



Information on the Russian Federation for the 136th session of the UN Human Rights Committee

August 2022

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INTRODUCTION

This report is submitted to the UN Human Rights Committee (“Committee”) as a follow-up to the alternative report by a coalition of civil society organizations in the Russian Federation in response to the Committee’s call for information regarding its 136th session.

The following organizations contributed to this report:

OVD-Info, a leading Russian human rights project on freedom of assembly and political persecution;¹

No to Violence, an abuse problem resolution center;²

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;³

International Committee of Indigenous Peoples of Russia is the international coalition led by indigenous human right defenders and leaders to promote IP rights and bring Russian IP independent voice to the globe;⁴

Mass Media Defence Centre, a Voronezh-based media freedom NGO, promoting freedom of expression since 1996;⁵

Citizens Watch, a St. Petersburg based human rights NGO established in 1992. 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;⁶

Charitable Foundation Sphere, a human rights organization which conducts advocacy programs and supports smaller initiatives to bring about systemic changes for the Russian LGBTQ+ community;⁷

Movement of conscientious objectors, a non-profit organisation since 2014 helping young people to legally exempt themselves from conscription to the army;⁸

¹ <https://ovdinfo.org/>

² <https://nasiliu.net/>

³ <https://www.srji.org/en/>

⁴ <https://indigenous-russia.com/archives/19347>

⁵ <https://mmdc.ru/>

⁶ <https://citwatch.org/>

⁷ <https://cfsphere.org/>

⁸ <https://stoparmy.org/>

Memorial Human Rights Defence Centre, a Russian NGO that focuses on protecting human rights, especially in conflict zones in and around modern Russia, founded in 2022 by supporters of Memorial Human Rights Centre, a Russian NGO that existed in 1992-2022;⁹

Public Verdict Foundation, a Russian human rights organisation that combines legal protection for victims of law enforcement arbitrariness with in-depth law enforcement research and professional media support for human rights work.¹⁰

⁹ <https://t.me/polniypc>

¹⁰ <https://publicverdict.org/>

I. Freedom of speech

1. “Media foreign agents”

1. As of September 12, 2022, the register of media foreign agents contained 176 media outlets and individuals (7 individuals were excluded from this list, however information about their inclusion and subsequent delisting remains publicly available).¹¹ Around three quarters of the designations of media or individuals as “foreign agents” have been made after February 24, 2022, including opposition politicians Yulia Galyamina and Lyubov Sobol, artist Yulia Tsvetkova, journalist Alexey Pivovarov, poet Dmitry Bykov etc. In general, “media foreign agents” in Russia 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 or expressed their alternative opinion on other issues.

2. “Foreign agents” individuals

2. As of September 12, 2022, the register of “foreign agent” individuals contained 22 persons.¹² From December 2020, any natural person, regardless of citizenship, can be recognized as a “foreign agent” individual and included to the separate register. However, the list of such persons was empty till the beginning of April 2022. Since our last report of May 27, 15 individuals were added in the list, including opposition politicians Ilya Yashin and Maxim Katz, actress Tatyana Lazareva, journalists Dmitry Gordon and Katerina Gordeeva and singer Andrey Makarevich. The grounds for their inclusion were political activity and receiving funding from Ukraine.

3. Blockings and shut downs of media outlets

3. According to Roskomsvoboda, about 7 thousand sites were blocked by “military censorship”.¹³ According to Prosecutor General Igor Krasnov, 138 thousand Internet resources have been blocked and deleted since the beginning of the war with Ukraine.¹⁴ The authorities also continue to block VPN services to further restrict the flow of independent information. Moreover, the authorities prosecute independent media under the provision of “discrediting the use of Russian armed forces” (Article 20.3.3 of Code of Administrative Offences (CAO)).¹⁵ Only in August “Journalists' and Media Workers' Union”, “Novaya Rasskaz-gazeta”, “Odintsovo-Info” and “Vechernie Vedomosti” were fined under this article.

4. The Lukhovitsky District Court of the Moscow Region rejected OVD-Info’s request to unblock the project website. The court instituted the blocking in December 2021. The court ruling states that this measure cannot be lifted, since OVD-Info is “an independent human rights project about political persecution in Russia, which, using a hotline, collects information about detentions at public rallies and other cases of political pressure, and also publishes and coordinate legal assistance for detainees.” In addition, the court refers to the

¹¹ <https://minjust.gov.ru/ru/documents/7755/>

¹² <https://minjust.gov.ru/ru/activity/directions/942/spisok-lic-vypolnyayushih-funkcii-inostrannogo-agenta/>

¹³ <https://roskomsvoboda.org/post/polgoda-voyennoi-cenzury/>

¹⁴ <https://www.kommersant.ru/doc/5501990>

¹⁵ <https://data.ovdinfo.org/summary-anti-war-repressions-six-months-war#5>

fact that the project receives funding from the liquidated HRC “Memorial” and the European Commission FIDH, which aim to “influence public opinion within the country”, and is also included in the register of “foreign [agents]”.¹⁶

5. Moreover, the OVD-Info’s VK page was blocked in August.¹⁷ The reason for the extrajudicial blocking was “information materials containing unreliable socially significant information about the special military operation conducted by the Armed Forces of the Russian Federation, its form, methods of conducting military operations, as well as information about attacks on civilian infrastructure facilities, numerous victims among the civilian population of Ukraine and in the ranks of the Armed Forces of the Russian Federation, regarding general mobilization and others”.

6. On September 5, the Basmanny District Court of Moscow declared the license of Novaya Gazeta, a major independent news outlet, invalid due to the fact that the publication changed its founder in 2006, but did not submit the charter to Roskomnadzor.¹⁸ On September 6, The Basmanny District Court of Moscow annulled the certificate of registration of Novaya Rasskaz-gazeta. Roskomnadzor filed a lawsuit due to the fact that the magazine had not been published for more than a year. The publication was registered on March 6, 2009, and the first issue was published in July 2022. The representative of the editorial office provided the court with several copies of the Novaya Rasskaz-Gazeta, including the August issue. However, the court still declared the certificate of registration invalid.¹⁹ On September 15, the Russian Supreme Court is expected to pass a verdict on whether to terminate the registration of Novaya Gazeta’s website following another lawsuit by Roskomnadzor.

7. In March, the ECtHR issued interim measures under Rule 39 ordering the Russian government to refrain from obstructing the work of Novaya Gazeta.

4. Persecution of journalists

8. On August 17, in Kazan at least 9 searches were conducted in the houses of journalists who are working with “Radio Liberty” related to the case of incitement to terrorism via the Internet (part 2 of Article 205.2 of the Criminal Code (CC)) initiated because of the post dedicated to the attack on the Russian ambassador in Warsaw on the YouTube channel "Objective-TV". The journalists argue they had not heard about it before and did not work with it.²⁰ On September 9, the searches continued, this time in the houses of anti-war activists and the members of the election observer’s association.²¹

9. On September 8, in several Russian cities at least 7 searches in the houses of journalists and activists were carried out allegedly in connection with the criminal case opened under Article 207.3 of the CC against former State Duma deputy Ilia Ponomarev.²²

¹⁶ <https://ovd.news/express-news/2022/08/12/sud-otkazalsya-snyat-blokirovku-s-sayta-ovd-info>

¹⁷ <https://ovd.news/express-news/2022/08/11/soobshchestvo-ovd-info-vo-vkontakte-zablokirovali-na-territorii-rossii-po>

¹⁸ <https://ovd.news/express-news/2022/09/05/licenziyu-novoy-gazety-priznali-nedeystvitelnoy>

¹⁹ <https://ovd.news/express-news/2022/09/06/sud-annuliroval-svidetelstvo-o-registracii-novoy-rasskaz-gazety>

²⁰ <https://ovd.news/express-news/2022/08/17/v-tatarstane-proshli-massovye-obyski-u-zhurnalistov-sotrudnichayushchih-s>

²¹ <https://ovd.news/express-news/2022/09/09/v-kazani-prohodyat-obyski-po-delu-ob-opravdanii-terrorizma>

²² Vladislav Postnikov - editor-in-chief of “Evening Vedomosti”

(<https://ovd.news/express-news/2022/09/08/v-ekaterinburge-u-glavnogo-redaktora-vechernih-vedomostey-vladi>)

Law enforcement officials claimed that searches were being carried out because of the posts and “discrediting the Russian army” by the journalists, as well as “because of connections with Ilya Ponomarev”. Yet, none of the journalists and activists admit knowing Mr. Ponomarev or working with him in any manner. On the next day, their bank accounts started getting blocked.

