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## Information on the human rights situation in Russia for the OSCE's Moscow Mechanism

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This report on the human rights situation in Russia is provided by a coalition of civil society organizations in the Russian Federation for the OSCE's Moscow Mechanism invoked to look into and assess the ongoing crack down on civil society, media and human rights violations. This intervention consists of an overview of the state of human rights in various fields and a catalog of relevant data and reports.

The following organizations contributed to this report:

**OVD-Info**, a leading Russian human rights project on freedom of assembly and political persecution.

**Coming Out**, a regional nonprofit initiative group founded in 2008 in St. Petersburg, working for universal recognition of human dignity and equal rights of all regardless of sexual orientation or gender identity by lobbying and advocacy, educational and cultural events, and providing psychological and legal services to LGBT\* people.

**Citizens Watch**, a St. Petersburg based human rights NGO established in 1992 by a group of Russian human rights activists, lawyers and journalists. The goals were to establish parliamentary and civic control over police, security service, and armed forces, and to help prevent violations of constitutional rights by these governmental agencies.

**Agora International Human Rights Group**, an association of more than 50 lawyers working on landmark human rights cases.

**SOVA Center for Information and Analysis**, founded in 2002 and is focused on xenophobia, nationalism, freedom of religion and anti-extremism law and policies in Russia.

**The Movement for Defence of Voters' Rights Golos**, a leading Russian organization for public observation of elections.

**Stitching Justice Initiative** is dedicated to the legal protection of victims of human rights violations connected to armed conflict and counter-terrorism operations, torture and gender-based violence in the post-Soviet region.

**Mass Media Defense Centre**, a Russia based media freedom NGO, promoting freedom of expression since 1996. MMDC is providing legal assistance and court defense on domestic and international levels to Russian media, journalists, bloggers.

## **INTRODUCTION**

- By the beginning of the war in Russia there was no sphere of society that would not have been affected by large-scale repressions and violations of basic human rights.
- It is a well-known fact that the human rights situation in Russia has been effectively deteriorating for at least a decade now. However, since February 24th, the crackdown on human rights has reached an unprecedented level, and the previous systemic repressions had indeed contributed to the speed of the introduction of the military censorship, as well as new severe restrictions on human rights.
- Since the first day of the war, thousands of people started protesting in various forms. However, during the last decade the only response that protesters received from the state was violent suppression of mass protests, criminal prosecution and threats. These repressive practices led to fading of mass protests in Russia and thus, currently, people express their opinions by organising solo-demonstrations or small-numbered pickets.
- Only hours after the invasion, remaining independent media outlets in Russia began covering the war and people started to express their opinions on social networks, discussing and sharing horrible news. Yet, the weakness of freedom of speech, which was hindered by decades of repressive legislation, contributed to silencing public response, and soon military censorship was rapidly established.
- Several laws contributing to the military censorship had rapidly adopted and come into force. These new articles were effectively used by authorities to suppress the dissent. Such situation which wouldn't be possible without already repressive legislation, technical preparedness and a special agency in charge of the censorship.

- Civil society had been active since the first days of the war, launching petitions, organising protests, helping the detainees in police departments and courts, and spreading reliable information about the war. Yet, due to hindered freedom of association in Russia, there are not so many human rights defenders, activists and independent journalists which are still able to work and help the victims of human rights violations. During the last decade the state made a lot of efforts to eliminate its civil society counterparts with the help of gradually deteriorated legislation and practices, such as the law on «foreign agents», «undesirable organisations» and other repressive tools.
- Additionally, the violations of other fundamental human rights are also systemic. Russian authorities are systematically **persecuting** feminist and LGBTQI activists, protesters, public figures, and politicians. Russia is seeing rapidly **rising rates** of violence and discrimination committed against members of the LGBTQI community.
- Authorities' prolonged failure to address gender-based and **domestic violence issues in Russia** leads to tragic outcomes for victims due to inadequate legislation, poor police response, and the pressure on NGOs which help the victims. **Racial profiling** still remains a significant problem in Russia. There is no independent mechanism for civil society to effectively file complaints on grounds of racial discrimination. The repressive potential inherent in the broad language and numerous instruments of «anti-extremist» and «anti-terrorist» legislation is widely used against the opposition. Furthermore, due to absence of free and fair elections, Russian society was unable to influence or change the government — the latest parliamentary elections once again **highlighted this notion**.

- Thus, the situation with human rights in Russia has been gradually deteriorating over the past ten years and has now reached its peak.

## **FREEDOM OF EXPRESSION**

### **Blockings**

- On 24 February 2022, the day the full-scale military invasion of Ukraine began, the Russian Communications Authority *Roskomnadzor*, issued a statement. In no uncertain terms the *Roskomnadzor* directed that only information from the Russian governmental sources (mainly, the Ministry of Defence) has to be treated as reliable and, conversely, any other information would be treated as «fake news». *Roskomnadzor*'s interpretation of «fake news» was immediately used to block web-sites of all major independent media.
- Extremist legislation, notorious for its vagueness, was also used to justify web-site blockings. The major case concerned the certification of the *Meta* corporation as extremist. As a result, access to Facebook and Instagram were blocked in Russia. They remain accessible via VPN services, but more and more of them are also being blocked in Russia. In total, since the start of the in Ukraine, the authorities **have blocked** more than 138 000 web resources.
- Over the past ten years, Internet blocking in Russia has become one of the largest tools for restricting access to information and freedom of expression. By the time of Russia's invasion of Ukraine, all legislative instruments had already been developed and widely **used**.
- The procedure for extrajudicial blocking at the request of the General Prosecutor's Office is non-transparent and does not involve verification of data for reliability with the participation of the disseminator of information. The website owner and authors of the content cannot provide evidence of the accuracy of the information at the stage of resolving the issue of blocking. The ECtHR critically assessed the extrajudicial blocking procedure as violating Russia's international obligations, but so far, the legislation in this area has not been **changed**.

- Also, requirements to transfer servers to the territory of Russia, to install Russian software and open legal entities in Russia raise concerns about maintaining the confidentiality of user information and freedom of expression. Many services **have already been fined** millions of rubles for non-compliance with the requirements of the law. New legislative provisions **were introduced** in July 2022 to widen the scope of the offences and enlarge possible fines.

## **«Fakes» and discreditation**

- As of 4 March 2022 new legislation was introduced. New article 20.3.3 of the Code of Administrative Offences (*hereinafter* CAO) now punishes «discrediting the actions of the Armed Forces of the Russian Federation». It is now widely used to punish any expression of anti-war opinion, whether pacifist slogans, eight asterisks («no to war» is two words containing eight letters in Russian), or wearing yellow and blue ribbons or clothes, or saying a sermon condemning violence. A repeated violation is a criminal offence and there are 10 criminal cases already brought against anti-war activists. The very use of the word «war» instead of the officially-approved «special military operation» is an offence.
- Another major legislative novelty is article 207.3 of the Criminal Code (*hereinafter* CC) punishing «dissemination of deliberately false information disguised as truth about the Armed Forces of the Russian Federation». While the offence of «discrediting» punishes value judgments and expression of opinion, the article 207.3 punishes statements of fact with up to 15 years of imprisonment. There are now at least 84 criminal cases in total opened under this provision.
- A local councilor in Moscow, Mr Alexey Gorinov, was sentenced to seven years in prison for saying at his local council meeting that civilians had been killed in Ukraine, something never confirmed by the Russian MoD. A few suspended sentences have also been handed down across Russia. A prominent opposition figure Mr Ilya Yashin is in pre-trial detention for denouncing war crimes in Bucha.
- Many other defendants are also in detention pending trial, mostly for statements about civilian victims not acknowledged by the Russian MoD. Those who are outside the country are hit with asset freezes.

- The «fake news» legislation already existed in Russia since the early days of the Covid-19 pandemic and had general application, not limited to public health.
- For instance, more than 200 cases of persecution of citizens and organizations for disseminating information that differs from official press releases have been recorded already in 2020. More than a million rubles in fines were imposed by the courts in connection with allegations of spreading misinformation in an administrative manner. The criminal article about fakes has become a convenient tool for reprisals against public critics of the authorities — 17 out of 42 cases of criminal prosecution are related to the statements of activists, journalists, bloggers and politicians.
- Further charges against anti-war statements may be brought under the new provision of calling for sanctions against the Russian Federation, an administrative offence also introduced on 4 March 2022. As if that was not repressive enough, new article 280.4 of the CC punishes «calls for activities endangering State security» since July, though cases are yet to be opened. Pre-existing criminal provisions are widely used as well, e.g. charges of vandalism are brought against authors of anti-war graffiti and those who anyhow interfere with «Z» signs.
- Moreover, the legislation adopted on July 14th **gives** the Prosecutor General's Office the right to close the media without judicial interference and initiate a ban on the work of foreign media in Russia in response to the closure of Russian media abroad. The agency will be able to demand Roskomnadzor recognize the registration of any media invalid if it: spreads «fake news», expresses obvious disrespect for the society and the state authorities; disseminates information containing calls to participate in unauthorized public events or to impose sanctions, etc.

