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*Joint submission to the Universal Periodic Review of the
Russian Federation by ARTICLE 19, Mass Media Defence Centre, OVD-Info,
PEN International, Roskomsvoboda, and the Sova Centre*

*For consideration at the 30th Session
of the Working Group in May 2018*

9 October 2017

Executive Summary

1. The submitting organisations welcome the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of the Russian Federation (Russia). This submission addresses the situation for the right to freedom of expression and information, and associated rights, focusing on the following issues:
 - Legislation primarily used to restrict freedom of expression
 - Freedom of expression online
 - Media freedom
 - Safety of journalists
 - The operating environment for NGOs
 - The right to peaceful assembly
 - Discrimination on the grounds of sexual orientation and gender identity
 - Freedom of expression in Occupied Crimea.
2. During its last review in 2013, Russia received multiple recommendations regarding freedom of expression, and none have been implemented. Instead, the government has enacted a series of restrictive laws and pursued policies that gravely violate the right to freedom of expression, particularly targeting political opposition and civil society.

Legislation primarily used to restrict freedom of expression

3. During its 2013 UPR, Russia noted recommendations to remove legislation and regulations which limit the legitimate exercise of the right to freedom of expression,¹ and to review its extremism legislation in terms of actual use of violence.² However, existing restrictive legislation remains in place and numerous new laws severely restricting freedom of expression have been passed.
4. The “Yarovaya Package” was approved 6 July 2016, consisting of two Federal Laws amending over 21 existing laws.³ Justified on the grounds of “countering extremism”, the amendments are broadly framed and allow arbitrary application, severely undermining the rights to freedom of expression, privacy and freedom of religion or belief. The majority entered into force on 20 July 2016, including to:
 - Article 205.2 of the Criminal Code, introducing prison terms of up to seven years for publicly calling for or justifying terrorism online;
 - Article 212.1 of the Criminal Code (“Mass Disorder”), proscribing “convincing, recruiting or engaging” of a person into “mass disorder”, and punishable by up to 10 years’ imprisonment;
 - The Laws on Communication and Internet, obliging communications providers and internet operators to store information about users’ communications activities from 20 July 2016, and to store all content of communications from 1 July 2018. Information must be stored for least six months, and made accessible to the security services without a court order. Operators are required to disclose means to decrypt encrypted data at security services’ request, and only use encryption methods approved by the government (effectively imposing mandatory cryptographic backdoors). Administrative sanctions for noncompliance were further introduced. Although the feasibility of implementing these provisions is unclear,⁴ their existence has a chilling effect on the exercise of the right to freedom of expression, and violates the right to privacy of internet users.
 - The Law on Religious Associations, prohibiting, *inter alia*, proselytizing, preaching, praying, or disseminating religious materials outside “specially designated places,” such as the buildings of

¹140.151 (Norway)

² 140.26 (United States of America)

³ (1) Russian Federal Law 375-F3 dated July 6, 2016 ‘On Making Changes into the Criminal Code of the Russian Federation and into the Criminal Procedural Code of the Russian Federation in Part Establishing Additional Measures On Counteracting Terrorism and Ensuring Public Safety’

http://www.consultant.ru/document/cons_doc_LAW_201087/

(2) Russian Federal Law 374-F3 dated July 6, 2016 ‘On Making Changes into the Federal Law on Counteracting Terrorism and Separate Legal Acts of the Russian Federation in Part Establishing Additional Measures On Counteracting Terrorism and Ensuring Public Safety’

http://www.consultant.ru/document/cons_doc_LAW_201078/

⁴ICNL, ‘Overview of the Package of Changes into a Number of Laws of the Russian Federation Designed to Provide for Additional Measures to Counteract Terrorism’, July 21, 2016, <http://www.icnl.org/research/library/files/Russia/Yarovaya.pdf>

officially recognised religious groups. The vagueness of the provision enables its arbitrary application: it has been applied more than 100 times, including against a yoga teacher and follower of Hare Krishna.⁵

5. The authorities rely on numerous vaguely worded provisions of the Criminal Code, which do not conform with the requirements for permissible restrictions on the right to freedom of expression established in Article 19(3) of the ICCPR. Many of these have been introduced since 2013:
 - Article 148.1 prohibits “a public action expressing clear disrespect for society and committed in order to insult the religious feelings of believers”, introduced in July 2013,⁶ and providing penalties of up to one-year imprisonment;⁷
 - Article 282 prohibits “incitement of hatred or enmity on the basis of sex, race, nationality, language, origin, attitude to religion, as well as affiliation to any social group”;
 - Article 280 prohibits “calls for extremist activities”, punishable by up to four years’ imprisonment, five years if committed online;
 - Article 280.1 on “calls for separatism”, introduced in July 2014, criminalises “public, online calls aimed at violating the territorial integrity of the Russian Federation” online and in the media, providing for up to 5 years imprisonment;⁸
 - Article 205.2 prohibits the “justification of terrorism”, punishable by up to five years’ imprisonment, or seven years if committed online;
 - Article 354.1 prohibits the “rehabilitation of Nazism”, introduced in May 2014, and provides for up to five years’ imprisonment.⁹
6. These vague provisions are actively applied to restrict free expression, particularly online. Convictions for “extremist” expression online have steadily increased since 2010.¹⁰ In the first half of 2017, there were at least 95 convictions for “extremist” speech, of which over 90% were for online expression.¹¹ In 88 of these, the charge applied was incitement to hatred. Sentences imposed varied from prison terms, suspended sentences, fines, correctional labour and compulsory medical treatment.¹²
7. Notably, several people have been prosecuted and convicted simply for expressing dissent, particularly regarding Russian activity in Ukraine. For example, on 21 December 2015 Darya Polyudova, an activist based in Krasnodar, was sentenced to two years in a penal colony under Articles 280 and 280.1 of the Criminal Code, for posts on VKontakte¹³ criticising the war in Ukraine and peacefully encouraging Russians to protest. Her posts were seen by only 38 people and clearly did not include incitement to violence.¹⁴
8. Since its introduction, Article 148.1 on insulting religious feelings, a restriction not recognised by international human rights law, has been applied six times, securing five convictions ranging from heavy fines to jail sentences. For example, on 11 May 2017 Ruslan Sokolovsky, an atheist blogger in Yekaterinburg, received a three-and-a-half-year suspended sentence related to a series of videos rudely criticising the Church.¹⁵