10. Over the past year, at least 504 employees of 27 Russian media outlets have moved to a permanent place of work abroad, according to the estimates of the “Project”, based on a survey of editorial staff. Most of them left in the last six months, after the start of the war in Ukraine. For instance, the editorial offices of Meduza, Project, Important Stories, the BBC Russian Service, Mediazona, Mikhail Khodorkovsky’s media projects, most of the employees of Radio Liberty, the Current Time project left Russia.

5. Prosecution for expression of anti-war positions

11. The number of criminal cases initiated against the people expressing anti-war positions is now exceeding 240. At least 27 Criminal Code provisions are used to prosecute them.²³ Among the prosecuted, there are 23 journalists.

12. Yet, the articles specifically adopted after the start of the war with Ukraine are still the ones used most often against anti-war activists. As of September 12, there are now more than 100 cases initiated under criminal Article 207.3 (“Public dissemination of deliberately false information about the use of the Russian armed forces or government authorities’ activities outside Russia”). There are also 13 cases under part 1 of Article 280.3 (“Repeat discreditation of the use of the Russian armed forces or government authorities’ activities outside Russia”).

13. Yet, there are now more than 3800 cases initiated under the administrative Article 20.3.3 (“Discreditation of the use of the Russian armed forces or government authorities) – every person found guilty under this provision risks criminal persecution for the repeated offence. According to the Judicial Department, only in Moscow and Saint-Petersburg, in 6 months of 2022, 616 cases were received by district courts and 569 were considered in the first instance, 490 people were indicted, all of them were fined. The amount of fines imposed by the courts: 20 529 000 rubles (340 731 USD), the average fine – 44,378 rubles in Moscow (738 USD) and 34 242 in Saint-Petersburg (569 USD).

14. Another frequently used articles are Article 205.2 (“Public calls for terrorist activities”) – 12 cases, Article 318 (“The use of violence not dangerous to life or health, or

[slava](https://ovd.news/express-news/2022/09/08/v-reutove-proshel-obysk-u-odnogo-iz-osnovateley-orlovskogo-izdaniya-orlec)); Viktor Zyryanov - founder of “Orlets” newspaper (<https://ovd.news/express-news/2022/09/08/v-reutove-proshel-obysk-u-odnogo-iz-osnovateley-orlovskogo-izdaniya-orlec>); Yulia Glazova (<https://ovd.news/express-news/2022/09/08/v-tyumeni-prishli-s-obyskom-k-byvshemu-vneshtatnomu-korrespondentu-izdaniya>) and Bella Nasibyan (<https://ovd.news/express-news/2022/09/08/v-rostovskoy-oblasti-siloviki-prishli-s-obyskom-k-aktivistke-i-zhurnalistke>) - journalists; Ruslan Sukhushin - photographer (<https://ovd.news/express-news/2022/09/08/k-fotografu-iz-moskvy-prishli-s-obyskom-po-delu-ili-ponomareva>); Sergei Nosov (<https://ovd.news/express-news/2022/09/08/v-orlovskoy-oblasti-siloviki-prishli-s-obyskom-k-aktivistu-sergeyu-nosovu>) and Vladislav Khodakovsky (<https://ovd.news/express-news/2022/09/08/v-moskve-proshli-obyski-po-delu-o-prichastnosti-k-legionu-svobodnaya-rossiya>) - bloggers.

²³ See the full list of articles and prosecuted people here: <https://data.ovdinfo.org/antivoennaya-infografika>

the threat of violence against a representative of authority”) – 10 cases, Article 207 (“Knowingly false report about an impending explosion, arson or other actions”) – 17 cases.

15. Under Article 207.3, as of September 12, 8 sentences have been already handed down. They include 2 fines – 1 000 000 rubles and 3 000 000 rubles (16 300 and 48 900 USD, respectively); 2 cases of assignment of corrective labor – 6 months and 8 months; 2 suspended sentences of 5 years; and 2 cases of deprivation of liberty. The first one is 6 months, and the second one is 7 years for the independent member of Moscow’s municipal council Mr Alexey Gorinov. His case attracted a lot of media attention – and he did not plead guilty, and continued to express his anti-war position even in court. He was sentenced mainly for saying at his local council meeting that civilians had been killed in Ukraine.

16. Among ongoing cases – prominent opposition figure Mr Ilya Yashin is in pre-trial detention for denouncing war crimes in Bucha, Mr Dmitry Talantov, an attorney, is in pre-trial detention for a post on Facebook about the massacres of civilians on the territory of Ukraine and Mr Vladimir Kara-Murza, a politician, for a public speech before members of the House of Representatives of the State of Arizona, where he spoke about the bombing of civilian objects. 30 other defendants under Article 207.3 are also in detention pending trial. Those who are outside the country are hit with asset freezes.

17. Generally, out of 100 cases initiated under Article 207.3, 25 are initiated for statements (spoken on YouTube, in a private dialogue, or in public places), 66 are initiated for posts and comments on social media, 3 – for anti-war leaflets, 2 – for articles in media outlets, 1 for a solo picket and 1 for a mass SMS sending. The reasons for the other 2 are yet unknown, but both of them were initiated against military personnel.

18. The main categories of “fakes” – that is, the information that investigators and courts consider deliberately false, is information:

- about the killing of civilians on the territory of Ukraine;
- about the shelling of civilian objects on the territory of Ukraine, in particular, Zaporozhye NPP;
- about the losses of the Russian military;
- that war is being conducted on the territory of Ukraine (and not “special military operation”);
- on the participation of conscripts in the armed conflict on the territory of Ukraine;
- about other war crimes of the Russian army – e.g. obstruction of humanitarian aid, looting, robbery.

19. The main and only ground for claiming such information as “deliberately false” is that the Russian officials (most frequently, Ministry of Defense and Ministry of Foreign Affairs) do not confirm or contradict the information disseminated by the people. No other sources are being checked or even considered by the investigators and courts.

20. For example, in the case of Mr Gorinov, the defense cited official United Nations figures on the number of children who died on the territory of Ukraine, since Aleksey said that “children die there every day.” However, the court considered such assessment to be one-sided, not fully reflecting the essence of Gorinov’s act and evaluated by the defense in isolation from other evidence available in the case.

21. At the same time, the investigation often refers to specific briefings and statements of the Ministry of Defense — without taking into account the fact that the position and

information may change over time. This was the case with statements that there were no conscripts on the territory of Ukraine — which was later refuted by the Ministry of Defense itself.²⁴

6. Other criminal legislation

22. In July, Article 275.1 of the CC (‘cooperation on a confidential basis with a foreign state, international or foreign organization’) was adopted. Responsibility with up to 8 years of imprisonment is provided for the establishment and maintenance by a citizen of the Russian Federation of cooperation on a confidential basis with a representative of a foreign state, international or foreign organization in order to assist them in activities knowingly directed against the security of the Russian Federation.

23. In this regard, essentially confidential contact with any representative of a foreign state or foreign / international organization (and not only with a representative of the special services) creates a threat of prosecution under this article. At the same time, the article does not contain an explanation of what will be considered “cooperation on a confidential basis”, there is a risk of a broad interpretation of this term in practice. There are also additional risks in the note to this article. It exempts a person from criminal liability if they voluntarily and timely informed the authorities about the establishment and maintenance of such cooperation, did not take any actions to fulfill the assignment received, and if the actions of this person do not contain a different corpus delicti.

24. According to the judicial department of the Russian Supreme Court, for the entire period from 2009 to 2013, 25 people were convicted of treason (Article 275) and espionage (Article 276). However, since 2014 there has been an increase in the number of such cases. So, in 2015 alone, 15 sentences were handed down, and 17 in 2021.²⁵

25. In at least 20 cases of treason and espionage, the investigation tried to falsify documents or evidence.²⁶ Under the Russian law, the very list of information constituting a state secret is a state secret in itself. At least 21 convicted of treason did not have access to state secrets.

26. Cases of treason are classified as “secret”, their consideration in courts takes place behind closed doors, only verdicts are officially reported. Moreover, the accused are often isolated and deprived of visitation and even correspondence rights.²⁷

27. These articles are frequently used against military personnel, former intelligence officers, scientists, journalists. In 2018–2022, at least 14 cases were initiated against scientists in the context of their work under Article 275. The loose interpretation of the concept of “state secret” by law enforcement officers makes the position of scientists participating in research projects with international participation very vulnerable. They are charged with

²⁴ <https://www.gazeta.ru/army/news/2022/03/09/17402251.shtml>

²⁵ <https://www.interfax.ru/russia/835660>

²⁶ <https://meduza.io/feature/2018/09/20/100-osuzhdennyh-odin-opravdannyy-cto-my-uznali-iz-doklada-komandy-29-pro-dela-o-gosizmene-i-shpionazhe-v-rossii>

²⁷ <https://ovd.news/news/2022/09/05/cto-nuzhno-znat-o-dele-ivana-safronova-prigovorenno-go-k-22-godam-kolonii-za>

alleged transfer of secret data to foreign countries,²⁸ giving lectures in foreign countries,²⁹ sending CVs to foreign organisations,³⁰ having the abstract of the presentation on a USB flash drive while being on a work trip abroad,³¹ etc.

