

The problems of improving the legal framework in combating extremism

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Abstract. This research paper explores the importance of legal definition of the terms “extremism” and “extremist activities”. It reviews a few specific measures announced and adopted by some European countries with extensive counterextremism experience. In the final section, a number of concluding thoughts and recommendations are offered, which express the researchers’ view of combating extremism by improving the legal framework.

The term “extremism” (Lat. *Extremus*- extreme, utmost) means the advocacy of extreme measures or views mostly in a political sense. The Parliamentary Assembly of the Council of Europe (PACE) provides its own definition of extremism: “extremism is a form of political activity that directly or indirectly rejects the principles of Parliamentary democracy” [2]. The contemporary world perceives extremism and the efforts to counter it as multidimensional problems that require multidisciplinary solutions and scientific works referring to the nature, peculiarities and ways of forming extremist groups. Extremism perpetrated in contemporary Russia and threatens political, economic and cultural values of the society. Vocal extremists spread religious, national and ethnical rhetoric into political sphere and use it as a tool for causing a conflict; therefore, extremism is a threat to the homeland security. The ideology of extremism can be defined as a range of radical ideological viewpoints and theoretical views (far-left politics, far-right politics, national-extremist, separatist, great- power, religious, social-economic and spiritually psychological) that form theoretical basis for illegal use of violence in different forms in order to achieve political targets.

Nowadays extremism is considered to be one of the main sources of national security in the sphere of state and social security. All states must urgently draw conclusions and make realistic assessment of possible security gaps and take steps as a matter of priority to improve law regulation. Extremism is a global problem of the whole mankind, because it contains diverse forms and different groups, gives birth to its new forms and has a global nature, different social organizations (religious and secular) and even (in different periods of time) whole states and their alliances.

Considerable immigration to European countries led to much critics and the growth of far-right extremism. These facts are the evidence that multiculturalism failed in European countries. A German researcher Klaus von Beyme distinguished three periods in the

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development of far-right movement after the World War II. Its third wave emerged on the basis of immigration problems and was inspired by “counter immigrant rhetoric”. Klaus von Beyme thinks that this wave was the most considerable and successful because the far-right movement became legitimate and a part of political system together with other existing political parties [1]. Many European countries introduced regulations “preventing the rise of extremist” to address shortcomings in their legislation. The United Kingdom adopted the law “On Preventing Terrorism” in March, 2005. This law involves the issues of extremist activity. The Government passed a Program “Preventing Violent Extremism” after terror attacks in London (April, 2007) in order to tackle the spread of extremist ideas. The Program is based on the principle of “Four P” i.e. prevention, prosecution, protection and preparation [2]. One of measures for preventing extremism according to this act is the entry ban to the UK to persons who were seen or suspected of extremism or propagated illegal and socially hazardous actions.

The Czech Republic is improving its national legislation concerning ways to combat extremism and its prevention. In particular, the criminal liability is strengthened for commitment crimes related to political viewpoints of the victim, his/her race, nationality, ethnicity, religion or the lack of religious belief of the victim [3].

In 2011, the European Commission launched a European network to inform about facts of radicalization (Radicalization Awareness Network, RAN). The main task of the network is to exchange information about extremism and practices of encounter extremism among member countries. Over 700 experts from different fields of activity (educators, social workers, policemen, religious leaders, scholars and others) comprise this network and locally identify at-risk persons who are prone to join extremist movement and terrorist organizations [4].

The legislation of the Russian Federation targeted to counter extremism is based on the statements of the Constitution of the Russian Federation, in conformity with common principles and norms of international law and is a well-established system of federal and regional regulations which define lawful and organizational basis for countering extremist activities and determines measures of liability for its commitment.

The first time that the concept “extremism” was introduced into the Russian law was the signing of the Convention of the Shanghai Cooperation Organization under the title “On Countering Terrorism, Separatism and Extremism” in June, 15 2001 [5]. The problem of extremism was introduced for the first time in official regulations by the Decree of the President of the Russian Federation from October, 28 1992 saying that “recently some groups launched their activity trying to achieve extremist political targets by unconstitutional acts aimed to cause disorder and destabilize the situation in the society, and creating unconstitutional structures and illegal paramilitary groups” [6].