⁵ SOVA Centre, Freedom of Conscience in Russia: Restrictions and Challenges in 2016, May 2017, <http://www.sova-center.ru/en/religion/publications/2017/05/d36996/>

⁶ 5 Federal Law № 136-FZ of June 29, 2014 “On Amendments to Article 148 of the Criminal Code of the Russian Federation and separate legislative acts of the Russian Federation against Offending Religious Feelings of Citizens [Федеральный закон № 136-ФЗ от 29 июня 2013 г. “О внесении изменений в статью 148 Уголовного кодекса Российской Федерации и отдельные законодательные акты Российской Федерации в целях противодействия оскорблению религиозных убеждений и чувств граждан”], http://www.consultant.ru/document/cons_doc_LAW_148270/

⁷ Federal Law № 136-FZ, ‘On Amendments to Article 148 of the Russian Federation Criminal Code and Certain Legislative Acts of the Russian Federation in the Aim of Protecting Religious Convictions and Feelings of Citizens Against Insults’ (http://www.consultant.ru/document/cons_doc_LAW_162575/, accessed 18/08/2017)

⁸ Federal Law № 274-FZ from 21 July 2014, ‘On the introduction of changes to Article 280-1 of the Criminal Code of the Russian Federation’ (<https://gao.gl/sanXsd>, accessed 18/08/2017)

⁹ Federal Law № 128-FZ from May 5, 2014 “On Amendments to Separate Legislative Acts of the Russian Federation” (http://www.consultant.ru/document/cons_doc_LAW_162575/)

¹⁰ Human Rights Watch interview with Alexander Verkhovsky, head of SOVA Center, Moscow, July 13, 2017. See: Human Rights Watch, ‘Online and on All Fronts Russia’s Assault on Freedom of Expression’, July 2017 https://www.hrw.org/sites/default/files/report_pdf/russiafoe0717_web_2.pdf

¹¹ SOVA Centre, The Far-Right. Crimes and punishments. First half of 2017, August 2017, <http://www.sova-center.ru/en/xenophobia/reports-analyses/2017/08/d37744/>

¹² Ibid

¹³ A Russian social media site

¹⁴ Human Rights Watch, ‘Dispatches: The Crime of Speaking Up in Russia, December 2015’ <https://www.hrw.org/news/2015/12/22/dispatches-crime-speaking-russia>

¹⁵ SOVA Centre, Brief Report on Misuse of Anti-Extremist Legislation in January - August 2017 <http://www.sova-center.ru/en/misuse/reports-analyses/2017/09/d37819/>

9. The Federal Law “On Combating Extremist Activities”, mandates the Ministry of Information to maintain a list of “extremist materials” (encompassing both written and audio-visual materials), based on court decisions, whose circulation is prohibited under threat of administrative sanctions. As of 25 August 2017, the list contained 4202 materials,¹⁶ many of which respected think tank the Sova Centre has termed ‘harmless’ and ‘banned inappropriately.’¹⁷
10. During the 2013 UPR, Russia noted recommendations¹⁸ to decriminalise defamation. Criminal provisions relating to libel (Article 128.1), defamation against a judge or prosecutor (Article 298.1) and insulting the authorities (Article 319) remain in the Criminal Code, however. Though rarely used against journalists and bloggers (see details below), their mere existence casts a chilling effect on freedom of expression.

Recommendations

11. Amend legislation aimed at countering violent extremism, to ensure that complies with international standards on freedom of expression:
- Amend vaguely-termed provisions, including ‘justification of terrorism’, ‘rehabilitation of Nazism’, and ‘calls aimed at violating the territorial integrity of the Russian Federation’, and replace with language in line with international law, prohibiting only actual incitement to violent acts.
 - Repeal provisions introduced by the Yarovaya package requiring communications providers to store internet users’ data and grant access to security services without a court order.
12. Repeal Article 148.1 of the Criminal Code on ‘insulting religious feelings’.
13. Decriminalise defamation, by repealing Articles 128.1, 298.1 and 319 of the Criminal Code.
14. Amend the Right to be Forgotten Law to ensure that information already in the public domain is not removed unless this is strictly necessary to avoid harm, and to safeguard against the removal of information in the public interest.

Digital developments affecting freedom of expression

15. Since 2012, the authorities have gained expanded powers to block websites without judicial oversight.
16. The legal authority to block websites is derived from the 2006 Federal Law 149-FZ “on Information, IT Technologies and Protection of Information”, and supplemented by the 2012 Federal Law 139-FZ “on Introducing Amendments to the Law on the Protection of Children from Information Harmful to their Health and Development”.
17. Article 15 of Federal Law 139-FZ established a ‘blacklist’, administered by the government agency tasked with overseeing online content and mass media, Roskomnadzor. The content of websites added to the list is prohibited, and all internet service providers (ISPs) based in Russia are obliged to immediately block access to it. Roskomnadzor is empowered to block websites at the request of multiple government agencies without judicial oversight. The government agencies mandated to authorise blocking, and the permitted grounds for blocking, have been incrementally expanded since 2012:
- Federal Law 139-FZ enabled the Ministry of Internal Affairs, the Federal Drug Control Agency, and the health and safety regulator to submit sites for blocking. The law was ostensibly aimed

¹⁶ Federal List of Extremism Materials (Compiled 25/08/2017) http://minjust.ru/sites/default/files/ekstremizm_2_6_3_1_0_0_1_7_1_1_0_8.docx

¹⁷ Human Rights Watch, ‘Online and on All Fronts Russia’s Assault on Freedom of Expression’, July 2017

https://www.hrw.org/sites/default/files/report_pdf/russiafoe0717_web_2.pdf

¹⁸ 140.146 (Mexico); 140.147 (Uruguay)

at protecting children from online abuse, providing for blocking of content promoting suicide, encouraging drug use, and of child pornography.

