

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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RUSSIA: UNDER THE “EYE OF SAURON”: PERSECUTION OF CRITICS OF THE AGGRESSION AGAINST UKRAINE

Immediately following their full-scale invasion of Ukraine in February 2022, Russian authorities embarked on a campaign to silence domestic criticism of the war and to stop the dissemination of reports of violations of international humanitarian law committed by Russian forces. The Russian authorities have used a wide arsenal of methods, including administrative and criminal sanctions as well as other arbitrary measures such as dismissals, intimidation and designating critics of the war as “foreign agents”.

ADMINISTRATIVE PROCEEDINGS

Administrative proceedings are one of the most readily available and widely used tactics to target those protesting against the invasion of Ukraine. It requires the least amount of paperwork from law enforcement officials and is the quickest sanction available, which has allowed authorities to target tens of thousands of individuals for various “administrative offences”. Even though administrative offences are considered minor, in some cases penalties may be comparable or even more severe than criminal sanctions.

While violations of the right to a fair trial are commonplace in Russia, guarantees of a fair trial are even more ephemeral in administrative cases than in criminal proceedings. For example, people accused of an administrative offence have no automatic right to a lawyer. In these proceedings there is also no prosecutor, which means the process is not adversarial and the judge decides whether and how thoroughly to scrutinize the evidence. When the defendant is able to bring a lawyer (typically a challenge because of the short or no-notice, as well as cost), the judge often effectively acts as their adversary. The standard of proof is very low, if applicable in earnest. Evidence in administrative cases often consists of just one or two similarly-worded police reports and a “protocol of administrative offence” — a one-page document summarizing the accusations. Judges in administrative proceedings frequently refuse to summon key witnesses or request additional information and typically dismiss evidence presented by the defence as “a means of avoiding the punishment” while accepting police reports unquestionably. There have been numerous instances, including documented by Amnesty International, in which the judge’s ruling directly contravened the facts fully captured on camera and presented in the hearing.¹

In the last decade, the most widely-used accusation against protesters has been “violation of regulations governing public assemblies” (Article 20.2 of the Code of Administrative Offences, or CAO). This article, expanded and stiffened many times over the years, has been used arbitrarily against peaceful protesters for alleged violations of the excessively restrictive regulations of public assemblies. A typical sanction under Article 20.2 is a fine of up to 30,000 roubles (about US\$400), but depending on the circumstances, it may reach 300,000 roubles (US\$4,000) or up to 30 days of administrative arrest. According to official data, 16,652 individuals have been penalized by courts across Russia under this article in 2022, 2,307 of them given so-called administrative detention (jail time) and the rest heavily fined.² Although this figure includes all protesters, most known cases were related to anti-war demonstrations.

Another typical “offence” that anti-war activists are accused of is “disobeying police orders”, under Article 19.3 of the CAO. This offence, punishable by up to 15 days’ administrative arrest, is often used as a way to keep people in detention while the authorities are preparing criminal charges. For example, prominent critics of the authorities Vladimir Kara-

¹ See, for example, Amnesty International, *Russia: No place for protest* (Index: EUR 46/4328/2021), 12 August 2021, [amnesty.org/en/documents/eur46/4328/2021/en](https://www.amnesty.org/en/documents/eur46/4328/2021/en), pp. 15-16

² Judicial Department of the Supreme Court of the Russian Federation, “Сводные статистические сведения о деятельности федеральных судов общей юрисдикции и мировых судей за 2022 год”, cdep.ru/index.php?id=79&item=7645

Murza³ and Ilya Yashin⁴ were both placed under administrative arrest under Article 19.3 in April and June 2022, respectively, before being charged with and imprisoned for “disseminating knowingly false information about the Russian Armed Forces” (see below). In these cases, claims of police officers that the individuals had refused to present their documents were sufficient to deprive them of their liberty, even though in the case of Ilya Yashin there was a witness who testified to the opposite.

ANATOLY BEREZIKOV

Anti-war activist Anatoly Berezikov was posting leaflets in Rostov-on-Don (a city in southern Russia not far from the Ukrainian border) calling on Russian soldiers to lay down arms. On 10 May 2023, police conducted a search of his home and placed him under administrative arrest under Article 19.3. His arrest was then arbitrarily extended repeatedly. Anatoly Berezikov told his lawyer that, while he was in detention, law enforcement officials took him out of town and used electric shockers on him.⁵ The Russian human rights NGO Department One also reported that the activist had been beaten and threatened with criminal prosecution for “high treason” by Federal Security Service (FSB) officers.⁶ On 14 June, one day before he was due to be released from the latest round of administrative detention, Anatoly Berezikov died in the detention centre. Officials claimed that he had committed suicide. At the time of writing, precise circumstances of his death remained unknown.

