

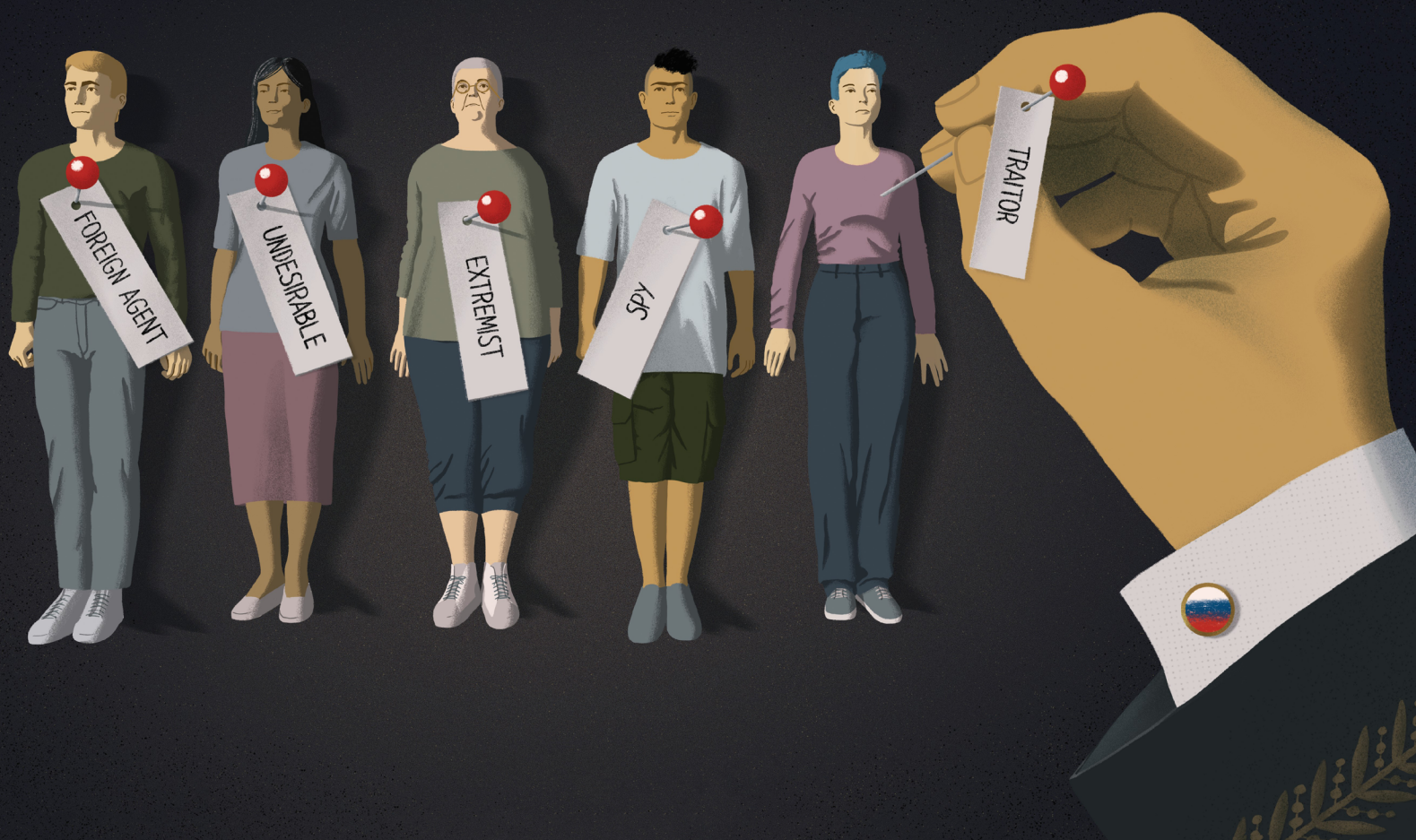
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RUSSIA'S LEGISLATIVE MINEFIELD

HUMAN
RIGHTS
WATCH

Tripwires for Civil Society Since 2020





Russia's Legislative Minefield

Tripwires for Civil Society since 2020

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Russia's Legislative Minefield

Tripwires for Civil Society since 2020

Summary.....	1
“Foreign Agents”	2
Electoral Rights	2
Public Assembly	3
Censoring Free Expression, including Anti-War Speech	3
Sexual Orientation, Gender Identity	4
High Treason, Espionage, Undesirable Foreign Organizations	5
“Historical Truth”	6
Education	6
Relevant International Legal Standards	9
Recommendations	13
Methodology.....	16
I. Smearing Critics as “Foreign Agents”	18
2020-2021 Laws	25
Federal Law №481-FZ of December 30, 2020	25
Federal Law FZ-75 of April 5, 2021	43
Federal Law № 14-FZ of February 24, 2021, and Federal Law №525-FZ, of December 30, 2020 (New Penalties)	46
2022 Laws	54
Federal Law № 255-FZ of July 14, 2022 (“Foreign Influence” Law)	55
Federal Law №498-FZ of December 5, 2022 (Incorporating the “Foreign Influence Law in Other Laws)	66
Amendments to the Criminal Code (Federal Law №525-FZ of December 30, 2022)	72
2023–2024 Laws	77
“Third Parties”	77
Federal Law № 358-FZ of July 24, 2023 (“Third Parties Law”)	77
Federal Law № 364-FZ of July 24, 2023 (Additional Administrative Penalties)	80
“Foreign” Organizations	81

Federal Law №409-FZ of July 31, 2023 (Ban on Foreign NGOs without Russian Registration)	81
Federal Law №412-FZ of August 4, 2023 (Administrative Penalty)	82
Federal Law №413-FZ of August 4, 2023 (Criminal Penalty)	82
II. Restricting Electoral Rights.....	86
Federal Law №91-FZ of April 20, 2021 (Candidates-Foreign Agents and “Affiliated” with Foreign Agents)	86
Federal Law №43-FZ of March 9, 2021 (Online Campaigning)	90
Federal Law №37-FZ of March 9, 2021 (Administrative Penalties for Campaign Violations)	92
Amendments Involving “Extremism”	93
Amendments Relating to Other Crimes	97
III. Limiting Public Assemblies	99
Introduction: Right to Peaceful Assembly in Russia	99
2020-2021 Laws	101
Federal Law №497-FZ dated December 30, 2020: Closing Loopholes.....	101
Federal Law №541-FZ of December 30, 2020.....	110
Amendments to the Criminal Code that Affect Public Assemblies	112
Federal Laws no.24-FZ of February 24, 2021, and no.102-FZ of April 30, 2021, Administrative Offenses.....	116
2022 Law.....	117
Federal Law №498-FZ of December 5, 2022	117
IV. Attacking Free Expression	119
Introduction.....	119
2020 Laws on Insult and Defamation	119
Federal Law №513-FZ of December 30, 2020, Amendments to Code of Administrative Offences	119
Federal Law №538-FZ of December 30, 2020, Amendments to the Criminal Code on Defamation	121
2020-2022 Laws on Extrajudicial Blocking of Online Resources, Including for Insult and Defamation.....	129
Federal Laws no.530-FZ of December 30, 2020, no.260-FZ of July 1, 2021, and no.584 of December 29, 2022.....	129
2022-2023 War Censorship Laws	131
Introduction	131
Federal Law №32-FZ of March 4, 2022 (Criminalization of Discreditation and False Information about Russian Armed Forces).....	134

Federal Law №31-FZ (Amendments to the Code of Administrative Offenses)	141
Expansion beyond the Armed Forces (Federal Laws no.62 and no.63 of March 25, 2022, and no.57 and no.58 of March 18, 2023)	142
New Nationality Law: Revoking Nationality for Discreditation/False Information about Armed Forces and Other Offenses (Federal Law №138-FZ of April 28, 2023)	146
2024 Law: Confiscation of Property for False Information about the Armed Forces and Other Offenses (Amendments to the Criminal Code and Criminal Procedure Code)	152
2022 Law on Extrajudicial Closure of Media, Blocking Websites for “Fakes” (Federal Law №277- FZ of July 14, 2022)	153
V. Anti LGBT Laws.....	158
VI. Expanding Crimes against the State: Incitement, Treason, Confidential Cooperation, Undesirables.....	169
2022 Amendments to the Criminal Code (Federal Law №260-FZ of July 14, 2022), on National Security.....	169
Penalizing Public Calls against National Security	170
“Confidential Cooperation”	171
Treason	172
Life Imprisonment for Treason	176
Expanded Definition of “Undesirables” Crimes	176
Demonstration of Extremist and Nazi Symbols	183
VII. Censoring Historical Debate.....	188
Laws Protecting “Historic Truth” (Rehabilitation of Nazism/USSR Role in World War II)	188
Introduction	188
July 2021 Laws (Federal Laws no.278-FZ and no.280-FZ of July 1, 2021, Banning Comparing the USSR and Nazi Germany).....	190
2021-2022 Amendments to Criminal and Administrative Offenses Codes (Federal Laws no.58-FZ and no.59-FZ of April 5, 2021, and Federal Law №103-FZ of April 16, 2022)	192
VIII. Censoring Education	199
Acknowledgements.....	205

Summary

It's not just public criticism that's banned, but any independent thought. Even actions seemingly unrelated to politics or criticism of the authorities can be punished. There is no field of art where free artistic expression is possible, there is no academic freedom in the humanities, there is no more private life.

—Oleg Orlov, former co-chair of Human Rights Defense Center Memorial, closing statement at his trial, February 26, 2024

The Russian government's evisceration of civic space in the country after Russia's full-scale invasion of Ukraine on February 24, 2022 did not happen overnight. It was preceded by the Kremlin's escalating assault on fundamental freedoms for more than a decade. At least since 2012, Russian authorities strove to suppress internal dissent and incapacitate civil society. These efforts intensified in the fall of 2020 against the backdrop of three developments: mass protests in neighboring Belarus; opposition to constitutional reform in summer 2020 that, among other things, made it possible for President Vladimir Putin to run for two more terms of office; and an imperative to weaken the political opposition and civil society groups before the 2021 electoral campaign. Russian authorities responded by adopting a series of laws designed to crush potential mobilization, opposition, and dissent against government policies. These policies eventually came to include the full-scale invasion of Ukraine.

Since then, the Russian government has increased its stranglehold over independent voices, tightening draconian laws that restrict the rights to freedom of expression, association, and assembly, adopting new laws that impose a state-enforced historical narrative, and permitting almost no room for public dissent. Kremlin-controlled courts have also slapped lengthy prison terms on prominent Russian opposition figures, including the late Alexei Navalny, Ilya Yashin, and Vladimir Kara-Murza.

This report focuses on the wave of repressive legislation and policies that the Kremlin has put in place since fall 2020, and how the government under Putin has used such legislation to target critical or dissenting voices in Russia. This legislation relates to eight

broad areas: “foreign agents,” public assembly, electoral rights, freedom of expression, sexual orientation and gender identity, treason and adjacent concepts, historical truth, and education.

“Foreign Agents”

The signature legislation in the government’s campaign of repression is the “foreign agents” law. The “foreign agent” concept seeks to smear anyone or any entity that is independently critical of the government as “foreign” and therefore suspicious, subversive, or even traitorous. First enacted in 2012 and repeatedly expanded and made harsher since, Russia’s foreign agent provisions have been used to stigmatize and harass a wide range of activists and critical voices and as a pretext for shutting down some of the country’s leading human rights groups.

Over the years, provisions first targeted nongovernmental organizations, then unregistered groups, media outlets, journalists and certain categories of individuals and, by 2022, all people the state deemed to be “under foreign influence.” Penalties have stiffened over time and have included fines, criminal punishments, and stripping of citizenship for naturalized citizens. By 2022-2023, amendments also excluded alleged “foreign agents” from many aspects of public life, as the authorities sought to create, in the words of one activist, “a caste of untouchables.” By 2023, penalties also extended to third parties who provide “assistance” to people designated as foreign agents.

Electoral Rights

Russian authorities have used the “foreign agent” framework to weaken electoral rights. Allegations of foreign interference in elections have been a constant feature of Russia’s nationwide election cycle since at least 2011. Beginning in 2018, they dominated the political leadership’s rhetoric in response to Alexei Navalny’s “Smart Voting” project, which called on people to vote for any candidate who stood a chance of defeating a candidate from the ruling party, United Russia.

In this context, members of parliament adopted a bill in April 2021, attaching the “foreign agent” label to candidates running for elected positions. The law enables authorities to smear opposition candidates with the foreign agent and the innovative “affiliated with a foreign agent” labels. In May 2024, the Duma adopted a law banning individuals labeled

“foreign agent” from running for public office altogether and from serving on election commissions.

Public Assembly

From early 2020 through 2022, Russian authorities shredded what remained of freedom of peaceful assembly nearly a decade after laws had been adopted and enforced allowing authorities to ban all public assemblies at a considerable number of sites, increasing organizers’ liability, and introducing tougher fines and new penalties, including greater use of prison terms, for repeated violations.

Amendments adopted in the period covered in this report further restrict public assemblies, effectively rendering legitimate protest illegal. Coupled with the criminalization of anti-war speech and protest, they have led to the prosecution of hundreds of Kremlin and Ukraine war opponents, resulting in numerous lengthy prison sentences and an exodus from the country of activists and journalists vulnerable to prosecution.

The amendments consolidated in legislation a prohibitive permission-seeking licensing system through which protest organizers must request and receive explicit authorization for a public assembly. They equated public strolls and a series of single-person pickets with mass protests, closing the few options that people had used to peacefully exercise the right to freedom of assembly and avoid Russia’s repressive public assembly provisions. They expanded obligations for organizers and the grounds for explicitly forbidding an assembly or withdrawing previously issued permission. The amendments introduced disproportionately burdensome and prohibitively unrealistic requirements for verifying the origins of funds and donations for public events and for reporting on their management. And they banned a range of persons and entities from sponsoring public events.

The government also instrumentalized restrictions related to Covid-19 to prohibit unwanted public gatherings, including single-person pickets, and continued to misuse such provisions long past the pandemic.

Censoring Free Expression, including Anti-War Speech

The Russian parliament adopted laws that silence free speech within a larger context of developments in Russian society and globally that the Kremlin perceives as threatening.

Most dramatic are the laws that introduced war censorship, which have resulted in the countrywide prosecution of people peacefully expressing their opposition to the war against Ukraine. This legislation, hastily adopted after Russia's February 2022 full-scale invasion of Ukraine, bans spreading information or views about the conduct of Russian armed forces that deviates from official information, which includes so-called "fakes" and "discrediting" Russia's armed forces as well as government agencies abroad. Penalties include long prison sentences, stripping naturalized Russians of their citizenship, and confiscation of property. At time of writing more than 480 people have faced criminal prosecution on war censorship charges.

Other laws made criminal defamation charges and penalties harsher. They followed investigations by Alexei Navalny and the Anti-Corruption Foundation (FBK) into high-level corruption and embezzlement in Russia that attracted millions of viewers on YouTube. Amendments also specifically penalized insulting veterans, following Navalny's outburst against attempts to co-opt the Soviet Union's victory in the Second World War to legitimize anti-democratic constitutional amendments.

Sexual Orientation, Gender Identity

LGBT people have long faced discrimination, harassment, and violence in Russia, particularly in the context of the 2013 anti-gay "propaganda" law. Over the past decade, Russian authorities have increasingly used "traditional family values" discourse to enforce social conformity and position themselves on the global stage as the protector of "traditional values" in what they call a standoff against the collective West. This law has had a corrosive global impact, inspiring similar laws in other countries. Putin eventually used "traditional values," among other things, to legitimize the war against Ukraine, claiming that Russia was defending itself against "false" values that the West was "aggressively imposing."

Legislative amendments adopted since 2022 mark a full-on attack on LGBT people in Russia. They expanded the propaganda law to effectively ban public discussions about sexual orientation and gender identity, pushing LGBT people even further to the fringes of society; bylaws clarified that "propaganda" entails any positive or even neutral information about queer people or relationships. The amendments restrict any depiction of so-called "non-traditional relationships" to people under the age of 18. Even images

showing a same-sex couple holding hands can be shown only subject to new restrictions. Bookshops have started covering books that could potentially trigger a violation under the new laws or have pulled them from shelves altogether.

A 2023 law bans gender-affirming healthcare and changing gender markers in identification documents, dissolves the marriages of transgender people, and bans them from adopting or fostering children.

A Supreme Court ruling in November 2023 designated the “International LGBT Movement” as an “extremist organization.” The ruling, which, among other things, prohibits the rainbow flag as an extremist symbol, opened the floodgates to allow arbitrary prosecution and imprisonment of LGBT people and of anyone who defends their rights or expresses solidarity with them.

High Treason, Espionage, Undesirable Foreign Organizations

New laws expand the definitions of treason to cover people without access to state secrets, and of espionage to cover the act of transferring information to a widened definition of “hostile agents” that includes foreign and international organizations. Criminal code articles adopted several months after the full-scale invasion criminalized involvement with foreign actors in “confidential cooperation” against Russia’s national security.

These laws, which appear intended to intimidate critics of the government, are reminiscent of the Soviet-era ban on foreign contacts. The legislators behind the treason amendments did not conceal their intent to instrumentalize the new provisions to target civil society groups, which they claimed foreign intelligence services supposedly use to access official secrets. Adjacent laws criminalize cooperation with international bodies, “to which Russia is not a party,” such as the International Criminal Court, and involvement in organizations designated by the authorities as “undesirable” such as foreign and international foundations and civil society groups.

In 2023, authorities sent to Russian courts 101 cases for treason, espionage, and confidential cooperation, five times as many as they had in 2022, according to a media report based on Russian court data. Criminal prosecutions for involvement in “undesirable” organizations have been on the rise, and the prosecutor general’s regular, new designations

of foreign organizations as “undesirable” widens the risk of civic activists being criminally prosecuted.

“Historical Truth”

Russian authorities have used new laws to restrict meaningful historical debate about the Soviet Union and Russian history and to monopolize the field with state-controlled narratives, suppressing dissenting voices.

From 2020 to 2022, Russian authorities notably revamped efforts to monopolize the narrative about the victory of the Union of Soviet Socialist Republics (USSR) over Nazi Germany in World War II and seal it in legislation—part of wider official efforts to suppress legitimate speech at odds with official narratives about World War II, and Russian and Soviet history more broadly.

The 2020 amendments to the constitution emphasized that Russia is the successor state of the USSR and enshrined in law the notion of “historical truth” that Russia undertakes to “protect.” In 2021, the Federal Assembly (parliament) adopted laws that ban comparisons between the USSR and Nazi Germany and criminalize insulting the memory of World War II veterans.

The broader context for this legislation is the authorities’ intentional imposition of an official historical narrative glorifying Soviet-era achievements while downplaying, justifying, or in some cases contesting the facts of Joseph Stalin’s Great Terror and other Soviet-era atrocities.

Education

The Russian government has imposed stricter oversight over education, further restricting Russians’ access to information, eliminating alternatives to the historical, social, and political narratives that the government is promoting, and controlling interactions with foreigners.

A 2021 law bans unauthorized extracurricular educational activities that broadly encompass a wide range of human interaction. It gives the Russian government full control over all aspects of extracurricular education. It also authorizes the Education Ministry and

Ministry of Science and Higher Education to control international initiatives—participation in conferences and the like—undertaken at all educational institutions.

Amendments explicitly ban educational activities on various grounds. Some of the grounds listed can be legitimate, such as preventing the spread of racial, ethnic, or religious enmity or superiority. But the list also includes “imparting false information about historical, national, religious, and cultural traditions of nations.” Organizations and persons designated as “foreign agents” are prohibited from teaching or carrying out other educational activities.

The new laws detailed in this report have inflicted further blows to an already devastated civil society in Russia, and further diminished space for peaceful protest and dissent. They have resulted in purges of shelves in bookstores to remove books by authors critical of Russia’s full-scale invasion of Ukraine or that have LGBT-themed content, signaling a dangerous curtailment of people’s freedom to receive and disseminate information.

The ruling United Russia party has at times adopted rights-restricting legislation in the Federal Assembly at breakneck speed. For example, the March 2022 amendments that effectively outlawed discussion and reporting on Russia’s war in Ukraine swept through both chambers of parliament and were signed into law with immediate effect by President Putin in just two days. Other laws appear to reflect longer term efforts to suppress fundamental rights and freedoms.

Two themes emerge in many of these laws. The first is the perceived threat, articulated in many of the new laws’ explanatory notes, of toxic foreign—that is, Western—interference in Russia’s affairs, especially through civic activism. The second is the Russian government’s apparent determination to prevent the emergence of any alternatives to its stated narratives and expressed values.

Russia’s government should end the long-running crackdown on civil society and instead foster an environment in which civil society can thrive. It should repeal the draconian legal provisions and follow recommendations set out by such intergovernmental organizations as the Council of Europe, of which Russia was a member until 2022, and the United Nations to bring legislation and practices into line with Russia’s international human rights

obligations, as set out below. The government should also implement all judgments of the European Court of Human Rights, which remain binding on Russia despite its departure, including the general measures on amending legislation following from the judgments.

Civil society groups are now treading dangerously on the legislative minefield that the Russian government has laid before them. Each new law that is a blow to civil society has both an immediate effect—including the imprisonment or flight of activists—and a long term impact to push further into the future any possibility for reform. The resilience of Russian civil society is being tested as perhaps never before. Yet civil society is persisting. It provides hope for the emergence of a government in Russia committed to protecting and promoting fundamental rights.

Relevant International Legal Standards

Russia is a party to core international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), which it ratified in 1973.¹ Russia had been a high contracting party to the European Convention on Human Rights until September 16, 2022.²

Russia has binding obligations to respect the rights to freedom of expression, association, and peaceful assembly,³ freedoms that are also enshrined in the Russian constitution.⁴ The ICCPR allows only those restrictions on these freedoms that are properly provided for by law and “necessary in a democratic society” for a clearly defined set of reasons (including public order and national security).⁵

The right to freedom of expression not only protects both free speech and imparting information, but also the right to seek and receive information.⁶

The right to form and join an association is an inherent part of the right to freedom of association. The United Nations Human Rights Council has repeatedly stressed the importance of freedom of association in a democracy:

[T]he rights of freedom to peaceful assembly and of association are essential components of democracy, providing individuals with invaluable opportunities to, inter alia, express their political opinions, engage in literary and artistic pursuits and other cultural and social activities, engage in religious observance or other beliefs, form and join trade unions and

¹ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, entered into force March 23, 1976, 999 U.N.T.S. 171, reprinted in 6 ILM 368 (1967), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCCPR1.aspx> (accessed September 1, 2014), art. 22.

² Under article 58 of the European Convention, the European Court of Human Rights can still examine alleged violations of the Convention committed by Russia up to that date.

³ ICCPR, arts. 19, 21 and 22.

⁴ Constitution of the Russian Federation, arts. 29, 30, and 31.

⁵ ICCPR, arts. 21 and 22.

⁶ ICCPR, art. 19.

cooperatives and elect leaders to represent their interests and hold them accountable.⁷

The UN Human Rights Committee, an independent expert committee that provides an authoritative interpretation of the ICCPR, in its General Comment No. 37, has stated that restrictions on the rights to expression, association and assembly must:

be necessary and proportionate in the context of a society based on democracy, the rule of law, political pluralism and human rights, as opposed to being merely reasonable or expedient. Such restrictions must be appropriate responses to a pressing social need.... They must also be the least intrusive among the measures that might serve the relevant protective function. Moreover, they must be proportionate, which requires a value assessment, weighing the nature and detrimental impact of the interference on the exercise of the right against the resultant benefit to one of the grounds for interfering. If the detriment outweighs the benefit, the restriction is disproportionate and thus not permissible.⁸

The “foreign agent” laws directly give rise to violations of the right to freedom of association, as they are discriminatory and unjustifiably impose disproportionate administrative burdens on nongovernmental organizations (NGOs) in addition to those already imposed under Russian law.

The treason law’s wide berth for interpretation is inconsistent with the ICCPR’s requirement that restrictions on free speech be only those that are “necessary for a democratic society.”

The law imposing criminal liability for defamation is inconsistent with the conditions set forth in international human rights law. As the United Nations special rapporteur on the

⁷ Human Rights Council Resolution 15/21, “The Rights to Freedom of Peaceful Assembly and of Association,” October 6, 2010, A/HRC/RES/15/2, Preamble. See also Human Rights Council Resolution 21/16, “The Rights to Freedom of Peaceful Assembly and of Association,” October 11, 2012, A/HRC/RES/21/16; Human Rights Council Resolution 24/5, “The Rights of Freedom of Peaceful Assembly and of Association,” October 8, 2013, A/HRC/RES/24/5.

⁸ UN Human Rights Committee, General Comment No. 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, September 17, 2020, <https://documents.un.org/doc/undoc/gen/g20/232/15/pdf/g2023215.pdf?token=gsJFeoovnhwpAPIXMB&fe=true> (accessed July 2, 2024), para. 40.

promotion and protection of the right to freedom of opinion and expression noted in 2008, “[T]he subjective character of many defamation laws, their overly broad scope and their application within criminal law have turned them into a powerful mechanisms to stifle investigative journalism and silence criticism.”⁹

The special rapporteur has emphasized that states should take particular care to ensure that defamation laws—civil or criminal—are not used by public officials regarding matters that relate to their actions in public office, as defamation laws “should never be used to prevent criticism of government,”¹⁰ and “should reflect the principle that public figures are required to tolerate a greater degree of criticism than private citizens.”¹¹

Additionally, several international authorities have determined that criminal penalties are always disproportionate punishments for defamation, which is, by definition, a nonviolent offense.¹²

With respect to the new Russian laws regarding “historical truth” and education, the UN Human Rights Committee, in its General Comment No. 34 on freedoms of opinion and expression, has stated:

Laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the Covenant imposes on States parties in relation to the respect for freedom of opinion and expression. The Covenant does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events. Restrictions

⁹ UN Human Rights Council, Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Ambeyi Ligabo, A/HRC/7/14, February 28, 2008, <https://documents.un.org/doc/undoc/gen/go8/112/10/pdf/go811210.pdf?token=8mgR1eVS4VEQhCaRcc&fe=true> (accessed July 2, 2024), para. 39.

¹⁰ UN Commission on Human Rights, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, E/CN.4/1999/64, January 29, 1999, <https://documents.un.org/doc/undoc/gen/g99/107/66/pdf/g9910766.pdf?token=09F35ezLpVHVNjR4lW&fe=true> (accessed July 2, 2024), para. 28(a).

¹¹ *Ibid.*, para 28(b).

¹² In 1994 the Human Rights Committee stated that custodial sanctions are inappropriate for defamatory statements, as well as for any peaceful expression of views. UN Commission on Human Rights, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted in accordance with Commission resolution 1999/36, E/CN.4/2000/63, January 18, 2000, <https://documents.un.org/doc/undoc/gen/g00/102/59/pdf/g0010259.pdf?token=OSjAFACQdLtnLzcuF7&fe=true>, (accessed July 2, 2024), para. 48.

on the right of freedom of opinion should never be imposed and, with regard to freedom of expression, they should not go beyond what is permitted [in the Covenant.]¹³

Taken together, the arbitrary, punitive, invasive elements of the laws detailed in this report are contrary to Russia's obligations under international law to respect the rights to freedom of expression, association, and peaceful assembly and have a chilling effect on the exercise of those rights.

¹³ UN Human Rights Committee, General Comment No. 34 on article 19: freedoms of opinion and expression, CCPR/C/GC/34, July 29, 2011, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedoms-opinion-and>, (accessed July 2, 2024), para. 49.

Recommendations

To Russian Authorities

Russian authorities have long shown complete disregard for their international human rights obligations and appear determined to totally suppress independent civil society. The Russian government should end its crackdown on civil society by taking the following steps.

Parliament

- Rescind all laws incompatible with fundamental human rights, including the laws regarding “foreign agents,” war censorship, undesirable foreign organizations, confidential cooperation, foreign nongovernmental organizations, “LGBT propaganda,” and “historic truth;”
- Review national legislation to bring all laws into compliance with international standards.

Government

- Initiate review of existing legislation, ensuring participation of all key stakeholders, in particular civil society groups and human rights defenders, as well as UN special procedures and other international experts;
- Introduce bills to rescind or amend legislation to bring it into compliance with international standards;
- Rescind the bills incompatible with international standards;
- Fully cooperate with the UN special rapporteur on human rights in Russia.

Prosecutor’s Office, Investigative Committee

- Desist from instituting criminal proceedings based on criminal law provisions incompatible with international human rights standards and drop already instituted cases;
- Review all criminal cases and verdicts based on laws not in compliance with international human rights standards with an aim to provide restitution where rights have been violated: quash wrongful convictions, free from prison individuals prosecuted under such laws, and promptly provide a just remedy.

To the United Nations

- Incorporate human rights concerns, including legislation violating human rights, in the agenda of all interactions with the Russian government;
- Ensure eventual discussions and negotiations with the Russian government give priority to promoting and protecting human rights and address transitional justice for the victims of human rights violations;
- Ensure adequate resources are allocated to support the work of the special rapporteur on Russia and other relevant UN human rights mechanisms, in particular the Petitions Section and special procedures, considering the increased use of these mechanisms by Russian human rights defenders and victims of human rights abuses from Russia since Russia's departure from the Council of Europe.

To Other International Actors, including the European Union and its Member States, and Other Concerned Governments

- Integrate discussions of human rights abuses in Russia into all negotiations not only with the Russian government, but all concerned governments, underlining links between the human rights situation in the country and foreign policy concerns;
- Allocate resources to the UN Office of the High Commissioner on Human Rights to ensure that all human rights bodies and special procedures, including the UN Special Rapporteur on Russia, can carry out their work effectively; and allocate adequate resources for other UN human rights mechanisms to accommodate the increased applications and communication emanating from Russia's departure from the Council of Europe;
- Allocate resources to support Russian human rights defenders, journalists, and grassroots activists remaining in Russia and those in exile, and who have been negatively affected by the laws described in this report. Provide technical assistance and institutional support to those still in Russia in a manner that minimizes risks to their security;
- Support networks of Russian civil society organizations and activists so that it remains integrated and able to undertake collective activities;
- Speak out forcefully against government repression and human rights abuses in Russia; invoke international human rights law and standards to press Russian

- authorities to rescind laws and policies incompatible with human rights and seek the unconditional release of all those detained or imprisoned for exercising their fundamental human rights;
- Ensure support for Russian civil society inside the country as well as outside, taking into consideration the risks they face, including when interacting with foreign groups;
 - Adapt national visa policies so that Russian human rights defenders, journalists, political opposition, grassroots activists, and others at risk for exercising their fundamental rights are able to leave the country swiftly in case of need. Ensure that those in exile receive requisite visas and work permits and, if requested, access to lodge and pursue asylum claims.

Methodology

This report is based on analysis of numerous bills in Russia that later were signed into law between 2020 and 2024, and interviews with Russian human rights defenders specializing in freedom of expression, assembly, association, and other areas of international human rights law.

The interviews were conducted by telephone, exchange on social media, and email. All interviews were conducted by a Human Rights Watch researcher who is a native speaker of Russian.

Human Rights Watch reviewed publicly available official documents including bills, laws, explanatory notes, and other documents accompanying the respective bills published in the Duma's official legislative database, as well as reports published by civil society organizations. We extensively reviewed media publications on respective bills and laws, including interviews with government officials, members of parliament, and civil society experts.

Human Rights Watch also incorporated information obtained for previously published Human Rights Watch materials. The report includes information from rulings by the European Court of Human Rights and publications by experts, multilateral organizations, and human rights groups analyzing respective bills and adopted laws.

We also analyzed publications pertaining to individual cases of persecution of activists and civil society groups stemming from these repressive laws, including, where available, trial materials, court proceedings, conviction and sentencing materials, and official statements.

Some Russian governmental websites cited in this report can be accessed outside Russia only with certain types of VPNs.

The fines that laws specified as penalties are stated in rubles and converted to US dollars using the conversion rate as of early July 2024. Specific fines imposed by courts on

individuals are stated in rubles, with the dollar equivalent based on the average conversion rate for the year in which the fine was issued.

I. Smearing Critics as “Foreign Agents”

A signature weapon in the Russian government’s anti-rights arsenal is “foreign agents” legislation. The “foreign agent” concept labels anyone or anything that is critical of the government as “foreign” and therefore suspicious, subversive, or even traitorous. Enacted first in 2012 and repeatedly expanded and made harsher since, Russia’s foreign agent provisions have been used to harass a wide range of activists and critical voices and as a pretext for shutting down some of the country’s leading human rights groups. Over the years, provisions have targeted not only nongovernmental organizations (NGOs) but also unregistered groups, media outlets, journalists, and other categories of individuals, and ultimately, in 2022, all “persons under foreign influence.” Penalties, including fines and criminal punishments, have stiffened over time. By 2022-2023, legislation provided for the exclusion of “foreign agents” from many aspects of public life as the authorities sought to create, in the words of one activist, “a caste of untouchables.” By 2023, penalties also extended to third parties who provide “assistance” to people designated foreign agents.

In 2012, Russia’s parliament adopted the first iteration of a foreign agents’ law, which significantly added to the already considerable reporting requirements with which NGOs in Russia had to comply at the time.

The 2012 law:

- Requires NGOs to register as “foreign agents” if they receive any amount of foreign funding and engage in broadly defined “political activity.”
- Requires NGOs to mark all materials they publish or distribute with a “foreign agent” label.
- Requires NGOs to submit 1) quarterly reports to the Ministry of Justice if designated as foreign agents, explaining expenditures and use of assets; 2) twice annual reports about their activities and composition of governing bodies; and 3) an annual audit report.¹⁴

¹⁴ Prior to adoption of the 2012 law introducing foreign agents, all nongovernmental organizations (NGOs) were already required to submit to the Ministry of Justice an annual report on their activities and sources of funding, including information on the use of funds, with a special section on foreign funding sources. These annual reports must be published online on the organization’s website and the ministry’s website.

- Expands the grounds for unannounced government inspections of NGOs if registered as, or accused of being, foreign agents.

In 2014, after only a few NGOs voluntarily registered as foreign agents, parliament adopted amendments authorizing the Ministry of Justice to designate groups as such without their consent.

Since then, the government has listed scores of organizations working on human rights, civic education, environmental issues, humanitarian assistance and social welfare issues, media freedoms, and democratization as foreign agents.¹⁵

The law, as amended again in 2016, provides a definition of “political activities” that covers any attempt to influence public policy, regardless of the group’s mandate. Covered actions include public debates, discussions, meetings, protests, election monitoring, advocacy, public opinion surveys, legal or policy analysis, monitoring the work of government institutions, public opinion surveys, research, and petitioning government officials¹⁶ that aim to “influence” the “formation of government bodies” and state policies or practices.¹⁷ Such activities are considered political regardless of whether organizations are conducting them in the interest of the foreign entity that provides funding.¹⁸

This definition is so broad and vague that it effectively extends to all aspects of advocacy and human rights work.¹⁹

¹⁵ See, for example, Mikhail Boushuyev, “‘Foreign agent’ – Kremlin label for NGO (infographic)” (“Цепкий ярлык иностранного агента”), *Deutsche Welle*, November 23, 2016, <https://www.dw.com/ru/иностраннный-агент-кремлевский-ярлык-для-нко-инфографика/a-36490162> (accessed April 7, 2021).

¹⁶ “Russia: Sham Upgrade for ‘Foreign Agents’ Law,” Human Rights Watch news release, May 27, 2016, <https://www.hrw.org/news/2016/05/27/russia-sham-upgrade-foreign-agents-law>.

¹⁷ Federal Law “On Amendments to Article 8 of the Federal Law ‘On Public Associations’ and Article 2 of the Federal Law ‘On Non-Profit Organizations,’” №179-FZ, adopted June 2, 2016, <http://publication.pravo.gov.ru/Document/View/0001201606020008>.

¹⁸ The European Court of Human Rights (ECtHR) found that these earlier iterations of the foreign agents legislation were already incompatible with Russia’s human rights obligations and noted that the legislation did not contain any rules as to the purpose of “foreign funding” and did not require authorities to establish any link between the funding and the alleged “political activities.” As a result, in one case drawn on by the court, Russian authorities concluded that the organization was “financed” by a “foreign source” because it received a refund from a hotel abroad. See ECtHR, *Ecodefence and Others v. Russia* (applications nos. 9988/13 and 60 others), judgment of June 14, 2022, available at <https://hudoc.echr.coe.int/eng?i=001-217751> (accessed April 27, 2024), para. 100.

¹⁹ “Russia: Harsh Toll of ‘Foreign Agents’ Law,” Human Rights Watch news release, June 25, 2013, <https://www.hrw.org/news/2013/06/25/russia-harsh-toll-foreign-agents-law>.

For example, over the years, Russian authorities interpreted the law to include submissions to a UN human rights treaty body,²⁰ an amicus curiae (third-party) submission to the Constitutional Court, reposts of media articles in social media, letters by environmental activists supporting habitats and indigenous peoples' rights, public opinion surveys and sociological studies, HIV prevention and harm reduction programs,²¹ and assisting diabetes patients.²²

Although the law stated that activities in certain fields—including science, culture, art, health care, social welfare, the environment, and charity—are excluded from the definition, many organizations working in these areas have since been listed and fined for non-compliance.²³

The law covers funding received from a wide range of sources, including “foreign states ... international and foreign organizations, foreign citizens and persons without citizenship; or persons authorized by them and [or] Russian legal entities that receive funds and other

²⁰ “UN rights body voices concern as Russia orders NGO to register as ‘foreign agent,’” UN News, December 23, 2013, <https://news.un.org/en/story/2013/12/458492-un-rights-body-voices-concern-russia-orders-ngo-register-foreign-agent> (accessed May 25, 2024).

²¹ See M.A. Kanevskaya, M.V. Olenichev, T.K. Cherniayeva, “10 Stories: A Chronicle of NGO – foreign agents Survival” (“10 истории: хроника выживания нко – «иностраннных» агентов”), Human Rights Resource Center, 2018, http://fingramugra.ru/f/10_istorij_hronika_vyzhivaniya_nko_inostrannyh_agentov.pdf, (accessed May 24, 2024), pp.18, 33-34, 44, 50, 59, 67, 74, 80.

²² Vitaly Kropman, “Diabetes patients’ society designated a foreign agent in Saratov” (“Общество больных диабетом признали иноагентом в Саратове”), *Deutsche Welle*, May 28, 2018, <https://www.dw.com/ru/%D0%BE%D0%B1%D1%89%D0%B5%D1%81%D1%82%D0%B2%D0%BE-%D0%B1%D0%BE%D0%BB%D1%8C%D0%BD%D1%8B%D1%85-%D0%B4%D0%B8%D0%B0%D0%B1%D0%B5%D1%82%D0%BE%D0%BC-%D0%BF%D1%80%D0%B8%D0%B7%D0%BD%D0%B0%D0%BB%D0%B8-%D0%B8%D0%BD%D0%BE%D1%81%D1%82%D1%80%D0%B0%D0%BD%D0%BD%D1%8B%D0%BC-%D0%B0%D0%B3%D0%B5%D0%BD%D1%82%D0%BE%D0%BC-%D0%B2-%D1%81%D0%B0%D1%80%D0%B0%D1%82%D0%BE%D0%B2%D0%B5/a-43964794> (accessed May 24, 2024).

²³ See, for example, “Russia: Government vs. Rights Groups,” Human Rights Watch news release, June 18, 2018, <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle>. See also current list of foreign agents on Ministry of Justice registry, <https://minjust.gov.ru/uploaded/files/reestr-inostrannyih-agentov-27072023.pdf>, (accessed July 4, 2024).

The ECtHR noted that such exclusions of particular categories of NGOs “have been rendered meaningless” by the unforeseeable application of the law that was endorsed by the Russian courts, and that the Russian authorities “could label any activities which were in some way related to the normal functioning of a democratic society as ‘political,’ and accordingly order the relevant organizations to register as ‘foreign agents’ or pay fines.” See ECtHR, *Ecodefence and Others v. Russia*, paras. 96, 100.

property from the same.”²⁴ However, even declining foreign funding is no safeguard from the foreign agent label²⁵ and the restrictions and stigma associated with it.²⁶

The foreign agents label was originally designed to target Russian organizations. However, successive rounds of amendments have expanded the law to cover individuals and groups operating without legal status and the sources of funding considered “foreign.”

And, as described below, with enactment of the law “On control over persons and entities under foreign influence,” which entered into force on December 1, 2022, authorities no longer even need to prove any foreign funding, merely the existence of vaguely defined “foreign influence.”

Amendments to Russia’s administrative and criminal codes adopted to enforce the foreign agents legislation set a range of harsh administrative and criminal sanctions for designated individuals, organizations and leaders who fail to comply.

In recent years, some groups have spent enormous time and resources in litigation contesting the designation and challenging allegations they had violated the law. Few have been successful. The fines of up to 500,000 rubles (US\$5,691) for NGOs and of up to 5 million rubles (\$56,915) for repeated violations by mass media companies designated as “foreign agents” have proved extremely burdensome even to large organizations, and fatal

²⁴ The ECtHR noted that the “absence of clear and foreseeable criteria has given authorities unfettered discretion to assert that the applicant organizations were in receipt of “foreign funding,” no matter how remote or tenuous their association with a purported “foreign source.” In practice, Russian authorities used term “foreign funding” indiscriminately to include any disbursements, not even distinguishing between the funds received by an organization and those received by its staff, members, or directors acting in a personal capacity. In one case noted by the court, an NGO was designated as a foreign agent because in 2016 its head had received funds to buy an airplane ticket to attend an event in his personal capacity. Ibid., paras. 96, 108, 110.

²⁵ The ECtHR, drawing on the example of two Russian NGOs, concluded that “the circumstances in which a refusal of foreign funding could be considered valid were neither clear nor foreseeable.” In the case of Golos Association, a Russian court decided that the refusal had constituted receipt of foreign funding, since by refusing to receive those funds, it had taken a decision on its fate and demonstrated “the authority of an owner.” In the case of Sakhalin Environment Watch, which refused foreign funding immediately after its inclusion on the register of foreign agents and asked to be removed from the register, Russian authorities refused on the grounds that it was required to return all the funding it had received from foreign donors during the entire period of its activity, and not just from the date of its inclusion on the register of foreign agents. Ibid., paras. 96, 108, 111.

²⁶ The ECtHR concluded that attaching the label of “foreign agent” is likely to have a strong deterrent and stigmatizing effect and colors alleged foreign agents as being under foreign control “in disregard of the fact that they saw themselves as members of national civil society working to uphold respect for human rights, the rule of law, and human development for the benefit of Russian society and democratic system.” Ibid., para.136.

for smaller groups with fewer resources.²⁷ In 2022, foreign agent fines totaled over 230 million rubles (US\$3,295,128 at the time).²⁸

In 2020, two prominent Russian human rights organizations, Memorial and Public Verdict, resorted to crowdfunding to pay fines imposed under the foreign agents legislation. That year, the combined fines levied against Memorial and its leadership reached 5.3 million rubles (\$73,670 at the time); and 750,000 rubles (\$10,425 at the time) against Public Verdict and its director.²⁹

In December 2021, the Moscow City Court and the Russian Supreme Court ordered Memorial's forcible closure, and liquidation proceedings began against its two key entities, International Memorial Society and the Memorial Human Rights Center, initiated by prosecutors' offices over alleged violations of the foreign agents legislation. In particular, prosecutors cited labeling requirements (see below), which state that all information and materials of groups designated as foreign agents must be marked with a disclaimer about their status, with specific requirements related to font size and positioning of the disclaimers.³⁰

The liquidation was finalized in February and April 2022, when courts rejected appeals by Memorial's entities, ignoring a European Court of Human Rights decision

²⁷ The maximum fine of up to 5 million rubles (\$56,915) was introduced for mass media designated as foreign agents for "malicious" non-compliance in case of more than two prior fines on the same charges. The respective amendments to the Code of Administrative Offenses were introduced in February 2021 (see below). These provisions were superseded by the new law unifying the foreign agents legislation that entered into force in December 2022 and corresponding amendments to the Code of Administrative Offenses in December 2022 (see also below).

²⁸ "Report of the Russian Ministry of Justice about activities of foreign agents in 2022" ("Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году"), <https://t.me/komisgd/589> (accessed May 25, 2024), pp. 29-30.

²⁹ Human Rights Watch email exchange with Natalia Taubina, director of Public Verdict, June 29, 2021, and social media exchange with Anna Dobrovolskaya, legal director of Memorial Human Rights Center, June 29, 2021. See also, Memorial's crowdfunding campaign, <https://donate.memo.rug>, (accessed July 4, 2024).

³⁰ Rachel Denber, "In Closing Memorial, Russia Heralds a New, Grimmer Era of Repression," Commentary, *Moscow Times*, December 29, 2021, <https://www.themoscowtimes.com/2021/12/29/in-closing-memorial-russia-heralds-a-new-grimmer-era-of-repression-a75951>, (accessed July 3, 2024).

to suspend a ruling on the case until it ruled on a pending case against Russia concerning the foreign agents legislation.³¹

In December 2022, the Sakharov Center, named after the late Soviet-era physicist and dissident Andrei Sakharov, was ordered to pay a combined fine of 5 million rubles (\$72,586 at the time) for 10 identical but separately processed charges of lack of compliance with the foreign agents labeling requirements for 10 videos that the center posted on social media.³² In August 2023, the Moscow City Court ordered the forcible closure of the Sakharov Center following a lawsuit by the Ministry of Justice alleging several violations, including non-compliance with foreign agents labelling requirements.³³

Many other groups have been forced to shut or self-elected to close.³⁴ Some of their members left activism altogether; many others have continued their work through other

³¹ “The Supreme Court Finalized the Liquidation of ‘Memorial’” (“Верховный суд России окончательно ликвидировал ‘Мемориал’”), BBC Russian Service, February 28, 2022, <https://www.bbc.com/russian/news-60557468>, (accessed April 27, 2024). “Russia: Dissolution of HRC Memorial Confirmed on Appeal,” International Federation for Human Rights statement, April 5, 2022, <https://www.fidh.org/en/region/europe-central-asia/russia/dissolution-of-hrc-memorial-confirmed-on-appeal>, (accessed April 27, 2024).

³² “‘Sakharov Center’ is fined to 5 million rubles for violation of the foreign agents legislation” (“Сахаровский центр” оштрафован на 5 млн за нарушение закона об иноагентах), Interfax News Agency, December 23, 2022, <https://www.interfax.ru/russia/878373>, (accessed July 4, 2024).

In January 2023, the Sakharov Center was evicted from government-leased premises in Moscow’s city center, which it had occupied rent-free for over 25 years. The center had to close and relocate its exhibits on the history of Soviet repression and its archive to storage. See “Sakharov’s Center stopped its work. Moscow authorities discontinued lease agreement; unique archive sent to storage” (“Сахаровский центр прекратил работу. Власти Москвы разорвали с правозащитниками договор аренды, уникальный архив отправлен на склад”), *Current Time*, April 17, 2023, <https://www.currenttime.tv/a/saharovskiy-tsentr-prekratil-rabotu-vlasti-moskvy-razorvali-s-pravozaschitnikami-dogovor-arendy-unikalnyy-arhiv-otpravlen-na-sklad/32367105.html>, (accessed July 4, 2024).

³³ Maria Lokotetskaya, “Merciless formalism. Court liquidated the Sakharov’s Center” (“Безжалостный формализм”), Business FM, August 18, 2023, <https://www.bfm.ru/news/532008>, (accessed July 4, 2024).

The Ministry of Justice accused the Sakharov Center of several instances of operating outside Moscow, where it was registered, for organizing exhibitions, workshops, and human rights training events in other regions of the country, and of non-compliance with the labelling requirements—violations for which the organization and its directors were already fined—and of discrepancies in its incorporating documents. The center’s defense lawyer pointed out that the center had carried out the same activities with the same documentation since 1996 without any complaints or warnings from authorities, despite regular reporting and several inspections.

Earlier, accusations of operating outside the region of registration were similarly used to shut down two other prominent Russian NGOs: the oldest Russian human rights group, the Moscow Helsinki Group, in January 2023; and the anti-extremism think tank Sova in April 2023.

³⁴ European Court of Human Rights, Reply of the applicants to the memorandum of Russian government with observations on the admissibility and merits and just satisfaction claims (“Возражения заявителей на меморандум правительства России

legal means, as individual activists, or by forming a movement or public association for which state registration is not required.

On March 1, 2021, the day draconian foreign agents penalties entered into force, one of Russia's prominent human rights defenders, Lev Ponomarev, announced that he had no choice but to close his public association, "Za Prava Cheloveka" (For Human Rights), that had operated as an unregistered association since authorities shut his NGO in 2019, partly because it defied the foreign agents requirements.³⁵ Ponomarev said the association included thousands of members nationwide operating independently and it was impossible to protect them from fines and potential criminal liability.³⁶

Other activists noted the impact of the new fines on groups that do not have the resources to pay. Shortly before the amendments were adopted, Irina Protasova, chairperson of the human rights organization "Chelovek I Zakon" (Man and Law), in the Mari El Republic, said the bills would be "deadly" for civil society organizations, especially in the regions, where people may not have the money to pay such fines.³⁷

In an earlier example of this challenge, Semyon Simonov, then-director of the Southern Human Rights Center in Sochi, refused to register his NGO as a "foreign agent" and in July 2021 was sentenced to 250 hours of mandatory labor because the group did not have the funds to pay the fine that was assessed against it. Authorities held him personally responsible for the fine imposed on the organization, even after Simonov began proceedings to liquidate it.³⁸

относительно приемлемости и существа дела"), *Ecodefense and Others v. Russia*, (Application nos. 9988/13 and 60 others), <https://www.kommersant.ru/docs/2018/ECHR.pdf>, (accessed July 4, 2024).

³⁵ "Lev Ponomarev closed down public association "Za Prava Cheloveka" (For human rights)" ("Лев Пономарёв закрыл общественную организацию "За права человека")", RFE/RL, March 1, 2021, <https://www.svoboda.org/a/31128231.html> (accessed July 3, 2024).

³⁶ Ibid.

³⁷ "Unprecedented attack on our civil and political rights" ("Беспрецедентное наступление на наши гражданские и «политические права»", *Kommersant*, December 5, 2020, <https://www.kommersant.ru/doc/4602496> (accessed July 3, 2024).

³⁸ "Russia: Court Convicts Rights Defender," Human Rights Watch news release, July 12, 2021, <https://www.hrw.org/news/2021/07/12/russia-court-convicts-rights-defender>,

Since Russia’s full-scale invasion of Ukraine, “foreign agent” designations have drastically increased, according to Ministry of Justice statistics,³⁹ and now include well-known public figures, such as opposition politicians, journalists, entertainers, and bloggers vocal in their opposition to the Ukraine war.

The section below describes provisions parliament adopted between 2020 and 2023 that have considerably expanded Russia’s repressive “foreign agent” toolkit.

2020-2021 Laws

Federal Law №481-FZ of December 30, 2020

One of the 2020 bills that added new foreign agents provisions was introduced in Russia’s parliament on November 18, 2020.⁴⁰ It amended five different laws,⁴¹ drastically expanding application of the “foreign agents” laws to include individuals and unregistered groups. It also expanded the sources of funding that could trigger a “foreign agent” designation, widened the inspection regime, and introduced new labeling requirements (see below).

³⁹ The report by Russian Ministry of Justice shows a drastic increase in new designations of foreign agents in 2022: 188 new entries as compared to 108 in 2021, a more than 40 percent increase, with a very notable spike starting in April 2022. See the “Report of the Russian Ministry of Justice about activities of foreign agents, including participation in political activity occurring on the territory of the Russian Federation, on cash receipts and disbursements, and also on the results of control of their activity in 2022” (“Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году”), <https://t.me/komisgd/589> (accessed July 2, 2024), pp. 10-11.

The list of individual foreign agents was created in April 2022 and by early September 2022 contained over 20 entries, all of them with Ukraine as their source of foreign funding. See also, Ministry of Justice registry of individuals acting as foreign agents, <https://minjust.gov.ru/ru/activity/directions/942/spisok-lic-vypolnyayushih-funkcii-inostrannogo-agenta/?hash=cfa8947a-b36e-447a-acao-dcfo6a53cf4d>. (accessed September 2022). At time of writing, the list was no longer available on the Ministry of Justice website.

Also, from late February until September 2022, over 60 new entries were added to the list of “foreign agents’-foreign media” (bringing the total to over 180), <https://minjust.gov.ru/ru/documents/7755>, (accessed July 4, 2024). A few new entries were added to the two other “foreign agents” registries in the same period: one group to the public associations without legal entity, and six new entries to the registry of NGOs. See <https://minjust.gov.ru/ru/pages/reestr-nezaregistrirovannyh-obshchestvennyh-obedinenij-vypolnyayushih-funkcii-inostrannogo-agenta/> and <http://unro.minjust.ru/NKOForeignAgent.aspx> respectively.

⁴⁰ Bill “On Amendments to Some Legal Acts of the Russian Federation Concerning Imposition of Additional Measures of Countering Threats to National Security” №1057914-7 of November 2020, <https://sozd.duma.gov.ru/bill/1057914-7> (accessed July 2, 2024).

⁴¹ Law “On Mass Media” №2124 of December 27, 1991; Federal law “On Public Associations,” №82-FZ of May 19, 1995; Federal Law “On Non-commercial Organizations” №7-FZ of January 12, 1996; Federal law “On Measures Against Persons Complicit in Violations of Basic Human Rights and Freedoms, and Rights of Russian Nationals” №272-FZ of December 28, 2012.

Parliament adopted the amendments on December 25 and they entered into force on December 30, 2020.⁴²

Funding Sources

The law introduced a new category of intermediaries: funding is considered to be foreign if the source is a Russian national or Russian organization that received the funds directly from foreign sources, or from an individual or legal entity authorized by foreign sources, with the express purpose of passing them to a Russian NGO.

At the same time, amendments also expanded the sources of “foreign funding” to include Russian nationals receiving any funds, in any amount, for any reason, from any “foreign source, no matter how indirectly.”⁴³

This effectively puts the burden on recipients of donations, salaries, or grants to trace the source of their funds, seemingly without any limits. Recipients could be held liable if the funds they received are “tainted” by “foreign sources” at any stage. Authorities could, and apparently have been, interpreting this provision broadly and arbitrarily, and in ways that make it extremely difficult, if not impossible, for recipients to do reasonable due diligence to reduce their risks of exposure and avoid potential entrapment.

In April 2022, Russian authorities added political analyst Yekaterina Shulman to the foreign agents–foreign media registry. In June, after challenging the designation, she said that authorities asserted that her salary from the Echo of Moscow radio station constituted indirect foreign funding, along with several other payments from clearly Russian entities that, according to authorities, were receiving foreign funding.⁴⁴

⁴² Federal law “On Amendments to Some Legal Acts of the Russian Federation Concerning the Imposition of Additional Measures of Countering Threats to National Security” №481-FZ of December 30, 2020.

⁴³ The ECtHR criticized earlier iterations of foreign agents laws concerning foreign funding not meeting the “quality of law” requirement and depriving so-called foreign agent NGOs of the ability to regulate their financial situation, since the earlier laws already allowed for overbroad and unpredictable interpretation. The amendments in 2020 and in subsequent years (described below) made those notions ever broader and vaguer, increasing the unpredictability and risks for all categories of so-called foreign agents. See ECtHR, *Ecodefence and Others v. Russia*, para. 112.

⁴⁴ See “Статус / @Ekaterina_Schulmann* и Максим Курников // 07.06.2022” (“Status / @Ekaterina Shulmann* and Maksim Kurnikov // 07.06.2022”), video clip, YouTube,

Echo of Moscow's editor-in-chief, Alexei Venediktov, denied any foreign funding. The station's majority shareholder was a media company under the Russian state-owned gas company, Gazprom. Venediktov was listed as a foreign agent a week after Shulman because he received a salary from another Russian-registered company that the government claimed was receiving foreign funds.⁴⁵

The amendments enabled authorities to potentially label as a “foreign source” a Russian national who works for a foreign company and donated some of their salary to Russian activists.

The amendments also widened the potential for entrapment scenarios, made possible in earlier foreign agents provisions, which would result in a group getting designated as foreign agents.

A 2019 example involving the Foundation Against Corruption, a Russian NGO affiliated with the late Russian opposition figure Alexei Navalny, illustrated this potential. The Ministry of Justice listed the organization as a “foreign agent” due to donations from abroad that were transferred under circumstances that an independent media investigation found had amounted to entrapment.⁴⁶

There was no minimum for the foreign donation to trigger the law's requirements.⁴⁷ In October 2020, a voter education group was designated a “foreign agent” because of a 230-

<https://www.youtube.com/watch?v=3WS0HTS4ZgU&t=14475>, (accessed July 3, 2024). Among other “indirect sources” that the Ministry of Justice listed in its justification, Shulman reported her salary from the Moscow School of Social and Economic Sciences (“Shaninka”), a grant from the Vladimir Potanin Charitable Foundation (listed as one of the richest people in Russia by *Forbes*, head of Norilsk Nickel and allegedly close to President Putin), royalties from the publishing house AST, and payments from the Strelka Institute for Media, Architecture, and Design, a Russian nonprofit institution.

⁴⁵ See “Court upheld listing of Venediktov as foreign agent” (“Суд признал законным включение Венедиктова* в список иноагентов”), RIA News, June 23, 2022, <https://ria.ru/20220623/venediktov-1797571834.html>, (accessed July 4, 2024).

⁴⁶ “*Meduza* found the Spanish man who caused FBK to be designated a foreign agent; he cannot explain why he donated to Russian corruption fighters” (“«Медуза» нашла испанца, из-за которого ФБК признали «иностранным агентом». Он не может объяснить, зачем помогал российским борцам с коррупцией”), *Meduza*, October 17, 2019, <https://meduza.io/feature/2019/10/18/meduza-nashla-ispantsa-iz-za-kotorogo-fbk-priznali-inostrannym-agentom-on-ne-mozhet-ob-yasnit-zachem-pomogal-rossiyskim-bortsam-s-korrupsiei>, (accessed July 3, 2024).

⁴⁷ “Ministry of Justice stated that the amount of donation is irrelevant for consideration of NGO as a foreign agent” (“Минюст заявил, что размер пожертвования при признании НКО иноагентом не имеет значения”), TASS News Agency, January 27, 2021, <https://tass.ru/obschestvo/10556443> (accessed April 27, 2024).

ruble (\$3) donation supposedly received from a Moldovan national. The group’s director said the foundation had no way to check the nationality of its donors.⁴⁸

Similarly, in August 2021 the public association Golos—an independent election monitoring group operating without a legal entity—was listed as a “foreign agent” based on a transfer from a national of Armenia of approximately 200 rubles (less than \$3 at the time).⁴⁹

In June 2022, Russian journalist Maria Borzunova posted online that she was designated as a “foreign agent” for several transfers in small amounts from friends: fellow journalist and US national Evan Gershkovich⁵⁰ and Belarus national Nadin Lakhbabi, a former producer of TV Rain.⁵¹ In both cases, according to Borzunova, they were repaying each other for food and drinks.

Expanded Inspection Regime

The amendments significantly expanded grounds for unscheduled government inspections of organizations listed as “foreign agents.” These include vague grounds, such as when authorities receive information that the group’s activities allegedly “do not comply with the aims and purposes outlined in its charter.”⁵² The law provided no threshold of credibility for such allegations before they would trigger an inspection, nor did it cap the number of inspections.

⁴⁸ The group is the Foundation for Assistance to Legal Education for the Population “Voters League.” “Ministry of Justice registered ‘Voters’ League’ as a foreign agent” (“Минюст признал иноагентом фонд «Лига избирателей»”), *Kommersant*, October 28, 2010, <https://www.kommersant.ru/doc/4550204>, (accessed July 3, 2024).

⁴⁹ Vladimir Mikhaylov, “Court agreed that one can be designated ‘foreign agent’ for 200 rubles transfer. This is how they explained it to Golos” (“Суд согласился, что ‘иностранным агентом’ в России можно стать за перевод в 200 рублей. Вот как это объяснили ‘Голосу’”), *Current Time*, October 25, 2021, <https://www.currenttime.tv/a/sud-soglasilsya-chto-/31528437.html/>. A few years prior, in 2016, Russian authorities shut down the registered NGO Golos for foreign agent law violations. Both the public association and the NGO specialized in independent election monitoring.

⁵⁰ In March 2023, the FSB arrested *Wall Street Journal* reporter Evan Gershkovich on “suspicion of espionage in the interests of the American government.” He remains in pre-trial detention at time of writing. See Rachel Denber, “Russia’s Security Service Arrests American Reporter,” commentary, Human Rights Watch Dispatch, March 30, 2023, <https://www.hrw.org/news/2023/03/30/russias-security-service-arrests-american-reporter>. On July 19, the Sverdlovsk Regional Court convicted Gershkovich and sentenced him to 16 years in prison.

⁵¹ “Mariya Borzunova, ‘I Am an Agent of Belarus!’” (“Мария Борзунова*: «Я Агент Беларуси!»”), post to *New Times*, (Blog) June 28, 2022, <https://newtimes.ru/articles/detail/215288> (accessed July 4, 2024).

⁵² Federal Law №481-FZ, art.4(4(b)).

The provisions also allow extending such inspections up to 45 days.⁵³ After adoption of the original 2012 Foreign Agents Law, inspections became a convenient tool for authorities to interfere with, or even stop, the work of affected organizations.⁵⁴

Since 2014, the human rights NGO “Chelovek i Zakon” (Man and Law) based in Russia’s Mari El Republic, has been subjected to 17 inspections.⁵⁵ During an unscheduled inspection in December 2022, the authorities’ list of requested information or materials had 27 entries; the NGO reported that it had to submit over 5,500 pages to fulfill the requirements.⁵⁶ After the inspection, authorities accused the group of holding an “anti-war position on Ukraine,” of receiving funding from “unfriendly countries;” and of “political activities,” namely, organizing public debates, discussions, and lectures, and issuing public statements addressed to public officials and authorities.⁵⁷

Man and Law sought to challenge these conclusions in court, which dismissed its lawsuit.⁵⁸ In January 2023, the Ministry of Justice filed a lawsuit seeking to shut down the human rights group on the grounds of operating outside the region where it was registered, non-compliance with the foreign agents label, and alleged discrepancies between its activities and the aims listed in incorporating documents.⁵⁹ In February 2023, the proceedings were temporarily suspended, pending legal challenge of the findings of the Ministry of Justice’s inspection of the group. The court ordered the group’s liquidation in August 2023.⁶⁰

⁵³ Ibid, art. 4(4(d)).