- Federal Law 135-FZ, also known as the “homosexual propaganda ban” was introduced in July 2013, mandating the blacklisting of “propaganda of non-traditional sexual relations”, enabling censorship of materials about LGBTI issues (addressed below).
- In December 2013, further amendments to Law 149-FZ empowered the Prosecutor General and his deputies to directly order Roskomnadzor to block websites hosted both in Russia and abroad containing content they deem unlawful.¹⁹
- In February 2014, Federal Law FZ-398 (“Lugovoi Law”) amended Law 149-FZ, granting the authorities broad powers to block access to online sources of information calling for “mass riots, extremist activities and unauthorized mass public events”, without a court order.
- In October 2015, the Federal Tax Administration was authorised to add sites to the blacklist without a court order. It has since become one of the most active bodies issuing blocking orders.

18. Roskomnadzor is also responsible for blocking content included in the Federal List of Extremist Materials established by Federal Law 114-FZ ‘On Combatting Extremist Activities’. The list is maintained by the Ministry of Justice and comprises all materials deemed extremist via a court order.²⁰ The judicial process followed to secure a court order is highly problematic: the regional prosecutor bringing the case is not required to inform the website owner, resulting in a decision in favour of the State in all cases.²¹

19. A lack of transparency around the blocking process enables arbitrary blocking: neither the Prosecutor nor Roskomnadzor are required to justify blocking decisions, except in cases concerning extremist materials, only to cite the relevant article of the law. There is no clear process for website owners or hosts to challenge blocking decisions.

20. Since these restrictions were first introduced, the law has been increasingly applied to ban political dissent. Though the lack of transparency impedes tracking of the number of affected websites, as of September 2017,²² it's estimated that over 80 thousand sites and more than 4 million pages are blocked including:

- On 13 March 2014 the Prosecutor General issued blocking orders for three major opposition websites, Grani.ru and Eg.ru (online newspapers) and Kasparov.ru (the website of opposition politician Gary Kasparov), alleging that the sites contained “calls for mass disorders, extremist activities, participation in unauthorised mass gatherings” (section 15.3 as amended by Law no. 398-FZ). The blocking related to their coverage of mass protests in Moscow's Bolotnaya Square in May 2012 and criticism of Russian actions in Crimea. Although the defendants appealed the order, even agreeing to take-down content, the websites remain blocked. The case was recently communicated by the European Court of Human Rights.²³
- In January 2015, Deti-404, an online support and advice community for LGBT youth, was blocked, on the grounds that it “promoted homosexuality” among minors. A week later, the community's social media accounts were blocked for allegedly “promoting suicide”, due to a post about suicidal feelings by a community member.²⁴
- In July 2016, Roskomnadzor blocked four websites calling for a boycott of upcoming parliamentary elections on the request of the Prosecutor General who termed such calls “protest actions in violation of the established laws”. The UN Human Rights Committee previously found boycott calls to constitute protected speech;²⁵ nonetheless, two sites were blocked entirely until such calls were removed,²⁶ and specific pages on two others remain blocked.

¹⁹ Федеральный закон "О внесении изменений в Федеральный закон "Об информации, информационных технологиях и о защите информации" от 28.12.2013 N 398-ФЗ (последняя редакция) http://www.consultant.ru/document/cons_doc_LAW_156518/

²⁰ Human Rights Watch, 'Online and on All Fronts Russia's Assault on Freedom of Expression', July 2017 https://www.hrw.org/sites/default/files/report_pdf/russiafoe0717_web_2.pdf

²¹ Correspondence with ARTICLE 19 partners

²² <https://reestr.rublacklist.net/>

²³ Application no. 12468/15 OOO FLAVUS against Russia and 4 other applications. [https://hudoc.echr.coe.int/eng#{"itemid":\["001-177236"\]](https://hudoc.echr.coe.int/eng#{)

²⁴ Meduza, 'LGBT community blacklisted on charges of propagating suicide and homosexuality', February 2015 <https://meduza.io/en/news/2015/02/02/lgbt-community-blacklisted-on-charges-of-propagating-suicide-and-homosexuality>

²⁵ UN Human Rights Committee, Communication No. 927/2000, Svetik v. Belarus, Views adopted on 8 July 2004, <http://hrlibrary.umn.edu/undocs/html/927-2000.htm>

²⁶ ARTICLE 19, Digital Rights in Russia: An Analysis of the deterioration to Freedom of Expression Online, 2017,

21. Russia has further restricted access to online content with the January 2017 Federal Law 208-FZ²⁷, requiring news aggregators, including search engines and potentially social media sites, with more than one million daily users to check the truthfulness of ‘publicly important’ information before its dissemination, even when directly quoting or reproducing it from other mass media sources. Non-compliance attracts large fines. The government is further considering a bill that would require social networks to remove “unlawful” content within 24 hours of notification by users, with penalties of up to 50 million roubles (approx. 850,000 USD) if they fail to do so.²⁸ Private companies are likely to be over vigorous, resulting in the censorship of lawful content, with few avenues for redress. There is already evidence that aggregators are excluding information from websites not registered as media organisations, including civil society websites.²⁹
22. The 1 January 2016 entry into force of Russia’s so-called “right to be forgotten” law,³⁰ a series of amendments to the Federal Law “On information, information technologies, and data protection” and to Articles 29 and 402 of the Civil Procedure Code, further restricts the free flow of information online. It enables Russian citizens to request de-listing of links about them that violate Russian law, are inaccurate, out of date, or irrelevant because of subsequent events or actions taken by the citizens. The legislation fails to provide for limitations where the information at issue is in the public interest and/or concerns public figures; it has been used by public officials to remove online content addressing their misconduct and/or corruption.³¹

