

IN THE HUMAN RIGHTS COMMITTEE

**SUBMISSIONS OF NET FREEDOMS PROJECT
FOR THE CONSIDERATION OF THE 8th PERIODIC REPORT
OF THE RUSSIAN FEDERATION
UNDER THE INTERNATIONAL COVENANT ON CIVIL AND
POLITICAL RIGHTS**



<https://t.me/NetFreedomsProject>

Introduction

1. These submissions are made by *Net Freedoms Project*, a human rights group dedicated to protecting freedom of expression online and focusing on issues related to the use of new technologies to restrict human rights. It is a part of *Agora International Human Rights Group*.
2. The submissions are made in advance of the consideration of the 8th Periodic Report of the Russian Federation at the 135th Human Rights Committee's session in June and July 2022. The bulk of the civil society submissions was made in advance of the 134th session in March 2022, covering the events no later than 30 January 2022, the deadline. The consideration of the Periodic Report was, however, postponed to the 135th session due to the Russian delegation's failure to appear.
3. The submissions are thus exceptionally called for because of the recent but grave nature of the developments, set out below, that took place after the deadline for the 134th session, but within the deadline for the 135th session.
4. Following the armed invasion of Ukraine by the Russian Federation on 24 February 2022 a considerable number of laws and court decisions was adopted in Russia and they are directly relevant to the Russia's compliance with the provisions of the International Covenant on Civil and Political Rights. In particular, since early March 2022 the laws making it an offence to discredit the Russian Armed Forces (section "A" below) and to spread false information about the military and public authorities (section "B" below) received wide application which, *Net Freedoms Project* submits (section "C" below), is a manifest violation of Article 19 of the Covenant.

5. Other laws adopted in the aftermath of the invasion include the administrative and criminal offences for public calls to introduce sanctions against the Russian Federation and its nationals and for statements comparing the USSR and Nazi Germany. They are yet to receive wide application, so these submissions won't discuss them beyond this mention.

A. The Offence of "Discrediting" Russian Armed Forces

6. On 4 March 2022 bills were introduced, immediately adopted by both houses of the Federal Assembly and signed into law by the President of the Russian Federation amending the Code of Administrative Offences and the Criminal Code. These amendments introduced, among others, a new article 20.3.3 into the Code of Administrative Offences.
7. This new provision prohibited "public calls aimed at discrediting the use of Armed Forces of the Russian Federation to protect the interests of the Russian Federation and its nationals, international peace and security, as well public calls aimed at preventing such use of the Armed Forces". On 25 March 2022 a new prohibition was added to article 20.3.3, this time to make public calls "to discredit the actions of the public authorities of the Russian Federation abroad". The fines are between 30,000 and 50,000 Russian rubles (approx. 500 to 820 EUR).
8. Repeated violation of the said prohibitions is a criminal offence under the new article 280.3(1) of the Criminal Code punishable by fines up to 300,000 rubles (approx. 5,000 EUR), forced labour up to six months or imprisonment up to three years. Under article 280.3(2) of the Criminal Code the same public calls are a criminal offence if committed for the first time provided they led to death or injury, mass disorder, or create the risk of disturbances to the functioning of critical infrastructure, transport, social services, credit institutions, power plants, factories, telecommunications.
9. Article 20.3.3 of the Code of Administrative Offences received swift and massive enforcement. Already on 5 March 2022, Ms Irina Shumilova was fined for having held a poster "this war is sponsored by our taxes, but we need to crowdfund for sick children". Further convictions were entered for wearing a green ribbon as a symbol of anti-war protest, all kinds of written and oral slogans "no to war", posters "Fatherland is in danger, our tanks are on foreign land" (a famous quote from a song by Alexander Galich), "while we are silent, we support the killings in Ukraine", "stop the military operation", "fascism

won't pass" etc. Wearing yellow and blue clothes and a badge with the Ukrainian flag was also considered as offence.

