all the human rights problems on Russian territory. However, ECRI notes with interest that this body has continued to work in the field of combating racism and intolerance, in particular with a view to drawing the attention of the Russian authorities to the danger of increasing intolerance in the country. In this respect, ECRI understands that the Ombudsman of the Russian Federation is currently working on a special report dealing with the problems of racism and racial discrimination in the Russian Federation. ECRI hopes that this report will be issued soon and that the authorities will take its conclusions into account, as well as any recommendations made by the Ombudsman of the Russian Federation concerning the fight against racism and intolerance.
30. ECRI notes that a Department for interethnic relations was set up within the new Ministry for Regional Development, established in 2004. The representatives of this department have indicated that their task is to provide assistance to national and other minorities. Amongst other initiatives, this Department has organised

events to promote the culture of national minorities. It has also drafted programmes for the improvement of the economic and social conditions of some ethnic groups such as the Chechens living in Chechnya, the Roma scattered throughout the country and the numerically small indigenous people in the North. This department has indicated that it works in close co-operation with NGOs.

31. ECRI notes with particular interest that one of the tasks of the Department for interethnic relations is to prevent or to resolve interethnic tensions in the country, a task of the utmost importance in ECRI's opinion, particularly in the context of growing tensions in some regions and big cities<sup>9</sup>.
32. ECRI understands that it is not planned as yet to establish an independent body specialising in the field of combating racism and racial discrimination, whose competences could include elements such as: assistance to victims; investigative powers; the right to initiate and to participate in court proceedings; monitoring legislation and advising legislative and executive authorities; awareness-raising of issues of racism and racial discrimination among society and promoting policies and practices to ensure equal treatment.

#### ***Recommendations:***

33. ECRI strongly encourages the Russian authorities to continue their efforts to set up regional ombudsmen throughout the country. These ombudsmen and the Ombudsman for the Russian Federation should be given sufficient human and financial means to accomplish their mission.
34. ECRI hopes that the Department for interethnic relations of the Ministry of Regional Development will strengthen its efforts to assist all ethnic groups who find themselves in a difficult situation and to take all necessary measures in co-operation with other institutions of the Russian Federation to prevent racism and intolerance as well as interethnic conflicts.
35. ECRI strongly encourages the Russian authorities to set up in the near future an independent body specialised in combating racism and racial discrimination, paying due regard to ECRI's General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, and General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. ECRI particularly emphasises the need to guarantee complete independence to this body, as well as the legal capacities and the human and financial resources necessary for it to provide the requisite assistance to victims.

#### **Education and awareness-raising**

36. In its second report, ECRI encouraged the Russian authorities to involve civil society organisations in the practical implementation of the 2001-2005 Programme on Tolerance and Prevention of Extremism in Russian Society, both in identifying the most necessary projects and in carrying these out.
37. ECRI deeply regrets that the Programme on Tolerance and the Prevention of Extremism in Russian Society has been abandoned while still in progress, although its objectives for 2005 cannot be considered as achieved. This is particularly regrettable in the context of the increase in racism and intolerance experienced by the Russian Federation today<sup>10</sup>. The Russian authorities have indicated that, under the 2001-2005 Programme, among other measures,

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<sup>9</sup> See below, "Specific issue –The recent increase in racism and intolerance in the Russian Federation".

<sup>10</sup> See below "Specific issues - The recent increase in racism and intolerance in the Russian Federation".

courses on the promotion of tolerance and mutual understanding and on the need to combat extremism were introduced into the educational programs for teachers, social and law enforcement personnel and mass-media professionals. They also indicated that, as a follow-up to this Programme, a Federal Programme called "Ethnic and Cultural Development of Russian regions" (2006-2008) was being elaborated.

38. ECRI notes some positive developments in this field, particularly regarding programmes on tolerance organised by civil society in connection with some schools. There is also a great number of seminars and conferences organised by human rights and interethnic NGOs dealing with the subject of racism and intolerance and of the best ways to combat such phenomena. It is not unusual that public officials including police officers and judges take part in such events. The Ombudsman has also organised a number of seminars with judges, the police, the media and others on human rights issues.
39. There are some local and regional programmes aimed at combating racism. The city of St. Petersburg adopted a Law on interethnic relations in 2004 and launched a programme on tolerance in 2005. This programme notably aims to educate children about tolerance, to teach public officials and the police appropriate communication strategies for dealing with foreigners, and to provide support media coverage of positive results in the fight against xenophobia. The city authorities pay particular attention to working in co-operation with potential victims of racism. For example, they have started to regularly consult foreign students on the best solutions to protect these latter from racist violence. They have set up several bodies for intercultural dialogue such as the House of nationalities, which gives representatives of small ethnic groups the possibility of expressing their views on interethnic relations and other issues. ECRI believes that the measures taken by the city of St. Petersburg should be welcomed, as this city has been quoted by many sources as one of those places in the Russian Federation with the highest occurrence of racist offences<sup>11</sup>.
40. In its second report, ECRI considered that the teaching of human rights, with particular emphasis on the principles of equality, non-discrimination and the notion of tolerance, should be compulsory at the primary and secondary level of education and that initial and on-going specialist training should be provided to the teachers of these subjects. The authorities have informed ECRI that human rights and tolerance are taught on a transversal basis in different courses at all levels of education. The curricula also contain elements promoting intercultural and interethnic dialogue.
41. In its second report, ECRI encouraged the Russian authorities to pay particular attention to the phenomenon of racism in the course of regular reviews of school curricula and textbooks. ECRI notes that there have been nation-wide and local initiatives aimed at reviewing school textbook in order to take out any stereotypes and prejudices against members of minority groups. ECRI welcomes these initiatives but notes that there is no obligation for a school to adopt the reviewed version of a textbook and that, unfortunately, the teachers still use the old textbooks.

#### ***Recommendations:***

42. ECRI recommends that the Russian authorities reconsider their decision to close down the nation-wide Programme on Tolerance and Prevention of Extremism in Russian Society. It believes that this programme should not only be continued but also strengthened and given all the necessary financial means to function

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<sup>11</sup> See below "Specific issues - The recent increase in racism and intolerance in the Russian Federation".

effectively. ECRI believes that, in addition, each region of the Russian Federation should draw up its own programme in this field, adapting resources to the specific needs of the region in question.

43. ECRI recommends that the authorities pursue and step up their efforts to provide public officials with human rights training. It encourages the Russian authorities to focus on respect for human dignity, the principle of equality and the prohibition of discrimination, including racial discrimination. The problem of racism and intolerance must also be addressed, as well as the need to accept and promote cultural diversity.
44. ECRI encourages the Russian authorities to ensure that the issues of mutual respect, racism and racial discrimination are properly covered in school curricula and in teacher-training courses on human rights.
45. ECRI recommends that the Russian authorities supervise the quality of school textbooks, which must not contain any derogatory or insulting references to any minority group whatsoever. ECRI also encourages the Russian authorities to revise school curricula and textbooks, including history books, in order to heighten pupils' awareness of the advantages of a multicultural society.

## **Reception and status of non-citizens**

### **- *Immigration***

46. The Russian Federation has recently faced a significant increase in immigration, notably from the countries of the Commonwealth of Independent States (CIS)<sup>12</sup> but also from Asia and to a lesser extent from Africa. Immigration from CIS countries is facilitated by the fact that no visa is required for CIS citizens to enter Russian territory, with the exception of citizens of Georgia since 2001. This increase in immigration is also the result of the growing need for a work force in the construction sector in Moscow and other big cities, as well as in industry and agriculture, coupled with the fact that the Russian Federation economy currently offers better living conditions than many of the other CIS or Asian countries.
47. One of the main problems linked with immigration in the Russian Federation is that for a number of reasons, the majority of immigrants find themselves in an illegal situation. This appears to be partly the consequence of the 2002 Federal Law on the Legal Status of Foreigners. This law provides for a cumbersome procedure in order to obtain a permanent or temporary residence permit, with requirements which newcomers cannot reasonably be expected to meet. Even if an immigrant obtains a residence permit, he/she may be considered as being in an illegal situation for lack of a residence registration stamp<sup>13</sup>. NGOs have indicated that the Federal Law on the Legal Status of Foreigners does not distinguish between the non-citizens<sup>14</sup> who already lived in the country before its entry into force and those who are newcomers. It also does not envisage any period of transition between the old system of residence permits and the new system which it puts in place. Consequently, non-citizens who have lived all their lives in the Russian Federation have the same legal status as people just arriving in the country. All of them need to apply for a temporary or permanent residence permit through the same procedure. As far as non-citizens who have lived all

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<sup>12</sup> CIS countries as of December 2005: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyz Republic, Moldova, Russian Federation, Tajikistan, Turkmenistan, Uzbekistan, Ukraine.