Surveillance and restrictions on online anonymity

23. With dissent online and offline increasingly punished, anonymity is vital for the exchange of ideas deemed controversial by the state, as well as the protection of journalistic sources. Since 2013, however, Russia has strengthened its surveillance powers and restricted online anonymity.
24. Since the late 1990s, Russia has increased the capabilities of its “System for Operational Investigative Measures” (SORM), which requires ISPs to install equipment directing all internet traffic to a terminal within the Federal Security Service (FSB), enabling them to monitor all internet activity, including private communications.³² Non-compliance attracts heavy fines or revocation of licenses. Though the authorities are technically required to obtain a court order to monitor private communications the risk of abuse is high: FSB officers have direct access to this information through local control centres, and are not required to show a court order to ISPs.³³ SORM has been used to target political opposition.³⁴
25. The September 2015 entry into force of Federal Law 242-FZ,³⁵ the “data localisation law”, requires the personal data of Russian citizens to be stored on database servers located within the territory of the Russian Federation. Implicating international companies, who face blocking for non-compliance, the legislation is intended to enable Russian security services access to sensitive data on Russian internet users, including activists, political opposition and journalists. While Google, Facebook and Twitter still do not comply with the legislation, the blocking of LinkedIn since 11 November 2016 demonstrates the consequences of non-compliance.³⁶

²⁷ Federal Law № 208-FZ from June 23, 2016 “On Amendments to the Federal Law ‘On Information, Information Technologies and Data Protection’ and the Code of Administrative Offenses” <http://www.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=200019#0>

²⁸ Reporters Without Borders, ‘Russian bill is copy-and-paste of Germany’s hate speech law’, July 2017 <https://rsf.org/en/news/russian-bill-copy-and-paste-germanys-hate-speech-law>

²⁹ Interview with partner, 04/10/2017

³⁰ Федеральный закон “О внесении изменений в Федеральный закон “Об информации, информационных технологиях и о защите информации” и статьи 29 и 402 Гражданского процессуального кодекса Российской Федерации” от 13.07.2015 N 264-ФЗ http://www.consultant.ru/document/cons_doc_LAW_182637/

³¹ Correspondence with ARTICLE 19 partners, 22/09/2017

³² CSIS, Reference Note on Russian Communications Surveillance, 18 April 2014, <http://csis.org/publication/reference-note-russian-communications-surveillance>

³³ Freedom House, *Freedom on the Net*, Russia country report, 2016: <https://freedomhouse.org/report/freedom-net/2016/russia>

³⁴ Ibid

³⁵ Federal Law No. 242-FZ on Amendments to Certain Legislative Acts of the Russian Federation for Clarification of Personal Data Processing in Information and Telecommunication Networks http://www.consultant.ru/document/cons_doc_LAW_116983/

³⁶ ARTICLE 19, Russia: Landmark ruling against LinkedIn a threat to social media, <https://www.article19.org/resources.php/resource/38553/en/russia:-landmark-ruling-against-linkedin-a-threat-to-social-media-in-russia>

26. On 29 July 2017, President Putin signed two laws that will further undermine online privacy and restrict users' right to anonymous expression:
- Federal Law 241-FZ,³⁷ due to enter into force January 2018, bans anonymity for users of online messaging applications, requiring 'online messaging applications' to identify users by their mobile phone numbers.
 - Federal Law 276-FZ, due to enter into force November 2017, bans Virtual Private Networks and Internet anonymisers from providing access to websites banned in Russia, and enables Roskomnadzor to block any site explaining how to use these services.
27. Individuals administering anonymising services have been targeted by the authorities, in apparent deterrence efforts. For example, in April 2017, Moscow police arrested Dmitry Bogatov, a volunteer administrator of the Tor network.³⁸ Bogatov was charged with "preparing to organise mass disorder" (Article 212 of the Criminal Code), and "incitement to terrorism" (Article 205.2), in relation to two online posts calling for arson and civil disobedience during an upcoming protest. The posts were written under the name 'Ayrat Bashirov', and posted from Bogatov's IP address. Though the authorities claim that Bogatov wrote them, there is strong evidence to the contrary.³⁹ Bogatov is currently under house arrest, facing twenty years imprisonment.

Recommendations

28. Guarantee internet users' right to publish and browse anonymously and ensure that any restrictions to online anonymity are subject to a court order, fully comply with Article 19(3) of the ICCPR:
- Reform the SORM Programme to ensure that security services do not have direct access to communications data;
 - Repeal provisions in the Yarovaya package requiring ISPs to store telecommunications data for up to six months and imposing mandatory cryptographic backdoors, and the 2015 Data Localisation law, which grant security service easy access to users' data without sufficient safeguards;
 - Repeal Federal Laws № 241-FZ and № 276-FZ, which ban anonymity for users of online messaging applications prohibit Virtual Private Networks and Internet anonymisers from providing access to websites banned in Russia respectively;
29. Ensure the free flow of information along and reform legislation and practice to prevent arbitrary and/or politically-motivated blocking of websites, including by:
- Amending Federal Law 149-FZ on Information, IT Technologies and Protection of Information so that the process of blocking websites meets international standards: any website blocking should be undertaken by an independent court and be limited by requirements of necessity and proportionality.
 - Repealing Federal Law 208-FZ requiring search engines to check the truthfulness of public information, and refraining from introducing new legislation imposing liability on search engines for third party content.
30. Cease politically motivated prosecutions of Internet users, including those supposedly "justified" on the grounds of preventing extremism, separatism and offending religious believers, and those administering anonymising services. Immediately and unconditionally release those currently imprisoned on such charges.

³⁷ Federal Law No 241-FZ of 29.07.2017 "On the introduction of amendments to Articles 10.1 and 15.4 of the Federal Law On Information, Information Technologies and the defence of Information" http://www.consultant.ru/document/cons_doc_LAW_221183/

³⁸ An anonymising service enabling internet users to mask their location by re-routing their online presence through IP addresses across the world.

³⁹ More on D.Bogatov case in English: <https://www.eff.org/deeplinks/2017/04/access-now-and-eff-condemn-arrest-tor-node-operator-dmitry-bogatov-russia>; <https://www.accessnow.org/access-now-eff-condemn-arrest-tor-node-operator-dmitry-bogatov-russia/>

+ official campaign website supporting D.Bogatov: <https://freebogatov.org/> .

