



## VIOLENT HATE CRIME IN THE RUSSIAN FEDERATION

### Introduction

1. This report is a submission by Human Rights First to the Office of the High Commissioner for Human Rights (OHCHR) for consideration in its summary of stakeholder submissions for the Russian Federation's appearance before the fourth Universal Periodic Review session, scheduled from February 2-13, 2009.
2. This submission is consistent with the guidelines approved by the Human Rights Council and the Civil Society Unit of the OHCHR. This submission focuses primarily on the situation of **hate crimes** in the Russian Federation, which is of particular relevance to sections I.(C), I.(F), and I.(G) of the Human Rights Council's Guidelines, and to sections 7 (c), (f), and (g) of the Civil Society Unit's Guidelines.

### Executive Summary

In addition to the recommendations contained in the final section, this submission makes the following key points:

3. Hate crimes – acts of violence targeting individuals on account of their race, religion, ethnicity, sexual orientation, or other similar attributes – have been a growing problem throughout the Russian Federation. The number of hate crimes in Russia continues to grow steadily, with 2008 on track to be another record-setting year.
4. The government response to this serious problem has been inadequate. Government officials have on occasion publicly spoken out against racist violence in general, and on individual cases of hate crimes, but with little apparent follow-through. Just as often, officials have sought to downplay the scale of the problem. No official statistics on the incidence of hate crimes and their prosecution are systematically collected and regularly reported by Russian criminal justice authorities, suggesting indifference to the problem. And despite the relatively sound legal basis with which to address hate crimes as the more serious crimes that they are, those responsible for hate crimes operate with relative impunity.

### Violent Hate Crimes – Serious Human Rights Abuses

5. Violent attacks on individuals on account of their race, ethnicity, religion, national origin, sexual orientation, gender, disability, or other similar attributes, or a combination thereof are serious abuses of the rights to life, liberty and security of the person, threatening the equal enjoyment of fundamental rights and freedoms. States have an obligation to respond to such abuses by recording, adequately investigating bias motives and prosecuting the perpetrators of these abuses, thereby prohibiting discrimination and upholding the equal protection of the law in accordance with the Universal Declaration of Human Rights and state obligations under the International Covenant on Civil and Political Rights.
6. In its 2005 judgment in the case of *Nachova and Others vs. Bulgaria*, the European Court of Human Rights for the first time noted that the states “have the additional duty to take all

reasonable steps to unmask any racial motive and to establish whether or not ethnic hatred and prejudice may have played a role in the events.” Two other subsequent decisions in 2007 – Angelova and Iliev vs. Bulgaria and Šečić vs. Croatia made similar points regarding cases of racially-motivated violence.

### **The Extent of Violent Hate Crime in Russia**

7. Hate crimes against members of ethnic, religious, and national minorities have been a growing problem throughout the Russian Federation. Hate attacks are a daily occurrence in many parts of Russia.
8. The number of violent hate crimes against individuals in Russia continues to grow steadily, with 2008 on track to be another record-setting year. NGO monitors remain the most reliable source of information for tracking individual cases and detecting year-on-year trends. According to the leading nongovernmental monitor of hate crimes, the SOVA Center, in 2007 there were at least 667 victims of racially motivated violence, including 86 murders. A similar incidence of attacks has continued in 2008, with an increase in the number of murders. Through the first eight months of 2008, there have been 65 racist murders and hate-based attacks on at least 318 people.
9. The SOVA Center has recorded violent hate crime cases in nearly 40 regions of the Russian Federation. Thus, while Moscow and St. Petersburg continue to be the two cities where the most hate crimes are occurring, the problem of racially-motivated and other forms of violence is widespread.
10. Although cases of racist murders and serious assaults are likely to generate some attention by the media and may be recorded by nongovernmental monitors, the day-to-day low level harassment is thought to be widely under-reported. Victims of hate crimes are often members of vulnerable minority groups and fear risking further discrimination, harassment, and abuse at the hands of law enforcement officials. Given that most hate crime victims in Russia are consequently reluctant to inform police or authorities for fear of official indifference or retribution, many crimes go unreported every year. Thus it is believed that even the most credible nongovernmental figures on hate crimes are very low in comparison to the actual number of hate crimes occurring in the country.

### **The U.N. Special Rapporteur on Racism’s Assessment**

11. According to a March 2006 report by Doudou Diène, the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the environment of racism and intolerance in the Russian Federation is indeed grave. Diène concludes:

While there is no State policy of racism in the Russian Federation, the Russian society is facing an alarming trend of racism and xenophobia, the most striking manifestations of which are the increasing number of racially motivated crimes and attacks, including by neo-Nazi groups, particularly against people of non-Slav appearance originating from the Caucasus, Africa, Asia or the Arab world.

12. Diène also mentions that despite increased state awareness of the problem, racist violence continues to occur unabated:

Despite recent statements at the highest State level acknowledging the existence of racism, racial discrimination and xenophobia, a considerable increase of prosecutions and convictions including racial hatred as a motivating factor, and a greater presence of police in certain areas, most human rights organizations share the conviction that authorities are not properly addressing the situation and that major pressing efforts need to be carried out, both in the political, legal and cultural fields, to develop an effective and comprehensive strategy at federal level to combat racism, racial discrimination and xenophobia.