## **Media «foreign agents»**

- The «foreign agents'» legislation, initially **adopted** in 2012 to target independent NGOs, was expanded to cover mass media and individuals.
- Around three quarters of the designations of media or individuals as «foreign agents» have been made after 24 February 2022. «Foreign agents» are now leading journalists, scientists, opposition figures, human rights defenders, bloggers etc. It goes without saying that those who were listed had spoken against the war. Two failures to comply with reporting or labelling regulations result in criminal prosecutions, including asset freezes for those outside Russia.
- As of August 19, 2022, there are 47 media outlets and 123 people-“media» foreign agents. This legislation is highly discriminatory, and media outlets and individuals are forced to leave Russia after the designation or face difficulties in work that is directly related to the coverage and distribution of information.

## **Existing remedies**

- While on 14 June 2022 the European Court of Human Rights issued an overly delayed, but damning judgment on the «Foreign Agent NGOs» law (*Ecodefence and others v. Russia*), the Russian authorities already reformed the legislation. But instead of repealing the laws incompatible with basic human rights, they only made them more severe.
- On 16 March 2022 the Committee of Ministers of the Council of Europe voted to expel Russia from the organization with immediate effect. This also meant ending the effect of the European Convention on Human Rights and the jurisdiction of the European Court of Human Rights in six months' time with all the judgments remaining binding, even if given after 16 September 2022. However, the Russian authorities first ceased to communicate with the Court and then adopted a set of laws to the effect that the judgments given after 16 March 2022, including major cases on Jehovah's Witnesses and «foreign agent» NGOs, would not be honoured, whether it concerns the payment of compensation or reopening of the proceedings.
- Given that the cases are pending in Strasbourg for decades, many thousands of victims from Russia, Ukraine, Georgia, MH-17 flight and many other places are concerned.
- To say that these measures cause a «chilling effect» is an understatement. Any person opposing the war risks either a fine, or a lengthy prison sentence, or an asset freeze, or a 'civic death' of being listed as a «foreign agent». If previously virtually the only remedy was to petition the ECtHR, this is no longer possible. However imperfect it is, the UN mechanisms are not on par.

## **Anti-extremist and anti-terrorist legislation**

- Despite the repeated recommendations of international organizations, the definition of extremism and related definitions in Article 1 of the Federal Law «On combating extremist activity» have not been improved and remain vague.
- Regardless of its flawed definition, the term «extremism» has been frequently used in recent legislation. For example, for extrajudicial blocking on the basis of «substantiating or justifying extremism», the presence of materials from organizations banned as extremist or even hyperlinks to such materials.
- Since 2018, a number of measures have been taken to reduce excessive criminal prosecutions for public speech, namely:
  - For two years since the beginning of 2018, the number of criminal convictions for public speech decreased.
  - The Supreme Court recommended that the Russian courts use a version of the six-part test on assessing the severity of hate speech provided by the [Rabat Plan of Action](#). Unfortunately it has only partially influenced judicial practice.
- Article 282 of the CC on incitement to hatred was amended; incitement of hatred became punishable as an administrative offence if committed once in a year; late in 2020, Article 280.1 on calls for separatism was amended the same way.

- The number of those sentenced for «**extremist statements**» (articles 148 (parts 1 and 2), 205.2, 280, 280.1, 282, 354.1 of the CC as the principal charge) increased from 328 to 659 between 2014 and 2017, and decreased to 244 in 2019. SOVA Center recorded the same dynamics in the number of the defendants whose convictions on relevant charges SOVA saw as wrongful: from 4 in 2014 to 18 in 2017 and then to 4 in 2019.
- Still, negative trends were also present. We noted the increasing use of Article 205.2 (propaganda or justification of terrorism), from 12 convicted in 2014 to 126 in 2019. Of particular concern were prosecutions for statements that definitely did not justify terrorism, such as a neutral discussion of the **war in Syria**, or the criticism of the ban on the radical Islamist party **Hizb ut-Tahrir as a terrorist organization**; one of the cases even dealt with **discussing terrorism** as such. Arbitrary sentences were handed down under other articles of the CC on public statements as well, including those related to **peaceful separatist statements**.
- The use of administrative sanctions for minor «extremist» offenses **expanded dramatically** over the years. The most common anti-extremist articles of the CAO have long been criticized for the ambiguity of the offenses. Article 20.29 provides sanctions for distribution of information included in the Federal List of Extremist Materials. The list contains more than five thousand items, most of them ill-defined, leading to abuse and unpredictability of sanctions.

- Article 20.3 did not take into account the motive and context for the use of banned symbols. The number of punishments under Article 20.3 increased from 1133 in 2014 to 3979 in 2019; the number of arbitrary punishments grew as well. In March 2020, the article was amended to include the note pointing out that display of the relevant symbols was banned except for the use that «formed a negative attitude towards the ideology of Nazism and contained no signs of propaganda or justification». The note has failed to improve the enforcement and has not stopped sanctions against those who use banned symbols for purposes other than promotion of any radical ideas.
- In 2019, the CAO was amended to include new offenses, among them expressing disrespect for the authorities in an indecent form (Part 3 of Article 20.1). Since then, several dozen people have been facing sanctions every year.
- The practice of judicial and especially extrajudicial blocking of «extremist content» on the Internet developed actively with about 100 thousand web pages blocked in 2019. Many of the sites were blocked merely by association with banned organizations. Not only could a web page be blocked but even search results provided by a search engine.
- Since 2020, we have witnessed a general rise in sanctions based on public statements of «extremist nature»; see tables below.

**Number of persons sentenced under the Criminal Code articles (based on the Supreme Court data, principal charge only):**

Article	Brief description of the offence	2019	2020	2021
205.2	Incitement to terrorism or justification of terrorism	103	147	199
280	Incitement to extremism	117	147	255
280.1	Incitement to separatism	2	3	0
282	Incitement of hatred	19	12	43
148	Insulting the feelings of believers	2	1	14
354.1	Justifying Nazism, slandering the USSR, insulting veterans, etc	1	8	30
TOTAL		<b>244</b>	<b>318</b>	<b>541</b>

**Number of people punished under the articles of the Code of Administrative Offences (based on the Supreme Court data):**

Article	Brief description of the offence	2019	2020	2021
20.3	Demonstration of Nazi and extremist symbols	2388	2279	3183
20.3.1	Incitement of hatred (if first time)	383	757	936
20.29	Mass distribution of prohibited materials	1591	1826	1319
TOTAL		<b>4362</b>	<b>4862</b>	<b>5438</b>

- By mid-August, 2022, SOVA Center has recorded 74 cases of arbitrary sanctions imposed under Article 20.3 CAO. Web users continue to face administrative responsibility for posting Nazi symbols with no intent of promoting Nazism, e. g. for sharing collages featuring politicians in Nazi uniform — to draw some parallels with Russian authorities. Nazi symbols as means of criticizing the state policy have become all the more popular among Russian social media users after the war in Ukraine began and the police do not hesitate to file more and more cases.
- Meanwhile, on July 14, new amendments to the state security legislation were signed introducing a new article of the CC, 282.4, which criminalized repeated violations of Article 20.3 CAO and imposes harsh penalties ranging from a fine of 600 thousand rubles to four years in prison.
- Further, the application of the Article 354.1 of the CC is problematic as a result of excessive restriction on criticizing the Soviet policies during the Second World War as well as the clear abuse of the provisions on justification of Nazi crimes (see the case of Konstantin Ishutov [here](#)) and public desecration of symbols of Russian military glory ([see](#) the case of Alexei Volkov).
- In April 2021, a new package of amendments increased criminal liability for dissemination via Internet of information that contains justification or approval of Nazi crimes or of knowingly false information about the role of the USSR in World War II; the amendments also introduced administrative liability for legal entities for similar actions. Moreover, the composition of Article 354.1 significantly expanded to include new vague provisions, i.e. dissemination of knowingly false information about veterans of the Great Patriotic War, insults against the memory of defenders of the Fatherland and abasement of honor and dignity of the veterans of the Great Patriotic War, including on the Internet and in mass media.