⁵⁴ In March 2013, prosecutors launched, en masse, nationwide inspections of NGOs. In August 2013, a representative of the Prosecutor General’s Office stated that over a thousand NGOs had been inspected. “Prosecutor General’s Office: over 2200 NGOs in Russia receive foreign funding” (“ГП: более 2,2 тыс НКО в России получают иностранное финансирование”), RIA News, August 22, 2013, <https://ria.ru/20130822/957882215.html> (accessed July 3, 2024).

⁵⁵ “Ministry of Justice found “political activities” in the work of Mari El human rights organization” (Минюст обнаружил “политическую деятельность” в работе марийской правозащитной организации “Человек и закон”), Idel.Realii, December 28, 2022, <https://www.idelreal.org/a/32197151.html>, (accessed July 3, 2024). The NGO was listed as a “foreign agent” in December 2014. In December 2022, the latest unscheduled inspection took place, after which the Ministry of Justice lodged a lawsuit to shut the NGO. At time of writing, the trial was ongoing.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ “In Mari El, Ministry of Justice asks a court to shut down human rights organization” (“В Марий Эл минюст просит суд ликвидировать правозащитную организацию “Человек и закон”), Idel.Realii, January 30, 2023, <https://www.idelreal.org/a/32246053.html> (accessed July 4, 2024).

⁵⁹ Telegram post of the account of “Man and Law” (“Человек и закон”), <https://t.me/s/manandlawinfo>, (accessed July 4, 2024). In 2019, following the previous inspection, authorities also sought to shut the NGO on the same grounds, that time unsuccessfully.

⁶⁰ Telegram post of the account of “Man and Law” (“Человек и закон”), <https://t.me/s/manandlawinfo>.

Groups with a history of attacking civic activists have also used the inspection regime for the same purpose. For example, in February 2019, For Human Rights and two affiliated human rights groups were listed as “foreign agents” following an unscheduled inspection requested by SERB (Russian Liberation Movement), a far-right group.⁶¹

In a media interview, Lev Ponomarev, head of For Human Rights, said that shortly before the designation, the ministry conducted a scheduled inspection that found no violations, but then organized the unscheduled inspection based on SERB’s request.⁶² SERB, Ponomarev said, had previously disrupted his organization’s office on multiple occasions and had filed complaints against it with the Prosecutor General’s Office.⁶³

Any group or individual can request such an inspection.

In 2019, a regional NGO in Saratov that assisted people with diabetes had to shut down after being designated as a “foreign agent” and fined following an inspection triggered by a complaint filed by a “concerned medical student.”⁶⁴

Memorial was particularly hard hit, with reports of at least three prosecutors’ inspections in just one week in 2013.⁶⁵ The organization was since subjected to many more inspections until it was shut down by authorities in 2021 (see above). In 2014, another human rights group, Agora, had five inspections in a two-year period; the inspection that related to

⁶¹ “Ministry of Justice again listed For Human Rights as a foreign agent” (Минюст снова причислил к НКО-“иноагентам” движение “За права человека”) Interfax News Agency, February 13, 2019, <https://www.interfax.ru/russia/650436> (accessed July 3, 2024), “Ponomarev explained the reason why For Human Rights were listed as foreign agent” (Пonomarev назвал причину, по которой “За права человека” включили в реестр НКО-иноагентов”), Interfax News Agency, February 13, 2019, <https://www.interfax.ru/russia/650451> (accessed July 3, 2024).

⁶² Ibid.

⁶³ Ibid. The basis for the designation was that organization received a grant from UN Committee against Torture to run a hotline for victims of torture in penitentiaries.

⁶⁴ Ivan Sergeyev, “Organization that assisted diabetes patients is planning to close down” (“Признанная иноагентом саратовская организация больных диабетом закрывается”), *Kommersant*, October 30, 2018, <https://www.kommersant.ru/doc/3785664> (accessed July 3, 2024), (accessed July 4, 2024). Anna Mukhina, “No medications are dispensed. Death from diabetes” (“Лекарства не выдают. Смерть от сахарного диабета”) RFE/RL, October 14, 2018, <https://www.svoboda.org/a/29542029.html> (accessed July 3, 2024); Olga Kononova, “NGO and foreign agent status: easy to get, almost impossible to get rid of” (“НКО и статус иноагента: получить легко, снять почти невозможно”) June 22, 2021, <https://www.miloserdie.ru/article/nko-i-status-inoagenta-poluchit-legko-snyat-pochti-nevozmozhno/> (accessed July 3, 2024).

⁶⁵ “Memorial NGO inspected for the third time in a week,” March 26, 2013, BBC Russian Service, https://www.bbc.com/russian/russia/2013/03/130326_russia_ngo_check, (accessed July 4, 2024).

In 2021, authorities shut down two of Memorial’s three legal entities—its human rights organization and International Memorial—for alleged persistent violations of the foreign agents legislation (see above).

compliance with foreign agents rules lasted over six months.⁶⁶ In 2016, the Russian authorities shut Agora for alleged persistent noncompliance with foreign agents legislation.⁶⁷ Agora continued its work without a legal entity as an international human rights project.

Several human rights groups unsuccessfully challenged the inspections in Russian courts. They gained partial success at the Constitutional Court, which in February 2015 ruled that some provisions concerning inspections were unconstitutional and could result in unrealistic demands and liability.⁶⁸ The court also suggested the legislation be revised.⁶⁹ However, the court's ruling has had little, if any, impact; attempts by some groups to challenge inspections in court based on the court ruling have been rejected.⁷⁰

Another amendment introduced a requirement for all NGOs to include information on all staff in their regular reports to authorities⁷¹; foreign agents must report this twice a year;

⁶⁶ Yelena Mukhametshina, Anastasiya Kornia, "The order of the Prosecutor General's Office allowing for unregulated and open-ended inspections of NGOs is contested" ("Оспорен приказ Генпрокуратуры, разрешающий нерегламентированные проверки НКО"), *Vedomosti*, September 30, 2014, <https://www.vedomosti.ru/politics/articles/2014/09/30/agora-prosit-reglamenta>, (accessed July 4, 2024).

⁶⁷ Yelena Mukhametshina, Natalya Raybman, "First human rights organization has been shut down following lawsuit by the Ministry of Justice" ("Первая правозащитная организация ликвидирована по иску Минюста"), *Vedomosti*, February 10, 2016, <https://www.vedomosti.ru/politics/articles/2016/02/10/628395-agora-likvidirovana>, (accessed July 4, 2024).

⁶⁸ "On February 17, 2015, the Constitutional Court of the Russian Federation adopted a judgment in the case of examining the constitutionality of certain provisions of the Federal Law 'On the Prosecutor's Office of the Russian Federation'" ("17 февраля 2015 года Конституционный Суд РФ провозгласил Постановление по делу о проверке конституционности отдельных положений Федерального закона 'О Прокуратуре Российской Федерации'"),

Constitutional Court of the Russian Federation news release, undated, <https://web.archive.org/web/20220128121740/http://www.ksrf.ru/ru/News/Pages/ViewItem.aspx?ParamId=3211> (accessed July 4, 2024). Also, official publication of the Constitutional Court's ruling in *Rossiyskaya Gazeta*, "Ruling of the Constitutional Court of the Russian Federation on the case of verification of the constitutionality of the provisions of paragraph 1, article 6, paragraph 2, article 21 and point 1, article 22 of the Federal Law 'On the Prosecutor's Office of the Russian Federation'" ("Постановление КС РФ по делу о проверке конституционности положений пункта 1 статьи 6, пункта 2 статьи 21 и пункта 1 статьи 22 ФЗ 'О прокуратуре РФ'"), *Rossiyskaya Gazeta*, March 2, 2015 <https://rg.ru/documents/2015/03/02/ksrf-dok.html> (accessed July 3, 2024).

⁶⁹ "Constitutional court regulated NGO inspections," Federal News Agency, February 17, 2015, <https://ria.ru/214115-ks-razobratsya-s-prokuratury-i-nko-ks-otreguliroval-proverki-nko> (accessed July 4, 2024).

⁷⁰ Social media exchange with Kirill Koroteev, head of international practice at Agora international human rights group, July 1, 2021.

⁷¹ Such information includes full names, date of birth, nationality, ID/passport data, residential address, position in the organization, and labor contract number. See "Order of the Ministry of Justice of Russia 'On the Forms and Deadlines for Submission to the Ministry of Justice of the Russian Federation Reports by Nongovernmental Organizations'" №185 of September 30, 2021, "Official Publications of Legal Acts," <http://publication.pravo.gov.ru/Document/View/0001202109300052> (accessed May 29, 2024).

other NGOs, annually.⁷² Previously, they were required to provide such information only regarding their management.

Labeling Requirements

Any person or group designated as a “foreign agent” must prominently display this label on all their publications and materials. The 2020 amendments expand these labeling requirements in two ways:

- They require all media outlets to include this label whenever they mention a designated “foreign agent”⁷³ or publish their materials.⁷⁴
- Any materials produced or disseminated by “foreign agent” groups’ founders, members, leadership, board, or staff members, if produced or distributed as part of “political activities,” must also be labeled as “foreign agent.”⁷⁵

On March 1, 2021, the day the new penalties for this offense entered into force (see below), some of Memorial’s staff began putting “foreign agent” disclaimers on their personal social media accounts. In a Facebook post, a Memorial lawyer compared the process to stitching on a yellow Star of David during the Nazi era. She also said that the law provides no clarity about how and where exactly to do this labeling—for example, on Facebook pages, and X (formerly Twitter) accounts, and that they do so “at their own peril.”⁷⁶

Due to the law’s lack of certainty and clarity, Memorial’s lawyers felt compelled to interpret all foreign agent norms to “absurd fastidiousness” to avoid the organization’s experience in 2019, when it accrued several million rubles in fines for failing to label its social media posts.⁷⁷

Expansion of Applicability to Individuals

⁷² Federal Law № 481-FZ, art.4(4(a)).

⁷³ Law “On Mass Media” №2124 of December 27, 1991.

⁷⁴ Federal Law №481-FZ, art. 1.

⁷⁵ Ibid., art. 3(1), art.4(3(a,б)).

⁷⁶ See, for example, Facebook post of Tatyana Glushkova, lawyer of Memorial Human Rights Center, <https://www.facebook.com/glush.tat/posts/3710797299003027>, (accessed July 4, 2024).

⁷⁷ See Facebook post of Tamilla Imanova, lawyer of Memorial Human Rights Center, <https://www.facebook.com/imanova.tamilla/posts/3206991396194060>, (accessed July 4, 2024).

The 2020 amendments extended the applicability of the “foreign agent” label to individuals by amending a 2012 law that allegedly aimed to take measures against those responsible for human rights violations against Russian citizens.⁷⁸

Pre-Existing Provisions: Foreign Agent Media

This was not the first time Russian lawmakers expanded the foreign agents regime to individuals. In 2017, they adopted a law seemingly targeting foreign media, including those operating in Russia without a registered legal entity. This was done in response to the US government’s demand that Russian state media company RT register with the US Justice Department under the US Foreign Agents Registration Act.⁷⁹

Although observers initially understood this law to be applicable only to mass media, the amendments stated that any foreign entity disseminating any materials and receiving funds from foreign sources are foreign mass media and must comply with all requirements of the foreign agents legislation.

In 2019, additional amendments to the same body of law expanded the application of the “foreign agent media” concept to individuals, including Russian nationals and organizations.

With these two sets of amendments in place, any individual or group that engages in the broadly construed “political activity” described above, receives any amount of foreign funding, and posts any materials or information about their work online could be listed as foreign agent.

The 2019 amendments remained unenforced until December 2020, when the Ministry of Justice listed five individuals in one day. The first individual to be added to the “foreign

⁷⁸ Federal law “On Measures Against Persons Complicit in Violations of Basic Human Rights and Freedoms, and Rights of Russian Nationals” №272-FZ of December 28, 2012, widely believed to have been adopted in retaliation for the Magnitsky Act, a US law that envisages visa bans and asset freezes on Russian officials implicated in torture and killings of whistleblowers in Russia.

⁷⁹ “Mirror response, Duma Deputy Chair Pyotr Tolstoy on why foreign media should be recognized as foreign agents,” (“Зеркальный ответ. Заместитель председателя Госдумы Петр Толстой — о том, зачем признавать иностранными агентами зарубежные СМИ”), *Izvestiya*, November 13, 2017, <https://iz.ru/670441/petr-tolstoi/zerkalnyi-otvet> (accessed June 28, 2024).

media foreign agents” list was Lev Ponomarev, followed by a feminist activist, a performance artist, and three journalists.⁸⁰

In 2021, the registry grew exponentially with 108 new entries. New entries nearly doubled in 2022 with over 188 new entries, including foreign media outlets and journalists, prominent Russian human rights defenders and civic activists, opposition politicians, and popular videobloggers.⁸¹

Additional Foreign Agents Regime for Individuals

The 2019 amendments left a loophole for individuals who manage to avoid disseminating information online or in print. But the 2020 amendment closed it by creating a designated registry for such individuals as well, regardless of their nationality.⁸²

This provision lay dormant until April 2022, after Russia’s full-scale invasion of Ukraine. All individuals included in this registry by early September 2022, according to the Ministry of Justice, received support from Ukraine.⁸³ Reporting on the results of the year, the ministry explicitly stated that the main political activity of those who were designated as foreign agents in 2022 was active involvement in disseminating “discreditation about Russian Armed Forces” in the context of the armed conflict in Ukraine.⁸⁴

⁸⁰ Ilya Koval, “Lev Ponomarev on being listing as a ‘foreign agent – foreign media,’” (“Лев Пономарев о попадании в список СМИ-иноагентов”), *Deutsche Welle*, December 28, 2020, <https://www.dw.com/ru/lev-ponomarev-o-popadanii-v-spisok-smi-inoagentov-budem-zashhishhatsja-kollektivno/a-56078203> (accessed May 25, 2024).

⁸¹ Registry of foreign media performing functions of foreign agents, Ministry of Justice of the Russian Federation, <https://minjust.gov.ru/ru/documents/7755/> (accessed July 4, 2024). This registry was made redundant with the adoption of a new law in 2022—described in the main body of this report below—and was replaced by a unified registry of foreign agents incorporating all previous registries.

See also, the “Report of the Russian Ministry of Justice about activities of foreign agents, including participation in political activity occurring on the territory of the Russian Federation, on cash receipts and disbursements, and also on the results of control of their activity in 2022” (“Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году”), <https://t.me/komisgd/589> (accessed July 4, 2024), p. 10.

⁸² Russia’s Ministry of Justice registry of individuals - foreign agents, <https://minjust.gov.ru/ru/activity/directions/942/spisok-lic-vypolnyayushih-funkcii-inostrannogo-agenta/> (accessed July 4, 2024).

⁸³ *Ibid.*

⁸⁴ “Report of the Russian Ministry of Justice about activities of foreign agents, including participation in political activity occurring on the territory of the Russian Federation, on cash receipts and disbursements, and also on the results of control of their activity in 2022” (“Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в

Otherwise, the substantive difference between the new registry and the earlier “foreign agent foreign media” registry was unclear, as the profiles of individuals included in one or the other often overlap and those included in the “individuals” registry mostly have a similar public presence as those equated with “foreign media.”

Under the 2020 amendments, the “foreign agent” label became applicable to any individual receiving money or other support from a foreign source and, acting in their interest, engaging in “political activity” or deemed to gather information on Russian military activities or technologies that “can be used against Russia’s security or interests.”

Individuals could trigger the “foreign agent” label by allegedly acting in the interest of a range of “principals,” including foreign states, international or foreign organizations, foreign nationals, or stateless persons.

The types of support that trigger the foreign agent label for individuals included not only funds or property, as is the case for other categories of foreign agents, but also the broad notion of “organizational and methodological” support, which could presumably include participation in any training or capacity-building program.

This definition gave authorities wide discretion to designate as a “foreign agent” almost any Russian activist, the staff of international and foreign organizations and entities, and their organizations’ supporters and members.

THE NEW AMENDMENTS ALLOWED AUTHORITIES TO IMPUTE A CAUSAL LINK BETWEEN AN INDIVIDUAL’S “FOREIGN SUPPORT” ON THE ONE HAND, AND ANY OF THEIR ACTIVITIES ON THE OTHER, AND TO USE THIS ALLEGED LINK AS GROUNDS TO CLAIM THE INDIVIDUAL IS A “FOREIGN AGENT.”

The registration, reporting, and labeling requirements for individuals designated as foreign agents under the new provisions are like those for groups. For example, mass media are obligated to note the “foreign agent” status whenever they mention the individual or cite their materials.

политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году”), <https://t.me/komisgd/589> (accessed July 4, 2024), p. 32.

The Ministry of Justice listed these individuals on a separate, online register.⁸⁵ If the person meeting the criteria does not voluntarily register themselves, authorities can penalize them for failing to do so (see below) and register them.⁸⁶

The experience of numerous NGOs that the authorities added to the foreign agents registry indicates that contesting the designation is burdensome, costly, and rarely successful.⁸⁷

The 2020 amendments banned designated individuals from holding government positions⁸⁸ and accessing state secrets.⁸⁹ They also required all foreigners to inform Russian authorities, ahead of arriving in the country, of any intent to engage in “foreign agent” activities.⁹⁰ Given the breadth and vagueness of what authorities may consider to constitute such activities, this provision as replicated in the 2022 law (see below) created additional risk and vulnerability for foreigners engaging with civil society in Russia.

The law exempted diplomatic personnel, accredited foreign journalists, and other unspecified individuals.⁹¹ But foreign journalists who engage in “foreign agent” activities “incompatible with their professional journalistic activities” can be designated.⁹²

The provisions of this law were superseded by 2022 amendments discussed below.

Designations Linked to “Information on Military Activities and Technologies”

The law enabled the Federal Security Service (FSB) to determine what would constitute information on military activities and technologies that “can be used against Russia’s security and interests.” Given that information pertaining to FSB decisions tends to be

⁸⁵ Ibid., art. 5(1). After the adoption of the 2022 law, all individuals and entities designated as “foreign agents” are listed in the same, unified registry. See below.

⁸⁶ Ibid.

⁸⁷ European Court of Human Rights, Reply of the applicants to the memorandum of Russian government with observations on the admissibility and merits and just satisfaction claims (Возражения заявителей на меморандум правительства России относительно приемлемости и существа дела), *Ecodefense and Others v. Russia*, applications nos.9988/13, March 12, 2018, <https://www.kommersant.ru/docs/2018/ECHR.pdf> (accessed July 3, 2024).

⁸⁸ Federal Law №481-FZ art. 5(1).

⁸⁹ Ibid., art. 2.

⁹⁰ Ibid., art. 5(1).

⁹¹ Ibid., art.5(1).

⁹² Ibid.

classified, there have been serious concerns that grounds for this designation would be arbitrary.⁹³

In October 2023, Russian authorities arrested Alsu Kurmasheva, a journalist with Radio Free Europe/Radio Liberty (RFE/RL)—a US government-funded media organization—on charges of failing to register as a foreign agent while allegedly gathering information on the Russian military for foreign sources. This was the first known application of such charges against a journalist.⁹⁴ Kurmasheva, a dual Russian-American national, was initially detained in June 2023, as she was leaving the country, on charges of failing to inform Russian authorities of obtaining a second nationality. In December, Russian authorities pressed an additional, third charge against her for “dissemination of false information” about Russia’s armed forces in connection with a book published by Radio Liberty Tatarstan and Bashkortostan Service (Idel.Realii) compiling interviews of residents of the Povolzhye region of Russia who oppose Russia’s war in Ukraine.⁹⁵ In July 2024, a court sentenced Kurmasheva, following a closed trial, to six and a half years in prison.⁹⁶

In October 2021, an FSB order entered into force that listed the categories of such information.⁹⁷ The list comprises 60 entries, using at times extremely broad and mostly

⁹³ For example, in certain treason cases the case materials can be classified even from the defense team and the accused. See, for example, Team 29, *History of state treason, espionage, and state secrets in modern Russia*, 2018 <https://web.archive.org/web/20210126133131/https://izmena.team29.org/report.pdf> (accessed July 4, 2024). Likewise, in recent years, two foreign nationals working for human rights and civic organizations were deported and their residence permits annulled based on FSB decisions that their stay in Russia was “a threat to national security.” In both cases, the individuals and their lawyers were denied access to the explanations for the FSB decisions due to their alleged classified nature. See, for example, “The court strikes out a lawsuit against deportation order of human rights defender Vanessa Kogan,” RFE/RL, February 9, 2021, <https://www.svoboda.org/a/31094086.html> (accessed July 4, 2024).

⁹⁴ RFE/RL Condemns Detention of Journalist Alsu Kurmasheva in Russia,” RFE/RL, October 18, 2023, <https://about.rferl.org/article/rfe-rl-condemns-detention-of-journalist-alsu-kurmasheva-in-russia> (accessed July 29, 2024).

⁹⁵ “A new criminal charge against Radio Liberty journalist – for “military fakes” because of the book about Russians protesting against the war” (“На журналистку Радио Свобода Алсу Курмашеву завели новое дело – о военных “фейках” из-за книги о россиянах, выступивших против войны”), *Current Time*, December 12, 2023, <https://www.currenttime.tv/a/kazan-kurmasheva-delo-o-feykakh/32726964.html> (accessed April 28, 2024).

⁹⁶ “Russian Court Sentences RFE/RL Journalist Kurmasheva To 6 1/2 Years in Prison,” RFE/RL, July 22, 2024, <https://www.rferl.org/a/russia-rferl-journalist-kurmasheva-convicted-sentenced/33046171.html> (accessed July 22, 2024).

⁹⁷ Order of the Federal Security Service of the Russian Federation “On Approval of the List of Information Concerning Military and Military-technical Activities of the Russian Federation that, if Received by a Foreign State, its State Bodies, International or Foreign Organization, Foreign Nationals and Stateless Persons Can be Used Against Russian Federation’s Security” №379 of September 28, 2021, <https://rg.ru/2021/10/01/fsb-prikaz379-site-dok.html> (accessed April 28, 2024).

vague wording, such as “information on building and developing the [armed] forces” or “information on international cooperation in space programs.” A corresponding bylaw explicitly indicates that these categories are “not classified.”⁹⁸

Despite this, the FSB designates them as constituting information that Russian authorities consider to pose sufficient risk to the country’s interests as to require not only a “foreign agent” designation for individuals who gather such information, but also criminal sanctions for people who do not comply with the requirements of the Foreign Agents Law (see below). This can chill efforts for public transparency about a wide range of defense-related issues that are of legitimate public interest. One of the categories listed is “information about material, technical and financial provisions” for the armed forces.⁹⁹ This may effectively ban any independent anti-corruption investigations into army provisions, even peacetime food procurement.

For example, in 2018, the Foundation Against Corruption (FBK), affiliated with Alexei Navalny, published an investigation alleging that a company was supplying food to the Russian National Guard at prices considerably higher than the market rate, reportedly owing to a monopoly that then-Prime Minister Dmitry Medvedev granted to a supplier.¹⁰⁰ In 2019, a Russian court ruled against Navalny in a defamation lawsuit and ordered him to take down publications about this investigation.¹⁰¹

Similar concerns relate to other listed categories, such as “information about purchases of goods, works and services” for the military, including concerning “the single suppliers” of such goods, works or services;¹⁰² information about finances and logistics, and implementation of timeframes by Roskosmos, the Russian space corporation.¹⁰³

⁹⁸ Ibid.

⁹⁹ Ibid., para. 12.

¹⁰⁰ Alexei Navalny “Potatoes for Russian National Guard,” post to “Echo of Moscow” (blog), August 23, 2018, <https://echo.msk.ru/blog/corruption/2264436-echo/>, (accessed July 4, 2024). The report also alleged that Medvedev could be affiliated with the beneficiaries of the scheme.

¹⁰¹ See “Court ordered Navalny to delete an investigation about supplies to the Russian National Guard” (“Суд обязал Навального удалить расследование о поставках Росгвардии”), BBC Russian Service, February 5, 2019, <https://www.bbc.com/russian/news-47130522>. (accessed May 25, 2024).

¹⁰² Order of the FSB №379 of September 28, 2021, para. 13.

¹⁰³ Ibid., para. 34

The FSB bylaws are likely to jeopardize human rights defenders and have a chilling effect on human rights reporting. For example, among the topics listed that would trigger foreign agent designation is “information on observance of legality and morale in the armed forces.”¹⁰⁴ This raises serious concern that authorities could use this provision to censor information about bullying (“*dedovshchina*”) in the army—a notorious and extensively documented problem that authorities claim, contrary to findings of human rights experts—has been addressed.¹⁰⁵

In October 2021, the Soldiers’ Mothers of St. Petersburg suspended work assisting servicemen because the new FSB bylaw made disclosing information about the mood in the military, among other things, grounds for designation as a “foreign agent.”¹⁰⁶

Another potentially highly problematic category is “information about preparation, accession/ratification, contents, implementation, denunciation or suspension of international treaties and agreements.”¹⁰⁷ The order is not limited to treaties and agreements pertaining to the military sphere and may potentially equally apply to international human rights agreements or to bilateral or multilateral agreements that may have a direct and detrimental effect on human rights protection.

As a result, human rights defenders who may raise these concerns and discuss information about such plans or treaties can be targeted by foreign agents provisions with subsequent liability, even though these activities should be considered core human rights work and protected.

The only vaguely formulated exception exists for situations “provided for by obligations of the Russian Federation in connection with participation in international treaties and agreements.” But given the authorities’ practice of applying other foreign agents clauses

¹⁰⁴ Ibid., para. 14

¹⁰⁵ See, for example, Mariya Litvinova, “Dedovshchina is one kind of torture” (“Дедовщина — это разновидность пыток”) *Kommersant*, October 28, 2019, <https://www.kommersant.ru/doc/4141391>. (accessed May 25, 2024).

See also, Human Rights Watch *The Wrongs of Passage: Inhuman and Degrading Treatment of New Recruits in the Russian Armed Forces*, October 2004, <https://www.hrw.org/reports/russia1004.pdf>,

¹⁰⁶ See Mariya Starikova, Xeniya Veretennikova, “Soldiers Mothers of St Petersburg are to retire from the army” (“Солдатские матери Санкт-Петербурга’ уходят на дембель”), October 6, 2021, *Kommersant*, <https://www.kommersant.ru/doc/5019257>, (accessed July 4, 2024).

¹⁰⁷ Order of the FSB №379 of September 28, 2021, para.18.

to the disadvantage of affected organizations or individuals, this exception seems extremely unlikely to stop authorities from applying this charge against human rights defenders and civic activists who are providing such information as part of their work reporting on Russia’s alleged violations of its international obligations.

The FSB order does not define what constitutes military activities, leaving open the possibility that authorities could apply this term to a wide range of activities not military-related. This makes the category in paragraph 22—“information on processing complaints or information about crimes and their outcomes”—especially worrying. It encompasses any preliminary investigation the FSB and the Investigative Committee conducts, except for information authorities have made publicly available.¹⁰⁸

In theory, anyone who publicizes information about FSB or Investigative Committee home raids and interrogations on what are deemed to be unfounded charges could be designated a foreign agent. The paragraph 22 clause could also apply, for example, to anyone who posts online about any refusal by the FSB or the military investigators of the Investigative Committee to register a complaint or to investigate well-founded allegations of torture committed by their officers.

The “foreign agent” designation would add to the tools, including baseless criminal charges, the FSB already uses against human rights defenders who speak about its abuses.

In 2021, the FSB initiated criminal charges against lawyer Ivan Pavlov, whose practice mostly focuses on alleged victims of wrongful treason and state secrets charges by the FSB. The charges were for allegedly disclosing information on a preliminary investigation, and for sharing with the media a copy of the indictment against his client, a former investigative journalist sentenced to 22 years in prison on dubious treason charges.¹⁰⁹ In September 2021, Pavlov left Russia. Two months later,

¹⁰⁸ Ibid., para. 22.

¹⁰⁹ Rachel Denber, “Crossing Another Rubicon in Russia,” commentary, Human Rights Dispatch, April 30, 2021, <https://www.hrw.org/news/2021/04/30/crossing-another-rubicon-russia>. For more on the Safronov case, see below. Pavlov is founder of First Department, a collective of lawyers and journalists who defend individuals whom Russian authorities allegedly wrongly accuse of crimes against the state.

authorities designated him and several of his colleagues as “foreign agents.” In 2020 and 2021, the Russian Ministry of Justice repeatedly submitted petitions to the St. Petersburg Bar seeking to disbar Pavlov.¹¹⁰ In March 2022, the St. Petersburg Bar suspended Pavlov’s attorney status.¹¹¹ In July 2024, the Investigative Committee initiated another criminal proceeding against Pavlov for violating the foreign agents law, for repeatedly failing to mark social media posts with the foreign agent label.¹¹²

Finally, the FSB order could also potentially jeopardize NGO reporting on international human rights and humanitarian law violations by Russian forces in the armed conflicts in Ukraine, Syria, and elsewhere. And it could result in targeting civic activists and experts who raise alarms about the dangerous aftermath of military testing or incidents, such as the 2019 explosion at a military weapons testing site in northwest Russia.¹¹³

Expansion of Applicability to Unregistered Groups

The 2020 law also closed the loophole left by the original Foreign Agents Law, through which people in Russia could avoid the toxic label and continue their work through

¹¹⁰ Anna Pushkarskaya, Sergey Goriashko, «Freudian Typo: What Else is the Attorney Ivan Pavlov Accused of?» (“Опечатка по Фрейду.” В чем еще обвинили адвоката Ивана Павлова?”), BBC Russian Service, December 22, 2021, <https://www.bbc.com/russian/news-59752540> (accessed April 28, 2024). In summer 2020, authorities filed a lawsuit to have Pavlov disbarred, then withdrew the lawsuit. “The Ministry of Justice Again Demanded that the Bar Punish Pavlov” (“Минюст снова потребовал у Адвокатской палаты наказать Павлова”), Zaks.ru, September 30, 2021, <https://www.zaks.ru/new/archive/view/218245> (accessed April 28, 2024).

¹¹¹ “It is Revealed How the Council of the St Petersburg’s Bar Motivated its Decision to Suspend Attorney Status of Ivan Pavlov” (“Стало известно, чем Совет АП Санкт-Петербурга мотивировал приостановление статуса адвоката Ивана Павлова”), *Advokatskaya Gazeta (Attorney’s Newspaper)*, April 5, 2022, <https://www.advgazeta.ru/novosti/stalo-izvestno-chem-sovet-ap-sankt-peterburga-motiviroval-priostanovlenie-statusa-advokata-ivana-pavlova/> (accessed July 4, 2024).

¹¹² “A new criminal case has been initiated against the founder of First Department” (“Против основателя «Первого отдела» Ивана Павлова возбуждено новое уголовное дело”), Telegram post to the account of “First Department,” July 8, 2024, <https://t.me/deptone/10228> (accessed July 13, 2024).

¹¹³ David E. Sanger and Andrew E. Kramer, “U.S. Officials Suspect New Nuclear Missile in Explosion That Killed 7 Russians,” *New York Times*, August 12, 2019, <https://www.nytimes.com/2019/08/12/world/europe/russia-nuclear-accident-putin.html> (accessed July 4, 2024).

unregistered public associations.¹¹⁴ The bill's explanatory note clearly indicates that closing this loophole was one of the bill's key purposes.¹¹⁵

Russian law envisages unregistered public associations, such as public movements and loose associations, that have a common purpose but that do not have a legal personality and so do not have to report to authorities. Following the enforcement of the first 2012 Foreign Agents Law, this format became a haven of sorts for civic groups—including several prominent human rights groups—that either chose to close their registered NGO to avoid the “foreign agent” label or that authorities shut down for refusing to comply with the law.

Under the 2020 law, they too are obligated to comply with “foreign agent” registration, reporting, and labeling rules. The definition of foreign funding and its link to “political activities” is even looser for unregistered public associations than for registered NGOs.

The amendments added two tripwires for unregistered NGOs, possibly to ensure that people do not try to use this format to avoid “foreign agent” registration requirements. As noted above, under the 2012 law NGOs are considered foreign agents if they “act in the interests” of a foreign donor. Unlike registered NGOs, under these amendments unregistered groups had to register as foreign agents even if they merely intended to receive foreign funding and engage in what authorities consider to be “political activities.”¹¹⁶ The new amendments did not even contain a reference to the prerequisite of “acting in the interest” of the “foreign source” for the public association to be considered a “foreign agent.”¹¹⁷

These amendments in effect imposed on unregistered public associations that get designated as foreign agents the same “foreign agent” reporting obligations as registered

¹¹⁴ Introducing amendments to the Federal law “On Public Associations” №82-FZ of May 19, 1995.

¹¹⁵ The explanatory note states: “Currently, according to Russian legislation, public citizens’ associations can ... function without state registration. In [this] case, there are no mechanisms for monitoring the activities of public associations, including those sponsored from abroad and participating in political initiatives on the territory of the Russian Federation.” Explanatory Note to the bill №1057914-7 “On Amendments to Certain Legislative Acts of the Russian Federation Concerning the Establishment of Additional Measures to Counter Threats to National Security” of December 30, 2020, <https://sozd.duma.gov.ru/bill/1057914-7> (accessed July 2, 2024).

¹¹⁶ Federal Law №481-FZ, art. 3(1).

¹¹⁷ Ibid., art. 3(1).

NGOs, but without any rights of an organization registered as a legal entity. As noted above, this can be an unmanageable burden.

To register as a “foreign agent,” an unregistered public association submits extensive information¹¹⁸ and its charter, even though Russian law does not otherwise require public associations or movements to register or submit any of this information.¹¹⁹

If authorities consider that a public association meets the definition of a foreign agent but did not voluntarily register, the Ministry of Justice will list them on the registry,¹²⁰ and the organization’s leadership will likely face penalties (see below).¹²¹

On August 18, 2021, the election monitoring group Golos became the first unregistered association in the Ministry of Justice’s new registry.¹²² Golos linked the designation to the September 2021 parliamentary elections.¹²³ Before this registry was replaced by the unified registry of foreign agents in December 2022, it included Golos, five LGBT+ groups, and OVD-Info, an independent human rights group.¹²⁴

Federal Law FZ-75 of April 5, 2021

¹¹⁸ Ibid., art. 3(1).

¹¹⁹ In early 2019, the Russian government developed a bill that would have introduced such de facto simplified registration, but it did not progress past the stage of the preparation of the conclusion on the regulatory impact. See the project of a bill “On Amendments to the Federal Law “On Public Associations” Concerning the Notification Regime for Public Associations that are Not Legal Entities” №87526, <https://regulation.gov.ru/projects#npa=87256> (accessed July 4, 2024).

¹²⁰ Federal Law №481-FZ, art. 3(1).

¹²¹ See further below in the section on amendments to the Code of Administrative Offenses.

¹²² According to the state registry, Golos received funding from an unidentified national of Armenia, <https://minjust.gov.ru/ru/pages/reestr-nezaregistrovannyh-obshchestvennyh-obedinenij-vypolnyayushih-funkcii-inostrannogo-agenta/> (accessed July 4, 2024); Golos co-founder, Grigoriy Melkonyants, in his social media post refuted these allegations, see Facebook post by Grigoriy Melkonyants, Golos co-chairperson, August 18, 2021, <https://www.facebook.com/grigory.melkonyants/posts/4199307476773191> (accessed July 3, 2024). Golos (then a registered NGO) was also the first group to be listed in the original foreign agents registry in 2013. In 2016, the NGO was forced to shut but continued to operate as an unregistered association.

¹²³ “Statement about continuation of Golos activities after listing in the foreign agents registry” *Golos*, August 18, 2021, <https://www.golosinfo.org/articles/145394> (accessed July 4, 2024). The co-founder of Golos in his earlier social media post also noted that the attack was intentionally demonstrative and viewed it as a signal of upcoming falsifications. See Facebook post by Grigoriy Melkonyants, Golos co-chairperson, August 18, 2021, <https://www.facebook.com/grigory.melkonyants/posts/4199307476773191> (accessed July 4, 2024).

¹²⁴ Ministry of Justice registry of unregistered public association functioning as foreign agents, <https://minjust.gov.ru/ru/pages/reestr-nezaregistrovannyh-obshchestvennyh-obedinenij-vypolnyayushih-funkcii-inostrannogo-agenta/> (accessed July 4, 2024), (the registry was deleted after introduction of the unified registry in December 2022)

Another bill amending foreign agents legislation was introduced on November 10, 2020, expanded reporting requirements for groups designated as foreign agents, allowing the Ministry of Justice to ban any of their planned or ongoing activities, and set out additional grounds for unscheduled government inspections.¹²⁵ Signed into law on April 5, 2021, it entered into force in October 2021.¹²⁶

In its explanatory note accompanying the bill, the government stated that Russia's legislation on foreign agents and representative offices of foreign NGOs needed improvement to protect human rights and legitimate state and public interests. The note did not explain how further restrictions to freedom of association support this. The note inaccurately stated that the bill did not contravene international treaties, including the European Convention on Human Rights—to which Russia was a party prior to September 16, 2022—and the International Covenant on Civil and Political Rights.

Earlier legislation allowed the Ministry of Justice to ban a foreign organization's activity or project partially or wholly.¹²⁷ The new amendments expanded this authority to allow the ministry to ban activities and projects of Russian organizations designated as "foreign agents."¹²⁸ Failure to comply would serve as grounds to close the organization.

The October 2021 law does not specify the grounds for such a ban on activities; it merely states that the ban must be "reasoned." This allows for endlessly broad, arbitrary interpretations. In a media interview, Tatyana Glushkova, a Memorial lawyer, drew on Memorial's program on political prisoners as an example. She said authorities could ban it by claiming that, officially, the country had no political prisoners.¹²⁹

Reporting

¹²⁵ Bill "On Amendments to the Federal Law 'On Non-commercial Organizations' Concerning Legal Regulation of Activities of Non-commercial Organizations Acting as Foreign Agent and Structural Branches of Foreign Non-commercial Organizations," №1052523-7 of November 2020, <https://sozd.duma.gov.ru/bill/1052523-7> (accessed July 2, 2024).

¹²⁶ Federal law "On Amendments to the Federal Law "On Non-commercial Organizations" №75-FZ of 5 April 2021.

¹²⁷ Federal law "On Non-commercial Organizations" №7-FZ of January 12, 1996, art.32(12)

¹²⁸ Federal law "On Amendments to the Federal law 'On Non-commercial Organizations'" №75-FZ of April 5, 2021, art. 1(3(r)).

¹²⁹ "Unprecedented attack on our civil and political rights" ("Беспрецедентное наступление на наши гражданские и политические права"), *Kommersant*, December 5, 2020, <https://www.kommersant.ru/doc/4602496> (accessed July 4, 2024).

The new law also obliges Russian groups designated as foreign agents and all foreign groups to submit documentation in advance to authorities for all planned activities and then report on their implementation or provide an explanation if plans fell through.¹³⁰ The new reporting requirements created additional burdens and largely duplicated existing requirements, creating further vulnerability for designated groups. For example, after years of reporting under the earlier foreign agent provisions, in September 2021, the group Rus' Sidyashchaya (Russia Behind Bars) was fined for not submitting, along with foreign agents reports, regular reports that all NGOs must submit related to their funding and activities.¹³¹ In February 2022, a court decision specifically ordered Russia Behind Bars to submit both types of reports, thereby entrenching this new practice.¹³²

Inspections

The new law allowed unscheduled inspections of any group—including those not designated as foreign agents—if authorities receive allegations that it participated in events organized or conducted by a foreign organization listed as “undesirable.”¹³³

Under Russia’s 2015 legislation on “undesirable” organizations, the prosecutor’s office can designate as “undesirable” any foreign or international organization that allegedly undermines Russia’s security, defense, or constitutional order.¹³⁴ Once blacklisted, any such organization must cease all activities in Russia. Other organizations and individuals that engage in “continued involvement” with these organizations may face administrative and criminal sanctions.¹³⁵

¹³⁰ Federal law “On Amendments to the Federal law ‘On Non-commercial Organizations’” №75-FZ of April 5, 2021, art. 1(3(a)).

¹³¹ Maria Starikova, Maria Litvinova “NGOs are approached from another side” (“К иноагентам зашли с другой стороны”), *Kommersant*, September 9, 2021, <https://www.kommersant.ru/doc/4977512> (accessed July 4, 2024).

¹³² Maria Starikova “A court obliged Rus’ Sidiashchaya to report as foreign agents as well as regular NGO” (“Суд обязал «Русь сидящую» сдавать отчетность как для иноагентов, так и для «обычных» НКО”), *Kommersant*, February 2, 2022, <https://www.kommersant.ru/doc/5216636> (accessed July 4, 2024).

¹³³ Federal law “On Amendments to the Federal law “On Non-commercial Organizations” №75-FZ of April 5, 2021, art. 1(3(b))

¹³⁴ Originally introduced by the 2015 Federal law “On Amendments to Certain Legal Acts of the Russian Federation” №129-FZ of May 23, 2015, including introducing administrative and criminal sanctions for involvement with “Undesirable organizations.” The legislation was further expanded in 2017, banning mass media from hyperlinking their online content to materials of “undesirables,” and in 2021 with amendments expanding the ban for Russian nationals and resident stateless persons to get involved in the activities of “undesirables” extraterritorially, i.e., beyond Russia’s borders, and amendments lowering the threshold for criminal prosecution and making it easier for authorities to target civic activists with criminal cases on allegations of involvement with blacklisted “undesirable organizations.”

¹³⁵ For more, see Damelya Aitkhodzina, “New ‘Undesirables’ Law Expands Activists’ Danger Zone,” op-ed, *Moscow Times*, June 17, 2021, <https://www.themoscowtimes.com/2021/06/17/new-undesirables-law-expands-activists-danger-zone-a74244> (July 4, 2024).

The new law did not clarify what constitutes “participation,” did not differentiate between allegations that a group member “participated” in such events in their personal capacity or as a representative of the group, and did not limit such events to those in Russia. It also included no qualifying criteria requiring the allegations to be credible before they trigger an inspection, nor any cap on the number of these inspections.

The inspections can be very disruptive to an NGOs’ work and draining to its human resources and time, as exemplified during the sweeping raids of 2013 to 2015.¹³⁶

This law also expanded the category of foreign funding to include beneficial ownership for situations where the funding source is Russian legal entities whose “beneficiary owners” are foreign citizens or stateless persons.¹³⁷

Federal Law № 14-FZ of February 24, 2021, and Federal Law №525-FZ, of December 30, 2020 (New Penalties)

In 2021, Russian authorities expanded the administrative and criminal sanctions for non-compliance with the new laws and earlier “foreign agents” requirements.

Amendments to the Code of Administrative Offenses (Federal Law № 14-FZ of February 24, 2021)

Another bill introduced in November 2020¹³⁸ was signed into law in February 2021¹³⁹ and entered into force on March 1, 2021. It introduced additional charges and administrative

¹³⁶ See, for example, Nataliya Sekretareva, “Unfounded inspections of NGOs with foreign funding continue” (“Необоснованные проверки НКО с иностранным финансированием продолжаются”), *Advokatskaya Gazeta*, October 26, 2018, <https://www.advgazeta.ru/mneniya/neobosnovannye-proverki-nko-s-inostrannym-finansirovaniem-prodolzhayutsya/> (accessed May 25, 2024); M.A. Kanevskaya, M.V. Olenichev, T.K. Cherniayeva, “10 Stories: A Chronicle of NGO – ‘Foreign Agents’ Survival” (“10 историй: хроника выживания нко – «иностранцев» агентов”), Human Rights Resource Center, 2018, http://fingramugra.ru/f/10_istorij_hronika_vyzhivaniya_nko_inostrannyh_agentov.pdf (accessed May 25, 2024), p.18; “Russian Constitutional Court conducts a hearing on an NGO complaint” (“Конституционный суд России провел заседание по жалобе НКО”), January 22, 2015, <https://www.svoboda.org/a/26808243.html> (accessed May 25, 2024).

¹³⁷ Federal law “On Amendments to the Federal law ‘On Non-Commercial Organizations’” №75-FZ, of April 5, 2021, art. 1(1).

¹³⁸ Bill “On Amendments to the Code of Administrative Offenses (Concerning Liability for Violations of Regulations on Activities of Foreign Agents)” №1060950-7 of February 24, 2021, <https://sozd.duma.gov.ru/bill/1060950-7> (accessed July 2, 2024).

¹³⁹ Federal Law “On Amendments to the Code of Administrative Offenses of the Russian Federation” №14-FZ, of February 24, 2021.

penalties for violating the above-mentioned new amendments of foreign agents regulations.

- **Media Outlets**

The new law introduced an offense in the articles of the code concerning—ironically—abuse of media freedoms. Under this offense, outlets could be held accountable if they mention—in print, online, in broadcasts, and social media—“foreign agents or their materials” without noting this status.¹⁴⁰ The 2021 law set fines of up to 2,500 rubles (\$28) for individuals, up to 5,000 (\$56) for managers or officials, and up to 50,000 (\$561) for legal entities, with the possibility offending materials may be confiscated.¹⁴¹

- **Reporting Offenses**

The 2021 amendments introduced a new offense for failure by “foreign agent” unregistered public associations to submit, or for untimely or incorrect submission of, reports. The penalties range from a warning or a fine from 5,000 rubles (\$56) up to 10,000 (\$112) for individuals; and between 10,000 and 30,000 (\$337) for managers.¹⁴²

The same failure for individuals listed as foreign agents is a fine ranging between 10,000 and 30,000 rubles (\$337).

- **Labeling Offenses**

Failure to mark an unregistered public association’s materials or publications with “foreign agent” could be punished with a fine ranging between 50,000 and 100,000 rubles (\$561 and \$1123) for individuals, and between 100,000 and 300,000 rubles (\$1123 and \$3370) for managers or administrators, with possible confiscation of the materials. The liability could be invoked even if the group produced, but did not disseminate, unmarked materials.

The pre-existing labeling penalties for NGOs listed as foreign agents were adjusted to equate them with penalties for unregistered groups. The amendments expanded the range

¹⁴⁰ That law, however, left out the “foreign media – foreign agents,” i.e., liability was envisaged for dissemination or reposting of materials or mention of activities of NGOs, unregistered public associations or individuals, but not of “foreign media – foreign agents.” This loophole was closed with the adoption of another law №102-FZ in April 2021.

¹⁴¹ Federal law “On Amendments to the Code of Administrative Offenses of the Russian Federation” №14-FZ of February 24, 2021, art.1(2).

¹⁴² Ibid., art.1(4).

of NGO offenses from merely publishing materials without the “foreign agent” label to producing and sending them to state bodies or other organizations. The fines ranged from 100,000 to 300,000 rubles for managers or administrators, and 300,000 to 500,000 (\$3370 and \$5682) rubles for organizations.¹⁴³

Whereas the penalties concerning groups contained an exhaustive list of actions that trigger liability, there was no such list regarding individuals. Instead, the amendments to the code of administrative offenses merely referred to “non-compliance with the status disclosure requirements prescribed by law.” It referenced the abovementioned amendments to the 2012 law,¹⁴⁴ whereby individuals were obliged to disclose their “foreign agent” status whenever they “perform functions of the foreign agent.” The 2022 law lists several examples of such actions but does not provide an exhaustive list.¹⁴⁵

Failure to label themselves and their materials and information entailed a fine ranging from 10,000 (\$112) and 30,000 rubles (\$337), with possible confiscation of the materials produced.¹⁴⁶ This was lower than the fines for NGOs or public associations, but higher than penalties for their respective members, founders, and others as listed below.

The amendments introduced individual liability for founders, members, managers, and board members of a “foreign agent” NGO or unregistered public association for failure to label publications produced or disseminated in their individual capacity and connected to their own “political activity,” as defined by foreign agents legislation. This was punishable by a fine of 5,000 rubles, (\$56) with possible confiscation of said materials.¹⁴⁷

Legislators adopted the law so fast they included errors that had to be fixed later. For example, staffers of “foreign agent” NGOs were made liable for failure to label their materials

¹⁴³ Ibid, art.1(5).

¹⁴⁴ Federal law “On Measures Against Persons Complicit in Violations of Basic Human Rights and Freedoms, and Rights of Russian Nationals” №272-FZ of December 28, 2012.

¹⁴⁵ The examples noted in the bodies’ amendments are communications sent to state and local governance bodies, public associations, or education institutions, or publishing or disseminating materials or information concerning individuals designated as foreign agents in mass media.

¹⁴⁶ Federal law “On Amendments to the Code of Administrative Offenses of the Russian Federation” №14-FZ of February 24, 2021, art.1(4).

¹⁴⁷ Ibid., art.1 (4,5).

and publications, including when they distribute them online or via media.¹⁴⁸ Yet the amendments did not list NGO staffers among those obliged to label their publications.¹⁴⁹ The error was corrected and signed into law in March 2021.¹⁵⁰

The law left unclear whether NGOs or unregistered groups and their founders, members, managers, or board members must put a disclaimer or label on their account or must label every social media post that pertains to their work. It is also unclear how they can protect themselves and their groups from liability should a third party create fake accounts online, impersonating individuals or organizations.

This law was superseded by a new law in December 2022, wherein all administrative offenses by foreign agents were outlined under one article of the Code of Administrative Offenses (see below).

Amendments to the Criminal Code regarding Foreign Agents (Federal Law №525-FZ, of December 30, 2020)

Amendments to the criminal code introducing criminal penalties for foreign agents were introduced as a bill expeditiously adopted and signed into law in December 2020.¹⁵¹

On March 1, 2021, they entered into force.

In the explanatory note accompanying the then-bill, the lawmakers claimed that criminal penalties, including a maximum five-year prison term for NGO leaders, would “ensure proper implementation of Russian legislation concerning openness and transparency of

¹⁴⁸ See the original text of the published law №14-FZ of February 24, 2021, art.1(5(6)), *Rossiyskaya Gazeta*, Official publication, <https://rg.ru/2021/02/26/a2048917-dok.html> (accessed July 3, 2024).

¹⁴⁹ See Federal Law №481-FZ, art 4(3(6)), amending Federal Law “On Non-commercial Organization” №7-FZ of December 30, 2020, art. 24(1), which had no obligation for staff to label their materials and publications. The wording to include staffers in the list of those who are obliged to label their materials or publications existed in the first draft of the respective bill №1057914-7 but was removed from the bill during its second Duma reading.

¹⁵⁰ Federal law “On Amendments to the Code of administrative Offenses of the Russian Federation” №55-FZ of March 24, 2021.

¹⁵¹ Bill on “Amendments to the Criminal Code Regarding Foreign Agents” №1073604-7 of December 30, 2020, <https://sozd.duma.gov.ru/bill/1073604-7> (accessed July 2, 2024); Federal law “On Amendments to Article 330-1 of the Criminal Code of the Russian Federation” №525-FZ of December 30, 2020.

activity of persons receiving foreign funding and participating in political processes in the country.”¹⁵²

As explained above, Russian authorities in practice have interpreted “participating in political processes” to include human rights work, environmental activism, protecting women’s rights, and many other types of civic activism.

Previously adopted legislation had set a maximum two-year prison sentence for the criminal offense of “malicious evasion” of an NGO’s obligation to “submit documents necessary for inclusion in the registry” of foreign agents, even though the Ministry of Justice, starting in 2014, could unilaterally put NGOs on the registry.

Experts had advised lawmakers to remove this redundancy and clarify legal uncertainty regarding exactly what meets the threshold and constitutes the crime.¹⁵³ But legislators did neither. Instead, they extended the same charge and corresponding penalties to managers of unregistered public associations.¹⁵⁴

Prior to these amendments, there was only one known instance when criminal charges were brought for malicious evasion of “foreign agent” obligations. In June 2016, a criminal case was opened against Valentina Cherevatenko, chairperson of the “Union of Women of the Don,”¹⁵⁵ a human rights group involved in peacebuilding projects in the North

¹⁵² Explanatory note to the Bill “On Amendments to Article 330-1 of the Criminal Code of the Russian Federation (Concerning Liability for Malicious Failure to Comply with Obligations under the Laws of the Russia Legislation on Non-commercial Organizations Acting as Foreign Agent)” №1073604-7 of December 30, 2020, <https://sozd.duma.gov.ru/bill/1073604-7> (accessed July 2, 2024).

¹⁵³ “Scientific consultative opinion of the permanent commission on landmark cases concerning the criminal case against V.I.Cherevatenko, chairperson of the board of the “Women of Don” Foundation, on charges under article 330.1 of the Criminal Code of the Russian Federation,” Council on Civil Society Development and Human Rights under the President of the Russian Federation, July 18, 2016, <http://president-sovet.ru/documents/read/485/> (accessed July 5, 2024); “Suggestions not to fine foreign agents. Human Rights Council drafted amendments to the law on non-commercial organizations,” *Kommersant*, no.156, September 2, 2014, <https://www.kommersant.ru/doc/2557822> (accessed July 5, 2024), p.6. One lawyer asserted that this article is effectively void and committing such a crime was impossible because if an NGO applied to be registered as a foreign agent, the obligation prescribed by foreign agents legislation is fulfilled and hence there is no corpus delicti—no offense. But if an NGO is listed as foreign agent by a Ministry of Justice decision, the foreign agents legislation does not require the NGO to undertake any other action in relation to its registration, hence there is no crime. See Sergey Golubok, “Russian Criminal Code is like a quilt. Commentary to the new article 330.1,” post to “Zakon” (“Law”) (blog), October 31, 2016, https://zakon.ru/blog/2016/10/31/ugolovnyj_kodeks_rossii_kak_loskutnoe_odeyalo_kommentarij_k_novoj_state_3301 (accessed July 5, 2024).

¹⁵⁴ Federal law “On Amendments to Article 330-1 of the Criminal Code of the Russian Federation” №525-FZ of December 30, 2020, art.1.

¹⁵⁵ “Russia: Rights Activist Interrogated,” Human Rights Watch news release, May 19, 2016, <https://www.hrw.org/news/2016/05/19/russia-rights-activist-interrogated>.

Caucasus. In June 2017, she was indicted, but in July the same year the Investigative Committee closed the case due to the absence of an offense.¹⁵⁶

Following further expansion of this law, in article 330.1 of the criminal code, in December 2022 (see below), Russian authorities started opening criminal “foreign agent” charges. In June 2024, Roskomnadzor said investigators opened criminal cases against 25 individuals for non-compliance with the foreign agents legislation.¹⁵⁷

As noted above, Radio Liberty journalist Alsu Kurmasheva in Tatarstan was charged with failure to register as a foreign agent. At time of writing, she remained in pretrial detention. Other cases include: in 2023 in Tver, against a coordinator with the election watchdog Golos, Artiom Vajenkov; and in 2024 in Pskov, against Golos’s former coordinator, Vladimir Zhilinskiy,¹⁵⁸ Sergei Piskunov, former Golos coordinator in Kemerovo,¹⁵⁹ and the editor-in-chief of a local newspaper, Denis Kamaliagin.¹⁶⁰ The four men were charged with repeated failure to comply with requirements demanding that people designated as foreign agents label each of their publications and social media posts with a disclaimer

¹⁵⁶ “Investigative Committee closed the first case of “malicious failure to perform the obligations of a foreign agent” in Russia” (“СК прекратил первое в России дело о «злостном неисполнении обязанностей иностранного агента»”), *Mediazona*, July 24, 2017, <https://zona.media/news/2017/07/24/cherevatenko> (accessed July 5, 2024).

¹⁵⁷ “Roskomnadzor reported criminal cases opened against 25 foreign agents” (“Роскомнадзор сообщил о возбуждении уголовных дел против 25 иноагентов”), *Forbes*, June 8, 2024, <https://www.forbes.ru/society/514337-roskomnadzor-soobsil-o-vozbuzhdenii-ugolovnyh-del-protiv-25-inoagentov> (accessed July 22, 2024).

¹⁵⁸ The criminal case against Artiom Vajenkov was opened in February 2023, in absentia, and Russian authorities issued an arrest warrant against him; in October 2023 it was suspended pending his arrest. Similarly, the criminal case against Vladimir Zhilinskiy was opened in absentia in January 2024 and in February 2024, a Russian court issued an arrest warrant against him and he was added to the wanted list.

See “A court issued an arrest warrant against the former coordinator of ‘Golos’ from Pskov, Zhilinskiy on charges of ‘failure to comply with foreign agents duties’” (“Экс-координатора “Голоса” из Пскова Жилинского заочно арестовали по делу о “неисполнении обязанностей “иноагента””), *Current Time*, February 2, 2024, <https://www.currenttime.tv/a/zaochniy-arrest-zhilinskogo/32802993.html> (accessed July 5, 2024).

“First criminal case in Russia for non-compliance with “foreign agents” laws against activist from ‘Golos’” (“На активиста «Голоса» завели первое в России уголовное дело о нарушении «иноагентских» законов»), OVD-Info news release, February 7, 2023, <https://ovd.info/express-news/2023/02/07/na-aktivista-golosa-zaveli-pervoe-v-rossii-ugolovnoe-delo-o-narushenii> (accessed July 5, 2024).

¹⁵⁹ “Yet another criminal case brought against ex-head of Kuzbass department of ‘Golos’ Piskunov—on failure to fulfil the requirements of a ‘foreign agent’” (“Против экс-главы кузбасского отделения «Голоса» Пискунова возбудили еще одно уголовное дело — о неисполнении обязанностей «иностранного агента»”), *Mediazona*, March 1, 2024, <https://zona.media/news/2024/03/01/piskunov> (accessed July 3, 2024).

¹⁶⁰ “Criminal case against editor-in-chief of ‘Pskovskaya guberniya’ for evasion of the «foreign agents» duties” (“На главреда «Псковской губернии» завели уголовное дело об уклонении от обязанностей «иноагента»”), OVD-Info news release, February 5, 2024, <https://ovd.info/express-news/2024/02/05/na-glavreda-pskovskoy-gubernii-zaveli-ugolovnoe-delo-ob-uklonenii-ot> (accessed July 5, 2024).

about their foreign agent status. At time of writing, Piskunov remained in pretrial detention; the other three charged have left the country.

In at least two cases, authorities used other criminal offenses to penalize civic activists who refused to voluntarily register as “foreign agents.”

Alexandra Koroleva of Ecodefense, an environmental NGO,¹⁶¹ and Semyon Simonov of the Southern Human Rights Center,¹⁶² were both prosecuted for the administrative offense of failing to register their respective groups as “foreign agents.” Neither paid the fine.

Authorities later charged them with “malicious noncompliance” with a verdict, court order, or other judicial act,¹⁶³ an offense that was added to the criminal code in October 2018.¹⁶⁴ Alexandra Koroleva fled the country.¹⁶⁵ Semyon Simonov was placed under travel restrictions in July 2020 and sentenced to 250 hours of mandatory labor in July 2021.¹⁶⁶

The amendments also introduced criminal penalties for the new categories of foreign agents—“foreign agent-foreign media”¹⁶⁷ and individuals.

Under those amendments, individuals designated “foreign agent media” or heads of legal entities designated as such—with two or more prior unexpired administrative offenses

¹⁶¹ “Russia: Environmentalist Faces Criminal Charges,” Human Rights Watch news release, June 25, 2019, <https://www.hrw.org/news/2019/06/25/russia-environmentalist-faces-criminal-charges>.

¹⁶² “Russia: Rights Defender Faces Criminal Charges,” Human Rights Watch news release, July 15, 2020, <https://www.hrw.org/news/2020/07/15/russia-rights-defender-faces-criminal-charges>.

¹⁶³ Russian Criminal Code, art. 315.

¹⁶⁴ Federal Law “On Amendments to Article 315 of the Criminal Code of the Russian Federation” №348-FZ of October 2, 2018, entered into force on October 13, 2018.

¹⁶⁵ “Russia: Environmentalist Faces Criminal Charges,” Human Rights Watch news release, June 25, 2019, <https://www.hrw.org/news/2019/06/25/russia-environmentalist-faces-criminal-charges>.

¹⁶⁶ “Russia: Court Convicts Rights Defender,” Human Rights Watch news release, July 12, 2021, <https://www.hrw.org/news/2021/07/12/russia-court-convicts-rights-defender>.

The sentence was vacated due to expiration of statutory limitations, while the verdict was on appeal.

¹⁶⁷ “Russia: ‘Foreign Agents’ Bill Threatens Journalists,” Human Rights Watch news release, November 18, 2019, <https://www.hrw.org/news/2019/11/18/russia-foreign-agents-bill-threatens-journalists>.

sentences¹⁶⁸ for violating “foreign agent media” regulations¹⁶⁹—could be held criminally liable.¹⁷⁰ Penalties range from a fine of up to 300,000 rubles (\$3370) to a two-year prison term.¹⁷¹

The Code of Administrative Offenses already contained provisions concerning repeated violations of regulations concerning “foreign agent media,” stipulating harsher punishments for a repeat (second) offense. Subsequent offenses would be prosecutable under a “gross violation” administrative provision. The 2020 amendments retained the harsher punishments for “gross” administrative violations by legal entities while making such offenses criminal for individuals.

With regards to individuals designated as foreign agents, the law penalizes “malicious evasion” of voluntarily applying to be added to the foreign agent registry and repeated failure to submit accurate regular reports or to label publications, if the person has a prior, unexpired administrative sentence for the same administrative offense. Penalties range from a fine of up to 300,000 rubles (\$3370) to five years’ imprisonment.¹⁷²

Provisions entailing criminal liability differentiate between foreign agents, whom Russian authorities consider to be engaged in “political activities” from those whom they consider to be gathering information about Russian military activities or technologies. The former can be criminally prosecuted only if there was a prior administrative penalty.

In such cases, the individual at least receives some indication—in the form of an administrative offense sentence—that authorities consider them to be foreign agents and

¹⁶⁸ An administrative offense sentence expires one year after the execution of the sentence, e.g., if a person is sentenced to an administrative fine, the administrative sentence will expire one year after the fine is paid.

¹⁶⁹ Addendum 1 to the Order of the Russian Ministry of Justice “On Approving the Rules of Applying Provisions of Federal Law “On Non-commercial Organizations” №214 of January 12, 1996, to the individuals listed in paragraphs three and seven of art. 6 of the Russian Federation law “On Mass Media” №2124-1 of December 27, 1991.