On 4 March 2022, about a week after the full-scale invasion of Ukraine, Russian authorities introduced a new “offence” in the Code of Administrative Offences as Article 20.3.3: “public actions aimed at discrediting the Russian Armed Forces or state bodies”. In effect, this article has been used to criminalize the expression of any opinion critical of the invasion, its conduct or goals. Even merely calling for peace or referring to the conflict as a war (instead of its official name, “special military operation”) has frequently been qualified as “discreditation of the Armed Forces”. According to official figures, 4,439 individuals have been fined under this article in 2022;⁷ the maximum fine is 100,000 roubles (approximately US\$1,300).

ARINA POPOVA

Arina Popova, an activist from Voronezh (a city 500 km south of Moscow), was one of the first to be accused under the newly introduced Article 20.3.3. On 6 March 2022, she came to the city centre and unfurled a placard, which said “Citizens, the fatherland is in danger! Our tanks are in a foreign land!” (a quote from poet and dissident Alexander Galich condemning the Soviet invasion of Czechoslovakia) and “No to war!” Arina Popova was arrested and accused of “discreditation of the Armed Forces”.

On 26 April, a court found her guilty and ordered her to pay a fine of 30,000 roubles⁸ (the sum was reduced to 15,000 roubles, or US\$245⁹, by Voronezh Oblast Court in appeal on 7 June). The court rejected a linguist’s analysis, presented by Arina Popova’s lawyer, that these phrases did not “discredit” the Armed Forces. The court did not explain how it came to the conclusion that there was, in fact, “discreditation”, nor did it consider whether this judgment was interfering with Arina Popova’s right to freedom of expression. Her argument that she was merely expressing her opinion of the war was rejected “as an attempt to evade accountability” without any analysis either. The verdict was upheld on appeal, but the fine was reduced due to her “exceptional [personal] circumstances”.¹⁰

³ Amnesty International, “Russia: Political activist Vladimir Kara-Murza is a prisoner of conscience who must be released immediately and unconditionally” (Index: EUR 46/5578/2022), 10 May 2022, [amnesty.org/en/documents/eur46/5578/2022/en](https://www.amnesty.org/en/documents/eur46/5578/2022/en)

⁴ Mediazona, “Илью Яшина арестовали на 15 суток по протоколу о неповиновении требованиям полицейских”, 28 June 2022, zona.media/news/2022/06/28/yashin

⁵ OVD-Info, “В спецприемнике Ростова-на-Дону умер активист Анатолий Березиков”, 14 June 2023, ovd.news/express-news/2023/06/14/v-specpriemnike-rostova-na-donu-umer-aktivist-anatolij-berezikov

⁶ Department One, “Активист Анатолий Березиков погиб в спецприёмнике после многочисленных пыток. Вот всё, что об этом известно”, 15 June 2023, t.me/deptone/6147

⁷ Judicial Department of the Supreme Court, “Сводные статистические сведения” (previously cited)

⁸ Central District Court of Voronezh, *Ruling in Case 5-789/2022*, 26 April 2022, on file with Amnesty International.

⁹ Using the official exchange rate as of respective date.

¹⁰ Voronezh Oblast Court, *Decision in Case 7-130/2022, 5-789/2022*, 7 June 2022, on file with Amnesty International.

MARINA CHUFARINA

Marina Chufarina, an activist in Nizhny Novgorod (a city 400 km east of Moscow), published a Facebook post on 2 March 2022, in which she described the war as a “catastrophe” and said, among other things: “[A]ll these people who remain a part of the system and work for this government are co-perpetrators of shelling of Ukraine’s civilians”. She also used a hashtag #нетвойне (“No to war”).

Marina Chufarina was arrested on 31 March near her home and later released pending trial. On 11 May, a court found her guilty of “discrediting the Armed Forces” and ordered her to pay a fine of 30,000 roubles (US\$445), a ruling upheld on appeal. The court documents, reviewed by Amnesty International, quote Marina Chufarina as saying at the trial: “I believe that the prosecution is a serious violation of my right to express my opinion. This Article [20.3.3] allows prosecution of anyone whose opinion differs from the official position of the state and Ministry of Defence”.¹¹

The judgment said that Chufarina’s statements violated the law, because they “symbolize protest against war”.¹² Although her publication had been made before Article 20.3.3 was adopted, it was applied retroactively. The authorities considered that it was an “ongoing offence” because the post was not removed.

CRIMINAL PROSECUTION

Criminal sanctions for those protesting against the war or sharing news about it are severe. Although in theory, the standard of proof of alleged crimes is much higher than of administrative offences, and procedural rights of defendants are more extensive and clearly defined in domestic law, in practice criminal justice is just as flawed in Russia. Courts are biased against defendants even in non-political cases. In 2022, only 0.4% of defendants in courts were either acquitted or had criminal proceeding against them terminated on rehabilitating grounds (for example, because the fact of the crime was not proven), a figure that has not increased in the past two decades.¹³ While merely 0.2% of appeals have resulted in acquittal or termination of the proceedings, by contrast, 45% of acquittals challenged by the prosecution were overturned following its appeal.

