

ANNEXE : POINT DE VUE DU GOUVERNEMENT

L'annexe qui suit ne fait pas partie de l'analyse et des propositions de l'ECRI concernant la situation en Fédération de Russie.

Conformément à sa procédure de monitoring par pays, l'ECRI a ouvert un dialogue confidentiel avec les autorités de la Fédération de Russie sur une première version du rapport. Un certain nombre des remarques des autorités ont été prises en compte et ont été intégrées à la version finale du rapport (qui ne tient compte que de développements jusqu'au 22 juin 2018, date de l'examen de la première version).

Les autorités ont demandé à ce que le point de vue suivant soit reproduit en annexe du rapport de l'ECRI.

**Comments of the Russian Federation on the Final Report
of the European Commission against Racism and Intolerance
Following the Visit to the Russian Federation**

(February 5-9, 2018)

Competent authorities of the Russian Federation have thoroughly studied the preliminary draft report by the European Commission against Racism and Intolerance (ECRI) following the visit to Russia within the fifth monitoring cycle on February 7-9, 2018. We would like, first of all, to provide the following general considerations.

We note that the statistical data provided in the preliminary draft report, as well as assessments of the Russian public policy and legal regulation of public relations in the field of countering extremist activities, is based on a subjective approach to the use of information published by unofficial sources without due regard for official government statistics and is also taken out of context.

Before ECRI's visit to Russia, the authorities of the country had informed ECRI's Secretariat of the non-recognition of the Commission's powers in the field of protecting LGBT rights and had stressed that this issue is beyond the Commission's mandate. In this regard, taking into account that belonging to a minority is not an obstacle to access to justice, the comments, assessments and recommendations in this field contained in sections "Summary" and "Interim Follow-up Recommendations" and paragraphs 21-24, 29, 45, 53, 61, 62, 67, 109, 110-119, 121-126 of the preliminary draft report are unacceptable.

In addition, the report's reference to the "illegal annexation of Crimea and Sevastopol" by the Russian Federation and "Russian military intervention" in the South-East of Ukraine is unacceptable. We emphasize that the Republic of Crimea and the city of federal significance Sevastopol are integral parts of the Russian Federation that have been reunited with our country as a result of the free expression of the citizens' will. As for the situation in the South-East of Ukraine, it is a non-international armed conflict, which is the result of the war unleashed by the Kiev authorities against a part of their own population.

1. (Legislation against racism and racial discrimination)

Russian Federation is a party to the following international treaties that contain provisions prohibiting discrimination, including:

Universal Declaration of Human Rights of December 10, 1948;

International Covenant on Civil and Political Rights of December 16, 1966;

Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950 (hereinafter - the Convention of November 4, 1950);

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984;

Convention on the Rights of the Child of November 20, 1989;

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of May 25, 2000;

Convention of the Commonwealth of Independent States on Human Rights and Fundamental Freedoms of May 26, 1995.

In accordance with the Constitution of the Russian Federation, the State guarantees the equality of human and civil rights and freedoms, including regardless of sex, convictions or of other circumstances (Article 19, paragraph 2), human dignity shall

be protected by the State. Nothing may serve as a basis for its derogation and nobody should be subjected to torture, violence, or other severe or humiliating treatment or punishment (Article 21).

Article 136 of the Criminal Code of the Russian Federation (hereinafter - the Criminal Code) establishes criminal responsibility for discrimination, that is, violation of the rights, freedoms and legitimate interests of man and citizen based on gender, race, nationality, language, origin, property or official status, place of residence, attitude to religion, convictions, or affiliation with public associations or any social groups, made by a person through the use of the official position.

In addition, according to the Constitution of the Russian Federation, everyone shall have has the right to freedom and personal inviolability (Article 22, paragraph 1), as well as the right to the inviolability of his/her private life, personal and family privacy (Article 23, paragraph 1).

The Criminal Code establishes increased criminal liability for actions aimed at the incitement of hatred or enmity, as well as abasement of dignity of a person committed by a person through his official position (Article 282, paragraph 2 (b)).

The use of the official position (Article 282, paragraph 2 (b) and paragraph 3; Article 282, paragraph 3; Article 282.2, paragraph 3; Article 282.3, paragraph 2) is expressed not only in the deliberate use of the official powers by the above-mentioned persons, but also in exerting influence on the basis of the significance and authority of their position on other persons in order to carry out actions aimed, in particular, at the incitement of hatred or enmity, as well as abasement of dignity of a person or a group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, as well as affiliation to any social group.

According to Article 63, paragraph 1 (f) of the Criminal Code, commission of a crime by reason of political, ideological, racial, national or religious hatred or enmity or by reason of hatred or enmity with respect to some social group shall be deemed to be aggravating circumstances.

The listed motives express the negative to the degree of hostility or hatred attitude of the guilty towards the representatives of another nation, race, confession, ideology or social group.

Separate Articles of the Criminal Code envisage this motive as a qualifying feature, for example, Article 105 (Murder), paragraph 2 (k), Article 111 (Intentional Infliction of a Grave Injury), paragraph 2 (f), Article 112 (Intentional Infliction of Injury to Health of Average Gravity), paragraph 2 (f), Article 115 (Intentional Infliction of Light Injury), paragraph 2 (b).

At the same time, ECRI's report contains criticism of certain norms of the Criminal Code (Article 63, 136, 282, 354) and formulates proposals for their improvement.

Thus, it is proposed to supplement the Criminal Code with the following types of crimes: public incitement to violence and to discrimination; racist public insults; trivialisation and justification, with a racist aim, of crimes of genocide, crimes against humanity or war crimes; racial discrimination in the exercise of one's (private) occupation. Furthermore, according to the authors of ECRI's preliminary draft report, "the authorities should ensure that the grounds of colour, language and citizenship are included in all relevant Articles of the Criminal Code". It is noted that the Criminal Code does not criminalize legal entities for crimes related to racism and racial discrimination. At the same time, the authors of ECRI's preliminary draft report refer to the provisions of General Policy Recommendation (GPR) No. 7, which is not mandatory.

In this regard, the adjustments of the provisions of the Criminal Code could only be considered if there is convincing data, including those based on an analysis of law enforcement practice and statistics, indicating the ineffectiveness of the criminal legislation of the Russian Federation in this field.

The ECRI's recommendation to revise the legislative definition of the term "extremism" by including an element of violence is unacceptable, since the international acts (the Universal Declaration of Human Rights of December 10, 1948, International Covenant on Civil and Political Rights of December 16, 1966, International Convention on the Elimination of All Forms of Racial Discrimination of December 21, 1965, UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief of November 25, 1981, Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950) require that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence; all dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof; all discrimination based on religion or belief shall be prohibited by law.

Commission of acts on extremist grounds involving the use of violence is subject to a higher penalty.

Thus, the existing legal regulation provides guarantees for the observance of the constitutional rights of citizens and their protection from encroachments.

2. (Hate speech)

In accordance with Article 29, paragraph 2 of the Constitution of the Russian Federation, propaganda or agitation, which arouses social, racial, national or religious hatred and hostility, shall be prohibited. Propaganda of social, racial, national, religious or linguistic supremacy shall also be prohibited.

Actions aimed at the incitement of hatred or enmity, as well as abasement of dignity of a person or a group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, as well as affiliation to any social group, if these acts have been committed in public or with the use of mass media or information and telecommunication networks, including the Internet, shall be punishable under Article 282 of the Criminal Code.

Such actions should be understood, in particular, as statements justifying and/or asserting the need for genocide, mass repression, deportations and other unlawful acts, including the use of violence, against members of any nation, race and adherents of any religion.

Criticism of political organisations, ideological and religious associations, political, ideological or religious convictions, national or religious custom should not in itself be considered as an action intended to incite hatred or enmity (Paragraph 7, subparagraph 2 of the Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 11 of June 28, 2011 on Court Practice on Criminal Cases on Crimes of an Extremist Nature).

Hate speech in the media and on the internet

Public appeals for the performance of extremist activity, as well as for actions aimed at breaching the territorial integrity of the Russian Federation, depending on the circumstances, shall be punishable under Articles 280 and 280.1 of the Criminal Code, respectively. At the same time, for the same acts committed with the use of mass media or information and telecommunication networks, including the Internet, the Criminal Code establishes increased criminal liability (Article 280, paragraph 2 and Article 280.1, paragraph 2).

With regard to ECRI's recommendation to sign and ratify the Convention on Cybercrime of November 23, 2001, (hereinafter - the Convention on Cybercrime) and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems of January 28, 2003, the following may be noted.

Issues of countering crimes in the field of information technologies are among the areas of interaction stipulated by bilateral intergovernmental agreements in the field of combating crime, as well as cooperation agreements between the Ministry of Internal Affairs of the Russian Federation and the competent authority of a foreign State.

The Russian Federation is not a party to any international treaty, the implementation of which may violate the sovereignty of the country.

Article 32, paragraph (b) of the Cybercrime Convention provides that a Party to this international treaty may, without the authorisation of another Party, access or receive, through a computer system in its territory, stored computer data located in another Party, if the Party obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data to the Party through that computer system.

At the same time, Russian legislation in the field of countering information technology crimes covers the whole range of provisions set forth in the Budapest Convention, and on some positions, it contains more universal and promising legal norms.