¹⁷⁰ This includes individuals added to the corresponding list of the Russian Ministry of Justice and the Russian legal entities that both individuals and foreign mass media listed as foreign agents are obliged to establish under law.

¹⁷¹ Federal law “On Amendments to Article 330-1 of the Criminal Code of the Russian Federation” №525-FZ of December 20, 2020, art.1. The other penalties are a fine of up to 300,000 rubles (\$4,050) or the equivalent of two years’ worth of their wages or other income, or mandatory labor of up to 480 hours, or correctional labor for up to two years, or a prison term of up to two years in prison.

¹⁷² Federal law “On Amendments to Article 330 of the Criminal Code of the Russian Federation” №525-FZ, art.1; A full list of penalties includes a fine of up to 300,000 rubles (\$4,050) or the equivalent of two years’ worth of their wages or other income, or mandatory labor of up to 480 hours or correctional labor for up to five years or up to five years’ imprisonment.

that they are henceforth obligated to comply with the corresponding requirements.¹⁷³ In a case of alleged “military information gatherers,” authorities can bring criminal charges without warning in the form of administrative offense charges.

2022 Laws

By the latter part of 2021, the detrimental impact of the increasingly draconian foreign agents laws and the rising number of “foreign agent-foreign media” designations led civil society groups and media organizations to campaign for revisions.

In September 2021, over 20 Russian media outlets jointly published an open letter to President Putin with 12 proposals for amendments to reduce the legislation’s harm to mass media, such as a minimum threshold for foreign funding to trigger designations and a judicial process for designations.¹⁷⁴ The Kremlin spokesperson said the Kremlin would consider the “constructive” request.¹⁷⁵

Two weeks later, OVD-Info published an online petition calling for the Foreign Agents Law to be rescinded as unconstitutional, discriminatory, and violating Russia’s international human rights obligations.¹⁷⁶ Over 150 human rights organizations, media outlets, and civic groups endorsed it.¹⁷⁷ By late November 2021, the petition had more than 250,000 signatures.¹⁷⁸ In mid-November, the Presidential Council for Civil Society and Human

¹⁷³ This approach is still susceptible to abuse. For example, authorities could slap a person with an administrative sentence for failure to register, then open criminal proceedings against them for negligible deficiencies or inaccuracies in their reporting.

¹⁷⁴ “Independent mass media demanded to annul the list of foreign agents and prepared draft amendments” (“Независимые СМИ потребовали аннулировать список «иноагентов» и подготовили поправки в законодательство”), TV Rain, September 2021, https://tvrain.ru/news/nezavisimye_smi_podgotovili_popravki_v_zakonodatelstvo_ob_inoagentah-536964/ (accessed July 5, 2024).

¹⁷⁵ Rinat Tairov, “Kremlin promised to consider mass media suggestions for revision of the Foreign Agents Law” (“Кремль пообещал рассмотреть предложения СМИ по изменению закона об иноагентах”), *Forbes*, September 3, 2021, <https://www.forbes.ru/society/438957-kreml-poobesal-rassmotret-predlozenia-smi-po-izmeneniu-zakona-ob-inoagentah> (accessed July 5, 2024).

¹⁷⁶ “We demand nullification of the laws on ‘foreign agents’” (“Мы требуем отмены законов об «иноагентах»”), Change.org petition, September 13, 2021, <https://www.change.org/p/государственная-дума-мы-требуем-отмены-законов-об-иноагентах> (accessed July 3, 2024).

¹⁷⁷ Sergey Romashenko, “Over 150 media outlets and NGOs demand to rescind the Foreign Agents Law” (“Более 150 СМИ и НКО требуют отменить закон об «иноагентах»”), *Deutsche Welle*, September 14, 2021, <https://www.dw.com/ru/bolee-150-smi-i-nko-trebujut-otmenit-zakon-ob-inoagentah/a-59177021> (accessed July 5, 2024).

¹⁷⁸ “Over 250,000 people supported the petition to rescind the Foreign Agents Law” (“Более 250 тыс. человек поддержали петицию об отмене закона об иноагентах”), RBC, November 21, 2021, <https://www.rbc.ru/rbcfreenews/619a64159a79475b2b49ca9b> (accessed July 5, 2024).

Rights, jointly with the Journalists Union of Russia, sent parliament their proposals for amendments to the Foreign Agents Law.¹⁷⁹

During Putin’s December 2021 meeting with the presidential council, members presented criticisms of the law, including examples of its absurd application, and proposed creating a working group consisting of parliamentary committees, journalists’ unions, and the council to draft new amendments.¹⁸⁰ They also asked Putin to personally oversee the decision on this law, noting that it is a major “irritant” for the media community and wider civil society.¹⁸¹

Putin referred to “how the [Russian] mass media are treated abroad,” claiming, with considerable exaggeration, that they are designated foreign agents, dragged to court and interrogations under threat of detention,¹⁸² and that there was a need to protect Russia from external interference in domestic affairs. But he also noted the need to analyze the law’s implications in practice, to protect free speech, and to “act carefully” when dealing with the media. He suggested working with the media community to come to an agreement on this issue.¹⁸³

But the new amendments introduced to parliament in early 2022 were not developed in consultation with the media or broader civil society and ended up even more vague and oppressive than previous amendments.

Federal Law № 255-FZ of July 14, 2022 (“Foreign Influence” Law)

In April 2022, a group of MPs and senators introduced a bill,¹⁸⁴ the title of which—“control over activities of persons under foreign influence”—indicated its repressive purpose. The

¹⁷⁹ Valeriya Ratnikova, “How they will suggest to Putin to rectify the “Foreign Agents’ Law” (“Как Путину предложат поправить закон об «иноагентах»”), TV Rain, November 16, 2021, https://tvrain.ru/teleshov/here_and_now/zakon_ob_inoagentah-542020/

¹⁸⁰ Minutes of the meeting of Vladimir Putin with members of the Council on Human Rights on December 9, 2021, the council’s official website, http://www.president-sovet.ru/presscenter/news/vstrecha_vladimira_putina_s_chlenami_spch_9_dekabrya_2021_goda_stenogramma_obnovlyaetsya/

¹⁸¹ Ibid.

¹⁸² Ibid.

¹⁸³ Ibid.

¹⁸⁴ Bill “On Control over Activities of Persons, Who Are under Foreign Influence” №113045-8 of July 14, 2022, <https://sozd.duma.gov.ru/bill/113045-8> (accessed July 2, 2024).

explanatory note indicated the bill aimed to “increase the effectiveness of foreign agents laws given the current challenges to Russia’s security and sovereignty.”¹⁸⁵

By the time this bill was developed, norms defining and regulating different categories of “foreign agents” were indeed scattered throughout various laws that had been adopted at different times (see above). However, while the new bill introduced the “convenience” of collecting and unifying different categories under one measure, the authors also used it as an opportunity to drastically expand the application of “foreign agents” provisions and further restrict those designated as “foreign agents.”

The authors proposed preventing foreign agents from influencing children by banning their involvement in educational activities, childcare, and the production of information materials for children. They also noted that foreign agents are regulated by several laws and that there are separate registries for different categories and suggested a unified approach.

The bill was signed into law by mid-July 2022; it entered into force in December 2022.¹⁸⁶ The Ministry of Justice, the key government body responsible for supervision of foreign agents and implementation of corresponding legislation, praised Law FZ-255 for strengthening control over foreign agents and reducing their “destructive influence.”¹⁸⁷

The new law superseded several earlier provisions governing foreign agents, including most amendments introduced by the 2020 laws outlined above. It replicates many earlier provisions but expands the scope of uncertainty to a point where, in principle, any person or entity, Russian or not, inside or outside Russia, can be designated a “foreign agent.”

Definitions

¹⁸⁵ Ibid.

¹⁸⁶ Federal Law “On Control over Activities of Persons, Who Are under Foreign Influence” № 255-FZ of July 14, 2022.

¹⁸⁷ See “Report of the Russian Ministry of Justice about activities of foreign agents, including participation in political activity occurring on the territory of the Russian Federation, on cash receipts and disbursements, and also on the results of control of their activity in 2022” (“Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году”), <https://t.me/komisgd/589> (accessed July 8, 2024), p. 32.

The new law further expands all the existing definitions of “foreign agents.” As described above, successive amendments to different laws expanded the definition of a “foreign agent” from organizations (legal entities), to “foreign agents–foreign media,” to other categories of individuals, and to associations without legal entities. These were introduced and regulated by several different laws.

The 2022 law replaced these with a consolidated, simplified, but drastically broad definition: any person—Russian, foreign, or stateless; any legal entity either domestic or international; or any group without official registration that received foreign support and/or is under foreign influence and is either engaged in activities that Russian authorities would deem to be political, or is gathering information about Russia’s military activities or military capabilities, or is creating or disseminating materials for public consumption, or is funding such activities.¹⁸⁸

It thus replaces the already vague requirement of foreign funding or technical assistance with the even vaguer “foreign influence” or “support.”

The law unpacks “foreign influence” as comprised of “support” and/or open ended “influence,” “coercion, persuasion and/or other means.”¹⁸⁹ The notion of “support” encompasses the vague categories listed in the 2020 amendments, i.e., foreign funding (monetary or property transfer) or technical assistance by a foreign source or “other kinds of assistance,”¹⁹⁰ but creates new levels of legal uncertainty. The Russian Ministry of Justice, for instance, listed providing a platform for “promoting views and opinions” as one example of such assistance.¹⁹¹

¹⁸⁸ Arts.1, 4 of the Federal Law “On Control over Activities of Persons, Who Are under Foreign Influence” № 255-FZ of July 14, 2022, <http://publication.pravo.gov.ru/Document/View/0001202207140018> (accessed July 8, 2024). It explicitly exempts only Russian state bodies and their subsidiaries; officially registered religious entities and political parties; personnel with diplomatic privileges and their family members; and officially registered chambers of commerce and employers’ associations.

¹⁸⁹ Ibid., art.2(1).

¹⁹⁰ Ibid., art.2(2).

¹⁹¹ See “Report of the Russian Ministry of Justice about activities of foreign agents, including participation in political activity occurring on the territory of the Russian Federation, on cash receipts and disbursements, and also on the results of control of their activity in 2022” (“Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году”), <https://t.me/komisgd/589> (accessed July 5, 2024), p. 32.

Under this definition, any interaction with a “foreign component” could be construed as “foreign influence,” for example, potentially any engagement with foreign nationals or entities, traveling abroad, or simply watching or listening to content online, on radio or TV. There is no requirement for any causal link between such “foreign influence” and the “political” activities of the person or entity in question.

Similarly, in defining the potential sources of foreign funding, the new law incorporates all earlier expansions and adds persons or entities that are influenced by any of the earlier categories.¹⁹²

The description of what constitutes activities of a foreign agent consolidates earlier provisions of all previous iterations of “foreign agents” laws.¹⁹³

IN THE FIRST TWO YEARS AFTER THE FULL-SCALE INVASION OF UKRAINE BY RUSSIA IN FEBRUARY 2022, THE LIST OF FOREIGN AGENTS MORE THAN DOUBLED, FROM 336 ON THE LIST BEFORE THE INVASION TO 769 AS OF FEBRUARY 24, 2024).¹⁹⁴

During this period, Russian authorities also increasingly and explicitly included opposition to the war and support of Ukraine as justification for the “foreign agents” designation.

For example, the Ministry of Justice listed public criticism of, or opposition to, the “special military operation” (Russia’s official title for the armed conflict in Ukraine), and “dissemination of negative information about the Russian armed forces”¹⁹⁵ or “forming negative attitudes towards military service” and “open support of the unfriendly country of Ukraine” and “participation in fundraising in support of Ukraine”¹⁹⁶ as grounds for including individuals and legal entities in the new foreign agents registry.

¹⁹² Ibid., art.3. The existing categories of foreign sources include any foreign or international entity or persons, including stateless, any intermediaries or beneficiaries, including Russian, as well as Russian nationals or Russian entities that have some foreign sources of income, even if these are not the same funds as transferred to supposed foreign agent.

¹⁹³ Ibid., art.4.

¹⁹⁴ website of the Russian Ministry of Justice, unified registry of “foreign agents” as of January 26, 2024, <https://minjust.gov.ru/uploaded/files/reestr-inostrannyih-agentov-26012024.pdf> (accessed July 5, 2024).

¹⁹⁵ Russian Ministry of Justice news release, April 21, 2023, <https://minjust.gov.ru/ru/events/49459/> (accessed July 5, 2024).

¹⁹⁶ Russian Ministry of Justice news release, April 21, 2023, March 31, 2023, <https://minjust.gov.ru/ru/events/49401/> (accessed July 5, 2024).

Furthermore, the Ministry of Justice reported that foreign agents were actively involved in 2022 in disseminating “discreditation about Russian Armed Forces” in the context of ongoing armed conflict in Ukraine.¹⁹⁷

Unified Registry of Foreign Agents

The new law abolished the earlier separate registries of different categories of foreign agents, replacing them with a unified registry.¹⁹⁸

The bylaws that the Ministry of Justice developed in implementing the July 2022 law¹⁹⁹ list the following categories to be included:

- Individuals intending to act as foreign agents;
- Foreign nationals residing abroad who intend to act as foreign agent upon arrival in Russia;
- Foreign journalists accredited in Russia and conducting foreign agent activities not related to journalistic activities;
- Legal entities incorporated in Russia by foreign agents;
- Foreign agents who failed to apply to be added to the registry.

Those already in the registries were automatically included in the unified registry.²⁰⁰

Among other information, the registry contains the dates of birth, taxpayer numbers, and personalized pension insurance numbers (an analogue of social security number in other countries) of individual “foreign agents,” and registration numbers, lists of members, web addresses, and locations of organizations and public associations.²⁰¹

¹⁹⁷ “Report of the Russian Ministry of Justice about activities of foreign agents, including participation in political activity occurring on the territory of the Russian Federation, on cash receipts and disbursements, and also on the results of control of their activity in 2022” (“Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году”), <https://t.me/komisgd/589> (accessed July 5, 2024), p. 32.

¹⁹⁸ Art.5 of the Federal Law “On Control over Activities of Persons, Who Are under Foreign Influence” № 255-FZ of July 14, 2022, <http://publication.pravo.gov.ru/Document/View/0001202207140018> (accessed July 5, 2024).

¹⁹⁹ Addendum 1 to the Order of the Ministry of Justice of the Russian Federation №307 of November 29, 2022, <http://publication.pravo.gov.ru/Document/View/0001202211300032> (accessed July 5, 2024).

²⁰⁰ Federal Law № 255-FZ of July 14, 2022, art.14.

²⁰¹ Order of the Government of the Russian Federation “Approval of the List of Information Contained in the Register of Foreign Agents to be Posted on the Official Website of the Ministry of Justice of Russia on the Internet Information and Telecommunications Network” №3417-p of November 10, 2022 ; See, for example, Russian Ministry of Justice Website, the list of foreign agents as of January 26, 2024, <https://minjust.gov.ru/uploaded/files/reestr-inostrannyih-agentov-26012024.pdf> (accessed July 5, 2024).

In addition to the “foreign agents registry,” a separate registry of persons and entities “affiliated with foreign agents” was to be created under the new law (see further below).²⁰²

THE FOREIGN AGENT DESIGNATION PROCESS REMAINS EXTRAJUDICIAL, WITH NO POSSIBILITY TO CONTEST OR CLARIFY IN COURT THE GROUNDS FOR SUCH DESIGNATION BEFORE IT IS MADE.²⁰³

Those designated must start complying with all requirements after authorities add them to the registry.²⁰⁴

The new law did not change other aspects of “foreign agent” requirements. For example, it is not clear how individuals are supposed to recognize that they have been subjected to foreign “persuasion” or “coercion,” yet they can face penalties for having failed to register themselves as a foreign agent.

²⁰² According to media reports, access to the registry is restricted and is not available publicly. But according to a presentation by the Ministry of Justice at the end of 2022, it contained information about at least 861 individuals affiliated with foreign agents, thus considerably exceeding the number of foreign agents at that time. See Report of the Russian Ministry of Justice about activities of foreign agents, including participation in political activity occurring on the territory of the Russian Federation, on cash receipts and disbursements, and also on the results of control of their activity in 2022” (“Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году”), <https://t.me/komisgd/589> (accessed July 5, 2024).

See also, Anastasiya Kornia, Xenia Veretennikova, “Ministry of Justice Counted Agents” (“Минюст пересчитал агентов”), *Kommersant*, May 17, 2023, <https://www.kommersant.ru/doc/5987148> (accessed June 29, 2024).

²⁰³ Not that judicial review would necessarily yield any successes, as according to the Ministry of Justice in 2022, out of 118 attempts to contest “foreign agent” designations in Russian courts, not one has been successful. See of the Report of the Russian Ministry of Justice about activities of foreign agents, including participation in political activity occurring on the territory of the Russian Federation, on cash receipts and disbursements, and also on the results of control of their activity in 2022” (“Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году”), <https://t.me/komisgd/589> (accessed June 29, 2024), p. 30-31.

In 2023, the Russian minister of justice confirmed there were no successful cases of challenging “foreign agents” designations in courts. He also claimed that such attempts were based on legal, procedural arguments and that these individuals neither “apologized” nor stated that they are against “foreign influence” and were serving “Russia’s interests.” See “Minister of Justice: ‘foreign agents did not say they were acting in Russia’s interests’” (“Глава Минюста: иноагенты не говорили, что действуют в интересах России»), *Kommersant*, November 23, 2023, <https://www.kommersant.ru/doc/6352480> (accessed June 29, 2024).

In two cases, in 2021 and 2023, first instance courts ruled in favor of “foreign agents” challenging the designation, but these decisions were subsequently quashed by higher instance courts. See, Andrey Zlobin, “Appeals court in Primorye reinstated ‘foreign agents’ status of a journalist” (“Апелляционный суд в Приморье вернул журналисту впервые снятый статус иноагента”), *Forbes*, October 4, 2023, <https://www.forbes.ru/society/497810-apellacionnyj-sud-v-primor-e-vernul-zurnalistu-vpervye-snatyj-status-inoagenta> (accessed July 5, 2024).

²⁰⁴ Federal Law №255-FZ of July 14, 2022, art.1(4).

New Restrictions on Activities of Foreign Agents

The new law imposes serious and wide-ranging restrictions on the activities of “foreign agents” to exclude them from public life. These include bans on: civil service employment; access to official secrets; participating in electoral commissions, advisory or expert bodies that advise the state; public commissions that monitor places of detention; state or public environmental impact assessments; independent anti-corruption expertise of draft laws and bylaws; and joining electoral campaigns, and donating to such campaigns or to political parties.²⁰⁵

Designated foreign agents are also banned from organizing public assemblies or supporting them through donations, conducting or organizing education activities for minors, or producing information materials for them.²⁰⁶ They are also banned from participating in procurement tenders, receiving state grants or other financial support, including for creative work, and benefiting from simplified accounting or taxation procedures. Their funds cannot be insured (except personal funds). They cannot operate “critical information infrastructure,” including telecommunication networks.²⁰⁷

A large number of civic groups and activists, including those that work on human rights, the environment, election monitoring, and anti-corruption have already been designated “foreign agents.”²⁰⁸ These provisions allow authorities to bar them from their work and prevent them from directly engaging on these critical issues.

²⁰⁵ Ibid., art.11.

²⁰⁶ Ibid. Such information materials would include mass media products, printed materials, any audiovisual materials, software and databases, and materials distributed through entertainment, via the internet, other telecommunication networks, and mobile phone networks. See “Duma was offered to ban assemblies and rallies near buildings of state bodies,” (“Думе предложили запретить митинги и демонстрации у зданий органов власти”), Interfax News Agency News Agency, June 9, 2022, <https://www.interfax.ru/russia/845580> (accessed June 29, 2024).

²⁰⁷ Ibid.

²⁰⁸ See the list of foreign agents on the registry of the Ministry of Justice as of January 26, 2024:

<https://minjust.gov.ru/uploaded/files/reestr-inostrannyih-agentov-26012024.pdf> (accessed July 5, 2024). The register contains 757 entries, including 194 entries that were later removed from the list due to liquidation or successful legal challenge, bringing the total number of “active” foreign agents to 563 by the end of January 2024. However, new entries are regularly added to the registry, as more individuals and groups are designated as foreign agents by the authorities.

The ban on producing information materials for children resulted in several bookstores in Russia putting books, whose authors were designated as foreign agents, into special wrapping and marking them as adult content.²⁰⁹

Expansion of the “Affiliated with Foreign Agent” Category

The law also introduced more broadly the notion of a person *affiliated* with a “foreign agent” (see also Section II, below). The new provisions define as “affiliated with a foreign agent” the founders, employees, board or other members, or leaders of a “foreign agent entity.”²¹⁰

A person would remain “affiliated” up to two years after they severed ties with the foreign agent, even if the “affiliation” started before the law entered into force, and even if the “affiliation” started before the entity was designated a foreign agent.²¹¹ The law envisages information sharing among numerous state bodies, including tax authorities and state pension funds, to facilitate the documentation of such affiliation.²¹²

The notion of “affiliated” also extends to people involved in “political activities” and who are, or have been, receiving funding either directly from a foreign agent or through an intermediary.²¹³ This could implicate vast numbers of people. The law does not impose reporting or labeling requirements on those considered “affiliated,”²¹⁴ but could smear people by affiliation and reinforce the toxicity of a “foreign agent” designation.

As noted above, the 2022 law provided for a separate registry of persons “affiliated” with foreign agents. At time of writing, the registry was not available publicly. But according to the Ministry of Justice, at the end of 2022, it contained information on about 861

²⁰⁹ “Is this a start of a special book censorship operation in Russia?” (“В России началась специальная книгоцензурная операция?”), Roskomsvoboda, December 2, 2022, <https://roskomsvoboda.org/post/cenzura-knig/> (accessed July 5, 2024).

²¹⁰ Federal Law №255-FZ of July 14, 2022, art.6(1(3)).

²¹¹ Ibid., art.6(5).

²¹² Ibid., art.6(4).

²¹³ Ibid., art.6(1).

²¹⁴ Ibid., art.6(2).

individuals affiliated with foreign agents, thus considerably exceeding the number of foreign agents.²¹⁵

Labeling and Reporting Requirements and Enforcement

The new law essentially replicated pre-existing labeling and reporting requirements (annual, bi-annual, quarterly) for foreign agent NGOs but extended them to all foreign agents, including individuals, and for planned and unplanned inspections.²¹⁶

As noted above, any person or group designated as a “foreign agent” must prominently display this label on all their publications and materials. This requirement extends to founders, leadership, or participants in groups designated as foreign agents.

Furthermore, under the new law, foreign agents must inform their counterparts of their foreign agents status when they implement activities that authorities deem to be political or related to gathering information related to military activities (see the other part of the definition of foreign agent above).²¹⁷ Likewise, they must announce their status whenever they send communications to any state or private bodies or institutions during their activities.²¹⁸

The law does not specify if the same requirements extend to in-person interaction. But in the absence of administrative practice, this currently cannot be ruled out, specifically because these obligations are listed separately from the labeling requirements for published materials and materials sent, for example, to state bodies or other organizations.

²¹⁵ See “Report of the Russian Ministry of Justice about activities of foreign agents, including participation in political activity occurring on the territory of the Russian Federation, on cash receipts and disbursements, and also on the results of control of their activity in 2022” (“Доклад Минюста России о деятельности иностранных агентов, в том числе об участии их в политической деятельности, осуществляемой на территории Российской Федерации, о поступлении и расходовании денежных средств, а также о результатах контроля за их деятельностью в 2022 году”), <https://t.me/komisgd/589> (accessed June 29, 2024).

See also, Anastasiya Kornia, Xenia Veretennikova, “Ministry of Justice Counted Agents” (“Минюст пересчитал агентов”), *Kommersant*, May 17, 2023, <https://www.kommersant.ru/doc/5987148> (accessed July 8, 2024).

²¹⁶ *Ibid.*, art.10. See also, above section Labeling Requirements, regarding foreign agents requirements introduced under 2020 amendments

²¹⁷ *Ibid.*, art.9(1).

²¹⁸ *Ibid.*

Moreover, the law explicitly obligates foreign agents to inform their employees, beneficiaries, founders, or members of their status.²¹⁹

In November 2022, Russian authorities adopted new bylaws with detailed requirements regarding the labeling of published materials for foreign agents under the new laws.²²⁰ Foreign agents are obliged to report annually on the planned and implemented programs and submit materials pertaining to planned and organized events.

They must report bi-annually on their activities, including on implementation of programs, and submit documents pertaining to organized events or information that were not conducted as planned, as well as information about the aims of the foreign agent organization or association, its organizational chart, the area where its activities are conducted, the address of its governing body, contact information, any changes in its charter, as well as information about its founders, members, participants, and board or governing body membership.

And they must report quarterly about foreign sources of income; finances or property obtained from them; foreign agents bank accounts, their planned use, disbursements, or distribution; methodological, technical, or other assistance from foreign sources; and any changes to the information they must submit in their annual and bi-annual reports.²²¹

In addition, foreign agents are obligated to publish information about their activities bi-annually online or in mass media.²²² This requirement previously applied only to foreign agent NGOs but was subsequently extended to all foreign agents.

²¹⁹ Ibid, art.9(2)

²²⁰ Order of the Government of the Russian Federation "On Approval of the Rules for the Posting of Instructions Provided for in Parts 3 and 4 of Article 9 of the Federal Law 'On Control over the Activities of Persons under Foreign Influence,' Including the Requirements for Their Posting, as Well as the Forms of Instructions Provided for in Parts 3 and 4 of Article 9 of the Federal Law 'On Control over the Activities of Persons under Foreign Influence'" №2108 of November 22, 2022, <http://publication.pravo.gov.ru/Document/View/0001202211220038?index=5> (accessed July 5, 2024).

²²¹ Federal Law № 255-FZ of July 14, 2022, art. 9(8).

The details of reports submissions are regulated by Order of the Russian Ministry of Justice "On Approval of the Procedure and Forms for Submission to the Ministry of Justice of the Russian Federation by a Foreign Agent of Information Provided for in Part 8 of Article 9 of Federal Law No. 255-FZ of 14.07.2022 'On Control over the Activities of Persons Under Foreign Influence' and the Procedure and Terms for the Foreign Agent to Post a Report on its Activities on the Information and Telecommunications Network 'Internet'" №304 of November 29, 2022.

²²² Ibid., art. 9(12).

All foreign agents must undergo an annual financial audit no later than April 15 of the following year and must submit the results to the Ministry of Justice.²²³

The law also specifies an inspection regime for all foreign agents, whereby the Ministry of Justice can conduct planned and unplanned inspections. And whereas planned inspections may only be conducted once a year,²²⁴ there is no cap on the number of unplanned inspections. Moreover, the list of grounds for inspections is quite broad. This includes receiving information from various sources, including mass media, that a person or a group engages in what authorities consider to be “political activities” and receives any sort of foreign support but has not registered as a foreign agent; or information from sources such as individuals, organizations, or public bodies about alleged violations by foreign agents of foreign agents legislation.²²⁵

The ministry cannot accept anonymized “tip offs” and requires that sources include information about the alleged violation.²²⁶ But there is no requirement for the ministry to conduct due diligence to ensure the credibility of such allegations prior to starting inspections.²²⁷

Foreign agents would also be subjected to an unplanned inspection if they seek to be excluded from the registry of foreign agents.²²⁸

The bylaws developed in implementing this 2022 law stipulate that the foreign agent should be notified no less than 24 hours prior to an unplanned inspection and at least three days in advance for planned ones.²²⁹

²²³ Ibid., art. 9(10).

²²⁴ Ibid., art. 10(8).

²²⁵ Ibid., art. 10(6).

²²⁶ Russian Government Order №18 of January 14, 2023, para. 18.

²²⁷ “What happened at the hearing on the case of International Safeguards Project Office (ISPO) Man and Law” (Как прошли заседания по делу МОПО «Человек и закон»), <https://citwatch.org/kak-proshli-zasedaniya-po-delu-mopo-chelovek-i-zakon/> (accessed July 5, 2024).

²²⁸ Federal Law №255-FZ of July 14, 2022, art. 10(6(2)).

²²⁹ Russian Government Order №18 of January 14, 2023, paras., 25, 26.

The same bylaws prescribe that inspections cannot exceed 20 days, or 50 days in cases where foreign agents applied to be struck out from the registry.²³⁰ “Foreign agents” are obliged to provide extensive documentation and information on private finances on par with organizations.

At the end of an inspection, the ministry can issue an order to undertake certain actions with a deadline, issue a charge sheet for an administrative offense, issue a ban on all or part of a foreign agent’s activities, and file a lawsuit to liquidate the inspected legal entity or ban the target if it is a public association.²³¹

The labeling and reporting requirements, and the inspection regime for foreign agents, are extensive and burdensome. But failure to comply with them may have dire consequences for groups and individuals. (See also Section on new penalties for non-compliance introduced by additional amendments in 2022 below).

The law enables authorities to liquidate organizations, associations, and other groups designated as foreign agents and to request that access to webpages of “foreign agents” be restricted if they fail to comply with labeling and reporting requirements.²³² As with previous regulations, the law allows authorities to wholly or partially ban implementation of projects or activities. Failure to comply would lead to liquidation.²³³

Federal Law №498-FZ of December 5, 2022 (Incorporating the “Foreign Influence Law in Other Laws)

In June 2022, a group of MPs and senators introduced a bill that aimed to implement the restrictions on foreign agents and provisions of the July 2022 “Foreign Influence Law,” as outlined above, by introducing corresponding amendments to the laws on civil service, military service, political parties, elections, confidentiality of banking, and others.²³⁴

The bill was adopted and signed into law with immediate effect in early December 2022.²³⁵

²³⁰ Ibid., para.24.

²³¹ Ibid., para.39.

²³³ Ibid.

²³³ Ibid.

²³⁴ Bill “On Amendments to Certain Legal Acts of the Russian Federation (Concerning Improved Regulation of the Foreign Agent Status)” №140449-8, <https://sozd.duma.gov.ru/bill/140449-8> (accessed July 2, 2024).

²³⁵ Federal law “On Amendments to certain legal acts of the Russian Federation” №498-FZ of December 5, 2022.

The law also bans foreign agents from producing information for children, classifying it as information harmful to children’s health and development; other materials deemed harmful to children’s health include information concerning animal cruelty, suicides, narcotics, or sexual violence, and it amended corresponding legislation to ensure that foreign agents are barred from conducting any educational activities aimed at children.²³⁶ The law also explicitly bars youth organizations designated as foreign agents from receiving state support.²³⁷

The new law introduced amendments to the law on political parties to enforce the ban for foreign agents to make donations to political parties.²³⁸ The new law also tweaked the definition of “electoral candidates - foreign agents” in the law on referendums. It was expanded to correspond to the new broader and unified definition of foreign agents.

The definition of candidates “affiliated with foreign agents” was also expanded from those affiliated with NGOs earlier to any type of legal entity. Similarly, if previously “affiliation” applied only to those affiliated with public associations, new amendments expanded it to any type of association, including foreign ones and those operating informally.²³⁹

As noted above, the July 2022 Foreign Influence Law (no.255-FZ) had banned foreign agent NGOs from participating in anti-corruption assessments. The December 2022 law implements this ban by amending the law on anti-corruption assessments of legal acts.²⁴⁰

These amendments also barred foreign agents from using simplified accounting regimes or partaking in public procurements.²⁴¹ Legal entities designated as foreign agents are obliged to disclose information about their beneficiary owners upon the request of authorities.²⁴²

²³⁶ Ibid., arts. 27 and 31.

²³⁷ Ibid., art. 7.

²³⁸ Ibid., art. 13.

²³⁹ Ibid., art. 15.

²⁴⁰ Federal Law “On Anti-Corruption Expertise of Legal Acts and Draft Legal Acts” №172-FZ of July 17, 2009; Federal Law №498-FZ of December 5, 2022, art. 25.

²⁴¹ Ibid., arts. 30 and 28, 32, and 37, respectively.

²⁴² Ibid., art. 14.

Their bank deposits are no longer covered by insurance,²⁴³ and an obligation for banking institutions to provide information on accounts, deposits, and any transactions was expanded from foreign agent NGOs to all other categories of foreign agents.²⁴⁴ The Ministry of Justice was empowered to obtain information from tax authorities about the bank accounts of foreign agents.²⁴⁵

The law also requires registrar offices to provide information on civil acts such as marriages, divorces, adoptions, births, and deaths to the Ministry of Justice as deemed needed by the latter for oversight of activities of foreign agents.²⁴⁶

The new law introduced amendments to the law on civil service to add, as a core principle, the protection of civil service from “foreign influence,” which lawmakers defined to include a ban on foreign agents from holding civil service positions.²⁴⁷

Amendments were introduced to various corresponding laws to explicitly ban foreign agents from holding positions in law enforcement; in the penitentiary, customs, and intelligence services; and several other state services. Designation as a foreign agent was explicitly included as grounds for dismissal.²⁴⁸

Likewise, amendments were introduced to the law on official secrets to enforce the ban on foreign agents accessing classified information.²⁴⁹

²⁴³ Ibid., art. 18.

²⁴⁴ Ibid., art. 1(1,2).

²⁴⁵ Ibid., art. 40.

²⁴⁶ Ibid., art. 11.

²⁴⁷ Ibid., art. 17.

²⁴⁸ “Putin signed the law on bans for “foreign agents”” (“Путин подписал закон о запретах для иноагентов”), Interfax News Agency, December 5, 2022, <https://www.interfax.ru/russia/875449> (accessed July 5, 2024). The list of barred occupations in civil service was additionally expanded to bar foreign agents from working in prosecutors’ offices later the same month with enactment of the Federal Law “On the Introduction of Amendments to Article 9 of the Federal Law ‘On Amendments to Certain Legislative Acts of the Russian Federation Concerning State Uniform Statistical Records of Data on the State of Crime and on Reports of Crimes, Investigative Work, Inquiry, Prosecutor’s Supervision’ and Articles 40.1 and 40.2 of the Federal Law ‘On the Prosecutor’s Office of the Russian Federation.’” №559-FZ.

²⁴⁹ Federal Law №498-FZ, art. 4.

The new law also obliges media outlets to put a disclaimer if its founder was designated a “foreign agent,”²⁵⁰ and it drastically expanded locations that are banned as sites of peaceful assembly (see Section on Freedom of Assembly below).

Liability for Non-Compliance with Foreign Agents Requirements (Federal Law №622-FZ of December 29, 2022, and Federal Law №525-FZ of December 30, 2022)

In September 2022, two new bills were introduced in parliament amending the Russian Criminal Code and Code of Administrative Offenses concerning liability for non-compliance with the registration, labeling, and reporting requirements, under the pretext of bringing penalties in line with the July 2022 “unified” foreign agents law.²⁵¹

As a result, both administrative and criminal sanctions for non-compliance with the “foreign agents” requirements were increased, drastically in some instances.

Both bills were signed into law by late December 2022.

Amendments to the Code of Administrative Offenses (Federal Law №622-FZ of December 29, 2022)

The bill concerning amendments to the Code of Administrative Offenses was adopted and signed into law with immediate effect in late December 2022.²⁵²

The new law amended the earlier provision that targeted foreign agent NGOs, extending its coverage to other categories of foreign agents (individuals, foreign agents-foreign media, organizations, and unregistered public associations) under the unified notion of “foreign agent.” Several other provisions of the Code of Administrative Offenses that were developed earlier to target different categories of foreign agents separately were made redundant.

These amendments brought all violations that can be perpetrated by foreign agents that were earlier divided between five different articles, combining them in one article – 19.34. It set a unified scale of fines for foreign agents ranging from a minimum of 30,000 rubles to

²⁵⁰ Ibid.

²⁵¹ See Bill “On Amendments to the Code of Administrative Offenses” №195145-8, <https://sozd.duma.gov.ru/bill/195145-8> and Bill “On Amendments to Article 330.1 of the Criminal Code” №195130-8, <https://sozd.duma.gov.ru/bill/195130-8> (accessed July 2, 2024).

²⁵² Federal Law “On Amendments to the Code of Administrative Offenses” №622-FZ of December 29, 2022.

a maximum of 50,000 rubles for individuals; from 100,000 to 300,000 (\$1136 to \$3370) for managers of associations and organizations; and from 300,000 to 500,000 (\$3370 to \$5682) for legal entities.

While such standardization may suggest greater legal process, instead the amendments have strengthened penalties against foreign agents, extending some penalties to certain categories of foreign agents to whom they did not apply previously or drastically increased corresponding sanctions.²⁵³

The law continues to lack guidance as to what would constitute a more or a less serious offense.²⁵⁴

Several offenses earlier reserved for organizations or public associations were extended to all foreign agents.

Among these was the charge of conducting activities of a foreign agent while not on the registry of foreign agents. Previously reserved for foreign agent NGOs, it has been extended to cover public associations and individuals.

The charge of failure to submit documents required by the foreign agents law is but one example where amendments resulted in increased penalties. The option of a warning as a minimum penalty for individuals was eliminated, and the unified scale of fines resulted in a doubling of fines for individuals, from 5,000 to 10,000 rubles (\$56 to \$112). Penalties jumped 10-fold for managers of public associations and the minimum penalty for legal entities swelled almost three-fold.

²⁵³ There is only one exception where the amendments resulted in a reduction of penalty: for the charge of production or dissemination of publications or other materials by a public association without the “foreign agent” label/disclaimer. The previous penalty for individuals ranged between 50,000 and 100,000 rubles (\$561 and \$1123); it was halved with the introduction of the unified scale (30,000 to 50,000 rubles [\$337 to \$561] for individuals).

²⁵⁴ This issue has been noted by the European Court of Human Rights in its judgment on the earlier iteration of the Foreign Agents Law. The court stated that the law punished any breaches of the Foreign Agents Law “in an unforeseeable and disproportionately severe manner.” *EtCHR, Ecodefence and Others v. Russia*, paras. 184, 186.

The charges of publishing or disseminating materials by foreign agents without a disclaimer about their status was additionally tweaked to add not only materials but also “information concerning the type of activities” of foreign agents.²⁵⁵

Similarly, the only charge that previously exclusively applied to individual foreign agents was extended to all other categories: failure to inform about the foreign agent status in cases prescribed by Russian law.

The amendments also introduced new categories of violations:

- Failure to comply with the procedure or timeline for posting online or in mass media annual reports on activities of foreign agents, as prescribed by the 2022 Law no.255-FZ (see above);
- Failure to comply with restrictions imposed on foreign agents, such as the ban on educational activities and taking up civil service positions (see above);
- Failure to comply, including failure to comply in due time, with the requirement to incorporate a legal entity in Russia or to inform authorities of this.

This latter requirement applies to foreign agents who publish or take part in producing public materials, including printed or audiovisual.

Penalties for these offenses were set using the same unified scale, as mentioned above.

The new amendments also explicitly stipulated that violation of the foreign agents regulations by foreigners or stateless persons would entail deportation from Russia.²⁵⁶

An addendum to the amended article 19.34 of the Code of Administrative Offenses extends the earlier norm, whereby foreign agent media and foreign entities not registered under Russian law bear responsibility as Russian legal entities, to public associations and other associations. The amendments maintained provisions regarding the liability of managers

²⁵⁵ As noted above, there is only one exception where the amendments resulted in reducing a penalty: for the charge of production or dissemination of publications or other materials without the ‘foreign agent’ label/disclaimer by a public association, the initial penalty for individuals ranged between 50,000 and 100,000 rubles but was cut by half with introduction of the unified scale (30,000 to 50,000 rubles for individuals). The provisions concerning public associations also migrated from arts. 19.7.5-3 to the updated and expanded art. 19.34, making the former redundant.

²⁵⁶ Code of Administrative Offenses, art. 19.34(9).

or administrators of public associations, on par with those of managers of legal entities or officials.²⁵⁷

Provisions of articles 19.7.5-2, 19.7.5-3 and 19.7.5-4 concerning the liability of physical persons and public associations for different violations of the foreign agents obligations were made redundant as the corresponding charges under article 19.34 (which previously concerned NGOs) were extended to all categories of foreign agents.

Likewise, article 19.34.1 that specifically covered the liability of “foreign agents-foreign media” and parts of article 13.15 (2.2-2.4) that concerned the liability of mass media—for mentioning different categories foreign agents without mentioning their status as foreign agents—were also made redundant by these amendments, as they are now all covered under article 13.15 (2.1).

Amendments to the Criminal Code (Federal Law №525-FZ of December 30, 2022)

In September 2022, a new bill was introduced in the Duma to amend the criminal code.²⁵⁸ Introduced on the same day as the amendments to the Code of Administrative Offenses, these amendments were also signed into law as part of the same package in late December 2022.²⁵⁹

Initially the bill contained amendments to article 330.1 of the criminal code only.²⁶⁰ It was apparently aimed at harmonizing the provisions of this criminal article with the recent amendments to the Foreign Agents Law.²⁶¹ It sought to expand them to all categories of foreign agents, since earlier versions of the law (as amended in December 2020) only

²⁵⁷ It was migrated from addendum to art. 19.7.5-3 (that was made redundant by the new law) to addendum to art. 19.34.

²⁵⁸ Bill “On Amendments to Article 239 and 330.1 of the Criminal Code of the Russian Federation” №195130-8 <https://sozd.duma.gov.ru/bill/195130-8> (accessed June 7, 2023).

²⁵⁹ Federal Law “On Amendments to Articles 239 and 330-1 of the Criminal Code of the Russian Federation” №582-FZ, of December 29, 2022.

²⁶⁰ See *ibid.*, the initial version of the bill, as submitted to the Duma.

²⁶¹ Thus, in first part of art. 330.1, the bill extended liability for evasion to submit documents necessary for the registry of the foreign agents to all categories of foreign agents, whereas previously it applied to NGOs and public associations without legal entities. Similarly, part two of this article extended criminal liability for noncompliance with foreign agents’ requirements to all foreign agents, whereas previously it concerned specifically “foreign agent media.” Likewise, part three extended liability for failure to submit application to be added to the registry to other categories of previously fined foreign agents, when previously it applied only to foreign agents – physical persons, but not, for example, to individuals designated as “foreign agent media.”

applied to some.²⁶² The bill did not initially contain provisions increasing penalties or seek to add additional charges.

However, it was expanded ahead of the second reading in parliament.

Additional amendments eliminated the reference to “maliciousness” in article 330.1, replacing it with a threshold of having two prior administrative convictions on the same grounds within a year. They extended liability for non-compliance to all categories, further increasing avenues for authorities to penalize “foreign agents.”²⁶³

Since the adoption of these amendments, at least 25 criminal cases have been opened on these charges.²⁶⁴

This round also included amendments to criminal code article 239 that drastically increase penalties for creating or participating in the activities of NGOs (including “foreign agent” NGOs), whose activities involve inciting “refusal to perform civil duties or committing other illegal acts,” or creating religious or public associations whose activities involve violence or other harm to health.

Thus, the new law drastically revised the minimum and maximum penalties for founders or leaders of such NGOs (including those designated as “foreign agents”) for inciting “refusal to perform civil duties or to commit other illegal acts” and eliminated the option of a fine or restriction of liberty (not involving incarceration) as a minimum penalty; now the minimum penalty involves forced labor of up to five years, whereas the maximum penalty under this charge doubled from three to six years’ imprisonment.

Similarly, the option of a fine or restriction of liberty was eliminated as a minimum penalty for creating a religious or public association whose activities involve violence or other

²⁶² Federal Law “On Amendments to Article 330.1 of the Criminal Law of the Russian Federation” №525-FZ of December 30, 2020.

²⁶³ See Criminal Code, art. 330.1, section 2. of the Criminal Code. These amendments eliminated reference to foreign agents media (to which this provision was previously restricted).

²⁶⁴ “Roskomnadzor reported criminal cases opened against 25 foreign agents” (“Роскомнадзор сообщил о возбуждении уголовных дел против 25 иноагентов”), *Forbes*, June 8, 2024, <https://www.forbes.ru/society/514337-roskomnadzor-soobsil-o-vozbuzhdenii-ugolovnyh-del-protiv-25-inoagentov> (accessed July 22, 2024).

harm to health was replaced with a minimum penalty of forced labor of up to five years. The maximum penalty was increased from four to seven years in prison.

The penalties for participating in either of these groups has also been revised, with the minimum penalty increased from 120,000 to 200,000 rubles; the maximum penalty was doubled from two to four years in prison.

The recent application of this criminal article demonstrates that it entails a direct threat to civic activists in Russia.

In May 2022, in the wake of massive anti-war protests following Russia’s full-scale invasion of Ukraine, Russian authorities brought several criminal cases on these charges against leaders and activists of the opposition youth movement Vesna (“Spring”).

Initially, one of its activists was accused of creating—and seven others of participating—in activities of an NGO that, according to authorities, “incited” people to commit illegal acts and “propagated” such acts, namely, to take part in anti-war protests at the end of February 2022.²⁶⁵

However, in May 2023, three more were accused of creating the organization (two of them were earlier accused of participation, another one reportedly was not involved with

²⁶⁵ See OVD-Info infographic for details of individual criminal cases against Vesna activists, available at “Anti-war Criminal Cases” (“Антивоенные уголовные дела”), OVD-Info infographic, <https://data.ovdinfo.org/antivoennaya-infografika> (accessed July 5, 2024).

Bogdan Litvin, coordinator of the movement accused of creating a “harmful” organization, remained in exile outside of Russia at time of writing.

Vesna).²⁶⁶ Currently, four people have been accused of creating a “harmful” NGO, and five more of participating in its activities.²⁶⁷

Originally formed in 2013 among activists of the political opposition movements in St. Petersburg, Vesna announced an anti-war campaign in late February 2022 and was actively involved in organizing peaceful anti-war protests.

In a media interview, one of the co-founders of the movement said that they thought they would receive the foreign agents designation first and did not expect criminal persecution immediately.²⁶⁸

In October 2022, the movement was designated a “foreign agent” and in December a court designated it an extremist organization. The same year it was listed as “involved” with extremism or terrorism,²⁶⁹ for which there was no basis. The movement spokesperson said they promoted peaceful protests aimed at democratic reforms based on the rule of law and always considered the well-being of citizens as their main goal.²⁷⁰

²⁶⁶ Ibid. At time of writing, those accused of creating the organization included coordinators of the movement: Bogdan Litvin, Yevgeniy Zateyev, Valentin Horosheyev, and Vasily Neustroyev, a head of the local branch of the “Yabloko” political opposition party. According to Yabloko, Neustroyev has no connections to “Vesna.” Authorities additionally charged him with organizing activities of an extremist society (art.282.1(1)), aggravated dissemination of denigrating information about military glory dates (354.1(4)), aggravated public calls against the security of state (280.4(3)), aggravated dissemination of false information about the Russian armed forces (207.3(2(6,д))), inciting mass riots (212(1.1)), and organizing an NGO infringing on the rights of persons (239(2)). The “Yabloko” party issued a public statement maintaining his innocence. Neustroyev remained in detention as of June 8, 2023. See “Court will select measure of restraint for Vasily Neustroyev. He’s accused under six articles of the Criminal Code” (Суд изберет меру пресечения члену «Яблока» Василию Неустроеву. Ему предъявлено обвинение по шести статьям УК”), Yabloko party press release, June 7, 2023, <https://www.yabloko.ru/regnews/Spb/2023/06/07> (accessed July 5, 2024).

²⁶⁷ Ibid. Three of those accused of creating an NGO have remained in detention since early June 2023, one remained in exile; of the five accused of participation, three fled Russia and a court imposed restrictions on certain activities against two others, which in many cases effectively amounts to house arrest. Two more were accused on different charges in relation to involvement with Vesna social media posts—alleged “fake news” about the Russian Armed Forces in connection with the ongoing armed conflict in Ukraine, denigration of Russian military glory symbols or memorial dates, participation in an extremist society, and public calls for activities aimed against state security.

²⁶⁸ “This is the first time in history that a liberal movement designated as ‘extremist’” («Впервые в истории либеральное движение признано экстремистским»), Holod Media, December 7, 2022, <https://holod.media/2022/12/07/dvizhenie-vesna/> (accessed July 5, 2024).

²⁶⁹ See Federal Financial Monitoring Service list of organizations involved with terrorism and extremism <https://www.fedsfm.ru/documents/terr-list> (accessed June 15, 2023).

²⁷⁰ “This is the first time in history that a liberal movement designated as ‘extremist’” («Впервые в истории либеральное движение признано экстремистским»), Holod Media, December 7, 2022, <https://holod.media/2022/12/07/dvizhenie-vesna/> (July 5, 2024).

In February 2021, a criminal case on the same charges was opened against the leadership of the Foundation Against Corruption (FBK), founded by the jailed opposition politician Alexei Navalny. Later that year, FBK was also banned as an extremist organization (see below).

In 2023, Navalny and several of his former allies received lengthy sentences on bogus extremism and related charges following closed trials.²⁷¹ They included Lilia Chanysheva, who was sentenced to 9.5 years in prison in Ufa, Bashkortostan, on extremism and “destructive NGO” charges²⁷²; her co-defendant, Rustem Muliukov, was sentenced to 2.5 years for extremism; and Vadim Ostanin, was sentenced to 9 years on the same charges in Barnaul. Navalny was sentenced to 19 years in a maximum-security prison, and his co-defendant, Daniel Kholodny, former technical director of Navalny’s YouTube channel, was sentenced to 8 years. In December 2023, Kseniya Fadeyeva, a member of the Tomsk legislature, was sentenced to 9 years in prison on extremism charges for her affiliation with Navalny and FBK.

Aleksandr Verkhovskiy, a Russian extremism and civil society expert, commented to media that the charges under article 239 date back to Soviet times and were used against the so-called “destructive religious groups”—religious cults that ostensibly posed a threat to their members. He said it was unprecedented for the same charges to be used against political organizations.²⁷³

²⁷¹ In August 2023, Navalny was sentenced to 19 years in a maximum-security prison (designed for particularly dangerous recidivists and those serving life sentences). He was convicted in a closed trial on seven charges pertaining to six criminal articles, including for extremism, creating an NGO that authorities consider violates the rights of its citizens or incites illegal activities (art. 239), involving children in “illegal activities,” and the rehabilitation of Nazism. His co-defendant, Daniel Kholodny, former technical director of Navalny’s YouTube channel, was sentenced to eight years in prison on extremism-related charges.

See “Grim New Sentence for Alexei Navalny,” Human Rights Watch news release, August 4, 2023, <https://www.hrw.org/news/2023/08/04/russia-grim-new-sentence-alexey-navalny> (accessed July 5, 2024).

²⁷² Ibid.

²⁷³ Margarita Aliokhina, Yevgeniya Kuznetsova, “The entire Criminal Code for FBK” (“Весь УК для ФБК”), RBC, Issue no.063(3004), April 29, 2021, <https://www.rbc.ru/newspaper/2021/04/30/608ab4349a79476243afc3ac> (accessed July 5, 2024).

This criminal article was originally amended in 2012 to extend to foreign agents in the first major repressive legislative amendments wave. Prior to that, the criminal provision was primarily used to target so-called destructive religious groups or “cults.” Through 2012 amendments, it was expanded (parts 2 and 3 were added) to include foreign agents inciting “refusal to perform civil duties or committing other illegal acts,” as well as introducing criminal liability for mere participation, i.e., membership or affiliation with the groups in question.

2023–2024 Laws

On April 26, 2023, five new bills were submitted by MPs to the Russian parliament to make harsher the foreign agents legislation and introduce new norms tackling organizations without legal presence in Russia—an apparent attempt to restrict Russian civil society from engaging with them.²⁷⁴

They were all signed into law between July 24 and August 4, 2023.

“Third Parties”

The first two bills, introduced on April 26, 2023, expanded foreign agents legislation, effectively extending liability for compliance to third parties and introducing corresponding penalties. Both bills were signed into law on July 24, 2023.

Federal Law № 358-FZ of July 24, 2023 (“Third Parties Law”)

The first of these laws amended the July 2022 “foreign influence” law (the umbrella law that superseded the various foreign agents; provisions, see above).

The law apparently aims to ensure that foreign agents remain isolated from the public, and to curb assistance to them by third parties.

The law extended the obligation to comply with the foreign agents legislation to any such third party, in that it requires all individuals (Russian or otherwise), legal entities, and public bodies to consider/comply with the foreign agent norms and refrain from allowing foreign agents to violate their (foreign agents’) obligations or restrictions imposed on them.²⁷⁵

The law permits the authorities to conduct unscheduled inspections of foreign agents, legal entities, associations, and individuals—Russian or foreign—which are not yet, but could be, designated as foreign agents.²⁷⁶ Moreover, on par with them, authorities can

²⁷⁴ Bill “On Amendments to Articles 1 and 10 of the Federal law ‘On Control over Activities of Persons under Foreign Influence’ №346727-8 and Federal law “On State Control (Supervision) and Municipal Control in the Russian Federation,” art.2, <https://sozd.duma.gov.ru/bill/346727-8> (accessed June 5, 2023).

²⁷⁵ Federal Law №358-FZ of July 24, 2023, art. 4(1).

²⁷⁶ Ibid., art. 4(2(d)).

subject to such inspections any third party considered to have assisted or facilitated foreign agents in violating the foreign agents legislation.²⁷⁷

Amendments also expanded who can trigger such unscheduled inspections. Previously, the law provided, as one of the grounds, information obtained from public officials, citizens, or mass media. It now also includes any organization or individual irrespective of nationality.²⁷⁸ And they can complain to authorities about the alleged non-compliance of foreign agents or alleged assistance of third parties.²⁷⁹

The law also authorizes the Ministry of Justice to issue warnings to any third party about non-compliance with the Foreign Agents Law and give them deadlines for rectification.

In addition to inspections that can themselves be very burdensome (see above), these norms can extend application of fines for non-compliance with the foreign agent norms to any such third parties.²⁸⁰

Finally, the authors of the law also extended the ban for foreign agents to access state funding to include not only financial support, but also property, and specifically spelled out that this ban also extends to any artistic activities.²⁸¹

They also claimed that the earlier wording of this norm did not prevent socially oriented NGOs or small and medium enterprises designated as foreign agents from accessing state support, whereas, according to them, such state support “contradicts the national interests of Russia and must be banned.”²⁸²

²⁷⁷ Ibid. In October 2023, the Russian government adopted corresponding bylaws outlining the procedure for such unscheduled inspections of third parties (not designated as foreign agents). See Order of the Russian Government №1818 of October 31, 2023, <https://www.garant.ru/products/ipo/prime/doc/407815853/> (accessed June 29, 2024).

²⁷⁸ Ibid., art. 4(2(ж)).

²⁷⁹ Ibid.

²⁸⁰ Penalties for such non-compliance for individuals amounted to a fine of 30,000 to 50,000 rubles, 100,000 to 300,000 rubles for public officials or managers of organizations and of 300,000 to 500,000 rubles (\$3370 to \$5682) for legal persons. A foreigner or stateless person would be subject to deportation from the country in addition to the fine. The law also explicitly states that public associations without a legal entity and their leadership are liable on par with organizations and their managers. See article 19.34 of the Code of Administrative Offenses of the Russian Federation (part 8,9 and addendum).

²⁸¹ Ibid., art. 4(3).

²⁸² See explanatory note, <https://sozd.duma.gov.ru/bill/346727-8> (accessed July 2, 2024).

Although the lawmakers did not mention it explicitly, the authorities had already taken action to deprive foreign agents of state support in the form of access to government-leased property earlier that year. In January 2023, due to the enactment of the 2022 foreign agents law, Moscow authorities ordered the eviction of the Sakharov Center from its city center premises, for which it had had a rent-free lease since the early 1990s.²⁸³

Member of the Moscow Helsinki Group and Professor of Law Ilya Shablinskiy decried these amendments as unnecessary and said that authorities “want to turn foreign agents into a caste of untouchables or create for them something like a virtual leper colony.”²⁸⁴

He also noted that it was unclear, from a legal standpoint, who the third parties are in the proposed bill; supposedly, it could apply to employers of foreign agents, or to somebody who merely leaves a positive comment on the social media account of a person designated as a foreign agent.²⁸⁵

Human rights lawyer Ivan Pavlov stated that, with these amendments, authorities could target the sources of financing of foreign agents, as well as those providing them rent or services. Warnings and threat of designation as a foreign agent could also be an effective way to ensure that mass media refrain from allowing foreign agents’ voices to be heard.²⁸⁶

A law introduced in February 2024 and adopted the next month prohibited both placing advertisements in foreign agent media and advertising their websites and social media. The authors said that the law aimed at cutting foreign agents’ advertisement revenue

²⁸³ Natalya Demchenko, Anastasiya Serova, “Mayor’s office will evict Andrei Sakharov’s Center from their premises in central Moscow” (“Мэрия выселит Центр Андрея Сахарова из помещений в центре Москвы”), RBC, January 26, 2023, <https://www.rbc.ru/politics/26/01/2023/63d259a09a79472d68a18cfa> (accessed July 5, 2024).

²⁸⁴ Victor Vladimirov, “Experts about the plans to harshen the ‘foreign agents’ law in Russia: ‘Authorities would like all the rebels and activists to leave’” (“Эксперты о планах по ужесточению закона об «иноагентах» в России: «Властям очень хотелось бы, чтобы уехали все бунтари и активисты»), Voice of America, May 16, 2023, <https://www.golosameriki.com/a/foreign-agents/7095175.html> (accessed July 5, 2024).

²⁸⁵ Ibid.

²⁸⁶ See “The task of the Ministry of Justice is to bleed out and silence foreign agents” – Lawyer Ivan Pavlov about the “third parties” in ‘foreign agents’ law” (“Задача Минюста — обескровить и обезмолвить иностранных агентов». Юрист Иван Павлов о появлении «третьих лиц» в законе об «иноагентах»), The Insider, May 12, 2023, <https://theins.ru/news/261681> (accessed July 5, 2024).

streams and thus preventing “covert foreign interference” into Russia’s domestic affairs.²⁸⁷ Other MPs said they sought to deprive foreign agents of any source of income in Russia.²⁸⁸

Prominent journalist Katerina Gordeeva said the ban is “one of the numerous [acts of] discrimination in modern Russia ... and made life significantly harder” for her independent YouTube channel.²⁸⁹ Another independent politician and journalist Maxim Katz said the law’s restrictions on advertisers were weak, but that they were nonetheless now afraid to place any ads. Katz said his YouTube channel would not shut down but would suffer.²⁹⁰

Federal Law № 364-FZ of July 24, 2023 (Additional Administrative Penalties)

The next law amended the Code of Administrative Offenses by introducing an additional “offense” designed specifically to penalize not complying in a timely manner with an official warning or demand to remedy the alleged violation of the foreign agents legislation.²⁹¹

The proposed sanctions would entail fines from 30,000 to 50,000 rubles (\$337 to \$561) for individuals, from 70,000 to 100,000 (\$795 to \$1123) rubles for public officials or managers of organizations, or disqualification for up to two years and between 200,000 and 300,000 rubles (\$2272 and \$3409) for legal entities.

Given how various grounds were used previously to impose draconian fines on NGOs²⁹² and seek their forcible closures, as well as to harass individuals, this new charge gives

²⁸⁷ Lawmakers cited Ministry of Justice data, showing that in 2023, more than 200 Russian individuals and legal entities placed ads in foreign agent media resources. Explanatory note accompanying the bill № 553750-8, <https://sozd.duma.gov.ru/bill/553750-8> (accessed July 5, 2024); Federal law “On Amending Article 11 of the Federal Law ‘On Control over Activities of Persons, Who are under Foreign Influence’ and Separate Laws of the Russian Federation” №42-FZ of March 11, 2024, <http://publication.pravo.gov.ru/Document/View/0001202403110004> (accessed July 2, 2024).

²⁸⁸ “Volodin announced a bill banning ad placement with foreign agents” (“Володин анонсировал законопроект о запрете на размещение рекламы у иноагентов”), Business FM, February 10, 2024, <https://www.bfm.ru/news/543901> (accessed July 5, 2024).

²⁸⁹ Telegram message from the account “Skazhi Gordeevoy,” April 15, 2024, <https://t.me/skazhigordeevoy/1386> (accessed July 5, 2024).

²⁹⁰ Maksim Katz, “prohibition on ads and our channel | what next (English subtitles) @Max_Katz” (Запрет рекламы и наш канал | Что будет дальше (English subtitles) @Max_Katz), February 29, 2024, video clip, YouTube, https://www.youtube.com/watch?v=1s6lth_e7Gw (accessed July 5, 2024).

²⁹¹ Bill “On Amendments to the Code of Administrative Offenses of the Russian Federation” №346781-8, of July 24, 2023 <https://sozd.duma.gov.ru/bill/346781-8> (accessed June 5, 2023).

²⁹² According to the official Russian parliamentary newsletter, between 2021 and mid-2023, Roskomnadzor issued fines against “foreign agents” in excess of 1 billion rubles. See, Mariya Sokolova, “School administrations will be fined for cooperation with ‘foreign agents’” (“Руководство школ оштрафуют за сотрудничество с иноагентами”), *Parliamentary*

authorities an additional tool to impose penalties and seek forced liquidations, further isolating and stigmatizing foreign agents and intimidating their supporters.²⁹³

“Foreign” Organizations

Three other bills introduced on April 26, 2023, were developed by a group of MPs as a package of amendments targeting organizations incorporated abroad.

Albeit not directly pertaining to the foreign agents legislation, they appear to be developed in the same vein, aiming to restrict, intimidate, and isolate dissenting voices in Russian civil society, particularly from international counterparts.

Federal Law №409-FZ of July 31, 2023 (Ban on Foreign NGOs without Russian Registration)

The first of these additional laws amended the law “On non-profit organizations.”²⁹⁴ The new law seeks to ensure that individuals and legal entities in Russia can only get involved in the activities of foreign or international NGOs after the latter have their branch or representative offices officially registered, that is, added to the official registry, in Russia.²⁹⁵

The bill’s authors said they saw a regulatory loophole due to the lack of an explicit norm excluding the possibility for organizations incorporated abroad and not registered in Russia to conduct activities in the country, either directly or through an intermediary.²⁹⁶ Without registration, an organization cannot operate legally in the country.