- According to the Supreme Court data, 25 people were convicted under Article 354.1 in 2015–2019, only two of them in 2019. A sharp increase started in 2020 with 10 convictions; in 2021, as many as 35 people were sentenced; as of mid-August 2022, SOVA Center recorded 13 convictions since the beginning of the year. A significant part of court sentences issued in 2020–2021 related to clearly minor incidents arbitrarily qualified as criminal offenses. SOVA Center believes that 24 of those sentenced in 2020–2022 should not have faced criminal prosecution.
- Noteworthy, in April 2022, the CAO was amended to include responsibility for equating the «goals, decisions and actions» of the leadership of the USSR and Nazi Germany and for «denying the decisive role of the Soviet people» in the defeat of the Third Reich. The wording of the new article 13.48 CAO does not explain which statements can be interpreted as «equating actions» and «denying the decisive role.» As of mid-August 2022, SOVA Center knows of two activists punished for criticism of the Soviet Army and the Communist party.

## **«Insulting the religious feelings of believers»**

- Article 148 (Parts 1 and 2) of the Criminal Code on «insulting the religious feelings of believers» was not widely applied in 2014–2020 with only 32 people convicted during the whole period with only 2 persons sentenced in 2019 and 3 in 2020 (principal and additional charges). However, in 2021, as many as 16 persons were sentenced; two of them got actual prison terms for the first time since insulting the religious feelings was included in the Criminal Code. As of mid-August 2022, SOVA Center has learnt about 5 persons sentenced since the beginning of the year. SOVA Center sees at least 9 sentences handed down in 2021–22 as arbitrary.
- Most of the cases deal with sharing atheistic memes and offensive remarks via social media or posting candid photos made on the background of religious buildings. For example, an 18-year-old citizen was fined and deprived of his phone and computer for sharing seven atheistic memes. Thus, the prosecutions are based on excessive restrictions of freedom of expression.

## **Other legislation**

- Russia reintroduced criminal liability for defamation in 2012. Criminal provisions relating to libel (Article 128.1 of the CC), contempt of court (defamation against a judge or prosecutor, Article 298.1 of CC) and insulting the authorities (Article 319 of CC) had remained in the Criminal Code. Though rarely used against journalists and bloggers, their mere existence casts a chilling effect on freedom of expression.
- «The right to be forgotten» law, which entered into force in Russia on 1 January 2016, further restricted the free flow of information online. It enabled Russian citizens to request de-listing of links about them that violate Russian law, are inaccurate, out of date, or irrelevant because of subsequent events or actions taken by the citizens. The legislation fails to provide for limitations where the information at issue is in the public interest and/or concerns public figures. It has been used by public officials to remove online content addressing their misconduct and/or corruption.

## **FREEDOM OF ASSEMBLY**

### **Legislation**

- The right to peaceful assembly in Russia is proclaimed but not respected, protected or fulfilled. During the last decade, new laws and practices were adopted with the aim of restricting the freedom of assembly in Russia.
- Specifically, fines have increased manifold (maximum fine for a participant rose from 1 000 RUB to 300 000 RUB), arrests for up to 30 days and compulsory work were introduced. «Organization of mass simultaneous stay and (or) movement of citizens in public places» became a prosecutable offence under Article 20.2.2.
- Further restrictions were introduced, such as a ban on holding or financing assemblies by entities and persons designated as «foreign agents» and cumbersome requirements to use dedicated bank accounts for expenses incurred in organizing the assembly, submitting financial statements, and returning unspent money to all of the donors.
- The basis for suppressing peaceful assemblies and prosecuting their participants, in most cases, is their «uncoordinated» status. At the same time, the procedure **allows** the authorities to change the time and venue or prohibit any meetings that are undesirable for them, making it a de facto authorization regime. Moreover, there are strict time limits for notifications, which outlaws spontaneous assemblies in violation of international standards, and there are no exceptions for small rallies.
- The only type of assembly not requiring prior authorization is a solo demonstration (static picketing by one person without sound amplifying or collapsible structures). However, new legislation on assemblies also allowed recognizing a picket line or rotating solo demonstrations as an unauthorized public event after the fact, even if held kilometres away and at **different times**.

- According to the Judicial Department of the Supreme Court of the Russian Federation in 2016, by mid-2021, the courts received 5,918 complaints about refusals to authorize assemblies, many of which were considered after the expected date of the action.
- Additionally, regional legislatures established «Hyde Parks» in remote areas and the maximum number of participants that can use them. Accordingly, the authorities began to ban rallies in other places.
- Further, the regional authorities began establishing the lists of places where rallies are prohibited such as central streets, the vicinity of government buildings, schools, hospitals, temples, etc. As a consequence, by 2018, in some regional centers, on more than 50% of the city's territory the assemblies **were banned**. Despite the criticism of this practice by the Constitutional Court in 2019–2020, abstract territorial bans at the regional level are still in force. The State Duma adopted the bill to expand this practice in first reading.
- The possibility of holding public events was repeatedly limited in connection with the holding of international sports competitions in Russia: the 2014 Olympic Games, the 2017 Confederations Cup, the 2018 FIFA World Cup.
- Since 2020, the COVID-19 pandemic has become a new ground for serious restrictions on freedom of assembly. In many regions, public events have been partially restricted or completely banned. In Moscow and St. Petersburg, protest bans (including on solo demonstrations) remain in place in mid-2022, despite the lifting of restrictions on other activities involving mass gatherings, while pro-government rallies are allowed to proceed.

## **Administrative and criminal prosecution**

- According to the Judicial Department of the Supreme Court of the Russian Federation, from the beginning of 2015 to the end of 2021, Russian courts received 40,242 cases under the Article 20.2 of the CAO (violating assembly rules). In 3,423 of them, the courts imposed administrative arrest. In 2021 alone, in the wake of country-wide protests in support of Alexei Navalny, 15 601 persons were punished under this provision: 12 709 fines (averaging 13 300 RUB, or, currently, 207 USD), 676 compulsory work orders and 2 200 administrative arrests. The share of arrests in 2021 thus is over 14%.
- According to the government's data, 17 600 people were arrested during 23, 31 January and 2 February rallies. In the past six years, OVD-Info recorded more than 55 500 detentions at peaceful rallies. More than 400 criminal cases have been opened in connection with the rallies since 2015, according to OVD-Info.
- In 2014, after a wave of large-scale anti-war with Ukraine protests, the infamous «Dadin» Article 212.1 of the CC (Repeated violation of the established procedure for organizing or holding a meeting, rally, demonstration, march or picket) was adopted. Over the past 7 years, 17 cases have been opened under Article 212.1, and the list of articles of the CC that the authorities use to prosecute protesters has significantly expanded.
- The state shows no tolerance to peaceful, including non-disruptive, assemblies and their participants. The state refers to their illegality as grounds sufficient for a violent dispersal, even if prior notification would have served no purpose (such as with pickets of two people or several solitary pickets held at different times).

- For instance, the authorities regarded a spontaneous unnotified assembly on 27 July 2019 demanding fair elections as illegal, although the organizers were time-barred from such notification, and that the authorities were aware of it beforehand. The authorities cracked down on participants with unmotivated violence. Although sporadic violent acts took place in response, they were a reaction to cruel beatings by the riot police that qualify as torture. In total, more than 4,000 people were detained. The punishments for participants were disproportionate. Moreover, there were 33 criminal cases initiated after the protests — 11 of them resulted in real **prison terms**. The Committee Against Torture was forced to file five complaints with the European Court of Human Rights due to the failure to **investigate torture**.
- It is the police who pressure participants in assemblies, obstruct and disrupt the events. Challenging law enforcement actions is ineffective. There are no criminal cases initiated against the police officers for the use of violence during the mass detentions — only during the protests of 2021-2022 at least 180 such cases were identified. Yet, there are numerous such **cases** against the protesters.

## **Other means of suppression**

- In addition to detentions, police violence, administrative and criminal prosecution, participants and organizers of actions are faced with demands for large material compensation for police work, threats of dismissal or expulsion from universities, attention from guardianship authorities and military draft commissions.
- Facial recognition technologies have been used to find and prosecute participants in peaceful assemblies, as well as to **prevent** future participation. Their use is arbitrary and not based on law.
- The authorities and state-controlled media are marginalizing and discrediting assemblies and protests. In particular, the state's Strategy on Countering Extremism defines as the most dangerous manifestations of extremism «... uncoordinated public assemblies (including protest actions), mass riots; terror acts».
- The information about the assemblies has been blocked since at least 2014. Restricting Internet usage for coordinating public events includes extrajudicial blocking of websites with information about unauthorized rallies, blocking apps to coordinate protest actions, and turning off mobile Internet in areas of mass protests.
- The authors of posts and reposts about the assemblies are prosecuted as the «organizers» of the assemblies. Administrative liability exists for «public calls for massive simultaneous presence» or «movement» in public places. It is also prohibited to campaign before an unauthorized public event. All these administrative violations can entail a fine, compulsory work or arrest.
- To collect information related to public events, the authorities spy on organizers and participants of protests, hack activists' and journalists' accounts, infiltrate into activist chats, use Internet photos to detect protesters, and monitor social media of people **detained** at rallies.