28. One of the latest most prominent cases is the case of Ivan Safronov – an independent journalist.³² He is accused of allegedly handing over to the citizen of the Czech Republic Martin Larisch and the German political scientist Demuri Voronin seven files with secret information about Russia's military-technical cooperation with several countries. Yet, according to the investigation of Project Media³³ all the information from those same seven files, which the investigation considers a state secret, was found in open sources. In court, Safronov asked the court to attach the study of the Project to the case file, but it was refused. On September 5, Ivan Safronov was sentenced to 22 years in prison and a fine of 500,000 rubles (8250 USD).³⁴

29. Furthermore, Article 280.4 of the CC was adopted which prohibits public calls to carry out activities directed against the security of the Russian Federation, or to prevent the authorities and their officials from exercising their powers to ensure such security. The maximum sanction under this article is imprisonment for up to 4 years. Here, the responsibility will appear for any public expressions calling (in the opinion of law enforcement officers) to commit crimes from a specific list, which is in the footnote to this article.³⁵

30. Moreover, the first cases under Part 1 Article 282.3 of CC ('financing extremist activities') were opened, almost a year after Alexey Navalny's Anti-Corruption Fund was declared as extremist. One of the accused is Andrei Zayakin, a Novaya Gazeta journalist and one of the founders of the Dissnet project.³⁶ The case against Zayakin was opened because of the transfer of a 1000 rubles (17 USD) to the Anti-Corruption Fund on the day after they were recognized as extremist.³⁷

²⁸ The cases of Valery Golubkin and Anatoly Gubanov (<https://meduza.io/feature/2021/04/13/v-moskve-po-delu-o-gosizmene-arestovali-professora-mfti-valeriya-golubkina-nedavno-analogichnye-obviniya-pred-yavili-ego-kollege-anatoliyu-gubanovu>); the cases of Viktor Kudryavtsev and Sergey Mescheryakov (<https://meduza.io/feature/2019/07/15/lyuboy-realnyy-prigovor-budet-dlya-otsta-smertnym>); the case of Valery Mitko (<https://www.kommersant.ru/doc/4379222>); the case of Alexander Lukanin (<https://tass.ru/proisshestviya/9853865>)

²⁹ The case of Dmitry Kolker - who was arrested having the IV stage of cancer and died in custody, <https://meduza.io/feature/2022/07/01/novosibirskogo-uchenogo-dmitriya-kolkera-arestovali-po-delu-o-gosizmen>

³⁰ The case of Gennady Kravtsov, <https://www.rbc.ru/society/10/06/2020/5ed8c6919a79478193554ff2>

³¹ The case of Aleksey Vorobyev, <https://novayagazeta.ru/articles/2021/08/16/dokazatelstva-pyl>

³² <https://memohrc.org/ru/defendants/safronov-ivan-ivanovich>

³³ <https://ovd.news/express-news/2022/08/29/zhurnalisty-opublikovali-razbor-obvinitelnogo-zaklyucheniya-po-delu-ivana>

³⁴ <https://ovd.news/express-news/2022/09/05/zhurnalista-ivana-safronova-prigovorili-k-22-godam-kolonii>

³⁵ Articles 189, 200.1, 209, 210, 222 - 223.1, 226, 226.1, 229.1, 274.1, 275 - 276, 281, 283, 283.1, 284.1, 290, 291, 322, 322.1, 323, 332, 359 of the CC

³⁶ The project participants check dissertations and scientific publications written by officials, public and political figures for plagiarism. The Dissnet website states that "community members act voluntarily, on their own initiative, and without any pressure or coercion from outside."

³⁷ <https://ovd.news/express-news/2022/08/29/na-zhurnalista-novoy-gazety-andreya-zayakina-zaveli-ugolovnoe-delo-ob>

II. Freedom of association

31. As of September 12, 2022, the register of non-profit organizations (hereinafter “NPOs”) operating as “foreign agents” contained 69 organizations.³⁸ Since our last report of May 27, no NPO was included in the register, but several organizations were excluded due to termination of receiving foreign funding or dissolution (more than 100 since the adoption of the law).³⁹ Not a single organization was able to successfully challenge this decision at court on the substantial basis (‘political activity’ criterion).

32. The register of unregistered public associations-“foreign agents” contained 8 associations.⁴⁰ The Russian NPO Committee against Torture was recognized as such on June 10, and the next day the association decided to self-dissolve. They continue their activities under the new name — Crew Against Torture. It is the third time when this project is recognized as “foreign agents” and they are forced to change its organizational form or other characteristics.

33. Moreover, the prosecutor’s office demanded to liquidate the “Trade Union of Journalists”⁴¹ for non-compliance with the requirements of foreign agency legislation, and the court began the bankruptcy procedure of Radio Liberty due to non-payment of fines for the absence of foreign agency labellings.⁴²

34. The bill on “On control over the activities of persons under foreign influence” reforming the law on “foreign agents” was adopted and will enter into force on December 1, 2022.⁴³ The bill did not undergo significant changes during its readings.⁴⁴ Among the amendments that the State Duma deputies decided to **reject** at the stage of the second reading are:

- A ban on recognizing lawyers, bar associations, FCL (Federal Chamber of Lawyers), notaries, notary chambers, FCN (Federal Chamber of Notaries) as “foreign agents”;
- An indication that “foreign agent activity” is an activity in the interests of foreign sources;
- A ban on recognizing scientific organizations and scientific workers as “foreign agents”;
- A ban on recognizing obtaining a foreign education, studying in foreign educational organizations, foreign academic degrees and titles, participating in international scientific research projects, in scientific conferences outside of Russia, studying in Russian educational institutions with foreign teachers, receiving grants for implementation of scientific programs and projects, receiving scholarships, publishing in foreign journals indexed in the international databases Scopus, Web of Science,

³⁸ <http://unro.minjust.ru/NKOForeignAgent.aspx>

³⁹ <https://inoteka.io/ino/foreign-agents-en>

⁴⁰ <https://minjust.gov.ru/ru/pages/reestr-nezaregistrirrovannyh-obshchestvennyh-obedinenij-vypolnyayushih-funkcii-inostrannogo-agenta/>

⁴¹ <https://ovdinfo.org/articles/2022/08/02/prokuratura-trebuat-likvidirovat-profsoyuz-zhurnalistov-rasskazyvaem-pochemu>

⁴² <https://ovd.news/express-news/2022/08/15/sud-nachal-bankrotstvo-rossiyskogo-radio-svoboda-iz-za-shtrafov-za>

⁴³ <https://inoteka.io/ino/2022/08/22/state-duma-adopted-new-law-foreign-agents-what-will-change>

⁴⁴ See our previous report here

https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/RUS/INT_CCPR_CSS_RUS_48818_E.pdf

receiving royalties for publishing books by foreign publishers, royalties for publishing in foreign media as “foreign influence”;

- Exemption from “foreign agent” labeling of procedural documents within the framework of constitutional, civil, arbitration, administrative and criminal procedures.

35. On June 14, 2022, the European Court of Human Rights ruled in the *Ecodefence and Others v. Russia* case⁴⁵ and found a violation of freedom of association by the state labelling several organizations as “foreign agents”. However, Russia refuses to implement all the judgements that entered into force after March 15, 2022, which is the date of filing by the Russian Federation of the application for withdrawal from the Council of Europe.

36. As of September 12, the registry of undesirable organizations contained 65 organizations.⁴⁶ Since May 27, 9 organizations were added to the list: Stichting Bellingcat, Bellingcat Ltd., The Insider, CEELI Institute, Avatud Eesti Fond SA, Open Estonia Foundation, Calvert 22 Foundation, Ukrainian Canadian Congress, Macdonald-Laurier Institute, Ukrainian National Federation of Canada.⁴⁷

37. On July 15, Andrey Pivovarov, former director of “Open Russia”, was sentenced to 4 years of imprisonment because of carrying out the activities of an “undesirable organization” (Article 284.1).⁴⁸ The case was initiated because of 30 posts and one repost of Open Russia on Facebook. On July 27, the case under the same article was initiated against politician Vladimir Kara-Murza.⁴⁹

38. On August 14, 2022 in at least five Russian cities, houses of alleged members of the New Generation were searched⁵⁰ as part of a criminal case under Article 284.1. This is a first known criminal case under this article against religious organizations.