The only exception the new law provides is for participation of such foreign organizations in events organized by, and upon invitation of, state bodies or state-affiliated entities,

newspaper, July 29, 2023, <https://www.pnp.ru/politics/rukovodstvo-shkol-oshtafuyut-za-sotrudnichestvo-s-inoagentami.html> (accessed July 5, 2024).

²⁹³ See, “Volodin: MPs want to cut foreign agents from income in Russia” (“Володин: депутаты считают необходимым лишить иноагентов источников доходов в РФ”), TASS News Agency, February 10, 2024, <https://tass.ru/ekonomika/19952161> (accessed July 5, 2024).

²⁹⁴ Federal Law “On Amendments to the Federal law ‘On Non-profit Organizations’” №409-FZ of July 31, 2023.

²⁹⁵ Originally, authors of the bill proposed such ban for foreign as well as international NGOs but reference to the latter was dropped ahead of the second parliamentary hearing of the bill.

²⁹⁶ See explanatory note accompanying the bill “On Amendments to the art. 13-2 and 30-1 of the Federal law ‘On Non-profit Organizations’” №346588-8, <https://sozd.duma.gov.ru/bill/346588-8> (accessed June 15, 2023).

such as state-owned corporations.²⁹⁷ But even such state-owned or controlled entities must inform the Ministry of Justice 10 days in advance and publish information about the participation of such foreign NGOs online.²⁹⁸

Federal Law №412-FZ of August 4, 2023 (Administrative Penalty)

The second law adopted as part of this package introduced administrative penalties for noncompliance with the above ban on activities of foreign or international NGOs without registration in Russia.²⁹⁹

The new amendments added a new charge—participation in activities on Russian territory of a foreign or international NGO that does not have an officially registered branch or representative office.³⁰⁰

The proposed penalty for such an offense ranges from 3,000 to 5,000 rubles for individuals, 20,000 to 50,000 for managers or officials, and 50,000 to 100,000 rubles for legal entities.

Foreigners or stateless persons may additionally face discretionary deportation.³⁰¹

Federal Law №413-FZ of August 4, 2023 (Criminal Penalty)

Lastly, the third bill,³⁰² also signed into law on August 4, 2023, introduced corresponding amendments to the criminal and criminal procedure codes to penalize repeated participation or organizing activities of foreign or international NGOs without registration in Russia.³⁰³

²⁹⁷ Federal Law №409-FZ, of July 31, 2023, art. 1(1).

²⁹⁸ Ibid., art. 1(1,3).

²⁹⁹ Notably, parliamentarians dropped reference to the “international” NGOs from the law №409-FZ that introduced the ban but maintained it in the corresponding administrative and criminal penalties provisions, creating a discrepancy between these norms.

³⁰⁰ Federal Law “On Amendments to the Code of Administrative Offenses of the Russian Federation” №412-FZ of August 4, 2023, art. 1(1).

³⁰¹ Ibid. Deportation from Russia entails an automatic ban from reentering the country for several years. The authors of the bill also proposed a 10-fold increase in fines for foreigners or stateless persons (with a 30,000-ruble minimum and 50,000 maximum), but it was revised down to be the same for all individuals ahead of the second parliamentary hearing on the bill.

³⁰² Bill “On Amendments to the Criminal Code of the Russian Federation and Articles 31 and 151 of the Code of Criminal Procedure” №346750-8 of August 4, 2023, <https://sozd.duma.gov.ru/bill/346750-8> (accessed July 2, 2024).

³⁰³ As noted earlier, parliamentarians dropped reference to the “international” NGOs from the law №409-FZ that introduced the ban but maintained it in the corresponding administrative and criminal penalties provisions, creating discrepancy between these norms.

The liability for participation can be invoked if a person has previously twice in one year been convicted for the administrative offense of involvement with such NGOs or has a prior (unexpunged) criminal conviction for such participation or for involvement with an “undesirable organization.”

As regards involvement with “undesirables” as grounds for prosecution under this article, it appears that parliamentarians believed, since both articles concern involvement with organizations that do not have a legal right to conduct their activities in Russia, these charges can be used interchangeably to meet the threshold for criminal prosecution for either.³⁰⁴

Indeed, as a result of this intended interconnectedness between these charges, the same law introduced similar amendments to criminal provisions on “undesirables:” criminal convictions for involvement with unregistered organizations now serve as grounds for prosecution under involvement with “undesirables” charges.³⁰⁵

One notable distinction between charges of involvement with unregistered foreign/international NGOs and undesirable organizations is that, currently, charges for involvement with unregistered organizations are limited territorially to Russia. In the case of “undesirables,” this limitation also originally existed, but was lifted and made an extra-territorial crime in 2022 (see below in Section on Free Expression).³⁰⁶

Given the parallels between these criminal articles, the same amendments could potentially be introduced to the “unregistered” articles in the future, thus criminalizing Russian civil society’s cooperation with foreign and international NGOs and further isolating them from the international community and increasing their vulnerability and risks.

³⁰⁴See explanatory note accompanying the Bill “On Amendments to the Criminal Code of the Russian Federation and Article 151 of the Code of Criminal Procedure” №346750-8 of August 4, 2023, <https://sozd.duma.gov.ru/bill/346750-8> (accessed July 2, 2024).

³⁰⁵ See Section on Freedom of Expression concerning Federal Law №260-FZ of July 14, 2022, below.

³⁰⁶ Damelya Aitkhodzina, “New ‘Undesirables’ Law Expands Activists’ Danger Zone,” *Moscow Times*, June 17, 2021, <https://www.themoscowtimes.com/2021/06/17/new-undesirables-law-expands-activists-danger-zone-a74244>.

Such repeated involvement with foreign or international NGOs carries a penalty of up to two years in prison.³⁰⁷

In the addendum to the article, the authors of the law propose exemption from criminal charges if the person has voluntarily ceased to engage with such foreign NGOs and actively assisted in the investigation of the alleged crime.³⁰⁸

The second part of the new criminal article penalizes organizing activities of foreign or international NGOs without Russian registration, punishable with up to three years in prison.³⁰⁹ No prior administrative or criminal convictions need to exist to trigger criminal prosecution under this article.³¹⁰

Among those affected could be Human Rights Watch's partners and counterparts. Human Rights Watch was among 15 international organizations whose representative offices' registration the Russian authorities cancelled in April 2022, shortly after the start of full-scale invasion of Ukraine.³¹¹ Likewise, local partners of many other international and foreign organizations could potentially be at risk.

Although the structure and logic of the criminal provisions appear to be very similar to those on involvement with "undesirable organizations," the threshold in this case appears to be even lower, since, unlike "undesirables," authorities would not have a list of unregistered foreign organizations. Hence the burden of due diligence is shifted to the concerned individuals and entities to ensure that interaction with their international counterparts does not put them at risk of prosecution and even imprisonment.

³⁰⁷ With a possibility of additional ban on certain occupations or activities of up to five years.

Other sanctions include a fine ranging from 100,000 to 200,000 rubles or the equivalent of the convict's wages and other income for between one and two years or forced labor for up to two years.

³⁰⁸ An identical "exemption" provision exists in the article concerning participation in the activities of "undesirable organizations." But prosecutions of activists accused of involvement with the Open Russia Civic Movement under the latter charge indicate there is risk that this provision can be applied arbitrarily (see cases of Open Russia activists mentioned above).

³⁰⁹ See Criminal Code, art. 330.3(2).

³¹⁰ The new law also prescribed that investigation of such cases would be within the purview of the Investigative Committee.

³¹¹ "Russia: Government Shuts Down Human Rights Watch Office," Human Rights Watch news release, April 8, 2022, <https://www.hrw.org/news/2022/04/08/russia-government-shuts-down-human-rights-watch-office>.

Moreover, considering the history of persecution of activists using the “undesirable” charges,³¹² it is likely that, if adopted, these new charges will become a constant source of danger for civic activists, human rights defenders, journalists, and others in Russia.

Taken together, these provisions clearly aim to to deter Russian activists and groups from active international engagements, further isolating and suppressing Russia’s civil society, an outcome that could be expected from many of the other legislative initiatives analyzed in this report.

These amendments do not meet the criteria of necessity and proportionality and so are not a legitimate restriction on the human rights and fundamental freedoms of both potentially affected international NGOs and their Russian counterparts and partners.

³¹² See above cases of Open Russia members and Mikhail Iosilevich, who was sentenced to two years in prison on these charges despite lacking any connection with Open Russia.

II. Restricting Electoral Rights

Federal Law №91-FZ of April 20, 2021 (Candidates-Foreign Agents and “Affiliated” with Foreign Agents)

Allegations of foreign interference in elections have been a constant feature of the nationwide election cycle in Russia since at least 2011. Beginning in 2018, they dominated the political leadership’s rhetoric in response to Alexei Navalny’s “Smart Voting” project, which called on people to vote for any candidate who stood a chance of defeating a candidate from the ruling party, United Russia.³¹³

Such allegations spiked in early 2021, after Navalny’s January 2021 arrest upon returning from medical treatment in Germany, and in the months leading up to the September 2021 parliamentary vote. In March 2021, the chairperson of the Russian Central Electoral Commission reported “many elements of interference.”³¹⁴ President Putin spoke of the same in meetings with heads of parliamentary factions in February and March.³¹⁵

After the election, Russian senators identified 10 main forms of foreign interference in Russian elections,³¹⁶ and the Duma speaker claimed that “Smart Voting” was backed by “Western states and intelligence services” to interfere in Russia’s internal affairs.³¹⁷

This is the context in which a bill proposing to attach the “foreign agent” label to candidates running for elected positions was introduced to the Duma on November 18,

³¹³ Ibid.

³¹⁴ Yelena Rozhkova, Andrei Vinokurov, “External Threat for Internal Consumption. Foreign interference in elections becomes the main theme of autumn campaign” (“Внешняя угроза для внутреннего употребления. Иностранное вмешательство в выборы становится одной из главных тем осенней кампании”), *Kommersant*, April 28, 2021, <https://www.kommersant.ru/doc/4793040> (accessed July 5, 2024).

³¹⁵ Ibid.

³¹⁶ Anastasiya Kornia, Kira Heifetz, “Liability for foreign agents will be increased” (“Иноагентам добавят ответственности”), *Kommersant*, Issue no.163, September 6, 2022, <https://www.kommersant.ru/doc/5547495> (accessed July 5, 2024), p.1.

³¹⁷ “Volodin stated that “Smart Voting” is aimed interfering with Russia’s internal affairs” (“Володин заявил, что “умное голосование” направлено на вмешательство во внутренние дела РФ”), TASS News Agency, March 20, 2021, <https://tass.ru/politika/10953195> (accessed July 5, 2024).

2020.³¹⁸ It was signed into law and entered into force on April 20, 2021.³¹⁹ Three years later, in May 2024, the Duma adopted a law banning “foreign agents” from running for public office altogether, and from serving on election commissions.³²⁰

In practice, the 2021 law, which amended the law on electoral rights, enables authorities to smear opposition candidates with the “foreign agent” and “affiliated with a foreign agent” labels.³²¹ The former applies to individuals whom authorities have designated as “foreign agents,” and who are running for office.

The latter applies to individuals who, during the two years before running for office, were affiliated with entities designated as “foreign agents”³²² or who conducted what Russian authorities consider to be “political activities” and received any financial assistance from “foreign agents,” including via intermediaries.

Although governments can legitimately introduce legislation to secure elections from foreign interference, this law uses the notion of “foreign agent” to stigmatize political opposition candidates involved in civic activism. The 2021 law’s labeling requirements for such candidates are more extensive than the disclosure requirements for candidates’ criminal records.

The “foreign agent” label must be clearly marked on the candidate’s registration application,³²³ in party lists,³²⁴ nomination signature sheets in support of the candidate,³²⁵ and materials produced by candidates and their campaigns and other publicly available election-related documentation.³²⁶ The new law requires that during any public address,

³¹⁸ Bill “On Amendments to the Federal law ‘On Key Guarantees of Electoral Rights and the Right to Participate in a Referendum of Russian Federation Citizens’ (concerning rights and obligations of foreign agents)” № 1057892-7 of April 20, 2021, <https://sozd.duma.gov.ru/bill/1057892-7> (accessed July 2, 2024).

³¹⁹ Federal law “On Amendments to Certain Legal Acts of the Russian Federation” №91-FZ of April 20, 2021.

³²⁰ “Putin signed a law banning foreign agents from running in all elections” (“Путин подписал закон о запрете иноагентам избираться на всех выборах”), *Kommersant*, May 15, 2024, <https://www.kommersant.ru/doc/6692832> (accessed July 16, 2024).

³²¹ Federal Law №91-FZ of April 20, 2021, art. 1(1(a,6)).

³²² That includes those who have been a board member, founder, member, participant, leader/manager, or an employee of the NGO or unregistered public association or foreign media listed as a foreign agent.

³²³ Federal Law №91-FZ of April 20, 2021, art.1(3(a)), art.2(2)).

³²⁴ *Ibid.*, art.2(3(b)).

³²⁵ *Ibid.*, art.1(4, 13-18) art.2(13-15), art.3.

³²⁶ *Ibid.*, art.1(6-10).

the candidate must be identified as a “foreign agent.” Finally, the label would also be included on ballots.³²⁷ Electoral commissions would be tasked with informing voters of a candidate’s “foreign agent” status.³²⁸

The law also expanded application of an earlier ban on organizations designated as foreign agents from engaging in electoral campaigns to cover individuals and unregistered public associations.³²⁹

During the Duma’s first reading of the then-draft law, according to Russian media, the head of the Senate’s Ad Hoc Commission on Protecting State Sovereignty and Preventing Interference in Domestic Affairs justified it by claiming that some states and international organizations were weakening Russia’s ability to defend its interests and that Russia’s foreign opponents aimed to install their candidates into Russian state bodies.³³⁰ He singled out the “School of Local Governance,” headed by acting and former Moscow municipal deputies, who were in the political opposition, accusing the project of “preparing hundreds of such people to infiltrate municipal and state bodies.”³³¹

This new law affected candidates running in the September 2021 parliamentary and municipal elections. In March 2022, additional amendments were introduced to the law on presidential elections, extending the same categories of “foreign agent candidates” and “candidates affiliated with foreign agents” to presidential campaigns and elections, with similar obligations to label all campaign materials and disclose this status ahead of any public appearances or speeches.³³²

In late July, the Central Electoral Commission informed the opposition party Yabloko that two candidates in its parliamentary election party list, Marina Agaltsova and Andrei Pivovarov, were “affiliated with foreign agents.”

³²⁷ Ibid., art.1(12), art.2(12).

³²⁸ Ibid., art.1(5), art.2(5).

³²⁹ Ibid., art.1(2).

³³⁰ Xenia Veretennikova, Mariya Makutina, “Foreign agents are allowed to become candidates” (“Иноагентам разрешили стать кандидатами”), *Kommersant*, December 23, 2020, <https://www.kommersant.ru/doc/4627369> (accessed July 5, 2024).

³³¹ Ibid.

³³² Federal Law “On Amendments to Certain Legal Acts of the Russian Federation” №60-FZ of March 14, 2022.

The party fought off the “foreign agent” labeling demands with respect to Agaltsova.³³³ Yabloko was unsuccessful in fighting off the labeling of Pivovarov, the former executive director of the Open Russia civic movement and the head of the Open Petersburg NGO, which authorities designated as a foreign agent. Authorities therefore required Yabloko to label all campaign materials and precede its public addresses with the “foreign agent” disclaimer; ballot forms with Yabloko candidates were marked with the “affiliated” label.

Pivovarov was detained in late May 2021 on allegations of “involvement with an undesirable organization” for a repost on social media in support of “United Democrats,” a project that Russian authorities equate with Open Russia, which has been blacklisted as undesirable.³³⁴ In July 2022, he was sentenced to four years in prison on these charges, having spent over a year in pretrial detention.³³⁵

Yabloko leader Grigoriy Yavlinskiy decried the “affiliation” move, pointing out that even if one candidate out of several hundred is labeled as “affiliated,” the entire party list is marked accordingly.³³⁶

In at least one case, a candidate had to step down from the race to shield her party from the affiliation label.

In July 2021, Anna Ochkina, who was running for governor of Penza region as an opposition candidate, stepped down from the race, citing her status as a person affiliated with a foreign agent. Several years earlier, Ochkina worked at the Institute of Globalization and Social Movements, a think tank listed as a foreign agent. Ochkina

³³³ “Central Electoral Commission registered federal list of “Yabloko” party for Duma elections,” RIA News Agency, August 5, 2021, <https://ria.ru/20210805/vybory-1744554368.html> (accessed July 5, 2024).

³³⁴ Damelya Aitkhozhina, “Russian Activist Targeted Under Abusive ‘Undesirable Organization’ Law,” commentary, Human Rights Watch Dispatch, June 1, 2021, <https://www.hrw.org/news/2021/06/01/russian-activist-targeted-under-abusive-undesirable-organization-law>.

³³⁵ Damelya Aitkhozhina, “The UN must act now to stop the crackdown in Russia,” Op-ed, *Open Democracy*, August 2, 2022, <https://www.opendemocracy.net/en/odr/russia-putin-undesirables-law-foreign-human-rights-organisations/> (accessed July 5, 2024).

³³⁶ Viktoriya Muchnik interview with Grigoriy Yavlinskiy, Grigoriy Yavlinsky Website, “We are agents of our own people” (“«Мы — агенты собственного народа»”), September 4, 2021, <https://www.yavlinsky.ru/article/my-agenty-sobstvennogo-naroda/> (accessed July 8, 2024).

left the organization before it was listed, but still fell under the new “affiliated” provision.

She explained in a social media post that although she did not want to abandon the race, she felt she had to shield her party from potential attacks related to her foreign agent affiliation label.³³⁷

“Everyone knows full well that it’s not about connections with foreign scientific institutions,” she wrote. “Seeing how [authorities] are now purging candidates lists at all levels, one must [conclude that] they are trying to eliminate from politics not even radical or opposition candidates, but anyone with independent views.”³³⁸

Ahead of the elections, authorities announced an automated system to ease the marking of candidates and party lists with the “foreign agent” label and ensure its visibility.³³⁹

In some instances, competing candidates asked that electoral commissions check and label their political opponents as “foreign agents” or “affiliated.”³⁴⁰ An expert from the election monitoring group Golos likened this to a witch hunt.³⁴¹ In early September 2021, seven opposition political parties that ran in parliamentary elections—half of all parties that stood in the elections—urged reform of the “foreign agents” legislation.³⁴²

Federal Law №43-FZ of March 9, 2021 (Online Campaigning)

³³⁷ Anna Ochkina’s Facebook page, July 14, 2021, <https://www.facebook.com/anna.ochkina/posts/4487442794633872> (accessed July 5, 2024).

³³⁸ Ibid.

³³⁹ Konstantin Glinkin, “Foreign agent status would be impossible to conceal from the system” (“Статус иноагента нельзя будет скрыть из системы”), *Vedomosti*, July 28, 2021, <https://www.vedomosti.ru/politics/articles/2021/07/27/879789-status-inoagenta> (accessed July 5, 2024).

³⁴⁰ Alexei Sabelskiy, “How a paramedic from Novgorod region and the husband of a journalist became candidates “affiliated with foreign agents,” – but did not step down from the race” (“Как фельдшер из Новгородской области и муж журналистки стали кандидатами, “аффилированными с иноагентами”, – но не отказались идти на выборы”), *Current Time*, August 24, 2021, <https://www.currenttime.tv/a/affilirovannye/31424725.html> (accessed July 8, 2024).

³⁴¹ Ibid.

³⁴² Yelizaveta Lamova, Yevgeniya Kuznetsova, Natalia Galimova “Seven parties running in the elections appeal for revision of the “Foreign Agents Law” (“Семь идущих на выборы партий выступили за изменение закона об иноагентах”), RBC, September 9, 2021, <https://www.rbc.ru/politics/08/09/2021/613772219a79471af3bf97c9> (accessed July 8, 2024).

On November 12, 2020, a group of MPs introduced another bill concerning electoral rights.³⁴³ It was adopted on March 3, 2021, and entered into force on March 9, 2021.³⁴⁴

The new law enables authorities to extrajudicially block online content entirely at the discretion of electoral commissions. It extended the scope of electoral campaigning to include online content and extended the ambit of the Russia's election law to include rules on producing and disseminating online content.³⁴⁵

The law amended several other laws to enable the Central Electoral Commission (CEC) to regulate the production and dissemination of campaign materials,³⁴⁶ and enable it—and all regional electoral commissions—to request that Roskomnadzor, the state body responsible for monitoring and controlling online content, block content if election commissions believe it violates electoral regulations.³⁴⁷ The new law does not set clear criteria or thresholds triggering this extrajudicial blocking, apparently leaving this to the discretion of the electoral commissions.

In line with these amendments, Roskomnadzor, upon the request of an electoral commission, can immediately demand service providers block access to the offending content. Once Roskomnadzor issues this demand, content-hosting providers have 24 hours to find and notify the website about the official demand to delete the content.³⁴⁸

The website owner has 24 hours to comply. Failure to do so will result in the hosting provider blocking access to the website or online resource in 24 hours.³⁴⁹ If the website owner complies, they must inform Roskomnadzor.³⁵⁰ Authorities verify deletion of the contested information and request the service provider restore access to the website.³⁵¹

³⁴³ Bill “On Amendments to Legal Acts Concerning Regulation of Electoral Campaigning, Including in Information and Telecommunication Networks” №1057336-7 of March 9, 2021, <https://sozd.duma.gov.ru/bill/1057336-7> (accessed July 2, 2024).

³⁴⁴ Federal law “On Amendments to Certain Legal Acts of the Russian Federation” №43-FZ of March 9, 2021, art.1(4(a)).

³⁴⁵ Ibid., art.1(5(d)).

³⁴⁶ Ibid., art.1(4(6)).

³⁴⁷ Ibid., art.1 (1,2,3).

³⁴⁸ Ibid., art.2 (1,2). This article amends the Federal law “On Information, Information Technologies and Protection of Information” №149-FZ of July 27, 2006.

³⁴⁹ Ibid., art.2(3,4).

³⁵⁰ Ibid., art.2(6).

³⁵¹ Ibid., art.2(7,8).

Although the law outlines a swift procedure for blocking content and websites, it has no clear timeline for verifying whether the content has been deleted. It also envisages that the blocking can last from the day of the announcement of an upcoming vote and up to five days after the announcement of the results.³⁵²

Some opposition MPs at the time said the new law would be used against them.³⁵³ One noted that in almost every election campaign “one [ruling] party is allowed to continue campaigning even on the “[Election] Silence Day [the day before elections when all electoral campaigning is forbidden],” while they are banned from doing so.³⁵⁴ The deputy head of an opposition party that is not in parliament said the law’s arbitrary enforcement would radicalize protest and increase distrust in the electoral process.³⁵⁵

Other political opposition activists not represented in parliament also expressed concern that any websites campaigning for certain candidates can be blocked, particularly those promoting “Smart Voting.”

Anastasia Burakova, a coordinator of “United Democrats,”³⁵⁶ a capacity-building project for opposition candidates, said the law is so broad that, in theory, anyone who expresses their opinion about a candidate on social media could be held liable.³⁵⁷

Federal Law №37-FZ of March 9, 2021 (Administrative Penalties for Campaign Violations)

³⁵² Ibid., art.2(10)

³⁵³ Xeniya Veretennikova, Kira Diuriagina, Angelina Galanina “Internet of Silence,” (“Интернет тишины”), *Kommersant*, January 22, 2021, p.3, <https://www.kommersant.ru/doc/4654988> (accessed May 25, 2024).

³⁵⁴ Ibid.

³⁵⁵ Ibid.

³⁵⁶ Damelya Aitkhozhina, “Moscow Police Arrest Nearly 200 on ‘Undesirable’ Charges,” commentary, Human Rights Watch Dispatch, March 15, 2021, <https://www.hrw.org/news/2021/03/15/moscow-police-arrest-nearly-200-undesirable-charges>.

³⁵⁷ Xeniya Veretennikova, Kira Diuriagina, Angelina Galanina “Internet of Silence,” (“Интернет тишины”), *Kommersant*, Issue no.10, January 22, 2021, <https://www.kommersant.ru/doc/4654988> (accessed July 8, 2024), p.3.

On November 20, 2020, a group of MPs introduced a bill drastically increasing penalties for violating certain election campaigning rules.³⁵⁸ Parliament adopted it on March 3, 2021. President Putin signed it into law on March 9; it entered into force on March 20, 2021.³⁵⁹

The law sharply increased fines for three types of violations set out in previous laws:

- Campaigning outside the designated period or in locations where campaigning is forbidden;
- Failing to comply with rules for producing or disseminating campaign materials;
- Placing printed campaign materials in locations forbidden by federal laws or on premises without the owner's permission.

For some categories of offenders, the penalties have been increased more than 10-fold.³⁶⁰

Amendments Involving “Extremism”

Authorities have developed other tools to hamper opposition candidates' participation in elections.

On May 4, 2021, a bill was introduced banning candidates affiliated with “extremist organizations” from running for the Duma; it was subsequently expanded to a ban on running in any election for public office.³⁶¹

The bill imposed a five-year ban on the leadership or management of organizations designated as extremist and a three-year ban for their staff and even supporters, defined in broad terms. It has retroactive effect, to include anyone who led or managed such

³⁵⁸ Bill “On Amendments to the Code of Administrative Offenses Concerning Clarifying Administrative Penalties for Certain Offenses During Electoral Campaigns” №1059597-7 of March 9, 2021, <https://sozd.duma.gov.ru/bill/1059597-7> (accessed July 2, 2024).

³⁵⁹ Federal Law “On Amendments to the Code of Administrative Offences” №60-FZ of March 9, 2021.

³⁶⁰ The maximum fines for election campaigning outside the designated locations or timeframe and producing of printed audiovisual or other campaign materials in violation of electoral regulations were increased for individuals from 1,500 rubles to 20,000 rubles, for managers or officials from 3,000 to 50,000, and for legal entities from 100,000 to 500,000 rubles.

Maximum fines for displaying printed campaigning materials in locations banned by law or without the permission of owners of properties was increased for individuals from 1,500 to 20,000 rubles, for managers or officials from 2,000 to 50,000 rubles, and for legal entities from 30,000 to 500,000 rubles.

³⁶¹ Bill “On Amendments to the Article 4 of the Federal law ‘On Basic Guarantees of Electoral Rights and Right to Participate in a Referendum of Russian Federation Citizens’ and to Article 4 of the Federal law ‘On Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation’” №1165649-7 of June 4, 2021, <https://sozd.duma.gov.ru/bill/1165649-7> (accessed July 2, 2024).

organizations up to three years before authorities designated the group extremist, and up to a year for staff members and supporters.

The bill was hastily adopted and signed into law exactly a month later, on June 4.³⁶² On June 9, the Moscow City Court ruled in favor of a request by the Prosecutor’s Office to designate as “extremist” three groups associated with Alexei Navalny—the Anti-Corruption Foundation (FBK), the Foundation for Protection of Citizens Rights, and Navalny’s headquarters.³⁶³

On June 25, 2021, Ilya Yashin, a well-known opposition figure, announced that he had been banned from running for the Moscow City Duma because the election commission equated him with an “extremist” due to his support for Navalny.³⁶⁴ Leonid Volkov, one of Navalny’s aides, stated that Yashin had no connection whatsoever to FBK or Navalny’s regional teams and that at that time the court’s designation of Navalny’s organizations as extremist had not yet entered into force.³⁶⁵

Another well-known opposition candidate, Lev Shlosberg, was also struck from the candidates lists for alleged involvement with extremist organizations.³⁶⁶ Initially, the electoral commission denied him registration on August 3, a day before the “extremist” ruling entered into force, for alleged involvement with protests in support of Navalny in January 2021. This decision was overruled the following day, but a few days later he was again struck from the list and was not allowed to run in parliamentary or local elections.³⁶⁷

³⁶² Federal Law “On Amendments to Article 4 of the Federal law ‘On Basic Guarantees of Electoral Rights and Right to Participate in a Referendum of Russian Federation Citizens’ and to Article 4 of the Federal law ‘On Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation’ №157-FZ of June 4, 2021.

³⁶³ The first instance court ruling was delivered on June 9, 2021, and, after an unsuccessful appeal, entered into force on August 4, 2021. See, for example, “Court ruling designating entities affiliated with Navalny as extremist, enters into force” (“Решение о признании структур Навального экстремистскими вступило в силу”), BBC News Russian Service, August 4, 2021, <https://www.bbc.com/russian/news-58037924> (accessed July 8, 2024). In January 2022, Navalny and several his aides and supporters were added to Russia’s list of extremists and terrorists.

³⁶⁴ Ilya Yashin, Twitter post, June 25, 2021, <https://twitter.com/IlyaYashin/status/1408319210007191557> (accessed July 8, 2024).

³⁶⁵ Leonid Volkov, Navalny’s aid, Twitter post, June 25, 2021, <https://twitter.com/leonidvolkov/status/1408323960819884038> (accessed July 8, 2024).

³⁶⁶ Liudmila Savitskaya, “Supreme Court upheld striking down of Lev Shlosberg from Duma elections” (“Верховный суд подтвердил снятие Льва Шлосберга с выборов в Госдуму”), Sever.Realii, September 9, 2021, <https://www.severreal.org/a/verhovnyy-sud-podtverdil-snyatie-lva-shlosberga-s-vyborov-v-gosdumu/31445795.html> (accessed July 8, 2024).

³⁶⁷ Liudmila Savitskaya, “Supreme Court upheld striking down of Lev Shlosberg from Duma elections” (“Верховный суд подтвердил снятие Льва Шлосберга с выборов в Госдуму”), Sever.Realii, September 9, 2021, <https://www.severreal.org/a/verhovnyy-sud-podtverdil-snyatie-lva-shlosberga-s-vyborov-v-gosdumu/31445795.html> (accessed July 8, 2024).

In September 2021 and June 2022 the Supreme Court and the Constitutional Court upheld this move.³⁶⁸

In June 2021, the independent rights group OVD-Info documented that over 30 candidates had to step down from the September parliamentary or municipal elections because of this legislation.³⁶⁹

Similarly, in the summer of 2022, authorities used extremism charges to prevent opposition candidates from running in the September 2022 local elections. In slightly over a month from the start of the electoral campaign in mid-June, at least 24 people—Moscow municipal deputies or activists who expressed intention to run—were reported to have been arrested and/or charged with using extremist symbols and then struck from electoral lists on the basis of old social media posts related to Navalny or “Smart Voting.”³⁷⁰ In a media interview, a lawyer with the human rights group “Perviy Otdel” (First Department) called this a “simple and effective” way to prevent candidates from running.³⁷¹

In late March 2023, a group of MPs submitted another bill concerning elections.³⁷² While the primary focus of the bill was reported as regulating elections on the territories—of Ukraine—that Russia claimed to have annexed since the start of the full-scale invasion in February 2022, alongside those amendments, the bill also aimed to extend the ban on candidates affiliated or convicted of involvement with extremist groups from running for senatorial positions in the upper chamber of the Russian parliament, the Federation

³⁶⁸ Constitutional Court ruling “On the Refusal to Accept for Consideration the Complaint of Citizen Shlosberg Lev Markovich on the Violation of His Constitutional Rights by Paragraph 3.6 of Article 4 of the Federal Law ‘On Basic Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation,’ as well as Parts 8.1, 8.2, and 8.4 of Article 4 of the Federal Law ‘On the Election of Deputies of the State Duma of the Federal Assembly of the Russian Federation’” №1710-О/2022 of June 28, 2022, <http://doc.ksrf.ru/decision/KSRFDecision622251.pdf> (accessed July 8, 2024).

³⁶⁹ “Consequences of the ‘law against FBK’: opposition candidates are not allowed to run at the elections” (“Последствия «закона против ФБК»: оппозиционных кандидатов не пускают на выборы”), OVD-Info news release, June 26, 2021, <https://ovdinfo.org/news/2021/06/26/posledstviya-zakona-protiv-fbk-oppozitsionnyh-kandidatov-ne-puskayut-na-vybory> (accessed July 8, 2024).

³⁷⁰ Yelizaveta Lamova, “The number of candidates for Moscow municipal elections has decreased in comparison with 2017” (“Число кандидатов в московские мундепы снизилось по сравнению с 2017 годом”), RBC, July 27, 2022, <https://www.rbc.ru/politics/27/07/2022/62de87cd9a7947ecb732d53d> (accessed July 8, 2024).

³⁷¹ Kira Heifetz, “Purely symbolic. Moscow municipal candidates may be prevented from running in the elections based on old social media posts” (“Чисто символически. Столичных муниципальных депутатов могут не допустить до выборов из-за старых постов в соцсетях”) *Kommersant*, issue no.109, June 22, 2022, <https://www.kommersant.ru/doc/5423325> (accessed July 8, 2024).

³⁷² Bill “On Amendments to Certain Legal Acts of the Russian Federation” №324172-8, <https://sozd.duma.gov.ru/bill/324172-8> (accessed June 15, 2023)

Council. It also banned the use in electoral campaigns of materials access to which has been blocked by Roskomnadzor, or which include “signs of extremism.”

The bill was signed into law on May 29, 2023.³⁷³

Earlier, a person was not eligible for a senator seat, among other grounds, while they had an unexpunged criminal conviction for extremism-related charges. Under these latest amendments, this period of ineligibility would be extended by an additional five years after their conviction has expired or was expunged.³⁷⁴

Furthermore, these amendments replicated the same restrictions that as introduced by the 2021 law concerning general elections for candidates considered to be involved with banned extremist or terrorist groups. Namely, they imposed a five-year ban on the leadership or management of organizations designated as extremist and a three-year ban for their staff and even supporters, defined in broad terms, with retroactive effect—three years before authorities designated the group extremist for leadership of organization or group, and up to a year for staff members and supporters.³⁷⁵

As mentioned before, for example, in August 2023, Alexei Navalny was sentenced to 19 years in maximum security prison on extremism related and other charges. The former technical director of his YouTube channel was sentenced to eight years in prison, also on extremism charges, because three organizations affiliated with him, including his electoral campaign offices, were banned as extremist.

In June and July the same year, courts in Barnaul and Bashkortostan sentenced Vadim Ostanin and Lilia Chanyшева—two former heads of local branches of Navalny’s organization—to 9 and 7.5 years in a prison colony respectively on combined charges of organizing an extremist society, incitement of extremism, and creating a “harmful” NGO. On appeal, the court increased Chanyшева’s sentence to 9.5 years. Several of Navalny’s aides were indicted on extremism charges after having taken part in entirely legitimate and peaceful opposition to the Kremlin.

³⁷³ Federal Law “On Amendments to Certain Legal Acts of the Russian Federation” №184-FZ of May 29, 2023, <http://publication.pravo.gov.ru/document/0001202305290009> (accessed June 15, 2023)

³⁷⁴ See Federal Law №184-FZ of May 29, 2023, art. 8.

³⁷⁵ Ibid.

Likewise, in December 2022, Russian authorities declared the youth activist movement “Vesna” as an extremist organization and subsequently opened criminal cases against at least three people on allegations of participating or creating extremist organization (and eight others on other charges) for their peaceful anti-war activism (see above).

These amendments bar them from running in electoral campaigns in the foreseeable future, while Russian authorities continue to abuse counterextremism machinery against opposition and anti-war activists, as well as against minority religious groups.³⁷⁶

Amendments Relating to Other Crimes

Similar restrictions were imposed on people who were convicted for taking part in “unlawful,” peaceful protests and other legitimate exercise of their civil and political rights. A law adopted in May 2020 expanded an earlier ban for persons with criminal convictions from running in elections³⁷⁷ to cover those convicted for certain crimes of “moderate severity.”³⁷⁸ Another law, adopted in April 2021, duplicated that ban to running for the Duma.³⁷⁹ The bans apply through the duration of the sentence and for five years beyond its expiration. These bans would apply to people convicted for violent crimes. But they also explicitly include those convicted for repeated violation of public assembly rules.³⁸⁰

For example, in December 2020, a court in Moscow handed Yuliya Galyamina, an opposition activist and a former member of Moscow’s municipal assembly, a two-year suspended sentence for posting information on social media and taking part in a peaceful

³⁷⁶ See, for example, publications on misuse of anti-extremism law in Russia by SOVA, a Russian thinktank specializing in anti-extremism, <https://www.sova-center.ru/misuse/> (accessed June 15, 2023)

³⁷⁷ The ban on running in elections for persons convicted for severe and particularly severe crimes was initially introduced as a lifetime ban by Federal Law №40-FZ of May 2, 2012. In October 2013, the Constitutional Court ruled that excessive. Subsequently, Federal Law №19-FZ was adopted; Central Electoral Commission of the Russian Federation “Clarification by the Russian Central Electoral Commission concerning applicable norms on rights to be elected for persons with active criminal sentences” (“Разъяснение ЦИК России о действующих нормах по ограничению права быть избранными лиц, имевших судимость”), November 15, 2017, <http://cikrf.ru/news/сес/23508/> (accessed July 8, 2024).

³⁷⁸ Federal Law “On Amendments to Certain Legal Acts of the Russian Federation” №153-FZ of May 23, 2020, art.1.

³⁷⁹ Federal Law “On Amendments to Certain Legal Acts of the Russian Federation” №89-FZ of April 5, 2021, art. 3(1(6)).

³⁸⁰ For a full list of criminal and administrative offenses that prevent the individual from running, see Stanislav Andreychuk, Grigoriy Melkonyants, Denis Schadrin, “New disenfranchised: why Russian nationals are en masse being deprived of right to be elected” (“«Новые лишены»: за что граждан России массово поражают в праве быть избранными на выборах в 2021 году”), Golos article, June 22, 2021, <https://www.golosinfo.org/articles/145272#3.3> (accessed July 8, 2024).

public assembly earlier that year.³⁸¹ This effectively blocks her running for any elected position for seven years. Several opposition activists are in similar situations.³⁸²

Russian authorities employ other tools to disrupt and, where possible, prevent opposition candidates from running for office. In 2021, authorities twice interrupted, under different pretexts, gatherings of independent municipal deputies that aimed to help potential candidates share best practices and skills for running election campaigns and working with grassroots candidates.

In March, police raided a forum of municipal deputies in Moscow, arresting almost 200 attendees and charging them with participating in activities of an “undesirable organization,” claiming the event was organized by United Democrats, which authorities equate with the “undesirable” Open Russia movement.³⁸³

In May, using the Covid-19 pandemic as a pretext, authorities interrupted a meeting of independent municipal deputies in Novgorod to discuss strengthening local self-governance.³⁸⁴ Four days before the meeting started, the governor imposed new restrictions limiting the number of people that could gather for private events, and imposing mask and social distancing mandates.³⁸⁵

According to organizers, attendees were following these new restrictions and had separated into three rooms to ensure compliance.³⁸⁶ Nonetheless, when police raided the gathering, they reportedly refused to count the attendees or measure the distance between them and proceeded to arrest around 25 attendees for violating restrictions.³⁸⁷

³⁸¹ Damelya Aitkhozhina, “Russian Court Sentences Opposition Figure to 2-Year Suspended Sentence,” commentary, Human Rights Watch Dispatch, December 23, 2020, <https://www.hrw.org/news/2020/12/23/russian-court-sentences-opposition-figure-2-year-suspended-sentence>.

³⁸² For other examples of civic and opposition activists banned from running in elections based on criminal or administrative convictions, see Stanislav Andreychuk, Grigoriy Melkonyants, Denis Schadrin, “New disenfranchised: why Russian nationals are en-masse being deprived of right to be elected” (“«Новые лишённые»: за что граждан России массово поражают в праве быть избранными на выборах в 2021 году”), Golos article, June 22, 2021, <https://www.golosinfo.org/articles/145272#3.3> (accessed July 8, 2024).

³⁸³ Damelya Aitkhozhina, “Moscow Police Arrest Nearly 200 on “Undesirable” Charges,” commentary, Human Rights Watch Dispatch, March 15, 2021, <https://www.hrw.org/news/2021/03/15/moscow-police-arrest-nearly-200-undesirable-charges>.

³⁸⁴ Damelya Aitkhozhina, “Russia Should End Harassment of Opposition Activist,” commentary, Human Rights Watch Dispatch, May 27, 2021, <https://www.hrw.org/news/2021/05/27/russia-should-end-harassment-opposition-activist>.

³⁸⁵ Ibid.

³⁸⁶ Ibid.

³⁸⁷ Ibid.

III. Limiting Public Assemblies

Introduction: Right to Peaceful Assembly in Russia

For nearly 10 years, the right to peaceful assembly has increasingly been under attack in Russia. Authorities routinely withhold official permission to hold protests. This has often left organizers with little choice but to either cancel gatherings or hold “unauthorized” demonstrations and face dispersal by police, administrative detention, and fines.

Amendments to legislation on peaceful assemblies introduced in 2012 and 2014 allowed authorities to ban all public assemblies in a considerable number of sites³⁸⁸ and increased organizers’ liability, including for the conduct of protesters.³⁸⁹ They drastically increased penalties and statutory limitations for violating public assembly rules.³⁹⁰ They also introduced new penalties, notably administrative detention of up to 30 days and criminal sanctions, including prison terms, for repeated violations.³⁹¹

³⁸⁸ In some towns and cities, most territory was designated as off limits for protests. Experts on freedom of assembly in Russia estimated that as of August 2018, 73 percent of Nizhny Novgorod fell under this ban, 58 percent of Novosibirsk, almost half of Kirov, and over 36 percent of Yoshkar-Ola and Kazan. See “Regional bans on assemblies near government bodies and other territories” (“Региональные запреты на митинги вокруг органов власти и на других территориях”), OVD-Info, 2019, <https://ovdinfo.org/reports/regionalnye-zaprety#1> (accessed May 25, 2024). In November 2019, the Russian Constitutional Court ruled on the issue of a blanket ban on protests near government buildings in the Republic of Komi. The court found such disproportionate, abstract local bans unconstitutional and stipulated that relevant local laws be reviewed. See Constitutional Court judgment №33-П/2019, of November 2, 2019, https://www.consultant.ru/document/cons_doc_LAW_336862/ (accessed July 24, 2024); One year later, the Constitutional Court issued similar a finding in another case, concerning Samara region. But this time, the court also ruled that local authorities can restrict assemblies to designated locations, and that any deviation from that location by organizers in their requests for authorization would need to be justified. The concept of such “designated locations,” popularly known as “Hyde Parks” after the public speaking venue in London, was introduced in 2012 after opposition protests. See Constitutional Court judgment №27-П/2020, of June 4, 2020, *Rossiyskaya Gazeta*, Issue no.136(8190), <https://rg.ru/2020/06/25/postanovlenie-ks-rf-dok.html> (accessed May 25, 2024).

³⁸⁹ The amendments designated organizers liable for, among other things, exceeding the pre-approved number of protesters, for damage caused by participants, and for “simultaneous mass presence or movement” of people.

³⁹⁰ Some fines were increased by 60-fold. The amendments also introduced a minimum bar for fines that was later successfully challenged in the Constitutional Court. See OVD-Info, “Freedom of assembly in Russia. Anti-constitutional norms and illegal implementation” (“Свобода собраний в России. Антиконтституционные нормы и незаконное правоприменение”), April 4, 2015, <https://ovdinfo.org/documents/2015/04/04/svoboda-sobraniy-v-rossii-antikontstutucionnye-normy-i-nezakonnoe> (accessed July 8, 2024). In 2012, the statutory limitation was increased from three months to one year. See Federal Law №65-FZ of June 8, 2012, art. 1(5).

³⁹¹ Legislative amendments adopted in 2014 introduced a maximum three-year prison sentence for more than three violations of public assembly rules within a 180-day period. See “Russia: New Attack on Freedom of Assembly,” Human Rights Watch news release, April 1, 2014, <https://www.hrw.org/news/2014/04/01/russia-new-attack-freedom-assembly>. At time of writing, five people (Ildar Dadin, Konstantin Kotov, Viacheslav Yegorov, Vadim Khayrullin and Kirill Ukraintsev) were sentenced to active prison terms for this offense, while three more activists, Yuliya Galiamina, Andrei Borovikov and Alexei Vorsin, received suspended prison sentences and several hundred hours of community service respectively. None of

Starting in March 2020, Russian authorities began using the Covid-19 pandemic as a pretext to ban protests.³⁹² After the February 2022 full-scale invasion of Ukraine, authorities used the same tactic to ban anti-war protests,³⁹³ even though almost every other pandemic-related restriction had been lifted. In the first month after the invasion, over 15,000 protesters were detained, most of them fined and held in detention for anywhere from a few hours up to over a month.³⁹⁴ However, these restrictions were applied selectively, as several large-scale gatherings and marches took place that were organized or officially endorsed and supported by the authorities without any Covid restrictions.³⁹⁵

In November and December 2020, United Russia MP Dmitriy Viatkin introduced six bills amending various laws, which further and drastically undermined the right to freedom of

them were accused of any violence or incitement of violence. Several other activists faced criminal prosecution and trials on the same charges at time of writing. In 2017 and 2020, Russia's Constitutional Court delivered two judgments concerning the cases of Dadin and Kotov respectively. In both instances, the court expressly forbade criminal prosecution of peaceful protesters merely for repeated failure to comply with the rules, in the absence of any harm to property or individuals. See Constitutional Court judgment "On the Case Concerning the Review of the Constitutionality of the Provisions of Article 212.1 of the Criminal Code of the Russian Federation in Connection with the Complaint of Citizen I.I. Dadin" №2-P/2017 of February 10, 2017, https://www.consultant.ru/document/cons_doc_LAW_212659/ (accessed July 24, 2024) and Constitutional Court ruling "On the complaint of citizen Konstantin Aleksandrovich Kotov on the Violation of his Constitutional Rights by Article 212.1 of the Criminal Code of the Russian Federation" №7-O of January 27, 2020, <https://rg.ru/documents/2020/02/04/ks-rf-kotov-dok.html> (accessed July 24, 2024). This, however, did not prevent authorities from pursuing new criminal cases on these charges.

There have been at least two attempts by opposition MPs to decriminalize repeated violations of the public assemblies' rules, with explicit reference to the Constitutional Court's findings. In 2017, shortly after the Dadin judgment, a group of MPs from the Liberal Democratic Party (LDPR) introduced a decriminalization bill, but parliament delayed hearings on it before finally rejecting it in September 2019. In July 2020, MPs from the Communist Party introduced a decriminalization bill, which was voted down in April 2023. See Bill "On Amendments to the Criminal Code of the Russian Federation Concerning Decriminalization of Liability for Violation of the Legislation on Public Assemblies and to Article 151 of the Criminal Procedure Code" № 95064-7, <https://sozd.duma.gov.ru/bill/95064-7> (accessed July 2, 2024) and Bill "On the Invalidation of Article 212.1 of the Criminal Code of the Russian Federation and on Amendments to Article 151 of the Criminal Procedure Code of the Russian Federation" № 989250-7, <https://sozd.duma.gov.ru/bill/989250-7> (accessed July 2, 2024).

³⁹² "The country freezes. Limitations on public assemblies in the regions due to coronavirus outbreak" ("Страна замирает. Ограничение публичных мероприятий в регионах из-за вспышки коронавируса"), OVD-Info document, March 21, 2020, available at <https://ovdinfo.org/documents/2020/03/21/strana-zamiraet-ogranichenie-publichnyh-meropriyat-v-regionah-iz-za-vspyshki> (accessed July 8, 2024).

³⁹³ "No War" How Russians are fined for anti-war protests" ("Нет войны". Как россияне штрафуют за антивоенные протесты"), BBC Russian Service, March 8, 2022, <https://www.bbc.com/russian/features-60668096> (accessed July 8, 2024).

³⁹⁴ See OVD-Info data, <https://data.ovdinfo.org/svodka-antivoennyh-repressiy-polgoda-voyny#2> (accessed July 8, 2024).

³⁹⁵ See, for example, Bessmertniy Polk (Immortal regiment) mass rally took place in central streets across Russia on May 9 with the full support of federal and local authorities, a rally in Moscow was attended by Moscow's mayor (see the webpage of the mayor of Moscow, <https://www.mos.ru/mayor/themes/376299/8310050/> (accessed July 8, 2024). Several other state-organized large gatherings took place, including when stricter Covid restrictions were still in place, e.g., celebration of Crimea annexation in March 2021. See, for example, Sergey Satanovskiy "At the concert celebrating Crimea they forgot about coronavirus" ("На концерте в честь Крыма забыли о коронавирусе"), *Deutsche Welle*, March 19, 2021, <https://www.dw.com/ru/na-koncerte-v-chest-kryma-zabyli-o-koronaviruse/a-56924145> (accessed July 8, 2024).

assembly. Four of these bills were signed into law on the same day, December 30, 2020; two more were enacted in February and April 2021.

On November 17, Viatkin introduced two bills amending the law on public assemblies. The bills retained the term “notification” to describe the process by which a protest organizer communicates with authorities about planned public assemblies for them to be lawful.

But the amendments consolidated in legislation a permission-seeking licensing system via which protest organizers must seek and get explicit authorization for a public assembly.

They expanded obligations for organizers and grounds for explicitly forbidding an assembly or withdrawing a previously issued permission. The amendments introduced disproportionately burdensome and potentially unrealistic requirements for verifying the origins of funds and donations for public events and for reporting on their management. And they banned a range of persons and entities from sponsoring public events.

On November 23, Viatkin introduced two more bills amending the Code of Administrative Offenses, adding penalties for violating these newly introduced or amended provisions.

On December 14 and 16, Viatkin introduced two more bills amending criminal code articles on “hooliganism” and impeding traffic to expand application of these charges. While the explanatory notes did not refer to public protests to justify the bill, authorities used the revised charges against peaceful protesters after the countrywide protests in January 2021.

In June 2022, a group of MPs and senators introduced a bill further restricting freedom of assembly.

2020-2021 Laws

Federal Law №497-FZ dated December 30, 2020: Closing Loopholes

Single-Person Protests and Public “Strolls”

Since at least 2012, activists unable to receive authorization for protests have used single-person pickets to demonstrate publicly, by either creating lines of individuals, observing the 50-meter minimum distance required by law, or by organizing themselves to replace

one another in a sequence of single-person pickets.³⁹⁶ Police routinely detained such protesters and charged them with violating public assembly rules.³⁹⁷

In 2018, Russia’s Supreme Court repeated the earlier Constitutional Court ruling equating a “series” of such simultaneous pickets with an unauthorized mass gathering if they are united by the same goals, slogans, location, and other characteristics.³⁹⁸

The first of the November 2020 bills reaffirmed this approach,³⁹⁹ equating a sequence of single-person pickets with a mass gathering,⁴⁰⁰ thus closing the last remaining loophole for people to hold peaceful protests without prior authorization. The amendments provided no temporal or numerical clarification for “sequence.” Instead, they reprised the Constitutional and Supreme Courts’ criteria that the pickets need be united by goals, slogans, location, and the like, but omitted the court’s criteria about simultaneity.⁴⁰¹

³⁹⁶ Sergey Romashenko, “Opposition will conduct a chain of pickets in Moscow in support of detained activists” (“Оппозиция проведет в Москве цепь пикетов в поддержку арестованных активистов”), *Deutsche Welle*, October 26, 2012, <https://www.dw.com/ru/оппозиция-проведет-в-москве-цепь-пикетов-в-поддержку-арестованных-активистов/a-16334938> (accessed February 19, 2021).

³⁹⁷ “Russia: Dozens of Journalists Detained for Peaceful Protests,” Human Rights Watch news release, July 10, 2020, <https://www.hrw.org/news/2020/07/10/russia-dozens-journalists-detained-peaceful-protests>.

³⁹⁸ See, for example, “Ruling of the Plenum of the Russian Federation Supreme Court №28 ‘On Certain Issues of Application of Public Assembly legislation at Administrative Cases and Administrative Offense Cases,’” *Rossiyskaya Gazeta – Federal Issue* no.145(7608), June 26, 2018, <https://rg.ru/2018/07/06/meropriyatiya-dok.html> (accessed February 22, 2021), para. 31.

Constitutional Court judgment № 4-P/2013 of February 14, 2013), https://www.consultant.ru/document/cons_doc_LAW_142234/92d969e26a4326c5d02fa79b8f9cf4994ee5633b (accessed July 24, 2024).

³⁹⁹ Bill “On Amendments to the 2004 Federal Law “On Meetings, Assemblies, Demonstrations, Rallies and Pickets,”” №1057213-7, https://sozd.duma.gov.ru/bill/1057213-7#bh_histras (accessed January 30, 2021); Federal Law “On Amendments to the 2004 Federal Law ‘On Meetings, Assemblies, Demonstrations, Rallies and Pickets’” №497-FZ of December 30, 2020, <https://rg.ru/2021/01/11/sobraniya-dok.html> (accessed July 8, 2024). It was signed into law on December 30 and entered into force on January 10, 2021.

⁴⁰⁰ Federal Law №497-FZ of December 30, 2020, art. 3(6).

⁴⁰¹ In a May 2021 ruling, the Constitutional Court reiterated the simultaneity requirement. The ruling concerned an activist in Kazan, Irina Nikiforova, who in February 2020 organized a series of single-person pickets against a trash incineration plant. The protests were organized so that every day only one protester stood in a single-person picket, and protesters took turns every day. All protesters held the same placard and stood in the same place. Each picket lasted approximately one hour. Within about a month, approximately 25 activists took part. Police considered these single-person pickets to be one mass gathering. Nikiforova was charged with organizing an unauthorized mass gathering and sentenced to 30 days of community service. After unsuccessfully challenging the verdict in local courts, her case was brought before the Constitution Court, which ruled that the mere fact that several single-person pickets share an idea and organizer is not in itself sufficient proof that they constitute a hidden form of mass public gathering. To qualify as such, the court found, single-person pickets would also have to be simultaneous and involve continuous participation of several people, which in turn would require adequate arrangements by authorities to ensure public order. The ruling also referred to the use of series of single-person pickets to circumvent the authorization requirement for mass gatherings as an “abuse of the right to freedom of assembly.” See Constitutional Court judgment №19-P/2021 of May 17, 2021, https://www.consultant.ru/document/cons_doc_LAW_384424 (accessed July 24, 2024).

Likewise, the new amendments stipulated that courts may decide that a mass “presence,” or a simple stroll by a group of people in a “public space,” may be considered a public gathering requiring prior authorization, even if the stroll had no visible or audible hallmarks of a public protest, such as placards and chanting, and even if people walked only on the sidewalk. A court could find a “stroll” to be a mass protest by determining merely that the walkers were organized or shared an intent to “express or form opinions or [advocacy] on political, economic, social, cultural [issues] or foreign affairs.”⁴⁰²

The concept of such “public strolls” first appeared in Russian legislation in 2012, when new amendments introduced penalties for organizing or taking part in them.⁴⁰³ This stemmed from peaceful strolls, involving thousands, which took place in central Moscow in response to the violent police dispersal⁴⁰⁴ of a sanctioned protest there in May 2012.⁴⁰⁵

The new amendment streamlines prosecution of entirely peaceful activists for organizing or taking part in such events. Authorities would not need to prove any secondary harm or infraction. The penalty for organizers and participants is up to 10 days’ detention.⁴⁰⁶

New Protest Authorization Requirements

The new amendments streamlined calculation of deadlines for advance notification.

Even before the amendments, the public assembly law had a narrow, five-day window for submitting “notifications”—effectively requests for permission—to hold a public assembly. They had to be submitted no earlier than 15 days prior to, but not later than, 10 days before the event.⁴⁰⁷ Local authorities in different regions calculated these deadlines differently. Some included the first and/or the last days of this window in their calculation, then claimed the request did not meet submission requirements and denied the request.⁴⁰⁸

⁴⁰² Ibid., art. 3(b).

⁴⁰³ Federal law “On Amendments to the Code of Administrative Offenses of the Russian Federation and to the Federal law “On Gatherings, Assemblies, Demonstrations, Rallies and Pickets” №65-FZ of June 8, 2012, art.8.

⁴⁰⁴ “Russia: Investigate Police Use of Force Against Peaceful Protesters” Human Rights Watch news release, May 8, 2012, <https://www.hrw.org/news/2012/05/08/russia-investigate-police-use-force-against-peaceful-protesters>.

⁴⁰⁵ “What you need to know about the Bolotnaya case,” Human Rights Watch feature, December 18, 2013, https://features.hrw.org/features/mm/2013ECA_Russia_Bolotnaya/.

⁴⁰⁶ Code of administrative offenses of the Russian Federation №195-FZ of 2001, art. 20.2(2).

⁴⁰⁷ Except for deputies meeting their constituents and pickets, for which the law prescribes shorter advance notification. Federal Law “On Gatherings, Assemblies, Demonstrations, Rallies and Pickets” №54 -FZ of 2004, art.7(1).

⁴⁰⁸ Human Rights Watch interview with Denis Shedov, OVD-Info lawyer, August 19, 2021.

Human rights experts analyzed how, in 2017, this narrow submission window—and the power of authorities to “negotiate” alternative dates, locations, and assembly formats—forced organizers to risk “unauthorized” demonstrations or markedly change their plans.⁴⁰⁹

In 2018, a Russian Supreme Court ruling aimed to clarify the application of the Assemblies Law.⁴¹⁰ The court’s interpretation of these deadlines excluded the dates of receipt of notification and the date of the public event itself from the calculation of the deadlines, effectively requiring organizers to submit their notification two days earlier.⁴¹¹ The 2020 amendments effectively set this interpretation of the timeline into law, potentially further reducing the public’s capacity to hold discussions or protests in response to evolving events or of public significance.⁴¹²

The authorities’ response to the January 2021 protests illustrates how the submission deadline forces public protests beyond the margins of the law. As noted above, supporters of Alexei Navalny announced countrywide protests for January 23, 2021, in response to Navalny’s arrest upon returning to Russia on January 17.

The organizers aimed to hold the protest the first weekend after this incident of significant political importance. Yet authorities denied authorization in locations where they attempted to obtain it, citing non-compliance with deadline

⁴⁰⁹ Natalia Smirnova and Denis Shedov, OVD-Info, *The Art of the Ban: How Russian authorities refuse permission for rallies and other protests*, December 18, 2018, <https://ovdinfo.org/reports/art-ban#2> (accessed July 8, 2024).

⁴¹⁰ Supreme Court Ruling “Concerning Issues Arising During Administrative and Administrative Offense Trials Concerning Application of the Public Assemblies Law,” №28 of June 26, 2018, <https://rg.ru/2018/07/06/meropriyatiya-dok.html> (accessed July 8, 2024).

⁴¹¹ *Ibid.*, para.6. The Supreme Court also ruled that if the last day of this five-day window for submission falls on a Sunday or during holidays, the organizers must submit their request even earlier—on a preceding working day—further narrowing this window. Considering the law’s other provisions concerning notification, if the notification window in its entirety falls during an extended holiday period, organizers must submit their request on the last working day before the holiday, leaving them with only one day for submission.

⁴¹² In calculating the submission deadlines, the law uses the date the authorities receive the notification rather than the date organizers submit it. This can be problematic, particularly where online submission is used or in the regions, where local laws allow submission by mail, as this can lead to discrepancies between the dates when the organizers filed their request and when it was received by authorities. Human Rights Watch interview with Denis Shedov, August 19, 2021.

requirements.⁴¹³ In other locations, organizers said the tight submission deadline rendered seeking such authorization meaningless.⁴¹⁴

The new amendments also increased the deadline by which authorities must respond to the “notification.” Previously, local authorities were obliged in most cases to respond within three days of receiving the “notification.”⁴¹⁵ Now, if the last day of this three-day period falls on holidays or a Sunday—and holidays are regularly bundled and extended through the use of bridging days—authorities can respond on the first working day thereafter, but not later than three days before the planned event.⁴¹⁶

This implies that organizers can be held in a state of limbo about whether they will be allowed to proceed with an event, while at the same time effectively being precluded from disseminating information about it. Three days before the event is also the deadline for organizers to notify the authorities of their acceptance or rejection of authorities’ suggestions. If authorities “propose” an alternative location, time, or even format, organizers are left with no choice other than to accept it or call off the event.

Previous law obligated protest organizers to inform authorities about whether they accept the state’s proposals for changes. The amendments now also explicitly require organizers to formally notify authorities if they cancel the event over objections to such proposals.⁴¹⁷

New Grounds for Forbidding Protests

The Law on Public Assemblies provided only two explicit grounds on which authorities can ban protests:⁴¹⁸ if the request is submitted by persons who by law are banned from doing

⁴¹³ “Refusals to authorize protests in support of the detained politician Alexei Navalny” (“Отказы в согласовании акций в поддержку арестованного политика Алексея Навального”), OVD-Info news release, January 21, 2021, <https://ovd.info/news/2021/01/21/otkazy-v-soglasovanii-akciy-v-podderzhku-arestovannogo-politika-alekseya-navalnogo> (accessed July 8, 2024).

⁴¹⁴ Ibid.

⁴¹⁵ Except for mass pickets, where notification is submitted less than five days in advance of the planned event.

⁴¹⁶ Federal Law №497-FZ, art. 6(a).

⁴¹⁷ Ibid., art. 1(6).

⁴¹⁸ Federal Law “On Public Assemblies” №54-FZ, art.12(3).

so,⁴¹⁹ or if the event’s planned venue is a location where public assemblies are banned under federal or local laws.

Even before the 2020 amendments, the law also implicitly banned assemblies, by shifting responsibility onto organizers and imposing penalties for failure to comply.⁴²⁰ Thus organizers are banned from proceeding with an event if they did not comply with a submission requirement regarding the time and place.

These provisions effectively amount to a ban but are disguised among organizers’ responsibilities, giving authorities additional tools to deny the right to peaceful assembly.

The new amendments expanded grounds on which the state can implicitly ban protests, avoiding explicit language of prohibition in favor of language of withdrawing permission or “suggesting changes to the event’s location and/or timing.”

Withdrawing and Annulling Authorization

Authorities can withdraw consent for an event they had previously sanctioned if they receive information from another state agency that, for example, someone who is barred from organizing an assembly is listed among organizers.⁴²¹ This can appear reasonable, allowing officials who decide on assembly requests to “catch up” and act on information they receive from other agencies.

But, as noted, the grounds on which people are banned from being organizers are unfair and disproportionate.⁴²² Such communication between state agencies is not made public and can only be contested in court after the fact.⁴²³

⁴¹⁹ There is a separate provision in the law on public assemblies that bans certain categories of persons from being able to organize public assemblies, including those with prior administrative offense convictions related to violation of public assembly rules or non-compliance with police orders, a common charge used against protesters in Russia.