<sup>13</sup> Concerning residence registration, see below, "Specific issues – The problem of racial discrimination in the system of residence registration".

<sup>14</sup> In this report, the expression "non-citizens" refers to persons who are not Russian citizens and who have the citizenship of another state.

their lives in Russia are concerned, this Law in combination with the 2002 Federal Law on Citizenship has brought them to a legal limbo if not to an inevitable situation of irregularity<sup>15</sup>.

48. Although immigration for work purposes constitutes the major part of current immigration in the Russian Federation, ECRI has been informed that it is very difficult for an employer to obtain the permit necessary to hire foreigners and for foreigners to obtain the right to enter and stay in the country to work. This has led to a very tense situation as the Russian economy, particularly in the building sector, is in need of work force that according to all analyses can be found for the moment mainly abroad.
49. ECRI is particularly worried by the negative impact of such a situation on those non-citizens who have come to Russia to work. NGOs and the Russian authorities have indicated that the majority of non-citizens currently employed in Russia work illegally, often without permission from the authorities and even more often without a contract. The consequence is the exploitation of foreign workers by employers but also by corrupt members of the police force. The situation is often described as modern slavery or forced labour. Sometimes, the workers live on the construction sites where they work, experiencing substandard living conditions; their passports are confiscated by the employer who threaten to denounce them or even denounce them to the immigration authorities in order to pay them less or not all. These persons are also sometimes detained and deported. For instance, ECRI has been informed of cases where foreigners who have worked several months without being paid and complained to their employer, were merely denounced to the police who immediately deported them without even sanctioning their employer. Foreign workers who are in an illegal situation are therefore extremely vulnerable to intolerable exploitation by employers and corrupt members of the police force.
50. ECRI also wishes to stress that the vulnerable position of foreign workers due to their irregular situation also exposes them in a particular way to expression and acts of racism and xenophobia. The growth of racist violence and racist hate speech experienced by Russia over the recent years has an undeniable link to problems of immigration. Newcomers are often described as “illegal migrants” and taken as scapegoats for all of the economic and social problems encountered by the majority population<sup>16</sup>.
51. ECRI is pleased to learn that the Russian authorities have also expressed their concern at the current problems linked with immigration in Russia. This recognition has also been strengthened by official reports according to which the Russian population is decreasing, and will continue to do so (to the tune of one million people per year). This will endanger the economy and Russian society if the problem is not addressed. This demographic decline and the growing need for a workforce in the Russian Federation have led the Russian authorities to reconsider their position on immigration and to start envisaging a real policy of immigration and integration of immigrants in Russian society. However, ECRI realises that this is only a very recent phenomenon as the previous position was rather to find solutions to prevent illegal immigration and also restrain immigration in general. One of the measures announced by the Russian Federation and which should be welcomed is the legalisation process which should start for those foreign workers who have worked in Russia for a long time. A law is being drafted to facilitate the entry of a foreign workforce into the country through the

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<sup>15</sup> See above “Constitutional provisions and other basic provisions – Granting of citizenship”.

<sup>16</sup> See below, “Specific issues - The recent increase in racism and intolerance in the Russian Federation”.

simplification of the procedure for granting work permits and the establishment of a system of quotas of workers allowed to enter the country on an annual basis.

***Recommendations:***

52. ECRI strongly encourages the Russian authorities to take all necessary steps to facilitate the legalisation of the situation of non-citizens working illegally in the country. It is also urgent to take all necessary measures to protect foreign workers in an irregular situation from any forms of exploitation by employers and members of the police force.
53. ECRI considers that the Russian authorities should speed up and strengthen their efforts in order to adopt a general immigration and integration policy covering the whole territory of the Russian Federation. Integration measures could include, inter alia, language teaching, advice and assistance in receiving social and welfare benefits, training and other measures to facilitate integration into the employment market, and relevant training for officials coming into contact with immigrants through their work.
54. ECRI strongly recommends that the Russian authorities take all appropriate measures to combat any racist violence or hate speech and any prejudices or stereotypes concerning non-citizens, and particularly those who have come to work in the Russian Federation. ECRI feels that more attention needs to be paid to non-citizens as members of Russian society rather than just as economic entities. Measures should be taken which reflect this approach, such as, for example, awareness-raising measures within society in general of the contribution made by non-citizens to Russian culture and society, and of the need to combat intolerant attitudes.

- ***Asylum seekers and refugees***

55. In its second report, ECRI recommended that access to the asylum procedure be simplified and that the basic needs of asylum seekers be met while the examination of their claims was pending.
56. The Russian authorities have indicated that the 1993 Federal Law on Refugees was amended once in 2003 and twice in 2004. They have also indicated that, according to the Code on Administrative Offences, arrests of asylum seekers (and of any other persons) are possible only following a court decision. ECRI welcomes this additional guarantee against arbitrary arrests as well as other positive developments such as improvements of the legal provisions relating to the asylum procedure and the reorganisation of the administration working in this field in order to enhance its efficiency. However, ECRI notes that, in the opinion of NGOs and the United Nations High Commissioner for Refugees (UNHCR), the law could be further improved. The Russian authorities have announced that they are currently drafting a new version of the law with the support of the UNHCR.
57. The implementation of the law is particularly worrying as the problems in this field, as enumerated by ECRI in its second report, remain significant. Asylum seekers apparently encounter practical difficulties in acceding to the asylum procedure, particularly in the Moscow region. When they apply, they do not obtain any document from the authorities indicating their legal status in the country. The documents issued by the UNHCR are not considered as valid and asylum seekers are therefore in an extremely vulnerable situation throughout the procedure, which may take several years. They are exposed to the risk of unlawful arrests by the police, detention, extortion of bribes, etc. In the absence of any document proving their legal status, they have no means of securing their basic civil and social rights. For example, they do not have the right to work and do not have access to financial and social state assistance.

58. ECRI has received disturbing information about some asylum seekers unlawfully detained pending deportation, even before the final decision concerning their case has been taken. Due to a lack of financial resources, the authorities keep the person in detention for very long periods, sometimes exceeding one year, before they are able to finance his/her deportation. In some cases, after a while they simply release the person, who stays in the country without any legal status.
59. Over the past five years, refugee status has been granted to little more than 500 persons. NGOs and the UNHCR suggest that this low number is due, on the one hand, to a too restrictive approach on the part of the authorities as regards the requirements for obtaining refugee status and, on the other hand, to the obstacles preventing people from filing an application for asylum. ECRI notes that the Law on Refugees and many other laws provide that persons who have refugee status are granted the same rights as Russian citizens. However, it has also been suggested that in many cases this rule is not applied in practice.
60. ECRI also notes that asylum seekers and refugees, alongside other minority groups, are the victims of stereotypes and prejudices among the general public and that the media or representatives of the authorities sometime equate them with “illegal migrants” or describe them as criminals or terrorists who have come to the Russian Federation in order to hide. They are also at risk of intolerant acts and harassment targeting visible groups, which are covered in other parts of this report<sup>17</sup>.

#### ***Recommendations:***

61. ECRI urges the Russian authorities to take steps as soon as possible to resolve the problems encountered by asylum seekers due to the precariousness of their status, notably by providing them with a document indicating their legal status in the Russian Federation and allowing them to access the basic human rights granted to them by law.
62. ECRI recommends that the Russian authorities examine the recommendations of the UNHCR Office in the country and of human rights NGOs working in this field, as concerns the need to change legislation and practice pertaining to asylum-seekers and refugees in order to improve their situation, in particular as regards access to asylum procedure and the problem of detention.
63. ECRI encourages the Russian authorities to take all appropriate measures to combat any prejudices or negative stereotypes concerning asylum seekers and refugees by strengthening awareness-raising and human rights training for officials coming to contact with asylum-seekers and refugees.

#### **Access to public services**

64. In its second report, ECRI urged the Russian authorities to ensure equal access for all to social services such as healthcare, welfare, housing and access to public places, without discrimination, including on the basis of possession of registration of residence.
65. There are many provisions in the Russian Constitution proclaiming that everyone has access to a number of social benefits, including health care services (Article 41) and the right to education (Article 43). Article 62-3 of the Constitution establishes that foreign citizens and stateless persons have the same rights in Russia as Russian citizens, except when it is stipulated otherwise by federal laws

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<sup>17</sup> See notably below, “Specific issues: - the recent increase in racism and intolerance in the Russian Federation – conduct of law enforcement officials - the problem of racial discrimination in the system of residence registration”.



or international treaties. Such basic provisions are also generally reproduced in federal laws and regulations.