- Assembly laws and other laws applicable to assemblies do not meet the «quality of law» requirements and are applied unpredictably. Moreover, the legislation and its enforcement **are** highly discriminative to minors and foreign citizens.

## **Anti-war protests**

- Large-scale anti-war protests began in Russia on the first day of the armed conflict with Ukraine and were held almost daily for three consecutive weeks. Numerous attempts seeking authorisation failed.
- With the introduction of Article 20.3.3 of the CAO (see above), such rally goals as calling to end the war are considered illegal, thus no authorisation is possible, rendering any such rallies illegal. Calls for anti-war rallies are punishable under Part 2 of Article 20.3.3 with a fine of 50 000 to 100 000 RUB (while the maximum fine for calls to other unauthorized rallies is 30 000 RUB). Dozens were prosecuted both for violating assembly rules under Article 20.2 *and* for discrediting the use of the army under Article 20.3.3 for the same conduct. Dozens were prosecuted for «silent support to the illegal goals» of anti-war rallies.
- Since the beginning of the war, we are aware of at least **16 400 detentions** for expressing an anti-war stance, primarily at assemblies. Mass protest rallies, spontaneous walks, solo demonstrations and various other forms of protest against the war, including the use of anti-war symbols and posters, became grounds for detention.
- The detentions were accompanied by severe police violence. In the police stations, detainees were forced — with the use of **violence** — to have their fingerprints and photographs (and sometimes even DNA samples) **taken** and threatened with charges for disobeying a police officer (Article 19.3 of the CAO) and being left overnight in the department if they refused. This is just one and recent example of a routine police practice aimed at stifling dissent.

## **Access to justice**

- A widespread police practice is to confiscate the detainees' phones to deprive them of the opportunity to receive legal assistance, to report their detention.
- The defenders and attorneys are often refused entry to police departments, including by introducing the «Fortress» contingency plan — a secret plan to repel an armed attack on the department. In 2019–2022 alone, there are more than 200 cases of non-admission of defenders on the pretext of such a plan. There are no effective remedies.
- When prosecuting the organizers and participants of the rallies, the courts in practice barely ever doubt the police version of the events, cases of acquittal are extremely rare. International human rights standards are ignored or misused.

## **FREEDOM OF ASSOCIATION**

### **Foreign agents**

#### **Overview**

- 10 years ago, the term «foreign agent» first appeared in Russian legislation. In 2012, the «foreign agent» law covered only non-profit organizations (NPOs). In the subsequent years, this law was gradually amended, introducing new restrictive rules and expanding its application to public associations (since 2021), the media (since 2017) and individuals (since 2021). It also became evident that this law constituted a tool for persecuting civil society initiatives, human rights projects, environmental, LGBTQ and other so-to-speak «undesirable» initiatives.
- As of August 19, 2022, the register of NGOs operating as a foreign agent **contained** 70 organizations. As of August 19, 2022, «foreign agent» public associations **contained** 8 associations.
- All of them are subject to various discriminative requirements and restrictions, as well as to severe administrative and criminal sanctions for the failure to comply with the relevant rules.
- For example, non-profit organizations and unregistered public associations — «foreign agents» have to report on their activities and purposes of spending foreign funding four times a year (instead of one). Moreover, every six months, NPOs–«foreign agents» must submit a report on their activities, the composition of the governing bodies and the list of employees. Annually they provide an auditor’s report. In addition to this, the Ministry of Justice is entitled to conduct inspections (scheduled — once a year, unscheduled — unlimitedly).
- Moreover, «foreign agents» must expose this status and label their websites and other electronic sources, as well as their materials. Due to the lack of clarity of the labeling requirements, NPOs and media outlets often suffer from enormous fines imposed for the lack of labeling here and there.

- For non-compliance with «foreign agent» obligations, organizations and their employees are subject to administrative and criminal liability. According to the statistics of the Supreme Court, in 2017–2021, the courts of the first instance considered 229 cases against NGOs for non-inclusion in the register or violation of labeling rules and issued 158 indictments, imposing fines in the total amount of 36 245 500 RUB (467 617 USD).
- The average fine increased from 190 000 RUB (2 452 USD) in 2017 to 350 000 RUB (4 518 USD) in 2021. The insignificant number of fines were challenged and overturned, but mostly on procedural grounds.
- Violation of «foreign agents» regulation can also lead to the forceful dissolution of an organization. In 2021 the «International Memorial» and «Human Rights Center Memorial» were dissolved. The courts motivated these decisions by the fact that the organizations violated labeling rules. In 2022, the «Sphere» foundation was dissolved, and the «Trade Union of Journalists and Media Workers» is in the liquidation proceedings now.

## **New bill**

- The legislation on «foreign agents» was amended several times during the last two years, introducing new discriminative restrictions on the freedom of association. The latest amendments happened in 2022 with the adoption of the bill «On control over the activities of persons under foreign influence» which will come into force on December 1, 2022.
- Contrary to the existing 4 different legislative acts on «foreign agents» this bill combined them into a single piece of legislation, as well as the 4 existing registries and all segmental requirements and restrictions. Now, any Russian or foreign legal entity, regardless of its organization or legal form may be recognized as a «foreign agent», including commercial companies. A public association operating without the formation of a legal entity, another association of persons or an individual, regardless of his citizenship or lack thereof may also be recognized as «foreign agents».
- There are two criteria for obtaining this status: receiving foreign financial support or being «under the foreign influence of any kind» and engaging in at least one of the following activities: political activity, collecting information about the Russian military, participating in the creation of information and materials, or distributing them. Therefore, It is no longer necessary to receive money from abroad to be included in the list of «foreign agents», it would be enough to be under «foreign influence», «including coercion and persuasion».

- New restrictions were also introduced. For example, starting from December 1st, «foreign agents» will be banned from: taking part in the activities of various bodies that exist under the authorities; being a member of an election commission; receiving state financial support; carrying out educational activities and producing information products to minors; organizing assemblies. Furthermore, the Ministry of Justice will be able to request to block the websites of «foreign agents» for any violation of the law on «foreign agents».
- Along with foreign agents, «affiliated persons» will be included in the register. The criteria for being an «affiliated persons» makes anyone who is in any way connected (or
- was connected) with NPOs, public associations, the media, or individuals who were previously recognized as «foreign agents» able to be recognized as such. For now, the restrictions of «foreign agents» do not apply for «affiliated persons».

## **Impact**

- The status of a «foreign agent» negatively impacts the activities of organizations. The status leads to significant loss of funding for NGOs and a lot of additional expenses. Also due to the historical context and stigmatizing nature of the notion of a «foreign agent», this status makes any cooperation with state bodies, officials and public educational institutions impossible and with individuals, commercial companies and other partners — very difficult.
- All these obstacles make the work of NGOs and media almost impossible. It pushes them to choose between liquidation and ceasing certain activities or receiving foreign funding. In fact, several organizations chose to stop receiving foreign funding in order to be excluded from the register and to continue their work without restrictions associated with this status. Around 100 NPOs decided to self-dissolve or reorganize.
- Notwithstanding the recommendations of the UN, the Venice Commission, the ECtHR and other international and regional organizations to repeal or amend this law to comply with human rights obligations, Russia refuses to do so, amending it only to provide for more discriminative restrictions.

## **Undesirable organizations**

- The concept of an «undesirable» organization was introduced into Russian legislation in 2015, when the State Duma adopted amendments to the law «On Measures to Influence Persons Involved in Violations of Fundamental Human Rights and Freedoms, the Rights and Freedoms of Citizens of the Russian Federation».
- Foreign or international NGOs whose activities threaten the foundations of the constitutional system of the Russian Federation, the country's defense capability or the security of the state may be recognized as undesirable. From 2021, foreign organizations and international NGOs campaigning for or against the nomination of candidates or otherwise participating in election campaigns and referendums may also be recognized as such. Moreover, organizations may be recognized as undesirable if they provide intermediary services by carrying out transactions with funds or other property belonging to undesirable organizations.
- Undesirable organizations are prohibited from conducting their activities on the territory of the Russian Federation. Since foreign and international organizations cannot be dissolved by the Russian authorities, their structural units operating in Russia are subject to closure, and they are also forbidden to create new ones. Undesirable organizations are also prohibited from creating legal entities or participating in them in Russia. It is also prohibited to distribute information materials published or distributed by an undesirable organization, produce or store such materials for distribution. It is illegal to implement programs or projects for undesirable organizations on the territory of the Russian Federation.