⁴²⁰ Federal Law “On Public Assemblies” №54-FZ, art.5(5).

⁴²¹ Federal Law №497-FZ, art. 6(b).

⁴²² As noted above, these grounds are quite broad and include having an unexpired administrative offense conviction for violation of rules on peaceful assemblies and non-compliance with police orders. Over the years, these charges have been used extensively, including against entirely peaceful protesters, including well-known opposition figures and civic activists.

⁴²³ Federal Law №497-FZ, art. 1(b).

Likewise, if officials decide that an organizer disseminated information about an authorized event that differs from the aims, format, or estimated number of participants indicated in the request and/or agreed upon with authorities, the state can withdraw authorization.⁴²⁴ This gives authorities wide discretion to determine whether such a discrepancy exists and opens the way for arbitrary withdrawal of permission.

Another amendment explicitly allows officials to withdraw authorization in the event of an emergency or terrorist attack or threat thereof, and either suggest a different time and place or request that organizers submit a new request.⁴²⁵

Such threats are obviously legitimate grounds for interfering with the right to assembly. But the authorities' recent record of using any means to bar peaceful protests raises concern that officials may use unsubstantiated claims of threats as pretexts to selectively restrict free assemblies.

An example of such a claim is a media interview given by an MP, following the winter 2021 wave of unauthorized opposition protests. The MP claimed there was “reliable information” that terrorist groups could target unauthorized rallies and demonstrations.⁴²⁶ He provided no information to substantiate the allegations.

Another new clause provides that any change to the declared aims, form, or even number of participants would oblige organizers to submit a new authorization request.⁴²⁷ For example, if organizers believe that the number of participants in an authorized protest is likely to exceed what they had reflected in the request, they must notify authorities.

This would automatically annul the previously granted permission and would require organizers to re-start the authorization process. Given the above-described timelines, the

⁴²⁴ Ibid., art. 6(b).

⁴²⁵ Ibid.

⁴²⁶ “Russian Duma considers the threat of terrorist attacks during unauthorized demonstrations to be real” (“Госдуме считают реальной угрозой терактов в ходе несогласованных митингов”), TASS News Agency, February 11, 2021, <https://tass.ru/politika/10679477/amp> (accessed July 8, 2024).

⁴²⁷ Federal Law №497-FZ, art. 1(6).

organizers could not hold the protest on the planned date and would face penalties if they did so.⁴²⁸

Yet if organizers were to preemptively inflate the expected number of protesters, they risk being denied permission to hold the event at their preferred venue, on the grounds that it is not suitable for a larger gathering.⁴²⁹ Local rules in some regions require organizers of larger gatherings to notify, or obtain permission from, several state bodies.⁴³⁰

“Proposals” for Changes in Protest Formats

Authorities can also change the event’s format. If organizers wanted to combine different types of assembly, for example, hold a march and demonstration, authorities can choose one of those forms for them.⁴³¹ If organizers fail to notify authorities of their consent or provide notification but go ahead with the event in some other format, the protest would be considered unauthorized.

The wide discretion that the law gives authorities to grant or refuse authorizations or arbitrarily force a change of time, location, or form on protesters and leaving them with a choice to “take it or leave it” is a clear negation of freedom of assembly.

The new amendments also require organizers to formalize acceptance of any changes that they negotiate with authorities regarding the event’s timing, venue, and format. Failure to do so renders the event unauthorized, and hence banned.⁴³² The law does not clarify what would constitute the organizers’ formalized acceptance of these changes: additional correspondence, in-person notification, or some other procedure.

⁴²⁸ Federal Law “On Public Assemblies” №54-FZ, art. 5 (4(7.1)); See also, Code of Administrative Offenses of №195-FZ 2001, art. 20.2(3) and the Constitutional Court judgment “On the Case of Verification of the Constitutionality of Part 2, Article 20.2 of the Code of Administrative Offences, Point 3 Part 4 Article 5 and Point 5 Part 3 Article 7 of the Law On Protests” № 12/2012 of May 18, 2012, <https://rg.ru/2012/06/01/sud-dok.html> (accessed July 8, 2024).

⁴²⁹ For examples of when authorities denied permits when organizers tried to err on the side of a higher number, see Natalia Smirnova and Denis Shedov, “The Art of the Ban: How Russian authorities refuse permission for rallies and other protests,” OVD-Info, December 18, 2018, https://en.ovdinfo.org/art-ban_2 (accessed July 8, 2024).

⁴³⁰ Ibid.

⁴³¹ Federal Law №497-FZ, art. 6(6).

⁴³² Ibid., art. 1(b)

It is not difficult to envisage a scenario whereby an event organizer held a planned event and respected the changes required by authorities but cannot prove that they notified authorities in time of their acceptance of these changes.

Role of Journalists

Amendments concerning journalists explicitly ban protesters and participants of other public gatherings from using journalists' insignia⁴³³ and require journalists covering such events to abide by the same rules of conduct as participants.⁴³⁴

The provision on insignia is in principle reasonable. But in practice it could serve as grounds for police to interfere with journalists' work covering protests. OVD-Info, experts on public assemblies, for example noted that the provision enables police to detain journalists arbitrarily for several hours to verify their credentials and whether they were lawfully using their insignia.⁴³⁵

At the same time, press insignia have not protected reporters from police abuse at protests. During the protests in various cities across Russia in January⁴³⁶ and February 2021, several human rights groups documented incidents of police beatings and arrests of journalists covering events. The journalists were wearing jackets or armbands clearly marked with "press" and carried press cards.⁴³⁷

Past practice also raises concern that police may use the new rules to prevent reporters from documenting police abuse at protests. For example, during protests in Moscow on February 2, police backed a group of peaceful protesters against a wall in a courtyard.⁴³⁸ They demanded that reporters leave the scene. Had the reporters refused to do so, authorities could have used the new amendments as an additional tool to penalize them.

⁴³³ Ibid., art. 2(a); see below on amendments to the Code of Administrative Offenses introducing penalty for illegal use of press insignia.

⁴³⁴ Ibid., art. 2(b).

⁴³⁵ "Legal analysis of bills № 1057213-7, № 1057230-7, № 1060657-7 and № 1060689-7, introduced to the State Duma in November 2020 by MP D.F. Viatkin," OVD-Info judicial analysis, November 23, 2020, https://ovdinfo.org/sites/default/files/files/yuridicheskiy_analiz.pdf (accessed July 8, 2024).

⁴³⁶ "Russia: Police Detain Thousands in Pro-Navalny Protests," Human Rights Watch news release, January 25, 2021, <https://www.hrw.org/news/2021/01/25/russia-police-detain-thousands-pro-navalny-protests>.

⁴³⁷ Ibid.

⁴³⁸ Ibid.

The new law explicitly bans journalists covering public events, from, among other things:

- Campaigning or disseminating information about the planned public event, whether in support or against, including by displaying any symbols expressing “individual or collective opinions”;
- Taking part in “organizing, discussions about, or decision-making or other collective actions in accordance with the aims” of the event;
- Organizing donations and petition-signing regarding the event.⁴³⁹

Lawmakers introduced these provisions several months after protests that Russian journalists held in response to criminal cases against their colleagues.⁴⁴⁰ The provisions’ ambit is not limited to demonstrations, but also covers other kinds of public gatherings, such as discussions and debates.

Federal Law №541-FZ of December 30, 2020

New Funding Restrictions, Unreasonable Expense Management Burdens on Organizers

The second bill⁴⁴¹ that entered into force in January 2021⁴⁴² created additional hurdles for public events expected to draw more than 500 people.

The amendments in this law ban cash donations for such events, and oblige organizers to have accounts in Russian banks and to process any payments related to events only via them.⁴⁴³ When organizers submit their protest authorization request, they must now also include banking details for the account used for fundraising for any related expenses.⁴⁴⁴ They must also submit an expense report to the local authorities, who forward it to the police.⁴⁴⁵

⁴³⁹ Federal Law №497-FZ, art. 2(b).

⁴⁴⁰ The protests were held in May and July 2020. See, “Russia: Journalists Held Over Peaceful Pickets,” Human Rights Watch news release, May 29, 2020, <https://www.hrw.org/news/2020/05/29/russia-journalists-held-over-peaceful-pickets>; and “Russia: Dozens of Journalists Detained for Peaceful Protests,” Human Rights Watch news release, July 10, 2020, <https://www.hrw.org/news/2020/07/10/russia-dozens-journalists-detained-peaceful-protests>.

⁴⁴¹ Bill “On Amendments to the 2004 Federal Law ‘On Meetings, Assemblies, Demonstrations, Rallies and Pickets’” №1057230-7 of December 30, 2020, <https://sozd.duma.gov.ru/bill/1057230-7> (accessed January 30, 2021).

⁴⁴² Federal Law “On Amendments to the 2004 Federal Law ‘On Meetings, Assemblies, Demonstrations, Rallies and Pickets’” №541-FZ of December 30, 2020, <https://rg.ru/2021/01/12/sobraniya-dok.html> (accessed February 21, 2021). It was signed into law on December 30 and entered into force on January 10, 2021.

⁴⁴³ Federal Law №541-FZ, art.2.

⁴⁴⁴ Ibid., art.1.

⁴⁴⁵ Ibid., art.2.

The new amendments ban funding from a wide range of sources, including various types of foreign actors⁴⁴⁶ and Russian NGOs, unregistered groups, and individuals designated as “foreign agents.”⁴⁴⁷ The law also bans donations from people under the age of 16; legal entities that were registered less than a year prior to the donation, and anonymous donors.

The definition of “anonymous” donors leaves ample room for arbitrary interpretation. If even one item of required information about a donor is deemed missing or inaccurate, the donor is considered anonymous.⁴⁴⁸ For individuals, this list includes the full name and complete address; for legal entities, it includes the taxpayer identification number, full title, and banking details.⁴⁴⁹

The amendments not only apply to demonstrations, but also to other public gatherings, which Russian law broadly defines as “joint presence of people for discussion of issues of societal importance in a space designated or adapted for these purposes.”⁴⁵⁰ This would encompass workshops, debates, seminars, lectures, and various other public events.

Considering this wide range, the ban on funding of mass public events by international organizations leaves unclear how entities such as the United Nations could organize large conferences in Russia. It also leaves unclear whether foreign entities would be barred, for example, from organizing or donating to a marathon or similar event to raise awareness about a social cause.

The law places excessive and potentially unrealistic burdens on organizers to track and manage funds raised for such public events. Organizers must return to the sender any donations received from banned sources, explaining why the funds are being returned. Donations deemed “anonymous” must be transferred to the federal budget within 10 days of their receipt, but not later than the day of the public event.

⁴⁴⁶ Ibid. The foreign actors banned as sources of funding include states and foreign organizations, international and civic movements, and foreign nationals and stateless persons except for stateless persons who have Russian permanent residence permits.

⁴⁴⁷ See section on foreign agents above.

⁴⁴⁸ Federal Law №541-FZ, art.2.

⁴⁴⁹ Ibid.

⁴⁵⁰ Federal law “On Public Assemblies” №54-FZ, art.2(2).

Organizers would possibly have to pay out of their pockets any fees for transferring returned funds because the law explicitly bans spending collected donations for anything other than organizing and conducting the public event. The law does not clarify whether this would include fees on “non-compliant” donations.

The law also presumes that organizers will have the resources necessary to analyze and process every single donation, irrespective of its value, and execute returns with individual explanations. Under the timeline provisions for such returns, if organizers receive a large number of donations within days or even on the day of the event, organizers could still be obligated to process all returns no later than the day of the event.

The law also requires organizers to return any unspent portion of the total of donations to all donors, proportionate to the size of their donations. This requires them to identify all donors, calculate the amounts due, process transfers, and pay fees. Organizers have only 10 days after the event to comply. Failure to comply with these cumbersome procedures for fundraising, transfers, expenditures, and returns would constitute an administrative offense (see below).⁴⁵¹

Finally, the new law creates concern about donor privacy. Individuals must submit detailed private information: full name, date of birth, residential address, passport details, and citizenship, and confirm that they do not fall within one of the above-listed categories from which donations are banned.⁴⁵²

Legal entities must submit taxpayer number, name, registration date, banking details, and confirm that they are not from one of the banned categories.⁴⁵³ The law allows event organizers to obtain this detailed information but does not provide any privacy safeguards except for declaring that organizers may not disclose this information to third parties except for unspecified “cases prescribed by law.”

Amendments to the Criminal Code that Affect Public Assemblies

⁴⁵¹ Ibid. For more on the penalties for non-compliance with these rules, see section on amendments to Code of Administrative Offenses.

⁴⁵² Ibid.

⁴⁵³ Ibid.

The two bills introduced in December 2020 amended the criminal code. One expanded the definition of hooliganism⁴⁵⁴ and the other amended the criminal article on damaging roads and transportation lines to include impeding traffic.⁴⁵⁵ Both were adopted and signed into law in December and entered into force on January 10, 2021.⁴⁵⁶

The amendments changed the definition of criminal hooliganism, preserving its core as “gross violation of public order, expressing obvious disrespect of society” but substituting one of its three thresholds from the earlier qualifier of “use of arms or objects used as arms” to the more broad and vague notion of “violence to others or threat of its use.”⁴⁵⁷

The amended article concerning damaging vehicles, transport lines, and so on was changed to include blocking transport infrastructure and impeding vehicles and pedestrians’ movement.⁴⁵⁸ The amendments also significantly lowered the threshold for criminal liability to jeopardizing a person’s life, health, or safety, or risking property damage or destruction.⁴⁵⁹

The law provides no clear criteria for distinguishing circumstances where such a threat exists in the context of public assemblies. As OVD-Info has noted, this allows law enforcement officials to abuse this uncertainty and avoid the burden of proof.⁴⁶⁰

⁴⁵⁴ Bill “On Amendments to Article 213 of the Criminal Code of the Russian Federation Concerning Clarification of Liability for Hooliganism” №1074941-7 of January 10, 2021, <https://sozd.duma.gov.ru/bill/1074941-7> (accessed July 2, 2024).

⁴⁵⁵ The full article concerns damaging vehicles or transport lines or blocking transport communications. Bill “On Amendments to Article 267 of the Criminal Code of the Russian Federation Concerning Clarification of Liability for Damaging Means of Transportation of Communication Routes” № 1076382-7 of January 10, 2021, <https://sozd.duma.gov.ru/bill/1076382-7> (accessed July 2, 2024).

⁴⁵⁶ Federal law “On Amendments to Article 267 of the Criminal Code of the Russian Federation” №526-FZ of December 30, 2020.

Federal law “On Amendments to Article 213 of the Criminal Code of the Russian Federation” №543-FZ of December 30, 2020.

⁴⁵⁷ The use of arms or objects used as arms was also amended, to an aggravated criminal hooliganism, on par with that perpetrated by an organized group or against public official. Criminal Code of the Russian Federation, art. 213(2).

⁴⁵⁸ Criminal Code of the Russian Federation, art. 267.

⁴⁵⁹ Previously, the lowest bar invoking the application of this charge was causing grave bodily harm or significant damage (no less than 1 million rubles, or roughly \$13,500) through negligence. Earlier, this offense had been partially decriminalized. One opposition MP reportedly commented that it was being re-criminalized because of the mass protests in Khabarovsk, which lasted for months, and in Belarus.

OVD-Info, *The Bill «without a catch»: How Article 267 of the Criminal Code became a «protest-related one»*, June 1, 2021, <https://ovdinfo.org/reports/bill-without-catch#1> (accessed July 8, 2024).

⁴⁶⁰ Ibid.

The new penalty is up to one year of imprisonment. The amendments also introduced additional levels of aggravated offense. If previously these were only the death or one or more persons, now they also include non-serious bodily harm through negligence, punishable by up to two years behind bars; less serious bodily harm, by up to three years' imprisonment; and serious bodily harm or significant damage, by up to four years.⁴⁶¹

The Supreme Court submitted to parliament a negative review of the bill, noting that the drafter failed to explain how pre-existing legislation was insufficient and stating that the listed new offenses should be qualified as administrative offenses, not criminal. During parliamentary hearings, MPs from parties other than United Russia unsuccessfully challenged the necessity for these amendments.⁴⁶²

Shortly after the amendments were enacted, authorities applied these new articles widely in several cities across Russia against participants in the January 2021 mass protests.⁴⁶³ According to OVD-Info, among the many protesters hit with a variety of criminal charges in 2021, at least 27 were charged with impeding traffic, and at least four under the new expanded definition of simple hooliganism.⁴⁶⁴

Indeed, authorities used the impeding traffic charge during this period more than they had in the entire preceding decade.⁴⁶⁵ In October 2021, a protester, Gleb Maryasov, was sentenced to 10 months in prison on allegations of organizing and inciting blocking traffic in Moscow during the January 23 protest.⁴⁶⁶

⁴⁶¹ Federal law "On Amending Article 267 of the Criminal Code of the Russian Federation" №526-FZ of December 30, 2020

⁴⁶² OVD-Info, *The Bill 'without a catch': How Article 267 of the Criminal Code became a 'protest-related one'*, June 1, 2021.

⁴⁶³ "Russia: Police Detain Thousands in Pro-Navalny Protests," Human Rights Watch news release, January 25, 2021, <https://www.hrw.org/news/2021/01/25/russia-police-detain-thousands-pro-navalny-protests>. Authorities initiated numerous criminal and administrative cases in different regions of the country on a variety of charges.

⁴⁶⁴ "Protests in support of Alexei Navalny. Chronology," OVD-Info, <https://ovdinfo.org/navalny-2021>; OVD-Info, *The Bill 'without a catch': How Article 267 of the Criminal Code became a 'protest-related one'*, June 1, 2021, <https://ovdinfo.org/reports/bill-without-catch#1>; "One in a palace, hundred in prison," OVD-Info petition, <https://palace.ovdinfo.org/> (accessed July 8, 2024).

⁴⁶⁵ OVD-Info, *The Bill 'without a catch': How Article 267 of the Criminal Code became a 'protest-related one'*, June 1, 2021, <https://ovdinfo.org/reports/bill-without-catch#1> (accessed July 8, 2024).

⁴⁶⁶ "Libertarian Maryasov received 10 months imprisonment on charges of blocking traffic during a protest in Moscow" ("Либертарианец Марьясов получил 10 месяцев колонии по делу о перекрытии дорог на акции в Москве"), BBC Russian Service, October 27, 2021, <https://www.bbc.com/russian/news-59060561> (accessed July 8, 2024).

The amendments created yet another convenient tool to prosecute and imprison protesters and organizers for peaceful, albeit unauthorized protests, and ultimately intimidate others from participating in future protests. As noted, authorities have commonly used various reasons to refuse authorization for public assemblies critical of the government. For example, they have sealed areas that organizers planned as the protest venue, causing overflow to nearby streets and sidewalks. The new amendments let authorities file criminal charges against organizers and protesters for this overflow.

Russian authorities continued to expand their toolkit to ban and criminalize protest. They also misused Covid-19 restrictions to impose blanket bans on opposition protests and gatherings. Whereas civic activists are in constant danger of triggering the numerous new trip wires, mass gatherings in support of federal or local authorities can be organized with dubious safety measures but without consequences for organizers.

An extreme case was the public assembly held in February 2022 in Grozny, Chechnya. It was essentially a rally targeting critics of Ramzan Kadyrov, the republic's governor who was implicated in egregious human rights abuses, with the Kremlin's unspoken approval.⁴⁶⁷ According to official reports, 80 percent of the entire male population of the republic participated,⁴⁶⁸ social distancing and the local mask mandate were not observed,⁴⁶⁹ and participants made bonfires. Yet authorities claimed to have not been able to identify the organizers. Nobody was held to account.⁴⁷⁰

In sharp contrast, several of Alexei Navalny's aides and civic activists spent months under investigation, were eventually convicted, and many had to leave the country to escape prosecution, after authorities charged them with violating sanitary norms in

⁴⁶⁷ Tanya Lokshina, "Moscow Plays a Weak Hand on Lawlessness in Chechnya," commentary, *Moscow Times*, February 9, 2022, <https://www.hrw.org/news/2022/02/09/moscow-plays-weak-hand-lawlessness-chechnya>.

⁴⁶⁸ "In Grozny 400 thousand people gathered to protest against Yangulbayevs" ("В Грозном на митинг против Янгулбаевых вышли 400 тысяч человек"), Interfax News Agency, February 2, 2022, <https://www.interfax.ru/russia/819880> (accessed July 8, 2024).

⁴⁶⁹ "Chechen Rospotrebnadzor did not find organizers of the protest against Yangulbayev family in Grozny" ("Роспотребнадзор Чечни не нашел организаторов акции протеста против семьи Янгулбаева в Грозном"), Echo of Moscow, February 3, 2022, <https://echo.msk.ru/news/2974694-echo.html> (accessed July 8, 2024).

⁴⁷⁰ Mariya Starikova, Natalya Kostarnova, Xeniya Veretennikova, "What is not sanctioned is permitted" ("Что не санкционировано, то разрешено"), *Kommersant*, February 2, 2022, <https://www.kommersant.ru/doc/5194656> (accessed July 8, 2024).

connection with the January 2021 protests.⁴⁷¹ In February 2022, authorities replaced the suspended sentence of Navalny's brother, earlier convicted on these charges, with a one-year maximum security prison term.⁴⁷²

Federal Laws no.24-FZ of February 24, 2021, and no.102-FZ of April 30, 2021, Administrative Offenses

A separate set of amendments that introduced penalties for the new public assembly offenses described above were developed and submitted to parliament as part of the autumn 2020 package of bills.⁴⁷³ The bills were signed into law in February and April 2021, respectively.⁴⁷⁴

The first set of these amendments more than tripled the minimum and maximum amounts of fines and added mandatory labor as a possible penalty for interfering with the work of police or other officials, or non-compliance with their orders.⁴⁷⁵

This offense can relate to refusal to obey an order in a wide variety of contexts. However, two factors strongly suggest that the new penalties aim to further restrict freedom of assembly. Lawmakers introduced the stiffened penalties together with new, restrictive public assembly rules. Authorities regularly press these charges against protesters taking part in unauthorized, and sometimes even sanctioned, protests.

⁴⁷¹ "Sanitary case" ("Санитарное дело"), OVD Info story, <https://ovd.news/story/sanitarnoe-delo> (accessed July 8, 2024).

⁴⁷² "Court replaced Oleg Navalny's suspended sentence under "Sanitary case" with a maximum-security prison term" ("Суд заменил фигуранту «санитарного дела» Олегу Навальному условный срок на колонию строгого режима"), OVD-Info news release, February 18, 2022, <https://ovd.news/express-news/2022/02/18/sud-zamenil-figurantu-sanitarnogo-dela-olegu-navalnomu-uslovnyy-srok-na> (accessed July 8, 2024). At time of writing, Oleg Navalny was outside Russia and not in detention; Russian authorities added him to the wanted list.

⁴⁷³ The offenses are outlined in Federal laws "On amendments to the Code of Administrative Offenses of the Russian Federation", №24-FZ of February 24, 2021. and №102-FZ of April 30, 2021. The corresponding bills are Bills "On amendments to the Code of Administrative Offenses of the Russian Federation," №1060689-7 and №1060657-7, <https://sozd.duma.gov.ru/bill/1060689-7> and <https://sozd.duma.gov.ru/bill/1060657-7>, respectively (accessed July 2, 2024).

⁴⁷⁴ Federal Law "On Amendments to the Code of Administrative Offenses of the Russian Federation" №24-FZ of February 24, 2021. Federal Law "On Amendments to the Code of Administrative Offenses of the Russian Federation" №102-FZ of April 30, 2021.

⁴⁷⁵ Other such officials include military personnel, penitentiary officers, or national guards. Federal Law №24-FZ, art.2. Whereas previously a fine for such an offense was set at 5,000 rubles (\$65), the amendments established the minimum amount for individuals at 10,000 and maximum at 20,000 rubles (\$135 and \$270); for legal entities between 70,000 to 200,000 rubles (\$940 and \$2,700).

The law also introduced a new charge for violating the rules on raising, managing, and reporting on funds, corresponding to the offenses described above. The new charge penalizes even late submission of, or inaccuracies in, these expense reports.⁴⁷⁶ The penalty for individuals ranges from 10,000 to 20,000 rubles (US\$135 and \$270); for legal entities, between 70,000 to 200,000 rubles (\$940 and \$2,700).⁴⁷⁷

Likewise, persons or entities who are now banned from donating but who do so face fines ranging from between 10,000 to 15,000 rubles (\$130 to \$200) for individuals, and between 15,000 rubles and 100,000 rubles (\$200 and \$1,350) for legal entities. This expansion of grounds for administrative liability gives authorities more opportunities to apply criminal charges for repeated violations of public assembly regulations.⁴⁷⁸

The second set of amendments⁴⁷⁹ to the Code of Administrative Offenses expanded the scope of violations of public assembly rules to include penalties for unauthorized use of journalist insignia at public events. This new offense is punishable with a fine of between 20,000 and 30,000 rubles (\$270 to \$405).

2022 Law

Federal Law №498-FZ of December 5, 2022

As described in the section on Foreign Agents above, in December 2022, a new law was adopted⁴⁸⁰ to implement the provisions of the July 2022 “Foreign Influence” law. Among other things, it also restricted foreign agents right to peaceful assembly. Through its amendments to the 2004 law on assemblies, the new law explicitly banned foreign agents from organizing any assemblies and reiterated a ban on donations from foreign agents in support of assemblies. It also drastically expanded blanket bans on locations where assemblies can be organized to include the vicinity of buildings of state bodies and surrounding areas.

⁴⁷⁶ Federal Law №24-FZ, art.2

⁴⁷⁷ Ibid.

⁴⁷⁸ See above F/N X [4th or 5th footnote in the section on the freedom of assembly, the number to be adjusted in the final document] on the use of criminal charges for repeated violation of public assemblies’ rules.

⁴⁷⁹ Federal Law “On Amendments to the Code of Administrative Offenses of the Russian Federation” №102-FZ of April 30, 2021.

⁴⁸⁰ Federal law “On Amendments to certain legal acts of the Russian Federation” №498-FZ of December 5, 2022.

The blanket ban also extends to critical infrastructure objects, playgrounds, and sports fields, building and territories of educational institutions, medical and social welfare organizations, religious buildings and their territories, religious pilgrimage sites, sea or river ports or terminals, railway stations, bus stations or terminals, and airports.

Prior to that, the blanket ban introduced by the Russian authorities covered territories in the vicinity of pipelines, railroads, territories surrounding presidential residencies, emergency services buildings, courts, and penitentiary system buildings and territories. However, many of these locations, such as territories adjacent to railway stations, airports, religious, medical organizations, and educational institutions⁴⁸¹ have in fact been banned for many years, but through decisions of local authorities.

In June 2020, the Constitutional Court ruled that such local restrictions were disproportionate and exceeded the competence of local authorities, since they were not enshrined in law.⁴⁸² Instead of universally overturning localized restrictions, the legislators explicitly expanded and enshrined such bans in federal law.

Furthermore, the law allows local authorities to determine additional locations where public assemblies would be banned or can be restricted by time, if this is justified by “historical, cultural or other objective specificities” of the given region.

Local authorities therefore would have wide discretion to ban a protest, since neither of the vague categories of “specificities” are defined in law. The only requirement for the local authorities that the bill provides is that they would need to mark such locations.

⁴⁸¹ See, for example, OVD-Info, *The Art of the Ban. How Russian authorities refuse permission for rallies and other protests*, December 13, 2018, <https://en.ovdinfo.org/art-ban> (accessed July 8, 2024).

See also, OVD-Info, *Restrictions on public assemblies near schools, hospitals, churches and military facilities*, 2020, <https://reports.ovdinfo.org/restrictions-public-assemblies-near-schools-hospitals-churches-and-military-facilities> (accessed July 8, 2024).

⁴⁸² See Constitutional Court Judgment № 27-P, of June 4, 2020, https://www.consultant.ru/document/cons_doc_LAW_354312/92d969e26a4326c5d02fa79b8f9cf4994ee5633b (accessed July 24, 2024).

IV. Attacking Free Expression

Introduction

Russian authorities proposed and adopted new laws that chill free speech within a larger context of developments in Russian society and globally that authorities perceive as threatening.

Most dramatic are the laws that introduced war censorship, adopted shortly after Russia's February 2022 invasion of Ukraine. Earlier laws expanded criminal defamation charges and made penalties harsher. They followed Navalny and FBK's investigations into high-level corruption and embezzlement that attracted millions of viewers on YouTube.

The context for harsher criminal penalties for accusing someone of sexual assault is the #MeToo movement, which reached Russia in 2016. The penalties for insulting veterans followed Alexei Navalny's outburst against pro-government attempts to co-opt the USSR's victory in World War II for the ruling party's political agenda.

2020 Laws on Insult and Defamation

Federal Law №513-FZ of December 30, 2020, Amendments to Code of Administrative Offences

The bill⁴⁸³ amending administrative liability for insult and defamation was first introduced in May 2020⁴⁸⁴ and was adopted as part of the wider package of laws adopted on December 25, 2020. Putin signed it into law five days later.⁴⁸⁵

⁴⁸³ Bill "On Amendments to the Code of Administrative Offenses (Concerning Administrative Liability for Insult and Defamation)" №954048-7 of December 30, 2020, <https://sozd.duma.gov.ru/bill/954048-7> (accessed July 2, 2024).

⁴⁸⁴ The bill stemmed from an instruction that Putin issued to the government in December 2019, after a session of the Presidential Council on Civil Society and Human Rights. Putin instructed the government to consider, by mid-2020, the possibility of increasing responsibility for insult and improving mechanisms to rebut false information. President of the Russian Federation official website, "List of assignments following the session of the Council on civil society development and human rights and meeting with ombudspersons," January 29, 2020, <http://kremlin.ru/acts/assignments/orders/62700> (accessed July 8, 2024).

⁴⁸⁵ Federal Law "On Amendments to the Code of Administrative Offenses" №513-FZ of December 30, 2020.

In the bill’s explanatory note, lawmakers focused on the need to protect people from insult by government officials.⁴⁸⁶ In recent years there were several episodes in which government officials’ offensive comments provoked public outcry.⁴⁸⁷ In practice, the new law only partially concerned insult by public officials, and drastically expanded the applicability of the administrative charge for insult and corresponding penalties. It is likely to have more serious negative consequences for civil society activists and political opponents than for government officials.

The previous definition of insult related chiefly to insult with the use of “indecent” language. The amendments expanded this to include not only indecent humiliation but also the broadly ranging “other forms contravening morality.”⁴⁸⁸

Defining “morality” is a value judgment open to wide and subjective interpretation that does not allow for predictable application of the law. This legal norm therefore does not meet criteria for legal certainty.

The amendments also envisage insult of “individually undetermined” persons.⁴⁸⁹ This could allow authorities to institute proceedings without a complainant and/or victim, presumably based on authorities’ assessment that a given statement or content may be insulting to some individuals or groups.

⁴⁸⁶ See Explanatory note to Bill №954048-7, Legislative Support System website, <https://sozd.duma.gov.ru/bill/954048-7> (accessed July 2, 2024).

Insult of public officials is a criminal offense, punishable by up to one year of forced labor. See art. 319 of the Criminal Code. Furthermore, in March 2019, a different law was enacted to expand definition of petty hooliganism to including dissemination of information insulting human dignity, public morale, and expressing disrespect to society, Russian state, its official symbols, constitution, or its public bodies. This offense is punishable by a fine ranging from 30,000 to 100,000 rubles, or, in the event of the repeated offense—from 100,000 to 200,000 or detention of up to 15 days; and if the offender had more than two previous similar offenses—from 200,000 to 300,000 or detention of up to 15 days.

See Federal Law “On Amendments to the Code of Administrative Offenses” №28-FZ of March 18, 2019.

⁴⁸⁷ See, for example, “The state didn’t ask you to have children” Insulting phrases of Russian officials” (“Государство не просило вас заводить детей» Оскорбительные фразы российских чиновников”), TASS News Agency, January 30, 2020, <https://tass.ru/info/764855927> (accessed July 8, 2024) and “On poverty, children and pasta. Phrases of politicians and officials that shook Russia in 2018” (“О бедности, детях и макаронах. Фразы политиков и чиновников, которые потрясли Россию в 2018 году”), Znak, December 27, 2018, https://web.archive.org/web/20211028005439/https://www.znak.com/2018-12-27/frazy_politikov_i_chinovnikov_kotorye_potryasli_rossiyu_v_2018_godu (accessed July 8, 2024).

⁴⁸⁸ Federal law “On Amendments to the Code of Administrative Offenses” №513-FZ, art.2(a).

⁴⁸⁹ Ibid., art. 2(б).

The new law expanded the definition of public insult to include online content. Provisions concerning liability for failure to prevent insult leave unclear who would be held responsible for this offense: social media companies, webpage owners, or internet providers.

For all categories of insult, fines were increased up to three-fold.⁴⁹⁰

The amendments introduced defamation as an administrative offense, and penalties for legal entities since they cannot be criminally liable.

The definition of defamation is identical to that of the criminal offense: “dissemination of intentionally false information that denigrates the honor and esteem of another person and damages their reputation.” The penalties for a legal entity are fines ranging between 500,000 rubles to 3 million rubles (approx. US\$ 6,725 and \$40,350).⁴⁹¹

Federal Law №538-FZ of December 30, 2020, Amendments to the Criminal Code on Defamation

Defamation was re-criminalized in Russia in summer 2012, shortly after Putin’s return as president, and just six months after it had been decriminalized upon the initiative of then-President Dmitry Medvedev.⁴⁹²

In late December 2020, MP Dmitriy Viatkin introduced a package of amendments to the criminal code’s definition and application of defamation. Just 16 days later, parliament adopted it, and Putin signed it into law.⁴⁹³

The amendments expanded the definition of defamation and introduced imprisonment as a penalty for aggravated defamation offenses.⁴⁹⁴ In the bill’s explanatory note, Viatkin stated the amendments aimed to expand liability for criminal defamation to online content

⁴⁹⁰ Ibid., art. 2(a,б,в).

⁴⁹¹ Ibid., art. 3.

⁴⁹² See “V. Putin signed the law on re-criminalization of defamation” (“В.Путин подписал закон о повторной криминализации клеветы”), *RBC*, July 30, 2012, <https://www.rbc.ru/politics/30/07/2012/5703ad2c9a7947625bd408b9>, (accessed July 8, 2024).

⁴⁹³ Bill “On Amendments to Article 128-1 of the Criminal Code of the Russian Federation” №1074945-7 of December 30, 2020, <https://sozd.duma.gov.ru/bill/1074945-7> (accessed July 2, 2024). It entered into force on January 10, 2021.

⁴⁹⁴ Federal law “On Amendments to Article 128 of the Criminal Code of the Russian Federation” №538-FZ of December 30, 2020.

and justified introducing deprivation of liberty (and forced labor) as a penalty by the need to “provide courts with possibilities for choosing fair punishment.”

The criminal code’s amended article on defamation has five parts. The first contains the definition of “simple” defamation and corresponding penalties. Subsequent parts address aggravated defamation:

- [Simple] defamation;
- Public defamation (through public statement, public broadcast, mass media or Internet, including against an individually undefined group);
- Defamation committed by using one’s official position;
- Defamation involving false allegations that a person carries a socially dangerous (contagious) disease;
- Defamation involving false allegations that a person perpetrated sexual assault or committed grave or particularly grave crime.⁴⁹⁵

The amendments did not touch upon the first part of the article. The definition of “simple” defamation and the penalty remained unchanged. With this law, only “simple” defamation does not involve deprivation of liberty.

“Simple” defamation is the only criminal defamation offense that triggers a private prosecution, where the plaintiff bears the burden of proof regarding the wrongdoing and the damage inflicted. Defamation with any of the aggravating circumstances triggers state prosecution. According to an expert with the human rights group Agora, Damir Gainutdinov,⁴⁹⁶ this results in very different outcomes, with most state prosecution cases resulting in guilty verdicts.

In fact, court data for 2019⁴⁹⁷ suggests that while an overwhelming majority of criminal cases under “simple” defamation resulted in acquittals,⁴⁹⁸ there were no acquittals under

⁴⁹⁵ Prior to these amendments the article also had five parts.

⁴⁹⁶ Anna Kozkina, “128.1. Why defamation article was taken out from the Criminal Code and how it came back” (“128.1 Почему статью о клевете исключили из УК, и как она вернулась обратно”), *Mediazona*, December 9, 2016, <https://zona.media/article/2016/12/09/codex-128.1> (accessed July 8, 2024).

⁴⁹⁷ Criminal proceedings: Data on sentences by articles of Criminal Code, 2019, Judicial Statistics, Agency of Legal Information Press <http://stat.ани-нпсц.рф/stats/ug/t/14/s/17> (accessed July 8, 2024).

⁴⁹⁸ *Ibid.*, 505 acquittals and 64 guilty verdicts.

other categories of defamation, although the number of criminal cases opened under the aggravated offenses was also far lower.⁴⁹⁹

However, now that various types of online content can trigger aggravated criminal defamation charges, the number of criminal cases may significantly increase. Another lawyer stated that courts mainly rule in favor of plaintiffs in cases where the injured parties are state officials, politicians, businesspersons, or clergy.⁵⁰⁰ Defamation, the lawyer said, “doesn’t work” for the broader public.

The new definition of public defamation expands the format of the offending utterance to include online content. It also includes “individually undefined” groups of individuals as potential victims. An expert with the Mass Media Defense Center, Svetlana Kuzevanova, suggested this constitutes a drastic change in the concept of defamation in Russian law, departing from the defense of an individual’s reputation to the protection of undefined groups.

In practice, it is unclear how intentional falsehood regarding an undefined group can be established and how information about such a group can be verified.⁵⁰¹ Kuzevanova also noted that these amendments contravene international standards regarding defamation, as well as Russian judicial practice.⁵⁰² Another lawyer suggested that, in introducing the notion of “individually undefined” groups, lawmakers were guided by the fact that the primary target of defamatory statements were government officials.⁵⁰³

⁴⁹⁹ Ibid., 7 guilty verdicts under 128.1(2) – public defamation in mass media; 9 under 128.1(4) – defamation concerning being carrier of socially dangerous disease and 3 verdicts under 128.1(5) – before recent amendments defamation that person has committed grave of particularly grave crime.

⁵⁰⁰ Anna Kozkina, “128.1. Why defamation article was taken out from the Criminal Code and how it came back” (“128.1. Почему статью о клевете исключили из УК, и как она вернулась обратно”), *Mediazon*, December 9, 2016, <https://zona.media/article/2016/12/09/codex-128.1> (accessed July 8, 2024).

⁵⁰¹ Maria Litvinova “Prosecution and court have to establish and prove the intent of a slanderer” (“Следствие и суд должны установить и доказать умысел распространителя клеветы”), *Kommersant*, February 2, 2021, <https://www.kommersant.ru/doc/4691272> (accessed July 8, 2024).

⁵⁰² Ibid.

⁵⁰³ See opinion of lawyer Viktor Kozhanov, as presented in “Federation Council approved law specifying criminal liability for defamation” (“Совет Федерации одобрил закон об уточнении уголовной ответственности за клевету”), *Advokatskaya Gazeta*, December 25, 2020, <https://www.advgazeta.ru/novosti/sovet-federatsii-odobril-zakon-ob-utochnenii-ugolovnoy-otvetstvennosti-za-klevetu/> (accessed July 8, 2024).

The amendments expanded penalties for public defamation to include up to two years of compulsory labor, up to two months' arrest, or up to two years' imprisonment.⁵⁰⁴

In February 2021, opposition activist Alexei Navalny was sentenced to a large fine under this charge in relation to a tweet he posted in June 2020.⁵⁰⁵ He was convicted after the amendments entered into force, but since criminal law cannot be applied retroactively, he was sentenced in accordance with the law as in force at the time of his alleged offense. If someone were to be charged for the same offense now, they could receive up to two years' imprisonment.

Forced labor and deprivation of liberty were also added as penalties for all other categories of defamation: up to three years for defamation with the use of one's official position,⁵⁰⁶ up to four years for defamation concerning carrier status of contagious diseases,⁵⁰⁷ and up to five years for defamation concerning allegations of sexual assault or other grave crimes.⁵⁰⁸

Criminal Defamation and Anti-Corruption Allegations

Before the amendments were adopted, authorities could not seek the imprisonment of a person in connection with defamation charges directly, since the penalty for defamation itself was limited to fines and mandatory labor. Instead, authorities could pursue imprisonment only in the event of malicious noncompliance with a defamation verdict, court order, or other judicial act.⁵⁰⁹ This required initiating a separate criminal case and a trial.⁵¹⁰

⁵⁰⁴ In addition to pre-existing penalties of fine and mandatory labor, Criminal Code of the Russian Federation of 1996 with amendments, art.128 (2).

⁵⁰⁵ In his tweet, Navalny condemned people who featured in an ad in support of a controversial constitutional amendments vote, calling them "a disgrace to the country, people without conscience, traitors." Among those featured in the ad was a WWII veteran, former athletes, and an actor.

⁵⁰⁶ Criminal Code of the Russian Federation, art.128 (3).

⁵⁰⁷ Ibid., art. 128 (4).

⁵⁰⁸ Ibid., art. 128 (5).

⁵⁰⁹ Criminal Code of the Russian Federation, art. 315.

⁵¹⁰ The respective norm was introduced to the criminal code in October 2018. Federal Law "On Amendments to Article 315 of the Criminal Code of the Russian Federation" №348-FZ of October 2, 2018, entered into force on October 13, 2018.

In 2019⁵¹¹ and 2020,⁵¹² two separate criminal cases on charges of malicious noncompliance with earlier court rulings were opened against Ivan Zhdanov, director of the Foundation Against Corruption (FBK), which is associated with Alexei Navalny. Both cases stemmed from earlier rulings in which courts found that FBK's high-profile anti-corruption investigations were defamatory.

In the first case in 2017, Alisher Usmanov, a billionaire metals magnate, filed a lawsuit in relation to FBK's investigative piece, "Don't You Call Him Dimon," alleging then-Prime Minister Dmitriy Medvedev was benefiting from a multi-layered corruption scheme.⁵¹³ Following the trial, during which the court rejected 22 out of 23 motions filed by the FBK and Navalny defense team,⁵¹⁴ the court ruled for Usmanov and ordered Navalny and the FBK to take down the video and several social media posts and publish official retractions.⁵¹⁵

Zhdanov explained that FBK complied with the court ruling by publishing an official retraction on its website and YouTube channel. However, the video remained available on Navalny's website and YouTube channel, over which Zhdanov claimed he and the FBK had no control.⁵¹⁶ Nevertheless, in July 2020, a court found Zhdanov guilty of malicious noncompliance with the court order and fined him.⁵¹⁷

⁵¹¹ "A criminal case was opened against Ivan Zhdanov for non-compliance with court ruling" ("Против директора ФБК Ивана Жданова возбудили новое уголовное дело о неисполнении судебного решения"), *Mediazona*, August 28, 2019, <https://zona.media/news/2019/08/28/315uk> (accessed July 8, 2024).

⁵¹² "A new criminal case was opened against director of FBK, Ivan Zhdanov, for non-compliance with court ruling" ("Против директора ФБК Ивана Жданова возбудили новое уголовное дело о неисполнении судебного решения"), *Mediazona*, November 5, 2020, <https://zona.media/news/2020/11/05/zhdanov-delo> (accessed July 8, 2024).

⁵¹³ "Usmanov is suing Navalny because of investigation about Medvedev" ("Усманов подал в суд на Навального"), *Deutsche Welle*, April 13, 2017, <https://www.dw.com/ru/усманов-подал-в-суд-на-навального-из-за-расследования-о-медведеве/a-38411246> (accessed July 8, 2024).

⁵¹⁴ Margarita Aliokhina, "Court rejected 22 motions by Navalny at a trial against Usmanov" ("Суд отклонил 22 ходатайства Навального на процессе против Усманова"), *RBC*, May 30, 2017, <https://www.rbc.ru/society/30/05/2017/592c24559a7947e5a20250e1?from=main> (accessed July 8, 2024).

⁵¹⁵ Margarita Aliokhina, "Court ordered Navalny to take down a movie about Medvedev" ("Суд обязал Навального удалить фильм о Медведеве"), *RBC*, May 31, 2017, <https://www.rbc.ru/society/31/05/2017/592e5f559a79479e9ee6768a> (accessed July 8, 2024).

⁵¹⁶ "FBK wrote an official retraction on allegations of corruption concerning Usmanov" ("ФБК написал опровержение на обвинения в коррупции в адрес Усманова"), *TASS News Agency*, October 10, 2017, <https://tass.ru/obschestvo/4634749> (accessed July 8, 2024).

⁵¹⁷ "Director of FBK fined by 100,000 rubles for the movie 'Don't You Call Him Dimon'" ("Директора ФБК оштрафовали на 100 тысяч рублей"), *Deutsche Welle*, July 28, 2020, <https://www.dw.com/ru/direktora-fbk-oshtrafovali-na-100-tysjach-rublej-iz-za-filma-on-vam-ne-dimon/a-54357582> (accessed July 8, 2024).

In the second case, the charges stemmed from an October 2019 court ruling against FBK, FBK’s lawyer Liubov Sobol, and Alexei Navalny in a defamation lawsuit⁵¹⁸ brought by a company that FBK alleged belonged to the late Yevgeniy Prigozhin, known as “Putin’s chef” and then-head of the Wagner mercenary group. The defamation lawsuit related to online publications, including a 2019 FBK video in which they alleged that the 2018 outbreak of dysentery in Moscow schools was caused by poor food quality, asserting that Prigozhin’s company supplied in-school meals.⁵¹⁹

A Moscow court ordered FBK, Sobol, and Navalny to pay nearly 88 million rubles (about \$1,370,000) in damages, publish an official retraction, and remove the YouTube video. Russian authorities added Zhdanov to the wanted list (he has remained abroad) and opened several other criminal cases against him pertaining to his FBK work.⁵²⁰

These cases could foreshadow future defamation cases concerning high-level anti-corruption investigations. The 2020 amendments allow authorities to opt for prosecution on defamation charges that are directly punishable by deprivation of liberty. Notably, allegations of large-scale embezzlement and bribery, which FBK made in the above cases, amount to allegations of serious crimes, and currently could trigger up to five years’ imprisonment. This could have a strong chilling effect on anti-corruption activism, undermine anti-corruption efforts, and seriously hamper the right to free expression and to access and impart information.

In 2021, authorities reactivated defamation cases that were effectively dormant for four or five years concerning the founders of three independent investigative journalism

⁵¹⁸ “Liubov Sobol won a case against ‘Moskovskiy Shkolnik’” (“Любовь Соболев выиграла в суде у ‘Московского школьника’”), *Deutsche Welle*, December 8, 2020, <https://www.dw.com/ru/liubov-sobol-vyigrala-v-sude-u-moskovskogo-shkolnika/a-55874673> (accessed July 8, 2024).

⁵¹⁹ Ibid.

In August 2022, Prigozhin won a defamation lawsuit against the then-editor-in-chief of the Echo of Moscow radio station, Alexei Venedictov. In 2021, on air, Venedictov referred to Prigozhin as the owner of the private military company (mercenary group) “Wagner.” Just a month after that court ruling, Prigozhin acknowledged that he was the founder and owner of Wagner. Based on this public confession, Venedictov sought to challenge the earlier court decision and Prigozhin publicly stated that he “would gladly grant the victory in this case to Venedictov.” But in February 2023, a court in Moscow refused to reconsider the defamation ruling.

See Mariya Starikova, “Nah, He’s Not the Boss” (“Ничего он не хозяин”), *Kommersant*, Issue no.22, February 7, 2023, p.5 <https://www.kommersant.ru/doc/5811248> (accessed July 8, 2024).

⁵²⁰ Charges against Zhdanov included financing an extremist organization. FBK was listed as extremist by Russian authorities in 2021.

projects—Roman Dobrokhoto (The Insider), Roman Anin (iStories), and Roman Badanin (Project)—and raided their homes and those of some of their journalists under this pretext, shortly after they published pieces revealing high-level corruption involving top leadership of Russian law enforcement and national security bodies.⁵²¹ Dobrokhoto and Badanin left the country in 2021; Anin left Russia in March 2022.⁵²²

Criminal Defamation and Sexual Assault Allegations

The 2020 amendments increased the gravity of, and penalty for, defamatory allegations concerning sexual assault and sexual molestation⁵²³ to a maximum five-year prison penalty. Absent a verdict against the alleged perpetrator or an active criminal case, the burden of proof can shift to the person claiming to have been the survivor of sexual abuse.

The context for these amendments was the authorities' increasing promotion of "traditional values," their resort to "traditional values" arguments to minimize the problem of gender-based violence,⁵²⁴ and the phenomenon of women sharing their experiences of sexual violence on social media in 2016, under the hashtag #IAmNotAfraidtoSpeak.⁵²⁵

⁵²¹ "Police Raided Editor-in-chief of The Insider Roman Dobrokhoto. He was question in connection with defamation case" ("У главреда The Insider Романа Доброхотова прошли обыски. Его допросили по делу о клевете"), BBC Russian Service, July 28, 2001, <https://www.bbc.com/russian/news-57994933> (accessed July 8, 2024).

"Police raid on journalists of the 'Project'. What is known" ("Обыски у журналистов "Проекта". Что известно"), BBC Russian Service, June 29, 2001, <https://www.bbc.com/russian/news-57657078> (July 8, 2024).

"Police Raided Editor-in-chief of The Insider Roman Dobrokhoto. What is known" ("У главного редактора "Важных историй" прошел обыск. Что об этом известно"), BBC Russian Service, April 9, 2001, <https://www.bbc.com/russian/news-56695837> (accessed July 8, 2024).

⁵²² Kseniya Turkova, "'I Simply Didn't Have a Choice' – Roman Dobrokhoto" ("У меня просто не было выбора" – Роман Доброхото), Voice of America, October 1, 2021, <https://www.golosameriki.com/a/interview-roman-dobrokhoto-the-insider/6253839.html> (accessed July 8, 2024).

⁵²³ The text of respective provision of the law before latest amendments, contained notion of "crimes of sexual nature," which could be a poor legal technique since Russian criminal law does not contain such notion and instead uses the formula of "crimes against sexual inviolability and sexual freedom of individual." See, Damir Gaynutdinov, "Responsibility for defamation under Russian law" ("Ответственность за клевету по российскому законодательству"), International Human Rights Group Agora, <http://www.ihahr-nis.org/sites/default/files/files/cleveta-ekspert.pdf>. This has been rectified in the amendments, where the wording consistent with the Russian criminal law was introduced.

⁵²⁴ Olimpiada Usanova, "Russia's 'Traditional Values' and Domestic Violence," Kennan Institute, Kennan Cable No. 53, June 2020 <https://www.wilsoncenter.org/publication/kennan-cable-no-53-russias-traditional-values-and-domestic-violence>. "Russia: Unaddressed Domestic Violence Puts Women at Risk," Human Rights Watch news release, October 25, 2018, <https://www.hrw.org/news/2018/10/25/russia-unaddressed-domestic-violence-puts-women-risk>.

⁵²⁵ "Crime without a punishment: victims of violence are silent no more" ("Преступления без наказания: жертвы насилия больше не молчат"), *Deutsche Welle*, July 8, 2016, <https://dw.com/ru/преступления-без-наказания-жертвы-насилия-больше-не-молчат/a-19389201> (accessed July 8, 2024).

Criminal cases for sexual assault or molestation are relatively rare compared to the scale of sexual assault and gender-based violence in Russia, which is widely believed to be underreported.

A 2011 report by a Russian NGO working with survivors of sexual violence found that the intimate nature of sexual violence, coupled with victim-blaming, results in about 80 percent of survivors concealing sexual violence, even from those close to them.⁵²⁶

According to Mari Davtyan, a lawyer who works on gender-based violence, most rape cases do not reach courts because consent is not part of the discourse on this issue, and in many cases, law enforcement refuse to identify a rape as such.⁵²⁷

Polls published in 2018 indicated that around a quarter of women encountered sexual violence (25 percent) and approximately the same number (24 percent) experienced sexual harassment.⁵²⁸ A 2020 survey on sexual harassment suggests that more than half (55 percent) of those polled considered the problem to be exaggerated.⁵²⁹

Sexual assault survivors who do not successfully seek justice and who speak out about their experiences years later may risk criminal defamation.

A January 2021 Russian Supreme Court ruling provides a basis for sexual violence survivors to publicly share their accounts without fear of prosecution.⁵³⁰ Pertaining to a civil defamation lawsuit concerning allegations of sexual assault that a survivor posted on her social media account, the court took into consideration jurisprudence of the European Court of Human Rights and the UN Committee on Elimination of Discrimination against Women to conclude that women's right to life free from gender-based violence is inseparable from other basic human rights, including to free expression.

⁵²⁶ "Assistance to survivors of sexual assault: concept, experience, research," The Sisters Center handbook, a Russian non-governmental non-profit organization, http://sisters-help.ru/doc/Pomosch_soprotivlenie.pdf

⁵²⁷ Ibid.

⁵²⁸ «What happens behind closed doors?» ("Что случилось за закрытыми дверями?"), Russian Public Opinion Research Center (VCIOM) analytical review, December 11, 2018, <https://wciom.ru/analytical-reviews/analiticheskii-obzor/chto-proiskhodit-za-zakrytymi-dveryami>

⁵²⁹ "Sexual harassment," Levada Center press release, April 22, 2020, <https://www.levada.ru/2020/04/22/seksualnye-domogatelstva/> (accessed July 8, 2024).

⁵³⁰ Ruling of the Supreme Court of the Russian Federation №56-КГ20-12-К9 in case №2-2979/2020, January 28, 2021, http://vsrf.ru/stor_pdf.php?id=1972038 (accessed July 8, 2024).

It acknowledged that sharing personal experiences on social media has become one of the forms of discussing otherwise suppressed and taboo subjects of sexual violence. The Supreme Court ruled that courts should closely protect survivors of sexual violence from efforts to interfere with their freedom of expression. It is not yet clear, however, how this ruling will affect judicial practice in criminal defamation cases.

2020-2022 Laws on Extrajudicial Blocking of Online Resources, Including for Insult and Defamation

Federal Laws no.530-FZ of December 30, 2020, no.260-FZ of July 1, 2021, and no.584 of December 29, 2022

In recent years, Russian authorities have gradually built a legal framework and digital and physical infrastructure for increasingly restrictive control over online content and access to information from Russia.⁵³¹ Some of these measures used the pretext of protection from defamation or insult to simplify and streamline extrajudicial blocking of “offending” content.

In December 2020, a law was adopted requiring owners of websites or social media pages with over 500,000 daily Russian users to monitor and block “offending” content.

Among other elements, this included an obligation to prevent the dissemination of defamatory information and ensure the protection of dignity and reputation of individuals and legal entities.⁵³²

It also required and regulated constant content monitoring, and extrajudicial blocking of content violating Russian laws, for example, materials of “undesirable” organizations or information about unauthorized assemblies, and prescribed blocking and unblocking

⁵³¹ For more information on development of internet censorship and online content control and blocking capabilities in Russia, see, for example, OVD-Info, *Internet blocks as a tool of political censorship*, June, 7, 2022 <https://en.ovdinfo.org/internet-blocks-tool-political-censorship> (accessed July 8, 2024).

“Year of Doubling Down on Internet Censorship,” Human Rights Watch news release, December 24, 2021, <https://www.hrw.org/news/2021/12/24/russia-year-doubling-down-internet-censorship>.

“Growing Internet Isolation, Control, Censorship,” Human Rights Watch news release, June 18, 2020, <https://www.hrw.org/news/2020/06/18/russia-growing-internet-isolation-control-censorship>.

⁵³² *Ibid*, art. 1.

procedures. It also imposed obligations related to users' data and content storage, annual reporting, and the like.

Ahead of the second reading, the bill was expanded to add an obligation for social media to ensure the dignity and reputation of individuals and organizations, and to monitor for information that can be insulting to personal dignity, public morals, disrespectful to society, state bodies and state symbols, or contains incitement to participate in unauthorized public assemblies (on par with mass riots, extremism, etc.).

The bill also had an additional provision enabling individuals to sue social networks for defamation if they did not comply with the request to take down the offending content.

The law entered into force in February 2021.

Meanwhile, also in February 2021, a group of MPs introduced another bill for extrajudicial blocking of defamatory online content containing allegations that concerned individuals have perpetrated a crime.

The authors of the bill explained that while procedures for blocking “false” or insulting information already existed, they required decisions of competent bodies and lacked mechanisms for effective “direct and prompt protection” from defamation. The authors addressed this by proposing amendments that authorize a person accused of perpetrating a crime to ask the Prosecutor General’s Office to work with Roskomnadzor to block online resources containing such information.

The authors claimed that the bill was aimed at protecting the rights of citizens, but envisaged no distinction, for example, for public figures, and the responsibility to remain open to public scrutiny and criticism.⁵³³

The bill was signed into law with immediate effect on July 1, 2021.⁵³⁴

⁵³³ On balance of freedom of expression, protection of reputation and private life as regards public figures, see, for example, case of *Dzhugashvili v. Russia* (application no. 41123/10), decision on admissibility, ECHR 13 (2015), January 15, 2015.

⁵³⁴ Federal Law “On Amendments to the Federal law “On Information, Information Technologies and Protection of Information”” №260-FZ of July 1, 2021.

Under this law, a concerned person alleging that online content contains defamatory information against them can submit a request to prosecutors, providing information about the offending online resource and justification for the blocking request. Upon inspection by prosecutors and review by the Prosecutor General's Office, the request is sent to Roskomnadzor, who contacts the domain host. If the latter does not block the online resource within one day, it is blocked by the authorities.

Decisions about such blockings can be appealed in court, but the parties who may file such an appeal do not include the domain host. Also, filing such an appeal does not have suspensive effect.

Another law, adopted in December 2022, placed responsibility for moderating online content on the owners of ad placement websites, and also restricted foreign ownership of such services to 20 percent.⁵³⁵ It specifically obliges the owners of such online platforms to ensure the protection of dignity and reputation of individuals and organizations, placing the burden of compliance with legislation on protection from defamation and insult on the online platforms' owners.

2022-2023 War Censorship Laws

Introduction

On February 24, 2022, Russia started its full-scale invasion of Ukraine, which immediately sparked mass anti-war protests in Russia and international condemnation. Thousands of anti-war peaceful protesters gathered every day in the first month, to which authorities responded with mass detentions, intimidation, and police brutality. Many public figures openly called for people to join protests, calling for an end to the war, and condemned Russia's actions.

On February 24, Roskomnadzor demanded that media refer to the war only as a "special operation in connection with the situation in Lugansk People's Republic and Donetsk People's Republic," and said that only information from official sources could be

⁵³⁵ Federal Law "On Amendments to the Federal law "On Information, Information Technologies and Protection of Information"" №584-FZ of December 29, 2022.

published.⁵³⁶ Roskomnadzor publicly warned media that “unverified” and “false” information would be instantly blocked and disseminating it would result in fines.⁵³⁷

Within three days, Roskomnadzor threatened to block at least 11 media outlets, accusing them of publishing “false information” about the war for reporting on Russian forces’ shelling Ukrainian cities, causing civilian casualties, and referring to the armed conflict as “an attack,” “invasion,” or “declaration of war.”⁵³⁸

The same day, the Russian Defense Ministry urged media “not to become the blind victims” of Western information warfare, accusing independent Russian media and, in particular, *Novaya Gazeta*, of spreading “fake information prepared by a stoned gang of Nazis and [Ukrainian Secret Service]” using “templates approved and published by US propaganda centers and their NATO allies ... to discredit the Russian Armed Forces.”⁵³⁹ Russian authorities started limiting access to information online.

Between February 27 and March 3, authorities blocked access to at least nine Russian media sites, including The Village, TV Rain (Dozhd), Echo of Moscow, DOXA, The New Times, Krym.Realii, Taiga.Info, Current Time, and several Ukrainian media outlets.⁵⁴⁰ On March 3, a leading independent media broadcaster, TV Rain, announced that it would

⁵³⁶ See announcement on the Roskomnadzor official website, <https://rkn.gov.ru/news/rsoc/news74084.htm> (accessed July 8, 2024).

⁵³⁷ The Roskomnadzor’s authority to issue such warnings and impose punitive measures for failure to comply derives from a 2012 law that clamped down on online expression and has been further expanded by other laws in subsequent years. See “Laws of Attrition,” Human Rights Watch printout, April 24, 2013, <https://www.hrw.org/node/256423/printable/print>.

⁵³⁸ Announcement on the Roskomnadzor official website, <https://rkn.gov.ru/news/rsoc/news74112.htm>. See also, Anna Komarova, “Prospekt Mira deleted news about bombardment in Ukraine upon demand of Roskomnadzor and under the threat of website blocking” («Прспект Мира» по требованию Роскомнадзора удалил новость о взрывах в Украине — под угрозой блокировки сайта), February 24, 2022, <https://prmira.ru/news/prospekt-mira-po-trebovaniyu-roskomnadzora-udalil-novost-o-vzryvakh-v-ukraine-pod-ugrozoj-bloirovki-sajta/> (accessed July 8, 2024).

⁵³⁹ “Ministry of Defense calls on mass media not to disseminate fakes about the operation in Ukraine” (“В Минобороны призвали СМИ не распространять фейки об операции на Украине”), TASS News Agency, February 26, <https://tass.ru/armiya-i-opk/13875069> (accessed July 8, 2024).

⁵⁴⁰; Post to Twitter by albat, February 28, 2022, <https://mobile.twitter.com/albat/status/149824112954792612>; “Access to the website Krym.Realii blocked by the Roskomnadzor” “(Доступ к сайту Крым.Реалии заблокирован Роскомнадзором)”, Krym.Realii, February 29, 2022, <https://ru.krymr.com/a/news-krym-realii-blokirovka-roskomnadzor/31727577.html>; Post to Twitter by Sibir Post, February 28, 2022, <https://twitter.com/taygainfo/status/1498484640348348422>; “Roskomnadzor sent a notice to *Current Time* on the blocking of its website” (“Роскомнадзор направил Настоящему Времени уведомление о блокировке сайта”), *Current Time*, February 27, 2022 <https://www.currenttime.tv/a/31726662.html>; <https://delo.ua/ru/society/v-rossii-zablokirovali-deloua-393684/>

temporarily suspend broadcasting because the new bill was forcing them to lie.⁵⁴¹ Earlier, a radio station made a similar announcement.⁵⁴²

On March 4, parliament hastily enacted two laws amending the criminal code and the Code of Administrative Offenses that introduced war censorship, outlawing and penalizing independent war reporting, as well as anti-war speech and anti-war protest, with stiff prison penalties for individuals of up to 15 years' imprisonment and penalties for organizations of up to 1 million rubles (\$15,000).