Media freedom

Media ownership & pressure on independent news outlets

31. The Russian authorities control the media landscape, with most media outlets owned by the state or their close affiliates.⁴⁰ A few independent media outlets remain, broadcasting online or publishing to minority audiences. Others have moved abroad, or been forced to close or change ownership and/or editorial position.

Examples of pressure on independent news outlets include:

- TV2, an independent regional broadcaster ceased broadcasting on terrestrial channels in January 2015, after Roskomnadzor terminated its license to broadcast on cable channels. A month previously, the state-run regional broadcasting centre cancelled its contract with the channel, preventing satellite transmission. The channel continues to broadcast online.⁴¹
- In June 2017, RBC, a media outlet known for investigative reporting into corruption by Putin's close associates, was sold to energy oligarch Grigory Berezkin, who owns the free newspaper Metro and the pro-Kremlin tabloid Komsomolskaya Pravda.⁴² This followed state pressure throughout 2016, including police raids and fraud probes, an excessive civil lawsuit from a state-owned company for "reputational damage" and, in May 2016, the firing of three of RBC's top editors allegedly due to state pressure.⁴³

32. The authorities have also sought to limit foreign ownership of media outlets. On 1 January 2016, Federal Law 239-FZ entered into force, restricting foreign ownership of media outlets to 20%.⁴⁴

Criminal prosecutions of journalists

33. At least three journalists are imprisoned in Russia on politically-motivated charges. In all cases, there are concerns about serious procedural flaws and insufficient evidence. For example:

- **Zhalaudi Geriev**, a Chechen journalist was sentenced to three years' imprisonment on charges of drug possession on 5 September 2016. He told the court that he had been abducted by armed men, subjected to torture and ill-treatment and forced to sign a confession. The charges are believed to be connected to his reporting on corruption and other abuses by the Chechen authorities.⁴⁵
- **Sergei Reznik**, an investigative journalist in Rostov, was sentenced to 18 months imprisonment on 26 November 2013 on charges of falsified claims of threats made against him. On 22 January 2015, his sentence was increased by three years following a further conviction of insulting and misleading authorities and he was banned from practicing journalism for two years.⁴⁶

34. A chilling effect is exerted on freedom of expression even when charges are dropped, or cases lost. In one such case, Prima Media, a media holding based on Sakhalin Island, faced two years of legal harassment after a Senator brought libel charges against them. Although the case was eventually dropped, their offices were raided, and equipment and data seized.⁴⁷

Safety of journalists

35. The government has failed to respond to violence against journalists, including murders, physical attacks and threats, creating a climate of impunity that encourages further attacks. Since 1992, 58 journalists have been murdered,⁴⁸ with total or partial impunity in 33 of those cases.⁴⁹ Three journalists have been killed since 2013:

⁴⁰ Freedom House, Freedom of the Press 2016, <https://freedomhouse.org/report/freedom-press/2016/russia>

⁴¹ Ibid

⁴² Financial Times, 'Mikhail Prokhorov sells control of Russian media outlet RBC, 16/06/2017 <https://www.ft.com/content/37fd60b8-66b4-3b38-9286-4e7062c45229>

⁴³ Human Rights Watch, 'Online and on All Fronts Russia's Assault on Freedom of Expression', July 2017

https://www.hrw.org/sites/default/files/report_pdf/russiafoe0717_web_2.pdf

⁴⁴ Федеральный закон от 29.07.2017 N 239-ФЗ "О внесении изменений в Закон Российской Федерации "О средствах массовой информации", http://www.consultant.ru/document/cons_doc_LAW_221182/

⁴⁵ ARTICLE 19, 'Russia: Journalist imprisoned in Chechnya must be released', 09/11/2017

<https://www.article19.org/resources.php/resource/38468/en/russia-journalist-imprisoned-in-chechnya-must-be-released>

⁴⁶ US State Department, Russia 2015 Human Rights Report, <https://www.state.gov/documents/organization/253105.pdf>

⁴⁷ Interview with ARTICLE 19 partners

⁴⁸ <https://cpj.org/killed/europe/russia/>

⁴⁹ <https://cpj.org/killed/impunity.php>

- **Dmitry Popkov**, editor-in-chief of Ton-M, an independent newspaper known for investigative journalism into corruption, was shot dead by unknown assailants on 24 May 2017 in Minusinsk. Local prosecutors opened an investigation into his murder, citing his work as a possible motive. The case is ongoing.⁵⁰
- **Nikolai Andrushchenko**, co-founder of independent newspaper Novy Peterburg, died on 19 April 2017 following a fatal beating thought to be linked to his journalistic work. Although a criminal probe was launched, the police have not informed his colleagues of investigative progress.⁵¹ The authorities had not put adequate protection measures in place, despite Andrushchenko suffering multiple attacks prior to his death.⁵²
- **Akhmednabi Akhmednabiyev**, deputy-editor of Novoye Delo reporting on human rights violations perpetrated by the police and Russian army, was shot dead on 9 July 2013 in Dagestan. Police failed to put security measures in place despite Akhmednabiyev having received numerous threats and surviving an assassination attempt six months previously. The investigation is currently closed; the perpetrators have not been identified.⁵³

36. Other attacks against journalists continue. In 2016, 54 cases of attacks and 44 incidences of threats against journalists or media outlets were documented.⁵⁴ Authorities rarely respond to such threats, and are themselves sometimes the perpetrators. For example, in December 2016, Mikhail Afanasyev, editor of news website Novy Fokus, was threatened by criminal gang-leader Andrei Ashcheulov after publishing articles about the gang. Although Ashcheulov recorded and posted the call online, and Afanasyev reported the case, no action was taken.