4. (Integration policies)

Refugees and beneficiaries of temporary asylum

ECRI's preliminary draft report contains recommendations to the authorities on strengthening the integration of refugees and beneficiaries of temporary asylum by providing free-of-charge access to Russian-language courses, granting an entitlement to social welfare payments to those who are unemployed and without sufficient financial means, as well as on the inclusion of a complaints mechanism for migrant workers into the mandate of the Federal Agency for Ethnic Affairs.

These recommendations do not contain proposals for the adjustment of the legislation of the Russian Federation and cannot be evaluated without taking into account the law enforcement practice.

II. Topics specific to the Russian Federation

5. (Policies to combat discrimination and intolerance vis-à-vis LGBT)

Legislative issues

ECRI's preliminary draft report states that in 2013, legislation was enacted against providing certain information on homosexual relationships to minors in the Russian Federation. In particular, according to Article 5 of Federal Law No. 436-FZ of December 29, 2010 on the Protection of Children from Information that is Harmful to their Health and Development, the information that denies traditional family values, promotes non-traditional sexual relations and develops disrespect for parents and/or other family members is prohibited for dissemination to children.

According to ECRI experts, "by adopting such legislation, the authorities reinforce stigma and prejudice and encourage homophobia, which is incompatible with the notions of equality, pluralism and tolerance inherent in a democratic society".

In this regard, ECRI recommends, "as a matter of priority, that the Russian authorities abolish the legal provisions banning the "promotion of non-traditional sexual relations among minors" in accordance with the decision of the European Court of Human Rights in the case of *Bayev and others v. Russia*".

According to Articles 10 and 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter - the ECHR), the exercise of these freedoms may be subject to restrictions as are prescribed by law and are necessary in a democratic society, including for the protection of health or morals, for the protection of the reputation or rights of others.

The legislation does not stipulate any measures aimed at prohibiting homosexuality or its official censure, does not contain grounds of discrimination and does not allow excessive actions on the part of public authorities and, therefore, cannot be regarded as disproportionately restricting freedom of speech or freedom of assembly.

Article 55 of the Constitution of the Russian Federation establishes that, along with providing citizens with a wide range of rights and freedoms in order to protect the morality, health, rights and lawful interests of other people, human and civil rights and freedoms may be limited.

Responsibility for the promotion of non-traditional sexual relations among minors is provided for in Article 6, paragraph 1 of the Code of Administrative Offenses of the Russian Federation (hereinafter - the CAO), according to which only public actions aimed at disseminating information that promotes among minors or imposes on them non-traditional sexual relations, including based on the circumstances of the commission of the act, are deemed illegal.

Paragraph 1 of the operative part of the Judgment of the Constitutional Court of the Russian Federation of September 23, 2014 No. 24-P states that the rule set forth in the Administrative Offences Code of the Russian Federation does not contradict the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of the operating legal regulation it is aimed at the protection of such constitutionally significant values as family and childhood, as well as at prevention of causing damage to health of minors, their moral and spiritual development and contemplates no interference with the sphere of individual autonomy, including sexual self-determination of a person, is not aimed at prohibition or official blaming of unconventional sexual relations, does not hinder impartial public discussion of the questions of legal status of sexual minorities as well as use by their representatives of all not prohibited by law means of expression of their position on these issues and protection of their rights and lawful interests, including organization and holding of public events.

Decisions of the European Court of Human Rights (hereinafter - the ECHR) are not mandatory in relation to the norms of Russian legislation. An additional point is that the ECRI's preliminary draft report does not reflect the necessary data (including statistical), indicating the feasibility of the proposed changes, and other data indicating the presence of social problems in this field, and the information presented is not supported by practical examples.

In this regard, the recommendations on the abolition of the legal provisions banning the promotion of non-traditional sexual relations among minors appear unfounded.

Paras. 3, 4, 8, 9, 17, 46, 47, 54, 113

It seems that ECRI's conclusions on the insufficient legal settlement of issues related to countering the incitement of ethnic, inter-religious hatred, racial intolerance and extremist activity are not sufficiently substantiated.

The current legislation of the Russian Federation embodies a sufficient number of rules aimed at combating these acts.

[The Constitution](#) of the Russian Federation prohibits the propaganda instigating social, racial, national or religious hatred and strife, as well as the propaganda of social, racial, national, religious or linguistic supremacy, which is in line with the international legal standards.

According to the preamble and Article 1 of the Federal Law No. 114-FZ of July 25, 2002 on Combating Extremist Activity, the Russian Federation recognizes the following activities as extremist and prohibits, namely: stirring up of racial, ethnic or religious discord; propaganda of the exceptional nature, superiority or deficiency of persons on the basis of their racial, ethnic, religious or linguistic affiliation; violation of human and civil rights and freedoms and lawful interests in connection with a person's racial, ethnic, religious or linguistic affiliation; propaganda and public show of Nazi emblems or symbols or of emblems or symbols similar to Nazi emblems or symbols to the point of confusion between the two; public calls inciting the carrying out of the aforementioned actions or mass dissemination of knowingly extremist material, and likewise the production or storage thereof with the aim of mass dissemination.

In order to ensure a constitutional ban, as well as the protection of social relations guaranteeing the recognition and respect for human dignity, regardless of any physical, social or other characteristics, the Criminal Code of the Russian Federation criminalizes any actions committed with clear intent and aimed at the incitement of hatred or enmity, as well as abasement of dignity of a person.

The Criminal Code also criminalizes the following actions:

- murder; intentional infliction of a grave injury; intentional infliction of injury of average gravity; threat of murder or infliction of grave injury to health by reason of political, ideological, racial, national or religious hatred or enmity, or by reason of hatred or enmity with respect to some social group (Article 105, paragraph 2, subparagraph (m) of the Criminal Code of the Russian Federation; Article 111, paragraph 2, subparagraph (f) of the Criminal Code; Article 112, paragraph 2, subparagraph (f) of the Criminal Code; Article 117, paragraph 2, subparagraph (i) of the Criminal Code; and Article 119, paragraph 2 of the Criminal Code);
- violation of the equality of human and civil rights and freedoms (Article 136 of the Criminal Code);
- violation of the of the right of liberty of conscience and religious liberty (Article 148 of the Criminal Code);
- public appeals for the performance of extremist activity (Article 280 of the Criminal Code);
- organizing an extremist community (Article 282.1 of the Criminal Code);
- organizing the activity of an extremist community (Article 282.2 of the Criminal Code);
- financing extremist activity (282.3 of the Criminal Code), and others.

Such crimes shall be detected during operational-search activities regulated by the Federal Law No. 144-FZ of August 12, 1995 on Operational-Search Activities.

Administrative liability is also applied for the propaganda and public show of Nazi emblems or symbols or of emblems or symbols of extremist organization (Article 20.3 of the Code of Administrative Offences), as well as for the production and distribution of extremist materials (Article 20.9 of the Code of Administrative Offences).

The concepts of extremism and corresponding criminal and administrative prohibitions formulated by the legislator meet the tasks of protecting the constitutional values, rights and freedoms of citizens. However, this does not preclude the improvement, when there are grounds, of the practice of application of norms of the federal legislation and the very norms.

In order to ensure uniformity of court practice in criminal cases of an extremist nature (including the crimes provided for in Article 282 of the Criminal Code), the necessary explanations were given by the Plenary Session of the Supreme Court of the Russian Federation (Ruling No. 11 of June 28, 2011 (as amended on November 3, 2016 by Ruling No. 41)). According to paragraph 7 of that Ruling, actions intended to incite hatred or enmity should be understood, in particular, as statements justifying and (or) asserting the need for genocide, mass repression, deportation, performance of other unlawful actions, including of use of force, in relation to representatives of any nation or race, or adherents to any religion. At the same time, criticism of political organizations, ideological and religious associations, political, ideological or religious convictions, or national or religious customs should not in itself be considered as an act intended to incite hatred or enmity. Therefore, the recommendations to review the concepts of "extremism" and "extremist materials" (paragraphs 46, 47, 54 of the draft ECRI report) do not seem reasonable.

We also believe that in the context of the above mentioned circumstances, the lack of an explicit reference to colour and citizenship, sexual orientation and gender identity, as well as of a prohibition of incitement to violence and to discrimination (see paragraphs 4, 17 and 113 of the draft report) in Article 282 of the Criminal Code may not be regarded as the presence of gaps in this norm, since the specified concepts and actions are within the framework of the existing criminal prohibition.

Paras. 5, 6, 113

Article 354.1 of the Criminal Code provides for the responsibility for the rehabilitation of Nazism, which means "the public denial of the facts established in the judgment of the International Military Tribunal for the prosecution and punishment of the major war criminals of the European Axis, approval of the crimes established in that judgment, as well as dissemination of deliberately false statements about the activities of the USSR during the Second World War."

Acts related to the public justification of the ideology and practice of Nazism, the public dissemination of the ideology of Nazism, the approval of the crimes committed by the Nazis, depending on the specific circumstances, may be criminalized under Article 280 on Public Appeals for the Performance of Extremist Activity of the Criminal Code; Article 282 on Incitement of Hatred or Enmity, as well as Abasement of Human Dignity of the Criminal Code or under Article 20.29 on Production and Distribution of Extremist Materials of the Code of Administrative Offences.