At present, there are more than twenty federal laws concerning the problem of counter extremism. They are part of a special regulation commonly known as counter extremist regulation. Its nature means that it is a branch regulation aimed to regulate relations in a certain area.

Its core law is the Federal law from June, 15 2002 №114-FL “On Preventing Extremist Activity” which unites the Russian counter extremist regulations [7]. The law identifies the concept of “extremism”, which is a synonym to extremist activity. Article 1 of the above mentioned law gives definition of extremism but it is not a definition in its strict scientific sense because it lacks the description of this social phenomenon and focuses on listing its forms. This law on extremism involves not only acts prosecuted by criminal law but also some other wrongful acts, for example “propaganda and public demonstration of Nazi memorabilia or symbols, similar to Nazi memorabilia or symbols to the extent of their mixture” but also gives a broader interpretation of the definition of extremism than it was

defined in the Shanghai convention on countering terrorism, separatism and extremism from June, 15 2001.

In other words, the law defines the concept of “extremism” by listing extremist acts. The reason is that the Law is directed primarily towards the law enforcement agencies for which listing of acts are more important than a scientific definition of the concept. The employment of extremist activity by citizens of the Russian Federation, foreign citizens and persons without any citizenship will give rise to criminal, administrative and civil liability under the established order by the regulations of the Russian Federation. Aiming to ensure state and social security on the basis and in order provided by the federal law a person who was engaged in extremist activity will have a limited access to state or municipal services, contract military service or service in law enforcement agencies, as well as to work in educational institutions, private detective or security activities according to the court’s decision. A person who broke the law and was engaged in extremist activity can face the following measures:

1. Notification of inadmissibility of extremist activity;

2. Warning of inadmissibility of extremist activity or spread of extremist papers through means of mass media;

3. Elimination or injunction to employ any activity. These measures are applied on the foundation of court decision on application of the Prosecutor General or a prosecutor subordinate to the Prosecutor General.

4. Suspension of activity. The decision to suspend the activity may be appealed in a judicial procedure.

It needs to be underscored that the lawmakers failed to restrict extremist activity from similar activity having socio-political nature. As a result, law enforcement agencies treat extremism extensively. The State Duma adopted one more law in July 6, 2007. It is relevant to the topic of extremism- the Federal Law №211 “On introduction changes in some laws of the Russian Federation in accordance with the implementation of state management in the sphere of combating extremism.” The definition of “extremism” has become wider and the range of potential “extremists” has also widened. Law enforcement agencies have also widened their practices.

The following table is drawn on the basis of data from the Ministry of Internal Affairs (Russia) and it shows the dynamics of registered crimes having extremist nature from the period of 2008 up to 2017 [8].

2008r.	2009r.	2010r.	2011r.	2012r.	2013r.	2014r.	2015r.	2016r.	2017r.
460	548	656	662	696	896	1024	1306	1475	1521

The Prosecutor General’s Office of the Russian Federation published data on “extremist and terrorist” crimes in its site of legal statistics in January, 2018. According to the data of the Prosecutor General’s Office the number of extremist crimes was 1521. The number has grown in comparison with the year 2016 (1450 crimes were registered in 2016). Most crimes were registered in the Republic of Dagestan- 87 crimes. Moscow had fewer crimes (78). Sverdlovskaya and Moskovskaya regions registered 62 crimes. The Republic of Crimea registered 26 crimes. Sevastopol had 10 crimes.

The total of 972 extremists were identified in 2017. Moscow and Moscow Oblast (region) had the biggest number of them – 48 and 47, respectively. Krasnoyarsk Krai (region) identified 44 extremists. The Republic of Tatarstan and the Republic of Dagestan identified 28 persons involved in extremist crimes, and Chelyabinsk oblast (region) had 26 persons [9].

But the data of the Prosecutor General’s Office failed to show the number of sentences passed during a year period. It is unclear what articles of the Criminal Code were taken into account in the statistics by this department.

Thus, the number of registered extremist crimes has grown four times during ten year period despite strengthening measures to combat extremism. Is it worth speaking about efficiency of our regulations and efficient activity of law enforcement agencies?