Operating environment for NGOs

37. In its 2013 UPR, Russia noted recommendations⁵⁵ related to amending “the Foreign Agents Law”⁵⁶, which requires all Russian NGOs receiving foreign funding and engaged in loosely defined “political activities” to register as “foreign agents”, a term understood to mean ‘traitor’ or ‘spy’.⁵⁷ The Foreign Agents Law was, however, only made more restrictive. NGOs must indicate their “foreign agent” status in publications, which diminishes their credibility, subjects them to onerous reporting requirements, special inspection orders, and restrictions on the activities they may undertake. Criminal and administrative sanctions for non-compliance includes, *inter alia*, fines of up to 500,000 roubles (\$16,000) or imprisonment of up to two years.⁵⁸ Approximately 30 NGOs closed to avoid the stigmatising label.⁵⁹

38. Enforcement of the legislation has targeted NGOs working in diverse spheres. As of 18 September 2017, 88 organisations were formally listed as “foreign agents”.⁶⁰ Many have faced heavy fines and costly litigation. In May 2017, three organisations were reported to have been liquidated for violating the legislation: Agora, a human rights NGO; Golos, an election watchdog, and Za Priroda, an environmental NGO.⁶¹ In June 2017 criminal charges were brought against Valentina Cherevatenko, head of ‘Women of the Don’, a human rights and peacebuilding organisation, for violating the legislation; the case was closed on 19 June 2017.⁶²

⁵⁰ <https://cpj.org/killed/2017/dmitry-popkov.php>

⁵¹ <https://cpj.org/killed/2017/nikolai-andrushchenko.php>

⁵² Ibid

⁵³ ARTICLE 19, Russia: Impunity for attacks and threats against journalists must end, August 2014

<https://www.article19.org/resources.php/resource/37672/en/russia:-impunity-for-attacks-and-threats-against-journalists-must-end>

⁵⁴ Glasnost Defence Foundation, Incidence Recorded in 2016, <http://www.gdf.ru/graph/item/1/1441>

⁵⁵ 140.165 (Slovakia); 140.169 (Sweden); 140.171 (Finland); 140.172 (Belgium); 140.173. (Republic of Korea); 140.174. (Spain); 140.175 (Ireland); 140.176. (Chile); 140.177. (United Kingdom of Great Britain and Northern Ireland); 140.178. (Slovakia); 140.179. (Italy); 140.180 (France); 140.181. (Germany); 140.182. (Poland); 140.183. (United States of America); 140.184. (Australia).

⁵⁶ Federal Law No. 121-FZ of 20/07/2012 (as amended and supplemented) “On the introduction of amendments to various legislative acts of the Russian Federation with regard to regulating the activities of non-commercial organisations fulfilling the functions of foreign agents”, http://www.consultant.ru/document/cons_doc_LAW_132900/

⁵⁷ Human Rights Watch, Russia: Government vs. Rights Groups, 24/07/2017 <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle>

⁵⁸ 500,000 RUB is the maximum fine for a respective administrative offence. For a criminal offence (Art. 330.1 of Criminal Code), a fine may be up to the amount of salary or other income of the convicted person for up to two years, which may theoretically exceed 500,000 RUB.

⁵⁹ Human Rights Watch, Russia: Government vs. Rights Groups, 24/07/2017, Op cit/

⁶⁰ <http://unro.minjust.ru/NKOForeignAgent.aspx>

⁶¹ <https://www.vedomosti.ru/politics/articles/2017/05/02/688220-chislo-inostrannih-agentov>

⁶² <https://www.frontlinedefenders.org/en/case/case-history-valentina-cherevatenko>

39. In May 2015, Federal Law on ‘undesirable organisations’ was adopted, allowing the government to ban any foreign or international NGO, whose activities undermine Russia’s “national security”, “defence capabilities” or “constitutional order”.⁶³ Banned organisations may not distribute information or continue its programmes, its bank accounts are frozen, and all subsidiaries closed. The law introduces administrative sanctions against Russian citizens for involvement with ‘undesirable organisations’, while direction or participation in the activities of the banned organisation may lead to imprisonment of up to six years. The legislation severely curtails the ability of Russian citizens and entities to associate with foreign partners, and poses a threat to their financial sustainability; its vague terminology allows its arbitrary application, providing another tool by which to harass civil society.
40. As of 18 September 2017, 11 entities are listed as “undesirable organisations”, primarily US-based granting organisations and Ukrainian NGOs.⁶⁴ In September 2017, the Moscow City Prosecutor brought administrative charges against the SOVA Centre and its director, Alexander Verkhovsky for violating the legislation in connection to two weblinks to the Open Society Foundation and the National Endowment for Democracy, which previously funded the Centre’s work.⁶⁵ SOVA Centre had been listed a foreign agent in December 2016.
41. NGOs and human rights defenders have been subject to attacks and smear campaigns, with impunity. One high profile case concerns repeated attacks against the Joint Mobile Group (JMG), a human rights monitoring organisation, documenting violations in Chechnya. In December 2014, Ramzan Kadyrov, Head of the Chechen Republic, publicly accused the head of the JMG, Igor Kalyapin of supporting terrorism, after Kalyapin accused Kadyrov of involvement in repeated rights violations. JMG offices have since been set on fire and repeatedly attacked. In March 2016, two members of JMG staff and 6 foreign journalists were severely beaten by masked men. Weeks later, Kalyapin was attacked while in Chechnya to participate in a press conference on the earlier attacks.⁶⁶

Recommendations

42. Prevent and protect against threats and violence against journalists, media workers, human rights defenders and activists, and end impunity for such crimes, including by:
- Ensuring impartial, prompt, thorough, independent and effective investigations into all alleged crimes and holding those responsible to account.
 - Public authorities should publicly, unequivocally and systematically condemn all violence and attacks against all journalists and other media workers, as well as against activists;
 - Dedicate the resources necessary to investigate and prosecute attacks. Particular attention should be paid to investigating past murders.
43. Immediately and unconditionally release all journalists held on politically-motivated charges. Refrain from further politically-motivated prosecutions.

Restrictions on peaceful assemblies

44. Since 2012, legislation on public assemblies has been repeatedly amended, severely restricting individuals’ ability to peacefully protest. Protest organisers must notify authorities of planned protests, including the time, place, and estimated number of participants, rendering spontaneous protests impossible. Authorities have broad discretion to refuse approval for protests entirely, or force their relocation to remote areas, rendering them meaningless. If organisers do not comply, they face penalties which have been progressively strengthened, with criminal liability introduced in 2014.