66. However, while welcoming that the principle of non-discrimination is mentioned frequently in legislation, ECRI notes that the public authorities are apparently not sufficiently aware of the relevant provisions as there are still many reports of racial discrimination in access to public services. Discrimination results from the refusal to grant a benefit in the absence of residence registration even though the law clearly provides that such registration is not a prerequisite in this case<sup>18</sup>.
67. NGOs have also suggested that there have been cases of open direct discrimination on the part of the authorities and also on the part of individuals who have contractual relations with visible minorities. For example, Chechens face great difficulty in finding a flat to rent in Moscow and other big cities. When they do manage to find accommodation, they are often forced to pay at least twice the usual price. Racial discrimination in the field of housing has also been reported in advertisements for rental accommodation appearing in newspapers. These state that persons belonging to a specific ethnic group, such as Caucasians, may not apply.

#### ***Recommendations:***

68. ECRI recommends that research be carried out into discriminatory practices in access to public services. The public officials should be made fully aware of the relevant antidiscrimination provisions and of the fact that residence registration does not constitute a prerequisite for granting access to social services.

#### **Access to education**

69. In its second report, ECRI considered that the authorities of the Russian Federation should make further efforts to ensure that the fundamental right of access to education is respected independently of possession of registration of residence.
70. ECRI notes that the Russian authorities have made efforts to ensure access to education for children whose parents lack residence registration. The Ministry of Education has issued an instruction in this sense and there are also some regional initiatives aimed at reminding schools of their obligation to enrol these children, such as in St. Petersburg. However, there are still many problems in this field as indicated in another section of this report<sup>19</sup>.
71. NGOs have reported that children belonging to minority groups and particularly Roma and Chechens do not have equal opportunities as regards access to education. However, ECRI notes that the authorities are conscious of such problems and have taken some measures in this respect. For instance, they have organised seminars to find the best way of facilitating Roma children's access to education. Such measures are not enough to offset the fact that Roma children are very much behind in terms of equal opportunities in education.
72. ECRI is concerned by the possibility that separate classes solely for Roma children exist alongside classes for non-Roma children in some schools in the region of Perm and other regions. Such separation is also understood to occur in the case of Meskhetian Turks and other visible minorities in Krasnodar Krai. The Russian authorities have explained that separate classes are created only for

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<sup>18</sup> See also below "Specific issues – the problem of racial discrimination in the system of residence registration".

<sup>19</sup> See below "Specific issues – the problem of racial discrimination in the system of residence registration".

children with a poor command of Russian, in order to assist them in catching up with other children. However, in ECRI's view, the position needs to be carefully monitored in order to ensure that education in the classes set aside for children belonging to minority groups is not of poorer quality than in the other classes.

#### ***Recommendations:***

73. ECRI urges the Russian authorities to take measures without delay to improve equal opportunities for children belonging to minority groups in education. It stresses the paramount importance of elaborating a short-, medium- and long-term policy in the matter and providing sufficient funds and other resources to implement this policy.
74. ECRI strongly encourages the Russian authorities to conduct an in-depth investigation into the allegations that segregation is practised on the ground of ethnic origin in some schools and to take all the necessary measures, where appropriate, to put an end rapidly to such situations.

#### **Employment**

75. In its second report, ECRI urged the authorities to ensure that antidiscrimination provisions are implemented in practice in the field of employment.
76. As mentioned above<sup>20</sup>, ECRI is pleased to note that the Labour Code now extensively prohibits racial discrimination in the work place. However, in the absence of detailed statistics, ECRI expresses its concern at NGO reports that these antidiscrimination provisions remain a dead letter, while racial discrimination occurs on a daily basis in this area. There are some examples of job advertisements published in newspapers, expressly indicating that persons of a certain ethnic origin (mostly Chechens) need not apply. Some Chechens have also been sacked in the wake of terrorist attacks against the Russian population, allegedly because their employers have been pressurised by authorities. Apparently, job applications are sometimes openly rejected solely on the ground of the applicant's ethnic origin. More frequently, applicants seem to be turned down on this ground but have no real possibility of proving it. The Russian authorities have indicated that any person who thinks that s/he has been victim of racial discrimination in the field of employment can complain to the Federal Labour Inspection or before a court to ask for the rehabilitation of the infringed rights, and for financial or moral compensation.
77. Concerning employment conditions of immigrants from the CIS and Asian countries, see above, "Reception and status of non-citizens – Immigration".

#### ***Recommendations:***

78. ECRI recommends that the Russian authorities monitor the situation as regards racial discrimination in employment. Measures should be taken to ensure that the antidiscrimination provisions applying in this field are known by the general public and the judicial actors so that they are duly implemented.

#### **Vulnerable groups**

79. ECRI has received consistent information from many various sources regarding the vulnerability of specific groups to manifestations of racism and intolerance in the country<sup>21</sup>. There is a general perception, both among international and

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<sup>20</sup> See above, "Civil and administrative law".

<sup>21</sup> See below, "Specific Issues - The recent increase in racism and intolerance in the Russian Federation".

national NGO's that, within the scope of action of ECRI, current trends of intolerance in the Russian Federation affect mainly groups who do not look like ethnic Russians, otherwise called "visible minorities", but also groups who do not have the same culture and particularly the same religion, namely the Russian Orthodox faith, as the majority of ethnic Russians. ECRI wishes to address here the situation of some of these vulnerable groups. The problems of racism and intolerance encountered by the groups mentioned below are dealt with throughout this report (See below, "The recent increase in racism and intolerance in the Russian Federation - Escalation of racist violence"). It is also important to stress that there are other groups not specifically mentioned below who are among the targets of the racist acts mentioned in this report.

- ***Chechens and other Caucasians***

80. In its second report, ECRI expressed the strong hope that the Russian authorities would investigate and take proper action to address allegations of human rights violations in the Chechen Republic and make all possible efforts to restore normal living conditions in the region as rapidly as possible.
81. ECRI notes with interest the measures which have been taken by the federal authorities to improve living conditions in the Chechen Republic. The authorities have indicated that they are implementing several programmes aimed at improving the economic and social conditions in the Chechen Republic and that they are also taking measures to compensate war victims, as well as measures aimed at encouraging forced migrants and internally displaced persons to return to their original home. However, NGOs consider that much more should be done in this field and that the measures taken to ensure that forced migrants and internally displaced persons return to their region of origin were of a compulsory nature rather than mere incentives. They have given as an example the fact that some refugee camps or centres have been closed by the authorities without offering any alternative housing solutions to the occupants who, as a result, were forced to move back to where they had come from. The Russian authorities have indicated that in 2004 more than 19 000 internally displaced persons returned on a voluntary basis from Ingushetia to the Chechen Republic. They also stated that those of the internally displaced persons who decided not to leave Ingushetia have received decent housing.
82. ECRI notes that, according to many sources, including the Commissioner for Human Rights and the Parliamentary Assembly of the Council of Europe<sup>22</sup>, the situation as regards human rights is very far from satisfactory in the Chechen Republic, as gross human rights abuses in the form of murder, forced disappearance, torture, hostage-taking, rape and arbitrary detention, continue to occur on a daily basis and in a climate of impunity. ECRI is even more concerned to learn that such human rights abuses are apparently spreading to neighbouring regions and particularly Ingushetia and Daghestan, as well as to the whole Caucasian area.

***Recommendations:***

83. ECRI strongly recommends that the Russian authorities step up efforts to take all appropriate measures to improve the living and human rights conditions in the Chechen Republic. It draws attention in this respect to the recommendations recently made by the Commissioner for Human Rights and the Parliamentary

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<sup>22</sup> Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visits to the Russian Federation of 15 to 30 July 2004 and 19 to 29 September 2004, BCommDH (2005) 3, 12 April 2005; Parliamentary Assembly Resolution 1455 (2005) on Honouring of obligations and commitments by the Russian Federation.

Assembly of the Council of Europe. ECRI believes that the restoration of the rule of law and human rights guarantees in the Chechen Republic is a necessary move to avoid the escalation of interethnic conflicts in this region as well as in neighbouring regions and even throughout the Russian Federation.