To fast-track these amendments, both laws were not introduced to parliament as stand-alone bills, but as amendments inserted into unrelated bills that were already on parliament's agenda. Lawmakers pushed through censorship amendments to the criminal code by attaching them to the bill penalizing calling for sanctions against Russia, which had passed its first reading in May 2018 and since then had been effectively frozen.⁵⁴³ They attached administrative penalties, for "discrediting" the armed forces, to a June 2021 bill on illegal financial transactions that had passed its first reading by December 2021.⁵⁴⁴

In one day, March 4, parliament held second and third readings of the two bills, and both chambers adopted them unanimously.⁵⁴⁵ President Putin signed them into law with immediate effect.⁵⁴⁶ The unprecedented haste suggests the urgency the Kremlin felt to silence war critics and information channels differing from the official line.

⁵⁴¹ See recording of the TV Rain broadcast: "Whats happening in Ukraine. Perspectives of negotiations. Statement from the lead editor of TV Rain" ("Что происходит в Украине. Перспективы переговоров. Заявление гендиректора телеканала Дождь"), video clip, YouTube, March 3, 2022, <https://www.youtube.com/watch?v=e4anoMIF27k> (accessed July 8, 2024).

⁵⁴² See statement by Radio Serebrianniy Dozhd (Silver Rain Radio) announcing it will take down all [talking] program from air, and only music and news announcements will remain, expressing regret it could "no longer carry on their duties as journalists," Telegram post from the channel "Serebrianniy Dozhd," March 2, 2022, <https://t.me/Silverrainradio/4115> (accessed July 8, 2024).

⁵⁴³ See progress of the bill, its original wording, and edits introduced before the second reading of the bill in March 2022, Legislative support system website, <https://sozd.duma.gov.ru/bill/464757-7> (accessed July 2, 2024).

⁵⁴⁴ See progress of the bill, its original wording and edits introduced before the second reading of the bill in March 2022, Legislative Support System website, <https://sozd.duma.gov.ru/bill/1197680-7> (accessed July 2, 2024).

⁵⁴⁵ During the Senate debate, only one senator raised a question about the burden of proof for "fake" information and gave an example of allegations of coercion of conscripts to sign contracts with the Russian Army, with 96 percent of them later reportedly dying in the first days of Russia's invasion of Ukraine. Kseniya Veretennikova, Andrei Prakh, "There is an ongoing war on mental destruction of our Motherland" («Идет война на ментальное уничтожение нашей Родины»), *Kommersant*, March 4, 2022, <https://www.kommersant.ru/doc/5240839> (accessed July 8, 2024).

⁵⁴⁶ The entry into force of provisions in the bill amending the Code of Administrative Offenses, concerning illegal financial transactions, was postponed by 180 days.

The laws imposed strict censorship on all discussion of Russia's war against Ukraine, with Russian authorities using them to prosecute people for a wide range of speech about the war, including merely describing the armed conflict as "war" or "invasion." The censorship provisions also apply to any deployment involving Russian armed forces beyond Ukraine. Two weeks later, parliamentarians adopted another set of amendments that expanded application of the "discrediting" and "fake information" to include operations of all state bodies abroad.

In anticipation of the adoption of the draconian laws, several foreign media pulled out of Russia,⁵⁴⁷ while at least two Russian independent media deleted all their previous war-related publications. Subsequent months saw an exodus of Russian and foreign media to protect the safety and security of journalists after the new censorship laws.

Federal Law №32-FZ of March 4, 2022 (Criminalization of Discreditation and False Information about Russian Armed Forces)

Amendments to the Criminal Code and Criminal Procedure Code

Amendments to the criminal code introduced three new criminal articles.⁵⁴⁸

- *"False Information" about Russian Armed Forces*

The first, article 207.3 of the criminal code, penalized "public dissemination of deliberately false information about the use of the Russian Armed Forces," with penalties ranging from large fines to imprisonment of up to three years.⁵⁴⁹

See Bill "On Amendments to the Criminal Code of the Russian Federation and Article 31 and 151 of the Code of Criminal Procedure of the Russian Federation" №464757-7 of March 4, 2022, <https://sozd.duma.gov.ru/bill/464757-7>, and Bill "On Amendments to the Code of Administrative Offenses of the Russian Federation," №1197680-7 of March 4, 2022, <https://sozd.duma.gov.ru/bill/1197680-7> (accessed July 2, 2024).

⁵⁴⁷ See, for example, "Bloomberg and CNN are suspending their operation in Russia" ("Bloomberg и CNN приостанавливают работу в России"), *Mediazona*, March 5, 2022, https://zona.media/news/2022/03/04/bloomberg_cnn (accessed May 6, 2024).

⁵⁴⁸ Federal Law "On Amendments to the Criminal Code of the Russian Federation and Articles 31 and 151 of the Criminal Procedure Code of the Russian Federation" №32-FZ of March 4, 2022.

⁵⁴⁹ Penalties range from fines of 700,000 to 1,500,000 rubles (\$10,000 to \$21,000), or wages for period from one year to 18 months; or up to three years of mandatory labor or imprisonment of up to three years.

Those who allegedly disseminate such false information using their “official position” or as part of an organized group or accompanied by “artificial creation of evidence for prosecution”; or “guided by greed, or motivated by political, ideological, race, ethnic or religious hatred or hatred against a social group” or for monetary gain, could face 5 to 10 years in prison.⁵⁵⁰

In the event of “grave consequences,” the penalty is imprisonment from 10 to 15 years, with a ban on carrying out certain professional or other activities for up to five years.

Russian criminal law does not contain an exhaustive list of what constitutes “grave consequences,” and depending on the specific crime, law enforcement and courts have interpreted it to include significant financial loss and bodily harm or death. What might constitute a grave consequence of disseminating alleged false information, is therefore essentially at the discretion of the prosecution or court.

The first three criminal cases on the new charges were opened on March 16.⁵⁵¹ Two days later, the first person was placed in pretrial detention on the same charges.⁵⁵² In January 2023, the Russian Prosecutor General’s Office reported that in 2022, 187 criminal cases were opened on the “false information” charges and 78 of them reached courts, while over 125,000 internet resources were either blocked or had to pull down information concerning armed conflict in Ukraine following Russia authorities’ demands.⁵⁵³

⁵⁵⁰ Other penalties for these aggravated charges include fine ranging from 3 to 5 million rubles (\$42,000 to \$70,000), or wages for period of three to five years, or mandatory labor for up to five years accompanied by a ban on holding certain positions, or up to five years’ imprisonment, with a similar ban.

⁵⁵¹ “Two criminal cases were opened in Tomsk region on charges of “false information” about the Russian Army” (“В Томской области возбудили два уголовных дела по статье о «ложной информации» про российскую армию”), OVD-Info news release, March 16, 2022, <https://ovd.news/express-news/2022/03/16/v-tomskoy-oblasti-vozbudili-dva-ugolovnyh-dela-po-state-o-lozhnoy-informacii> (accessed July 8, 2024). “Blogger Nika Belotserkovskaya became one of the first charged with “fakes” about Russian military” (“Блогер Ника Белоцерковская стала одной из первых, против кого завели дело о фейках про российских военных”), *Kommersant*, March 16, 2022, <https://www.kommersant.ru/doc/5259577> (accessed July 8, 2024).

⁵⁵² “First detention of a person accused of ‘military fakes’ in Russia” (“В России арестован первый фигурант уголовного дела о «военных фейках»”), BBC Russian Service, March 22, 2022, <https://www.bbc.com/russian/features-60825481> (accessed July 8, 2024).

⁵⁵³ “Prosecutor General’s Office: In 2022, 187 criminal cases were registered on the charges of ‘fakes about the army’” (“Генпрокуратура: В 2022 году зарегистрировано 187 уголовных дел о ‘фейках об армии’”), Roskomsvoboda, January 2023, <https://roskomsvoboda.org/post/gp-187-ugolovok/> (accessed July 8, 2024).

According to one media estimate, by early January 2023, Russian courts issued verdicts in 22 such criminal cases, with six prison sentences, five suspended sentences, four sentences to forced labor, and seven fines, while two cases were closed and two returned to the prosecutor's office.⁵⁵⁴

The “false information” charge proved an effective and convenient tool to suppress anti-war speech. According to Russian human rights defenders, in 2022, it was by far the most widely used charge in anti-war cases.⁵⁵⁵ Most individuals facing these charges were either detained or fled the country.⁵⁵⁶ Half are journalists, bloggers, or civic activists.⁵⁵⁷

Among them have been prominent opposition figures, including Vladimir Kara-Murza and Ilya Yashin, sentenced to lengthy prison terms for criticizing Russia's war against Ukraine and attacks on civilians and civilian infrastructure. In December 2022, a court sentenced Yashin to eight-and-a-half years in prison with an additional four-year ban on internet use.⁵⁵⁸ In April 2022, after a year in pretrial detention, Kara-Murza was sentenced to 25 years in maximum security prison on combined charges of treason, dissemination of “false information” about the conduct of the Russian Armed Forces, and involvement with an “undesirable organization.”⁵⁵⁹

In July 2022, Aleksey Gorinov, a member of the Krasnoselsky municipal council in Moscow, became the first person to be sentenced to a prison term on these charges. He received a seven-year prison sentence and a four-year ban on holding official positions for delivering an anti-war speech during a council meeting in March 2022.

⁵⁵⁴ Lena Lemiasova, “How many cases on [charges of] “fakes” and “discreditation” [of army] were opened since the start of the war?” (“Сколько дел о «фейках» и «дискредитации» возбудили после начала войны?”), Holod Media, January 10, 2023, <https://holod.media/2023/01/10/how-many-fakes/> (accessed July 8, 2024).

⁵⁵⁵ OVD-Info, *Repressions in Russia in 2022, (Репрессии в России в 2022 году)*, December 23, 2022, <https://data.ovd.info/repressii-v-rossii-v-2022-godu> (accessed July 8, 2024).

⁵⁵⁶ Anastasiya Golubeva, “‘In the name of the Russian Federation: this didn't happen.’ How criminal cases concerning ‘fakes’ about the army are opened and investigated” (“Именем Российской Федерации: этого не было”. Как возбуждают и расследуют уголовные дела о “фейках” про армию”), BBC Russian Service, August 3, 2022, <https://www.bbc.com/russian/features-62395221> (accessed July 8, 2024).

⁵⁵⁷ Ibid.

⁵⁵⁸ “Russia: Harsh Sentence for Opposition Politician,” Human Rights Watch news release, December 9, 2022, <https://www.hrw.org/news/2022/12/09/russia-harsh-sentence-opposition-politician>.

⁵⁵⁹ “Russia: Sentencing for Prominent Kremlin Critic,” Human Rights Watch news release, April 14, 2023, <https://www.hrw.org/news/2023/04/14/russia-sentencing-prominent-kremlin-critic>.

In addition to the sentence of 25 years in maximum security prison, the court slapped Kara-Murza with a fine of 400,000 rubles (approximately US\$5,000), restriction of freedom for 1.5 years, and a ban on journalistic activities for seven years.

In January 2023, a Russian court delivered the first verdict on these charges in absentia, against a former police officer sentenced to eight years in prison for social media posts, in which he wrote that Russia had attacked Ukraine.⁵⁶⁰ At time of writing, the harshest sentence in absentia of 11 years in prison was handed down to a journalist, Michael Nacke, and a founder of Conflict Intelligence Team, Ruslan Leviyev (Karpuk), for their online streams discussing Russia's war in Ukraine, including civilian casualties, the shelling of a nuclear power plant, and Russia's war censorship laws.⁵⁶¹ In July 2024, courts issued sentences, in absentia, to authors Masha Gessen and Mikhail Zygar for 8 and 8.5 years respectively, on fake news charges.⁵⁶² Earlier, a court had handed down a nine-year prison sentence, also in absentia, to Russian blogger Veronika Belotserkovskaya for her online post about Russia's bombing of Mariupol; Russian authorities froze her assets in Russia, including her apartment.⁵⁶³

The largest number of cases were opened in April 2022. Since then, there has been a notable decline; one Russian lawyer attributed this in part to the law's effectiveness in freezing public debate about the war.⁵⁶⁴

⁵⁶⁰ See Telegram post from the account of "Setevye Svobody" ("Online Freedoms"), January 27, 2023, <https://t.me/NetFreedomsProject/763> (accessed July 8, 2024).

⁵⁶¹ "Moscow court sentenced Leviyev and Nacke to eleven years in prison in absentia for stream with frontline updates" ("Суд в Москве заочно назначил Левиёву и Наки по 11 лет колонии из-за видео с военной сводкой"), *Mediazona*, August 29, 2023, https://zona.media/news/2023/08/29/leviev_i_naki (accessed July 8, 2024).

⁵⁶² "Mikhail Zygar sentenced in absentia to 8.5 years in the case of fakes about the Russian Armed Forces" ("Михаила Зыгаря заочно приговорили к 8,5 года по делу о фейках о ВС РФ"), *TASS*, July 23, 2024, <https://tass.ru/proisshestiya/21428757> (accessed July 24, 2024); Neil MacFarquhar, "Russia Sentences U.S. Journalist in Absentia for Ukraine War Comments," *New York Times*, July 15, 2024, <https://www.nytimes.com/2024/07/15/world/europe/russia-masha-gessen-prison.html> (accessed July 24, 2024). For information on Russian authorities' efforts to prosecute Russian journalists in absentia on a range of charges, see "Russia seeks to arrest, prosecute, fine, and restrict 13 exiled journalists," Committee to Protect Journalists, news release, July 25, 2024, <https://cpj.org/2024/07/russia-seeks-to-arrest-prosecutes-fines-and-restricts-13-exiled-journalists/> (accessed July 26, 2024).

⁵⁶³ "Court sentenced in absentia Veronika Belotserkovskaya to nine years in prison" ("Суд заочно приговорил к девяти годам колонии Веронику Белоцерковскую"), *TASS News Agency*, February 6, 2023, <https://tass.ru/proisshestiya/16969943> (accessed July 8, 2024).

⁵⁶⁴ See opinion of lawyer Seleznev, Anastasiya Golubeva, "In the name of the Russian Federation: this didn't happen." How criminal cases concerning "fakes" about the army are opened and investigated" ("Именем Российской Федерации: этого не было". Как возбуждают и расследуют уголовные дела о "фейках" про армию), *BBC Russian Service*, August 3, 2022, <https://www.bbc.com/russian/features-62395221> (accessed July 8, 2024).

According to official data and media estimates, in 2023, 135 new cases were opened on “false information” charges, and at least 70 cases on these charges reached Russian courts, while authorities blocked 69,000 on allegations of “false information.”⁵⁶⁵

According to Russian human rights group OVD-Info, at least 77 people were sentenced on “false information” and 52 on “discreditation” charges in 2023.⁵⁶⁶ Among them were both prominent opposition figures and people with no background in activism.

- *Public Actions “Discrediting” Russian Armed Forces*

The second new criminal code article is 280.3, outlawing and penalizing “public actions aimed at discrediting” the use of the Russian Armed Forces for “protection of [Russia’s] interests, its nationals, maintaining of international peace and security.” The definition of such “discreditation” was construed to specifically include public calls to “impede the deployment” of the armed forces.

Criminal charges under this article can be brought against individuals with at least one prior administrative conviction on the same charges within one year.⁵⁶⁷ The maximum penalty was up to three years in prison, with subsequent amendments later increasing it to five, (see below).⁵⁶⁸ However, if there are aggravating circumstances, such as causing death by negligence, harm to health, damage to property, mass violation of public order, or interrupting the work of transportation, financial credit institutions, and other infrastructure, imprisonment could be increased to five years with subsequent amendments increasing this maximum penalty to seven years.⁵⁶⁹

⁵⁶⁵ “Prosecutor General’s Office announced that criminal cases against 70 individuals have reached courts in 2023 for ‘fakes’ about armed forces” (“В ГП заявили, что в 2023 году в суды передали дела на 70 лиц за фейки о ВС РФ”), TASS News Agency, January 8, 2024, <https://tass.ru/proisshestiya/19686435> (accessed July 8, 2024).

Yevgeniy Zhukov, “135 cases were opened in Russia in 2023 for ‘fakes’ about armed forces” (“В 2023-м в России возбудили 135 дел за ‘фейки’ об армии”), *Deutsche Welle*, January 8, 2024, <https://www.dw.com/ru/v-2023-godu-v-rf-vozbudili-135-ugolovnyh-del-za-fejki-ob-armii/a-67917331> (accessed July 8, 2024).

⁵⁶⁶ Data as of end of October 2023.

⁵⁶⁷ On the same day this law was enacted, Russian authorities also adopted a law introducing the same actions as an administrative offense for the first-time offenders.

⁵⁶⁸ The other penalties include fines ranging between 100,000 and 300,000 rubles (approx. \$1,650-4,950), or equivalent to wages for a period of one to two years, mandatory labor for up to three years, or arrest for four to six months or imprisonment for up to three years accompanied with a ban on certain occupations for three years.

⁵⁶⁹ Mariya Starikova, “Here’s for the arguments, and here’s for the facts” (“Вот за аргументы, а вот за факты”), *Kommersant*, no.138, August 2, 2022, p.5., <https://www.kommersant.ru/doc/5491522> (accessed July 29, 2024).

In June 2022, a Russian court issued the first sentence on these charges to a man who told his daughter, who was under 18, to rip a “Z” sticker from a stranger’s car; “Z” became a symbol of support for Russia’s invasion. The man received a two-year suspended sentence on charges of “discrediting” Russia’s armed forces and involving a child in illegal activity.

In October 2023, the Golovinsky District Court in Moscow found Oleg Orlov, former co-chair of Memorial Human Rights Centre and decades-long veteran of Russia’s human rights movement, guilty on repeat discreditation charges and sentenced him to a 150,000-ruble fine (at the time, US\$1,500).⁵⁷⁰ The charge stemmed from an article Orlov had published that condemned Russia’s war against Ukraine—including the killings of Ukrainian civilians, and “the destruction of [Ukraine’s] infrastructure, economy, and cultural property”—and stated that the war marked Russia’s “slip[ping] back into totalitarianism, only now of the fascist variety.” In response to Orlov’s appeal of the verdict, the prosecutor’s office counter-appealed and charged Orlov with “aggravated discreditation.” In February 2024, the court sentenced Orlov to two years six months in prison on this charge.⁵⁷¹

In June 2022, the Ministry of Justice issued guidelines for judges, forensic experts, and investigators, clarifying the distinctions between charges of “false information” and “discrediting.” The ministry suggests that making a factual statement should be qualified as “intentionally false information,” whereas expressing negative opinions about the conduct of the military constitutes “discrediting.”⁵⁷²

⁵⁷⁰ Tanya Lokshina, “Top Russian Human Rights Defender Convicted for “Discrediting” the Armed Forces,” commentary, Human Rights Watch Dispatch, October 11, 2023, <https://www.hrw.org/news/2023/10/11/top-russian-human-rights-defender-convicted-discrediting-armed-forces>.

⁵⁷¹ Tanya Lokshina (Human Rights Watch), “Russian Human Rights Defender Pays with His Freedom for Speaking the Truth,” commentary, *The Hill*, March 4, 2024, <https://www.hrw.org/news/2024/03/04/russian-human-rights-defender-pays-his-freedom-speaking-truth>.

⁵⁷² Mariya Starikova, “Here’s for the arguments, and here’s for the facts” (“Вот за аргументы, а вот за факты”), *Kommersant*, no.138, August 2, 2022, p.5.

Later that month, a popular opposition politician and former Yekaterinburg mayor, Yevgeniy Roizman, was charged with “discrediting,” according to him, for calling Russia’s war against Ukraine “an invasion.”⁵⁷³

- *Calling for Sanctions*

The third new article makes it a criminal offense for Russian nationals to call for sanctions against Russia, its nationals, or Russian legal entities. This in fact was the original provision of the bill before the “false information” and “discrediting” articles were added before the second reading.

The new article 284.2 targets “repeat offenders,” that is Russian nationals who within a year prior were sentenced on the same charges for an administrative offense. The penalties range from a fine to up to three years in prison combined with a fine.⁵⁷⁴

Since Russia’s occupation of Crimea and its role in the downing of the civilian flight MH-17 over Donetsk region in eastern Ukraine in 2014, various countries, including the US and the European Union, have imposed economic and political sanctions against Russian leadership, businesspeople with close ties to the Kremlin, and others.

In the wake of the full-scale invasion, the number of new sanctions and restrictions against individuals, businesses, and trade with Russia exploded. Several international bodies and intergovernmental organizations have also acted to suspend Russian membership or expel Russia altogether.⁵⁷⁵

⁵⁷³ “Yevgeniy Roizman is arrested for “discreditation” of the army. What is known” (“Евгений Ройзман задержан за “дискредитацию” армии. Что известно”), BBC Russian Service, August 24, 2022, <https://www.bbc.com/russian/news-62656050> (accessed July 8, 2024).

⁵⁷⁴ The penalties include fines of up to 500,000 rubles (\$8250), or forfeit of wages for a period of up three years or restriction of liberty for up to three years, or mandatory labor for the same duration, or detention of up six months, or imprisonment of up to three years with a fine of up to 200,000 rubles (\$2282) or forfeit of wages for one year.

⁵⁷⁵ In March, Russia was excluded from the Council of Europe. See “The Russian Federation is excluded from the Council of Europe,” Council of Europe Newsroom, March 16, 2022, <https://www.coe.int/en/web/portal/-/the-russian-federation-is-excluded-from-the-council-of-europe> (accessed July 8, 2024). In April, the UN General Assembly suspended Russia from the Human Rights Council over reports of “gross and systematic violations and abuses of human rights” in Ukraine. See Michelle Nichols, “U.N. suspends Russia from human rights body, Moscow then quits,” Reuters, <https://www.reuters.com/world/un-vote-suspending-russia-human-rights-council-over-ukraine-2022-04-07/>. See also, a compilation of international fora from which Russia was ousted, war.ukraine website, “Isolation. Russia ousted from 42 international fora,” June 2, 2022, <https://war.ukraine.ua/what-is-russia/isolation-russia-suspended-from-42-international-platforms/> (accessed July 8, 2024).

At time of writing, no information was available about criminal cases brought on charges of calling for sanctions. However, several Russian opposition figures, including Alexei Navalny and his aides, have long called for sanctions against Russian targets, including businesspeople who they believe are close to President Putin.⁵⁷⁶ These new offenses are an additional tool to persecute opposition politicians and activists who support sanctions against Russian targets.

Federal Law №31-FZ (Amendments to the Code of Administrative Offenses)

In parallel, parliament adopted similar amendments to the Code of Administrative offenses, introducing a new administrative offense of “discrediting” and “calls for sanctions” corresponding to the respective criminal articles.⁵⁷⁷

One of the key differences, beyond gravity of penalties, criminal records, and lower standards of fair trial safeguards, is that administrative penalties, unlike criminal penalties, can be applied to legal entities.

Public Actions “Discrediting” Russian Armed Forces

The definition of the administrative offense of “discrediting” the Russian Armed Forces is largely identical to that in the criminal code; the only difference is that the first offenders should be charged with the administrative offense. This offense is punishable by a fine that varies greatly among private individuals, officials or managers, and legal entities, with a maximum fine of up to 500,000 rubles (\$7,000) for legal entities.⁵⁷⁸

Anyone with at least one prior administrative conviction for the same charge within one year can be indicted under the criminal code.

⁵⁷⁶ Mikhail Bushuyev, “FBK: Sanction list of Navalny is already at the EU” (ФБК: Санкционный список Навального уже у Евросоюза), February 8, 2021, <https://www.dw.com/ru/fbk-sankcionnyj-spisok-navalnogo-uzhe-u-evrosojuza/a-56501020> (accessed July 8, 2024).

⁵⁷⁷ Federal Law “On Amendments to the Code of Administrative Offences of the Russian Federation” №31-FZ of March 4, 2023.

⁵⁷⁸ Penalties for individuals can range between 30,000 and 50,000 rubles; for officials or managers, from 100,000 to 200,000 rubles and for legal entities between 300,000 and 500,000 rubles (approx. \$4,200 to \$7,000)

The law prescribes up to a doubling of fines in a range of “aggravating circumstances,” including those creating a risk of death, harm to health, damage to property, or mass violation of public order, or disrupting various infrastructure.

By late August 2022, 3,807 cases for discrediting armed forces were opened under administrative offense provisions (article 20.3.3).⁵⁷⁹

AUTHORITIES ARE DETAINING AND PUNISHING PEOPLE UNDER THIS OFFENSE FOR PEACEFUL ANTI-WAR EXPRESSION. SOME CASES ARE PATENTLY ABSURD: PEOPLE HAVE BEEN SENTENCED FOR WEARING BLUE- AND YELLOW-COLORED CLOTH; FOR HOLDING POSTERS THAT SAID “NO WAR” AND “FOR PEACE,” OR FOR HOLDING POSTERS WITH ONLY ASTERISK IN PLACE OF WORDS.⁵⁸⁰ ONE PRIEST WAS FINED FOR A SERMON CALLING FOR PEACE AND REMINDING CONGREGANTS “THOU SHALT NOT KILL.”

Calling for Sanctions

Similarly, the definition of the new administrative offense that bans calling for sanctions (article 20.3.4) is identical to that in the criminal code. The administrative offense is designed for first-time offenders. Anyone sentenced under this article who commits a second offense within one year could face criminal prosecution. The penalty is a maximum 50,000 ruble (approx. US\$ 700) fine for individuals and a 500,000-ruble fine (approx. US\$7,000) for legal entities.

Expansion beyond the Armed Forces (Federal Laws no.62 and no.63 of March 25, 2022, and no.57 and no.58 of March 18, 2023)

March 2022 Expansion to all State Bodies Operating Abroad

On March 23, 2022, Russia’s parliament adopted two bills introducing amendments to the Criminal Code and Code of Administrative Offenses, effectively expanding the ban on criticizing the armed forces to ban criticism of all Russian government actions abroad.⁵⁸¹

⁵⁷⁹ “Summary of anti-war repressions. Six months of war,” OVD-Info report, August 2022, <https://data.ovdinfo.org/summary-anti-war-repressions-six-months-war#3> (accessed July 8, 2024).

⁵⁸⁰ “What can get you in trouble for anti-war speech in Russia?” Human Rights Watch infographic, <https://www.hrw.org/video-photos/interactive/2022/08/22/what-can-get-you-trouble-anti-war-speech-russia>

⁵⁸¹ Federal Law “On Amendments to Articles 8.32 and 20.3.3. of the Code of Administrative Affairs of the Russian Federation” №62 of March 25, 2022, and Federal Law “On Amendments to the Criminal Code of the Russian Federation and Articles 8.32 and 20.3.3. of the Criminal Procedure Code of the Russian Federation” №63 of March 25, 2022.

Like the preceding censorship laws, in an apparent effort to expedite their adoption, lawmakers attached these amendments to bills already on parliament's agenda related to the prosecution of forestry rules violations that had nothing to do with censorship.⁵⁸²

The amendments expanded the definition of the criminal offenses of “false information” and “discrediting” and of the administrative “discrediting” offense to include any Russian government bodies operating abroad. This could cover entities such as the Russian Guard (Rosgvardiya) that have been taking active part in the armed conflict in Ukraine, as well as embassies, consulates, and emergency services.

The penalties remained the same as those set out in the initial law criminalizing “false information” and “discrediting” the Russian armed forces (see above).

March 2023 Expansion to “Volunteers”

On March 18, 2023, President Putin signed into law two more bills to extend application of “discreditation” and “fake news” provisions to “volunteers” taking part in armed conflicts.⁵⁸³

These amendments were requested by Yevgeniy Prigozhin, the late founder and public face of the Russian Wagner mercenary group.⁵⁸⁴ The Wagner group has been involved in armed conflicts in Syria and Ukraine, fighting on the Russian side, and in recruiting convicts serving prison sentences, including for grave crimes in maximum security prisons,⁵⁸⁵ to

⁵⁸² See the original texts of the bill no № 9712-8 of March 25, 2022, <https://sozd.duma.gov.ru/bill/9712-8>, and bill №9732-8 of March 25, 2022, <https://sozd.duma.gov.ru/bill/9732-8> (accessed July 2, 2024).

⁵⁸³ Federal Law “On Amendments to Articles 13.15 and 20.3.3 of the Code of Administrative Offenses of the Russian Federation” №57 of March 18, 2023, and Law “On Amendments to the Criminal Code of the Russian Federation” №58 of March 18, 2023.

⁵⁸⁴ Vladislav Gordeyev, “Prigozhin suggested imprisonment for five years for discreditation of convicts from mercenary group” (“Пригожин предложил посадить на 5 лет за дискредитацию осужденных из ЧВК”), RBC, January 24, 2023, <https://www.rbc.ru/politics/24/01/2023/63cfe3f29a7947f18e41c673> (accessed June 17, 2023).

⁵⁸⁵ Anna Pavlova, Yelizaveta Nesterova, “We’re primarily interested in murderers and robbers – you will like it with us.” It appears that Yevgeniy Prigozhin personally recruits mercenaries in prison colonies” (“В первую очередь интересуют убийцы и разбойники — вам у нас понравится». Похоже, Евгений Пригожин лично вербует наемников в колониях”), *Mediazona*, August 6, 2022, <https://zona.media/article/2022/08/06/prigozhin> (accessed July 8, 2024).

Yekaterina Lushnikova, “‘Demine, as a cannon fodder.’ How Prigozhin is recruiting convicts in Povolzhye [region]” (“Разминировать, в качестве минного мяса”. Как Пригожин вербует заключенных в Поволжье”), *Current Time*, October 23, 2022 (accessed June 17).

Yelizaveta Fokht, Olga Ivshina, Kseniya Churmanova, “I serve Russia and “Wagner.” How a conveyor belt supplying convicts to fight in Ukraine has been organized in Russia” (“Служу России и ЧВК “Вагнер.” Как в России поставили на поток вербовку заключенных на войну с Украиной”), BBC Russian Service, January 27, 2023, <https://www.bbc.com/russian/features-64427178> (accessed June 17, 2023).

fight in Ukraine in exchange for pardons. Wagner also operates in several African countries and committed serious human rights violations in Mali and the Central African Republic.⁵⁸⁶ Following Prigozhin and Wagner's unsuccessful march on Moscow in June 2023,⁵⁸⁷ Putin publicly acknowledged that Russia fully financed the armed group.⁵⁸⁸

In an open letter in January 2023, Prigozhin lobbied for amendments to ban any criticism of those fighting on the Russian side in the armed conflict in Ukraine, indicating that "a large number of volunteers are taking part, including those previously convicted" and sought that any information about their past felonies would be punishable with a five-year prison sentence."⁵⁸⁹

Journalists reported numerous cases of convicts being released after completing the six-month contracts with Wagner, some of whom were serving lengthy prison sentences for grave crimes, including murder.⁵⁹⁰

⁵⁸⁶ "Central African Republic: Abuses by Russia-Linked Forces," Human Rights Watch news release, May 3, 2022; [https://www.hrw.org/news/2022/05/03/central-african-republic-abuses-russia-linked-forces#:~:text=\(Nairobi\)%20E2%80%93%20Forces%20in%20the,Human%20Rights%20Watch%20said%20today,](https://www.hrw.org/news/2022/05/03/central-african-republic-abuses-russia-linked-forces#:~:text=(Nairobi)%20E2%80%93%20Forces%20in%20the,Human%20Rights%20Watch%20said%20today,) Human Rights Watch, *World Report* 2023, (New York: Human Rights Watch, 2022), Mali chapter, <https://www.hrw.org/world-report/2023/country-chapters/mali> (accessed June 7, 2023); "CAR: Russian Wagner Group harassing and intimidating civilians – UN experts," UN OHCHR press release, 27 October 27, 2021, <https://www.ohchr.org/en/press-releases/2021/11/car-russian-wagner-group-harassing-and-intimidating-civilians-un-experts> (accessed June 7, 2023); David Ehl, "Russia's Wagner Group in Africa: More than mercenaries," *Deutsche Welle*, April 17, 2023, <https://www.dw.com/en/russias-wagner-group-in-africa-more-than-mercenaries/a-64822234> (accessed June 7, 2023); Jason Burke, "Russian mercenaries behind slaughter of 500 in Mali village, UN report finds," *Guardian*, May 20, 2023 <https://www.theguardian.com/world/2023/may/20/russian-mercenaries-behind-slaughter-in-mali-village-un-report-finds> (accessed June 7, 2023).

⁵⁸⁷ See extensive media coverage of the events, for example, Luke Harding, "The Wagner uprising: 24 hours that shook Russia," *Guardian*, June 25, 2023, <https://www.theguardian.com/world/2023/jun/25/prigozhins-march-on-moscow-chronology-of-an-attempted-coup> (accessed July 8, 2024).

⁵⁸⁸ "Putin says Wagner group fully financed by Russian government," TASS News Agency, June 27, 2023, <https://tass.com/defense/1639345> (accessed July 8, 2024).

Emma Graham-Harrison, "Putin claim that Russia funds Wagner group may make it easier to try him for war crimes," *Guardian*, July 1, 2023, <https://www.theguardian.com/world/2023/jul/01/putin-claim-that-russia-funds-wagner-group-may-make-it-easier-to-try-him-for-war-crimes> (accessed July 8, 2024).

⁵⁸⁹ Vladislav Gordeyev, "Prigozhin suggested imprisonment for five years for discreditation of convicts from mercenary group" ("Пригожин предложил сажать на 5 лет за дискредитацию осужденных из ЧВК"), *RBC*, January 24, 2023 <https://www.rbc.ru/politics/24/01/2023/63cfe3f29a7947f18e41c673> (accessed June 17, 2023).

⁵⁹⁰ "32,000 pardoned criminals have returned to Russia from the war" ("В Россию с войны вернулись 32 000 помилованных уголовников"), *Moscow Times*, June 18, 2023, <https://www.moscowtimes.ru/2023/06/18/v-rossiyu-s-voini-vernulis-32-000-pomilovannih-ugolovnikov-a46420>; "Abramovich refused to hand over any funds to Ukraine from the sale of 'Chelsea' ("Абрамович отказался передавать Украине все средства от продажи «Челси» .") *Moscow Times*, June 18, 2023, (accessed May 8, 2024).

The day after Prigozhin’s appeal, the chairman of the Duma, Viacheslav Volodin, instructed the chairmen of two parliamentary committees to develop the amendments.⁵⁹¹

To fast-track the adoption of these amendments, they were folded into unrelated bills that had earlier passed through their first reading. This strategy, which had been similarly used to fast-track the adoption of the original bills on “discreditation” and “fake news,” aimed to circumvent the mandatory pause for revisions after the first reading. Thus, the amendments to the criminal code were appended to a bill concerning liability for trespassing in restricted areas, and the amendments to the Code of Administrative Offenses were appended to a bill on dissemination of guidance on the production of ammunition for firearms in mass media.⁵⁹²

Apart from extending coverage of the corresponding articles to “volunteers” (groups, organizations, or individuals assisting the Russian Armed Forces), the amendments to the criminal code also increased the maximum penalties for “simple”—unaggravated—“discreditation” or “fake news” from three to five years in prison as well as aggravated “discreditation” from five to seven years in prison.

Furthermore, Russian lawmakers subsequently developed a new punishment for some of those convicted for “discreditation” or “fake news,” as well as several other charges increasingly used by Russian authorities against civic activists, particularly those who oppose the war.

Vladislav Chirin, “Leader of organized criminal syndicate, mastermind of a murder and “Russian Walter White” 13 residents of St Petersburg, who were released from prison after serving in “Wagner” mercenary group” (Глава ОПГ, заказчик убийств и «русский Уолтер Уайт». 13 петербуржцев, которые вышли на свободу после службы в «ЧВК Вагнер»), *Paper Media*, January 30, 2023, <https://paperpaper.io/glava-opg-zakazchik-ubijstv-i-russkij/> (accessed June 17, 2023).

Nina Abrosimova, “I said: Am I going to be killed there? You will kill me faster in [prison] colony – morally” («Я сказал: меня там убьют? Вы меня в колонии быстрее убьете — морально»), *Holod Media*, January 20, 2023, <https://holod.media/2023/01/20/prison-wagner-freedom/> (accessed June 17, 2023).

⁵⁹¹ State Duma website, “Chairman of Duma instructed to consider introducing liability for discreditation of combatants” (“Председатель ГД поручил изучить вопрос об установлении ответственности за дискредитацию участников боевых действий”), January 25, 2023, <http://duma.gov.ru/news/56246/> (accessed June 17, 2023).

⁵⁹² Bill “On Amendments to Articles 13.15 and 20.3.3 of the Code of Administrative Offenses of the Russian Federation” №253972-8 of March 18, 2023, <https://sozd.duma.gov.ru/bill/253972-8>; and Bill “On Amendments to the Criminal Code of the Russian Federation” №218171-8 of March 18, 2023, <https://sozd.duma.gov.ru/bill/218171-8> (accessed June 17, 2023).

New Nationality Law: Revoking Nationality for Discreditation/False Information about Armed Forces and Other Offenses (Federal Law №138-FZ of April 28, 2023)

In late April 2023, a new citizenship law was adopted in Russia.⁵⁹³ It came into force on October 26, 2023,⁵⁹⁴ and greatly expanded the capacity of Russian authorities to strip naturalized Russian nationals,⁵⁹⁵ convicted for certain crimes, of their nationality and subsequently deport them from its territory.

Anti-war activists and other civic activists who did not acquire Russian nationality at birth, but were naturalized, could be at risk, since many criminal charges that are increasingly used against anti-war protesters and opposition activists in Russia are now featured as grounds for revoking Russian nationality.

The authors noted that in the 20 years since the adoption of the previous nationality law in 2002, over 7.3 million people obtained Russian nationality.⁵⁹⁶ The total number of naturalized Russian nationals was not available at time of writing.

The new citizenship law supersedes the previous 2002 federal law. It drastically expands the list of crimes, sentencing for which entails terminating nationality with subsequent deportation. It also introduces additional grounds for termination—for actions deemed to pose a threat to national security, a norm that is vague and open to abuse.

As a result, on par with grave crimes such as terrorism or rape, the new law would enable authorities to strip Russian nationality from naturalized citizens convicted on criminal charges of “discreditation” or “fake news” about Russian Armed Forces or about Russian officials operating abroad and “volunteers,” such as Wagner mercenaries (see above).

⁵⁹³ Federal Law “On Citizenship of the Russian Federation” №138-FZ of April 28, 2023.

⁵⁹⁴ The delayed entry into force was provided for in the law itself, see Federal Law №138-FZ, art. 47.

⁵⁹⁵ The new law also allows for terminating nationality of the same grounds with respect to people who were recognized as Russian nationals on the basis of an international treaty to which Russia is a party or federal constitutional law, which include the 2014 federal constitutional law 6-FKZ and 2022 federal constitutional laws 5-FKZ, 6-FKZ, 7-FKZ and 8-FKZ concerning, respectively, Ukraine’s regions of Crimea, Donetsk, Luhansk, Zaporizhzhia and Kherson claimed as annexed by Russia. The same provisions would not apply, for example to former Soviet nationals recognized as Russian nationals, since their nationality was governed by preceding federal laws and the new 138-FZ. It would also not apply to persons born into Russian nationality based on its nationality law.

⁵⁹⁶ See explanatory note accompanying Bill “On Citizenship of the Russian Federation” №49269-8, <https://sozd.duma.gov.ru/bill/49269-8> (accessed June 17, 2023).

The same norms would also be expanded to include many additional criminal charges that were used in recent years against civic activists, human rights defenders, journalists, and political opposition figures in Russia. These include:

- A charge of organizing mass riots (article 212), under which civic activists were prosecuted in the Bolotnaya case in 2014 and the Moscow case in 2019, as well as another charge of using violence against a police officer, if coupled with an extremism or terrorism charge;⁵⁹⁷
- Repeated violation of assembly rules (article 212.1), under which Ildar Dadin was sentenced in 2015⁵⁹⁸ and several civic activists since, for peaceful, albeit unauthorized, protests⁵⁹⁹;
- Creation or leadership of a religious or public association, if its activities involve violence against a person or otherwise harm their health; or creation or leadership of an NGO that incites people to refuse their civic duties or engage in other unlawful acts (article 239). This was one of the charges in recent verdicts against the late Alexei Navalny and former heads of local branches of his organization in Barnaul and Ufa—Vadim Ostanin and Lilia Chanysheva—as well as against several activists of the youth movement Vesna, prosecuted for anti-war speech (see above).
- High treason (article 275), under which prominent opposition figure Vladimir Kara-Murza was sentenced to 25 years in maximum security prison, in combination with other charges, for speaking out against Russia’s war in Ukraine and the Kremlin regime.⁶⁰⁰ Several other people have been recently detained reportedly for making donations to the Ukrainian Armed Forces⁶⁰¹;

⁵⁹⁷ “Russia: Protesters Found Guilty in Flawed Case,” Human Rights Watch news release, August 18, 2014, <https://www.hrw.org/news/2014/08/18/russia-protesters-found-guilty-flawed-case>.

“The “Moscow Case”: What You Need to Know,” Human Rights Watch news release, October 30, 2019, <https://www.hrw.org/news/2019/10/30/moscow-case-what-you-need-know>.

⁵⁹⁸ “Russia: Peaceful Protester Alleges Torture,” Human Rights Watch news release, February 27, 2017, <https://www.hrw.org/news/2017/02/27/russia-peaceful-protester-alleges-torture>.

⁵⁹⁹ Damelya Aitkhozhina, “Russian Court Sentences Opposition Figure to 2-Year Suspended Sentence,” commentary, Human Rights Watch Dispatch, December 23, 2020, <https://www.hrw.org/news/2020/12/23/russian-court-sentences-opposition-figure-2-year-suspended-sentence>.

Human Rights Watch *World Report* 2023, (New York: Human Rights Watch, 2023), Russia Chapter, <https://www.hrw.org/world-report/2023/country-chapters/russian-federation> (accessed June 18, 2023).

⁶⁰⁰ “Russia: Sentencing for Prominent Kremlin Critic” Human Rights Watch news release, April 14, 2023, <https://www.hrw.org/news/2023/04/14/russia-sentencing-prominent-kremlin-critic>.

⁶⁰¹ “Moscow resident detained for high treason for financial support of AFU” (“Москвичку задержали за госизмену в виде оказания финансовой помощи ВСУ”), TASS News Agency, March 4, 2023, <https://tass.ru/proisshestiya/17195433> (accessed July 8, 2024).

- Public calls to extremist activities (article 280), one of the charges under which a number of Alexei Navalny’s affiliates were convicted⁶⁰²;
- Participation or organization of activities of an “undesirable organization” or rendering financial support or services to it (article 284.1), based on which several Open Russia activists were sentenced in recent years and for which Andrei Pivovarov, the movement’s former executive director, has remained in prison⁶⁰³;
- Rehabilitation of Nazism (article 354.1), which criminalizes “false information” about activities of the Soviet Union during World War II and denigrating symbols of Russian military glory (see below Section on Historic Truth). As noted above, several Vesna movement members have been indicted on these charges for anti-war speech.⁶⁰⁴

The expanded list of criminal charges that Russian authorities could use to strip naturalized persons of Russian nationality, if convicted, also include evasion of foreign agent’s obligations (article 330.1) and calling for sanctions against Russia, its nationals, or legal entities (article 284.2).

As noted earlier, investigators have brought at least 13 criminal cases against individuals alleging they failed to fulfill their foreign agent obligations.

“Activist from Khabarovsk is suspected of high treason for financial support of AFU” (“Активистку из Хабаровска заподозрили в госизмене из-за финансирования ВСУ,” Interfax News Agency, March 13, 2023, <https://www.interfax.ru/russia/890717>; “Khabarovsk resident detained for high treason for money transfers to AFU” (“Жителя Хабаровска задержали по делу о госизмене за переводы денег ВСУ”), TASS News Agency, April 11, 2023, <https://tass.ru/proisshestiya/17494259> (accessed June 18, 2023). In February 2024, Russian authorities arrested a US citizen who also holds a Russian passport and eventually charged her with treason, falsely claiming that her US\$51 donation in 2022 to Razom for Ukraine, a US-based humanitarian organization, was a donation to the Ukrainian military. Her trial started on June 20, 2024. “Russian-American woman goes on trial for treason after donating funds to Ukraine,” Reuters, June 20, 2024, <https://www.reuters.com/world/europe/russian-american-woman-goes-trial-treason-after-donating-funds-ukraine-2024-06-20/> (accessed June 30, 2024).

⁶⁰² Yelizaveta Fokht, “Navalny stated that a [criminal] case was opened against him on terrorism [charges]. He may face life imprisonment” (“Навальный сообщил, что на него завели дело о терроризме. Ему может грозить пожизненный срок”), BBC Russian Service, April 26, 2023, <https://www.bbc.com/russian/news-65396810> (accessed June 18, 2023).

⁶⁰³ “Russia: Political Prisoner Feared Forcibly Disappeared,” Human Rights Watch news release, February 18, 2023, <https://www.hrw.org/news/2023/02/18/russia-political-prisoner-feared-forcibly-disappeared> (accessed June 18, 2023).

⁶⁰⁴ See “Anti-war Criminal Cases” (“Антivoенные уголовные дела”), OVD-Info infographic, <https://data.ovdinfo.org/antivoennaya-infografika> (accessed June 18, 2023).

Such provisions present a real threat to several civic activists and opposition figures, in particular, those engaged in international advocacy efforts.⁶⁰⁵

With that, the citizenship law also provides that terminating nationality would be applied without statutory limitations as to the date of naturalization, perpetration of the alleged offense, or date of the sentence.⁶⁰⁶

Stripping dissidents of acquired nationality and expelling them from the country, reminiscent of Soviet repressive practices, is not new in modern Russia.⁶⁰⁷ In recent years, it has been employed against religious minorities, whom Russian authorities have designated as extremist, despite a lack of any calls for or incitement of violence.

In 2019, for example, Yevgeniy Kim was stripped of his Russian passport a day before he was due for release after serving a 3 year and 9 month prison sentence for allegedly organizing activities of Nurdzhular, a supposedly religious movement

⁶⁰⁵ In August 2024, lawmakers introduced an amendment that would have included evasion of military service obligations (art. 339) as grounds for stripping naturalized Russian nationals of their citizenship. These notably would have included Central Asian migrants, including those with dual nationality, who either earlier signed military contracts or were drafted but refused to participate in Russia's war in Ukraine. In May 2024, the amendments were voted down.

In January 2023, the head of Russia's Investigative Committee stated that Russian authorities should prioritize sending dual nationals from Central Asian countries to the war in Ukraine. See "Bastrykin referred to participation in the special military operation [in Ukraine] as constitutional obligations of foreigners naturalized in Russia" ("Баstryкин назвал участие в СВО конституционной обязанностью натурализованных в РФ иностранцев"), Interfax News Agency, January 13, 2023, <https://www.interfax.ru/russia/880552> (accessed July 8, 2024). Russian authorities have been actively recruiting Central Asian migrants to sign military contracts, including by luring them with cancellation of deportation orders and simplified naturalization or using coercion and deceit, and, in several cases, authorities reportedly even issued draft notices to Central Asian nationals who did not have Russian passports and could not be drafted.

See Farangis Najibullah, "Russian Recruiters 'More Assertive' Toward Central Asian Migrants as Dual Citizens Urged to Fight in Ukraine," RFE/RL, May 14, 2023, <https://www.rferl.org/a/russia-migrants-recruited-war-ukraine/32411318.html> (accessed July 8, 2024).

Aziz Yakubov, "Putin's Foreign Legion. How Russia uses blackmail, threats, and deception to conscribe Central Asian migrants to the frontlines" (Иностранный легион Путина. Как Россия шантажом, угрозами и обманом мобилизует на фронт мигрантов из стран Центральной Азии), *Mediazona* Central Asia, October 28, 2022, <https://mediazona.ca/article/2022/10/28/foreigners> (accessed July 8, 2024); Farangis Najibullah, Zarangez Navruzshoh, "Russian Recruiters Target Central Asian Migrants at Mosques, Dorms to Join War in Ukraine," RFE/RL, April 18, 2023, <https://www.rferl.org/a/russia-recruits-central-asia-migrants-ukraine-war/32369341.html> (accessed July 8, 2024).

Umida Hashimova, "Russia Continues to Target Central Asian Migrants for War Effort," The Jamestown Foundation, *Eurasia Daily Monitor* vol. 20 issue: 29, February 16, 2023, <https://jamestown.org/program/russia-continues-to-target-central-asian-migrants-for-war-effort/> (accessed July 8, 2024).

⁶⁰⁶ Federal law №138-FZ, art. 24(2)

⁶⁰⁷ Under Soviet law, individuals could be stripped of their citizenship for such crimes as treason, regardless of whether they were born in the USSR or were naturalized citizens.

banned as extremist, despite experts questioning its very existence.⁶⁰⁸ He then spent over two years in a migration detention center before authorities accepted that he had become stateless due to the decision and there was no other country to which they could remove him. Kim has remained at liberty but in legal limbo.

Similarly, in 2020, two Jehovah's Witnesses were stripped of their Russian nationality and expelled from Russia after serving sentences on extremism-related charges because Russian authorities also banned Jehovah's Witnesses as extremist.⁶⁰⁹

The new nationality law also introduced additional grounds for terminating citizenship: committing actions that threaten Russian national security.⁶¹⁰ This concept appears related to earlier provisions of the 2002 Nationality Law, where decisions granting naturalization could be withdrawn if it had been acquired with the “purpose of conducting activities threatening the foundations of constitutional regime.”⁶¹¹

Notably, the law outlines an extrajudicial process for revoking nationality on these grounds, in which the FSB would decide whether the person had committed such acts. This norm contains no safeguards against statelessness and no statutory limitations as to when naturalization was granted or when the alleged threatening acts occurred. Hence, a person can be stripped of Russian nationality, even if that is their only nationality and they will become stateless. Likewise, if the person has acquired Russian nationality since childhood (but not at birth) and lived their entire life in Russia and committed an act that the FSB deems “threatening Russian national security,” there are no safeguards or bars against revoking their nationality.

The law provides that the concerned individual would have 10 days to appeal such a decision in court, during which time they could not be removed. However, the practice in

⁶⁰⁸ “Said Nursi follower from Blagoveschensk is sentenced to real prison term” (“Последователь Саида Нурси из Благовещенска приговорен к реальному сроку”), Sova Center news release, June 20, 2017, <https://www.sova-center.ru/misuse/news/persecution/2017/06/d37322/> (accessed June 18, 2023).

⁶⁰⁹ “Jehovah's Witness is stripped of [Russian] nationality,” Sova Center news release, May 19, 2020, <https://www.sova-center.ru/misuse/news/persecution/2020/05/d42416/> (accessed June 18, 2023).

⁶¹⁰ Federal law 138-FZ of April 28, 2023, art. 26.

⁶¹¹ Federal Law №62-FZ of May 31, 2002, art. 22.

other cases involving FSB decisions on threats to national security likely demonstrates the futility of such a process.

For example, Vanessa Kogan is the former director of the human rights organization Astreya, the partner group, which has since closed, of Stichting Russian Justice Initiative, an NGO, specializing in litigation and advocacy at the European Court of Human Rights (ECtHR). In 2020, after applying for Russian nationality after legally residing in Russia for many years and having a Russian family, her request was rejected based on an FSB decision alleging she posed a threat to national security.⁶¹² She was ordered to leave Russia in 15 days but managed to suspend the expulsion, pending a ruling of the ECtHR. Kogan left Russia in 2021.

It was only during her appeal before a local court that she learned about the existence of an FSB report that had presumably been the basis for the decision. However, she was denied access to it based on the claim it contained classified information. The court stated that the FSB had exclusive competence to assess whether foreign citizens represented a threat to national security, defense interests, public order, or public health, and that the court did not evaluate whether the relevant authorities had or had not acted reasonably when issuing administrative decisions.⁶¹³ The ECtHR found that in making their decision, Russian authorities pursued an ulterior purpose of punishing her and her spouse for their human rights activities and preventing them from continuing human rights work in Russia.⁶¹⁴

As noted earlier, these provisions of nationality law contain no safeguards against statelessness. Russia signed but never ratified the European Convention on Nationality,⁶¹⁵ which among other things restricts the grounds for deprivations of nationality, nor the 1961 UN Convention on the Reduction of Statelessness.⁶¹⁶

⁶¹² Damelya Aitkhozhina, “Human Rights Lawyer Ordered to Leave Russia,” Human Rights Dispatch, December 2, 2020, <https://www.hrw.org/news/2020/12/02/human-rights-lawyer-ordered-leave-russia>.

⁶¹³ See European Court of Human Rights judgment in case of *Kogan and Others v. Russia* (Application no.54003/20), dated March 7, 2023 (accessed June 18, 2023). The ECtHR found that she was denied procedural guarantees and her right to private and family life were violated.

⁶¹⁴ Ibid.

⁶¹⁵ Chart of signatures and ratifications of Treaty 166, Council of Europe website, <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatyenum=166> (accessed June 16, 2023)

⁶¹⁶ States Parties to the 1961 Convention on the Reduction of Statelessness, UNHCR website, <https://www.unhcr.org/media/32358> (accessed June 30, 2024).

On July 21, 2023, a group of senators submitted a new bill that sought to extend the same grounds for stripping Russian nationality to all citizens, including those who acquired it at birth.⁶¹⁷ If adopted, the bill would have exposed all Russian opposition and anti-war activists to the risk of statelessness and the legal limbo that it entails. However, after the chair of the senate's constitutional committee, Andrey Klishas, strongly criticized the bill, pointing out that terminating Russian nationality for those who acquired it at birth contravenes the Russian Constitution,⁶¹⁸ three of the four senators who initiated the draft bill withdrew their signatures from it.⁶¹⁹ The bill also received negative feedback from the Duma committee on legislation and the Russian government.⁶²⁰ In January 2024, the Duma dropped the bill.⁶²¹ The resolution of the issue reinforced the differences in protections against loss of nationality between those who acquire Russian nationality at birth and those who are naturalized.

2024 Law: Confiscation of Property for False Information about the Armed Forces and Other Offenses (Amendments to the Criminal Code and Criminal Procedure Code)

In January 2024, 395 MPs submitted a bill to enable authorities to confiscate the property of those convicted on several charges introduced or expanded in the wake of Russia's full-scale invasion of Ukraine. Parliament adopted the bill, and the president signed it into law on February 14.

The law allows the confiscation of assets gained from dissemination of false information about Russia's armed forces and assets used to finance public calls against Russia's security or for the implementation of the decisions of international organizations.

⁶¹⁷ Bill "On Amendments to the Federal law 'On Nationality of the Russian Federation'" № 407652-8, <https://sozd.duma.gov.ru/bill/407652-8> (accessed July 2, 2024).

⁶¹⁸ "Klishas spoke against bill to strip nationality acquired at birth" ("Клишас высказался против законопроекта о лишении гражданства, полученного по рождению"), Interfax news agency, July 21, 2023, <https://www.interfax.ru/russia/912757> (accessed June 30, 2024).

⁶¹⁹ Laura Keffer, "Three out of four authors of the bill on stripping Russian nationality acquired at birth withdrew their signatures" ("Трое из четырех авторов законопроекта о лишении гражданства РФ по рождению отозвали подписи"), *Kommersant*, July 24, 2023, <https://www.kommersant.ru/doc/6123116> (accessed June 30, 2024).

⁶²⁰ "The Duma did not support a bill to strip Russian nationality obtained at birth" ("В Госдуме не поддержали законопроект о лишении гражданства по рождению"), *Vedomosti*, October 17, 2023, <https://www.vedomosti.ru/society/news/2023/10/17/1001121-v-gosdume-ne-podderzhali> (accessed June 30, 2024).

Maria Makutina, "The Russian government did not support the bill stripping nationality at birth" ("Правительство не поддержало законопроект о лишении гражданства по рождению"), *Vedomosti*, November 27, 2023, <https://www.vedomosti.ru/politics/articles/2023/11/27/1007953-grazhdanstva> (accessed June 30, 2024).

⁶²¹ See Legislative Support System website, Bill № 407652-8, <https://sozd.duma.gov.ru/bill/407652-8> (accessed July 2, 2024).

The law also increased penalties for public calls to conduct activities against Russia's security, if motivated by remuneration or hatred, and expanded the definition of such activities to include any sabotage activities.⁶²²

2022 Law on Extrajudicial Closure of Media, Blocking Websites for “Fakes” (Federal Law №277-FZ of July 14, 2022)

In April 2022, a group of MPs introduced a bill,⁶²³ allowing Russian authorities to extrajudicially shut down mass media and block online content for disseminating “false information” about the conduct of the Russian Armed Forces or other state bodies abroad, or for disseminating calls for sanctions against Russia. The bill also envisaged liability for licensed media reprinting or reposting such materials, and for disseminating information on “unauthorized” public events or calls to participate in them.

Parliament adopted the bill in early July. Putin signed it into law with immediate effect on July 14, 2022.⁶²⁴

In their explanatory note, the authors justified the bill by citing the alleged persistence of an “anti-Russian agenda,” the spreading of “illegal information” in media, and the need for “symmetrical” retaliation against foreign mass media in Russia in the event of hostile measures against Russian media abroad. They also emphasized the need to curb “dangerous online content” that causes “informational destabilization.”⁶²⁵

The new law introduced amendments to several laws,⁶²⁶ stripping mass media and journalists of many essential protections. The amendments enabled the Prosecutor General's Office to extrajudicially suspend and cancel mass media registrations, broadcast

⁶²² See Legislative Support System website, Bill № 533912-8, <https://sozd.duma.gov.ru/bill/533912-8>, adopted February 14, 2022 (accessed July 2, 2024).

⁶²³ Bill “On Amendments to Certain Legal Acts of the Russian Federation” №101646-8 of July 14, 2022, <https://sozd.duma.gov.ru/bill/101646-8> (accessed July 2, 2024).

⁶²⁴ Federal Law “On Amendments to Certain Legal Acts of the Russian Federation” №277-FZ of July 14, 2022.

⁶²⁵ Explanatory note accompanying the Bill “On Amendments to Certain Legal Acts of the Russian Federation” №101646-8 of July 14, 2022, <https://sozd.duma.gov.ru/bill/101646-8> (accessed July 2, 2024).

⁶²⁶ Federal Law “On Measures of Influencing Persons Involved in Violation of Fundamental Human Rights and Freedoms of Nationals of the Russian Federation” №272-FZ of December 28, 2022; Federal Law “On Information, Information Technologies and Protection of Information” №149-FZ of July 17, 2006; Law of the Russian Federation “On mass media” №2124-I of December 27, 1991.

licenses and journalists' accreditations on a wide range of grounds, including for publishing false information about Russia's military, calls for sanctions and calls to mass violations of public order, justification of extremism, and disrespect to the state. Amendments also allowed the Prosecutor General to ban foreign mass media in Russia and cancel accreditations of foreign journalists, in retaliation for restrictions imposed on Russian media abroad.

Previously the Russian law on mass media explicitly provided that registration (licensing) of mass media could be voided only based on a court ruling, and its operations could be suspended or stopped by a court ruling or decision of the media's founders.⁶²⁷

The law also stripped journalists of protection for reprinting materials or information of other mass media, if they contained the above information outlined in this offense. Previously, journalists were mostly exempt from liability for direct republication of materials of other mass media.

A violation leads to suspension for up to three months; the second, up to six months. After the third violation, the prosecutor general or deputies impose a permanent ban on the offending mass media outlet or broadcaster by voiding their registration and/or license. Journalists with media outlets that commit these offenses, Russian or foreign, lose their accreditation.

The new provisions expanded information that Russian authorities deem illegal to include content that "discredits" the Russian Armed Forces, contains calls for sanctions or otherwise contains "illegal" or dangerous information or is disrespectful to Russian society, state, or constitution. To temporarily restrict access or permanently block "illegal" online content, the Prosecutor General's Office informs Roskomnadzor. The prosecutor general can decide to permanently block online resources in cases of repeated violation.

The new law eliminated an earlier procedure that required authorities to inform the administrators or owners of online content that they are in breach of law and allowed them to immediately comply with a demand to remove offending content to avoid having their website blocked by Roskomnadzor.

⁶²⁷ See Federal Law "On Amendments to Certain Legal Acts of the Russian Federation" №277 of July 14, 2022, art.1.

NOW AUTHORITIES CAN PROCEED DIRECTLY WITH RESTRICTING ACCESS OR PERMANENTLY BLOCKING ONLINE CONTENT WITHOUT EVEN INFORMING ADMINISTRATORS OR OWNERS WHICH MATERIAL, INFORMATION, PUBLICATION, OR BROADCAST THEY DEEM TO BE IN BREACH OF THE LAW. IT IS NOT CLEAR HOW ADMINISTRATORS OR OWNERS CAN CHALLENGE SUCH DECISIONS IN THESE CIRCUMSTANCES AND AVOID THEIR BEING ENFORCED

In the wake of Russia’s invasion of Ukraine, blocking of online content proliferated in Russia. The digital freedoms group, Roskomsvoboda, reported that between February 24, 2022 and mid-July 2022, over 5,500 websites were blocked, most of them due to a decision by the Prosecutor General’s Office.⁶²⁸

In 2022, according to the Prosecutor General’s Office, over 190,000 online resources were either blocked or deleted.⁶²⁹ Ten days after the law entered into force, the prosecutor general and Roskomnadzor blocked the website of the week-old *Novaya Rasskaz Gazeta* for “discreditation.” Authorities did not explain what information they deemed as “discrediting” the Russian Armed Forces or state bodies.⁶³⁰

The short-lived *Novaya Rasskaz Gazeta* was a new project launched by *Novaya Gazeta*, after the newspaper suspended its operations in Russia on March 28, 2022. The paper had received two warnings from Roskomnadzor for its war coverage and was at risk of having its license annulled.⁶³¹ In April, *Novaya Gazeta*’s staff launched a new outlet, *Novaya Gazeta.Europe*, which Roskomnadzor blocked a few weeks later.⁶³²

⁶²⁸ See “War censorship blocked more than 5000 websites” (“Военной цензурой накрыло более 5000 сайтов”), Roskomsvoboda analysis, July 11, 2022 (including mid-July updates), <https://roskomsvoboda.org/post/voen-cenzura-5300-saytov/> (accessed July 8, 2024).