39. On September 2, it became known that the police initiated an administrative case under the provision on participation in the activities of an undesirable organization (Article 20.33 of the CAO against the coordinator of the Kirov “Golos” (Voice) Denis Shadrin due to monitoring the elections of the mayor of Tbilisi in October 2021.⁵¹ The police believe that, while observing the elections, Shadrin cooperated through Golos with the European Network of Election Monitoring Organizations (ENEMO) recognized as “undesirable”. Earlier, a similar case was brought against activist Yevgeny Dolgopolov, who also observed the Georgian elections in October 2021. In the course of the proceedings in the case of Dolgopolov, political scientist Anton Shmelev, at the request of the prosecutor's office, prepared an examination that the Russian movement Golos was allegedly a “member and founder” of ENEMO. These precedents may lead to official association of Golos with “undesirable organizations” and to persecution of its members. It is particularly relevant and

⁴⁵ <https://hudoc.echr.coe.int/eng?i=001-217751>

⁴⁶ <https://minjust.gov.ru/ru/documents/7756/>

⁴⁷ See infographics here <https://data.ovdinfo.org/summary-anti-war-repressions-five-months-war#7> and here <https://inoteka.io/ino/foreign-agents-en>

⁴⁸ <https://ovd.news/express-news/2022/07/15/sud-v-krasnodare-prigovoril-eks-direktora-otkrytoy-rossii-pivovarov-a-k>

⁴⁹ <https://ovd.news/express-news/2022/07/27/protiv-vladimira-kara-murzy-vozbudili-eshche-odno-ugolovnoe-delo-o>

⁵⁰ <https://ovd.news/express-news/2022/08/15/protiv-gruppy-protellantov-vozbudili-delo-po-state-o-nezhelatelnoy%20>

⁵¹ <https://ovd.news/express-news/2022/09/02/na-koordinatora-golosa-sostavili-protokol-po-state-ob-uchastii-v>

alarming now since September 11 is a voting day in Russia and Golos is a leading Russian organization for public observation of elections.

40. Since July 2022, participation in any events held by undesirable organizations abroad is banned for Russian citizens.

III. Freedom of assembly

41. We are aware of at least 16,437 detentions related to anti-war protests. This number, in addition to street detentions, includes 138 detentions for anti-war posts in social networks, 118 detentions for anti-war symbolics and 62 detentions after anti-war protests.

42. Moreover, the authorities continue to refuse authorising any peaceful anti-war protest, which leads to all such assemblies being de facto unlawful. Since the start of the year authorities refused to authorize rallies against pollution,⁵² increase of public transport fares,⁵³ demolition of historical buildings⁵⁴ and even in support of political prisoners.

43. According to the Judicial Department, in the first six months of 2022, in Moscow and Saint-Petersburg alone district courts received 13 748 cases under Articles 20.2 (assembly rules violations) and 20.2.2 (mass simultaneous presence) of the CAO, 13 709 were considered. In 12 203 cases, punishment was imposed: 10 886 fines, 1 152 arrests, 163 compulsory work orders, 2 warnings.

44. The total amount of fines imposed by the courts in the first instance amounted to 151 093 561 rubles (2 507 781 USD).

45. In addition to detentions at the rallies and after them, the authorities also practice “preventive” detentions using a facial recognition system. We had documented at least 115 detentions based on facial recognition in the Moscow subway on state holidays of May 9, June 12 and August 22.

46. The majority of detainees report that they were detained based on the ‘Sphere’ system that the authorities use to track wanted criminals. However, none of the detainees were wanted criminals but most had participated in anti-war protests.

47. The peculiarity here is that at least 9 people were not participating in anti-war protests – only in protests several years ago. Moreover, at least 3 people did not participate in the protests at all – the grounds for their detention were, consequently ‘running an anti-war Telegram channel’, ‘anti-war inscription on the car windows’ and ‘being an assistant to the local independent deputy’. Still, all of these people were included in the list of potential protesters – and police officers openly claim they will be detained before any major holiday or potential protest because they are on that list.

48. Plus, many of the detainees claim that the pictures of their face used for comparison are from official sources – for example, a passport picture or a picture from the police station. During the protests, police officers often force detainees to have their pictures taken – during anti-war protests OVD-Info recorded such practice in at least 75 police departments.

⁵² <https://ovd.news/express-news/2022/08/27/vlasti-rostova-na-donu-otkazali-v-soglasovanii-mitinga-po-situacii-s>

⁵³ <https://ovd.news/express-news/2022/09/06/posle-prodolzhitelnyh-otkazov-vlasti-permi-soglasovali-akciyu-no-ne-v-centre>

⁵⁴ <https://ovd.news/express-news/2022/02/06/kalinigradskomu-aktivistu-ne-soglasovali-miting-protiv-zastroyki-stadiona>

49. The mass application of facial recognition system for post factum detentions of protesters was identified by OVD-Info in 2021, when we recorded at least 454 such detentions. Although this was most often reported in Moscow, similar evidence came from at least 17 other cities.

50. The use of facial recognition is not regulated by law. There are no restrictions on the use of CCTV footage in public places. The procedure for storing and reviewing data is unknown. It is not known which state body directly carries out measures to identify the person recorded on the video. The protocol of interaction between the police and the structures responsible for storing data is not regulated in any way. There are also no effective remedies for people from arbitrary interference in their private lives.

51. On July 22, the Constitutional Court of Russia refused to consider the application submitted by Ekaterina Bazhanova, who staged a solo picket in June 2020 in support of Konstantin Kotov, a civil activist sentenced to imprisonment for repeated participation in a peaceful action not approved by the authorities. Ekaterina Bazhanova was fined 15 000 RUB (250 USD) for staging a solo picket and thus violating the ban on “public and other mass events”, including solo demonstrations, that still exists in Moscow. In her application Ms. Bazhanova argued that such a ban on events that are not mass in nature is not legal and proportionate, considering the fact that all other restrictions except for political rallies had been already lifted. However, the Constitutional Court ignored her arguments and decided that even a solo demonstration involves the potential to attract the other citizens and thus, this ongoing ban “is due to the objective need to respond to the threat of the spread of coronavirus infection, is of an exceptional nature and pursues the constitutionally enshrined goals of protecting the life and health of citizens”.

IV. Crime of torture

52. The Federal Law No. 307-FZ, aimed at increasing criminal liability for torture was adopted on July 14, 2022.⁵⁵ The authorities ignored comments and proposed amendments to the bill from the human rights community.

53. The law contains two separate provisions: an abuse of authority involving the use of violence and an abuse of authority involving the use of torture (Article 286 of the CC). The maximum penalty for the latter can be up to 15 years if the victim was seriously injured or died from torture. Thus, rather than conceptualize torture as an independent crime, the new law defines it as a type of “abuse of authority”.

54. It is not clear how the authorities should distinguish between the use of violence and the use of torture. This uncertainty grants virtually unlimited discretion to authorities in choosing either option for qualifying an offence. This also leaves a room for manipulation and bargaining, as sanctions for torture are tougher. This may be used to put unlawful pressure on suspects and to allow perpetrators evade full responsibility and fair punishment.

55. Known and investigated cases of torture indicate that it is usually perpetrated in a preplanned manner by a group with roles distributed among its members. However, these aggravating circumstances — a crime committed by a group by prior conspiracy — are

⁵⁵ http://www.consultant.ru/document/cons_doc_LAW_10699/c1d97e48b63eff3e92926a82783f3a80148b18fc/

recognized only for the crime of “abuse of power involving violence” but not for the crime of torture. Thus, authorities may be inclined to use the former qualification as more familiar to them and better reflecting the typical circumstances of such crimes, while the new provision on “torture” is likely to be applied rarely and selectively.

56. The actual prevalence of torture in the country will remain unclear, because the judicial statistics will only include cases in which the perpetrator was sentenced under the heading of “torture,” while a large part of acts that essentially constitute torture will be hidden under the “use of violence” heading, which includes a wide range of different practices.

57. The punishment imposed by the court on the person who committed torture may be canceled or mitigated at the stage of its execution. This can be achieved through existing procedures to reward well-behaved prisoners. Torture victims are in a particularly vulnerable position in such situations. They are effectively denied access to the proceedings: in practice, courts do not notify the victims either of a scheduled hearing on the matter or of the decision to mitigate the perpetrator's sentence.

58. Marina Ruzaeva survived hours of torture at a police station in Usolie-Sibirskoe. After six years of ineffective investigation, the case was finally sent to court that found the police officers guilty and sentenced them to custodial penalties (3,5 and 4 years in prison). Three months after being admitted to a penal colony, two convicted perpetrators were effectively relieved from their custodial sentences. Having considered a request to replace the remaining unserved part of their sentences with non-custodial sanctions, a court mitigated the punishment, sentencing the perpetrators to correctional labor which involved their release from the penal colony. Marina Ruzaeva, who had received numerous, well-documented, threats, and had her family's possessions destroyed during the investigation and trial, was excluded from the proceedings, and her opinion was not considered by the court.