84. ECRI deplors the fact that, since the adoption of its second report, there has been an intensification of terrorist acts in the Chechen Republic as well as in the Caucasian region and in Moscow. The culminating point was the despicable hostage-taking in a Beslan school in September 2004, resulting in the death of more than 300 people, many of them children. ECRI firmly condemns terrorism, which is an extreme form of intolerance, and considers that it is therefore the duty of the State to fight against terrorism. However, ECRI also stressed in its General Policy Recommendation N°8 on combating racism while fighting terrorism that the fight against terrorism should not become a pretext under which racism, racial discrimination and intolerance are allowed to flourish.
85. As concerns Chechens living outside the Chechen Republic, ECRI expresses its deep concern at many reports alleging that Chechens have been the target of discriminatory measures on the part of the authorities. Such discrimination is reported to occur particularly as regards policing and the administration of justice. ECRI addresses some of these issues in other parts of this report<sup>23</sup>. It wishes to recall here that these issues concern among others, discriminatory and abusive identity checks in the street, searches of premises, fabrication of fake evidence resulting in the imprisonment of innocent persons and arbitrary refusal of residence registration stamps. ECRI also notes with concern that the majority population increasingly associates Chechens and other Caucasians with terrorists. Most Chechens and other Caucasians are therefore under suspicion, a situation which brings about cases of racial discrimination, for instance in housing and employment sectors, racist hate speech expressed in public, particularly in the media, and even racist violence, sometime followed by the death of the victims. The pressure on Chechens becomes apparently stronger in the aftermath of each terrorist attack against the Russian population. xxxxxxxxxx

#### **Recommendations:**

86. ECRI draws the attention of the Russian authorities to its General Policy Recommendation No.8 on combating racism while fighting terrorism, which recommends to member States of the Council of Europe that they review legislation and regulations adopted in connection with the fight against terrorism to ensure that these do not discriminate directly or indirectly against persons or groups of persons, notably on grounds of “race”, colour, language, religion, nationality or national or ethnic origin, and that they abrogate any such discriminatory legislation or regulation.
87. ECRI urges the Russian authorities to ensure that anti-terrorism legislation is implemented in a manner that does not discriminate against persons or groups of persons, notably on grounds of actual or supposed “race”, colour, language, religion, nationality or national or ethnic origin.

#### **- Muslims**

88. ECRI expresses its concern that some Muslim communities are increasingly becoming the targets of discrimination and racially motivated violence on the part of members of the majority population in regions where the majority is non-Muslim. These communities are also increasingly the targets of racial violence and discrimination on the part of representatives of the authorities and particularly

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<sup>23</sup> See below “Specific issues – conduct of law enforcement officials”.

the police. The situation of some Muslim groups has apparently deteriorated following the series of terrorist attacks over recent years which have been attributed to Chechen Islamist groups. ECRI acknowledges the need to combat any form of religious extremism and intolerance, particularly when it fosters terrorism. ECRI is concerned, however, about the serious risks of equating all Muslims with terrorists or religious extremists- a tendency which is apparently becoming ever more pronounced in the mindset of the authorities and of the general public.

89. It has been reported that Muslim groups, and especially unregistered smaller groups, are experiencing harassment on the part of the authorities and of some members of the majority population. For instance, there are concerns that, throughout the country, Muslim women wearing the veil are apparently often watched, arrested and searched by the police even in the absence of any serious ground to believe that they have taken part in extremist or terrorist activities. NGOs have recorded anti-Muslim attacks, aiming at Mosques and Muslim graves as well as physical and sometimes lethal assaults against Imams or Muslims. In some places, the police have allegedly organised round-up after Friday prayers, conducting identity checks and searches of Mosques without any good reason. The deterioration of the situation does not only affect the Muslim Russian citizens but also the numerous migrants of Muslim faith coming from other CIS countries such as Uzbekistan, Tajikistan and others.

#### ***Recommendations:***

90. ECRI urges the Russian authorities to monitor the situation as regards islamophobia. They should firmly condemn all human rights abuses perpetrated against Muslims and take all necessary measures to redress any existing abuses. Perpetrators of racist offences or racial discrimination against Muslims should be adequately punished.

#### **- Roma**

91. In its second report, ECRI recommended that the Russian authorities take the necessary legislative and policy measures such as those proposed in its General Policy Recommendation N° 3 on combating racism and intolerance against Roma/Gypsies, to improve the situation of the Roma in the Russian Federation.
92. ECRI notes a perception that there have been some minor improvements in the situation of the Roma. It also notes with regret, however that there have been no major positive changes in their overall situation. On the contrary, Roma in particular are victims of the deterioration of the general climate of opinion as regards racism and intolerance<sup>24</sup>. It is generally accepted that Roma arts, and particularly music, are well appreciated throughout the country, as the significant number of Roma festivals and initiatives aimed at developing this culture show. However, this contrasts starkly with the dire conditions in which the majority of Roma live and with the general behaviour of the authorities and members of the public towards Roma communities.
93. Relations between the police and the Roma can be very problematic. The issues raised in other parts of this report concerning the conduct of law enforcement officials are particularly relevant to Roma<sup>25</sup>: they are victims of arbitrary identity checks, detention, extortion of money and the fabrication of incriminating evidence by members of the police. There are allegations of some Roma having

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<sup>24</sup> See below, "Specific issues - The recent increase in racism and intolerance in the Russian Federation".

<sup>25</sup> See below, "Specific issues –Conduct of law enforcement officials".

been ill-treated and even tortured by police officers, resulting in some cases in the death of the victim<sup>26</sup>.

94. In 2002 a nation-wide operation was carried in order to combat drug-trafficking. This operation was called “Tabor”, which means Roma encampment. It consisted of random police raids against several Roma encampments in order to find drugs and drug-dealers, without concrete reasons for believing that there were drugs in the encampments searched. Roma organisations have complained about this discriminatory operation to the Ministry of Interior, whose representative accepted that it was a matter for regret and promised that it would not be repeated. Unfortunately, it seems that since then, local police, such as the police of St. Petersburg in 2004, have occasionally organised raids under the same pretext as “Tabor”.
95. Many Roma encounter the difficulties described in other parts of this report in obtaining Russian citizenship and/or residence registration<sup>27</sup>. As a result, they also face insurmountable obstacles in access to public services. It has been reported that there have been cases of direct discrimination in access to public services against Roma based solely on their ethnic origin. (As regards access to education and to employment, see above).
96. Roma are also the victims of racially motivated violence on the part of members of the majority population and skinheads. The fact that many Roma live in compact settlements on the outskirts of cities apparently makes them more vulnerable to such racially motivated attacks.
97. The level of stereotyping of and prejudices against Roma disseminated in the media remains high. Roma are generally portrayed as naturally inclined to crime, especially drug dealing. In some cases, the media have even incited to racial hatred, notably by reporting open calls to murder Roma, without issuing any warning or condemnation<sup>28</sup>.
98. ECRI notes that, alongside measures to promote Roma culture, the authorities have also set up programmes to facilitate Roma children’s access to education or to improve the social and economic conditions of Roma. The Russian authorities have indicated that in some regions, Russian Social Agencies regularly help Roma families and that the Ministry of Foreign Affairs together with the Ministry for Regional Development are considering the possibility of re-establishing in the near future the expert interdepartmental mechanism on Russian Roma which would contribute to implementing State policies and recommendations of the Council of Europe as regards Russian Roma. However, in the opinion of human rights and Roma organisations, such efforts are far from sufficient to solve the existing problems and the authorities should also make sure that Roma take a more active part in drafting and implementing such programmes, as well as in public life in general.
99. ECRI notes with regret that the Roma coming from CIS countries experience a double discrimination resulting from their ethnic origin combined with their lack of Russian citizenship. Particular attention should therefore be paid to their situation in taking measures to combat racism and racial discrimination against the Roma in general, in order to ensure that they also benefit from these measures.

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<sup>26</sup> See European Roma Rights Center, In Search of Happy Gypsies, Persecution of Pariah Minorities in Russia, Country Reports series N° 14, May 2005.

<sup>27</sup> See below, “Specific issues – the problem of racial discrimination in the system of residence registration”.

<sup>28</sup> See below, “Media” and “Specific issues - The recent increase in racism and intolerance in the Russian Federation”.

### ***Recommendations:***

100. ECRI urges the Russian authorities to do their utmost to tackle the problems of racially motivated violence and racial discrimination faced by Roma in their daily lives. To this end, the Russian authorities should ensure that relations between Roma communities and the police, as well as the media and the majority population, improve considerably.
101. ECRI reiterates here recommendations made in other parts of this report, which are of particular importance to the situation of Roma, such as the need to regularise the legal status of many Roma<sup>29</sup>.

- ***Jewish communities***

102. See “Antisemitism”.

- ***Religious groups***

103. In its second report, ECRI expressed its concern that the 1997 Federal Law on Freedom of Conscience and religious associations was potentially discriminatory and disproportionate to the issues it tried to address.
104. ECRI notes that the situation of small religious groups has not significantly changed since its last report. It also welcomes, however, some positive developments. Among them, ECRI notes that the authorities are increasingly co-operating with representatives of many religious groups, notably thanks to the setting up of an inter-agency working group on religious issues which comprises religious leaders. On the basis of such cooperation, the law has been changed in order to facilitate religious groups’ access to land ownership. The working group is currently examining the 1997 Federal Law on Freedom of Conscience to see whether further amendments are needed. In this respect, some religious groups, human rights activists, the Ombudsman of the Russian Federation in a 2002 report, as well as international bodies, have continued to raise the same issues as before, notably concerning the difficulties encountered by certain religious groups in registering in some regions. Despite this, the 1997 Federal Law has not been amended either in this respect or in order to avoid any potentially discriminatory impact on small religious groups. The Russian authorities have indicated that, in their opinion, the Law does not contain any provision which could have a discriminatory impact and that the legislation has legitimate public security and law enforcement objectives. They also recalled that the lack of registration does not prevent members of a religious group from collectively practising their religion.
105. There are allegations according to which persons belonging to some faiths other than Russian Orthodox are sometimes subject to harassment on the part of the authorities and members of the majority population. The situation of Muslim and Jewish communities is addressed in other sections of this report.