10. On 10 March 2022 a priest from Kostroma, Father Ioann Burdin, was fined for an anti-war sermon he had given in his church denouncing the "killing of Ukrainians, our brothers and sisters in Christ". His offence was also to have posted a link to the Change.org anti-war petition on his parish web-site.
11. On 13 March 2022 Mr Dmitry Reznikov was fined in Moscow for holding a poster with eight asterisks, equal to the number of letters making "no to war" in Russian ("нет войне"). On the same day Ms Marina Dmitriyeva held a solo demonstration in central Moscow holding a poster saying literally "two words" ("no to war", as shown above, are two words in Russian). On 21 March 2022 she was fined under article 20.3.3.
12. On 14 March 2022 Mr Ilya Reinwald from Vladivostok was fined 80,000 rubles was fined for discrediting Russian Armed Forces aggravated by calls to unauthorised assemblies because he had re-posted Alexey Navalny's call to protest against the Russian invasion in Ukraine.
13. By the end of April 2022 27 acquittals were entered or convictions quashed, primarily for those who were charged with holding posters "No to war". They were treated as generic expression against war rather than opposition to the Russian invasion in Ukraine.
14. Currently, over 2,000 completed and pending cases under article 20.3.3 are reported across Russia. A handful of criminal cases have been opened under article 280.3(1) of the Criminal Code for repeated convictions of the administrative offence.

B. Recourse to Legislation on Dissemination of False Information on Russian Military and Public Authorities

15. Following 24 February 2022 the Russian authorities had recourse to the legislation on dissemination of false information ("fake news") in two ways: by restricting and prohibiting media publications (a) and by introducing and enforcing a new criminal offence (b).

a) Enforcement of anti-fake-news legislation against the independent media

16. Russia adopted anti-fake-news legislation in 2019. In particular, provisions of article 13.15 of the Code of Administrative Offences were amended to prohibit dissemination of "knowingly false publicly important information disguised as truth". New articles

13.15(9) and 13.15(10) introduced fines of up to 100,000 rubles or approx. 1,700 EUR (300,000 rubles or approx. 5,100 EUR, if aggravated) for individuals and up to 600,000 rubles or approx. 10,200 EUR (up to 1 million rubles or 17,000 EUR, if aggravated) for legal entities; editors-in-chief of mass-media are also liable. Corresponding criminal offences were also introduced, article 207.1 of the Criminal Code punishing “fake news” about measures protecting life and well-being of individuals and article 207.2 which provides for an aggravated offence. There have been 9 convictions, analysed in the *Agora* report.¹

17. It is with reference to the provision of article 13.15 of the Code of Administrative Offences that on 24 February 2022 Russian Communications Authority, the *Roskomnadzor*, issued a statement to the effect that the only truthful information on the actions of the Russian Armed Forces is that provided by the Russian authorities and information from any other sources would be regarded as false.²
18. In the following days multiple outlets, including *Echo Moskvy* (major radio station), *Mediazona* (reports on prisons, police violence and criminal justice), *Pskovskaya Guberniya* and *Tayga* (independent outlets from Pskov and Novosibirsk, respectively), *Republic* and *Snob* (both opinion and debate outlets) and many others, were blocked on the grounds they were disseminating fakes about Russian invasion in Ukraine, that is publishing information which differed from the statements of the Russian authorities. The web-site blockings were enforced by the *Roskomnadzor* on requests from the prosecutors; the requests referred to the interpretation of the anti-fake-news legislation expressed by the *Roskomnadzor* on 24 February 2022.

b) Introduction and enforcement of a new criminal offence

19. Article 207.3 of the Criminal Code, also effective as of 4 March 2022, made it an offence to publicly disseminate “knowingly false information disguised as truth on the use of the Armed Forces of the Russian Federation to protect the interests of the Russian Federation and its nationals, international peace and security”. Also on 23 March 2022 the *actus reus* was extended to include “discrediting the actions of the public authorities of the Russian Federation abroad”.

¹ Available at <https://runet.report/static/core/doc/Эпидемия%20фейков.%20Борьба%20с%20коронавирусом%20как%20угроза%20свободе%20слова.%202020.%20Агора.pdf>

² Available at: <https://rkn.gov.ru/news/rsoc/news74084.htm>.