59. April 2022 marked the end of the trial in the case of Abubakar Tsagalayev, a prisoner subjected to ill-treatment and collective beatings in the punishment cell of Corrective Colony No. 1 in Yaroslavl. Nine officers of the colony were sentenced to actual prison terms. Four of the defendants were previously sentenced to real imprisonment on other similar episodes of the Yaroslavl case. The investigations and trials in the Yaroslavl case confirmed that collective “correctional” beatings of prisoners were a routine practice at the colony, perpetrated in the same manner by the same officers of the same facility.⁵⁶

60. In addition, police used indiscriminate force during the anti-war protests in February and March 2022. The extent of cruelty and humiliation and the demonstrative nature of police violence were unprecedented. Brutally beaten and injured protesters were either denied medical assistance or it was provided with a long delay.⁵⁷

⁵⁶ <https://yardelo.org>

⁵⁷ See some cases:

<https://polit.ru/news/2022/02/25/police/>

<https://ovdinfo.org/articles/2022/02/25/net-voyne-itogi-akcii-protiv-voyny-s-ukrainoy-24-fevralya>

<https://t.me/ovdinfo/4326>

<https://v.24liveblog.com/iframe/?id=2993733386761572443#n2993982851379391142>

61. Women arrested during anti-war protests were subjected to sexualized humiliation and abuse,⁵⁸ including in the infamous case of torture in Brateevo Police Department in Moscow.⁵⁹ Strip searches of women and non-binary people at police stations were reported in several Russian cities after peaceful protests. No information is available on whether these incidents are being investigated, although, in the case of Brateevo, BBC even identified the perpetrators.⁶⁰

V. Extrajudicial persecutions of civil society

62. Since the start of the war with Ukraine, the long-developed practices of threats, attacks and vandalism had been used against the anti-war activists. Such attacks are not a new notion Russian authorities use.

63. For instance, the workers and activists of Navalny's organisations had their offices and homes vandalized with inscriptions in previous years,⁶¹ the same happened with "Open Russia" activists. The data from Novaya gazeta shows that by 2021, out of 92 cases of physical attacks on public figures, activists, journalists, bloggers only in one case the perpetrator was found.⁶²

64. Since the start of the war, there have been various forms of attacks on dissenters. For instance, there have been at least 57 cases of dissenters' property vandalism – mainly, by the signs 'Z' and 'V' spray-painted on house doors, cars and inside offices of human rights organisations. This happened with human rights defenders Oleg Orlov⁶³ and Alla Frolova,⁶⁴ journalists Oleg Yelanchik⁶⁵, Alexey Venediktov⁶⁶ and Alexey Milovanov,⁶⁷ independent municipal deputies Evgeny Stupin⁶⁸ and Nodari Hananashvili.⁶⁹ Moreover, in the case of vandalism in the office of 'Memorial' the 'Z' and 'V' signs were left by the police officers.⁷⁰ There are no cases or investigations by the police initiated after these actions — instead, there are open refusals to do so.⁷¹

65. There also have been at least 14 physical attacks on anti-war activists, at least 23 instances of direct threats (from the police or from unknown numbers – for example, for notifying the authorities about the anti-war rally).⁷² Among those, SOTA journalist Petr Ivanov was diagnosed with a fracture of the bones of the nose and contusion of the soft

⁵⁸ See some cases:

<https://t.me/ovdinfo/13897>

<https://ovdinfo.org/stories/2022/03/17/zastavlyali-razdevatsya-i-prisedat-kak-obrashchalis-s-zaderzhannymi>

⁵⁹ <https://novayagazeta.ru/articles/2022/03/07/putin-na-na-nashei-storone-18>

⁶⁰ <https://www.bbc.com/russian/features-62807194>

⁶¹ <https://zona.media/article/2021/07/14/grudina>

⁶² <https://novayagazeta.ru/articles/2021/04/06/ulichnyi-terror-podderzhivaetsia-gosudarstvom>

⁶³ <https://www.zaks.ru/new/archive/view/224374>

⁶⁴ <https://t.me/ovdinfo/7970>

⁶⁵ <https://t.me/ovdinfo/7958>

⁶⁶ <https://www.24live.co/live/Usumo?n=3014107365014530706>

⁶⁷ <https://www.24live.co/live/Usumo?n=3012423452203585630>

⁶⁸ <https://www.24live.co/live/Usumo?n=3034180237640624815>

⁶⁹ <https://www.24live.co/live/Usumo?n=3031890495105568877>

⁷⁰ See pictures here: <https://t.me/ovdinfo/5489>

⁷¹ <https://www.24liveblog.com/live/Usumo?n=3114759394326688115>

⁷² <https://www.24live.co/live/Usumo?n=3042869243195464558>

tissues after the attack,⁷³ and human rights defender Lev Ponomarev was being filmed by the state-controlled TV channel while being attacked.⁷⁴ As regarding the threats — there are at least 2 cases where people are forcibly made to apologize after their anti-war statements.⁷⁵ Others, for example, received threats for trying to organize an anti-war protest⁷⁶ or for signing an appeal to the Russian President calling for the withdrawal of troops from Ukraine.⁷⁷ At least 4 local deputies have been expelled from their political parties⁷⁸ or deprived of the deputy status⁷⁹ after expressing their anti-war position.

66. Moreover, the authorities are also quite cautious about the cultural events. In total, there are at least 24 people or music bands whose events were cancelled or disrupted because of their anti-war statements.

VI. Domestic, gender based violence and related issues

1. Domestic violence

67. Domestic violence in Russia is indeed a systemic problem. It has been highlighted in numerous reports by NGOs⁸⁰ and by regional⁸¹ and international mechanisms.⁸² Official statistics are fragmented, missing or outdated. Currently, acts of domestic violence are prosecuted under the general provisions of the CC or the CAO.⁸³ Russian law does not provide for the offence of domestic violence. Domestic violence is not recognised as an aggravating factor in the commission of any other offence. Thus, Russian law does not contain any penalty-enhancing provisions relating to acts of domestic violence or make a distinction between domestic violence and violence inflicted by strangers.⁸⁴

68. Also, while Russian legislation provides several general protection measures for victims of crimes, none of these are specifically tailored to victims of domestic violence and sufficiently address specific risks associated with such a situation. In November 2020, Russian NGOs working with victims of domestic violence wrote to the Head of the Ministry of Internal Affairs (MIA) asking them to introduce risk assessment and risk management

⁷³ <https://t.me/ovdinfo/9861>

⁷⁴ <https://t.me/ovdinfo/5295>

⁷⁵ Musician Dmitry Kuznetsov (<https://www.24liveblog.com/live/Usumo?n=3029835796995018850>), a girl from Dagestan who spoke against the war during a school event (<https://www.24liveblog.com/live/Usumo?n=3056854693870345065>)

⁷⁶ Politician Elvira Vikhareva, <https://t.me/ovdinfo/8420>

⁷⁷ Primorye deputies Leonid Vasyukevich, Natalya Kochugova, Alexander Sustov and Gennady Shulga

⁷⁸ Rafael Fatykhov from United Russia (<https://www.24liveblog.com/live/Usumo?n=303731271219470894>); Ilya Kravchenko from KPRF (<https://www.24live.co/live/Usumo?n=3023401079970107483>)

⁷⁹ Yelena Klyuchko (<https://www.24liveblog.com/live/Usumo?n=3086528276652789786>); Semyon Taraev (<https://www.24liveblog.com/live/Usumo?n=3027637508370623132>)

⁸⁰ E.g., <https://www.hrw.org/report/2018/10/25/i-could-kill-you-and-no-one-would-stop-me/weak-state-response-domestic-violence>

⁸¹ E.g., see *Tunikova and Others v. Russia* (ECtHR, No. 55974/16), <https://hudoc.echr.coe.int/eng?i=001-213869>

⁸² E.g., see the CEDAW Committee, Concluding observations on the ninth periodic report of the Russian Federation, para. 24(h) (CEDAW/C/RUS/CO/9)

⁸³ See Research on preventing and combating violence against women and domestic violence including in situations of social disadvantage in the Russian Federation (from p. 25), <https://rm.coe.int/publication-research-on-vaw-and-dv-in-situations-of-social-disavantage/16809e4a04>

⁸⁴ *Barsova v. Russia* (ECtHR, 20289/10), para. 31, <https://hudoc.echr.coe.int/eng?i=001-196880>

protocols that are used in many countries around the world.⁸⁵ However, the MIA refused, stating: “the need to assess and manage the risks of violence is indicated in Article 51 of the Council of Europe Convention on preventing and combating violence against women and domestic violence... Due to the fact that one of the prescriptions of the Convention is to lift the ban on propaganda of a free gender orientation, the Russian Federation has not ratified it”.⁸⁶