### **The Victims of Hate Crimes**

13. There is a wide group of individuals who are victims of hate crimes in Russia. Migrants from the former Soviet Union countries, particularly the Central Asian states, continue to make up the largest number of victims of everyday harassment. People of African origin have been subjected to some of the most persistent and serious attacks and are subject to everyday threats of violence. Attacks on the Jewish community build on deeply rooted antisemitism that has found new voices, while Russia's scattered Roma face violent attacks as part of longstanding patterns of discrimination and social marginalization by both the state and civil society. In addition to "visible" minorities, identified through their skin color, culture, or language, bias crimes target members of religions that are considered "non-traditional," from Jehovah's Witnesses to Baptists, Roman Catholics, and Hare Krishnas. Those whose minority status is due to their sexual orientation also have become targets of bias-based violence. Efforts to organize gay pride parades have been marred since 2006 by official bans, hostility from the city authorities, violent counter-demonstrations, and poor police protection.
14. In addition to those who are victims of hate crimes because of their identity, victims of hate crimes have included those who are taking action against racism and intolerance. Human rights activists and anti-racism campaigners, including young people who speak out against racism through music and groups that call themselves anti-Fascist, have engaged in growing protests against extremist violence and are increasingly themselves the victims of counter-protestors. The perpetrators of such crimes identify these people with the minorities who are the object of their hatred.
15. Attacks on places of worship and cemeteries have also continued to occur across Russia. In 2007, almost every religious denomination in Russia was subjected to acts of vandalism and serious property damage. The Russian Orthodox Church has suffered the most, being the largest organized religious group in the country; although proportionately, Jewish and Muslim organizations were more frequently the targets of vandals. Baptists, Pentecostals, Mormons, and Jehovah's Witnesses, experienced similar problems. Overall, no religious organization operating in the Russian Federation is safe from attacks, robberies, neo-Nazi graffiti, or cemetery desecrations. Many sites are vandalized multiple times, reflecting a lack of security and deficiencies in police protection.

## **The State's Failure to Adequately Address Hate Crimes**

### **The Lack of Official Monitoring and Reporting**

16. No official statistics on the incidence of hate crimes and their prosecution are systematically collected and regularly reported by Russian criminal justice authorities, suggesting indifference to the problem. The continued absence of detailed and systematic monitoring and statistical reporting on hate crimes, including data distinguishing the groups targeted for violence, seriously hampers the capacity of Russian authorities to understand the true nature of the problem and to render corresponding policy decisions aimed to combat such violence. A result is an inadequate preparedness and response by the Russian authorities to the growing problem of racist violence.
17. The Interior Ministry publishes annual figures on crimes in the Russian Federation. There is, however, no separate reporting on crimes carried out with a bias or hate motivation or break down of data on particular crimes in order to distinguish victims from different population groups. The Interior Ministry's annual report includes data on crimes "of an extremist nature" that to some extent overlaps with the concept of hate crime. However, the Ministry's concept of crimes "of an extremist nature" is vague and over-reaching. Without a further breakdown in their statistical reporting, the Interior Ministry data on crimes of an extremist nature provide only a limited barometer of trends in bias-motivated violence.

### **Limited Recourse for Hate Crime Victims**

18. Official bodies dealing with human rights – such as the Human Rights Ombudsman - have limited influence and are generally unable to intercede on behalf of an individual in a case of racist violence. The most recent annual report by Russia's Ombudsman Vladimir Lukin omitted the issue of xenophobia and hate crimes.
19. There is no specialized anti-discrimination body in Russia with a specific mandate to monitor and report on hate crimes and which could recommend policy changes to better address racist violence.

### **The Inadequate Criminal Justice Response**

20. Violent crimes (racist or not) are punishable by the Russian criminal code. Russian laws also allow for enhanced penalties in hate crime cases. The Russian criminal code contains a general penalty enhancement provision for "the commission of crimes with a motive of ideological, political, national, racial, religious hate or enmity or hatred and enmity toward some social group." Several other articles of the code provide specific enhanced punishments for particular crimes committed with these motivations.
21. Yet, according to data collected by NGO monitors, those responsible for violent hate crimes operate with relative impunity. Criminal laws to punish hate crimes do not appear to be systematically applied and bias motivations figure in prosecutions only in a fraction of such cases. Although prosecutions for the most serious crimes have increased in number, even serious racist assaults are still often prosecuted as acts of "hooliganism" and many violent attacks causing serious injury fall outside of the criminal justice system altogether.
22. Although there had been a steady increase between 2004-2006 in the extent to which hate crimes had been recognized and prosecuted as such, 2007 marked a step back in that respect: there were

33 convictions in 2006 and only 24 in 2007. In general, the number of prosecutions pale in comparison to the increasing frequency in which the crimes are being committed.

### **Recommendations for Combating Hate Crimes in Russia**

23. We appeal to the Universal Periodic Review to make the following recommendations in its outcome document:
- Senior government officials should speak out to publicly condemn crimes of racist violence and other violent bias crimes whenever they occur, and take action to ensure that such crimes are thoroughly investigated, perpetrators prosecuted, and bias motivations are taken into account in the investigation and prosecution.
  - Law enforcement and criminal justice agencies should publicly commit to investigate allegations of bias motives in specific violent hate crimes, and to provide regular public updates into the investigation and prosecution of such crimes.
  - Criminal justice officials should undertake a more systematic application of available criminal law provisions that allow for enhanced penalties when a crime has been determined to have been motivated by bias.
  - Police and prosecutors should be trained in identifying, recording and investigating bias motivations, and in bringing evidence of bias motivations before the courts.
  - Law enforcement officials should work together with victims, their communities and civil society groups to increase the confidence of hate crime victims to report crimes to the police.
  - The Interior Ministry should seek to disaggregate current data on crimes “of an extremist nature” so as to report separately on violent crimes motivated by bias. Statistics should provide data disaggregated to distinguish the various forms of bias recorded.
  - The Russian authorities should establish an official and independent anti-discrimination body in line with Council of Europe recommendations. This body should provide oversight over the monitoring and reporting of hate crimes. Such a body must be mandated to work closely with the Interior Ministry, the General Prosecutor’s Office and other bodies concerned with the registration, investigation, and prosecution of hate crimes.