Article 136 of the Criminal Code criminalizes any violation of the rights and freedoms of an individual or citizen (discrimination) made by a person through the use of the official position thereof. Special subjects of the crime may include State or local government officials or enterprises and organizations under their jurisdiction, as well as employees of non-government, including commercial, organizations with administrative or other management functions that allow them to infringe equality of citizens. Application of provisions of this criminal prohibition to other persons requires appropriate criminological justification, including taking into account prevalence of the acts in question.

In this context, the assessments and conclusions contained in paragraphs 5, 6 and 113 of the draft report do not seem founded.

Paras. 7, 113

According to Article 63, paragraph 1, subparagraph (f) of the Criminal Code, the commission of a crime by reason of political, ideological, racial, national or religious hatred or enmity or by reason of hatred or enmity with respect to some social group, among others, shall be deemed to be aggravating circumstances. Moreover, the commission of a crime for the above mentioned reasons is also considered to be a qualifying or criminalizing feature in a number of Articles of the Criminal Code

(Articles 105, 111, 112, 115, 116, 118, 119, etc.). There is no reason for supplementing this list of reasons with such as language or citizenship, sexual orientation and gender identity, since these concepts are covered by the above mentioned ones.

Para. 8

The institute of criminal liability of legal entities contradicts the national legal doctrine and the principles of Russian criminal law, according to which physical individuals shall be considered as the perpetrators of a crime (subjects of criminal liability).

Para. 9

We believe that paragraph 9 of the draft report unjustifiably points to the need to supplement the list of extremist crimes specified in the Criminal Code and to expand their wording and qualifying features, since the proposed concepts and their interpretation constitute just a variant of interpretation through identical concepts.

Paras. 10, 11

National legislation already contains rules aimed at protecting the rights of nationals of the Russian Federation and foreign nationals against discrimination; therefore, the requirement to adopt comprehensive norms of civil and administrative legislation in order to combat discrimination is also unnecessary and constitutes an attempt to interfere in the internal affairs of the Russian Federation.

Russian legislation is neither discriminatory against members of sexual minorities nor enshrines any measures aimed at prohibiting or officially censuring them.

Para. 12

The functions of the Federal Agency for Nationality Affairs (FADN of Russia) include, inter alia, the prevention of any form of discrimination on grounds of race, nationality, religion or language; and the prevention of any attempts to incite racial, ethnic, and religious hatred or enmity. The FADN of Russia is a federal executive body run by the Government of the Russian Federation.

Paras. 18, 56

The statement that "Russia has not reported hate crime data to OSCE-ODIHR since 2008", cited in paragraphs 18 and 56 of the draft report is incorrect, since, in accordance with the annual OSCE/ODIHR circular note, a national focal point forms and completes an on-line questionnaire on hate crimes available on the OSCE/ODIHR web-portal.

Moreover, paragraph 18 of the draft report provides information on the number of registered offenses related to extremism (1,410 in 2016 and 1,521 in 2017).

Considering the name and quantitative indicators in the form of federal statistical observation No. 4-EGS titled "Information on Criminality and Results of Crime Investigation", it is proposed to replace the words "extremist activity" with "extremist nature", as well as to replace "1,410" with "1,450"

The information on the number of registered crimes under Articles 280 and 282 of the Criminal Code (310 and 985, respectively) indicated in the mentioned paragraph corresponds to the data of State statistical reporting.

Para. 20

According to this paragraph, the number of extremist cases increased by 11 per cent in 2017, without specifying their type.

However, according to the data contained in the above mentioned reporting form, the number of extremist crimes increased by 4.9 per cent in 2017.

No other data are highlighted in the federal statistical observation form.

Para. 25

On April 1, 2014, the Moskovskiy District Court of Kaliningrad upheld the claims of the prosecutor of the Moskovskiy district of Kaliningrad to the administration of the city of Kaliningrad with regards to the Religious Organization of the Muslims of Kaliningrad to declare unlawful (invalid) the following: the decision No. 1309 of the head of administration of the city of Kaliningrad of August 3, 2009 on the creation of the Religious Organization of the Muslims of Kaliningrad and provision it with two land plots located at Dzerzhinskogo street and Al. Smelukh street in the Moskovskiy district of Kaliningrad for the construction of a mosque and access road; the contract of August 19, 2009 on their transfer to the specified religious organization for fixed-term use without consideration, the agreement of December 14, 2012 on amending and supplementing the said contract, the permission of October 7, 2010 for the construction of the capital construction project titled "Religious and Cultural Centre of Muslims/Mosque"; as well as to recognize that the religious organization does not have a property right to an object under construction - the Religious and Cultural Centre of Muslims/Mosque.

On June 4, 2014, the Appeal Civil Chamber of the Kaliningrad Regional Court confirmed the decision.

On December 6, 2017, the Central District Court of Kaliningrad satisfied the claims of the Religious Organization of the Muslims of Kaliningrad for damages in the amount of 66,309,060 rubles incurred in connection with the issue of the said unlawful decree No. 1309 of August 3, 2009 by the local government body. Currently, the recovering of funds from the administration of the city of Kaliningrad is under way, with 14.5 million rubles transferred to the religious organization.

In order to settle the issue of building a mosque in Kaliningrad, in according with order No. 561-p of the administration of the city of Kaliningrad of October 10, 2014, a working group was established, which together with representatives of national cultural and religious public associations defined a land plots located at Gorkogo strret and B.Okruzhnaya street in the Leningradsky district of Kaliningrad for organizing mass events with more than 10,000 participants - "The Field of Friendship of Peoples".

The Ihsan Local Muslim Religious Community applied to the administration of the city of Kaliningrad for the provision of the specified land plot. By its Decision No. 1085 of July 06, 2015, the administration of the city of Kaliningrad has provisionally agreed to provide a land plot of 51,000 square meters to build buildings and structures for religious and charitable purposes.

In order to define the boundaries for constructing buildings and structures for religious and charitable purposes, the administration of the city of Kaliningrad has adopted a resolution No. 1448 of August 31, 2015 on the development of a territory planning project and a subdivision project being a part of it within the boundaries B.Okruzhnaya street - design road - city line in the Leningradsky district.

In order to obtain the specified land spot for use without consideration, the Ihsan Local Religious Community needs to develop a territory planning project within the boundaries of the land plot and submit it to the administration, to obtain permission for the conditionally authorized use of the land plot titled "confessional facilities" and to ensure that the works necessary for formation of land plot were carried out in accordance with the approved subdivision project. These actions are to be carried out by August 30, 2017; however, the authorized unit of the administration of city of Kaliningrad has no information on urban planning documentation developed to date.

After state cadastre of the land plot, Ihsan Local Muslim Religious Community is entitled to apply for a ten-year agreement on free lease of the land in order to construct buildings, places of worship, and charities (Article 39.14 of the Land Code of the Russian Federation). The administration has not received an application of this kind.

In 2013 - 2015, there was increased tension in the Muslim community of Kaliningrad Oblast due to the decisions by the regional and oblast courts to ban the construction of the Religious and Cultural Centre/Mosque at Dzerzhinskogo street, 32, Kaliningrad.

This decision received a negative reaction from Muslims, some of the leaders of Muslim organizations even tried to destabilize the situation, including through the media, in order to stir up protest sentiment in the Muslim community of the region to force the authorities, including the courts, to change their decision on banning the construction of a mosque at the specified address.

Regional law enforcement authorities in conjunction with prosecuting authorities and public authorities took measures to ensure that the decisions by the courts were complied with, and to preserve inter-ethnic harmony in the region, prevent extremist acts and other illegal actions by Muslims.

Law enforcement officials undertook several preventive activities aimed at the leaders of Muslim organizations, who as a consequence did not conduct any illegal activities. Besides, a decision was made to sign an agreement between the *Friedland Gate* municipal autonomous cultural institution and the Muslim Religious Community of Kaliningrad to lease the premises at Dzerzhinskogo street, 32, Kaliningrad, to the latter to perform religious worship.

Due to operative and preventive measures taken in 2015 - 2017 there was no aggravation of the operative environment in the region.

Signatures for a petition for the President of Russia to authorize the construction of the mosque in Kaliningrad were collected on several websites, but the initiative did not receive broad support.

At the same time, on 29 August 2017, the Muslim Religious Community of Kaliningrad and *Savab* foundation for the support and development of educational, cultural and socially significant projects (Moscow) held a conference in the conference hall of Radisson hotel in Kaliningrad to increase awareness of the opposition by state authorities to the construction of the mosque at Dzerzhinskogo street, 32, Kaliningrad.

Participants in the conference adopted a resolution obliging the authorities to authorize the continuation of construction of the mosque on Dzerzhinskogo street in Kaliningrad, or provide an equal plot of land for the construction of the mosque within city limits.

In 2015 - 2018, there have been no protests themed around or aimed at the construction of the mosque in Kaliningrad.

There are currently no indications that the situation might be aggravated due to inter-religious relationships with the Muslims of the region.

An opinion poll conducted by *Analitika* oblast state institute among residents of Ulyanovsk Oblast in October 2017 suggests that their rights have not been suppressed due to confession.

There have been no inter-ethnic or inter-religious conflicts in the region. In 2015 - 2018, there have been no public protests (rallies) themed around a ban or halt of the construction of mosques.