### ***Recommendations:***

106. ECRI reiterates its call on the Russian authorities to monitor the effect of the 1997 Federal Law on the freedom of conscience, as well as its implementation throughout the country, with a view to ensure that no discriminatory acts take place against any small religious groups or their leaders and members. The latter should also be appropriately protected from any intolerant act on the part of the authorities or private parties.

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<sup>29</sup> See “ Constitutional law provisions and other basic law provisions- Granting citizenship” and “Specific issues – The problem of racial discrimination in the system of residence registration”.

107. ECRI strongly encourages the Russian authorities to foster intercultural and inter-religious dialogue throughout the country and particularly dialogue between representatives of the majority religion and the smaller religious groups.

- ***Meskhethian Turks in the Krasnodar region***

108. In its second report, ECRI considered that urgent action was needed to end the discriminatory treatment of Meskhethian Turks on the part of the authorities of the Krasnodar Krai as concerns registration of residence and enjoyment of civil, political and socio-economic rights and that their right to citizenship should also be respected where it has been denied.

109. According to official statistics, there are 11 999 Meskhethian Turks living in the Krasnodar region. The Russian authorities have stressed that, following considerable efforts on the part of the Krasnodar Krai authorities, 4 943 persons have been granted Russian citizenship, and that 849 persons obtained registration of residence. In February 2004, the government of the United States started a resettlement programme to the United States for the Meskhethian Turks residing in Krasnodar Krai. The Russian authorities have indicated that around 10 000 persons have left or will soon leave for the United States in the framework of this programme. The Russian authorities have also stated that Meskhethian Turks, even in the absence of any regular status, enjoy all the same civil rights to employment, housing, education, health care and cultural development as Russian citizens. They have further explained that some Meskhethian Turks refuse all legal status in Russia in the hope of eventually returning to Georgia, even though the conditions of such a return have not yet been met.

110. However, ECRI expresses its concern at the fact that the statements of the Russian authorities starkly contrast with information provided by local, national and international NGOs and the Ombudsman of the Russian Federation, as well as the Commissioner for Human Rights and the Parliamentary Assembly of the Council of Europe. ECRI wishes to quote here only two alarming reports. In his report of his visits to the Russian Federation in 2004, the Commissioner for Human Rights did not appear to see any improvement in the situation of the Meskhethian Turks living in the Krasnodar region, describing it as “nothing short of a disaster”<sup>30</sup>. He further considered that it was “unacceptable for a small group of persons to be deprived of all civic rights simply on the basis of their ethnic affiliation”<sup>31</sup>. The Parliamentary Assembly of the Council of Europe adopted a Resolution on the situation of the deported Meskhethian population on 18 March 2005, in which it noted that “since the Meskhethian Turks are refused residence registration and are not recognised as citizens of the Russian Federation, they are deprived of basic civic, political, economic and social rights. This situation, which exists to this very day, is unacceptable. It is furthermore particularly worrying that the regional administration applies deliberately discriminatory practices with respect to Meskhethian Turks”<sup>32</sup>.

111. ECRI notes that, even if some progress has been made, the legal status of many of the Meskhethian Turks living in Krasnodar Krai remains an alarming issue,

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<sup>30</sup> Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visits to the Russian Federation of 15 to 30 July 2004 and 19 to 29 September 2004, BCommDH (2005) 3, 12 April 2005, page 59, § 279.

<sup>31</sup> Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visits to the Russian Federation of 15 to 30 July 2004 and 19 to 29 September 2004, BCommDH (2005) 3, 12 April 2005, page 60, § 283

<sup>32</sup> Parliamentary Assembly of the Council of Europe, Resolution 1428(2005) on the situation of the deported Meskhethian population, 18 March 2005, para. 3. This resolution was adopted on the basis of a Report by Ms Ruth-Gaby Vermot-Mangold, Switzerland, Socialist Group, 4 February 2005. Doc. 10451



particularly as it has an impact on the exercise of their basic civil, social and political rights. Meskhetian Turks are particularly vulnerable to all the problems encountered by stateless persons or non-citizens, which are addressed in other sections of this report<sup>33</sup>. Other problems encountered by the Meskhetian Turks include difficulties experienced by the children in access to education<sup>34</sup>, harassment by administration and law enforcement officers as well as acts of violence carried out against them by members of Cossack units<sup>35</sup>. It has been reported that some representatives of the local authorities have not hesitated to make public statements against Meskhetian Turks, for instance in declaring that they will do their utmost “to rid the region of Meskhetian Turks as soon as possible”. ECRI also understands that, alongside the Meskhetian Turks, there are other small ethnic groups such as the Yezidi, who live in the region and already are or soon could be confronted by the same dreadful conditions imposed by the local authorities.

### ***Recommendations:***

112. ECRI urges the Russian authorities to address as a priority the problems of the legal status and racial discrimination faced by the Meskhetian Turks living in the Krasnodar Krai. It fully endorses the recommendations made by the Commissioner for Human Rights and the Parliamentary Assembly of the Council of Europe<sup>36</sup>. ECRI strongly encourages the Russian authorities to examine and follow these thoroughly.
113. The Federal authorities should ensure that the Krasnodar Krai authorities respect and implement the Russian Constitution and federal laws as regard the basic rights of the Meskhetian Turks and other ethnic minorities. It seems particularly urgent to organise a campaign aimed at both all public officials and the general public, including potential victims, with a view to explaining the international and national standards as concerns the fight against racism and racial discrimination.

### **Antisemitism**

114. In its second report, ECRI urged the Russian authorities to strengthen their efforts to counter antisemitic attitudes expressed by political parties and other entities, including through measures aimed at sanctioning individuals or political parties who resort to hate speech, as well as through a more effective implementation of the existing legislation against incitement to racial hatred.
115. Antisemitism remains a problem in Russian society. ECRI finds it alarming to learn, that according to experts on antisemitism, the situation has deteriorated over recent years. It seems that racist attacks against Jewish persons and/or Jewish property (Synagogues, shops, etc.) are becoming more frequent and more violent. For example, the St. Petersburg Jewish cemetery was allegedly vandalised twice in 2004. On the second occasion, graves were defiled with swastikas and slogans such as “Long live the Holocaust”. The increase in antisemitic hate speech is even more evident. Antisemitic statements are now

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<sup>33</sup> See in particular, “Constitutional provisions and other basic provisions – granting of citizenship”, “Reception and status of non-citizens”, “Specific issues – the problem of racial discrimination in the system of residence registration”.

<sup>34</sup> See above, “Access to education”.

<sup>35</sup> See below, “Specific issues –Conduct of law enforcement officials”.

<sup>36</sup> Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visits to the Russian Federation of 15 to 30 July 2004 and 19 to 29 September 2004, BCommDH (2005) 3, 12 April 2005; Parliamentary Assembly of the Council of Europe, Resolution 1428(2005) on the situation of the deported Meskhetian population, 18 March 2005.

uttered not only by members of marginal extremist movements but also by journalists in conventional media or politicians from mainstream parties. ECRI takes as an example the recent antisemitic open petition signed by members of the State Duma which is mentioned below in this report<sup>37</sup>. Recent polls have shown that the general public is becoming apparently more receptive to antisemitic propaganda. In general, the increase in racism and intolerance in the Russian Federation described below in this report largely affects members of the Jewish communities, particularly as regards the issue of hate speech.

116. However, ECRI notes some positive developments in this field, such as the existence of seminars and educative material on the issue of antisemitism provided by civil society for the intention of law enforcement officials. On several occasions, the Government has strongly condemned all forms of antisemitism in public statements. Nevertheless, the lack of concrete sanctions taken against perpetrators of antisemitic acts remains a problem, as explained in other parts of this report<sup>38</sup>.

#### ***Recommendations:***

117. ECRI strongly recommends that the Russian authorities monitor all instances of antisemitism very closely and strengthen their efforts to punish the perpetrators of antisemitic offences. In this connection, ECRI draws the attention of the Russian authorities to its General Policy Recommendation No. 9 on the fight against antisemitism, which provides detailed guidance on the measures which should be taken to prevent and sanction antisemitic acts.