Cases concerning extremism are often linked with limitation of fundamental freedoms such as freedom of speech, freedom of thought and freedom of religion. These limitations should correspond to a criterion as “the need of democratic society”. The unclear nature of key concepts of extremism gives an opportunity for law enforcement agencies to view them differently. Neither Article 1 of the Federal Law “On Preventing Extremist Activity” containing the definition of extremism nor other articles of this law give an exact and strong definition of “extremist activity”, “extremism”, “extremist materials” and “social groups”. The Criminal Code of the Russian Federation contains Article 282 “Raising hatred or enmity, as well as humiliation of human dignity”; Article 282 paragraph 1 “Organization of extremist community”, Article 282 paragraph 2 “Organizing activity of extremist organization”, article 282 paragraph 3 “Financing extremist activity”. These articles give the description of objective side of the crime but the Criminal Code of the RF lacks the definition of the concept extremism. Some researchers wrote that 547 “In practice, combating with extremism provides measures which are applied to all dissidents and these measures are similar to the ones which were used by Bolsheviks. Those measures encouraged murdering of the most intelligent and educated Russian people. Those measures involved: chasing, collection of comprising evidence, provocation, and physical impact up to a direct elimination” [10].

Outstanding characteristics of modern stage of the development of regulations combating extremism and covering the period of time from 2000 up to the present time are the following: formal consolidation of the concept extremism in legislation; legislative consolidation of liability for extremist activities; the established system of counteraction to extremism as an illegal phenomenon.

I.V. Uporov said that the legislative uncertainty shows “the state’s support of international conventions in this sphere but it lacks awareness on which legislative norms to base combating with extremism within the homeland” [11, p.244]. Besides, the present version of the Federal law №114- FL focuses primarily on the security of the state but the problem of security of citizen and society is sidelined.

This uncertainty encourages the decisions on extremist activity to be taken on the basis of “expertise”. Commissioner for human rights (Ombudsman) in his report for the year 2008 noticed that the role of expertise in cases concerning extremism is unnecessarily exaggerated and indicated that it leads to dispersion of responsibility for judicial decisions [12].

The analysis of judicial practice reveals that common manifestation of extremism is the form of hidden reaction of local people permanently residing in one area to considerable migration, to the emergence of competing labor force who agrees to work for low wages. Recently some facts have been transpired about committing crimes related to extremism under the influence of competition on the labor market in the Russian Federation. L. I. Haliullina thinks that this thesis is confirmed by the concentration of the largest number of crimes against migrants in advanced economic regions of Russia where there is a demand for labor force and because these regions are more attractive for migrants. “Competitive pressure” from migrants is felt in the so called sphere of “criminal employment”. Crimes related to extremism are widespread, and they are committed against a social group which is often named in sentences as “migrants” or “immigrants”, but attention is focused not on their nationality or religion but on “foreignness” of these persons [13].

The law must rigorously separate extremism from similar to it socio-political activity, which is not banned or prosecuted by the law otherwise combating extremism can turn into suppression of dissidents and any opposition activities.

The investigation of Russian and foreign practice of organizational and legitimate activity employed by different state and civil forces in the sphere of combating extremism gives evidence that its efficiency depends on several factors. Here is a summary of the main factors:

- Political will of the leaders who are interested in working out an effective policy of countering extremism in individual countries and in the world community;
- Rigorous regulatory framework (delimitation and specification on theoretical and methodological level of the definition “extremism”, “xenophobia”, “racism” and others);
- Proper qualification of the staff, creation of additional responsible structures, precise cohesion of actions and coordinated efforts of all parties;
- Formation of civil society;
- Proper financing and technical support (appliance of the newest technology);
- Creation of fruitful business relations and close interaction between state and civil structures on national and international levels in the sphere of combating extremism [10].

Thus, the main problem of the Russian counter extremist legislation is the lack of common understanding of the phenomenon extremism and crimes related to extremism. The presence of contradictions in the context of the concept “extremism” causes problems with the defining criteria of crimes related to extremism and its separation from similar actions. The above mentioned problems advocate the need to work out a single unified definition of “extremism” covering basic characteristics and helping to identify this phenomenon on national and international levels. Development of effective measures for combating extremism will not be performed without a proper legislation. In order to improve the efficiency of counteraction against crimes related to extremism, it is essential to fix on legislative level in the framework of the Article 1 of the Federal Law from June 25, 2002 № 114-FL “On Preventing Extremist Activity” the definitions of “extremism” and “crimes related to extremism”.

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