



## ARTICLE 19'S STATEMENT ON PROPOSED AMENDMENTS TO THE RUSSIAN EXTREMISM LAW

July 2006

ARTICLE 19, the Global Campaign for Free Expression, is extremely concerned that Russian MPs adopted in the first reading draconian amendments to the 2002 Law 'On Counteracting Extremist Activity' on 28 June 2006.<sup>1</sup> If adopted, the amendments would increase the list of categories of 'extremist' activity punishable by law, which includes:

- defamation of public officials, relating to accusations of the commitment of a serious crime;
- actions "impeding the legal activities" of the federal authorities, "linked to violence or threat of violence".

The proposed amendments are contrary to the Russian Federation's obligations under international law, and would have an adverse effect on the free flow of information. The likely detrimental effect of the restrictive amendments is particularly worrying in light of the upcoming parliamentary elections in 2007.

The proposed provisions are vague and overly broad, which leaves them open to interpretation and potential abuse. They could be used to interpret legitimate criticism of public officials, including the media's reporting of corruption and maladministration, as 'extremist activity', and lead to closure of media outlets. According to international law, restrictions to right to free expression are only legitimate when it can be shown that they are absolutely 'necessary in a democratic society'<sup>2</sup>. Closure of media outlets for defamation of public officials is also a grossly disproportionate response.<sup>3</sup> The media should be able to report on matters in the public interest including the exposure of wrongdoing by the authorities: this enhances the accountability of public officials through greater scrutiny and information on their actions. For this reason, the European Court of Human Rights has stated that public officials should tolerate a *higher degree* of criticism than ordinary citizens,<sup>4</sup> whilst also noting that defamation laws that grant public figures special protection are

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<sup>1</sup> Federal Law 'On the Introduction of Changes to Article 1 of the Federal Law on Counteracting Extremist Activity'.

<sup>2</sup> Article 10 of the European Convention of Human Rights

<sup>3</sup> Defining Defamation: Principles on Freedom of Expression and Protection of Reputation, ARTICLE 19, London, July 2000, Principle 4.

<sup>4</sup> See *Lingens v Austria*, Judgment of 8 July 1986, Application No. 9815/82 (European Court of Human Rights), paras 45.

“liable to hamper the press in performing its task as purveyor of information and public watchdog”.<sup>5</sup>

Restrictive provisions such as those in the proposed amendments also have a ‘chilling effect’ on independent voices and the media, which adversely restricts the free flow of information and the public’s right to know. This right is even more significant during elections periods, as it is the only route to an informed electoral choice. The proposed provisions could also be used to interpret legitimate political activities as ‘extremist’, thereby hindering opposition parties before next year’s parliamentary elections. There is already a worrying precedent: a ban was placed on the Rodina Party during the last Moscow city elections for broadcasting an overtly racist political advertising. Although the broadcast was certainly offensive, the total exclusion of this party from the normal political processes was a disproportionate response.

We are aware of the Russian authorities’ statement that these measures were initiated with the sole purpose of containing ultra-nationalism. Politically-motivated violence and incitement to religious and ethnic hatred are certainly a threat to the security of a country and its minorities. However, legitimate prohibition on incitement to violence is already covered under provisions on extremism in the Criminal Code - Article 280(2) on ‘public calls to commit extremist acts’ and Article 282, prohibiting incitement to hatred on the grounds of ethnic origin, religion, or affiliation to a certain group. Therefore, the proposed amendments are at best superfluous, and certainly not in conformity with internationally-recognised principles relating to freedom of expression and national security. In the Explanatory Note to the proposed amendments, it is clearly stated that public speeches that “lead to the *possibility* of extremist activities” can be considered forms of extremism [italics added]. International standards limit restrictions to free expression on the grounds of national security to cases in which the expression is intended to incite violence and there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence. This principle has been endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression,<sup>6</sup> as well as by the European Court of Human Rights<sup>7</sup> and many national courts.<sup>8</sup> Criminalising incitement that *might* lead to extremism activity or to the *possibility* of violence would constitute a failure by the Russian Federation to comply with its obligations under international law.

We therefore call you upon the Russian government to:

- Immediately abandon consideration of the proposed amendments to the Law ‘On Counteracting Extremist Activity’;
- Ensure that the existing provisions on incitement to extremist activity are implemented in a fair manner, through processes independent of political considerations.

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<sup>5</sup> *Ibid*, para. 44.

<sup>6</sup> See UN Doc E/CN.4/1996/39, 1996, para. 154. See UN Doc. E/CN.4/1996/53, 1996, Preamble, for a statement on this by the UN Commission on Human Rights.

<sup>7</sup> See *Karatas v. Turkey*, 8 July 1999, Application No. 23168/94, paras. 50-52.

<sup>8</sup> See, for example, *Athukoral v. AG*, 5 May 1997, SD Nos. 1-15/97 (Supreme Court of Sri Lanka) and *Secretary of State for the Home Department v. Rehman* [2001] UKHL 47 (United Kingdom House of Lords).