⁶³ Federal Law No. 129-FZ of 23/05/2015 “On Amending Certain Legislative Acts of the Russian Federation”, <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=179979&fld=134&dst=1000000001,0&rnd=0.7922602189172046#0>

⁶⁴ <http://minjust.ru/ru/activity/nko/unwanted>

⁶⁵ RFE/RL, На центр "Сова" завели дело по статье о "нежелательных организациях" <https://www.svoboda.org/a/28722107.html>

⁶⁶ FID, Attack on Igor Kalyapin, Head of the Joint Mobile Group and the Committee for the Prevention of Torture, by a mob of unidentified people, <https://www.fidh.org/en/issues/human-rights-defenders/attack-on-igor-kalyapin-head-of-the-joint-mobile-group-and-the>

- The June 2012 entry into force of Federal Law 65-F3,⁶⁷ introduced amendments preventing individuals found guilty of violating the law on public assemblies twice from organising public events; prohibiting “mass movements of people” and “public gatherings” even if they “bear no signs of a public event”; granting the authorities’ significant discretion to ban or relocate protests.
- The July 2014 entry into force of Federal Law 258-F3,⁶⁸ increased sanctions for violating legislation on assemblies. Fines for violating rules on organising public events were increased to up to 300,000 rubles (US\$9,000) for individuals and up to 1 million rubles (US\$30,000) for legal entities. It further criminalised the repeated violation (more than three times within 180 days) of the legislation, imposing penalties of up to five years’ imprisonment through the introduction of Article 212.1 to the Criminal Code. Article 212.1 has been applied at least four times. One case reached court in December 2015 when activist Ildar Dadin was jailed for three years (reduced to 2.5 on appeal), for participating in a series of peaceful protests. In February 2017, Dadin was released after his conviction was overturned by Russia’s Supreme Court.⁶⁹
- The aforementioned “Lugovoi Law”, enabled the blocking of websites promoting unsanctioned public protests, without a court order.

45. Non-compliant assemblies are harshly repressed – with mass detentions of peaceful protesters and other repercussions. During mass anti-corruption protests on 26 March 2017 and 12 June 2017,⁷⁰ in which an estimated 88,000 and 184,000 participants took part in 154 cities across Russia, many organisers were denied permission to hold rallies in central locations. Police detained at least 1500 people in March, and 1700 people in June, allegedly using unnecessary force.⁷¹ In Moscow alone during the March protests, 1043 people were temporarily detained; of these, 138 were found to have committed administrative offences; 64 were sentenced to administrative detention of 2 to 25 days, others received fines.⁷² In parallel, criminal cases were opened against some protesters on charges of attacking police officers, based on reportedly falsified evidence.⁷³ Students alleged being excluded from university due to participation in the protests.⁷⁴ 106 violations by police in more than 46 police stations during detentions were documented, including refusing access to lawyers, holding individuals without charge for longer than the proscribed period, failing to provide adequate food and drink, withholding medical care and threatening and verbally abusing detainees.⁷⁵

Recommendations

46. Ensure that NGOs can exercise their rights to freedom of expression and association, by repealing Laws on ‘Foreign Agents’ and ‘Undesirable Organisations’.
47. Ensure protection of the rights to freedom of expression, freedom of peaceful assembly and association is applied during all protests, including by refraining from detaining individuals for peaceful protest and amending protest-related legislation to bring it in line with international standards.

⁶⁷ Federal Law 65-F3, ‘On the introduction of amendments to the Administrative Code of the Russian Federation and the Federal Law on gatherings, protests, demonstrations, marches and pickets’ of 08.06.2012 http://www.consultant.ru/document/cons_doc_LAW_130936/

⁶⁸ Federal Law 258-F3, ‘On the introduction of amendments to various legislative acts of the Russian Federation with regard to the improvement of legislation on public events, of 21.07.2014 http://www.consultant.ru/document/cons_doc_LAW_165926/

⁶⁹ Kommersant, Верховный суд отменил приговор Ильдару Дадину, <https://www.kommersant.ru/doc/3226752>

⁷⁰ Statistics on March Protest: Протестная карта России Сколько людей вышли на улицы 26 марта и что с ними стало: исследование «Медузы» и «ОВД-Инфо», <https://meduza.io/feature/2017/06/07/protetnaya-karta-rossii>

⁷¹ Statistics on June Protest: Meduza, 12 июня на улицы вышло больше людей, чем 26 марта Карта протестов «Медузы» и «ОВД-Инфо». Самые полные данные, <https://meduza.io/feature/2017/06/13/skolko-lyudey-protetstovali-12-iyunya-i-skolko-zaderzhali>

⁷² OVD-Info, ‘Repressive measures against anti-corruption action, March 26th, 2017’ <https://ovdinfo.org/articles/2017/04/24/repressive-measures-against-anti-corruption-action-march-26th-2017>

⁷³ Ibid

⁷⁴ Ibid

⁷⁵ Human Rights Watch, ‘Russia: Children, Students Targeted after Protests’ <https://www.hrw.org/news/2017/06/11/russia-children-students-targeted-after-protests>

⁷⁶ OVD-info, ‘12 июня: нарушения в отделениях полиции’, <https://ovdinfo.org/articles/2017/06/29/12-iyunya-narusheniya-v-otdeleniyah-policii>

Discrimination on the grounds of sexual orientation and gender identity

48. Aforementioned amendments to Federal Law 135-FZ on protecting minors, introducing Article 6.21 (2) to the Russian Code of Administrative Offences, outlawed ‘promoting non-traditional sexual relations to minors.’⁷⁶ This legislation attempts to censor and stigmatise LGBTI people and prevents the free flow of information in Russia, including in areas of critical importance such as healthcare and education.
49. To date, 6 people have been found guilty under these provisions,⁷⁷ including:
- **Sergey Alekseenko**, a Murmansk-based LGBT activist fined 100,000 rubles (1,450 EUR) for content published on the social media page of a group providing legal and psychological support for LGBTI people on 18 January 2016.⁷⁸
 - **Evdokia Romanova**, a member of the Youth Coalition for Sexual and Reproductive Rights, charged in September 2017. The charges stem from links to articles on LGBT rights, which she reposted on various social networks. Romanova’s trial date is currently unknown.
50. Authorities frequently refuse permission to public assemblies organised by LGBTI groups: Moscow Pride has been banned every year since 2006; in St Petersburg, an assembly application for International Day Against Homophobia was dismissed in May 2016;⁷⁹ and in the Arctic Circle, a planned ‘Polar Pride’ was banned in January 2017.⁸⁰ Refusals to hold such events are discriminatory and violate the rights to freedom of expression and assembly and non-discrimination. In 2016, there were at least 70 court cases challenging refusals to organise LGBT related events across Russia: in at least 10, the courts ruled that the ban to hold an assembly was unlawful.⁸¹ Activists continue to demonstrate, and are regularly detained. Most recently, on 1 May 2017 several activists were detained in St. Petersburg for raising a rainbow flag during a May Day procession.⁸²