20. The dissemination of false information is punishable by fines between 700,000 and 1,500,000 rubles (approx. 11,470 to 24,500 EUR), forced labour or imprisonment of up to three years. When aggravated, the penalty may be a prison sentence of up to 15 years.
21. According to the *Net Freedoms Project*, there are currently over 50 defendants charged under article 207.3. In Penza Ms Irina Gen, a school teacher, is charged because of anti-war statements made in class and recorded by her students. In St. Petersburg Ms Alexandra Skochilenko changed price tags in a supermarket replacing them with similarly looking figures related to the invasion of Ukraine. Not only has Ms Skochilenko been charged under the aggravated offence provided for in article 207.3(2) and is facing up to 10 years in prison, she has also been placed in pre-trial detention, initially for 2 months. Two other defendants from St. Petersburg charged under the same provision, Mr Boris Romanov and Ms Viktoriya Petrova, are also in pre-trial detention.
22. In Moscow a local councillor of the Krasnoselskiy District, Mr Alexey Gorinov, has been charged and put in pre-trial detention, for having held a minute of silence for the children killed in Ukraine at the sitting of the local council. Founder and leader of OSINT-investigating group *Conflict Intelligence Team* Mr Ruslan Leviyev and former *Echo Moskvy* journalist Mr Michael Naecke were charged because of the interview the former gave to the latter, their pre-trial detention was ordered by a court in Moscow *in absentia*.

C. Analysis and Conclusions

23. The enforcement of the two new offences are far from the only means of restriction of the rights guaranteed by the ICCPR in Russia after 24 February 2022. They are detailed in the *Agora* report “Human Rights Martial Law” analysing of the events up to 24 March 2022.³ The restrictions include mass arrests of peaceful protesters, blocking social media (*Meta* and its products, *Facebook* and *Instagram*, were declared extremist, *Twitter* blocked under the “fake news” laws), enhanced enforcement of “foreign agent” legislation (a quarter of “mass-media foreign agents” and all “individual foreign agents” were listed after 24 February 2022), the use of other criminal offences to punish dissent (e.g., charging the authors of anti-war graffiti with vandalism, extremism, assault against

³ Report in Russian: https://drive.google.com/file/d/1vCb_QdGscBkLUtYQpNxl5Q7I1XNisbnr/view; English summary: <https://meduza.io/en/feature/2022/03/26/the-war-at-home>

policemen) etc. These practices have already been denounced by the Human Rights Committee in the previous Concluding observations.⁴

24. All new charges and convictions under article 20.3.3 of the Code of Administrative Offences and under article 207.3 of the Criminal Code are for statements against war, calling for peace or making verifiable and verified factual claims about the armed conflict. In no case have the prosecuting authorities suggested, even less established, any hate speech or calls for violence.
25. Not only such interferences with freedom of expression are impermissible under Article 19 of the International Covenant on Civil and Political Rights, Russian authorities indeed punish individuals' acting towards one another in a spirit of brotherhood, as recalled by Article 1 of the Universal Declaration of Human Rights. As in *Velichko v. Belarus*,⁵ where a violation of Article 19 ICCPR was established, the defendants in these cases were prosecuted for the expression aimed at upholding human rights.
26. The Committee recalled in General Comment no. 34 on Article 19 ICCPR⁶ that the Covenant's provisions oppose *desacato* and disrespect for authority laws. It is also recalled that the Russian legislation on web-site blocking was found by the European Court of Human Rights to violate Article 10 of the European Convention on Human Rights for the reason that it endows Russian prosecutors and executive agencies with unlimited and unchecked discretion in deciding whether to block any URL on the Internet.⁷
27. We submit that the only remedy would be the repeal of the above-discussed military censorship legislation introduced in March 2022. Consequently and irrespective of any comments the Russian delegation might make on these and other laws introduced to restrict speech after 24 February 2022, we invite the Committee to indicate in the Concluding observations that they should be fully and unreservedly repealed, convictions quashed and criminal records erased.

Respectfully submitted,

This twenty-seventh of May,

Two thousand and twenty-two

⁴ CCPR/C/RUS/CO/7, 28 April 2015.

⁵ CCPR/C/85/D/1022/2001, 23 November 2005.

⁶ CCPR/C/GC/34, 12 September 2011, para. 38.

⁷ See, among others, ECtHR, *Vladimir Kharitonov v. Russia*, no. 10795/14, 23 June 2020.