- Russian citizens are prohibited from participating in the activities of such organizations even outside of Russia. Penalties for violating the law on undesirable organizations have been expanded and toughened. For instance, in 2022 the CC article 284.1 providing criminal liability for «participation in the activities of an undesirable organization» was amended to extend the liability even when such organisation **operates** completely outside of Russia.
- This legislation is used to persecute Russian NGOs by associating them with foreign «undesirable» organisations. After such an association, the organisation has to stop working to prevent criminal liability for the participants. The biggest examples of such self-dissolutions **are** «Team 29» and «Open Russia». In 2019–2021, the courts of about 20 constituent entities of Russia considered dozens of cases under Article 20.33 of the CAO, a vast majority of them related to the «Open Russia».
- Self-dissolution, despite the direct law provision, in practice does not prevent criminal persecution. In 2019–2022, 9 criminal cases were initiated against activists of the «Open Russia», 5 guilty verdicts were delivered, including against Andrei Pivovarov, who **was sentenced** to 4 years in prison.
- As of August 19, 2022, the registry of undesirable organizations and international NGOs **consisted** of 62 organizations. 12 new «undesirable organisations», i.e. foreign or international groups whose activity is prohibited in Russia, just as the Russians' cooperation with them, have been added to the relevant register since 24 February. They include a major OSINT-investigative group, a German foundation, a law institute, a Ukrainian human rights group etc.

- Russian legislation on undesirable organizations does not correspond to the international standards. It does not meet the criteria of possible restriction of freedom of association and expression arising from the ICCPR and the ECtHR, which can be allowed only if provided by law, pursuing a legitimate aim and proportionate. The law on undesirable organizations contradicts all the criteria above which is confirmed by regional and international organizations.

## **«Extremist» organisations**

- Along with using the anti-extremist legislation for persecutions of participants of various religious organisations, it is also used to target associations. In Russia, an extremist organization is understood as a public or religious association or other organization carrying out an extremist activity which is a very broad notion.
- In 2021, The Anti-Corruption Fund, the Fund for the Protection of Citizens' Rights and the headquarters of Alexei Navalny were recognized as extremist. Legal consequences of the ban: any continuation of the activities of organizations entails criminal liability under the article on involvement in an extremist organization (Article 282.2 of the CC). The maximum punishment is up to 10 years in prison.
- Now, there are 19 criminal cases against ex-workers of these organizations. Demonstration of the symbols of Alexei Navalny's projects is prohibited and, in fact, equated to the demonstration of a swastika — this entails administrative responsibility (Art. 20.3 of the CAO), and a ban on participating in elections for a year. Now, this article is widely used to prohibit participation in upcoming municipal elections in Moscow — at least 50 people now can't participate in these elections because of their «pro-Navalny» previous posts.
- People involved in the activities of «extremist organizations» in the last year before the ban cannot participate in elections for 3 or 5 years after the organizations are banned, respectively. The prosecutor's office can demand (and does demand) the blocking of applications related to Navalny's activities and the pages of his supporters in social networks.

- International organizations and officials have expressed their concern about the law on extremist organizations stating that this law contributes to the imposition of disproportionate restrictions on the fundamental rights and freedoms and violation of the principles of legality, necessity and proportionality.
- Evidently, there is a wide range of tools used in Russia to target the freedom of association contrary to international law.

## **ELECTORAL FREEDOMS**

- The Russian electoral system, in terms of protecting voting rights, has been degrading for the past two decades. The most problematic are the five blocks.

**Admission of candidates/parties to elections and arbitrary restriction of competition.**

- Controlling the admission of candidates and parties to elections allows the Russian authorities to manage political competition well in advance of voting day. The main constraints are legal. According to the estimates of the Golos movement, made in 2021, about 9 million people were deprived of the right to be elected at the legislative level, later this estimate was revised upwards — up to 10-11 million people (about 10% of the number of voters in Russia). The main problem is the deprivation of passive suffrage under a number of «political» articles of the CAO and CC — for participation in the activities of «extremist» organizations, for example (this law was retroactive when it was adopted in 2021 — it applied to events up to three years before its entry into force). If, according to the law, the name of a citizen deprived of passive suffrage must be contained in the relevant court decision, then in practice, election commissions could refuse to register on the basis of certificates and letters from the Ministry of Internal Affairs, the Ministry of Justice or the Prosecutor's Office.
- Another common reason for registration denials is the invalidation or inaccuracy of voters' signatures in support of nominating candidates or party lists. This old problem, which minimized the possibility of registering independent candidates or party lists who do not have a «parliamentary privilege» — the right to register without collecting signatures<sup>3</sup>. In many cases, the justification for refusal to register is based on the conclusions of experts from the Ministry of Internal Affairs, which do not contain evidence, do not disclose methods, and in fact cannot be appealed. At the same time, the rules for collecting signatures are becoming more complicated all the time, making this task impossible for candidates whose nomination was not initially approved by the authorities.

## **Government's opposition to the freedom of information**

- A system of state propaganda and censorship has actually developed, which after the start of Russian aggression on February 24, 2022 has become even more restrictive of freedom of expression.
- State Duma elections in 2021 showed a significant imbalance in the coverage of the parties' activities in the largest and most influential media outlets. For example, on federal TV channels, the disparity between the parties was incredibly disproportionate, with «United Russia» being equal to all of the other parties combined in terms of the number of mentions on the air, while its closest competitor, the KPRF, was ahead of them almost 4.5 times. An analysis of tone also shows a biased attitude by the TV channels towards the parties and, first of all, towards the KPRF.
- The involvement of state bodies and local authorities campaigning for the 'party of power' further increases the inequality of information being delivered. An analysis of publications on the websites of such bodies showed that, according to the Visibility Index, publications mentioning «United Russia» were almost seven times higher than those mentioning the KPRF, not to mention other election participants.
- Social networks, while remaining the most free information space, are nevertheless also subject to attempts to be influenced by the state. The accounts of large pro-state media outlets with large numbers of subscribers and large pre-moderated communities are used for this purpose. In fact, these two types of social media authors, similar in structure to media outlets, conduct Internet censorship.

## **Coercion to vote**

- A phenomenon incompatible with free choice, coercion to vote is a problem of Russian elections, unaddressed for years. However, the introduction of three-day and online voting created more tools for coercion.
- The multiday voting enabled many employers to supervise the electoral participation of their staff, something exemplified by huge crowds of voters that took hours for commissions to serve early in the morning of Friday, 17 September, in many polling stations across the country.
- In the context of coercion and lack of trust in the system, e-voting also facilitated manipulating choices of voters who fell under influence of employers or authorities. Given the lack of understanding about the system, many citizens had fears that their superiors would see how they voted.

### **Incompliance with procedures of voting, documentation storage and vote-count**

- Many electoral commissions easily skipped procedures at all stages, including the voting days, storage of ballot sheets and documents at night, and during the vote-count. Observers and commission members from across the country sent notifications about such violations over the entire period of voting and vote-count in vast numbers. As a result, it was impossible to check the integrity of voting results even in cases when commissions had no ill will (to say nothing about situations when ill will was present). Because of this, the public has virtually no opportunity to double check and assure itself that the election results are fair.
- The scale of problems with electoral frauds show several researches of video records from polling stations. For example, during the 2018 presidential elections the official turnout was overestimated by almost 3 million people in 10 regions. The research by «Meduza» shows that over 17 mln ballots could be stuffed during 2021 State Duma elections.

## **Lack of possibilities for election control**

- The level of openness and transparency of the electoral system has obviously decreased. Simultaneously, a visible trend is to imitate the public watchdogging by engaging quasi-NGOs and propaganda groups. In an imitation of frenzied activities, the groups declare that they have trained huge numbers of observers who are present at all polling stations. In fact, however, observers delegated by public chambers appear to be staff of public institutions or administration-affiliated civil society, frequently members of the United Russia, who might also be used for counteracting genuine citizen observation.
- There is a lack of possibility for the public to check the integrity of e-voting. The legislator has not provided effective tools for citizens to exercise this constitutional right in the case of remote online voting. The system of voting and vote-count is non-transparent even for people with special IT knowledge, leave alone the rest of voters. Therefore, the current system of e-voting is not in line with high standards on accountability of electoral procedure to the public.
- We also see obstructing observers, commission members and media, and power game tactics. During voting days 17 — 19 September of 2021, the system of electoral commissions opposed the observers as fiercely as never since at least five years. Methods used included expulsions from polling stations, including police-assisted measures with no court decision, threats to life and health, property damage, and even physical assault attempts by unidentified individuals, tolerated by both the police and electoral commission members (beatings, blocking cars, obstacles in accessing polling stations etc.).
- The rights of observers, journalists and electoral commission members also reduced in the last few years.