At the same time, regional authorities note that during this period the local government and the said authorities have received three collective petitions by the citizens against the construction of places of Muslim worship on land allocated for that purpose, some of them included proposals for their transfer.

For example, by order of the mayor of Ulyanovsk of 19 July 2016, it was decided to hold public hearings on the application by the Regional religious board of Muslims of the Ulyanovsk Oblast concerning the lease of land for the construction of the congregational mosque in Molodezhnyi Park in Ulyanovsk.

However, they did not take place as a large number of people from the neighbourhood (more than 170 people) spoke out against this initiative, including by posting their petitions online, and suggested that the mosque be constructed in a different place. Besides, comments to Articles on this topic published by the local online media outlets contained hate speech based on religion or ethnicity.

Taking into account numerous complaints by Dimitrovgrad residents sent to the Administration of Dimitrovgrad and the City Duma of Dimitrovgrad, including a collective petition (signed by more than 600 people) to change the construction site for the mosque, on 27 July 2016, the City Duma of Dimitrovgrad, Ulyanovsk Oblast, voted to remove from the agenda the topic of amending the city layout on the application by the *Mahallah* Muslim religious organization by changing the function of the land on Dimitrova street, 2 “n” from a recreation area to a public and business area (for the construction of the mosque).

What is more, on 4 September 2017, following a collective petition by the residents of the Kolkhoznyi village, Cherdaklinsk rayon, Ulyanovsk Oblast (signed by more than 100 people) and the subsequent inspection, the Agency on Architecture and City Planning of the Ulyanovsk Oblast cancelled the construction plan for a land where *Söyembikä*, the local *Mahallah* Muslim religious organization had begun the construction of a place of worship without a corresponding decision.

At the same time, religious organizations have not appealed against the abovementioned decisions by regional and local self-government authorities adopted with account of Article 14, part 1, para. 7.2 of Federal Law No. 131-FZ on General Principles of Organization of Local Self-Government in the Russian Federation of 6 October 2003 and the Urban Development Code of the Russian Federation.

It is also worth mentioning that Ulyanovsk Oblast, with the percentage of Muslims less than 12, currently has 130 operating mosques, 12 of them in Ulyanovsk.

Para. 29

On 2 March 2017, an episode of the *Documentaries* TV programme entitled *The most shocking hypotheses!* was released on *REN-TV* TV channel, dedicated to an alarming trend in the modern Western society - the upbringing of persons of third gender who do not need children or family and can choose a sexual partner of any gender. The episode also featured opinions by experts who stated that a lost generation was being artificially created in the modern world leading to the end of human reproduction, breakdown of the family, and denial of traditional family values. Russian scientists think that the instillation of such new norms leads to the consequences described. This is just a private opinion of scientists and sociologists.

There have been no reasons for response measures by the Federal Service for Communications, Information Technologies and Mass Communication Supervision (hereinafter referred to as Roskomnadzor). So far, there have been no complaints to Moscow prosecuting authorities or law enforcement authorities, and no inspections have been carried out.

Para. 30

On 21 March 2016, a documentary by Boris Sobolev entitled *The Burden of the Roma* was released on Rossia (Rossia-1) TV channel, dedicated to the history of the Roma and their modern life, including current problems faced by the Roma community. The author touches upon social and economic integration of the Roma. Review of the documentary by Roskomnadzor did not find any violations of the requirements set forth in Federal Law No. 114-FZ of 25 July 2002 on Combating Extremist Activity.

At the same time, in November 2017, Moscow Anti-Extremist Centre of the Directorate of Internal Affairs for the Northern Administrative Okrug of the Main Directorate of Internal Affairs of Russia of the city of Moscow started an inspection after a complaint by Ms. E. Shakhova and sent the corresponding materials to Moscow Research Centre (state-funded agency) for a special examination to be completed in the fourth quarter of 2018.

Para. 31

In its report, ECRI pointed out a large amount of extremist information online, mostly on *VKontakte* social network.

This social networking service is among the largest and most popular ones in the world, more than 460 million people use it for day-to-day communication. Its users represent many different social, national, religious, gender, and age groups. Due to the wide audience, it is technically impossible to fully moderate the constant flow of information posted every day. This is why most online extremist crimes and offences are committed on *VKontakte* web-site.

In particular, in the first half of 2018, 3 online extremist crimes were reported in Saint Petersburg (14 SPPY¹), 2 of them involved posting illegal information on *VKontakte*.

At the same time, in the entire 2017, 33 extremist crimes were reported in Saint Petersburg, 15 of them online, another 12 involving posts on *VKontakte*.

Breaches of law identified by law enforcement authorities in both 2017 and 2018 led to the initiation of criminal proceedings on the grounds of elements of crimes set forth in Articles 280 and 282 of the Criminal Code of the Russian Federation, the preliminary investigation is under special control of Saint Petersburg Prosecutor's Office.

We do not forget about the work to identify cases of distribution of information included in the Federal List of Extremist Materials.

For example, during Internet monitoring in the first half of 2018, Saint Petersburg Prosecutor's office identified and documented 400 relevant cases (279 SPPY, 581 in the entire 2017), 23 of which (22 SPPY, 65 in the entire 2017) were committed on *VKontakte*, leading Roskomnadzor to raise the issue of extrajudicial restriction of access to them according to Article 15.3 of Federal Law No. 149-FZ of 27 July 2006 on Information, Information Technologies and Data Protection.

Following the examination of inspection certificates of web-sites issued by Saint Petersburg Prosecutor's office, access to 80% of illegal content is currently restricted, materials are not available. The rest of web-site inspection certificates are currently being checked.

What is more, as part of control over the implementation of legislation on countering extremist activities, in the first half of 2018, Saint Petersburg Prosecutor's office filed 12 writs to Saint Petersburg Courts (12 SPPY), 4 of which (5 SPPY) were on recognizing information materials as extremist, 8 - on recognizing information materials as banned from circulation in the Russian Federation (2 of which concerned

¹ During the same period the previous year

the popularization of Nazi paraphernalia or symbols on *Vkontakte*, as well as approval of actions of the main war criminals pronounced guilty by the International Military Tribunal), courts have examined and satisfied 9 writs (3 SPPY) (they were all filed in 2017), of which 0 were on recognizing information materials as extremist (2 SPPY).

Taking into account frequent breaches of legislation on countering extremism in the field of information on *Vkontakte*, in 2018 Saint Petersburg Prosecutor's Office conducted an investigation that found mass distribution in 2011 - 2018 of extremist information materials that are on the Federal List of Extremist Materials. CEO of the Mail.Ru Group (managing organization of the limited liability company "Vkontakte") received a relevant recommendation (under consideration).

At the same time, in accordance with the information received by Saint Petersburg Prosecutor's office from *Vkontakte* limited liability company, the company has already given its developers the task of introducing a system for imprinting information materials banned from circulation in the Russian Federation so as to enable automatic removal of information re-uploaded to the site. Planned technical deadline is August 2018.

ECRI draft report indicates that enticement of racial hatred on *Vkontakte* can be proved by an Islamophobic video entitled *The true face of Islam: incest as a weapon of genocide of white people*. However, monitoring of the *Vkontakte* by the city prosecutor's office did not find information materials under this title. There are no materials under this title in the Federal List of Extremist Materials.

The lockout of sites with extremist content, as considered by a court ruling, shall be implemented by Roskomnadzor pursuant to Article 15.1, Federal Law No. 149-FZ "On Information, Information Technology and Information Protection", through the uniform automated information system the "Uniform register of domain names, website selectors and web-addresses allowing to identify Internet sites that contain information which is forbidden for dissemination in the Russian Federation".

The court ruling to consider information forbidden for dissemination in the Russian Federation which has duly entered into force, is a reason for Roskomnadzor to take measures to limit access to the Internet resources defined in the mentioned Article of Federal Law No. 149-FZ.

The ban on extremist content dissemination is also set forth by Article 13, Federal Law No. 114-FZ.

Thus, once the court ruling to consider information forbidden for dissemination in the Russian Federation (or extremist) which has duly entered into force, has been received by Roskomnadzor, the whereabouts of an Internet site containing such information are entered in the Uniform register.

To effectively exercise the mentioned powers Roskomnadzor cooperates with the bodies of internal affairs, public security and prosecution.

By now, over 37,000 extremist materials are deleted from or blocked in the Internet. These are copies of materials on the Federal list of extremist materials.

The sites profiling extremist materials do not delete the forbidden information and hence, are subject to lockout. There are 2,400 such sites which makes less than 7% of all those entered in the Uniform register.

The majority of sites have proved to delete the forbidden information after they have received a notification from Roskomnadzor before the actual lockout. These are mainly law-abiding resources where the forbidden content is uploaded behind admins' back, e.g. announcement boards, social networks, forums, media portals.

Roskomnadzor has established practical cooperation with Russian social networks on deleting forbidden information and blocking groups that specialize in its dissemination. As a rule, the extremist content is deleted by Russian social networks admins, within hours.

Thus, for example, a total of over 11,400 extremist materials has been deleted or blocked from VKontakte social network. Not only exists such cooperation in counter-extremism, but as well in suppressing the circulation of drug deal announcements, suicide propaganda and child porn.

Due to the presence of extremist materials, the following resources were added to the Uniform register:

- 1,908 Youtube web-pages;
- 358 Twitter web-pages;
- 25 Facebook web-pages;
- 16 Instagram web-pages.