#### **Media**

118. In its second report, ECRI stressed the urgent need to raise the media profession's awareness of the dangers posed by extreme racism, nationalism and intolerance.
119. In several sections of this report, ECRI expresses concern about the increasing incidence of racist hate speech in the media and the lack of adequate sanctions imposed upon journalists or editors for making shockingly racist statements<sup>39</sup>. It also remains a common practice to mention the ethnic origin of the alleged perpetrators of crimes, even when this is irrelevant. However, ECRI also notes a growing interest of the media in the issue of racism and intolerance. Some media have tried to draw attention to this phenomenon and its dangers and to describe the difficulties encountered by members of visible minorities in their daily lives on the Russian territory. The Russian authorities have indicated that the Federal Service for Legislature supervision in the field of media and protection of cultural heritage has been re-established and that this agency issued a rising number of warnings orders against some newspapers for the prevention of incitement to racial hatred.

#### ***Recommendations:***

120. ECRI reiterates in the context of the media the recommendations it has formulated in other parts of this report concerning the need to ensure that all instances of incitement to racial hatred are thoroughly investigated and punished.

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<sup>37</sup> See below "Specific issues - The recent increase in racism and intolerance in the Russian Federation".

<sup>38</sup> See above, "Criminal law provisions".

<sup>39</sup> See above "criminal law provisions", and below "Specific issues - The recent increase in racism and intolerance in the Russian Federation".

121. ECRI encourages the Russian authorities to impress upon the media, without encroaching on their editorial independence, the need to ensure that reporting does not contribute to creating an atmosphere of hostility and rejection towards members of visible minority groups, including Roma, Chechens and other Caucasians, as well as citizens from CIS countries.

### **Monitoring the situation**

122. ECRI is concerned at the lack of sufficiently detailed information on the situation of the different minority groups living in the Russian Federation. It notes that no specific measures have been taken to improve the situation in this respect. ECRI considers that gathering data providing a breakdown on the basis of ethnic origin would make it easier to identify areas of life where direct or indirect racial discrimination may exist and to work out the best ways of countering this type of discrimination.

### ***Recommendations:***

123. ECRI strongly encourages the Russian authorities to consider ways of establishing a coherent and comprehensive data collection system in order to assess the situation of the various minority groups living in the Russian Federation and the scale of manifestations of racism and racial discrimination. Such a data collection system should comply with national law and European regulations and recommendations on data protection and the protection of privacy, as stated in ECRI General Policy Recommendation No.1 on combating racism, xenophobia, antisemitism and intolerance. The Russian authorities should ensure that data collection is carried out with full respect to the anonymity and dignity of the people questioned and in accordance with the principle of full consent. Furthermore, the data collection system on racism and racial discrimination should take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

## **II. SPECIFIC ISSUES**

### **The recent increase in racism and intolerance in the Russian Federation**

124. ECRI is deeply concerned to learn that, according to many international and national commentators, the climate of opinion has deteriorated in Russia in recent years due to an increase in racism and intolerance. This evolution manifests itself through different phenomena, including racist violence, the multiplication of cases of racist expressions, as well as the increasing use of racist and xenophobic discourse in politics.

#### **- *Escalation of racist violence***

125. ECRI is alarmed by consistent information according to which the number of reported racially motivated violent physical attacks against members of visible minorities, in some cases resulting in the death of the victim, has significantly grown over the past years. It is even more worrying that the number of cases reported is probably far from reflecting the real situation in the country as the victims are generally very reluctant to contact the authorities or even NGOs to inform them about the attacks<sup>40</sup>.

126. The perpetrators of such attacks are often groups of young skinheads, most of them minors. Regions and cities like Moscow, St. Petersburg, Voronej, Rostov-on-Don, Krasnodar Krai and Stavropol have been cited as places where such attacks occur most often but the phenomenon is not restricted to those areas.

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<sup>40</sup> See above "criminal law provisions".

Members of visible groups such as Chechens and other Caucasians, Roma, Meskhetian Turks in Krasnodar, Africans, Asians and other non-citizens, Jews and other members of small religious groups are the main targets of such attacks. To give but one example, a 9 year old Tajik girl was stabbed to death in St. Petersburg in February 2004 by a gang of armed youths, reportedly shouting racist slogans. Skinheads also target people of Slavic appearance who they consider as betrayers of the Russian nation, like rappers, homeless people or people who work to help the visible minorities mentioned above. For instance, ECRI is particularly appalled by the murder in St. Petersburg in 2004, of Nikolay Girenko, a human rights activist whose contribution to the fight against racism and intolerance was internationally recognised. The perpetrators of this murder, even though this is not yet confirmed, allegedly have a close relationship with the extremist and skinheads' movement. The number of skinheads in the Russian Federation is estimated to be around 25 000 by the Ministry of Interior and 50 000 by human rights activists.

127. Another form of racist violence is the consequence of interethnic tensions in some regions, resulting sometimes in ethnic clashes and even pogroms, where inhabitants of a village collectively assault members of an ethnic group and burn their houses in order to force them out of the village. According to several reports, for instance, Roma in the regions of St. Petersburg and of Novosibirsk as well as Chechens in the region of Astrakhan have been the targets of collective violence.

#### **Recommendations:**

128. ECRI urges the Russian authorities to strengthen their efforts to monitor the activities of skinhead and other racist movements and organisations and develop methods to react quickly and effectively against planned or realised incidents and attacks. The Russian authorities should duly sanction all forms of racially motivated violence to show a clear stance that it will not be accepted in the Russian society. ECRI draws the attention of the Russian authorities to the measures it suggests above, under "criminal law provisions", as they could be of use for the fight against the growing number of racist actions in the Russian Federation.
129. ECRI strongly recommends that the Russian authorities monitor interethnic relationships throughout the country and promptly intervene when members of a minority groups are threatened or assaulted by members of other ethnic groups. ECRI stresses the need of setting up initiatives promoting peaceful and constructive interethnic common living, particularly in those regions where interethnic tensions have been observed.

#### **- Spread of racist statements and publications**

130. ECRI notes with concern that racist violence is coupled with the increase of racist statements expressed in public and particularly in the media. The view of NGOs is that the situation has significantly deteriorated in this field. They suggest that, while few years ago, racist publications were only to be found in marginal bookshops or newspapers from extremist movements, racist discourse is now held, openly and in virtual impunity, not only through the Internet but also in the mainstream media and in publications (including *Mein Kampf* or the Protocols of the Elder of Zion) sold by well established publishing houses. An example of this new trend is the openly antisemitic petition sent in January 2005 by 19 State Duma MPs, supported by first 500 and then 5 000 signatures, to the Prosecutor's office, demanding the ban of *all* Jewish religious and cultural organisations existing in the Russian Federation on the grounds that they were extremist organisations. ECRI is concerned that, while the Prosecutor's office considered in the first place instituting proceedings to investigate the allegations made by the

petitioners, it did not find it necessary to answer the call of many Jewish institutions and human rights NGOs to open a case against the authors of the petition under the provisions prohibiting religious and racial hate speech. ECRI notes that the Prosecutor's office did not in the event, indict the Jewish organisations. ECRI also welcomes the fact that the Russian government made a statement condemning this petition. However, ECRI is very surprised that the authorities do not intend to take any measures to sanction the principal signatories of this petition.

#### ***Recommendations:***

131. ECRI urges the Russian authorities to monitor and duly sanction all expressions of racist statements and all publications of racist material in order to demonstrate a clear stance that racism, antisemitism and xenophobia will not be accepted in the Russian society. It draws the attention of the Russian authorities to the measures it suggests above, under "criminal law provisions", as they could be of use for the fight against the growing number of public racist statements in the Russian Federation.
132. ECRI particularly recommends that the Russian authorities intensify their efforts in order to counter racist, xenophobic and antisemitic activities on the Internet. In this respect, it draws the attention of the authorities to its General Policy Recommendation No. 6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet.

#### ***- Exploitation of racist discourse in politics***

133. ECRI is concerned that visible minorities as well as members of other minority groups are still the targets of racist and xenophobic political discourse. For instance, members of these groups are typically portrayed as being responsible for a deterioration of social and economic conditions in the Russian Federation. These arguments are based on sweeping generalisations concerning the involvement of these persons in drug trafficking and organised crime (this applies particularly to Roma and Tajiks), or their implication in terrorist attacks (this concerns mainly Chechens and other Caucasians) or their responsibility for unemployment (particularly migrants). Jewish people are sometimes publicly accused of taking part in an international plot against the Russian nation. Some politicians take advantage of the growing sense of nationalism in the Russian Federation, which inevitably targets groups or individuals perceived as "enemies of the nation". ECRI expresses its concern at the negative consequences that a discourse scapegoating visible minorities and other minority groups for political gain has on the perception of these minority groups by the majority population. This discourse can only foster the climate of general intolerance and xenophobia in the country.
134. ECRI expresses its concern at the fact that racist discourse is not only used in the propaganda of extremist parties but also by representatives of mainstream political parties. For instance, there were six MPs from the Communist party among those who signed the antisemitic petition mentioned above. ECRI notes that the Rodina (Motherland) Party, which emerged on the scene just before the State Duma elections and obtained 40 seats in the election, regularly resorts to racist and xenophobic propaganda, particularly during electoral campaigns. A non-exhaustive list of political parties which repeatedly use racist slogans and arguments includes parties such as the National Sovereign Party, the Movement against Illegal Migrants and the LDPR.