69. None of the numerous draft bills on domestic violence (including those proposed by human rights defenders) has been adopted. The state-sponsored 2019 bill on domestic violence⁸⁷ has been subject to massive criticism since its publication — it fails to provide an adequate level of protection. However, even this law is not on the agenda or under discussion anymore because of the pressure from the Russian Orthodox Church.⁸⁸

70. According to statistics from the National Domestic Violence Helpline (non-governmental), a critical number of victims — more than 96% of women — were not satisfied with the help they received when they contacted the police.⁸⁹

71. According to “Domestic violence in the context of COVID-19 in Russia” report of seven women’s rights organisations,⁹⁰ levels of domestic violence increased during the COVID-19 pandemic. Human rights defenders analysed verdicts from 2011 to 2019 and discovered that 65.8% of women murdered were victims of domestic violence.⁹¹ Then, they analysed verdicts for 2020 and 2021 and found that the proportion of intimate partner/family-related homicide has increased significantly compared to previous years, i.e., in 2020, it was 70.9%; in 2021, it was 71.7%.⁹²

2. Sexual violence

72. In conflict with international standards, Russia’s legislation lacks consent-based definitions of rape and other forms of sexual violence. Instead, the provision on rape focuses on the requirement of force, threat of force or helplessness when it comes to defining rape (Articles 131 and 132 of CC). Marital rape is neither explicitly criminalised as a separate article, nor included as an aggravating factor of sexual violence crimes. The criminal legislation of Russia fails to ensure ex officio prosecution for sexual violence crimes, classifying these crimes as the ones prosecuted under private-public prosecution procedures.⁹³

⁸⁵ <https://www.kommersant.ru/doc/4558185>

⁸⁶ <https://www.kommersant.ru/doc/4586277>

⁸⁷ <http://council.gov.ru/services/discussions/themes/110611/>

⁸⁸ <https://verstka.media/pochemu-ne-priniali-zakon-o-domashnem-nasilii/>

⁸⁹ <https://m.facebook.com/anna.center.ru/photos/a.2335650839996666/2702331179995295/>

⁹⁰ <https://wcons.net/wp-content/uploads/2020/07/Doklad-o-domashnem-nasilii-v-usloviyah-COVID-19-v-Rossii-2020-god.pdf>.

⁹¹ <https://readymag.com/algorithmsveta/algoritmsveta/>

⁹² <https://readymag.com/algorithmsveta/2020-2021/>

⁹³ See the CEDAW Committee, Concluding observations on the ninth periodic report of the Russian Federation, para. 24 (CEDAW/C/RUS/CO/9); <https://www.equalrightstrust.org/sites/default/files/ertdocs/200129%20TPI%20T.V.%20v%20Russia.pdf>

3. Psychological violence

73. Psychological violence is almost completely overlooked in Russian legislation. While the Criminal Code criminalises psychological violence, i.e., the infliction of systematic psychological suffering (Article 117) and the threat of murder or infliction of grave injury (Article 119), the prosecution of domestic violence under Article 117 is very rare and the threshold of Article 119 is high.

74. In *Volodina v. Russia*, the ECtHR stated that the existing criminal-law provisions were insufficient to offer protection against many forms of violence and discrimination against women, such as harassment, stalking, coercive behaviour, psychological or economic abuse, or a recurrence of similar incidents protracted over a period of time.⁹⁴ In *Volodina v. Russia No. 2*, the ECtHR found that Russian authorities fail to protect victims from repeated acts of cyberviolence.⁹⁵

75. In addition, women's access to justice is hindered by judicial bias and discriminatory stereotypes among judges, prosecutors and law enforcement officials towards women reporting violations of their rights.

76. In general, an overview of what Russia should do to change the appalling situation is given in the ECtHR pilot judgment in *Tunikova and Others v. Russia*.⁹⁶ However, despite the fact that the judgement entered into force on March 14, 2022,⁹⁷ in terms of general measures, the judgment is unlikely to be implemented. So far, the law on combating domestic violence is not on the agenda or under discussion.

4. Negative impact of the exclusion of Russia from the Council of Europe

77. Due to the expulsion of Russia from the CoE, women experiencing violence in Russia soon will no longer be able to apply to the ECtHR and at least receive monetary compensation. The UN treaty bodies do not award specific compensation, leaving it to the national authorities, which is likely to mean either no compensation at all or insignificant compensation.

78. Therefore, it would be very helpful if the UN treaty bodies could increase their capacity. Particularly, it is extremely important to focus on how Russia complies with interim measures indicated by the Committees. So far, there is at least one case in which Russia has not complied with the CCPR request (not to extradite a woman to Belarus). Further non-compliance and lack of response from the UN treaty bodies will seriously worsen the already existing climate of impunity.

5. Impact of armed conflict in Ukraine

79. Firstly, a general atmosphere of violence and impunity in Russian society cannot lead to a reduction in violence, including within the family. Secondly, the level of violence in

⁹⁴ *Volodina v. Russia* (ECtHR, 41261/17), para. 128, <https://hudoc.echr.coe.int/eng?i=001-194321>

⁹⁵ *Volodina v. Russia No. 2* (ECtHR, 40419/19), <https://hudoc.echr.coe.int/eng?i=001-211794>

⁹⁶ *Tunikova and Others v. Russia* (ECtHR, No. 55974/16), <https://hudoc.echr.coe.int/eng?i=001-213869>

⁹⁷ Russia intends to implement only those judgments which entered into force up to and including 15 March 2022, <http://duma.gov.ru/news/54515/>

society increases after conflict. Thirdly, women and girls forced to flee are one of the most vulnerable groups.

80. On the one hand, these are the women and girls of Ukraine — some come to Russia because it was the nearest available destination, others are evacuated by force. They are extremely vulnerable to trafficking and various forms of exploitation.

81. According to data from the Judicial Department of the Supreme Court,⁹⁸ an average of 25 persons per year are prosecuted for human trafficking. A representative of the Supreme Court commented on these statistics as follows: “We are aware that these figures unfortunately do not mean that we are on the way to defeating this monstrous crime for the 21st century. We are aware of how many traffickers, given the high level of latency, go unpunished”.⁹⁹

82. It is clear that these isolated convictions do not reflect the real scale of Russia's human trafficking problem. The low number of detected cases of human trafficking is a result of imperfections in Russian legislation.¹⁰⁰

83. On the other hand, women who leave Russia are vulnerable and may encounter various forms of violence due to, for example, their lack of knowledge of the language, local context, and laws.

6. Other issues

84. Persistent problem of the non-enforcement of decisions granting custody over children remains generally,¹⁰¹ as well as in specific context of non-enforcement of custody decisions in the North Caucasus, where the problem is compounded by regional particularities: the support by regional authorities of gender-discriminatory practices originating in customary law, which follow an extreme form of patrilineality. Following the death of a child's biological father, or following divorce, only the paternal side of the family has any claim to children, with no obligation to involve the mother in their upbringing. Especially in the Chechen Republic and Republic of Ingushetia, the majority of mothers who are divorced or widowed are denied custody of their minor children, a role in their children's upbringing, regular or any contact with them. As a result, despite the national decision to award custody to the mother, in practice, enforcement of these decisions is simply ignored by the local

⁹⁸ Form No. 10a - report on the number of persons convicted for all types of crimes in the CC of Russia - number of persons convicted under the main article.

⁹⁹ <https://tass.ru/obschestvo/9010073>

¹⁰⁰ See detailed analysis of Russian anti-trafficking legislation: https://moscow.iom.int/sites/default/files/cstoreview2020_5_russia.pdf

«Противодействие торговле людьми: сложности и возможные пути их преодоления» (Грачева Вера) http://help.elearning.ext.coe.int/pluginfile.php/169769/mod_resource/content/0/Статья%20Грачева%20В..pdf

«Актуальные проблемы противодействия торговле людьми в Российской Федерации» (Винокуров С.И.) <http://help.elearning.ext.coe.int/course/view.php?id=2879#section-10>

<http://help.elearning.ext.coe.int/course/view.php?id=2879#section-10> (Тема 10 Российское законодательство и правоприменительная практика)

¹⁰¹ See extended description of general problems in the Communication from Stichting Justice Initiative of 21/04/2020 to the Committee of Ministers of the Council of Europe, at: [https://hudoc.exec.coe.int/ENG?i=DH-DD\(2020\)385E](https://hudoc.exec.coe.int/ENG?i=DH-DD(2020)385E) and Communication of 27 January 2022 at: [https://hudoc.exec.coe.int/ENG?i=DH-DD\(2022\)181E](https://hudoc.exec.coe.int/ENG?i=DH-DD(2022)181E)

authorities. It is not uncommon for mothers not to see their children for years and some lose contact altogether.¹⁰²

VII. LGBT+ rights

85. Since the beginning of the full-scale invasion to Ukraine, the number of cases of prosecution for LGBT propaganda has increased. In the six months of 2022, we are aware of 7 such cases. In April, Meta and TikTok were fined for propaganda. In May, a lawyer at the LGBT Resource Center in Yekaterinburg was fined twice for posting information on the organisation's website.