After Roskomnadzor had sent notifications to the above Internet platforms urging to delete extremist materials, this information was deleted.

Roskomnadzor also enforces Article 15.3, Federal Law No. 149-FZ pursuant to which access to the information inciting mass riots, extremist activities, participation in mass (public) events in violation of the established order, shall be limited as demanded by the Prosecutor General of the Russian Federation or his deputies (hereinafter - demanded by the Office of the Prosecutor General of the Russian Federation), as well as to the information materials of a foreign or international NGO whose activities are considered undesirable in the territory of the Russian Federation under Federal Law No. 272-FZ of 28 December 2012 "On measures against persons involved in the violations of basic human rights and freedoms, rights and freedoms of citizens of the Russian Federation".

Since 1 February 2014 up till now, 596 demands have been issued by the Office of the Prosecutor General of the Russian Federation of limited access to web-sites inciting extremist activities. In pursuance of these demands, over 15,200 web-site selectors (domain names) are now blocked, the information disseminated in violation of law is deleted from over 127,500 web-site selectors (domain names).

Meanwhile, it should be noted that over 99% of the mentioned Internet-resources was identified by Roskomnadzor independently in pursuance of the demands of the Office of the Prosecutor General of the Russian Federation concerning lockouts of web-site "mirrors" that contain information disseminated in violation of law.

Thus, the following materials have been blocked or deleted:

- of international terrorist organizations "Imarat Caucasus", "Islamic State", "Jebhat-an-Nusra", "Hizb-ut-Tahrir al-Islami", (over 9,900 sites blocked, information deleted from over 105,100 sites); these include, among others: VKontakte - 25,372 web-pages; Youtube - 22,265 web-pages; Twitter - 530 web-pages; Facebook - 1,214 web-pages; Instagram - 1,204 web-pages;
- of extremist organizations "Right sector", "Ukrainian national assembly - Ukrainian people's self-defence" (UNA-UNSO), "Stepan Bandera trident", "Brotherhood" (939 sites blocked, information deleted from over 6,900 sites). Of them: VKontakte - 2,828 web-pages; Youtube - 317 web-pages; Twitter - 66 web-pages; Facebook - 267 web-pages; Instagram - 8 web-pages.
- of terrorist organization "Aum Shinrikyo" (1,498 sites blocked, information deleted from over 4,000 sites).

Para. 32

After a friendly match between the national football teams of Russia and France (March 27, 2018, St. Petersburg, Saint Petersburg Arena Stadium), the FIFA Disciplinary Committee launched an investigation into the manifestations of racism

(imitations of animal sounds) against dark-skinned players of the French team. Also, on April 17, 2018, administrative proceedings in this case were initiated under Article 20.31 of the Code of Administrative Offences of the Russian Federation (violation of the Spectators Rules of Conduct During Official Sports Competitions).

Interviews of the alleged offenders by police officers in the proceedings did not substantiate disruption of public order during the sports event.

No manifestations of extremism during the aforementioned football match were reported to law enforcement agencies. The sounds made by football fans, which were cited in the draft report of the Commission, do not allow to identify the addressees as well as the objective of these actions because of the absence of linguistic component.

Seven members of the FC "Zenit" fan club (St. Petersburg) who watched the match at the stands where the alleged manifestations of racism were spotted were identified and interviewed. The interviewed fans explained that when the player of the French national team was taking a corner kick they whistled and monotonously hummed to put the French players off game and prevent them from scoring a goal. The fans did not mean to incite racial hatred and did not try to insult dark-skinned players of the French national team by such actions.

The stadium is not equipped with audio recorders to record sounds in the sectors. Video recordings from the stadium did not allow to make any conclusion about the presence or absence of signs of extremism in the actions of the recorded individuals. Once the circumstances of the incident were clarified, materials of the proceedings were sent to the Prosecutor's Office of the Petrogradsky District of St. Petersburg, and then the 71st Police Division of the Russian Administration of the Ministry of Internal Affairs for the Petrogradsky District of St. Petersburg determined that these administrative proceedings should be terminated.

In order to prevent provocative actions during the 2018 FIFA World Cup, the authorities organized and carried out a set of appropriate measures in all cities of football matches.

The Order of the Ministry of Internal Affairs of Russia, dated March 20, 2018, established the Centre for International Police Cooperation, which functioned during the FIFA World Cup. Information exchange with foreign partners was activated to identify illicit actions plotted by informal fan associations, including foreign fan groups; 25 reports of illicit actions of football fans were substantiated and the plots were thwarted.

Measures were taken to identify individuals and organizations promoting unsanctioned mass events and disruptions of public order on the opening day of the FIFA World Cup. The taken preventive measures made it possible to thwart the plots to organize these events in the territory of the Russian Federation.

Para. 33

To strengthen the civic and spiritual unity of the Russian society under the conditions of the ethnic diversity of Russia, the country has developed systemic interaction between government authorities on the one side and local authorities, public associations and other ethno-cultural actors on the other side.

Prevention and settlement of inter-ethnic and sectarian conflicts is still the priority in countering extremist manifestations.

To that end, the Ministry of Internal Affairs of Russia has taken measures to prevent and deter ethnic conflicts that have the potential to provoke an escalation of tensions and riots.

This must take into account that, according to sociologists, xenophobic sentiment in Russian society peaked in 2013, followed by a decrease.

Background information: According to the Levada Centre survey of August 2016, only 18% of Russians interviewed stated that there was inter-ethnic tension in their places of residence, and 12% of Russians interviewed indicated the possibility of nationally motivated clashes.

According to the results of the monitoring of the xenophobic sentiment conducted by the Levada Centre in July 2017, the level of ethnophobia (support of isolationist practices towards other nationalities) reached its minimum. A decrease in negative attitudes towards representatives of various ethnic groups was also noted.

One third of respondents did not have ethnic prejudices. The number of people willing to limit the residence of certain ethnic groups in Russia was declining: individuals originating from the Caucasus (54%> in 2013, 34% in 2016, 22% in 2017), from the Central Asian countries (29%> in 2016, 19% in 2017).

Para. 35

Despite measures taken, international groups continue their vigorous activity on the Russian territory, aimed at committing crimes of an extremist and terrorist nature, destabilizing social and political situation in certain regions of the State².

Terrorist groups widely use communication capacity of social networks, such as VKontakte, YouTube, Facebook, Instagram, Odnoklassniki, and Twitter where members of destructive organizations create a lot of accounts and groups in order to spread extremist material, recruitment for illegal armed formations and their abettors as well as to conduct vigorous promotion activities.

Numerous violations of laws on the Internet and the social danger they pose have caused the need for extrajudicial restriction of access to negative information³.

Exercising its power, under Article 15.3 of Federal Law No. 149-FZ as of 27 July 2006 "On Information, Information Technologies and Information Security", Prosecutor's Office is conducting work on lodging claims to Roskomnadzor for restricting access to the Internet-resources calling for mass riots, extremist activity, taking part in mass (public) events in violation of the established procedure, to the ones containing information material of a foreign or an international non-governmental organization whose activity is considered undesirable on the territory of the Russian Federation, as well as data allowing to get access to the information or material mentioned.

In the first half of 2018 alone 68 such claims were lodged with more than 2.4 thousand information resources being blocked, following their consideration, and with illegal information being deleted from more than 23 thousand sites.

For example, on social network VKontakte The Tatars-haters Community has been identified, its members spread statements directed at inciting hatred or feud to the Tatars as well as openly called for killing them. Roskomnadzor blocked the relevant Internet-resources upon the request by the Office of the Prosecutor General of the Russian Federation. Deputy Prosecutor General of the Russian Federation has sent a decree to the investigative authority under sub-paragraph 2 of paragraph 2 of Article 37 of the Code of Criminal Procedure of the Russian Federation in order to address the issue of initiating criminal proceedings under part 2 of Article 280 and part 1 of Article 282 of the Criminal Code.

Numerous sites promoting the work of terrorist organizations, such as the Islamic State, the Caucasus Emirate, Jabhat al-Nusra, etc., posting calls for extremist and terrorist activities have been blocked.

² Khokhlov I.P. This Dangerous Internet. The Office of the Prosecutor General of the Russian Federation is Implementing a Set of Measures Aimed at Prevention of Extremism and Terrorism // Prokuror. 2015. No. 3

³ Ibid.

The blocking mechanism under Article 15.3 of Federal Law 149-FZ has the highest level of efficiency and results from the information features. The procedure for the restriction of access to the information is strictly regulated by law.

The procedure of blocking under Article 15.3 of Federal Law 149-FZ is characterized by parallel but not consecutive (first hosting provider, then service provider) cooperation with service provider, unlike in other cases. Sites are blocked immediately upon processing of the claim by the Prosecutor General of the Russian Federation or his Deputy.

Access to a website blocked in accordance with Article 15.3 of Federal Law No. 149-FZ can be restored after its owner has submitted to Roskomnadzor a notification of removal of the prohibited information (Federal Law No. 149-FZ, Article 15.3, paras. 5-7).

Owners of websites have the right to challenge access restrictions in court, and this right is being realized in practice.