# **RIGHT TO LIFE AND PROHIBITION OF TORTURE**

**People in places of detention**

- The legal framework as well as practice does not provide sufficient guarantees to protect the rights of people in detention. Despite the recommendations of UN treaty bodies, Russia did not criminalize the crime of torture. Even the **recent amendments** officially framed as strengthening the punishment for torture do not in fact introduce the crime of torture to the CC: they add a part 4 to Article 286 of the CC (abuse of power) «committed with torture», and also change Article 302 so that any law enforcement officer can be charged with coercion to testify. Thus, still no law enforcement officer can be brought to justice for committing torture or inhuman and degrading treatment.
- Another flaw in the legal framework is lack of independent national preventive mechanism for prevention (NPM) of torture and ill-treatment in place of detention. Russia did not ratify the Optional Protocol to the UN Convention against Torture (OPCAT), but created its own system of prevention of torture. It mainly consists of Public Oversight Commissions (POCs) established in 2008.
- The POCs mandate is limited in comparison with NPMs' mandate defined in Article 4 of the OPCAT. POCs visit places of detention, receive complaints of people in detention, can have (not confidential) conversations with them, they might make non-binding recommendations to the authorities, however, the latter do not have any specific obligations to react to the recommendations of the POCs. Moreover, the system and criteria of selection and appointment of the members of the POCs are not transparent or inclusive; and members of the POCs are not paid or reimbursed for their expenses. These factors limit the effectiveness of POCs and its ability to protect the rights of people in detention.

- The lack of effective mechanism for prevention of torture is a missed opportunity to protect people in detention, considering the degrading conditions of detention in Russia, which were found by the ECtHR as a systematic violation of Article 3 of the ECHR. Besides the lack of a system of prevention, Russia lacks an effective compensatory remedy for poor conditions of detention.
- The COVID-19 pandemic highlighted the vulnerable position of people in detention. For several months in 2020 they were denied the right to meet with relatives and receive parcels, no compensatory remedies as remote communication via the internet was provided. Moreover, during the visits they were precluded from confidential communication with their defense lawyers.
- In-prison punishments such as strict isolation, often in solitary confinement, are used as a form of pressure on inmates who have filed complaints about torture or assisted in gathering information on torture incidents in the facility. Nothing can stop a prison from imposing arbitrary punishments on inmates, because the legally prescribed procedure for in-prison disciplinary measures does not provide for any fair trial guarantees. The administration can discipline an inmate based on a formal pretext such as a minor violation of the internal regulations. This type of disciplinary punishment often constitutes torture in and of itself.
- Criminal charges have sometimes been brought against those who report torture. Most commonly, charges against torture victims are brought under Art. 318 of the CC, allegedly for violently assaulting a public authority. This provision requires no proof other than testimony from the allegedly affected police officer. Charges under this article have been brought particularly often against those who complain of being beaten during arrest.

- Retaliatory «false denunciation» charges (Art. 306 of the CC) have also been used to discourage complaints. The officials often use materials from a pre-investigative inquiry which failed to find misconduct on their part as evidence in «false denunciation» proceedings.
- In 2018-2019, at least 282 people died in police stations, pre-trial detention centers and prisons, during arrests and interrogations, during «counter-terrorism operations». These are only the cases that became known. There are no official statistics on the deaths of people who have committed or are suspected of committing a crime, or who **died** as a result of violent actions by law enforcement officers.
- After the investigations by human rights defenders, it was reported by them that at least 75 out of 282 deaths are attributable to the police. There were 95 deaths in prisons and pre-trial detention centers — in 36% of cases, the circumstances of death and the official reasons given are questionable. At least 112 people died in anti-terrorist operations, names of 99 of them are unknown.

## **Honor killings**

- In 2020, 58 cases involving 73 victims of honor killings from Chechnya, Dagestan and Ingushetia between 2009 and 2020 were documented.
- An analysis of 43 verdicts led to the conclusion that murderers who invoke the «honor motive» receive a more lenient sentence. Such a measure is directly provided for by the Code of Criminal Procedure, which recognizes «immoral behavior of the victim» as an extenuating circumstance.
- In 2020, a police officer in Ingushetia published on the Internet a video he received in the performance of his official duties, which revealed the private life of 33-year-old Elizaveta Mogushkova. In the evening of the same day, her own brother **killed** her in order to «wash away the shame from the family.»

## **DISCRIMINATION AND RELATED ISSUES**

### **Racial profiling**

- Russian authorities do not make any effort to build an inclusive open society, where everyone can enjoy their rights, irrespective of their status. On the contrary, in the sphere of law enforcement Russian state organs practice racial profilings and ignore the needs of vulnerable groups.

### **Racial profiling in policing migration**

- Russian police practice racial profiling. Police officers stop and check identity papers of persons relying solely on their «Asian appearance». This is evidenced by statements of human rights activists and court practice.
- We identified at least 53 **published** court decisions taken in 20 regions of the Russian Federation during 2016-2021 proving the existence of racial profiling in Russia. All of these decisions are taken under part 1 Art. 19.3 of the CAO (Non-compliance with the lawful order of a police officer). In these decisions police officers were patrolling streets or implementing operations like «illegal migrant», spotted a person of «Asian» or «Caucasian» appearance, approached them, asked for identity papers and verification of legality of their stay in Russia. The only reason for these checks is «Asian appearance». The information on nationality of the defendants is usually deleted, but a number of the defendants come from Kyrgyzstan, Tajikistan, Uzbekistan and Dagestan. Women are less likely to be stopped on the street: 48 of the defendants are men and only 5 are women. Most popular punishment for this offense is administrative arrest (applied in 29 decisions), 20 persons were fined, and in 4 cases the proceedings were canceled owing to the lack of evidence. The average punishment is a 6-day administrative arrest and a fine with an average amount of 1 000 RUB (11 EUR).

## **Racial profiling and artificial intelligence**

- Since 2011, facial recognition technology **has been used** in Moscow. This practice is gradually spreading to other regions. Human rights defenders attempted to challenge the legality of use of facial recognition technology in courts. The use of this technology shows that prior to introducing it, Russia did not assess its impact and its potential to misidentify people as a result of unrepresentative data sets, and did not introduce any independent oversight over the use of the technology. The lack of safeguards is likely to result in using of facial recognition technology in racial profiling.
- Moreover, Russia plans to introduce algorithmic profiling systems. The Strategy of development of the penitentiary system until 2030 plans to use such systems to control released persons and people who are under measures of constraint not related to the deprivation of liberty. There is little hope that the design of the system will be transparent, its use will be monitored and assessed independently, therefore, the algorithmic profiling systems are likely to reproduce racial bias.

## **People with disabilities**

- In relation to the right to a fair trial their needs were taken into account, when the version of courts' websites for the visually impaired appeared. Moreover, programs and guidelines to make court buildings accessible for people with disabilities were adopted, however, the majority of the court buildings in reality are not accessible for people with disabilities.
- During the COVID-19 pandemic no measure was adopted to prevent the spread of the pandemic within the law enforcement, which took into account the needs of vulnerable groups. Even the legislation adopted during the pandemic on the right to participate in civil cases remotely **does not take into account** special needs of people with disabilities.

## **Women's rights and domestic violence issues**

### **Domestic violence**

- In Russia, there is no legislation on combating domestic violence, the state does not keep statistical records of the scale of this phenomenon, and sociological surveys indicate that 20% of the women surveyed were subjected to physical violence, of which only one in ten turned to the police.
- Despite the scale of the problem, legal protection for victims is only shrinking. So, in 2017, beatings in the family were decriminalized, and an administrative fine amounted to 5,000 RUB (70 EUR).
- In July 2019, the ECtHR adopted a judgment in the case of Volodina v. Russia, in which it recognized systemic discrimination against women in situations of domestic violence and stated that «by tolerating for many years a climate...conducive to domestic violence, the...authorities failed to create conditions for substantive gender equality that would enable women to live free from fear of ill-treatment or attacks on their physical integrity and to benefit from the equal protection of the law.»
- During the pandemic, numerous centers for assistance to victims of domestic violence reported an increased number of appeals from victims of domestic violence in various regions of Russia. A large number of appeals are associated with chronic situations of domestic violence, however, in some cases, women **faced** this problem for the first time during quarantine.
- In December 2021, the ECtHR adopted a pilot judgment on the topic of domestic violence in the Russian Federation Tunikova and others v. Russia, where it indicated that the authorities should immediately amend the legislation, develop comprehensive and targeted responses to domestic violence. The resolution entered into force on March 14, 2022, but has not yet been implemented by the Russian Federation.