86. Sphere is aware that since 2019, the Federal Security Service (FSB) has been systematically engaged in identifying “propaganda of non-traditional sexual relations” on the Internet. The involvement of the FSB shows us that countering information about LGBT+ is part of high-level government policy.

87. The bill on new legislation around 'LGBT+ propaganda' proposed in July of 2022 suggests all information that either denies family values or is a 'propaganda of non-traditional relations' be banned, which would potentially restrict access to information. Additionally, in explanatory note the deputies authoring the bill equate information on LGBT+ with the propaganda of suicide, drugs, extremism and criminal behavior, and the LGBT+ people are equated with pedophiles, terrorists and those who are childfree.

88. In 2021, right after the case of Memorial's shutdown, Russian authorities started a campaign against other human rights activists. One of the target groups was LGBT+ organisations and activists. The Ministry of Justice selects key organisations and activists working with LGBT+ rights to be recognized as foreign agents. Now there are 7 individuals and 6 organisations on the list.

VIII. Indigenous peoples

89. While the war itself has no declared Indigenous dimension, it will certainly have serious repercussions on Ukraine's and Russia's Indigenous peoples and the international Indigenous movement.¹⁰³ As Ukraine's Indigenous peoples traditionally mostly reside on the Crimean peninsula, they have been subject to Russia's aggression since 2014.

90. Draconian laws enacted since 2012 regulate the work of organizations engaged in activities deemed political by the government. The constant harassment of these organizations by the authorities have made it next to impossible to openly and freely discuss issues relating to Indigenous peoples rights, especially where they concern the right to self-determination, and more specifically land rights. A particularly worrisome aspect was the expansion of extractive industries on Indigenous peoples' territories without their Free, Prior, and Informed Consent (FPIC), actions broadly supported by Western businesses and governments.

¹⁰² See latest submission of the applicants representatives to the Committee of Ministers of the Council of Europe: [https://hudoc.exec.coe.int/eng?i=DH-DD\(2022\)181E](https://hudoc.exec.coe.int/eng?i=DH-DD(2022)181E)

¹⁰³ See the full report of the International Committee of Indigenous Peoples of Russia: <https://batani.org/archives/2156>

91. As a result, today, the once vibrant Indigenous activist movement in Russia has been reduced to a handful of people. Those activists must be extremely careful about what they say and do as anyone who openly questions the political and economic choices made by the authorities is at risk of criminal prosecution. A number of prominent Indigenous rights defenders left the country¹⁰⁴ fearing for their safety and freedom. Some of those who chose to stay in Russia are experiencing arbitrary criminal prosecution¹⁰⁵ initiated by the state or extractive companies.

92. Soon after the start of the war, Russia unprecedentedly restricted the flow of information by adopting censorship and persecuting independent sources. Yet, the reality for the overwhelming majority of people living in remote areas like Russia's Indigenous communities is that they have no access to the Internet, let alone the skills to avoid restrictions on information access imposed by the government.

93. The Russian media reported¹⁰⁶ that the overwhelming majority of Russian soldiers fighting in Ukraine are coming from smaller and poorer¹⁰⁷ localities in Siberia and the Far East and the Volga and Caucasus regions. The percentage of Indigenous peoples and ethnic minorities among soldiers in the Russian armed forces who are fighting and dying in the war seems to be disproportionately high. There have been confirmed deaths of Indigenous soldiers from Chukotka, Khabarovsk Krai, Tyva, Buryatia, and other Russian regions. While any loss of life is a tragedy, for small-numbered Indigenous peoples it could be a question of their very survival.

94. The Russian government's decision to wage a war against its neighbor had a devastating effect on its Indigenous peoples' participation in international advocacy mechanisms. Following the start of the war on Ukraine, the Arctic Council,¹⁰⁸ a unique institution in which the Arctic's nations, Indigenous peoples, and NGOs work on sustainable environmental development and protection of the region, has suspended its work.

95. Meanwhile speaking out at the UN has become extremely dangerous for independent Indigenous voices from Russia. Anyone voicing opposition to Russian government decisions at international fora risks intimidation and prosecution in Russia. This is a huge challenge, as participating in international fora is of great importance for the many marginalized Indigenous peoples of Russia.¹⁰⁹ Just how far Russian government representatives may go in their attempt to intimidate independent Indigenous activists was seen at the July 2022 session of the United Nations' Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). On July 4, the first day of EMRIP's 15th session in Geneva, indigenous Shor activist Yana Tannagasheva was verbally assaulted and physically intimidated by a representative of the Russian state.

96. Indigenous peoples whose ancestral lands are divided by national borders suffer additional impacts of the war when contacts with brethren across the border are severely limited. The cross-border dimension is particularly evident in the case of the Sámi, who live

¹⁰⁴ <https://www.culturalsurvival.org/news/new-report-highlights-indigenous-rights-violations-russia>

¹⁰⁵ <https://www.theguardian.com/world/2017/mar/17/reindeer-herder-oil-excavators-siberia>

¹⁰⁶ <https://www.bbc.com/russian/features-61754126>

¹⁰⁷ <https://zona.media/article/2022/04/25/bodycount>

¹⁰⁸ <https://www.arctic-council.org/>

¹⁰⁹ <https://www.saamicouncil.net/news-archive/statement-by-the-russian-side-of-the-saami-council-regarding-the-current-situation-in-russia-kx2gfx>

in both Russia and Nordic countries. Here, the war in Ukraine has resulted in suspension of all cooperation between Russian and non-Russian members of the Sámi Council, the Sámi people's main representative body. The suspension followed an explicit expression of support by some Sámi leaders in Russia for the Russian government's decision to launch the war against Ukraine. And although not all Russian Sámi organizations endorsed the government on that issue, the decision to suspend Russian participation was made unanimously by the Executive Board of the Sámi Council, a body that consists of four people, one of which is a representative of Russian Sámi.

IX. Military courts, army and conscripts

97. Russian military courts examine cases both against military personnel and civilians as prescribed by certain provisions under the Code of Criminal Procedure. Generally, the trials of civilians in military courts raise serious concerns relating to the fair trial. In the Concluding Observations adopted in 2018, the Human Rights Committee expressed concerns about the jurisdiction of military courts in Lebanon extending to civilians.¹¹⁰ In 2018, the HRC concluded that the trial and sentencing of civilians by a Belorussian military court violated article 14 (1) of the ICCPR.¹¹¹

98. Russian military courts are regulated by the Federal Constitutional Law "On military Courts of the Russian Federation", the Federal Constitutional Law "On the Court System in the Russian Federation", and the Code of Criminal Procedure. According to the Law On Military Courts, military courts are the part of Russian courts of general jurisdiction (Article 1) and have jurisdiction to hear civil and criminal cases involving military personnel (Article 7).

99. Before 2009, only military officers could become military judges. On June 29, 2009, the law was amended, and non-military personnel obtained the right to become a judge of a military court. However, military officers on active duty or in the reserve currently retain a priority right to be appointed as judges of military courts.¹¹² Moreover, a number of the judges of military courts appointed before the reform of 2009 are military officers, which calls into question their independence. According to international trial observers, the fact that all three judges of the panel, which found a journalist Svetlana Prokopyeva guilty of justifying terrorism (a verdict considered by the Commissioner for Human Rights¹¹³ and representative of the EU¹¹⁴ a violation of the right to freedom of speech), were appointed before 2009 as members of the military taken together with "widely reported abuse of

¹¹⁰ Concluding observations on the third periodic report of Lebanon, by the Human Rights Committee of the United Nations, March 9, 2018:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6OkG1d%2fPPRiCAqhKb7yhst0EqMtyqO%2bAVhHZipQtX7YCIXY%2bNLLw9Rz7B7DByyyVaC60%2b1n%2btiD%2f0TvvppjSxEM3q43F5g5aAG58UffTRjtRD4JA%2bK9D9FANv2759gxx>

¹¹¹ Views adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning communication No. 2201/2012, by the Human Rights Committee of the United Nations, March 9, 2018:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/120/90/PDF/G1812090.pdf?OpenElement>

¹¹² Federal Constitutional Law No. 1-FKZ, On Military Courts of the Russian Federation from June 23, 1999, Article 27.