Taking into account the fact that foreign and international non-governmental organizations are often used as a tool of geopolitical struggle and interference into the internal affairs of the Russian Federation, the option of taking measures aimed at restricting access to information materials of foreign and international non-governmental organizations that have been listed as undesirable in the territory of the Russian Federation (Federal Law No. 149-FZ, Article 15.3, para. 1) is an appropriate and adequate response to the threats. Such foreign and international non-governmental organizations as well as all individuals involved in their activities are not deprived of the right to judicial protection against unsubstantiated decisions.

In 2017, the Prosecutor General's Office demanded that Roskomnadzor block the websites of the Open Russia organization, which had been designated as undesirable, as well as Mikhail Khodorkovsky's personal site "MBK.media" where Open Russia had been posting its prohibited materials.

Having considered the suits filed by M. Khodorkovsky's representative seeking a declaration of unlawfulness of the Prosecutor General's Office and Roskomnadzor's actions and the restoration of access to the blocked websites "Open Russia", "Khodorkovsky", "MBK.media" and "Instead of Putin", the Tverskoy District Court of Moscow ruled that the Prosecutor General's Office and Roskomnadzor's actions to block the above-mentioned websites were lawful and substantiated.

Since 2008, 228 cases of publication of information materials containing signs of extremism by the media have been revealed in the framework of activities to control and oversee compliance with the legislation of the Russian Federation on the mass information media and mass communications. Accordingly, Roskomnadzor has issued 228 official written warnings to editorial offices and founders of media outlets.

Besides, in the same period, pursuant to para. 57 of the Administrative Regulations concerning the Fulfilment by the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications of the Function to Ensure State Control and Oversight of Compliance with the Legislation of the Russian Federation on the mass information media, as approved by Order of the Ministry of Digital Development, Communications and Mass Media of the Russian Federation No. 196 of 13 August 2012 (registered by the Ministry of Justice of the Russian Federation on 25 October 2012; registration No. 25723), Roskomnadzor has sent 141 requests to remove or edit readers' comments that contained information of extremist nature to electronic periodicals, online media outlets and information agencies. Those include:

- For incitement to ethnic discord - 94 requests;
- For incitement to religious discord - 14 requests;
- For incitement to social discord - 17 requests;
- For incitement to terrorism activities - 2 requests;

- For calls for forcibly changing of the foundations of the constitutional order and violating the integrity of the Russian Federations - 8 requests;
- For making knowingly false public statements accusing persons who hold public positions of committing, during the period of their service, acts that constitute crimes - 4 requests;
- For posting comments containing extremist materials - 2 requests.

Para. 36

Blocking access to websites containing extremist material and declared as such by a court order is implemented within the framework of a single automated information system called a "single register of domain names, website references in the information and telecommunication system "Internet" and network addresses that enable identification of websites in the information and telecommunication system "Internet" containing information prohibited to spread in the Russian Federation", which is maintained by Roskomnadzor in accordance with the Federal Law No. 149-FZ of July, 2006 "On Information, Information Technologies and Information Protection", Article 15.1.

Notably, the single register includes domain names, Internet website references and network addresses that enable identification of Internet websites containing information prohibited to spread in the Russian Federation. No data on any entities is included therein.

Para. 37

The Convention on Cybercrime of the Council of Europe has a number of substantial flaws that impede its signing and ratification by the Russian Federation. In particular, the approach stipulated by the Article 32b) of the Convention is unacceptable. It provides for broad opportunities for transborder access to the information from a source in another State with no notification given to the authorities of a State where the information source is located. We perceive this to be a loophole for a direct violation of State sovereignty in the information field, which is unacceptable. It creates a conducive environment that enables violation of basic human rights and freedoms in the digital area, especially, the right to privacy.

The Convention was developed in the dawn of the digital era (since 1997), when information and communications technology (hereinafter referred to as the "ICT") was relatively unsophisticated and many types of network threats were either unknown or neglected. It is the reason why the Convention is silent on a range of issues related to the malicious use of more recent inventions, including so-called botnets and phishing.

Hence, it is our understanding that a cross-cutting convention on combating ICT-crimes has to be developed under the auspices of the United Nations - a convention that should take into account current environment and be underpinned by principles of sovereign equality of all parties and non-intervention in the domestic affairs.

In December 2017 such convention drafted by the Russian Federation was circulated as an official document of the UN General Assembly during its 72nd session under the Agenda Item 107 "Crime prevention and criminal justice" (A/C.3/72/12, October 16, 2017).

Para. 52

Within the framework of the Article 15.3 of the Federal Law No. 149-FZ Roskomnadzor deals primarily with the technicalities of restricting access to Internet resources containing illegal information, acting upon the request of the Prosecutor General's Office of the Russian Federation.

Furthermore, Article 15.3 of the Federal Law No. 149-FZ envisages a procedure for restoring access to such Internet resources in case if the information spread in violation of the law was deleted.

In order to do so, an information resource owner notifies Roskomnadzor that the information spread in violation of the law was deleted.

Upon receiving the notification and checking its validity Roskomnadzor immediately notifies the communications service provider who enables access to the information and telecommunication system "Internet" through the communication system about restoring access to the information resource, including the Internet website.

Para. 58

On August 5, 2017 in the city of Oryol in flagrant violation of a public order unidentified individuals addressed three Iraq citizens (Mohamad Mohamad Al Sayed Mohamad, Al Jamabi Ali Shakir Mahmood, Al Jamabi Omar Shakir Mahmood) in a public place using foul language and, allegedly, racial slurs and then physically assaulted them.

On this matter the Criminal Investigation Department of the Regional Office of the Ministry of Internal Affairs in the city of Oryol has initiated a criminal case under Article 213, Part 2 of the Criminal Code of the Russian Federation (Hooliganism); on November 30, 2017, the acts of the attackers were additionally determined as those under Article 116 of the Criminal Code of the Russian Federation (Battery).

Background information: according to the amendments introduced by the Federal Law No. 8-FZ of February 7, 2017 battery is defined as violent actions causing physical pain, but not a short-term health condition or a negligible persistent loss of general capacity for work, committed as acts of hooliganism, or on the grounds of political, ideological, racial, national or religious hatred or hostility, or hatred or hostility vis-a-vis any social group.

Currently, two Russian citizens are suspected of committing this crime. The investigation is in progress.

Para. 59

The regional offices of the MIA of Russia on countering extremism regularly engage in activities aimed at detecting and thwarting offenses and crimes related to inciting ethnic discord and displaying Nazi symbols.

Para. 63

In 2017 operations of a range of nationalist groups were thwarted:

- A regional cell of a prohibited extremist organization "Misanthropic division" in Rostov Oblast;
- BARS (Baltic Vanguard of the Russian Resistance) extremist fringe group in Kaliningrad Oblast;
- "NS/WP" (National Socialism/ White Power) extremist fringe group in the Republic of Tatarstan;
- an informal youth group of a nationalist bias "Kezhuali" in Vologda Oblast;
- an extremist fringe group "Schturm-otryad "Vepr" in Sverdlovsk Oblast.

In 2017 15 hate crimes were committed against foreign citizens.

Foreign citizens, on the other hand, committed 33 extremist crimes last year, with 31 of them committed by the CIS citizens.

The measures taken enabled to drive down the number of crimes committed on the grounds of ethnic hatred and hostility this year.

In the first half of 2018, only 4 extremist crimes were committed against foreign citizens (*which is 33% less than in the same period of 2017*). Victims of these crimes were Uzbekistan citizens.

At the same time, the number of such wrongful acts committed by foreign citizens remains constant.

That being said, in the first half of 2018 foreign citizens committed 31 extremist crimes, with 30 of them committed by the CIS citizens.

Additionally, the CIS citizens committed 77 terrorist crimes during the same period.

Para. 65

The MIA of Russia regularly provides training and procedural support to buttress anti-extremist efforts.

The MIA Academic and Research Section was put in place, which brings together heads of structural divisions of the MIA of Russia, territorial divisions on countering extremism (General Administration of the MIA of Russia for the North-Caucasian Federal District, MIA for the Republic of Crimea, MIA for the Republic of Tatarstan, Internal Affairs General Administration for Sevastopol, Russian MIA General Administration for the Nizhniy Novgorod Oblast, Russian MIA General Administration for the Moscow Oblast), leading academics from academic and research and educational institutions of the MIA system, representatives of the Ministry of Foreign Affairs of the Russian Federation, the Federal Security Service of the Russian Federation, the Prosecutor General's Office of the Russian Federation, the Diplomatic Academy of the Russian Foreign Ministry.

From 2017 to July 2018 the MIA of Russia participated in a variety of conferences and workshops that were geared to enhancing work of counter-extremism divisions' officers and raising their awareness of law enforcement challenges.

Para. 68

The Russian Federation has by no means sent "the strong message to the public that violence against women is acceptable" as the draft report asserts.

On the one hand, the law has partially decriminalised battery, but on the other hand, the earlier definition of battery has been split into two: under the Article 116 of the Criminal Code "Battery" and the Article 116.1 of the Criminal Code "Battery performed by an individual subject to an administrative punishment".

Simultaneously with the partial decriminalisation of criminal battery the Federal Law No. 326-FZ of July 3, 2016, introduced administrative punishment for battery to the Code of the Russian Federation on Administrative Offenses (Article 6.1.1.) The disposition of the Article envisages responsibility for battery or any other violent actions that caused physical pain without causing minor health issues if these actions constitute no criminal act. Such offense is punishable by an administrative fine from 5,000 to 30,000 rubles or administrative arrest for 10 to 15 days or compulsory community service from 60 to 120 hours.