⁶²⁹ “Prosecutor General’s Office: In 2022, 187 criminal cases were registered on the charges of ‘fakes about the army’” (“Генпрокуратура: В 2022 году зарегистрировано 187 уголовных дел о ‘фейках об армии’”), Roskomsvoboda news release, January 23, 2023, <https://roskomsvoboda.org/post/gp-187-ugolovok/> (accessed July 8, 2024).

⁶³⁰ See Telegram post to the account of “Free space | developed by Novaya Gazeta,” “The Prosecutor General decided that our new website Novaya.no must be blocked. For ‘discreditation.’ No explanation, for why” (“Генпрокуратура решила, что наш новый сайт Novaya.no необходимо закрыть. За «дискредитацию». Без объяснения, в чем она состоит”), July 24, 2022, https://t.me/novaya_no/47 (accessed July 8, 2024).

⁶³¹ Rinat Tairov, “Roskomnadzor blocked the website of the project of the *Novaya Gazeta* editorial team” (“Роскомнадзор заблокировал сайт проекта редакции «Новой газеты»»), *Forbes*, July 24, 2022, <https://www.forbes.ru/society/472453-roskomnadzor-zablokiroval-sajt-proekta-redakcii-novoj-gazety> (accessed July 8, 2024).

⁶³² Ibid.

In August 2022, Russian authorities slapped *Novaya Gazeta* with two fines, totaling 650,000 rubles (approx. US\$10,000), for alleged “abuse of media freedom.”⁶³³ In early September, a court annulled the newspaper’s media license on a pretext unrelated to “discreditation.” This effectively shut one of Russia’s most prominent and oldest independent media.⁶³⁴ *Novaya Gazeta*’s editor-in-chief, Dmitriy Muratov, received the Nobel Peace Prize in 2021.⁶³⁵

Russian authorities have asserted extraterritorial jurisdiction over this subject. Since February 2022, in at least three instances, Roskomnadzor demanded that providers and media outlets in Kazakhstan take down materials concerning the war in Ukraine.⁶³⁶ In January 2023, one of these outlets received a summons from a Russian court to appear in a lawsuit that Russian military prosecutors lodged against the outlet.⁶³⁷

In September 2022, a group of MPs introduced a complementary bill to further expand Russian authorities’ extrajudicial capacity to block webpages that suggest and provide information on how to fund Russia’s adversary during armed conflicts.⁶³⁸ The bill’s authors

⁶³³ “Novaya Gazeta” fined 350,000 rubles for abuse of media freedom” (“Новую газету» оштрафовали на 350 000 рублей за злоупотребление свободой”), *Vedomosti*, August 10, 2022, <https://www.vedomosti.ru/media/news/2022/08/10/935436-novuyu-oshtrafovali-na-350-000> (accessed July 8, 2024).

⁶³⁴ “The court annulled the license of *Novaya Gazeta*,” *Vedomosti*, September 5, 2022, <https://www.vedomosti.ru/media/news/2022/09/05/939196-sud-annuliroval-litsenziyu-novoi-gazeti> (accessed July 8, 2024).

⁶³⁵ The Nobel Peace Prize official website, “Dmitry Muratov,” <https://www.nobelprize.org/prizes/peace/2021/muratov/facts/> (accessed July 8, 2024).

⁶³⁶ See “Roskomnadzor demanded that Vlast takes down several news reports about Ukraine” (“Роскомнадзор требует от Власти удалить несколько новостей о войне в Украине”), Vlast news release, December 13, 2022, <https://vlast.kz/novosti/53007-roskomnadzor-trebuets-ot-vlasti-udalit-neskolko-novostej-o-vojne-v-ukraine.html> (accessed July 8, 2024);

“War in Ukraine: Roskomnadzor demanded that Ratel.kz take down an article about Russians’ perception of the “special operation” (“Война в Украине: Роскомнадзор потребовал от Ratel.kz удалить статью об отношении россиян к «спецоперации»), Radio Azattyq, August 11, 2022, <https://rus.azattyq.org/a/31983824.html> (accessed July 8, 2024).

⁶³⁷ “Ministry of Foreign Affairs of Kazakhstan reacted to the summons of Kazakhstani media outlet to a Russian court” (“МИД РК отреагировал на вызов казахстанского СМИ в российский суд”), *Forbes* Kazakhstan, February 6, 2023, https://forbes.kz/actual/massmedia/mid_rk_otreagiroval_na_vyzov_kazahstanskogo_smi_v_rossiyskiy_sud (accessed July 8, 2024).

⁶³⁸ See Bill № 197914-8, <https://sozd.duma.gov.ru/bill/197914-8> (accessed July 2, 2024).

justified the amendments by pointing to “increased activity of NATO countries against Russia’s security online.”⁶³⁹ President Putin signed it into law on November 2, 2023.⁶⁴⁰

⁶³⁹ Ibid., see explanatory note to the bill.

⁶⁴⁰ Federal Law “On Amendments to Article 15.3 of the Federal law ‘On Information, Information Technology and Protection of Information’ and Article 16 of the Federal law ‘On Freedom of Religion and on Religious Associations’” №526-FZ of November 2, 2023, <http://publication.pravo.gov.ru/document/0001202311020019> (accessed July 8, 2024).

V. Anti LGBT Laws

Introduction

Russian authorities use “traditional family values” discourse to enforce social conformity and to justify the adoption and enforcement of anti-LGBT laws. They also use it as part of their narrative about negative Western influence, which supposedly propagates and imposes LGBT rights narratives. The Russian government’s positioning of itself as the protector of “traditional family values” in a purported standoff against the “collective West” has only intensified with the full-scale invasion of Ukraine in February 2022.

LGBT people in Russia have long faced threats, bullying, and discrimination. But open hostility has increased since the adoption of the anti-“gay propaganda” law in 2013.⁶⁴¹ The law banned the “promotion of nontraditional sexual relations to minors.”⁶⁴² It has been used to shut down websites that provide valuable information and services to teens across Russia and to bar LGBT support groups from working with youth.⁶⁴³

While officials claim that the goal was to protect children, the law in fact directly harms children by denying them access to essential information and increasing stigma against LGBT youth and their families.⁶⁴⁴

Legislative amendments adopted since 2022 mark a full-on attack on LGBT people in Russia. They expanded the propaganda law to effectively ban public discussions about sexual orientation and gender identity; bylaws clarified that “propaganda” entails any

⁶⁴¹ Human Rights Watch, *No Support: Russia’s “Gay Propaganda” Law Imperils LGBT Youth*, (New York: Human Rights Watch, 2018), <https://www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth>.

⁶⁴² Federal Law “On Amendments to Article 5 of the Federal Law ‘On Protecting Children from Information Harmful to their Health and Development’” №135-FZ, of June 29, 2013, *Rossiyskaya Gazeta*, July 2, 2013, <http://www.rg.ru/2013/06/30/deti-site-dok.html> (accessed July 8, 2024).

⁶⁴³ Human Rights Watch, *No Support: Russia’s “Gay Propaganda” Law Imperils LGBT Youth*, (New York: Human Rights Watch, 2018), <https://www.hrw.org/report/2018/12/12/no-support/russias-gay-propaganda-law-imperils-lgbt-youth>.

⁶⁴⁴ Ibid. In its 2017 judgment concerning the 2013 law, the European Court of Human Rights ruled that Russian authorities violated the right to free expression and were discriminatory and specifically noted that it does not “serve to advance the legitimate aim of the protection of morals, and that such measures are likely to be counterproductive in achieving the declared legitimate aims of the protection of health and the protection of rights of others” and that “by adopting such laws 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.” See, *Bayev and Others v. Russia* (application nos. 67667/09, 44092/12 and 56717/12), judgment of June 20, 2017.

positive or even neutral information about queer people or relationships. They restrict any depiction of so-called “non-traditional relationships” to people over the age of 18. A 2023 law bans gender-affirming healthcare and changing gender markers in identity documents, dissolved marriages of transgender people, and banned them from adopting or fostering children.

A November 2023 Supreme Court ruling designated the “International LGBT Movement” as an “extremist organization.” The ruling—which, among other things, prohibits the rainbow flag as an extremist symbol—opened the floodgates to allow arbitrary prosecution and imprisonment of LGBT people and of anyone who defends their rights or expresses solidarity with them.

2022 Anti-LGBT Laws

Federal Laws no.178-FZ and no.179-FZ of December 5, 2022, Expanded Ban on LGBT “Propaganda” and Administrative Penalties

In summer 2022, several groups of MPs proposed legislation to expand the “gay propaganda” ban beyond minors. Among them was an initiative in July 2022 ⁶⁴⁵ that was returned to the authors because it lacked government review. Media reports suggest that this was done so that it would not compete with a similar bill developed by United Russia. ⁶⁴⁶

In August, a group of MPs submitted two other bills for government review. ⁶⁴⁷ One aimed to amend the Law on Information to expand the prohibition of “gay propaganda” to any information, not only for minors. The second introduced corresponding amendments to the sanctions under the Code of Administrative Offenses.

⁶⁴⁵ Bill “On Amendments to Certain Legal Acts of the Russian Federation Concerning the Ban on Information Propagating Non-traditional Sexual Relations” №165975-8 <https://sozd.duma.gov.ru/bill/165975-8> (accessed July 2, 2024).

⁶⁴⁶ Nataliya Zotova, Anastasiya Golubeva, “No more 18+. There will be a new law on gay propaganda in Russia. What and why will be banned” (“Больше не 18+. В России появится новый закон о гей-пропаганде. Что и почему окажется под запретом?”), BBC Russian Service, August 22, 2022, <https://www.bbc.com/russian/features-62577992> (July 8, 2024). In June, legislators from Russia-occupied Crimea proposed a similar bill, which was also returned because it lacked government review. See bill “On Amendments to the Code of Administrative Offenses” №138702-8, <https://sozd.duma.gov.ru/bill/138702-8> (accessed July 2, 2024).

⁶⁴⁷ Bill “On Amendments to Federal Law ‘On information, information technologies and protection of information and certain legal acts of the Russian Federation’” №217471-8 https://sozd.duma.gov.ru/bill/217471-8#bh_histras (accessed July 2, 2024).

And bill “On Amendments to the Code of Administrative Offenses” №217472-8 <https://sozd.duma.gov.ru/bill/217472-8> (accessed June 19, 2023)

United Russia deputy Alexander Khinshtein, one of the authors of the bill, stated that it would fully extend the ban “on that sort of propaganda among audiences of all ages—offline, media outlets, the internet, social media, as well as in cinemas,” with stricter punishment for violations.⁶⁴⁸

Both were submitted to parliament in late October 2022.

A Roskomnadzor representative told a reporter that the agency supported the bill, stating that “the popularization of deviant relations does not fit with traditional values of our society” and that “such information ... is dangerous for all of society.”⁶⁴⁹

In September, two MPs submitted to parliament a separate bill, aiming to expand the list of information forbidden for children to include information about voluntary childlessness, which they consider a “foreign ideology that forms destructive social behavior ... that is, runs against Russia’s traditional family values and state policy.”⁶⁵⁰ It did not advance in parliament.⁶⁵¹

Ahead of the second reading of the bills developed by MPs from the ruling party, Khinshtein proposed extending the ban on propaganda for “non-traditional sexual relationships or preferences” to include gender-affirming health care and pedophilia. From this listing it appears that he implicitly equated the three.

⁶⁴⁸ Aleksandr Pugachyov, Sergei Khazov-Cassia, “Russia’s LGBT Community Braces for More Persecution as Duma Readies Stricter Propaganda Law,” RFE/RL, July 28, 2022, <https://www.rferl.org/a/russia-lgbt-community-duma-propaganda-law/31963929.html> (accessed July 8, 2024).

⁶⁴⁹ Anna Narayeva, Yekaterina Grobman, “Bill increasing liability for LGBT propaganda will be adopted during autumn session” (“Законопроект об ужесточении ответственности за ЛГБТ-пропаганду примут в осеннюю сессию”) *Vedomosti*, September 5, 2022, <https://www.vedomosti.ru/society/articles/2022/09/06/939343-zakonoproekt-za-lgbt-propagandu> (accessed July 8, 2024).

⁶⁵⁰ Bill “On Amendments to Article 5 of the Federal Law ‘On Protection of Children From Information Harmful to their Health and Development’ №192054-8, <https://sozd.duma.gov.ru/bill/192054-8> (accessed July 2, 2024).

⁶⁵¹ In March 2023, this bill was retracted in view of non-compliance with review requirements, while the Duma Committee on Women and Family Affairs suggested to send the same amendments for additional review of relevant state bodies with a view for submission at a fall parliamentary session; however, when these amendments were added to the bill on “gay propaganda” ahead of the second reading, they were rejected by parliament. See information on the progression of the bill available at Duma’s database, Legislative Support System website, <https://sozd.duma.gov.ru/bill/192054-8> (accessed July 2, 2024).

He also added provisions for extrajudicial blocking of online content containing such “propaganda,” banning the sale of goods containing banned content, and extending the ban to advertising.

Furthermore, he introduced amendments that drastically expanded the earlier ban. They included extending the subject of the ban from information propagating “non-traditional relationships” to “demonstration of non-traditional relationships or preference,” information propagating pedophilia, and information that could induce a desire for gender reassignment.

During parliamentary debates, Khinshtein linked the new bill to Russia’s full-scale invasion of Ukraine, claiming that the fight against “non-traditional relationships” is one of the most important issues for Russia that has been invigorated, rather than overshadowed, by the “special military operation.” He claimed that this “operation” took place in people’s minds, not just on the battlefield, and that Russia is a stronghold for protecting “traditional values” while an LGBT revolution engulfs the West.⁶⁵²

The chairman of the Duma reinforced the narrative about supposed Western influence when the bill passed the third reading, stating that its adoption would “protect [Russian] children and the country’s future from darkness spread by the USA and European states.”⁶⁵³

The same rhetoric was echoed by other MPs. Deputy Duma Chair Anna Kuznetsova claimed that LGBT people are the most effective tool for destroying the country.⁶⁵⁴ The chair of the Duma’s Committee on International Affairs, Leonid Slutskiy, claimed that the bill is pursuing the protection of Russian youth from the alien values imposed by the West, while the chair of the committee on family, women and children’s affairs stated that Russia has its own way and does need “non-traditional relations” imposed by Europe.⁶⁵⁵

⁶⁵² Anastasiya Golubeva, “Spiritual war against the Satanism. How Duma debated on the complete ban of ‘gay propaganda’” (“Духовная война против сатанизма. Как в Думе обсуждали полный запрет “гей-пропаганды”), BBC Russian Service, October 17, 2022, <https://www.bbc.com/russian/news-63291777> (accessed June 30, 2024).

⁶⁵³ “Propaganda of non-traditional sexual relations is banned” (“Запрещается пропаганда нетрадиционных сексуальных отношений”), Duma news release, November 24, 2022, <http://duma.gov.ru/news/55838/> (accessed June 19, 2023).

⁶⁵⁴ United Russia party website, “State Duma discussed legal initiatives aimed against propaganda of non-traditional sexual relationships” (“В ГД обсудили законодательные инициативы, направленные против пропаганды нетрадиционных сексуальных отношений”), October 17, 2022, <https://moscow.er.ru/activity/news/v-gosdume-obsudili-zakonodatelnye-iniciativy-napravlennye-protiv-propagandy-netradicionnyh-seksualnyh-otnoshenij> (accessed June 30, 2024).

⁶⁵⁵ Ibid.

On December 5, 2022, President Putin signed both bills into law with immediate effect.⁶⁵⁶

The first of the new laws amended several laws, including laws on information and mass media, to introduce the ban on information and materials propagating “non-traditional sexual relationships or preferences,” as well as gender reassignment and pedophilia. It also extended the same ban to advertisements and the sale of goods, banned screening movies containing such materials, and tasked the Roskomnadzor with monitoring and blocking online resources containing such content.

The same law also amended provisions of two federal laws concerning protection of children and their rights by extending the ban introduced by the 2013 law to displays of “non-traditional sexual relations or preferences.” It also introduced a ban on information propagating pedophilia and “information that could induce desire for gender reassignment in children,” listing this information as harmful to children.

These amendments also stipulated that such materials, including, for example, images merely demonstrating gay couples holding hands, can be broadcasted only from 11 pm to 4 am, or as restricted paid content. Even announcements or messaging about such broadcasts must be marked as adult content and cannot contain any fragments of it.

So, for example, if a movie contains gay or queer characters, not only the restrictions on screening and viewing would apply, but even the trailer of such a movie would not be permissible if it contained those characters.

Similarly, these amendments banned streaming of such content unless the owners of the streaming service or platform ensure children are restricted from accessing it.

The other law amended the earlier administrative offense sanctions for “propaganda of non-traditional relations” to minors. Reference to minors was deleted from the simple unaggravated charge; it was also expanded to include “preferences” and “propaganda of gender affirmation.”

⁶⁵⁶ Federal Law “On Amendments to Federal Law ‘On Information, Information Technologies and Protection of Information’ and Certain Legal Acts of the Russian Federation” №178-FZ of December 5, 2022 and Federal Law “On Amendments to the Code of Administrative Offenses” №179-FZ of December 5, 2022.

Spreading such content to minors was reclassified as an aggravating circumstance. The list of aggravating circumstances was also expanded to include spreading such content online, or via mass media. And a combination of the two—spreading among children, online or via mass media—appears as a particularly aggravating circumstance. The amendments to the Code of Administrative Offenses also drastically increased the corresponding fines.

The maximum fines for individuals for an unaggravated offense were increased 20-fold to 100,000 rubles (\$1,123). Fines for managers of organizations or officials were increased four-fold to 200,000 rubles (\$2,282) and remained unchanged for legal entities.⁶⁵⁷

Fines for an aggravated offense (spreading to children or via internet or media) range from 100,000 to 200,000 (\$1,123 to \$2,282) for individuals, 200,000 to 400,000 (\$1,123 to \$45,64) for managers or officials, and from 1 to 2 million rubles (\$11,412 to \$22,824) for legal entities or a 90-day suspension of operations.

Fines prescribed for spreading the banned information to children online or via mass media double for individuals and managers/officials: from 200,000 to 400,000 (\$2,282 to \$45,64) and from 400,000 to 500,000 (\$4,564 to \$5,682) respectively; and jump to up to 5 million (\$57,061) for legal entities or a 90-day suspension of operations.

The same offenses perpetrated by a foreigner or stateless person would entail the same fines with subsequent deportation or up to 15 days in detention with subsequent deportation.

The amendments also introduced a new article penalizing spreading information among minors that demonstrates “non-traditional sexual relations and/or preferences” or is capable of inducing a desire to undergo gender transitioning.

Penalties include fines of 50,000 to 100,000 rubles (\$570 to \$1,123) for individuals, 100,000-200,000 (\$1,123 to \$2,282) for managers/officials and from 800,000 to 1,000,000 rubles (\$9,129 to \$11,412) or a 90-day suspension for legal entities.

⁶⁵⁷ The minimum fines were increased from 4,000 to 50,000 (\$45 to \$561) for individuals and from 40,000 to 100,000 (\$456 to \$1,123) for managers/officials.

The lawmakers did not specify or clarify what information or imagery, in their opinion, are capable of inducing desire for gender transition.

Spreading such information online or through mass media also doubles fines for individuals and managers/officials and increases the fines for legal entities to up to 4,000,000 rubles (\$45,649) (or a 90-day suspension). If a foreigner or stateless person perpetrated the same offenses, the same fines would be accompanied by deportation, or fines could be replaced with up to 15 days' detention (with subsequent deportation).

The same law also introduced a new article sanctioning “propaganda of pedophilia.”

Shortly after the adoption of the law, MP Khinshtein said he had filed a complaint against the Russian publishing house behind *Summer in a Pioneer Tie*, a book about infatuation between two members of the Soviet-era communist youth organization.⁶⁵⁸ In September 2022, Khinshtein called the book a provocation and proof of why such a law was needed.

Several Russian bookstores started wrapping books that could potentially trigger application of the new laws in non-transparent wrapping and marked them as 18+ or pulled them from shelves.⁶⁵⁹

Police opened several cases under new charges against transgender sex workers who advertised online, courts fined them, and ordered foreigners among them deported.⁶⁶⁰

Roskomnadzor issued fines against several Russian online streaming services, while others reportedly took down movies including “Brokeback Mountain” and “Call Me by Your

⁶⁵⁸ Anastasiya Shvetsova, Darya Mosolkina, “What is known about the first case under new charges for LGBT propaganda in Russia” (“Что известно о первом деле по новой статье за пропаганду ЛГБТ в России”), *Vedomosti*, January 10, 2023, <https://www.vedomosti.ru/society/articles/2023/01/10/958516-pervom-dele-propagandu-lgbt> (accessed June 19, 2023).

⁶⁵⁹ Sergey Dik, “Books authored by foreign agents are wrapped in film. And publications suspected of LGBT propaganda disappeared from bookshelves” (“Книги авторов-иноагентов обернули в пленку. А произведения, которые заподозрили в ЛГБТ-пропаганде, пропали с полок магазинов”), May 4, 2023, video clip, *Deutsche Welle*, <https://www.dw.com/ru/kak-v-rossii-poavilis-zapretnye-romany-i-povesti-03052023/video-65522183> (accessed June 17, 2023).

⁶⁶⁰ Olya Romashova, “‘The police are off the leash.’ Transgender sex workers are being expelled from Russia for “LGBT propaganda,” *Mediazona*, February 28, 2023, <https://en.zona.media/article/2023/02/27/propaganda> (accessed June 19, 2023). Iolina Gribkova, “Four men were sentenced for propaganda of LGBT in Krasnodar” (“В Краснодаре четырёх мужчин осудили за пропаганду ЛГБТ”), *Yuga.ru*, April 26, 2023, <https://www.yuga.ru/news/467827-v-krasnodare-chetyryokh-muzhchin-osudili-za-propagandu-lgbt/> (accessed June 19, 2023).

Name,” (both with a same-sex romance theme) and changed Russian dubbing of the American television show, “Sex and the City.”⁶⁶¹

In February 2023, Roskomnadzor developed bylaws outlining criteria for defining such propaganda.⁶⁶² These include information showing the attractiveness of queer relationships; information aiming to give a positive image of queer people; information that creates a “distorted image of the social equivalence of traditional and non-traditional sexual relationships”; and information that provokes interest in queer sexual relationships or positively frames or justifies gender affirmation.⁶⁶³

In June 2023, the Russian minister of health stated at parliamentary hearings that President Putin instructed the ministry to establish a new psychiatric institute to study the behavior of LGBT people.⁶⁶⁴ Local LGBT activists and human rights defenders have been concerned that it could lead to the official introduction of conversion therapy,⁶⁶⁵ which the UN independent expert on sexual orientation and gender identity has said could potentially amount to torture and has called for its ban.⁶⁶⁶

2023 Anti-LGBT Law

Federal Law №386-FZ of July 24, 2023, Ban on Gender Affirmation Treatment

⁶⁶¹ Yevgeniya Stogova, “Video streaming services received first protocols for violations of LGBT law” (“Видеосервисы получили первые протоколы о нарушении закона об ЛГБТ”), RBC, April 15, 2023,

https://www.rbc.ru/technology_and_media/15/04/2023/64396e719a79472d7f2f40d1 (accessed June 19, 2023)

⁶⁶² Order of the Federal Service on Supervision in Communications, IT and Mass Communications (Roskomnadzor) №25 of February 27, 2023, <http://publication.pravo.gov.ru/Document/View/0001202304170032?rangeSize=1&index=1> (accessed June 19, 2023). The order entered into force on September 1, 2023.

⁶⁶³ Ibid.

⁶⁶⁴ “Putin instructed to create a new psychiatry institute to study, among other things, behavior of LGBT people” (“Путин поручил создать новый институт психиатрии, где будут изучать в том числе поведение ЛГБТ-людей”), *Current Time*, June 16, 2023, <https://www.currenttime.tv/a/rossiya-lgbt/32461755.html> (accessed June 19, 2023).

⁶⁶⁵ Ibid., see also, “Punitive psychiatry could be applied to everyone’ – say human rights defenders regarding Putin’s “institute to study LGBT people” (“«Карательную психиатрию смогут применять ко всем». Правозащитники об «институте изучения ЛГБТ»”), *The Insider*, June 16, 2023, <https://theins.ru/news/262619> (accessed June 19, 2023).

⁶⁶⁶ “‘Conversion therapy’ can amount to torture and should be banned says UN expert,” OHCHR news release, July 13, 2020, <https://www.ohchr.org/en/stories/2020/07/conversion-therapy-can-amount-torture-and-should-be-banned-says-un-expert> (accessed June 19, 2023).

At the end of May 2023, a new bill banning gender-affirming health care was presented to the Russian parliament.⁶⁶⁷ It was signed into law on July 24, 2023.⁶⁶⁸

The bill was endorsed by nearly 400 MPs from all parties represented in the parliament and spearheaded by the speaker of the Duma, Viacheslav Volodin.⁶⁶⁹ He claimed that the authors of the bill wanted to protect the country from “diabolic policies” of the US that “propagate these new pseudo values,”⁶⁷⁰ and that Russia “is the only country that counteracts what is happening in the US, Europe and does everything for the protection of family and traditional values.”⁶⁷¹ During parliamentary hearings on the bill, he told the Health Ministry not to introduce any amendments “under the guise of concern for people’s well-being”; instead, he said, it should demonstrate its concern by “banning this vice.”⁶⁷²

Similarly, Pyotr Tolstoy, the Duma’s deputy chair, referred to the bill as “yet another step to protect national interests” from “perversions.”⁶⁷³ He dismissed concerns from the Health Ministry and the scientific community that adopting the law would lead to ethical, medical, and social problems, including an increase in suicides.⁶⁷⁴ He also claimed that “the Western transgender industry is trying to penetrate our nation, creating a window for their multi-billion dollar business.”⁶⁷⁵

⁶⁶⁷ Bill “On Amendments to the Federal Law ‘On Civil Registration Acts’ and Federal Law ‘On the Foundations of Protection of Public Health in the Russian Federation’” №369814-8 of July 24, 2023, <https://sozd.duma.gov.ru/bill/369814-8> (accessed June 19, 2023).

See also, Kyle Knight, “Russia Moves to Ban Trans Health Care,” commentary, Human Rights Watch Dispatch, June 2, 2023, <https://www.hrw.org/news/2023/06/02/russia-moves-ban-trans-health-care>.

⁶⁶⁸ Federal Law “On Amendment to Certain Legal Acts of the Russian Federation” №386-FZ of July 24, 2023.

⁶⁶⁹ Yelena Chernyshova, “Duma supported amendments on the ban on gender transition” (“Госдума поддержала поправки о запрете смены пола”), RBC, June 14, 2023, <https://www.rbc.ru/politics/14/06/2023/6489cd689a7947645c1e6dc9> (accessed June 30, 2024).

⁶⁷⁰ Ibid.

⁶⁷¹ Nadezhda Driamina, “Duma adopted law banning gender transition” (“Госдума окончательно приняла закон о запрете смены пола”), Euronews, July 14, 2023, <https://ru.euronews.com/2023/07/14/russia-lgbtq-vote> (accessed June 30, 2024).

⁶⁷² “Duma adopted law banning gender transition” (“Госдума приняла закон о запрете смены пола”), BBC Russian Service, July 14, 2023, <https://www.bbc.com/russian/articles/c97vpyuxy810> (accessed June 30, 2024).

⁶⁷³ “Trans Health Care, Families Bill Violates Rights”, Human Rights Watch news release, July 15, 2023, <https://www.hrw.org/news/2023/07/15/russia-trans-health-care-families-bill-violates-rights>

⁶⁷⁴ Ibid.

⁶⁷⁵ Pavel Vasilyev, Darya Guskova, “No loopholes’ for the transgender industry. The wildest quotes from Duma deputies discussing the bill banning legal transitioning in Russia,” *Mediazona*, June 15, 2023, <https://en.zona.media/article/2023/06/15/duma> (accessed May 6, 2024).

Notably, he directly linked the bill to Russia’s full-scale invasion of Ukraine. At the parliamentary hearing, he stated the bill should be adopted “because Russia has changed since the start of the special military operation” and that Russians fighting in Ukraine “must return to a different country.”⁶⁷⁶

Earlier, the chair of the Russia’s Investigative Committee, Alexandr Bastrykin, claimed that changing gender markers in identity documents without gender affirming surgery to avoid mandatory military service is cheating and undermines Russia’s defense capability.⁶⁷⁷

The initial bill banned gender-affirming health services and changing a person’s gender marker in identity documents.⁶⁷⁸ These provisions were not only discriminatory but would violate the rights to physical integrity and privacy.⁶⁷⁹ But lawmakers did not stop there; they pushed ahead with an even more restrictive bill to automatically dissolve marriages of transgender people, prevent trans people from adopting children or becoming foster parents, despite criticism from human rights lawyers, activists, and medical professionals.⁶⁸⁰

The new law introduced amendments to Russian Family Code provisions so that marriages of transgender people would be terminated on par with cases of the death of a spouse.⁶⁸¹ Previously, Russian courts have annulled transgender people’s marriages based on lawsuits filed by prosecutors.

Other amendments to the Family Code ban trans people from adoptions or taking guardianship over children.⁶⁸²

⁶⁷⁶ Ibid.

⁶⁷⁷ Erdni Kagaltynov, “Bastrykin called fraud changing gender identity markers in documents [without gender-affirming surgery]” (“Баstryкин назвал мошенничеством смену пола «на бумаге»”), *Kommersant*, May 11, 2023, <https://www.kommersant.ru/doc/5979141> (accessed June 30, 2024).

⁶⁷⁸ “Trans Health Care, Families Bill Violates Rights.” Human Rights Watch news release, July 15, 2023, <https://www.hrw.org/news/2023/07/15/russia-trans-health-care-families-bill-violates-rights>

⁶⁷⁹ Ibid.

⁶⁸⁰ Ibid.

⁶⁸¹ Federal Law №386-FZ of July 24, 2023, art. 1. This provision can be triggered if gender transition is documented by the Russian Civil Acts registry.

⁶⁸² Federal Law №386-FZ of July 24, 2023, art. 1.

Amendments to the law “On Civil Acts” in effect banned registration of gender reassignment in official documents without gender-affirming surgery,⁶⁸³ but the same law introduced amendments to the healthcare law explicitly banning gender-affirming medical interventions, including gender-affirming medication and surgery.⁶⁸⁴

The only exception the new law provided was for surgeries on intersex children.⁶⁸⁵ Such surgeries are medically unnecessary and nonconsensual; almost all these procedures carry a meaningful risk of harm and can be safely deferred.⁶⁸⁶

Provisions of the new law related to documentation would not have retroactive effect and exempted transgender people who have completed transition and obtained all documentation—identity and other official documents—prior to the law’s entry into force on July 24, 2023.⁶⁸⁷ But this exemption is limited to documentation, and does not apply to marriages, adoptions, or guardianship over children.

Tolstoy said, during parliamentary debate on the bill, that Interior Ministry data show that nearly 3,000 people in Russia changed their gender marker in identity documents between 2016 and 2022, around 900 of them in 2022.⁶⁸⁸

In November 2023, the Russian Supreme Court banned the “international LGBT movement” as an “extremist” organization, opening the door for even wider persecution of LGBT activists and allies (see below for details).

⁶⁸³ Ibid., art. 2. In line with this new provision, on August 15, 2023, the Ministry of Healthcare issued an order rescinding its Order “On Approval of the Form and Order of Issuing a Document Confirming Sex Reassignment by a Medical Organization” №850n of October 23, 2017, which provided for gender reassignment without gender-affirming surgery.

⁶⁸⁴ Ibid., art. 3.

⁶⁸⁵ Ibid.

⁶⁸⁶ “Trans Health Care, Families Bill Violates Rights,” Human Rights Watch news release, July 15, 2023, <https://www.hrw.org/news/2023/07/15/russia-trans-health-care-families-bill-violates-rights>.

⁶⁸⁷ Federal Law №386-FZ of July 24, 2023, art. 5.

⁶⁸⁸ See, State Duma website, “Session transcript of June 14, 2023,” <http://transcript.duma.gov.ru/node/6116/> (accessed June 30, 2024).

VI. Expanding Crimes against the State: Incitement, Treason, Confidential Cooperation, Undesirables

New laws described in this section expanded the definitions of treason and espionage. They include a new crime, of “confidential cooperation” with foreign states or organizations, which appears to mark an effort to intimidate critics reminiscent of the Soviet-era ban on foreign contacts. The authors of the treason amendments did not conceal their intent to instrumentalize the new provisions to target civil society groups, which they claimed foreign intelligence services supposedly use to access official secrets. Adjacent laws criminalized cooperation with international bodies, “to which Russia is not a party,” and involvement in “undesirable foreign organizations” outside Russia’s borders.

In 2023, authorities sent to Russian courts 101 cases for treason, espionage, and confidential cooperation, five times as many as they had in 2022, according to a media report based on Russian court data. Criminal prosecutions for involvement in “undesirable” organizations are on the rise, and the Prosecutor General’s regular, new designations of foreign organizations as “undesirable” widens the risk of criminal prosecution for civic activists.

2022 Amendments to the Criminal Code (Federal Law №260-FZ of July 14, 2022), on National Security

In May 2022, a group of MPs introduced a bill that amended and introduced new articles to the criminal code concerning national security.⁶⁸⁹ Parliament fully adopted it by early July, and Putin signed it into law on July 14, when it also entered into force.⁶⁹⁰

Some of the new criminal articles directly target free speech and could substantially increase the risk of criminal prosecution for Russian civic activists, journalists, and critical voices. These include articles criminalizing vaguely conceived “public calls for actions

⁶⁸⁹ See Bill “On Amendments to the Criminal Code and Criminal Procedure Code of the Russian Federation” №130406-8 of July 14, 2022, <https://sozd.duma.gov.ru/bill/130406-8> (accessed July 2, 2024).

⁶⁹⁰ With exception for provisions imposing criminal liability for violations of sovereign internet requirement concerning traffic that entered into force as of January 1, 2023. See Federal Law “On Amendments to the Criminal Code and Criminal Procedure Code of the Russian Federation” №260-F of July 14, 2022.

against state security,” displaying extremist or Nazi symbols, and involvement with foreign actors in “confidential cooperation” against Russia’s national security.

Born out of the ongoing war against Ukraine, the amendments also expanded the definition of treason in ways that expose independent thinkers and actors to increased risk of such charges. The new definition of treason covers people without access to state secrets and the new definition of espionage covers transferring information to a widened definition of “hostile agents” that include foreign and international organizations. Adjacent laws criminalized cooperation with international bodies, “to which Russia is not a party,” such as the International Criminal Court, and involvement in “undesirable foreign organizations” outside Russia’s borders.

Penalizing Public Calls against National Security

The new law criminalized public calls for actions against state security. The scope of the new article 280.4 also covered public calls to impede the work of national security services or their personnel. This is punishable by up to three years in prison.⁶⁹¹

Public calls made online or through mass media, by several people by prior agreement, or by someone abusing their official position are punishable by up to five years in prison. The heaviest penalties, up to seven years, are envisaged for “organized groups.”

A Russian free speech group noted that a “public call” can range from an address to a public assembly to a social media repost; there have been criminal cases in which people were held liable for a video that was seen by only two people.⁶⁹²

Russian human rights lawyer Pavel Chikov noted in a media interview that the ban on “impeding” the work of national security authorities or personnel could, in practice, criminalize any public criticism of the FSB. Chikov recalled that a 2018 suicide bomber attack on the FSB building in Arkhangelsk prompted an outburst of public criticism of the FSB on social media. The FSB retaliated with a wave of criminal prosecutions for social

⁶⁹¹ Federal Law №260-FZ of July 14, 2022, art. 1(8) and corresponding art.280.4 of the criminal code.

⁶⁹² “New criminal articles: prison terms for calls to actions against Russia and confidential cooperation with international organizations” (Сроки за призывы к деятельности против России и конфиденциальное сотрудничество с иностранными организациями: новые статьи в УК”) Mass Media Defence Centre recommendation, July 5, 2022, <https://mmdc.ru/services/comm on/sroki-za-naczistskuyu-simvoliku-i-prizvyv-k-deyatelnosti-protiv-rossii-deputaty-vveli-novye-stati-v-uk/> (accessed June 30, 2024).

media posts, some of which merely discussed the reasons behind the attack. Among those prosecuted and convicted was a journalist, on “justification of terrorism” charges.⁶⁹³

An addendum to this article listed around 30 criminal code articles whose offenses would be considered crimes against Russia’s security, which include various financial, narcotics, organized crime, and state secrets charges. They also include violation of rules and customs of war and illegal change of the state border.

The latter provision is particularly concerning because of Russia’s claims that it annexed the Crimean Peninsula of Ukraine in 2014 and four other Ukrainian regions in 2022.

“Confidential Cooperation”

This law introduces the new crime of “confidential cooperation with a foreign state, international or foreign organization” in activities that are “knowingly directed against Russia’s security.” The maximum penalty is eight years in prison.

These amendments apparently aim to close loopholes potentially left by the higher threshold for treason, and to send a chilling message to Russian journalists, opposition, and civic activists, reminiscent of the Soviet era-ban on contacts with foreigners. This article could potentially be used to prosecute anyone involved in international advocacy related to Russia.

According to the Russian human rights group First Department, authorities opened at least 40 criminal cases in 2023 against people who allegedly engaged in “confidential cooperation” with non-Russian nationals.⁶⁹⁴

It can easily be used against Russian opposition politicians. Many activists and political figures would regularly meet with foreign diplomats, statesmen, and international and foreign organizations, exchanging views and information, as political figures in many countries do. These have included Boris Nemtsov before his 2015 assassination in

⁶⁹³ Alina Ampelonskaya, “What will be punishable under the new criminal articles concerning national security – lawyers explain” (“За что будут привлекать по новым статьям УК о действиях против безопасности РФ? Объясняют юристы”), *Fontanka*, July 7, 2022, <https://www.fontanka.ru/2022/07/07/71470439/> (accessed July 8, 2024).

⁶⁹⁴ Human Rights Watch telephone interview with First Department staff person, July 26, 2024.

Moscow, Navalny until he was nearly fatally poisoned in 2020 and imprisoned in 2021, and many others. They also have been advocating for sanctions against kleptocrats and those responsible for grave human rights violations in Russia.

Many Russian independent political analysts, human rights defenders, civic activists, and journalists also regularly meet with foreign diplomats and international organizations, such as the United Nations, as well as peers and other counterparts from foreign organizations, including Human Rights Watch, to share information on their respective fields of expertise.

The law gives wide discretion to authorities to interpret such interactions as aimed at harming Russia's security and to prosecute activists. It follows nearly a decade of smear campaigns in which state and state-adjacent media have sought to construe civic groups' contacts with foreign counterparts and international donors' technical assistance as suspect, and to accuse pro-democracy activists of being on a Western payroll.⁶⁹⁵

Treason

In 2012, authorities expanded the definition of high treason to include providing any foreign state, international, or foreign organization "consultative or any other assistance" that is directed against Russia's security," thus potentially jeopardizing people who interact with such counterparts for legitimate purposes.

The authors did not conceal their intent to target civil society groups with the July 2022 amendments. Indeed, they justified the proposed amendment by insinuating that NGOs were a security risk and that foreign intelligence services are actively using them to access official secrets. This expansion of the treason definition in 2022 covered people who do

⁶⁹⁵Artiom Krechetnikov, "Why do they need 'Anatomy of a Protest' on NTV?" ("Зачем понадобилась 'Анатомия протеста' на НТВ?" BBC Russian Service, March 19, 2012, https://www.bbc.com/russian/russia/2012/03/120319_russia_ntv_analysis (accessed June 30, 2024); Oksana Trufanova, "NTV, that's enough! Human rights defenders demand criminal prosecution against the TV channel" ("НТВ, хватит!" Правозащитники требуют уголовных дел против телеканала"), Radio Liberty, May 16, 2018, <https://www.svoboda.org/a/29230213.html> (accessed June 30, 2024); See also, Hugh Williamson, "Russia's State-Affiliated TV, Police Target Activist. NTV Routinely Uses Stalking, Privacy Invasion, Harassment," commentary, Human Rights Watch dispatch, May 24, 2019, <https://www.hrw.org/news/2019/05/24/russias-state-affiliated-tv-police-target-activist>.

not have access to official secrets and so may not know the information they share could be classified.⁶⁹⁶

In April 2023, the Moscow City Court convicted prominent opposition politician Vladimir Kara-Murza on combined charges of treason, dissemination of “false information” about the conduct of the Russian Armed Forces, and involvement with an “undesirable organization.” The court sentenced him to 25 years in maximum security prison with an additional fine of 400,000 rubles (approximately US\$ 5,000), restriction of freedom for 1.5 years, and a ban on journalistic activities for 7 years.⁶⁹⁷

The amended law expanded the definition of espionage to include collecting, keeping, and transferring information to enemies that can be used against Russia’s armed forces or other state bodies during armed conflict or other military operations. The newly introduced notion of “enemy” includes foreign states, and international and foreign organizations. This broad definition exposes human rights and other experts, and journalists working or covering Russia to risk of treason charges.

In previous treason cases, once charges were pressed, Russian intelligence services had discretion to decide whether the information the suspect gathered could have been used against Russia. From the limited information available on treason trials, it appears forensic experts in such cases are FSB experts who are subordinate to investigation teams.⁶⁹⁸

In September 2022, leading Russian senator Andrei Klimov expressed regret that no one had been prosecuted for treason for having called for sanctions.⁶⁹⁹ Russian politicians and activists, including Navalny, have for years publicly supported targeted sanctions and

⁶⁹⁶ Margarita Aliokhina, Inna Sidorkina, Yevgeniy Pudovkin, “The case of Safronov: what are the problems with prosecution for high treason in Russia” (“Дело Сафронова: в чем проблемы с преследованием за госизмену в России”), RBC, July 7, 2021, <https://www.rbc.ru/society/07/07/2021/5f055bce9a794756a58b0717> (accessed June 30, 2024).

⁶⁹⁷ “Russia: Sentencing for Prominent Kremlin Critic,” Human Rights Watch news release, April 14, 2023, <https://www.hrw.org/news/2023/04/14/russia-sentencing-prominent-kremlin-critic>.

⁶⁹⁸ Margarita Aliokhina, Inna Sidorkina, Yevgeniy Pudovkin, “The case of Safronov: what are the problems with prosecution for high treason in Russia” (“Дело Сафронова: в чем проблемы с преследованием за госизмену в России”), RBC, July 7, 2021, <https://www.rbc.ru/society/07/07/2021/5f055bce9a794756a58b0717> (accessed June 30, 2024).

⁶⁹⁹ Nikita Viatchanin, “Traitors were offered a century of freedom. The state Duma considers it necessary to establish a life sentence for treason” (“Предателям предложили век воли не видать. В Госдуме считают необходимым установить пожизненный срок за госизмену,” *Parliamentary Newspaper*, September 14, 2022, <https://www.pnp.ru/social/predatelyam-predlozhili-vek-voli-ne-vidat.html> (accessed June 30, 2024).

promoted their own sanctions lists. It seems likely Klimov was implying they should be prosecuted as traitors, as was the case with Kara-Murza.

In 2023, authorities sent to Russian courts 101 cases for treason, espionage, and confidential cooperation, five times as many as they had in 2022, according to a media report, based on Russian court data.⁷⁰⁰ Journalists also noticed that investigations on these charges are now fast-tracked; if in the past it took an average of two years for such cases to reach trial, now it can take under a year.⁷⁰¹ And whereas previously those at risk were primarily scientists, military personnel, and employees of classified defense infrastructure enterprises, nowadays, they are increasingly “regular” people, accused of treason for donations to the Armed Forces of Ukraine,⁷⁰² arson attacks on draft offices, and social media posts about defection.⁷⁰³ Treason convictions have soared. Whereas in 2013, Russian courts issued four guilty verdicts on treason charges, in 2023, they issued 39, according to First Department.⁷⁰⁴

Evgeniy Smirnov, a human rights lawyer specializing in treason cases, criticized the arbitrariness in charging practices for state security offenses: “The same acts that did not constitute a crime two years ago, without any changes to the criminal code, are now punished with decades of imprisonment... The manner in which criminal code offenses are formulated, no one, even lawyers, can understand them. Now what is allowed and what is prohibited is at sole discretion of high-ranking law enforcement.”⁷⁰⁵

⁷⁰⁰ “In 2023, more than a hundred people in Russia became defendants in cases of treason and espionage” (“В 2023 году более ста человек в России стали фигурантами дел о госизмене и шпионаже”), *Mediazona*, December 21, 2023, (accessed July 29, 2024).

⁷⁰¹ Ibid.

⁷⁰² “Khabarovsk resident detained for donations to the Armed Forces of Ukraine. This is at least the second such case in the city this month” (“Жителя Хабаровска задержали за донаты ВСУ. Это как минимум второй такой случай в городе за месяц”), *The Insider*, April 11, 2023, <https://theins.ru/news/260854> (accessed June 30, 2024).

The FSB detained a Moscow resident for donations to the Armed Forces of Ukraine” (“ФСБ задержала жительницу Москвы за донаты ВСУ”) *The Insider*, April 11, 2023, <https://theins.ru/news/259885>.

⁷⁰³ Yuliya Selikhova, “A Traitor a Day” (“По предателю в день”), *Holod Media*, August 7, 2023, <https://holod.media/2023/08/07/po-predatelyu-v-den/> (June 30, 2024).

⁷⁰⁴ Human Rights Watch telephone interview with First Department staff person, July 26, 2024.

⁷⁰⁵ *Meduza*, Chto Sluchilos, “New Level of Political Repression in the RF” (“Новый уровень политических репрессий в РФ”) May 27, 2024, audio feed, YouTube, https://www.youtube.com/watch?v=V_Ne6cPMUvQ (accessed June 30, 2024).

The prosecution of journalist Ivan Safronov on treason charges highlight the threat to human rights that treason and “confidential cooperation”—both investigated and prosecuted by the FSB—imply in today’s Russia.

In September 2022, the Moscow City Court sentenced Safronov to 22 years in a maximum-security prison and a fine of 500,000 rubles (\$7,000 at the time).

Before detention, Safronov briefly worked as an advisor to the head of the Russian state space corporation, Roscosmos, for which he should have undergone security vetting.⁷⁰⁶ For almost a decade before that, Safronov was a reporter for Russia’s leading business media, where he covered Russia’s military-industrial complex.⁷⁰⁷ Safronov maintained his innocence and repeatedly stated that he was persecuted for his journalism.⁷⁰⁸

The case materials against Safronov were classified, but independent journalists managed to obtain a copy of the indictment.⁷⁰⁹ Independent investigative reporters were able to establish that the prosecution accused Safronov of surrendering classified information to Czech intelligence and to a German political analyst, who allegedly was also working for intelligence services. These reporters concluded that almost all the information for which Safronov was incriminated was available in open sources.⁷¹⁰ The court, however, refused to consider this or attach these findings to the case file.⁷¹¹

Safronov’s hearings were closed, and his defense lawyers faced immense pressure. In spring 2021, authorities opened a criminal case against his lawyer, Ivan Pavlov, for

⁷⁰⁶ Vladislav Trifonov, Sergey Mashkin, “Under pressure for notes” («Прессуют за заметки»), *Kommersant*, Issue no.119, July 9, 2020, <https://www.kommersant.ru/doc/4407925#id1919468>, p.1 (June 30, 2024).

⁷⁰⁷ Sofya Volyanova, “22 years for information from Wikipedia” (“22 года за информацию из «Википедии»”), Holod Media, September 7, 2022, <https://holod.media/2022/09/07/safronov-case/> (accessed June 30, 2024).

⁷⁰⁸ Ibid.

⁷⁰⁹ Katia Arenina, “Process. A story of how security services invented a case against Ivan Safronov” (“Процесс. Рассказ о том, как чекисты придумали дело Ивана Сафронова”), Proekt. narrative, August 29, 2022, <https://www.proekt.media/narrative/delo-ivana-safronova/> (accessed June 30, 2024).

⁷¹⁰ Ibid.

⁷¹¹ Sofya Volyanova, “22 years for information from Wikipedia” (“22 года за информацию из «Википедии»”), Holod Media, September 7, 2022, <https://holod.media/2022/09/07/safronov-case/> (accessed June 30, 2024).

publicizing investigation materials. In the autumn of 2021, he had to flee the country and shortly thereafter was designated a “foreign agent.” His other lawyer, Yevgeniy Smirnov, also had to leave the country, reportedly because of harassment by intelligence officers. A third was detained in June 2022 on charges of disseminating “false information against Russian Armed Forces” for a social media post.⁷¹²

Life Imprisonment for Treason

In April 2023, another law was adopted, increasing penalties for certain crimes, including treason.⁷¹³ The maximum punishment for treason was raised to include life imprisonment.

The same law also criminalized cooperation with international bodies, “to which Russia is not a party,” such as the International Criminal Court (ICC) or any ad hoc international tribunals that may be established to prosecute Russian officials and military personnel, as well as foreign courts.⁷¹⁴ Such cooperation is punishable by up to five years in prison.

Expanded Definition of “Undesirables” Crimes

The other amendments to the criminal code that entered into force in July 2022 effectively allowed Russian law enforcement to prosecute activists for any involvement outside Russia’s borders under “undesirables” charges. For example, a Russian activist who traveled abroad to participate in a conference that was co-organized by a blacklisted organization could risk criminal prosecution and imprisonment.

Several organizations designated as “undesirable” never even had presence or projects in Russia. Under Russia’s repressive “undesirables” laws, the Prosecutor General’s Office can designate as “undesirable” any foreign or international organization that allegedly undermines Russia’s security, defense, or constitutional order. The organization must then

⁷¹² Ibid.

⁷¹³ Federal Law 2023 “On Amendments to the Criminal Code of the Russian Federation and Article 151 of the Criminal Procedure Code of the Russian Federation” №157-FZ of April 28.

The same law also increased penalties for number of terrorism related crimes and expanded definition of sabotage.

⁷¹⁴ “Russia: Law Targets International Criminal Court” Human Rights Watch news release, May 5, 2023.

<https://www.hrw.org/news/2023/05/05/russia-law-targets-international-criminal-court> (accessed June 19, 2023).

cease its activities in Russia, and Russian citizens' continued involvement with such organizations carries a criminal penalty.

AS OF EARLY FEBRUARY 2024, 140 ORGANIZATIONS WERE BLACKLISTED AS “UNDESIRABLE,” WHILE RUSSIAN AUTHORITIES CONTINUED TO EXPAND THE LAW TO WIDEN THE SCOPE OF PEOPLE WHO CAN BE DESIGNATED “UNDESIRABLE” AND OF WHAT CONSTITUTES “INVOLVEMENT.”⁷¹⁵ AMONG THOSE BLACKLISTED ARE PROMINENT CIVIL SOCIETY DEVELOPMENT FOUNDATIONS, HUMAN RIGHTS GROUPS, AND INDEPENDENT RUSSIAN MEDIA, MANY OF WHOSE MEMBERS HAD TO LEAVE THE COUNTRY AND INCORPORATE FOREIGN ENTITIES TO CONTINUE THEIR WORK.

In January 2023, Russian authorities blacklisted the Sakharov Foundation as “undesirable.” Andrei Sakharov was a Soviet nuclear physicist, famous dissident, and a 1975 Nobel Peace Prize laureate. The Sakharov Foundation was created in the US in 1989 by Sakharov's widow and his American supporters to safeguard and promote his legacy. Banning the foundation as undesirable not only smears Sakharov's legacy, but also potentially endangers the numerous human rights defenders, independent journalists, pro-democracy activists and scientists, and cultural figures associated with the Sakharov Center in Moscow and its archives.⁷¹⁶ As noted above, in August 2023, a court ordered the forcible closure of the Sakharov Center.⁷¹⁷

Between April and July 2023, authorities also blacklisted five environmental groups, including Greenpeace and the World Wildlife Fund, potentially putting many Russian environmental defenders at risk.⁷¹⁸

⁷¹⁵ Russian Ministry of Justice website, “List of foreign and international NGOs, whose activities are undesirable in Russia” (“Перечень иностранных и международных неправительственных организаций, деятельность которых признана нежелательной на территории Российской Федерации”), <https://minjust.gov.ru/ru/documents/7756/> (accessed June 13, 2023).

⁷¹⁶ Tanya Lokshina, “Russia Designates Another Rights Organization as ‘Undesirable,’” commentary, Human Rights Watch dispatch, January 24, 2023, <https://www.hrw.org/news/2023/01/24/russia-designates-another-rights-organization-undesirable>.

⁷¹⁷ See the above section, “Smearing Critics as Foreign Agents.”

⁷¹⁸ Others include Bellona, a Norway-based environmental NGO that worked with Russian partners on nuclear and radioactive threats; The Altai Project, a small US-based charity that Russian authorities accused of “sabotaging” the construction of a gas pipeline to China; and the Wild Salmon Center, a US-based international conservation organization that aims to protect wild salmon and other fish species and their ecosystems. Russian authorities accused them of attempting to stifle Russia's economic development. Russian authorities made similar allegations against the WWF. They accused Greenpeace of engaging in “anti-Russian propaganda” and calling for Russia's economic isolation since the start of Russia's full-scale invasion of Ukraine.

In May, the authorities also added the Foundation Against Corruption to the “undesirables” list, creating yet another potential ground for prosecution for their supporters and members.

In July, Russian authorities blacklisted the Human Rights House Foundation, a Norway-based organization running an international network of human rights houses across Eastern Europe, the Western Balkans, and the Caucasus. The organization decried the move as a reprisal for their human rights work.⁷¹⁹ In January 2024, the authorities banned Article 19, the internationally renowned free speech organization.⁷²⁰

The activities of so-called undesirable organizations were first criminalized in May 2015.⁷²¹

In the first years after the 2015 adoption of the original undesirables law, leadership or participation in the activities of “undesirables” was generally prosecuted as an administrative offense punishable by a fine; however, a repeated violation within one year would qualify as a criminal offense with a maximum six-year prison sentence. Criminal liability could be invoked for a repeated “offense” only for leadership or participation in activities within Russia, and only if, prior to that, the accused had been sentenced at least twice within one year on the same charges as administrative offenses.

See “Russia declares Greenpeace an ‘undesirable organization,’” *Deutsche Welle*, May 19, 2023, <https://www.dw.com/en/russia-declares-greenpeace-an-undesirable-organization/a-65681257> (accessed June 30, 2024).

“WWF Russia cuts ties with global environment group, now labelled ‘undesirable’ by Moscow,” Reuters, June 22, 2023, <https://www.reuters.com/world/wwf-russia-cuts-ties-with-global-wildlife-fund-now-labelled-undesirable-by-2023-06-22/> (accessed June 30, 2024).

Mark Trevelyan, “Russia bans tiny U.S.-based NGO for ‘sabotaging’ vast gas pipeline,” Reuters, July 6, 2023, <https://www.reuters.com/business/energy/russia-bans-tiny-us-based-ngo-sabotaging-vast-gas-pipeline-2023-07-05/> (accessed June 30, 2024).

“Russia Labels U.S. NGO Wild Salmon Center an ‘Undesirable’ Organization,” *Moscow Times*, July 18, 2023, <https://www.themoscowtimes.com/2023/07/18/russia-labels-us-ngo-wild-salmon-center-an-undesirable-organization-a81880> (accessed June 30, 2024).

“What is Bellona environmental foundation” (“Что такое экологический фонд «Беллона»), *Kommersant*, April 18, 2023, <https://www.kommersant.ru/doc/5940290?from=spot> (accessed June 30, 2024).

⁷¹⁹ See “Statement on ‘undesirable organization’ designation,” Human Rights House Foundation statement, July 7, 2023, <https://humanrightshouse.org/statements/statement-on-undesirable-organisation-designation/> (accessed June 30, 2024).

⁷²⁰ See the Ministry of Justice’s registry of undesirable organizations, <https://minjust.gov.ru/ru/documents/7756/> (accessed July 8, 2024).

⁷²¹ Federal Law “On Amendments to Some Legislative Acts of the Russian Federation” №129-FZ of May 13, 2015 (Law on Undesirable Organizations).

Between 2019 and 2021, at least nine criminal cases were opened, all of them against alleged members of the Open Russia Civic Movement (ORCM). Russian authorities considered the movement affiliated with exiled former oil tycoon, Mikhail Khodorkovsky; ORCM members consistently denied that connection.⁷²² Activists received suspended sentences, mandatory labor, and, in two cases, prison terms for reposts on social media, or for participating in public debates or peaceful protests while allegedly displaying symbols linked to the blacklisted group.⁷²³

In June 2021, new amendments explicitly banned participation in the activities of “undesirable” organizations even outside Russia’s borders for Russian nationals, Russian legal entities, and stateless persons permanently residing in Russia.⁷²⁴ It also expanded the grounds for designation as “undesirable,” so that organizations that assist “undesirable” ones by serving as intermediaries can themselves be blacklisted as such.

In parallel with the June 2021 amendments, Russian parliamentarians worked on another bill to amend the criminal articles concerning undesirables.

In 2021, MPs sought to expand application of these criminal provisions beyond Russian territory, in line with the above ban, so that authorities could prosecute activists for participation in “undesirables” activities abroad. Previously they could only do so if activists were accused of involvement for something that occurred inside Russia. They also sought to lower the threshold for invoking criminal liability, so that only one prior administrative sentence would suffice for a “participation” charge, whereas previously it required two prior sentences, and eliminate any requirement for priors for “leadership” charges.

However, in the version of the law adopted in July 2021, territorial restrictions were reinstated, i.e., criminal liability could only be invoked for “offences” committed on Russian territory.⁷²⁵

⁷²² Damelya Aitkhozhina, “Russian Activist Spends Two Years Under House Arrest,” commentary, Human Rights Watch dispatch, January 22, 2021, <https://www.hrw.org/news/2021/01/22/russian-activist-spends-two-years-under-house-arrest>.

⁷²³ “Russia: Court Convicts Journalist for Activism. First Guilty Verdict in an ‘Undesirables’ Case,” Human Rights Watch news release, February 12, 2020, <https://www.hrw.org/news/2020/02/12/russia-court-convicts-journalist-activism>.

⁷²⁴ See art.2(2) of the 2021 Federal Law №230-FZ of June 28, 2021.

⁷²⁵ Federal Law “On Amendments to Article 284.1 of the Criminal Code of the Russian Federation” №292-FZ of July 1, 2021.

That 2021 law, however, still expanded the scope of the “undesirables” criminal articles. The term “leadership” of undesirables was replaced by “organization of activities” and a new group of acts were added—donating, gathering donations, or providing financing services for them became punishable with up to five years in prison. Neither “organizing activities” nor financial support charges require any prior administrative convictions; the first such “violation” can immediately trigger criminal prosecution.

The July 2022 amendments to “undesirables” articles introduced by Federal Law №260-FZ finally removed territorial restrictions, allowing Russian authorities to prosecute activists for affiliation with “undesirable organizations” even when the “offence” took place outside its borders.

Finally, amendments to criminal articles on “undesirables,” adopted in August 2023, expanded application of the charge for participation in activities of the “undesirables”: if previously the law required that the person had at least one prior unexpunged administrative or criminal conviction on “undesirables” charges, they can also be indicted on these charges if they had no prior “undesirables” convictions but have been convicted for involvement with “unregistered organizations” (see section on Foreign Agents above).

Authorities have targeted prominent Russian human rights defenders on absurd grounds for alleged involvement in undesirable foreign organizations. In September 2021, a court fined Igor Kalyapin, chair of the Russian group Committee against Torture, for allegedly “distributing materials” of an “undesirable” foreign organization.

The material in question was an article the Committee against Torture posted on its website in 2017, reporting that the Czech humanitarian group People in Need (PIN), blacklisted as “undesirable” in 2019, honored Kalyapin for his human rights work. A photograph of the awards ceremony and a link to PIN’s website appeared with the article. After 2019, the link no longer worked.⁷²⁶

⁷²⁶“Russia: Three Human Rights Groups Penalized,” Human Rights Watch news release, September 27, 2021, <https://www.hrw.org/news/2021/09/27/russia-three-human-rights-groups-penalized>.

In July 2021, the human rights project Team 29 announced its dissolution after authorities blocked its website and the lawyers learned that Russian authorities equated it with the Czech NGO “Společnost Svobody Informace,” which Russian authorities had earlier banned as undesirable.⁷²⁷

Russian authorities have also harshened their persecution of activists perceived to be affiliated with Open Russia.

In 2022, two activists indicted on these charges were sentenced to several years in prison. In May, Mikhail Iosilevich, an activist and entrepreneur, was sentenced to 20 months in prison for allegedly providing space at his café for an Open Russia event, even though it was, in fact, organized by another organization and Iosilevich maintained he had no connection to Open Russia.⁷²⁸ In July 2022, Andrei Pivovarov, former executive director of the Open Russia Civic Movement, was sentenced to four years in prison on charges of leading an “undesirable organization.”⁷²⁹

Involvement with an “undesirable” foreign organization was also among the charges on which opposition politician Vladimir Kara-Murza was sentenced to 25 years in prison in April 2023.⁷³⁰

In August 2023, police detained Grigoriy Melkonyants, the chair of Golos, the leading Russian independent election monitoring group, and raided the apartments of several members and perceived affiliates on allegations of continued participation in the European Network of Election Monitoring Organizations (ENEMO), despite Golos’s

⁷²⁷ “‘Team 29 no longer exists.’ Human rights organization announces its shutdown” (“‘Команды 29’ больше нет”. Правозащитная организация заявила, что прекращает свою деятельность”), BBC Russian Service, July 18, 2021, <https://www.bbc.com/russian/news-57881681> (accessed June 30, 2024).

⁷²⁸ “Authorities Double Down on Persecuting ‘Undesirables,’” Human Rights Watch news release, May 27, 2022, <https://www.hrw.org/news/2022/05/27/russia-authorities-double-down-persecuting-undesirables>.