¹¹³ <https://www.coe.int/en/web/commissioner/-/the-russian-authorities-should-remedy-the-long-standing-problem-of-undue-restrictions-to-freedom-of-assembly-freedom-of-expression-and-press-freedom>

¹¹⁴ https://www.eeas.europa.eu/node/82133_fr

anti-extremism and anti-terrorism laws to silence critics of the government” gives significant reasons to doubt the independence and impartiality of the judges.¹¹⁵ National trial monitoring by Citizens’ Watch raises similar concerns regarding the trial of Viktor Filinkov and Igor Shishkin sentenced for terrorism¹¹⁶ despite their claims of torture in custody.¹¹⁷

100. These judges whose independence raises questions are entitled to consider such charges, which often constitute cases of political persecution: terrorism and extremism. Only military courts have jurisdiction to examine such cases.¹¹⁸ The Human Rights Committee found that the legal definitions of “extremist” and “terrorist” activities are too broad and vague and recommended Russia to make the definitions narrower and in line with the ICCPR.¹¹⁹ Russia did not comply with these recommendations. The vagueness of the legislation in question makes it an ideal tool for persecution and harassment of the human rights defenders and other people opposing the Russian government. Moreover, the defendants in such cases cannot file a petition to have their case tried by the jury,¹²⁰ which deprives them of important guarantee of the right to a fair trial without an objective reason.

101. The vague definition of extremism and terrorism, denial of the right to a jury trial for defendants in these categories of cases taken together with, firstly, the general recommendation not to examine cases against civilians in military courts and, secondly, serious doubts in the independence of the judges of Russian military courts leads to conclusion that trials of civilians in Russian military courts pose serious concerns in relation to the observance of the right to the fair trial.

102. According to Agora’s report, the rights of the conscripts and army servicemen are violated in the context of war with Ukraine.¹²¹ On March 8, Vladimir Putin said that neither conscripts nor reservists are involved in Russia’s military operation in Ukraine, and would not be involved in future.¹²² The next day, on March 9, the Defence Ministry officially admitted that conscript soldiers were not only involved in combat operations, but several had been taken prisoner.¹²³

103. At least three group cases of Russian Guard fighters refusing to be sent to Ukraine are known. 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.¹²⁴ 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.¹²⁵

¹¹⁵ TrialWatch Fairness Report, by Covington & Burling LLP, 2021, pp. 20-21:

<https://cfj.org/wp-content/uploads/2021/02/Svetlana-Prokopyeva-February-2021.pdf>

¹¹⁶ The case of the “Network” (St. Petersburg) first instance, Report by Citizens’ Watch, September 17, 2020:

<https://courtmonitoring.org/ru/projects/otchety-o-monitoringe/delo-seti-sankt-peterburg-pervaya-instantsiya/>

¹¹⁷ Russian Activists Forcibly Disappeared, Allegations of Torture in Custody, Human Rights Watch, October 1, 2018: <https://www.hrw.org/news/2018/02/01/russian-activists-forcibly-disappeared-allegations-torture-custody>

¹¹⁸ Code of Criminal Procedure, Part 2 (3) Article 30, para. 1 part. 6.1 Article 31.

¹¹⁹ Concluding observations of the Human Rights Committee, CCPR/C/RUS/CO/6, 24.11.2009, paras. 7, 24.

¹²⁰ Code of Criminal Procedure, Part 2 (3) Article 30, para. 1.

¹²¹ https://drive.google.com/file/d/1vCb_QdGscBkLUtYOpNx15O7I1XNisbnr/view

¹²² <http://kremlin.ru/events/president/news/67937>

¹²³ <https://www.interfax.ru/world/827191>

¹²⁴ <https://t.me/pchikov/4812>

¹²⁵ <https://mdza.io/XsC3UkpbN-M>

104. A citizen of the Russian Federation has the right to ask to replace military service with an alternative civilian one. According to MCO statistics, in 50% of cases people are denied alternative civilian service. Courts cancel decisions of Draft commissions only in 10% of cases. Persons serving in the military cannot apply for alternative civilian service. In practice, the decision regarding applications to replace military service with alternative civil service is made by representatives of the Military commissariat.

105. Alternative civilian service in Russia remains punitive and discriminatory in terms of duration and conditions. The military service in the Russian Federation is 12 months, while the alternative civilian service is 21 months or 18 months for alternative service in organizations affiliated to armed forces, such as military factories and construction departments. The conditions for alternative service are punitive in nature, including the practice to perform such services outside places of permanent residence, inadequate housing, the receipt of low salaries, which are below the subsistence level for those who are assigned to work in social organizations.

X. Political prisoners

106. The number of political prisoners is growing and currently stands at 478¹²⁶ in the Memorial's deliberately incomplete lists. 3/4 of them are prosecuted in connection with the exercise of the right to freedom of conscience, mainly Jehovah's Witnesses and those accused of participating in Hizb ut-Tahrir, including a large number of Crimean Tatars. This number increased by 10% since the beginning of the year. These lists are based on the notion of political prisoners in the 2012 PACE resolution and are in a sense certified by this year's June PACE Resolution 2446.¹²⁷

107. Particular attention is drawn to those prosecuted under "political" articles like the new anti-war ones, but in general, about 50 different articles of the CC are used to prosecute those in the lists. An obvious trend this year is the suppression of the anti-war movement in any form.

108. The new anti-war articles and their application (the presumption that only state sources are true) are only the most striking example of this. The new repressive norms (as, indeed, many of the old ones) do not meet the fundamental requirements of legal certainty. In general, the standard of proof of guilt in politically motivated cases has sharply decreased. This is evident from the Gorinov, Navalny, and Pivovarov cases.

109. As recently as last year, there was a clear trend toward expanding the practice of criminal prosecution for desacralization of the sacred (primarily cases involving the rehabilitation of Nazism and insulting the feelings of believers). Politically motivated criminal repression is clearly aimed at suppressing:

- freedom of assembly (cases of violence against representatives of the authorities, violation of sanitary norms, repeat assembly violation (Article 212.1 of the CC), "blocking transport communications");

¹²⁶ <http://spisokpzk.org/>

¹²⁷ <http://pace.coe.int/en/files/30166>

- freedom of expression (cases of justification of terrorism, incitement to extremism, incitement to hatred and hostility, the new anti-war articles of the CC, hooliganism, vandalism, rehabilitation of Nazism, defamation);
- freedom of association (cases involving participation in activities of extremist and terrorist communities and organizations, undesirable organizations, and the establishment of NGOs that infringe on the civil rights);
- freedom of conscience (cases involving participation in terrorist and extremist communities and organizations, and now potentially including undesirable organizations).

110. The Russian regime supports the Belarusian dictatorship: refugees from Belarus, persecuted on far-fetched political charges, are regularly extradited to Belarus.

111. In a situation of war, we can expect a wide scale illegal criminal prosecution of prisoners of war and illegally captured civilians in the occupied territories, based on false accusations of war crimes, participation in terrorist organizations, and illegal armed formations not only through a proxy of the LDPR (Lugansk and Donetsk People's Republic) but also directly in the Russian Federation, as well as an increase in falsified cases of sabotage, spying and treason against the motherland on behalf of Ukraine.

112. Repressions are selective, often choosing victims of politically motivated criminal prosecution at random. The main purpose of such selective repression is to control society. It was years long practice of these repressions in conjunction with a large number of other tools for restricting human rights and freedoms that provided the opportunity to unleash and wage a war of aggression against Ukraine, and today their intensification provides the opportunity to continue it.

XI. Recommendations to the Russian Federation

- Stop the persecutions for the anti-war positions and for the dissent views, lift the de facto adopted military censorship and repeal the laws, restricting the freedom of speech, including Articles 20.3.3 of the Code of Administrative Offences, Articles 207.3, 280.3 etc. of the Criminal Code. Stop administrative and criminal prosecution under these articles and acquit all the persons already prosecuted under these articles for expression of their positions.
- Stop the extrajudicial blockings of sites and other sources of information.
- Repeal the laws on foreign agents and undesirable organizations, empty the relevant registries and acquit all the persons already prosecuted for cooperation with undesirable organizations or violating foreign agent restrictions.
- Stop the illegal use of the facial recognition system against protesters and activists.
- Lift the ban on public events, including solo demonstrations, introduced due to COVID-19 and still in force in several regions of Russia.
- Adopt the law on domestic violence in line with international standards in this area and implement the general measures indicated in the relevant judgments of the ECtHR. Comply with and implement the decisions, including interim measures, of other international mechanisms, in particular the UN Treaty Bodies.
- Stop the persecutions, including the extrajudicial ones, of human rights defenders, journalists and media outlets, LGBT* and women's rights activists, indigenous peoples and other activists. Investigate promptly and impartially the existing cases and bring perpetrators to justice.

- Prevent and put an end to torture and ill-treatment, effectively investigate existing cases and bring perpetrators to justice.