Moreover, still criminalized are such first-time offenses as battery or any other violent actions that caused physical pain without causing minor health issues, if those have such features stipulated in the Article 116 of the Criminal Code that classify them as crimes (currently among those are: hooligan behaviour, political, ideological, racial, national or religious hatred or hostility, or hatred or hostility in regard to any social group).

Battery was partially decriminalised, but it is now also classified as a criminal offense if an offender has previously been punished under the administrative law for the similar act (Article 116.1 of the Criminal Code).

Thereby, the legislators have preserved intact the sufficient guarantees against physical assault.

Assessment of law enforcement practices leads to the conclusion that reclassifying such wrongful act as battery as administrative wrongdoing and tort has not diminished police efforts towards preventing grave and especially grave crimes against the person; it has rather become an effective tool for preventing grievous consequences of these offenses.

2017 saw a decrease by 18% (to 10,562) in a number of grave and especially grave domestic crimes, including homicides - by 17.5% (to 2,795) and intentional infliction of grievous bodily harm - by 18.2% (to 7,399). This positive trend continued in the first quarter of 2018. At the backdrop of a general decrease in the number of domestic crimes by 26.3% (to 23,929) their proportion among all recorded offenses dropped down to 5% (6.5% last year), while the number of grave and especially grave domestic crimes decreased by 18.8% (to 2,416), including homicides - by 21% (to 605), infliction of grievous bodily harm - by 18.4% (to 1,720).

Moreover, when battery was classified as an act punishable without regard to a victim's "wishes", the punishment for it became inevitable (administrative proceedings cannot be terminated due to an out-of-court settlement of the parties). For instance, 2017 saw a fivefold increase in the number of individuals held accountable (prosecuted or held administratively responsible) for battery compared to last year.

Assessment of statistics reveals that the overall number of offenses in the family or household has not increased. For instance, in 2017, the number of case files submitted to a court by a private person (major part related to infliction of bodily harm in the family or household (Articles 115 and 116 of the Criminal Code) decreased by 84.8% (from 362,057 to 54,854). At the same time, the number of thwarted offenses (administrative and criminal (Articles 115, 116, 116.1 of the Criminal Code and Article 6.1.1 of the Code of the Russian Federation on Administrative Offenses) accounted for 264,929, which is 60,274 less than previously (2016) recorded number of such files even with account of the same petitions sent to a court.

Qualification of battery as an administrative offence and substitution of imprisonment for administrative penalties without isolation from society have another positive implication. A first time offender will be held administratively responsible, in other words, will be given a chance to straighten up without criminal penalty and record. Furthermore, the introduction of administrative responsibility provided police with legal grounds for individual preventive work with individuals tolerating domestic violence.

Paras. 78, 79

As far as the recommendation not to allow for ethnic segregation is concerned, which argues against establishing the so-called Roma classes it should be noted that there no violations of Roma children rights for education have been recorded during the inspection by the prosecutor's office of the Russian Federation.

According to the Russian Census of 2010, Volgograd Oblast is home for 8216 (0,31%) Romanis. Educational establishments of the region accommodate over 1,500 under-age Roma students. Roma children study at the regular educational establishments, enjoy equal educational rights and opportunities in educational establishments, are provided with course materials, stationery and school meals. Roma children study in regular classes side by side with children of other backgrounds. Conditions of study and requirements are the same for all students. Under-age students participate in school-wide cultural events. For instance, educational establishments of Volgograd Oblast have extracurricular hobby clubs, where children are taught traditional Roma crafts: embroidering, sewing, plaiting, pottery making.

Administration of educational establishments has never requested Roma students to refrain from participating in back-to-school festivities. In 2017-2018, there were no appeals from parents (or legal guardians) received by the committee for education, science and youth policy of Volgograd Oblast on this matter.

By the end of the 2017-2018 academic year, 733 Roma students have attended the educational establishments of Volgograd Oblast. 493 of them have been attending hobby and sports clubs, including amateur-talent groups (singing, choir singing, dancing clubs) and craft clubs.

No instances of Roma children segregation have been recorded. No appeals alleging violations of the under-age Romanis rights have been lodged with the prosecutor's office.

Para. 96

According to the research provided by the Russian public opinion research centre (VCIOM) in November 2017, two-thirds of the Russian citizens expressed trust in the police (67% compared to 47% in 2016). 46% of citizens positively assessed the work of the police in their region (against 24% in 2016).

Paras. 98, 99

The ECRI's recommendation to set up a body independent of the police and the prosecution authorities competent to investigate all complaints against the police seems to be unfounded.

According to Paragraph 1 of Article 1 and Paragraph 2 of Article 4 of Federal Law No. 2202-1 of January 17, 1992 on the Prosecutor's Office of the Russian Federation (hereinafter referred to as Law No. 2202-1), the Prosecutor's Office of the Russian Federation is a single federal centralized system of bodies performing supervision over the observance of the Constitution of the Russian Federation and execution of the laws effective on the territory of the Russian Federation in the name of the Russian Federation, which acts independent of the federal bodies of state power, the bodies of state power of the subjects of the Russian Federation, local self-government and public associations. The Prosecutor's Office is authorized to deal with petitions, complaints and other applications containing information on violation of laws (Paragraph 1 of Article 10 of Law No. 2202-1).

Moreover, the Investigative Committee of the Russian Federation is entitled to handle criminal petitions concerning misconduct of the police officials. The Committee exercises its authority independent of the federal bodies of state power, bodies of state power of the subjects of the Russian Federation, bodies of local government, public associations and organizations as well (part 2 of Paragraph 1 of Article 5 of the Federal Law No. 403-FZ of December 28, 2010 on the Investigative Committee of the Russian Federation).

Paras. 100-102

Recognition that specific Russian Non-commercial organizations (hereinafter NCOs) perform the functions of foreign agents is explained by their involvement in the legal relationships related to receiving foreign funding and other property regulated by the Federal Law No. 7-FZ of January 12, 1996 on Non-Profit Organizations. To this end, these organizations are identified as specific political bodies acting on the territory of the Russian Federation.

Moreover, part 6 of Paragraph 3.2 of the Judgement of the Constitutional court of the Russian Federation No. 10-P of April 8, 2014, indicates that the obligation of a non-commercial organization performing functions of foreign agents to forward an application on inclusion in the register of noncommercial organizations performing functions of foreign agents does not hinder it to receive, both in the form of monetary means and one or other property, financial support from foreign and

international organizations, foreign citizens and stateless persons. Neither is it deprived of the possibility to participate in political activity carried out on the territory of the Russian Federation, and thereby is not put in a discriminatory position as compared with non-commercial organizations receiving no foreign financing. Therefore, placing on a non-commercial organization performing functions of foreign agents of the obligation prior to the beginning of political activity to forward an application on inclusion in respective register is aimed only at additional ensuring of transparency (openness) of such organization's activity and does not hinder it to apply for receipt financing and to receive it both from foreign and from Russian sources, as also means no differentiated attitude towards NCO participating in political activity, depending on goals, forms and methods of this activity.

The recommendation to remove the power to register organizations without their consent is not specified. It seems that the recommendation concerns part 3 of paragraph 7 of Article 32 of the Federal Law No. 7-FZ which stipulates that in case of identification of the NCO performing functions of foreign agents which did not forward an application on inclusion in the register of NCO's performing functions of foreign agents, envisaged by Paragraph 10 of Article 13.1 of that Federal Law, the authorized body includes such NCO in the register.

We believe that such regulation is based on the fact that the inclusion of the NCO in the register by the decision of the authorized body is acceptable only in case it is proved that the organization carries out political activities. At the same time, this provision is not considered as allowing arbitrary and unfounded decision by the authorized body to include NCO in the register of NCOs performing functions of foreign agents, since according to paragraphs 4.1-5 of Article 32 of the Federal Law No. 7-FZ, as well as the Regulation on federal state supervision of activities of NCOs (approved by the Order of the Government of the Russian Federation No. 705 of July 11, 2012) adopted on the basis of these provisions, this decision can be adopted only upon the results of federal state supervision of NCOs activities as provided.

In any case, the NCO inclusion in the register of NCOs performing functions of foreign agents does not entail any legal consequences such as the need to close down the NCOs.

Some NCOs performing functions of foreign agents decided at their own discretion to voluntarily close down either to express their discontent with the provisions of the Russian legislation on NCOs, or to avoid law and shirk responsibility for gross systematic non-compliance with the obligations imposed on NCOs performing functions of foreign agents to forward applications on inclusion in the register and mark publications.

According to the framework document of the Council of Europe, Fundamental principles on the status of non-governmental organizations in Europe of 2002, the competent supervisory authorities are entitled to request reports on the budget and activities of non-governmental organizations, check their financial statements, documents or activities, require them to disclose the percentage of their funds used for fundraising purposes. According to this document, the NGOs should generally have their accounts audited by an institution or person independent of their management.

Therefore, the provisions of the second part of Paragraph 3 of Article 32 of the Federal Law No. 7-FZ which require the NCOs exercising the functions of foreign agents to file with the authorized body the documents containing a report on their activities and on the personal composition of the governing bodies thereof once every six months, the documents on the purposes of spending monetary assets and of using other property, in particular those received from foreign sources, on a quarterly basis and an audit statement on an annual basis, is within the standards established by the Council of Europe.