## **Retraumatization in the investigation of sexualized violence**

- Although the CoE Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse has been ratified by the Russian Federation and partially implemented in the Code of Criminal Procedure, the norms are not clear enough and therefore ineffective.
- An example is the case of B, an 11-year-old girl who experienced a series of episodes of sexualized violence. She was interrogated 23 times, and even after psychologists diagnosed PTSD and indicated that further interrogations were harmful to her mental health, the investigator, and then the judge, continued to insist on them. During the investigation, the girl was forced to come face to face with the rapists, and the lawyers of the accused asked traumatic questions to follow. In 2021, the case was communicated to the ECtHR.
- Rape and infliction of minor bodily harm (incapacity for work up to 21 days) are crimes of private-public prosecution (ex officio) and are initiated only at the request of the victim. This results in the perpetrator or biased investigator putting pressure on victims to withdraw their complaints.

## **Female genital mutilation**

- In 2016, the Justice Initiative Project published a study on the practice of female genital mutilation in Russia based on field studies conducted in nine highland regions of Dagestan, where circumcision is mainly performed on girls under three years of age at home using common household implements such as knives or scissors. The report also revealed that the purpose of the procedure **was to control** female sexuality and behaviour.
- In 2018, in Moscow, the Best Clinic medical center published a price list in which it **offered** the service of «female circumcision» to girls under 12 for religious reasons. The investigative committee conducted an inspection on the fact, but did not find the corpus delicti, indicating that at the time of the inspection of the premises of the clinic, repairs were being carried out, and the medical documentation provided voluntarily by the administration concerned plastic gynecological operations only for adult women.
- In 2018, a second study was released, which indicated that the minimum number of female genital mutilation in Dagestan **is estimated** at 1240 girls per year.
- In 2019, a criminal case was opened in Ingushetia for causing minor harm to the health of a 9-year-old girl, who had gone through female genital mutilation. The case is still pending in court, but the statute of limitations for holding the doctor accountable has expired. Russian legislation and the medical criteria for causing harm to health allow qualifying FGM only as minor harm to health, therefore, cases can only be initiated at the request of the injured party and terminated due to the statute of limitations 2 years after the events.

## **Discrimination against women in matters of child custody in the North Caucasus**

- In the North Caucasus (in Chechnya and Ingushetia, less often in Dagestan), the authorities maintain a tradition according to which children, after a divorce or even the death of their father, «belong» to the father's family. This leads to the fact that mothers are forbidden not only to raise their children, but to see them. Appeal to the court also does not lead to a result, because even if the mother receives a decision in her favor, it is not executed by bailiffs, who also cannot overstep the local order.
- In recent years, the ECtHR has adopted several judgments, in which it found a violation of the right of mothers and children to family life. However, these decrees were never implemented by the authorities.
- As part of the execution of the Muruzhev group of cases, the authorities published for public discussion a draft law introducing criminal liability for non-enforcement of a court decision, including on determining the place of residence of a child. The adoption of such a law could partly solve the problem, since now the fine is 1000 rubles and **does not provide** a deterrent effect.

## **LGBTQ**

- The general trend for the unprecedented pressure put on civil society by the state in 2021-2022 was highlighted by the increasingly conservative rhetoric of state representatives.
- Officials regularly **made** homophobic and **transphobic** statements and new discriminatory **legislative initiatives**. The most significant organizations assisting and advocating for LGBT\* people were added to the «foreign agents» registries — there are now 11 organisations and 6 activists on the list.
- Existing laws on the prohibition of «propaganda of homosexuality» were frequently used and abused by the Russian government to oppress the human rights and freedoms of LGBT\* on its state territory. The government considers everything connected with gender or LGBT\* to be interpreted as propaganda. The law effectively bans any assembly that entails LGBT\* topics. The same **applies** to pickets.
- LGBTQ people are not only ignored by the current legislation, which has no effective anti-discrimination mechanisms for their protection, but also includes official provisions that create and promote a damaging image of these people as being immoral and destructive to the national «family values.» They are also hunted down and degraded by political figures, medical workers, law-enforcement officers, and the general public.
- In a wide-scale social survey research made by Coming Out, surveying 1510 people in St. Petersburg, the results revealed that there were 1907 cases of discrimination and violence on the grounds of SOGI committed in 2021 in this city alone, which means that there are thousands more in other cities across Russia.

- LGBT organisations, drawing Russia's attention to the systematic violations of the human rights of LGBT persons, establish a direct link between the homophobic legislation and the growing amount of violent crimes against LGBT people in Russia. However, up to this date, Russian law enforcement officials show their unwillingness to provide swift and impartial investigations of homophobia-motivated crimes, determine the nature of hate crimes correctly and take the hate motive into account as an aggravating circumstance, while the number of such crimes continues to grow.
- Using data from reports from past years, the trend of increasing violations of the rights of LGBTQ people, universally recognized human rights can be easily followed.

## **FREEDOM OF CONSCIENCE**

### **The use of anti-extremist and anti-terrorist legislation against religious organisations**

- Art. 282.2 of the CC (organization of the activities of an extremist organization) is often used against the representatives of religious organizations. Most often, this article is applied to followers of Muslim organisations such as Tablighi Jamaat, Nurcular, and Muslim group of 'Faizrakhmanists' in Kazan which are banned as extremist, and since 2018 there **has been an increase in repression** against them.
- In April 2017, all the Jehovah's Witnesses organizations registered in Russia (395 local communities along with the Administrative Center) were banned as extremist. A year later this gave rise to a wave of criminal cases; according to Jehovah's Witnesses, 639 believers became defendants in criminal cases as of mid-August 2022. SOVA Center registered 18 believers sentenced in 2019, 46 in 2020, 105 in 2021, and 59 in 2022, as of mid-August. According to SOVA Center's data, the most severe punishment ever imposed for membership in a religious association banned as extremist has reached eight and a half years of imprisonment.
- In practice, not only people directly involved in the creation of these organizations are persecuted, but also those who study the religious books of the spiritual leaders of these movements and take part in the discussion of aspects of the teaching, since the article does not specify a list of actions that constitute a crime.

- In October 2021, the Supreme Court ruled that actions of former members of banned religious associations «not related to continuing or resuming the activities of an extremist organization but solely in exercise of their right to freedom of conscience and freedom of religion» do not, in and of themselves, constitute a crime. In November-December 2021, one Jehovah's Witness was acquitted (for the first time) based on the said Supreme Court resolution, however 20 more people were found guilty during the same time period. In 2022, this acquittal was contested by the prosecutor and, as of mid-August 2022, is under revision, while four more believers were acquitted.
- In 2003, the Russian Supreme Court recognized 15 Islamic organizations as terrorists and banned their activities on the territory of Russia. One of the banned organizations was Hizb ut-Tahrir. According to the ECtHR, its activities may be limited by the states, as its ideology contradicts the values of the Convention. However, in Russia the reasoning part of the decision does not contain any data on the terrorist activities of Hizb ut-Tahrir, which is obvious grounds for declaring the decision unreasonable.
- As of March 22, 2022, at least 340 people are being prosecuted in connection with involvement with Hizb ut-Tahrir. 231 of them were convicted: 81 of them received terms of 10 to 15 years, 95 — terms of 15 years or more. Over 19 defendants are currently on trial. At least 62 people are under investigation. At least 27 people are on the wanted list. A big share of those sentenced for membership in the Hizb ut-Tahrir party have been activists of Crimean Tatars movement (especially in 2022).

## **Undesirable organisations**

- In 2021, 6 foreign religious organizations were included in the list of undesirable organisations, among them organizations of Scientologists and the New Generation Church. According to the Prosecutor General's office, the activities of all these organizations pose a threat to the foundations of the constitutional order and the security of the Russian Federation, but what this threat consists of was not explained.
- On August 14, 2022 in at least five Russian cities, houses of alleged members of the New Generation **were searched** as part of a criminal case under the article on carrying out the activities of an «undesirable organization». This is a first known criminal case under this article against religious organisations.