### **Recommendations:**

135. ECRI stresses that political parties must resist the temptation to approach issues relating to visible minority groups and other minority groups in a negative way and should instead emphasise the positive contribution made by different minority groups to Russian society, economy and culture. Political parties should also take a firm stand against any forms of racism, discrimination and xenophobia.
136. ECRI calls for the adoption of adequate measures specifically targeting the use of racially inflammatory or xenophobic discourse by exponents of political parties, including, for instance, ensuring an effective implementation of criminal law provisions penalising the leadership of any group that promotes racism, as well as support for such groups and participation in their activities. ECRI draws attention to its General Policy Recommendation N° 7 on the national legislation to combat racism and racial discrimination which contains guidelines in this field.

- ***The reaction of the Russian authorities to the recent increase in racism and intolerance in the country***

137. ECRI notes that NGOs and experts have strongly criticised the position adopted by the Russian authorities until very recently in respect of the current increase of racism and intolerance in the Russian Federation. In general, they consider that up until now the authorities have turned a blind eye to the problem and have not taken any measures to prevent or combat this growing phenomenon. The lack of action of the authorities and the ensuing impunity are said to further encourage the perpetrators of racially motivated acts. NGOs have also reported that, in some cases, at local, regional and federal levels, authorities themselves have adopted a discourse promoting racism and intolerance in the country, notably when discussing the situation of Chechens and other Caucasians or the issue of illegal immigration. Numerous recent polls have shown that the reaction of the Russian society to the current evolution is worrying and that racist and xenophobic ideas, including the motto "Russia for Russians", are also gaining increasing support.
138. However, ECRI notes that the Russian authorities have now begun to recognise the seriousness of problems of racism and intolerance. For instance, federal authorities and the authorities of the city of St. Petersburg consulted for the preparatory work on this report have indicated to ECRI that they are conscious of the problem of growing racist violence and hate speech and that they are taking all necessary steps to tackle it. ECRI welcomes the recent statements by the Russian Government firmly condemning antisemitism, racism, xenophobia and related intolerance. It also notes with interest the initiatives taken to raise the awareness of the police and the judiciary and to educate children at school on the need to combat intolerance (see other sections in this report, including "Criminal Law Provisions" and "Education and Awareness-Raising"). The Russian authorities have indicated that they envisage creating an expert commission "competent to investigate and identify facts of propaganda of xenophobia, national and religious intolerance and extremism". They are also drafting a "Concept of cultivating the culture of inter-ethnic co-operation of the Russian Federation". However, ECRI is of the opinion that a lot more should be done urgently to address the current situation not only in order to avoid further deterioration, but also to improve the general climate in Russia so that it allows for a integrated society, where visible minorities and other minority groups can live in peace together with the majority population.

### **Recommendations:**

139. ECRI strongly encourages the Russian authorities to continue and strengthen their efforts in adopting a new approach towards manifestations of racism and

intolerance in the country. The federal authorities could envisage setting up a general strategy aimed at countering racism through preventive measures and, where necessary, appropriate penalties. Such a strategy should be granted sufficient financial and other resources in order to be adequately implemented at regional and local levels.

### **Conduct of law enforcement officials**

140. ECRI noted in its second report that illegal behaviour on the part of law enforcement officials targeting ethnic minority groups was becoming more frequent. It therefore recommended that the Russian authorities consider the establishment of a system that would guarantee that complaints of illegal behaviour committed by members of the police were dealt with transparently and independently and ensure the punishment of those found responsible. ECRI expresses its concern at reports according to which the behaviour of local law enforcement officials towards visible minorities has not improved. The problem does not only lie in the lack of police action when a racist case is reported but also in discriminatory and unlawful conduct on the part of the police, and of Cossacks, a semi-official security force operating in some regions, when dealing with visible minorities.
141. NGOs have reported that the police are not active enough in recording the complaints of victims of racist attacks or hate speech<sup>41</sup>. Sometimes, it is alleged, they refuse to take a complaint or they do not record it properly. In some other cases, the victim from a visible minority who has gone to the police to complain against a racist act apparently finds himself/herself in a difficult situation because the police, instead of investigating the behaviour of the alleged author of the racist acts, start to harass the victim. It is said that victims are consequently reluctant to go to the police to complain against private parties as they fear further abuse on the part of police officers.
142. The police are also often accused of discriminatory and arbitrary behaviour against members of visible minorities in many fields. Discrimination is said to occur particularly when people are stopped and searched in the street, especially in the city of Moscow. Recent research and opinion polls seem to indicate that people “who do not look Russian” and notably Chechens and other Caucasians, are the subjects of disproportionately frequent identity checks. It seems that this police ethnic profiling does not only happen in the street. It also concerns decisions relating to the search of premises, the confiscation of goods, short-term detention in the police station, etc. The problem in such cases is not only that the police target visible minorities in a discriminatory manner but also the fact that corrupt police officers often take this opportunity to extort money from the victims<sup>42</sup>.
143. ECRI has been informed, notably by the Russian authorities, that there are still some cases of racist violence on the part of police officers against members of the visible minorities. While the authorities indicate that such violence is duly investigated and that the police officers are always adequately punished, NGOs express their strong doubts about the real accountability of police in this field. Ill-treatment and even cases of torture, particularly against people accused of terrorist activities, are still said to occur quite frequently, particularly in Moscow and the south of the country. ECRI understands that there still is no system of independent investigation allowing for the appropriate punishment of police

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<sup>41</sup> See also above, “Criminal law provisions”.

<sup>42</sup> Concerning the conduct of the police, see also below “Specific issues – the problem of racial discrimination in the system of residence registration”.

officers found guilty of ill-treatment, to complement the already existing criminal law system involving the prosecutor or the internal disciplinary procedure. It is true that the Ombudsman has dealt with many complaints against the police, but this institution is ill-equipped to solve such cases as it does not have the power to punish the perpetrators.

144. ECRI wishes to express its deep concern at information according to which the fabrication of fake evidence against members of visible minorities is still a common practice in the police, even if it seems to have become less frequent than before. While such cases continue to concern innocent persons unjustly accused of terrorist activities, it has been reported that it also occurs in ordinary cases. Therefore, it is not unusual to see people convicted for illegal behaviour after the police have planted drugs, weapons or ammunitions on them. Apparently Chechens and other Caucasians are the main targets of such fabricated cases. Roma and Tajiks, among other visible minorities, are also the victims of such conduct. One of the reasons put forward to explain this situation is that it is a way that the police have found to respond to pressure from the federal and local authorities as well as from public opinion, to produce sustained concrete results in the fight against terrorism and organised criminality.
145. There is also disturbing information according to which the recent revival of Cossack units as semi-official or purely private security forces has a negative impact on the situation of visible minorities. ECRI has already addressed this issue in its second report notably urging the authorities to ensure that law enforcement functions are carried out exclusively by persons officially qualified for such tasks. The authorities have explained that the federal legislation adequately and strictly frame the public order activities of these Cossack units. They added that a Presidential Draft Law “On State Service of Russian Cossacks” was sent to the State Duma in April 2005. They explained that this draft law would clarify the legal framework for the activities of Russian Cossacks units. In this draft law, it is foreseen that the major principle of Cossacks’ activities is in compliance with the rule of law and human rights and freedoms of the individuals. However, there are indications that many Cossack units openly defend an ideology which entails strong racist elements. Consequently, this has a negative effect on the way they behave towards visible minorities when helping the police. It has apparently already led to abusive behaviour in practice. For instance, racist violence is said to have recently increased in the Russian Federation<sup>43</sup>, not only due to skinheads’ activities but also to the unlawful, brutal conduct of some Cossacks towards visible minorities.
146. The ability of police and other security forces to perpetrate racist offences and acts of racial discrimination in virtual impunity is playing a role in the current increase in racism and intolerance in the majority society. Impunity of this nature not only encourages racist elements to commit racially motivated offences against members of visible minorities but it also sends the wrong signal to society. For instance, it has been reported that the ethnic profiling through repeated identity checks in the street is fuelling the general prejudice and stereotypes of the public who start to believe that all members of visible minorities are criminals or terrorists.