At the same time, it is important to note that the requirement for compulsory audit of annual financial statements is provided not only for NCOs performing functions of foreign agents, but also for state corporations, state companies and structural units of foreign NGOs (third part of Paragraph 2 of Article 7.1, Paragraph 8 of Article 7.2, Paragraph 1 of Article 32 of the Federal Law No. 7-FZ).

Therefore, the statements contained in the draft report related to the registered NCOs performing the functions of foreign agents that are subject to additional onerous audits, are not true.

It is important to note that the Federal Law No. 7-FZ uses the wording "NCO performing functions of foreign agents" and not "NCO, a foreign agent". In public discussion there is a misconception which distorts the meaning implied by the law. The true meaning of the concept "NCO performing functions of foreign agents" is an NCO acting in the interests of foreign funders.

According to the legal position of the Constitutional Court of the Russian Federation (part 5 of Paragraph 3.1 of Judgement No. 10-P of April 8, 2014) the legislative construction of a NCO performing functions of foreign agents contemplates no negative appraisal of such an organization on the part of the State, is not expected to form negative attitude towards political activity carried out by it and thereby may not be regarded as manifestation of mistrust or wish to discredit such a NCO and (or) goals of its activity. In this regard there are no sufficient grounds for excluding the term "foreign agent" from the legislation of the Russian Federation.

The legislation of the United States of America also uses this concept. According to the Foreign agents registration act (FARA) of 1938 the term "agent of foreign principal" refers to any individual or legal entity, including NCOs, engaged in political activities in the US, public relations, collecting or distributing donations or lobbying federal agencies and officials in the interests of any foreign customer.

Paragraph 5 of Article 2 of Federal Law No. 7-FZ contains a detailed explanation of the term "political activity".

Moreover, in Russia the NCOs performing functions of foreign agents win competitions and receive presidential grants.

In these circumstances the assessments and conclusions contained in paragraphs 100-102 of the draft report seem unfounded and will be rejected.

Paras. 103-107

According to Articles 9, 13 of the Federal Law No. 114-FZ of July 25, 2002 "On combating Extremist Activities", the creation and activity of public or religious associations or other organizations whose objectives or activities are aimed at carrying out extremist activity are prohibited in the Russian Federation. The dissemination of extremist materials and also the production or storage of such materials with the aim of dissemination is prohibited on the territory of the Russian Federation.

In the event of violation by public or religious associations, other organizations or associations not registered as a legal entity, of the Constitution of the Russian Federation, federal constitutional laws or federal laws, the corresponding public or religious associations or other organizations shall be civilly liable or banned (wound up).

By the decision of the Supreme Court of the Russian Federation of April 20, 2017, the administrative claim of the Ministry of Justice of the Russian Federation was satisfied and pursuant to Article 9 of Federal Law No. 114-FZ the religious organization "The administrative centre of Jehovah's Witnesses in Russia" was liquidated due to extremist activities. The court also decided to liquidate all local religious organizations within its structure. Once creditors' claims were satisfied the remaining

property of a liquidated religious organization was turned over to ownership of the Russian Federation.

The above decision of the Supreme Court of the Russian Federation bans the activities of the religious organization of Jehovah's Witnesses, which does not provide for interference with the right to freedom of religion and de facto does not allow such interference.

In accordance with Article 3 of Federal Law No. 125-FZ of September 26, 1997 on the freedom of conscience and religious associations, the Russian Federation guarantees the freedom of conscience and faith, including the right to profess individually or jointly with others any religion or to profess no religion whatever, to hold church services, worships and ceremonies, teach religion and provide religious upbringing, to freely choose and alter, have and disseminate religious and other convictions, practice them including by establishing religious associations.

Citizens may practice any religion, exercise other rights prescribed by Law No. 125-FZ, provided they are exercised in compliance with these requirements and not under the authority of the banned organization.

As regards the deprivation of the parental rights and the resocialisation of children of Jehovah's Witnesses, the following facts were established. The Ruling of the plenary session of the Supreme Court of the Russian Federation No. 44 of November 14, 2017 on court application of legislation in resolution of disputes regarding the protection of rights and lawful interests of a child in view of a direct threat to the life or health of the child or during limitation or deprivation of parental rights clarifies that the abuse of parental rights entailing according to Article 69 of the Family Code of the Russian Federation the deprivation by a court decision of parental rights, should be understood as the use of those rights to the detriment of the interests of children (Paragraph 16).

Furthermore, resocialisation is understood as a set of social, economic, pedagogical and legal measures carried out by the subjects of prevention of the offences in accordance with their competence and persons participating in prevention of the offences with a view to reintegrate persons who were sentenced to imprisonment and (or) those who were subjected to criminal prosecution (Article 25 of Federal Law No. 182-FZ of November 14, 2017 on the main principles of the system of prevention of offences in the Russian Federation of November 14, 2017).

Paras. 112-113

The draft report states that since there is no comprehensive anti-discrimination legislation, some other legislation, for example, in the field of employment, should ensure protection of LGBT persons from discrimination.

In this regard it should be noted that the labour legislation of the Russian Federation prohibits discrimination on any grounds and circumstances that are not related to professional qualities of the employee. According to Article 3 of the Labour Code of the Russian Federation no one can be constrained in his/her labour rights and freedoms or get any advantages irrespective of sex, race, colour of skin, nationality, language, origins, property, social or position status, age, domicile, religious beliefs, political convictions, affiliation or non-affiliation with public associations as well as other factors not relevant to professional qualities of the employee. An open list of provisions prescribed by the law prohibits discrimination not only on the grounds listed, but also on other grounds, including sexual orientation and gender identity, therefore there are no reasons for amending Article 3 of the Labour Code of the Russian Federation.

With regard to recommendation to amend the health legislation of the Russian Federation, we inform of the following.

In Section 2 of Article 5 of the Federal Law No. 323-FZ of November 21, 2011 on the main principles of protection of public health of the Russian Federation it is stated that the state guarantees the citizens health protection regardless of gender, diseases, beliefs, membership in public associations and other circumstances. This list is publically available.

In this regard, the current legislation enshrines the necessary standards aimed at protecting persons of so-called non-traditional sexual orientation from discrimination. Taking into consideration that this list is publically available, regardless of which the citizens' rights are protected and exercised, the inclusion of such grounds as sexual orientation and gender identity in this list does not seem necessary. The ECRI draft report does not provide convincing argumentation to specify the relevant grounds by amending the list, because of the problems arising from the absence thereof.

Paras. 114-119

Information regarding the prohibition to promote non-traditional sexual relationships among minors was given above.

Moreover, according to Part 1 of Article 38 of the Constitution of the Russian Federation, maternity and childhood, and the family are protected by the state.

Pursuant to the constitutional duty of the state to protect the rights of minors and its priority to prepare the children for life in society, teach high moral values and educate citizenship, the Federal Law No. 124-FZ of July 24, 1998 on basic guarantees of children's rights in the Russian Federation establishes the basic guarantees for the protection of rights and legitimate interests of the child in order to create legal, social and economic conditions for their realization, including obliging public authorities of the Russian Federation to take measures to protect the child from information, propaganda and agitation that can cause harm to his health and moral and spiritual development.

Constitutional priorities on the protection of the family, maternity and childhood are also specified in the Federal Law No. 436-FZ of December 29, 2010 on protecting children from information harmful to their health and development, which regulate relations related to the protection of children from information harmful to their health and (or) development, including information contained in the information products.

According to Article 5 of Federal Law No. 436-FZ, information harmful to health and (or) development of children is that related to the promotion of non-traditional sexual relationships and denial of family values.

With respect to the protection of rights and legitimate interests of the child, prohibiting promotion of non-traditional sexual relationships among minors at the administrative level is considered as a means to protect his rights the introduction of which is called to prevent negative information influence from the outside.

According to part 1 of Article 6.21 of the Code of Administrative Offences, liability for promoting non-traditional sexual relationships among minors comes in the event of dissemination of information aimed at developing non-traditional sexual attitudes among minors, promoting the attractiveness of non-traditional sexual relationships, creating a distorted image of the social equivalence of traditional and non-traditional sexual relationships, or imposing information about non-traditional sexual relationships that leads to arousing interest in such relationships, in case these activities do not contain acts punishable under criminal law.

Moreover, we note that Article 5 of the Federal Law No. 436-FZ and part 1 of Article 6.21 of the Administrative Code of the Russian Federation ban the promotion of non-traditional sexual relations among minors in order to protect children from information harmful to their health and development and preserve family values.

Para. 122

The Russian authorities are recommended to fully implement the judgment of the European Court of Human Rights in the case of *Alekseyev v. Russia* and ensure that LGBT persons' right to freedom of assembly is respected.

With regard to this case the Russian Federation adopted an Action Plan on April 10, 2015. In order to improve existing mechanisms of the protection of human rights additional measures were introduced aimed at reforming the legislation. In particular, the Code of administrative judicial procedure of the Russian Federation was adopted in order to ensure, among other things, that courts promptly review appeals against decisions, activities (inaction) of state authorities to fix up the venue of public events before the planned date.

fin423/2018