## **ACADEMIC FREEDOMS**

- Academic freedoms in Russia have rapidly **declined** against the background of the narrowing of the overall space for freedom of speech.
- The wave of spy mania that manifested itself in Russia at the beginning of the century directly affected scientific workers. In 2018-2022, there were at least 14 cases under the CC Art. 275 (treason) against academic workers initiated in the context of their work.
- The free interpretation of the concept of «state secret» by law enforcers makes the position of scientists participating in research projects with international participation very vulnerable. The situation is aggravated by the closed nature of the trials, which **are held** with flagrant violations of the principles of justice.
- For academic rights and freedoms in the social sciences, the adoption of laws on foreign agents and on undesirable organizations played a critical role. First of all, non-state scientific organizations engaged in empirical research suffered from them. There are 16 research centers-«foreign agents» and 5 — «undesirable organisations», along with 3 academics-”foreign agents».
- It is indicative that the direct clause of the law on «foreign agents», which excludes scientific research from the consideration of law enforcers, turned out to be ineffective in practice. The new version of the law also does not provide for such a clause; moreover, the authors of the law directly **speak** of «foreign agents» in science and the newest amendments **banned** «foreign agents» from teaching at state institutions.

- The state policy of licensing non-state universities **is changing**. The examples of the European University and the Moscow Higher School of Social and Economic Sciences are illustrative. Both universities are leaders in Russian liberal arts education, respected by the international scientific community, and both had their licenses revoked.
- A separate place in the conservative turn is occupied by the official historical policy. Important milestones in the politicization of history are the creation in 2009 of the Commission under the President to counter attempts to falsify history and the adoption in 2014 of a federal law aimed at «countering attempts to encroach on historical memory in relation to events that took place during the Second World War», as well as the administrative liability for the public identification of the role of the USSR and Germany **during** the Second World War.
- In the new legal context, an attempt to cast doubt on the official version of the events of the Second World War may become a reason for punishing a scientist, up to and including criminal prosecution.
- The reason for persecution by the state is increasingly becoming the civic and political activity of scientists, primarily public criticism of the policy pursued by the state. Formally, dismissals can be explained **by a violation of labor discipline**. And even more often — by not renewing their employment contract.
- Since the start of the war, those trends had also been traceable. University professors are among the most vulnerable categories today. Their situation is worse than that of others because it often becomes harder for them to find a new job or return to work because they are being fired for «immoral act, inconsistent with teaching.»

- There are at least 9 cases where university professors were fired, suspended or asked to resign after expressing their anti-war position. A university lecture **can become** a reason to instigate a case under the article of discrediting the Russian armed forces.
- There were also reports on threats to fire employees of universities who would take part in rallies against war.

## **ARMY AND CONSCRIPTS**

- According to Agora's report, the rights of the conscripts and army servicemen **are also violated** in the context of war with Ukraine.
- On 18 February 2022, Vladimir Putin **signed** a decree to call up Russian citizens in reserve for military training in 2022. He ordered to call up reservists for military training in the Russian Armed Forces, the National Guard, the State Guard and the Federal Security Service (the FSB). The previous year, a similar decree was signed on 26 April, but it **applied** only to the army and the FSB.
- Following the invasion of Ukraine by Russian forces, there have been reports of mass mailings by military commissariats of call-out notices and mobilisation orders for men liable for military service to report for military registration checks or **medical examinations**. Similar notices were received by young men of conscription age, despite the fact that the spring draft for military service has not been announced (it **begins** on 1 April). Also, employers and employees of HR departments of various organisations and enterprises began to report receipt of letters from the military registration and enlistment offices. These letters asked them to inform their employees about the possibility of signing a contract to serve in the Russian Armed Forces.
- On 8 March, Russian President Vladimir Putin said that neither conscripts nor reservists **are involved** in Russia's military operation in Ukraine, and would not be involved in future. The next day, on 9 March, the Russian Defence Ministry officially admitted that conscript soldiers were not only involved in combat operations, but several **had been taken** prisoner.

- The Ukrainian media actively circulated videos of Russian servicemen detained in Ukraine, in which they confess that they are carrying out military service and state their age as 18-19 years old. The Russian president instructed the Chief Military Prosecutor's Office to conduct a legal assessment of these actions, and punish the officials of the Russian Defence Ministry responsible for failing to comply with the instruction not to involve conscripts in any tasks on the territory of Ukraine. Still, no assessment or investigation had been done.
- In mid-March, the hotline for conscripts and servicemen began to receive numerous reports that conscripts from the autumn 2021 draft were being trained in military occupational specialities in an expedited manner for possible deployment to the area of combat **operations in Ukraine**. Russian legislation does not prohibit sending conscripted servicemen to perform tasks in armed conflicts (to take part in combat operations). At least three group cases of Russian Guard fighters refusing to be sent to Ukraine are known — in the Belgorod region and Crimea. In general at least 17 cities, military personnel and Russian Guard fighters reported pressure, dismissals and threats of criminal charges **due to refusals** to go to Ukraine.
- At the end of March, the media started to publish the first evidence of desertion by Russian servicemen from units **stationed** in Ukraine. In particular, reports have pointed to the use of violence against them by officers.

## **INEFFICIENCY OF THE JUDICIAL SYSTEM IN CASES OF ADMINISTRATIVE OFFENSES**

- Judicial protection in cases of administrative offenses is ineffective at the stages of applying to different judicial instances. The court of first instance, as a rule, grossly violates the fundamental requirements of Article 6 of the ECHR, but not only this norm.
- One of the problems that led to the low effectiveness of judicial protection in cases of administrative offenses is the vague wording of the articles of the code and, as a result, there is no evidence of the guilt of the person involved in the materials of administrative cases. For example, part 1 of article 20.2.2 of the CAO contains a ban on 11 different actions at once, none of which is specified, which leaves the proof and subsequent stages of judicial proceedings «at the discretion of the court.»
- One of the striking examples of the low effectiveness of judicial protection can be considered the assignment of the function of prosecution to the judge who decides on the case. The CAO does not contain requirements for the mandatory participation of a representative of the prosecution. However, this possibility does not exclude, moreover, the need for the participation of the prosecutor.
- Among other requirements enshrined in Article 6 of the ECHR — the independence and impartiality of the court considering a dispute on criminal charges, the impartiality of the court is unattainable if the court is entrusted with the function of accusation. In the absence of representatives of the prosecution, the function of maintaining it will necessarily fall on the court, unless on this basis it terminates the consideration of the case.

- In the case of *Karelin v. Russia*, the ECtHR found that the authorities of the Russian Federation had committed a violation of Article 6 §1 of the Convention with regard to the requirement of impartiality in connection with the fact that the case of an administrative offense was considered in the absence of a prosecutor or other person supporting the prosecution. The ECtHR indicated that the Russian Federation should, through the adoption of appropriate legal and other measures, create in its legal system a mechanism that provides sufficient guarantees for ensuring the impartiality of courts considering such cases, by including an accusatory authority in those processes in which an oral hearing is held, or by taking other appropriate measures.
- About 6 years have passed since this decision. The Russian government reported that they had paid monetary compensation, but no steps were taken to amend the CAO.
- The practice of cassation courts and the Supreme Court of Russia on the administrative articles, namely Article 20.2 of the CAO also demonstrates the judicial system inefficiency. A large number of complaints — about a third — in the cassation courts are not considered on the merits, but are returned for the presence of formal shortcomings.
- In all cases considered in the report, both courts of cassation and the Supreme Court do not give a proper assessment of issues of facts and issues of law, agreeing with the decisions of lower courts. In particular, courts do not consider the fact that lower courts do not evaluate proportionality and legality of the interference with the rights of freedom of peaceful assembly and freedom of expression, holding accountable for a mere fact of participation in a public event or its planning, organizing and even dissemination of information about an event unauthorized by local authorities.

- Besides, courts hesitate to consider the issue of legality and validity of a refusal to authorize public events. At the same time, the restrictions imposed on holding actions do not allow holding actions with subpoenas criticizing the actions of the authorities.
- As to the dismissing decisions of cassation courts — in cases against «organizers» of public events, none of them disprove the vicious practice. Partly, decisions were canceled on purely procedural grounds, and partly due to organizing of public events, which does not require an authorization. As to cases against participants of public events, there is only one case where the Court of Cassation has pointed out that unfulfillment of the police officer's demand to stop participating in an unauthorized public event does not constitute an offense itself.
- In other cases, courts ignored these issues and held people liable or dismissed decisions due to procedural grounds or on the grounds that protocols did not specify that the person ignored the demands of police officers or committed other actions prescribed by Article 6(3,4) of the Law on Public Events. In cases under Article 20.2(6.1), the dismissals also had procedural grounds. In all decisions under this article, the courts did not investigate exactly what consequences were caused by applicants' actions, as well as how they caused such consequences.
- All the above facts testify to the well-established practice in the cassation instances and their ineffectiveness as domestic remedies.

## **More to read**



### **The strangling of Crimea**

Denis Shedov and Dan Storyev explain how the repression in occupied Crimea was structured and how it evolved