#### ***Recommendations:***

147. ECRI recommends that additional measures be taken to end instances of police misbehaviour, including discriminatory and racist acts and the ill-treatment of members of minority groups. It is important that the Russian authorities ensure

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<sup>43</sup> See above, “Specific issues - The recent increase in racism and intolerance in the Russian Federation”.



that society receives the message that such behaviour by police officers will not be tolerated and will be punished.

148. ECRI strongly encourages the Russian authorities to provide law enforcement officials with all the necessary resources in order to work in satisfactory conditions and with absolute respect for the rights of the persons they deal with. This also implies increasing efforts to provide training in human rights and to raise awareness about problems of racism and racial discrimination
149. ECRI therefore reiterates its call for the establishment of an independent investigatory body, competent to conduct investigations into allegations of police misbehaviour and, when appropriate, ensure that perpetrators are brought before the courts and duly punished.
150. ECRI urges the Russian authorities to look into allegations concerning the use of evidence fabricated by the police in cases against members of visible minorities. If such allegations should be confirmed, ECRI stresses that the police officers responsible should be duly punished and that the victim should obtain an immediate revision of his/her guilty verdict.
151. ECRI urges the Russian authorities to monitor closely the activities of all Cossack units throughout the country in order to ensure that there are no racist elements working in such units and that they do not commit any racist acts. Private security forces who are given the same powers as the police should be under the same control and strict obligations as any police officer. They should also follow the same awareness raising training on human rights and on the need to fight racism and racial discrimination.

#### **The problem of racial discrimination in the system of residence registration**

152. In its second report, ECRI considered that the system of residence registration in place in the Russian Federation had a discriminatory impact on visible minorities. It therefore urged the Russian authorities to review both the regulation of the system and its implementation, in order to ensure that it was applied in a non discriminatory way.
153. ECRI notes that there have been some changes to the law regarding residence registration. However, it deeply regrets that in some areas the overall situation remains in practice substantially the same as that described in ECRI's second report.
154. All persons living in Russia are required to register their place of residence, permanent and temporary, with the local police. The registration appears as a stamp indicating the place of residence on the identity document, for instance on the internal passport for Russian citizens. Since the adoption of the Constitution in 1993, this registration has been obligatory but only for the purpose of information. As everyone is free to choose their place of residence on the territory of the Russian Federation, this registration does not give a permission to stay and therefore cannot be refused. This principle derives from Article 27 of the 1993 Constitution which provides for freedom of movement, federal legislation as well as from the constant case-law of the Constitutional Court of the Russian Federation.
155. ECRI deplores the fact that some local regulations are in total contradiction with the Russian primary law which guarantees the freedom of choice of place of residence. For instance, NGOs cite the case of the 29 April 2004 Order of the city of Nalchik, in Kabardino-Balkaria "on temporary measures for limiting the registration of newcomers applying for permanent registration". The title of the order itself seems to be in contradiction with the higher rules on the freedom of

movement and choice of residence mentioned above. However to ECRI's knowledge up until now, this Order is still applicable. ECRI is also concerned by information according to which even if a judicial body invalidates a local ruling on residence registration, the author of the ruling sometimes adopts a new text with the same unlawful requirements. The Russian authorities have indicated that new legislation modifying the residence registration system is being drafted.

156. ECRI is even more concerned that the implementation of residence registration is described by numerous NGOs as having a clear discriminatory impact on visible minorities. The most vulnerable visible minorities in this regard are notably Chechens and other Caucasians, Meskhetian Turks living in Krasnodar Krai, Roma, Tajiks, non-citizens, particularly those from Africa and Asia, as well as asylum seekers and refugees.
157. These visible minorities are confronted with insurmountable barriers, due to a range of unlawful behaviour on the part of the police, who are responsible for registering the residents. The first problem to overcome is an administrative one: it takes time and a considerable effort to obtain the registration stamp, even though any person not in possession of the stamp within three days of their arrival is effectively in an illegal situation. According to many reports from non-governmental sources, police often add elements which are not required by law for registration such as fingerprints and photos or ask the person wishing to register to demonstrate that the place of residence is of adequate living space for the number of people occupying it. Another problem is that the registration is sometimes given for a limited time which transforms it from a simple notification of address into a sort of residence permit. On other occasions police are said to merely refuse registration, a situation which is in total contradiction with the law. It is true that sometimes - but not always - the person who has not obtained a registration from the police may receive it through a court decision. Nevertheless, ECRI expresses its deep concern at many reports clearly stating that in the vast majority, if not all cases of arbitrary refusal or unlawful additional requirements relating to the registration system, the victims are visible minorities.
158. The police are not only in charge of registration but also of checking whether people are duly registered. Lack of residence registration is considered as an administrative offence in the Russian Federation, and is punishable with a fine. It is in this field in particular that NGOs have noted a discriminatory aspect in the registration system. This situation apparently leads to several forms of abusive behaviour by many police officers. It has been reported to ECRI that people who are not properly registered are fined even though they cannot be held responsible for their lack of registration. It is even more worrying to learn that there seems to be a well established system of extortion of funds in close relation to the registration system: it has been reported to ECRI that the police very often check the identity of persons belonging to visible minorities and ask for bribe when the registration of the person is not valid. If the person is not able to pay the bribe on the spot, the police officers often confiscate his/her identity document and/or sometimes put the person in short term detention in the police station until someone, a member of the family for instance, pays the bribe to the police officer.
159. ECRI expresses its deep concern at information according to which in some areas registration remains a prerequisite for the exercise of a wide range of basic rights in contradiction with the 1993 Russian Federal Law on the freedom of movement and choice of residence. It means that a person without registration can be refused access to many public services. In the case of state pensions and allowances, the law apparently states that they cannot be granted in the absence of residence registration. However, NGOs have indicated that in all other cases, the law does not stipulate residence registration as a prerequisite for public service. In general, it even states the contrary. Nevertheless, people with no

registration are confronted with a refusal from public officials when they try to access to public services such as social insurance, health protection, medical aid and in some extreme cases, even emergency medical assistance. Employers are also said to refuse to employ a person without registration. ECRI is particularly worried to learn that directors of schools often refuse to enrol children whose parents do not have a residence registration stamp even though there are laws and governmental instructions expressly requiring the enrolment of children in school regardless of the legal status of their parents. When a child has been refused by a school, it is possible to go before the court and obtain access to the school in the end but this obviously cannot be deemed satisfactory as it causes delays and applies only to individual cases. ECRI is not aware of information according to which public officials who have asked for registration in order to give access to a public service have been penalised for this action.

160. Another adverse impact of the difficulties encountered by visible minorities in obtaining a residence registration stamp is the discourse held by some politicians, including from mainstream parties, and by some media, describing people without registration as “illegal migrants”, even though some of them are Russian citizens and should therefore be free to move within the country according to national law. This has led to xenophobic and intolerant statements, for instance by representatives of the political party entitled “Movement against Illegal Migrants” and who even identify Russian citizens as “illegal migrants”. ECRI is of the view that such a discourse unfairly stigmatises visible minorities who encounter difficulties in obtaining registration and who should rather be considered as victims of a system which is apparently in need of a full reorganisation.

#### **Recommendations:**

161. ECRI urges the Russian authorities to review thoroughly the whole system of residence registration in order to ensure that it is in full conformity with international, constitutional and legislative standards pertaining to freedom of movement and choice of residence within the Russian Federation<sup>44</sup>. In this regard, the authorities should pay particular attention to addressing the discriminatory impact which the current system, both in terms of the law and practice, has on visible minorities.
162. In particular, ECRI recommends that all federal, regional and local rules relating to residence registration be examined with a view to identifying and removing any provisions found to be in contradiction with the principle of freedom of movement as enshrined in the Russian Constitution.
163. ECRI also encourages the Russian authorities to envisage simplifying and harmonising the rules on residence registration in order to speed up and facilitate the procedure which is meant to be a mere formality. It encourages the Russian authorities to consider transferring the task of residence registration from the police to a different authority. This is a purely administrative formality and transferring it would enable the police to concentrate on maintaining order.

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<sup>44</sup> For instance, Article 2 of Protocol 4 to the European Convention on Human Rights, ratified by the Russian federation reads as follows: “ 1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. (...) 3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of *ordre public*, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. 4 The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.”

164. ECRI exhorts the Russian authorities to closely monitor the process of residence registration, both as concerns the registration procedure and the verification by the police of the validity of registration stamps. Any arbitrary, discriminatory or abusive behaviour in this field should be adequately addressed by duly sanctioning the person responsible and repairing the damage caused to the victims. An efficient system of complaints should be available to this effect. In particular, the Russian authorities should provide for appropriate sanctions against any corrupt officers who extort bribes from vulnerable minorities on the grounds of lack of proper registration.

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