⁷²⁹ Damelya Aitkhozhina, “UN must act now to stop Russia’s growing crackdown on activism and free speech,” commentary, Open Democracy, August 2, 2022, <https://www.hrw.org/news/2022/08/02/un-must-act-now-stop-russias-growing-crackdown-activism-and-free-speech>.

⁷³⁰ “Russia: Sentencing for Prominent Kremlin Critic,” Human Rights Watch news release, April 14, 2023, <https://www.hrw.org/news/2023/04/14/russia-sentencing-prominent-kremlin-critic>

“Russia: New Bogus Charge Against Opposition Politician,” Human Rights Watch news release, August 8, 2022, <https://www.hrw.org/news/2022/08/08/russia-new-bogus-charge-against-opposition-politician>

departure from the Network after it was designated undesirable in 2021.⁷³¹ In December 2023, a court extended his pretrial detention until April 17, 2024. His lawyer linked this with the start of Russia’s nationwide electoral campaign and presidential elections in March 2024.⁷³²

In early 2024, Russian courts issued at least three fines on charges of “involvement,” two for giving interviews and one for posting a link on social media to a publication that Russian authorities earlier blacklisted as “undesirable.”⁷³³

BY CONSTANTLY LOWERING THE THRESHOLD FOR PROSECUTION UNDER THE ALREADY HIGHLY CONTROVERSIAL “UNDESIRABLES” LAWS, RUSSIAN AUTHORITIES HAVE CREATED A CONVENIENT TOOL FOR PERSECUTING, INTIMIDATING, AND LOCKING UP CIVIC ACTIVISTS AND OPPOSITION FIGURES.

In February 2024, a group of Russian MPs introduced another bill amending the “undesirables” legislation.⁷³⁴ The bill’s authors seek to expand the definition of “undesirable organization” beyond foreign NGOs and extend it to a much broader range of entities, including those incorporated and funded by foreign governments or international or intergovernmental organizations. The only exception conceded by authors is for intergovernmental organizations of which Russia is still a member state.⁷³⁵ Together with

⁷³¹ “Pre-Trial Detention Of Human Rights Defender Grigory Melkonyants Extended Until January 2024,” Front Line Defenders, <https://www.frontlinedefenders.org/en/case/pre-trial-detention-human-rights-defender-grigory-melkonyants-extended-until-january-2024> (accessed May 25, 2024).

⁷³² “Detention of co-chair of ‘Golos’, Grigoriy Melkonyants was extended till January 17” (“Сопредседателю «Голоса» Григорию Мельконьянцу продлили арест до 17 апреля»), *Mediazona*, December 6, 2023, <https://zona.media/news/2023/12/06/golos> (accessed June 30, 2024).

⁷³³ “Buryat human rights defender was fined on charges of involvement with an undesirable organization for interview to TV Rain” (“Бурятскую правозащитницу оштрафовали по статье об участии в деятельности нежелательной организации за комментарий «Дождю»), *Mediazona*, January 25, 2024, <https://zona.media/news/2024/01/25/dozd> (accessed June 30, 2024).

“Bykov was fined by 10,000 rubles for interview with ‘undesirable’ media” (“Быкова оштрафовали на 10 000 рублей за интервью в “нежелательном” СМИ”), RFE/RL, February 6, 2024, <https://www.svoboda.org/a/bykova-oshtrafovali-na-10-000-rubley-za-intervjyu-v-nezhelateljnom-smi/32807274.html> (accessed June 30, 2024).

“St Petersburg resident was fined on ‘undesirable’ charge for reposting The Insider news in VKontakte [social media platform]” (“Петербуржца оштрафовали по статье о «нежелательной» организации за репост новости The Insider ‘Вконтакте’), *Mediazona*, February 6, 2024, <https://zona.media/news/2024/02/06/insider> (accessed June 30, 2024).

⁷³⁴ See Bill “On Amendments to Certain Legal acts of the Russian Federation” №549382-8, <https://sozd.duma.gov.ru/bill/549382-8> (accessed July 2, 2024).

⁷³⁵ “Amendments allowing designating foreign organizations founded by states have been developed in State Duma” (“В ГД разработаны поправки о возможности признания нежелательными в России иностранных организаций с госучастием”), State Duma press release, February 8, 2024, <http://duma.gov.ru/news/58774/> (accessed June 30, 2024).

this bill, the authors introduced amendments to other laws and corresponding amendments to administrative and criminal code provisions pertaining to “undesirables.”⁷³⁶ The State Duma adopted the bill in July 2024 and at time of writing it was pending approval of the Federal Council and the president.⁷³⁷

Demonstration of Extremist and Nazi Symbols

The 2022 criminal code amendments criminalized displays of extremist or Nazi symbols or other banned images (article 282.4). This is problematic because it is a disproportionate use of a criminal penalty for an offense that does not necessarily incite violence. It carries a penalty of up to four years in prison.⁷³⁸ The article is intended for repeat offenders and can be triggered if the individual has a prior administrative offense or criminal sentence for this offense.

There are exemptions to the administrative offense if the use of the symbol “forms a negative attitude towards such ideology and does not contain propaganda or condones Nazi or extremist ideology.”⁷³⁹ In practice, authorities may arbitrarily choose not to apply these exemptions.

For example, in June 2022, an Arkhangelsk court fined a person for a social media post, in which he compared an emblem of Ukraine’s Azov Regiment to the Wolfsangel, a Nazi symbol.⁷⁴⁰ The court noted that the accused had intended to propagate (neo)Nazi symbols and he explained to the court that he is an historian.⁷⁴¹ A Russian anti-extremism think

⁷³⁶ Ibid. See also, “A new bill allowing designating organizations founded by foreign state bodies was introduced [to the parliament]” (“Внесен законопроект о возможности признания нежелательными организаций, где учредителями выступают зарубежные госорганы”), State Duma press release, February 12, 2024, <http://duma.gov.ru/news/58785/> (accessed June 30, 2024).

⁷³⁷ The State Duma allowed any organization with foreign state involvement to be declared ‘undesirable,’” (“Госдума разрешила признавать «нежелательными» любые организации с участием иностранных госорганов”), *Meduza*, July 23, 2024, https://meduza.io/news/2024/07/23/gosduma-razreshila-priznavat-nezheletelnymi-lyubye-organizatsii-s-uchastiem-inostrannyh-gosorganov?utm_source=email&utm_medium=briefly&utm_campaign=2024-07-24 (accessed July 24, 2024).

⁷³⁸ See Federal Law №260-FZ of July 14, 2022, art.1(9) and corresponding Criminal Code art.282.4.

⁷³⁹ See addendum to Russian Code of Administrative Offenses, art.20.3.

⁷⁴⁰ See “A resident of Arkhangelsk was fined under article 20.3 Code of Administrative Offenses” (“Житель Архангельска оштрафован по ст. 20.3 КоАП”), SOVA Center for Information and Analysis news release, <https://www.sova-center.ru/misuse/news/persecution/2022/07/d46599/> (accessed June 30, 2024).

⁷⁴¹ Ibid.

tank group analyzed the publication and concluded that he was not condoning (neo)Nazi ideology.⁷⁴²

In December 2021, a court sentenced Maria Aliokhina and Liusia Stein of Pussy Riot, a Russian feminist protest and performance art group, to 15 and 14 days in detention, respectively for a photo of President Lukashenka of Belarus with swastikas, published in 2015.⁷⁴³

In June 2023, a court in Blagoveshchensk, in Russia's Far East, fined a former deputy of the regional legislative assembly on charges of demonstrating Nazi symbols for reposting a parody video on social media.⁷⁴⁴ In it, authors of the original video showed side-by-side a video clip of the "Us" ("Мы") music video of singer Shaman (Yaroslav Dronov), with a clip of a Nazi boy from the 1972 movie "Cabaret" singing "Tomorrow Belongs to Me," apparently to demonstrate their likeness.⁷⁴⁵ Shaman shot to fame after the start of the full-scale invasion of Ukraine with a number of "patriotic" music video releases.⁷⁴⁶

Russia's selective enforcement of its overly vague anti-extremism laws in order to outlaw, for example, political opposition and minority religious communities, highlights the concern that authorities will selectively enforce this new criminal provision on symbols to target critics.

Russian political opposition activists prosecuted in 2022 under the administrative offense of displaying "extremist symbols" risk criminal prosecution and imprisonment as recidivists. Russian authorities' list of "extremists" includes the late Alexei Navalny and

⁷⁴² Ibid.

⁷⁴³ Ibid.

⁷⁴⁴ "Former deputy was fined for comparing singer Shaman to a boy with swastika from the movie Cabaret" ("Экс-депутата оштрафовали за сравнение певца Shaman с мальчиком со свастикой из фильма «Кабаре»), OVD-Info news release, June 8, 2023, <https://ovd.news/express-news/2023/06/08/eks-deputata-oshtrafovali-za-sravnenie-pevca-shaman-s-malchikom-so-svastikoy> (accessed June 30, 2024).

⁷⁴⁵ The original "offending" parody video was posted on YouTube at: Ded Arkhimed"SHAMAN – WE red square parody from Ded Arkhimed" ("SHAMAN — Мы Красная площадь Пародия деда Архимеда"), April 26, 2-23, video clip, YouTube, <https://www.youtube.com/watch?v=6QkoJKEKULs> (accessed June 30, 2024).

⁷⁴⁶ "Shaman and Desolation: How did the author of the song 'I am Russian' became (the only) hope of the Kremlin musical propaganda?" ("SHAMAN и пустота: как автор песни «Я русский» стал (единственной) надеждой кремлевского музыкального агитпропа?"), RFI, March 25, 2023, <https://www.rfi.fr/ru/россия/20230325-shaman-и-пустота-как-автор-песни-я-русский-стал-единственной-надеждой-кремлевского-музыкального-агитпропа> (accessed June 30, 2024).

several of his aides and supporters,⁷⁴⁷ as well as organizations affiliated with him and his regional electoral campaign teams.⁷⁴⁸

In 2022, dozens of civic activists and independent municipal deputies and candidates were fined on charges of displaying extremist symbols for social media posts displaying symbols of Navalny's "Smart Voting" project, or just mentioning it, and for displaying the Foundation Against Corruption logo.⁷⁴⁹

A spike in the number of such cases in Moscow in the summer of 2022 apparently was linked to the municipal elections in autumn.⁷⁵⁰ An administrative offense sentence on charges related to extremism prevents candidates from running (see section on electoral rights).

Since the start of Russia's full-scale invasion of Ukraine in February 2022, several social media platforms refused to censor online content in line with Russia's war censorship laws. In response, in March 2022, Russian authorities banned Facebook, Instagram, and their parent company Meta as extremist.⁷⁵¹

⁷⁴⁷ "Russian authorities included Alexei Navalny in the registry of terrorists and extremists" ("Российские власти внесли Алексея Навального в реестр террористов и экстремистов"), BBC Russian Service, January 22, 2022, <https://www.bbc.com/russian/news-60124840> (accessed June 30, 2024). The "extremist" registry also includes Meta, the parent company of Facebook, Instagram, and WhatsApp.

⁷⁴⁸ Oхана Chizh, "Moscow court designated Navalny's projects extremist" ("Суд в Москве признал структуры Навального экстремистскими"), BBC Russian Service, June 9, 2021, <https://www.bbc.com/russian/news-57410686> (accessed June 30, 2024).

⁷⁴⁹ See, "Persecution under art.20.3 of the Code of Administrative Offenses ahead of Moscow municipal elections" ("Преследования по ст. 20.3 КоАП в преддверии муниципальных выборов в Москве"), SOVA Center for Information and Analysis news release, July 22, 2022, <https://www.sova-center.ru/misuse/news/persecution/2022/07/d46676/> (accessed May 14, 2024).

"Moscow court fined three activists for posts with symbols of 'Smart voting'" ("Московский суд оштрафовал трех активистов за посты с символикой "Умного голосования"), SOVA Center for Information and Analysis news release, July 1, 2022, <https://www.sova-center.ru/misuse/news/persecution/2022/07/d46544/> (accessed June 30, 2024).

"Court in Pskov fined a deputy for a 2017 photo with Navalny" ("Суд в Пскове оштрафовал депутата за фото с Навальным в 2017 году"), *Sever.Realii*, May 17, 2022, <https://www.severreal.org/a/sud-v-pskove-arestoval-munitsipalnogo-deputata-za-foto-s-navalnym-v-2017-godu-/31854972.html> (accessed June 30, 2024); Yelizaveta Nesterova, Yuliya Suguyeva, "The 'N' [Navalny] word. In Russia they started to punish for posts about 'Smart voting' – the number of such cases is growing" ("В России стали наказывать за посты об «Умном голосовании» — таких дел все больше"), *Mediazona*, February 10, 2022, <https://zona.media/article/2022/02/10/n-slovo> (accessed June 30, 2024).

⁷⁵⁰ "Persecution under Art.20.3 of the Code of Administrative Offenses ahead of Moscow municipal elections" ("Преследования по ст. 20.3 КоАП в преддверии муниципальных выборов в Москве"), SOVA Center for Information and Analysis news release, July 22, 2022, <https://www.sova-center.ru/misuse/news/persecution/2022/07/d46676/> (accessed June 30, 2024).

⁷⁵¹ "Russia: War's Supersized Repression," Human Rights Watch news release, January 12, 2023, <https://www.hrw.org/news/2023/01/12/russia-wars-supersized-repression>.

As a result of the aforementioned 2022 amendments, displaying symbols of these organizations, including, for example, Facebook’s or Instagram’s logo, entails an administrative fine, and, if repeated, leads to criminal prosecution.

In June 2022, the Supreme Court of Tatarstan banned the All-Tatar Public Center as extremist. Russian experts on anti-extremism disagreed with this designation, branding it unlawful and unfounded.⁷⁵²

In November 2023, following a closed-door hearing, the Supreme Court ruled in favor of the Ministry of Justice’s lawsuit banning the “international LGBT movement” as extremist for “inciting social and religious discord.”

The 2023 Supreme Court ruling outlawing the LGBT movement also banned the rainbow flag, which, by February 2024 had served as a basis for at least 11 administrative convictions.⁷⁵³ At least three groups supporting LGBT people’s rights shut down their operations due to risk of prosecution.⁷⁵⁴

In July 2023, a group of MPs introduced a bill that penalizes “public justification” or “propaganda of extremism,” equating it with public calls to engage in extremist activities.⁷⁵⁵ In their explanatory note accompanying the bill, its authors at first referred to cases of school shootings as part of the rationale for developing the new legislation. But they then switched their focus to the activities of foreign intelligence and foreign organizations “implemented using Russian public associations and individuals” and alleged that “global internet companies” can be used to widely disseminate false information and facilitate the organization of “illegal” public assemblies.⁷⁵⁶ The authors

⁷⁵² “Tatarstan’s Supreme Court ruled to liquidate All-Tatar Public Center” (“Верховный суд Татарстана постановил ликвидировать Всетатарский общественный центр”), SOVA news release, June 10, 2023, <https://www.sova-center.ru/misuse/news/persecution/2022/06/d46424/> (accessed June 15, 2023).

⁷⁵³ “Prosecutions under part 1, article 20.3 of the Code of Administrative Offenses for LGBT symbols” (“Преследование по ч. 1 ст. 20.3 КоАП за символику ЛГБТ-движения. 2024 год), SOVA news release, **July 11, 2022**, <https://www.sova-center.ru/misuse/news/persecution/2024/02/d49247/> (accessed June 30, 2024).

⁷⁵⁴ “Russia: First Convictions Under LGBT ‘Extremist’ Ruling,” Human Rights Watch news release, February 15, 2024, <https://www.hrw.org/news/2024/02/15/russia-first-convictions-under-lgbt-extremist-ruling>.

⁷⁵⁵ Bill “On Amendments to Article 280 of the Criminal Code of the Russian Federation” №403956-8 <https://sozd.duma.gov.ru/bill/403956-8> (accessed July 2, 2024).

⁷⁵⁶ Ibid.

then asserted that the proposed amendments aim to prevent “destructive influence” on Russian society and its “decay.” According to the MPs, “public justification” should be understood as public statements acknowledging the validity of ideas that Russian authorities have designated as “extremist” or urging support or replication of such ideas.⁷⁵⁷ On September 28, 2023, the parliament’s lower chamber adopted the amendments in first reading and at time of writing it remained pending.

⁷⁵⁷ Ibid.

VII. Censoring Historical Debate

Laws Protecting “Historic Truth” (Rehabilitation of Nazism/USSR Role in World War II)

Introduction

From 2020 to 2022, Russian authorities notably revamped efforts to monopolize the narrative about the USSR’s victory over Nazi Germany in World War II and seal it in legislation. This was part of wider official efforts to suppress legitimate speech that is at odds with official narratives about World War II, and Russian and Soviet history more broadly.⁷⁵⁸

The 2020 amendments to the constitution emphasized that Russia is the successor state to the USSR and enshrined in law the notion of “historic truth” that Russia undertakes to “protect.”⁷⁵⁹ In 2021, parliament adopted laws that ban comparisons between the USSR and Nazi Germany and criminalize insulting the memory of World War II veterans.

This was not the first time Russian lawmakers used legislation to protect “historic truth.” In 2014, Russia adopted a law penalizing “rehabilitation of Nazism,” which lawmakers interpreted as public denial of facts established by the Nuremberg Trials, public condoning of crimes perpetrated by the Axis Powers, dissemination of false information about the USSR’s actions during World War II, dissemination of disrespectful information about the Russian Military Glory and Protection of Motherland memorial dates, and public denigration of symbols of Russian military glory.⁷⁶⁰

This law effectively outlawed any critical debate about the role and conduct of the Red Army during the war. In the first verdict under this charge, issued in 2016, a court fined a man for a social media repost in which, among other things, he was accused of

⁷⁵⁸ In May 2009, then-President Medvedev even issued a decree establishing a Commission under the president “to counter attempts to falsify history harming interests of Russia.” It existed until 2012.

⁷⁵⁹ Art. 67.1(3).

⁷⁶⁰ Federal Law “On Amendments to Certain Legal Acts of the Russian Federation” №128-FZ of May 5, 2014

The original bill, introduced in 2009, did not progress in parliament until early 2014, following controversy over the poll on TV Rain on whether the sieged Leningrad should have been surrendered to save the residents. See, Howard Amos, “Russia Steps Up War on Nazi Imagery,” *Moscow Times*, May 14, 2015, <https://www.themoscowtimes.com/2015/05/14/russia-steps-up-war-on-nazi-imagery-a46582> (accessed June 30, 2024).

“rehabilitating Nazism” for discussing the partition of Poland between the USSR and Germany under the 1939 Molotov-Ribbentrop Pact.⁷⁶¹

The broader context for this legislation is an official move, according to rights experts working closely with Russian historians, to increasingly impose an official historical narrative glorifying the victory over Nazi Germany and other Soviet-era achievements, while downplaying, justifying, or, in some cases, contesting the facts of Stalin’s Great Terror and other Soviet era atrocities.⁷⁶²

These experts also note that authorities now pursue an aggressive historical memory strategy that marginalizes alternative viewpoints and puts independent thinkers and activists working on historical memory at risk of persecution.⁷⁶³

In an early example of this in 2014, the historian and philosophy professor Andrei Zubov was fired from his position at the Moscow State Institute of International Relations for

⁷⁶¹ The original article the man reposted on his social media account was “15 facts about Stepan Bandera or what Kremlin is silent about” concerned Stepan Bandera, Ukrainian ultra-nationalist considered to be Nazi collaborator, Organization of Ukrainian Nationalists (OUN) and Ukrainian Insurgent Army (UPA).

See “Russia’s Supreme Court upheld a conviction of Perm resident for rehabilitation of Nazism” (“Верховный суд РФ признал законным приговор, вынесенный жителю Перми за реабилитацию нацизма”), *Kommersant*, September 1, 2016, <https://www.kommersant.ru/doc/3078015> (accessed June 30, 2024).

See also, Yelena Shmarayeva, “Denial of deniers. How rehabilitation of Nazism is penalized in Russia and Europe,” (“трицание отрицателей. Как в России и Европе наказывают за реабилитацию нацизма”), *Mediazona*, April 25, 2017, <https://zona.media/article/2017/04/25/denial> (accessed June 30, 2024).

⁷⁶² For example, in recent years, state-affiliated organizations have tried to rewrite the history of the Stalin-era mass execution of Polish officers in the Katyn forest and at Mednoe, see Konstantin Konoplianko, “Funeral Commandos” (“Похоронная команда”), *Novaya Gazeta*, Issue no.96, August 30, 2019, and Anna Plotnikova, “Memorials in Mednoye and Katyn are under threat” (“Мемориальные комплексы в Медном и Катыни под угрозой”), Voice of America, March 17, 2021, <https://www.golosameriki.com/a/poland-russia-memorial/5817837.htm> (accessed June 30, 2024). Similarly, the state-funded Russian Military Historical Society claims that there are Soviet soldiers among Stalin Great Terror victims’ mass graves in Sandarmokh, to substantiate their claims that Finnish soldiers executed Soviet soldiers there. See Will Englund, “This Russian Forest symbolized Stalin’s brutality. Now some contend the Finns should share the blame,” *Washington Post*, September 14, 2019, https://www.washingtonpost.com/world/europe/this-russian-forest-long-symbolized-stalins-brutality-some-now-wonder-if-the-finns-had-a-hand/2019/09/13/c77c9346-c8ec-11e9-9615-8f1a32962e04_story.html (accessed June 30, 2024). See also, Oleg Boldyrev, “Dig down to a verdict: Why does the Investigative Committee need genocide cases from WWII?” (“Докопать до вердикта: зачем СК нужны дела о геноциде Второй мировой?”), BBC Russian Service, January 12, 2021, <https://www.bbc.com/russian/features-55486566> (accessed June 30, 2024).

⁷⁶³ FIDH *Russia: “Crimes Against History*, June 2021, issue no. 770a, https://www.fidh.org/IMG/pdf/russie-_pad-uk-web.pdf (accessed May 25, 2024).

publishing a commentary comparing Russia's occupation of Crimea and Nazi Germany's annexation of Austria in 1938.⁷⁶⁴

July 2021 Laws (Federal Laws no.278-FZ and no.280-FZ of July 1, 2021, Banning Comparing the USSR and Nazi Germany)

In October 2020, President Putin publicly supported a proposal for legislation banning any comparison between the aims and actions of the USSR and Nazi Germany,⁷⁶⁵ and in January 2021, he formally instructed parliament to draft it.⁷⁶⁶

The corresponding bill was introduced in parliament in early May and signed into law on July 1, 2021.⁷⁶⁷ It introduced a ban on equating the aims, decisions, or actions of the Soviet leadership or military to those of Nazi Germany or the Axis Powers during World War II, or denying “the decisive role of the Soviet people in the defeat of Nazi Germany,” as well as “the USSR’s humanitarian mission” during the liberation of European countries. The ban extends to public presentations and multimedia broadcasts online or via telecommunication.

In the bill’s explanatory note, the authors explicitly note that one of the bill’s purposes was to “protect historic truth.”⁷⁶⁸ Amendments to the administrative offenses code, adopted in 2022, set out corresponding penalties (see below).

In January 2023, a Russian publishing house published an abridged version of the book by American self-help author and blogger Mark Manson *Everything Is F*cked: A Book About*

⁷⁶⁴ “Professor Andrei Zubov is fired from MGIMO,” BBC Russian Service, March 24, 2014, https://www.bbc.com/russian/rolling_news/2014/03/140324_rn_professor_mgimo_fired (accessed June 30, 2024). In April the same year he was reinstated, but already in June had to leave due to expiration and non-renewal of his contract.

See also, Kirill Antonov, “Attendees of Andrei Zubov’s lecture had to be evacuated from a museum” (“Слушателей лекции Андрея Зубова эвакуировали из музея”), *Kommersant*, May 25, 2015, <https://www.kommersant.ru/doc/2734230> (accessed June 30, 2024).

⁷⁶⁵ “Putin supported an idea to ban comparing actions of USSR and Nazi Germany,” *Kommersant*, October 27, 2020, <https://www.kommersant.ru/doc/4549480> (accessed June 30, 2024).

⁷⁶⁶ “Putin instructed the Duma to ban equating roles of USSR and Germany during war” (“Путин поручил Думе запретить уравнивать роли СССР и Германии в войне), RBC, January 25, 2021, <https://www.rbc.ru/politics/25/01/2021/600efb3d9a794725c851dac1> (accessed July 8, 2024).

⁷⁶⁷ Federal Law “On Amendments to the Federal law ‘On Memorialization of the Victory of the Soviet People in the Great Patriotic War of 1941-1945’” №278-FZ of July 1, 2021, <https://rg.ru/documents/2021/07/06/fz278.html>.

⁷⁶⁸ Bill “On Amendments to the Federal Law “On Memorialization of the Victory of the Soviet People in the Great Patriotic War of 1941-1945”” №1166218-7 of July 1, 2021 (concerning ban on public equation of the role of USSR and fascist Germany during World War II), <https://sozd.duma.gov.ru/bill/1166218-7> (accessed July 2, 2024).

Hope.⁷⁶⁹ The publishing house censored out sections of the text, explaining that doing so was required by Russian law. The text in question concerned the Soviet Red Army's conduct in Poland during World War II, comparing it to that of Nazi Germany.

Another bill was signed into law on the same day in July 2021, banning the display or dissemination of images or speeches of leaders of groups, organizations, or movements condemned at the Nuremberg Trials or those who collaborated with them.⁷⁷⁰ This law blacklisted them as extremist materials.

The bill was originally introduced as part of the fall 2020 legislative crackdown. In the explanatory note accompanying the bill, its authors stated that they aimed to prevent glorification of Nazi criminals, referring to unspecified recent cases of public display of their images, as well as the availability of various merchandise online with such imagery.⁷⁷¹

However, as one of the immediate responses to the adoption of this law, bookstores started taking out books that contained the images of Nazi criminals, disregarding the books' actual contents and messaging.⁷⁷²

Furthermore, another bill, authored in April by Senator Turchak and MP Zanko, was signed into law in late December 2022.⁷⁷³ The new law set St. George's ribbon as one of the symbols of Russia's "military glory;" its misuse or abuse has therefore become a punishable offense under above mentioned provisions.

St. George's ribbon, a Russian Empire military symbol, was adopted by the Soviet military during World War II. Its aesthetic has been actively taken onboard by Russian authorities, in particular in the context of Russia's armed conflict with Ukraine since 2014.

⁷⁶⁹ Mikhail Dobrunov, "The publishing house explained the disappearance of the text from "Everything Is F*cked: A Book About Hope"" ("Издательство объяснило пропажу текста из «Все хреново»"), RBC, January 10, 2023, <https://www.rbc.ru/politics/10/01/2023/63bd842e9a79473f344b3f04> (accessed June 9, 2023).

⁷⁷⁰ See Federal Law "On Amendments to Article 6 of the Federal law 'On Memorialization of the Victory of the Soviet People in the Great Patriotic War of 1941-1945'" №280-FZ of July 1, 2021 and art. 1 of the Federal counter-extremism law.

⁷⁷¹ See, *ibid.*, timeline of the bill.

⁷⁷² See, for example, "Adolf Hitler is ousted from bookstores" ("Адольфа Гитлера прогоняют из книжных магазинов"), *Kommersant*, July 14, 2021, <https://www.kommersant.ru/doc/4899753> (accessed June 30, 2024).

⁷⁷³ Bill "On St George's Band and Amendments to Certain Legal Acts" №109180-8 of December 29, 2022.

Federal Law "On St George's Band and Amendments to Certain Legal Acts" № 579-FZ of December 29, 2022.

2021-2022 Amendments to Criminal and Administrative Offenses Codes (Federal Laws no.58-FZ and no.59-FZ of April 5, 2021, and Federal Law №103-FZ of April 16, 2022)

As part of the November 2020 wave of legislative amendments, MP Irina Yarovaya introduced two bills, one of which amended the criminal code (article 354.1)⁷⁷⁴ to expand the definition of rehabilitation [condoning] of Nazism and increase corresponding penalties. The other introduced administrative liability for legal entities.⁷⁷⁵ By early April 2021, both were adopted by parliament and signed into law.⁷⁷⁶

As noted earlier, prior to these amendments, rehabilitation of Nazism under the Russian criminal code included two thematic parts. One criminalized public denial of facts established by the Nuremberg Trials and public condoning of crimes perpetrated by the Axis Powers or dissemination of false information about USSR actions during World War II. The other penalized dissemination of disrespectful information about the Russian military glory and Protection of Motherland memorial dates, and public denigration of symbols of Russian military glory.

The initial version of the bill was limited to a proposal to include the use of the internet as an aggravating circumstance in the first part of this definition. However, the scope of the bill was drastically expanded ahead of the second reading in parliament.

⁷⁷⁴ The criminal articles on rehabilitation of Nazism first appeared in the Russian Criminal Code in 2014 after an uprising in Ukraine that Russian authorities portrayed as neo-Nazi driven coup d'état. See, for example, numerous addresses by President Putin during the armed conflict in Ukraine in February 2022.

⁷⁷⁵ Bill "On Amendments to Articles 3.5 and 13.15 of the Code of Administrative Offenses of the Russian Federation (Concerning Administrative Liability for Dissemination of Information Denying the facts Established by the International Military Tribunal, as Well as for Public Dissemination of False Information about Activities of USSR During WW2)" №1050733-7 of April 5, 2021, <https://sozd.duma.gov.ru/bill/1050733-7> (accessed July 2, 2024).

And Bill "On Amendments to Article 354-1 of the Criminal Code of the Russian Federation (Concerning Increased Liability for Rehabilitation of Nazism)" №1050812-7 of April 5, 2021, <https://sozd.duma.gov.ru/bill/1050812-7> (accessed July 2, 2024).

⁷⁷⁶ Federal Law "On Amendments to Articles 3.5 and 13.15 of the Code of Administrative Offenses of the Russian Federation" №58-FZ of April 5, 2021; Federal Law "On Amendments to Article 354-1 of the Criminal Code of the Russian Federation" №59-FZ of April 5, 2021, <https://sozd.duma.gov.ru/bill/1050812-7> (accessed July 2, 2024).

The first part of the rehabilitation definition was therefore expanded to also criminalize dissemination of false information about veterans of World War II.⁷⁷⁷ It also added perpetration by groups of people or using the internet as an aggravating circumstance.⁷⁷⁸

The second part of rehabilitation, concerning memorial dates and symbols of military glory, was also expanded to criminalize insulting the memory of “defenders of the Motherland,” as well as denigrating or humiliating World War II veterans. The amendments also drastically increased fines (10-fold) and expanded the list of penalties for rehabilitation of Nazism, to include incarceration for up to three years.⁷⁷⁹

The same law introduced aggravated circumstances for this part of the definition, which were lacking previously, to include perpetration of the offense by an organized or premeditated group or using mass media or the internet. The corresponding new penalties included a maximum penalty for aggravated offenses of up to five years’ imprisonment.⁷⁸⁰

The other 2021 law amending the Code of Administrative Offenses introduced similar changes regarding insulting World War II veterans in order to introduce liability for legal entities for the same offenses.⁷⁸¹

As the authors of the amendments explained, the rationale behind these provisions was to enable authorities to prosecute both individuals and legal entities for the same alleged offense.⁷⁸² As with the bill amending the criminal code, authors of the bill originally

⁷⁷⁷ The law also increased by 10-fold fines for such offense, in the absence of aggravating circumstances, to a maximum of 3 million rubles (\$34,234) (or equivalent of wages and other income for three-year period), added an additional penalty mandatory labor and a ban on certain occupations or activities. The maximum penalty of incarceration of up to 3 years in unaggravated offense remained the same—a three-year imprisonment.

⁷⁷⁸ Corresponding penalties were also increased: the minimum fine was increased 20-fold from 100,000 to 2 million rubles (\$22,822), the maximum, 10-fold to 5 million rubles (\$57,056) or in equivalent of wages and other income for a period of one to five years (increased from three years previously), the bar on certain occupations or activities was increased to five years. The maximum incarceration penalty of five years remained unchanged.

⁷⁷⁹ Other new additional penalties also included forced labor for up to three years with a ban on certain occupations and activities for up to three years.

⁷⁸⁰ Other penalties included a fine of between 2 and 5 million rubles (\$22,822 and \$57,056) and or equivalent of wages for one to five years, mandatory labor for up to five years with a ban on occupations and activities.

⁷⁸¹ In the Code of Administrative Offenses, this offense is titled not as “rehabilitation of Nazism” but as “abuse of freedom of the press” (art. 13.15). Federal Law “On Amendments to Articles 3.5 and 13.15 of the Code of Administrative Offenses of the Russian Federation” №58-FZ of April 5, 2021.

⁷⁸² Bill “On Amendments to Articles 3.5 and 13.15 of the Code of Administrative Offenses of the Russian Federation,” №1050733-7 of April 4, 2021, <https://sozd.duma.gov.ru/bill/1050733-7> (accessed July 2, 2024).

proposed somewhat restrained amendments to include only the part concerning denials of the facts established by the Nuremberg Trials and “false information” about the activities of the USSR.

However, ahead of the second reading, it was expanded to harmonize it with the criminal provisions and include veterans. The corresponding fines for legal entities were drastically increased to up to 5 million rubles (approx. \$70,000); and the penalty under a newly added offense was introduced at the same level.⁷⁸³

Authorities adopted these amendments several months after Alexei Navalny was sentenced on defamation charges for harshly criticizing people, including a World War II veteran, who appeared in state propaganda ads in support of the 2020 constitutional amendments (see above, section on defamation).⁷⁸⁴

In June 2022, parliament amended the Code of Administrative Offenses,⁷⁸⁵ introducing penalties for equating the USSR during WWII with Nazi Germany, as spelled out in the 2021 law described above. The maximum penalty for individuals is 15 days’ detention.⁷⁸⁶ Repeated violations may entail disqualification of officials for up to a year and a suspension of operations for legal entities for up to 90 days. These laws restrict legitimate free expression and have been used to persecute critics of the Kremlin and Soviet-era repression.

In late August 2022, a Moscow court sentenced opposition politician Leonid Gozman to a maximum penalty of 15 days’ detention on charges of equating, in a two-year-old social media post, the USSR and Nazi Germany, and stating that Stalin was worse than Hitler for unleashing a total war on his own people.⁷⁸⁷ After serving the term, he was immediately arrested again and, on September 14, sentenced again to another 15 days for a 2013 post,

⁷⁸³ The minimum penalty for legal entities was increased from 400,000 to 3 million rubles (more than 7-fold increase), the maximum penalty increased from 1 million to 5 million rubles (\$11,411 to \$57,056) (5-fold increase).

⁷⁸⁴ “Yarovaya suggested criminal liability for insulting veterans” (“Яровая предложила уголовное наказание за оскорбление ветеранов”), RFE/RL, February 22, 2021, <https://www.svoboda.org/a/31115518.html> (accessed June 30, 2024).

⁷⁸⁵ See Bill №8791-8 and Federal Law “On Amendments to the Code of Administrative Offenses” №103-FZ of April 16, 2022

⁷⁸⁶ See Code on Administrative Offenses, art.13. Penalties for individuals includes a 15-day detention and up to 50,000 rubles (\$561) fine for legal entities.

⁷⁸⁷ «Leonid Gozman is detained for 15 days after a post on Stalin and Hitler” (“Леонида Гозмана арестовали на 15 суток после поста о Сталине и Гитлере”), BBC Russian Service, August 30, 2022, <https://www.bbc.com/russian/news-62715196> (accessed June 30, 2024).

comparing SMERSH (abbreviation from *Smert shpionam*, “Смерть шпионам” – Death to Spies), an infamous Soviet counter-intelligence service, to the SS.⁷⁸⁸

Russian law enforcement has prosecuted similar cases under different charges in previous years as well, particularly cases that received extensive media coverage.

In January 2020, the Investigative Committee opened a criminal case against Nikolay Gorelov, a blogger from Kaliningrad, accusing him of rehabilitation of Nazism for what he termed a “satiric fantasy” piece.⁷⁸⁹ In it, he touches on the rape of German women by Soviet soldiers during World War II and imagines Hitler and Stalin in hell, praising the Red Army. Investigators later dropped the case due to expiration of statutory limitations.⁷⁹⁰

In September 2020, Aleksandr Bastrykin, chairman of the Investigative Committee, announced the establishment of a special division within the agency dedicated to investigating crimes related to “falsification of the history of the Motherland” and the rehabilitation of Nazism.⁷⁹¹

In an October 2021 interview, popular rapper Morgenshtern criticized lavish spending on annual Victory Day celebrations and questioned their purpose. Hours later, the Veterans of Russia movement filed a complaint calling for an inquiry for “denigrating historical memory and legacy”; Bastrykin ordered his remarks to be examined for “rehabilitation of Nazism.”⁷⁹² At time of writing, there was no information regarding the outcome of this case.

⁷⁸⁸ “Leonid Gozman is again detained for 15 days. This time for 2013 post about SMERSH and SS” (“Леонида Гозмана снова арестовали на 15 суток. Теперь из-за поста 2013 года про СМЕРШ и СС”), BBC Russian Service, September 13, 2022, <https://www.bbc.com/russian/news-62890846> (accessed June 30, 2024).

⁷⁸⁹ Yulia Paramonova, “Hitler and Stalin speak from hell. Criminal case for satire,” («Гитлер и Сталин говорят из ада. Уголовное дело за сатирический рассказ»), RFE/RL, January 14, 2020, <https://www.severreal.org/a/30374426.html> (accessed June 30, 2024).

⁷⁹⁰ Yulia Paramonova, “In Kaliningrad a case against a person accused of rehabilitation of Nazism is closed” (“В Калининграде прекращено дело против обвиняемого в реабилитации нацизма”), Sever.Realii, June 15, 2020, <https://www.severreal.org/a/30671709.html>

⁷⁹¹ Oleg Boldyrev, “Dig down to a verdict: Why does the Investigative Committee need genocide cases from WWII?” (“Докопать до вердикта: зачем СК нужны дела о геноциде Второй мировой?”), BBC Russian Service, January 12, 2021, <https://www.bbc.com/russian/features-55486566> (accessed June 30, 2024)

⁷⁹² “‘Nothing Else to Be Proud Of’: Russian Rapper Slammed for Questioning State Celebrations of WWII Victory,” RFE/RL, October 26, 2021, <https://www.rferl.org/a/russia-rapper-morgenshtern-victory-day/31530646.html> (accessed June 30, 2024).

In September 2021, police arrested a homeless man for burning a wreath at a World War II memorial, according to media, to dry his socks. Police first accused him of vandalism; the charge was later changed to “rehabilitation of Nazism” after the intervention of Bastrykin.⁷⁹³ The homeless man was placed in pretrial detention for two months in October 2021: there has been no subsequent news about the outcome of this case.

The number of criminal prosecutions on allegations of rehabilitation of Nazism has continued to increase since the start of the full-scale invasion of Ukraine in February 2022.⁷⁹⁴

In March 2023, Russian authorities opened a criminal case against staff of Memorial, accusing them of rehabilitation of Nazism, claiming that the organization’s database of victims of Soviet repression included individuals who had collaborated with Nazi Germany. Memorial, the international historical, educational, charitable, and human rights society, was co-laureate of the 2021 Nobel Peace Prize and shut down by authorities in December the same year. During subsequent Supreme Court hearings, the prosecutor alleged that Memorial was speculating on the topic of political repression in the Soviet Union and “creates the false image of the USSR as a terrorist state, [while] whitewashing and rehabilitating Nazi criminals.”⁷⁹⁵

Human rights experts also documented several incidents in recent years in which Russian authorities or their proxies use various means to persecute civil society organizations that

⁷⁹³ In the Urals region a homeless person was detained on accusation of “rehabilitation of Nazism” (“На Урале бездомного отправили в СИЗО, обвинив в реабилитации нацизма”), BBC Russian Service, October 4, 2021, <https://www.bbc.com/russian/news-58772819> (accessed June 30, 2024).

⁷⁹⁴ 42 persons were convicted in 2022 under various charges pertaining to rehabilitation of Nazism or desecration of memorials or memorial dates pertaining to military glory (arts. 354.1(1-4). See Judicial Department of the Russian Supreme Court statistical data, <http://www.cdep.ru/index.php?id=79> (accessed July 8, 2024).

See also, opinion of the Russian human rights watchdog OVD-Info noting drastic increase in the number of criminal cases under this charge: “ASTRA: a criminal case opened against a resident of Syktyvkar for a lemonade spilt on the Eternal Fire monument” (“ASTRA: против жителя Сыктывкара возбудили уголовное дело из-за разлитого на Вечный огонь лимонада”), OVD-Info news release, April 15, 2023, <https://ovd.news/express-news/2023/04/15/astra-protiv-zhitelya-syktyvkara-vozbudili-ugolovnoe-delo-iz-za-razlitogo-na> (accessed June 9, 2023).

⁷⁹⁵ “Arguments of the parties during hearings on liquidation of International Memorial,” (Выступления сторон в прениях по ликвидации Международного Мемориала”), Memorial news release, December 28, 2021, <https://www.memo.ru/ru-ru/memorial/departments/intermemorial/news/666> (accessed June 30, 2024).

Two weeks prior to that, Memorial’s Board issued a public statement explaining that their database of the victims of the political terror in the Soviet Union contained around 3 million entries and that they deleted the entries pertaining to persons convicted for collaborating with Nazis on occupied territories of the Soviet Union immediately after receipt of such information. See Explanation of the International Memorial Boards “Concerning mistakes in the International Memorials database” (По поводу ошибок в базе данных Международного Мемориала”), Memorial news release, December 13, 2021, <https://www.memo.ru/ru-ru/memorial/departments/intermemorial/news/649> (accessed July 8, 2024).

challenge the official version of history and prosecute independent researchers and activists for it.⁷⁹⁶

Stanislav Seleznev, a lawyer with the human rights project “Net Freedoms” (Setevye svobody, “Сетевые свободы”), who worked on “Nazism”-related cases stated that Russian authorities can prosecute for “any historic research and publications [stating] that anyone, other than Hitler’s army, committed war crimes [during World War II]” and noted that such cases increasingly target not those glorifying Nazism, but rather those criticizing Communism or comparing the actions of the Soviet Union and Nazi Germany armies during the war.⁷⁹⁷

New provisions introduced penalties for violating “extremism” laws that can be used to punish people for disagreeing with Kremlin narratives.

In September 2022, MPs introduced two bills concerning extremism.

One of the bills introduced amendments to administrative penalties for producing, possession, or dissemination of such “extremist materials.”⁷⁹⁸ On June 13, 2023, it was signed into law and entered into force in late June.⁷⁹⁹

Previously, a specific publication had to be added to the list of “extremist materials” to entail liability; under the new amendments, it suffices that “offending” materials fall under the broad and vague definition of extremist materials as defined under article 1 of the Russian counterextremism law. The penalties for this “offense” remained unchanged.⁸⁰⁰

⁷⁹⁶ FIDH, *Russia: Crimes Against History*, June 2021, https://www.fidh.org/IMG/pdf/russie-_pad-uk-web.pdf, pp. 28-43, (accessed July 8, 2024).

⁷⁹⁷ Anastasiya Golubeva, “Criminal Cases on Rehabilitation of Nazism in Russia: Authorities’ Attempt to Get Rid of Discussions about the Past” (“Уголовные дела о реабилитации нацизма в России: попытка власти избавиться от дискуссий о прошлом”), BBC Russian Service, March 15, 2023, <https://www.bbc.com/russian/features-64967805> (accessed June 12, 2023).

⁷⁹⁸ Bill “On Amendments to the Code of Administrative Offenses of the Russian Federation” №196560-8 of June 13, 2023, <https://sozd.duma.gov.ru/bill/196560-8> (accessed June 4, 2023).

⁷⁹⁹ Federal Law “On Amendments to the Code of Administrative Offenses of the Russian Federation” №231-FZ of June 13, 2023.

⁸⁰⁰ Up to 15 days for individuals and a fine of up to 1 million rubles (\$11411) for legal entities or forcible suspension of operations for up to 90 days.

The other bill in the package aims to amend the very definition of “extremist materials” in the law on counterextremism to ban maps, other images, and other publications “contesting the territorial integrity” of Russia.⁸⁰¹ In the explanatory note, the authors of the bill explicitly referenced maps designating Crimea as Ukrainian territory as one of such “offending” example.⁸⁰²

If the bill were to be adopted with its original wording, any such maps, images or other publications would be outlawed in Russia regardless of when they were published. It remained pending at this writing.

The Council of Europe Venice Commission has criticized the Russian counterextremism law and, in particular, its basic notions, such as the definition of extremism, for giving “too wide discretion in its interpretation and application, thus leading to arbitrariness.”⁸⁰³

This would considerably simplify for authorities the prosecution of alleged “offenders,” while increasing the danger for activists, dissidents, journalists, and anyone else who monitors and reports on the situation in the occupied and the annexed territories of Ukraine or posts online content related to the conflict.

⁸⁰¹ Bill “On Amendment to Article 1 of the Federal law ‘On Countering Extremist Activities’” №196548-8, <https://sozd.duma.gov.ru/bill/196548-8> (accessed June 4, 2023). In December 2022, the bill had passed a first reading.

⁸⁰² Ibid., see explanatory note accompanying the bill. Furthermore, in October 2022, Putin signed a law, which claimed that Russia unilaterally annexed occupied territories of Luhansk, Donetsk, Zaporizhzhia, and Kherson regions of Ukraine. See, “Putin signed laws on annexation of DPR, LPR, Zaporizhzhia and Kherson regions” (“Путин подписал законы о вхождении в состав РФ ДНР, ЛНР, Запорожской и Херсонской областей”), Interfax News Agency, October 5, 2022, <https://www.interfax.ru/russia/866323> (accessed June 4, 2023).

Yulia Gorbunova, “Fictitious Annexation Follows ‘Voting’ at Gunpoint,” commentary, Human Rights Watch Dispatch, September 30, 2022, <https://www.hrw.org/news/2022/09/30/fictitious-annexation-follows-voting-gunpoint>.

However, the exact geographical boundaries of the “new territories” annexed were not legally defined, and some of the territories were not under Russia’s effective control at the time and additional occupied territories were by Ukrainian armed forces since. See, for example, “Ukraine in maps: Tracking the war with Russia,” BBC News, March 9, 2023, <https://www.bbc.com/news/world-europe-60506682> (accessed June 4, 2023),

⁸⁰³ See “Russia - Federal laws on the FSB and extremism,” Venice Commission Newsletter, https://www.venice.coe.int/Newsletter/NEWSLETTER_2012_03/1_RUS_EN.html#:~:text=The%20Venice%20Commission%20recalls%20that,avoid%20all%20arbitrariness%20be%20taken (accessed June 4, 2023).

See also, the Opinion of the Venice Commission adopted by the Venice Commission at its 91st Plenary Session, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)016-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)016-e) (accessed June 4, 2023).

VIII. Censoring Education

Introduction

In 2020, Russian authorities, in an apparent attempt to control and curate narratives and public discourse, began tightening control over the content of educational activities, invoking the need to fight “foreign influence” and “protect history.”

For example, in October 2020, the prosecutor’s office initiated an inspection of one of the leading higher education institutions in the country, the Russian Academy of National Economy and Public Administration, which is directly affiliated with the presidential administration and considered to be one of the top schools for career public servants.

Among other things, authorities requested information about students and faculty involved in projects linked to foreign NGOs supposedly posing a threat to Russia, including those aimed at training election monitors, falsifying world and Russian history “in the interests of anti-Russian forces,” undermining traditional Russian moral values, discrediting authorities, “facilitating protest attitudes,” and “creating pro-American influence groups.”

Authorities also demanded information about students who participated in protests and whether they received payment, as well as university prevention programs aimed at reducing protest activities among youth.⁸⁰⁴

Federal Law №85-FZ, dated April 5, 2021

On November 18, 2020, a group of MPs—including Senator Andrei Klimov, chair of the Senate’s Ad Hoc Commission on Protecting State Sovereignty and Preventing Interference

⁸⁰⁴ Sergey Goriashko, Anastasiya Golubeva, “Authorities started looking for “pro-American influence groups” at the Russian Academy of National Economy and Public Administration. Why the presidential university is targeted by prosecutor” (“В РАНХиГС начали искать “проамериканские группы влияния”. За президентский вуз взялась прокуратура”), BBC News Russian Service, October 16, 2020, <https://www.bbc.com/russian/news-54577831> (accessed June 18, 2023). In March, the Academy was informed that prosecutors found violations in its Liberal Arts program, claiming it aimed at destroying “traditional values of the Russian society and distortion of history,” and that it violated constitutional provisions concerning children and contravened the 2021 National Security Strategy.

See “Prosecutors found “violation of traditional values at the Russian Academy of National Economy and Public Administration” (“Прокуратура нашла в РАНХиГС “разрушение традиционных ценностей”), BBC News Russian Service, March 16, 2020, <https://www.bbc.com/russian/news-60763950> (accessed June 18, 2023).

in the Domestic Affairs—introduced a bill banning educational activities that lack official authorization.⁸⁰⁵ By April 2021, the bill had been signed into law.⁸⁰⁶

One academic expert said the bill was “a continuation of the raft of foreign agents laws,” this time affecting educational institutions.⁸⁰⁷ In the bill’s explanatory note, lawmakers said that lack of legal regulation over educational activities enabled “uncontrolled realization by anti-Russian forces of a wide range of propaganda activities masquerading as education activities among school and university student communities, including those funded from abroad and aimed at discrediting Russia’s state policies, revision of history and undermining the constitutional order.”

Adopting the bill, the authors said, would help “counter [the spreading of] illegal information and anti-Russian propaganda” in these communities.⁸⁰⁸

THE NEW LAW REGULATES, UNDER THE NOTION OF EDUCATIONAL ACTIVITIES, EXTRACURRICULAR ACTIVITIES “IMPARTING KNOWLEDGE, EXPERIENCE, DEVELOPING ABILITIES, SKILLS, VALUES OR COMPETENCES FOR THE PURPOSES OF INTELLECTUAL, SPIRITUAL AND MORAL, CREATIVE, PHYSICAL AND PROFESSIONAL DEVELOPMENT OF A PERSON, AND SATISFACTION OF THEIR EDUCATIONAL NEEDS AND INTERESTS.”⁸⁰⁹

The law allows extracurricular educational activities only if they comply with requirements laid out in the amended law on education and other relevant legal acts and gives the

⁸⁰⁵ Bill “On Amendments to the Federal Law “On Education in the Russian Federation” №1057895-7 of April 5, 2021, <https://sozd.duma.gov.ru/bill/1057895-7> (accessed July 2, 2024).

Earlier, in May 2020, President Putin initiated another bill amending Federal Law on Education, which concerned the mandatory educational activities, and among other things expanded the definition of upbringing to include “respect to memory of defenders of the Motherland and heroic acts of the Heroes of Motherland.” It was signed into law in July same year.

See Federal Law “On Amendments to the Federal Law ‘On Education in the Russian Federation’ Concerning the Upbringing of Students” №304-FZ of July 31, 2020.

⁸⁰⁶ The Federal Law “On Amendments to the Federal Law ‘On education in the Russian Federation’” №85-FZ of April 5, 2021, entered into force on June 1, 2021.

⁸⁰⁷ Natalya Kostarinova, Alexandr Chernykh, “Educators will be screened for connections with Washington” (“Просветителей просветят на связь с Вашингтоном”), *Kommersant*, Issue no.4, January 14, 2021, <https://www.kommersant.ru/doc/4641656> (accessed June 30, 2024), p.5.

⁸⁰⁸ Explanatory note to the Bill “On Amendments to the Federal Law ‘On Education in the Russian Federation’” №1057895-7 of April 5, 2021, <https://sozd.duma.gov.ru/bill/1057895-7> (accessed July 2, 2024).

⁸⁰⁹ Federal Law №85-FZ, of April 5, 2021, art.1(1)

Russian government full control over the procedures, conditions, forms, and oversight relating to them.⁸¹⁰

Amendments explicitly ban educational activities on various grounds. Some of the grounds listed can be legitimate, such as preventing the spread of racial, ethnic, or religious enmity or superiority. But the list also includes “imparting false information about historic, national, religious and cultural traditions of nations.”⁸¹¹ This is an overly broad and highly subjective category that leaves the door open for arbitrary interpretation and censorship that violates the right to freedom of expression and to impart and receive information.

The law also authorizes the Education Ministry and Ministry of Science and Higher Education to coordinate international cooperation undertaken at all educational institutions.⁸¹² Educational establishments would have to receive “conclusions,” which amount to permission, from these ministries to be involved in a variety of international initiatives. These include international education or scientific programs; sending their students, professors, or researchers to foreign educational institutions; hosting foreign students, professors, or researchers; and joint scientific research projects.

Such permission would even be needed for organizing international conferences and exchanging research literature.⁸¹³ The law requires that education establishments obtain such permissions by September 1, 2022.⁸¹⁴

The Russian academic community criticized the bill as it was pending in parliament as harmful for the educational process and the freedom to receive and impart scientific ideas.

In January 2021, the Presidium of the Russian Academy of Sciences officially requested that the State Duma withdraw the bill.⁸¹⁵ The president of the academy explained that the

⁸¹⁰ Ibid., art.1(3).

⁸¹¹ Ibid.

⁸¹² Ibid., art.1(2).

⁸¹³ Ibid., art.1(5).

⁸¹⁴ Ibid., art.2.

⁸¹⁵ “Russian Academy of Science called for withdrawal of the bill concerning authorities’ control over educational activities,” (“В РАН призвали отозвать законопроект о контроле властей за просветительской деятельностью”), *Vedomosti*, January 13, 2021, <https://www.vedomosti.ru/society/news/2021/01/13/853910-v-ran-prizvali-otozvat-zakonoproekt-o-kontrole-zaprosvetitelskoi-deyatelnostyu-razzhigani-rozni> (accessed June 30, 2024).

bill would “impede the popularization of science [and] limit international scientific cooperation.” He also noted that many of the bill’s restrictive norms duplicate anti-extremism laws. The Russian Academy of Sciences sent the Senate a negative assessment of the bill and continued to oppose it even after consultations in the Senate.⁸¹⁶

Around the same time, over 1,700 Russian scientists and educators signed a declaration condemning the bill as the “state’s attempt to take control over the freedom to disseminate knowledge” and “very harmful for Russia’s scientific, cultural, and technological progress.”⁸¹⁷

The declaration’s authors stated that the concept of the bill was fundamentally malicious, unsalvageable, and that the idea of licensing or other regulation of [extracurricular] educational activities was “deeply insulting.” They stated that “knowledge is one of the basic values of civilizations” and that “disseminating knowledge is our life’s work, our profession and civic duty ... for which we need no permission.” They pledged to refuse to comply with the licensing system the law prescribes and with requirements “to submit the text of speeches, addresses or presentations for approval by state bodies.”⁸¹⁸

Another open petition supported the academics opposed to the measure and demanded that lawmakers withdraw the bill.⁸¹⁹ More than 240,000 people signed it. A number of MPs also criticized the bill, including a Communist Party MP, who said that if the authors “want to limit foreign influence, they should reflect it in the name of the law, but education has nothing to do with this.”⁸²⁰ Klimov dismissed his critics, accusing them of “aiding foreign powers.”⁸²¹

⁸¹⁶ «В РАН считают, что проект о просветительской деятельности нуждается в доработке» (Russian Academy of Sciences think the bill on educational activities needs further revision,” TASS News Agency, April 25, 2021, <https://tass.ru/obschestvo/11240027> (accessed June 30, 2024).

⁸¹⁷ “Declaration of scientists and educators popularizing science,” *Troitskiy Variant*, January 12, 2021, Issue no. 320, p.1, <https://trv-science.ru/2021/01/declaration/> (accessed June 30, 2024).

⁸¹⁸ Ibid.

⁸¹⁹ See petition online at <https://www.change.org/p/государственная-дума-рф-против-поправок-о-просветительской-деятельности-1e6d7a97-a61a-49b9-a7a7-80da49172ccf> (accessed July 8, 2024).

⁸²⁰ Natalya Kostarinova, Alexandr Chernykh, “Educators will be screened for connections with Washington” (“Просветителей просветят на связь с Вашингтоном”), *Kommersant*, Issue no.4, January 14, 2001, <https://www.kommersant.ru/doc/4641656> (accessed June 30, 2024), p.5.

⁸²¹ Ibid. Senator Klimov also reportedly claimed that negative feedback to the bill was coming from outside Russia and that a decision to derail the initiative was made in Washington even before the bill was introduced in parliament.

Sergey Lukashevskiy, director of the Sakharov Center, an independent human rights research and education center, said in a media interview that the law does not define what sort of “false information” the bill would ban, and that state bodies would use their own discretion to decide which point of view is true or false.⁸²²

In 2022, Russian authorities also implemented additional measures that impede international cooperation between Russian educational institutions and European counterparts.

In May, the minister of science and higher education announced that Russia intended to abandon the Bologna Process, which aims to bring more coherence to higher education systems across Europe through mutual recognition of qualifications.⁸²³ In June, it “recommended” all Russian universities end cooperation under Erasmus+, the European Commission program of student mobility.⁸²⁴

Other oppressive tools, such as “undesirable” and foreign agents legislation, have also had a negative impact on international cooperation in education in Russia. In June 2022, the Social Sciences Laboratory, a project that developed scholarship programs and methodology for teaching social sciences, announced that it had closed after authorities notified it to register as a foreign agent. Even though the project had announced its closure, the Ministry of Justice added it to the foreign agent registry a few days later.⁸²⁵

Also in June 2021, the Prosecutor General’s Office blacklisted Bard College, a private US-based liberal arts college, as “undesirable.” Bard had partnered with one of the leading Russian state universities in St. Petersburg; the two institutions had planned to establish a

⁸²² Olga Allenova, “Unprecedented attack on our civil and political rights” (“Беспрецедентное наступление на наши гражданские и политические права”), *Kommersant*, December 5, 2020, <https://www.kommersant.ru/doc/4602496> (accessed June 30, 2024).

⁸²³ See European Commission information for more details on the Bologna Process and the European Higher Education Area, <https://education.ec.europa.eu/education-levels/higher-education/inclusive-and-connected-higher-education/bologna-process>

⁸²⁴ “Ministry of Education and Science recommended universities to end cooperation with Erasmus+” (Минобрнауки рекомендовало вузам прекратить сотрудничество с Erasmus+), Interfax News Agency, June 1, 2022, <https://www.interfax.ru/russia/844151> (accessed July 8, 2024).

⁸²⁵ “Educational projects ‘Social Sciences Laboratory’ that announced its closure has been designated foreign agent,” OVD-Info news release, June 22, 2022, <https://ovd.news/express-news/2021/06/22/prosvetitel'skiy-proekt-laboratoriya-socialnyh-nauk-obyavivshiy-o-zakrytii?page=3> (accessed July 8, 2024).

new university focusing on the humanities, and social and natural sciences.⁸²⁶ At the end of March 2023, they likewise blacklisted the “Free University” founded by former faculty members of the Higher School of Economics, one of Russia’s top universities.

According to the Prosecutor General’s Office, the Free University faculty popularized activities of organizations banned in Russia as extremist, while the university’s literature is “distinctly anti-Russian.” The office also accused the faculty of producing publications that effectively justify reform of the constitutional regime “under the guise of development of democratic institutions” and that the university shapes a “persistent aversion” to Russia among students and imposes an “ultra-liberal model of European democracy.”⁸²⁷

The founders of the university listed as reasons for its establishment authorities’: interference with teaching the humanities; censorship; restrictions of academic freedoms; adoption of repressive laws on education; and political repressions against “disloyal” faculty members, disguised as “reorganization” and “staff reduction.”⁸²⁸

In April, its faculty said that they would discontinue activities in Russia, referencing the risk of persecution in connection with the “undesirable” status.⁸²⁹

⁸²⁶ Ibid.

⁸²⁷ “The Prosecutor General’s Office decided to designate activities of a foreign NGO as undesirable in Russia” (“Генеральная прокуратура Российской Федерации приняла решение о признании деятельности иностранной неправительственной организации нежелательной на территории Российской Федерации”), Prosecutor General’s Office press release, March 31, 2023, <https://epp.genproc.gov.ru/web/gprf/mass-media/news?item=86748419> (accessed June 19, 2023).

⁸²⁸ See the statement on the website of the university, <https://freemoscow.university/about/> (accessed May 19, 2024). <https://epp.genproc.gov.ru/web/gprf/mass-media/news?item=86748419> (accessed June 19, 2023).

⁸²⁹ “Free University” announced that it discontinued its activities in Russia. Earlier it was designated an “undesirable organization” (“Свободный университет” объявил о прекращении деятельности в России. Ранее его признали “нежелательной организацией”), *Current Time*, April 2, 2023, <https://www.currenttime.tv/a/svobodnyy-universitet-prekraschenie-deyatelnosti-rf/32345943.html> (accessed June 19, 2023).

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Russia's Legislative Minefield

Tripwires for Civil Society Since 2020

The Russian government's dismantling of civic freedoms after its full-scale invasion of Ukraine in February 2022 marked a dramatic escalation of its sustained assault on fundamental rights. For more than a decade, Russian authorities have striven to suppress internal dissent and incapacitate civil society. In recent years, they have adopted a series of draconian laws that restrict the rights to freedom of expression, association, and assembly, and that impose government-approved versions of history, public values, and politics. As a result, hundreds of people are behind bars in violation of their basic rights, and many other dissenters, journalists, and activists have gone into exile. Critical discussion about a vast range of issues cannot take place openly.

Russia's Legislative Minefield: Tripwires for Civil Society Since 2020 focuses on the wave of repressive legislation and policies that the government of President Vladimir Putin has put in place since 2020, and how it has used them to target critical and dissenting voices. This legislation relates to eight broad areas: "foreign agents," public assembly, electoral rights, freedom of expression, sexual orientation and gender identity, treason and similar concepts, "historical truth," and education.

Human Rights Watch calls on the Russian government to end its long-running crackdown and instead foster an environment in which civil society can thrive. It should repeal the draconian legal provisions and follow recommendations set out by the United Nations and other intergovernmental organizations to bring legislation and practices into line with Russia's international human rights obligations. International actors should support networks of Russian civil society organizations and activists so that they remain integrated and able to thrive in their work.



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