Recommendations

51. Repeal the 2013 Law on ‘homosexual propaganda’. Ensure that LGBTI people can exercise their rights to freedom of expression, association and assembly without discrimination.

Freedom of expression in Occupied Crimea

52. Following the annexation of Crimea by the Russian Federation in March 2014, Russian authorities and the *de facto* Crimean authorities have pursued a crackdown on independent media, opposition politicians and activists. Crimean Tatars have been particularly targeted.
53. 43 people expressing dissent have been forcibly disappeared since the annexation;⁸³ 6 have since been found dead, the whereabouts of 17 remains unknown.⁸⁴ None of these disappearances have been effectively investigated and no person has been held accountable for them.
54. In April 2016, the Supreme Court of Crimea banned the Mejlis, a Crimean Tatar elected representative body, labelling it an “extremist organisation”. The Russian Supreme Court upheld the decision in September 2016.⁸⁵ Members of the Mejlis have been subject to violence, assault and threats; many are now in exile. In September 2016, Ilmi Umerov, deputy head of the Mejlis, was convicted under Article 208.1 of the Russian

⁷⁶ <https://www.amnesty.org/en/documents/eur49/7085/2017/en/>

⁷⁷ <https://www.hrw.org/report/2017/07/18/online-and-all-fronts/russias-assault-freedom-expression#627de8>

⁷⁸ <https://76crimes.com/2017/07/19/report-russias-anti-gay-propaganda-law-hurts-kids/>

⁷⁹ <https://www.ilga-europe.org/resources/news/latest-news/yet-another-tough-may-month-freedom-assembly-russia>

⁸⁰ <https://www.gaystarnews.com/article/pride-arctic-banned/#qs.MlJPuS0>

⁸¹ http://www.equalrightstrust.org/ertdocumentbank/Justice%20or%20Complicity%20LGBT%20Rights%20and%20the%20Russian%20Courts_0.pdf p. 89

⁸² <https://meduza.io/en/news/2017/05/01/lgbt-activists-chanting-kadyrov-to-the-hague-detained-in-st-petersburg>

⁸³ Enforced Disappearances in Crimea as of 20 April 2017 <http://krymsos.com/en/reports/analitichni-zviti-po-krimu/infografika-po-zniknenniam-v-okupovanomu-krimu/>

⁸⁴ Ibid

⁸⁵ Human Rights Watch (2016), ‘Crimean Tatar Elected Body Banned in Russia’, 29 September, <https://www.hrw.org/news/2016/09/29/crimean-tatar-elected-body-banned-russia>

Federation (“incitement to separatism”) and forcibly placed in a psychiatric ward in September 2016.⁸⁶ Crimean Tatars have also been arrested for peacefully protesting occupation: on 9 August 2017, a 77 year old Tatar man, Server Karamazov, was sentenced to 10 days imprisonment for “resisting police officers”.

55. Ethnic Ukrainians criticising Russia have been subject to restrictive Russian legislation. On 25 August 2015, following an unfair trial marred by serious allegations of torture, film director Oleg Sentsov and ecological activist Aleksandr Kolchenko were sentenced to 20 and 10 years’ imprisonment respectively on terror charges. The trial is widely perceived to be politically motivated, aimed at silencing both defendants’ criticism of Russian actions in Crimea. On 22 September 2017, a Crimean Court sentenced Mykola Semena, a Radio Free Europe journalist, to a 30 month suspended sentence for calls to violate the territorial integrity of the Russian Federation.⁸⁷
56. Following the annexation, media outlets operating in Crimea were required to re-register under Russian regulations. Of the over 3,000 outlets registered under Ukrainian regulations only 232 were given permission to continue to operate.⁸⁸ Ukrainian channels that previously broadcast in Crimea were blocked. Due to a change in radio frequency in February 2015, 7 radio stations were closed. According to Ministry of Information Policy of Ukraine, 60 Ukraine online media outlets are currently blocked in Crimea.⁸⁹

Recommendations to the Authorities Exercising Effective Control over the Crimean Peninsula and to the Russian Federation

57. Cease all actions that target activists, political opposition, journalists and others detained for criticising the Russian annexation of Crimea or expressing support for Crimean Tatars. Immediately and unconditionally release those detained and ensure that all disappearances of activists and others are effectively investigated.
58. Reverse measures to close media outlets operating in Crimea since the annexation, and ensure that journalists can operate freely on the Peninsula, even when expressing views critical of the authorities.

⁸⁶ Human Rights Watch (2016), ‘Human Rights Council: Maintain scrutiny of situation in Ukraine’, 12 December <https://www.hrw.org/news/2016/12/12/human-rights-council-maintain-scrutiny-situation-ukraine>

⁸⁷ Human rights Watch, ‘Dispatches: Crimea – Keep Quiet or Else’ 25 August 2015 <https://www.hrw.org/news/2015/08/25/dispatches-crimea-keep-quiet-or-else>

⁸⁸ Freedom House, ‘Crimea Freedom of the Press 2016’, <https://freedomhouse.org/report/freedom-press/2016/crimea>

⁸⁹ Ministry of Information Policy (2016), ‘MIP: Ukraine presented the issues of violations of freedom of speech in Crimea and the Eastern Ukraine at the OSCE meeting in Warsaw’, 23 September <http://mip.gov.ua/en/news/1459.html>