The most widely-used criminal charge against anti-war protesters is Article 207.3, “dissemination of knowingly false information about the use of the Russian Armed Forces”. Like Article 20.3.3, it was hastily introduced in the wake of the 2022 full-scale invasion of Ukraine. The article has since been amended to also cover criticism of other state bodies, irregular forces (such as private military companies, officially considered “volunteer formations”) and volunteers. Depending on the circumstances, this offence carries a maximum penalty of 15 years’ imprisonment. Criminal proceedings have been initiated against approximately 150 individuals on this charge, most of them under para. 2 of the article, which bears a maximum sanction of 10 years’ imprisonment. Several individuals have already been convicted and sentenced to prison terms.

Article 207.3 is used to target people who report about war crimes and other violations of international law committed by the Russian forces as well as about Russia’s casualties. Any such publications are considered “knowingly false” if they contradict statements of government officials. Courts don’t attempt to question or verify these claims. As one court decision put it, “any examination of veracity of statements by official representatives of state bodies will fail to realize the constitutional principle of upholding the trust of citizens in the law and actions of the state”.¹⁴ This reasoning implies that even if the officials are wrong, courts should not endeavour to

“[A]ny examination of veracity of statements by official representatives of state bodies will fail to realize the constitutional principle of upholding the trust of citizens in the law and actions of the state.”

Court decision

¹¹ Kanavinsky District Court of Nizhny Novgorod, *Protocol of a Court Hearing in Case 5-1381/2022*, 11 May 2022, on file with Amnesty International.

¹² Kanavinsky District Court of Nizhny Novgorod, *Ruling in Case 5-1381/2022*, 11 May 2022, on file with Amnesty International.

¹³ Judicial Department of the Supreme Court, cited above.

¹⁴ Timiryazevsky District Court of Moscow, Sentence to Dmitry Ivanov, 7 March 2023, [facebook.com/maria.eismont/posts/pfbidOqXTXJMGDwZWjvUL45of5CqkREQUbvgUEw2pdnEHNd377gcducBfSVS9feFwYiuNil](https://www.facebook.com/maria.eismont/posts/pfbidOqXTXJMGDwZWjvUL45of5CqkREQUbvgUEw2pdnEHNd377gcducBfSVS9feFwYiuNil)

question them, lest people lose trust in the government. Instead, those who tell inconvenient facts, regardless of their truth, are prosecuted.¹⁵

Article 280.3 of the Criminal Code effectively replicates Article 20.3.3 on “discreditation of the Armed Forces”, but it is enacted in cases of a “repeated offence”. If an individual has been found guilty of “discrediting” the Russian military under Article 20.3.3 and does it again within a year, they will bear criminal liability. The maximum sanction under Article 280.3 is seven years’ imprisonment, and dozens of individuals have already been prosecuted under it.

Other criminal charges that are also frequently used to silence criticism of the Russian aggression against Ukraine include calls to or justification of terrorism (Article 205.2 of the Criminal Code), hooliganism (Article 213), vandalism (Article 214), participation in activities of an NGO that incites unlawful acts (Article 239(2 and 3)), calls for extremist activities (Article 280), incitement of hatred or animosity (Article 282) and desecration of state symbols (Article 329). According to Russian human rights watchdog OVD-Info, at least 576 individuals were facing prosecution for various anti-war activities as of May 2023.¹⁶

OLEG ORLOV

Oleg Orlov, a well-known Russian human rights defender and a Board member of Memorial Human Rights Centre, has publicly condemned the full-scale invasion of Ukraine repeatedly. On 26 February 2022, he was arrested for protesting in front of the Russian parliament, accused of “violating regulations governing public events” and later fined 20,000 roubles (US\$250). On 20 March, he was arrested for another picket in the centre of Moscow, accused of “discreditation of the Russian Armed Forces” under the newly-introduced Article 20.3.3 and fined 50,000 roubles (US\$480).¹⁷ On 28 March, someone vandalized the door to Oleg Orlov’s apartment in Moscow: a poster with Orlov’s portrait, with the word “Collaborant” printed on it along with “Z”, the symbol of the Russian invasion force, was stuck to the door.¹⁸ Despite the threats and intimidation, on 29 April, Oleg Orlov held another protest in the Red Square¹⁹ and was accused of the “discreditation” again.

On 14 November, Oleg Orlov published on Facebook the text of an article he had written for the French media outlet Mediapart.²⁰ In the article titled “They Wanted Fascism. They Got It”, he argued that the aggression against Ukraine had allowed “the darkest forces” in Russia to build a fascist system in the country. He also mentioned that the Russian forces were destroying Ukraine’s infrastructure, economy and cultural objects.

On 21 March 2023, the Investigative Committee opened criminal proceedings against Oleg Orlov, arrested him and charged him with “repeated discreditation of the Russian Armed Forces” under Article 280.3(1) of the Criminal Code. The indictment²¹ says that his post “contained a denial of the facts that the Russian Armed Forces were used in the interests of the Russian Federation and its citizens, to uphold peace and security”. His trial was ongoing at the time of writing. If convicted, Oleg Orlov faces up to three years’ imprisonment.

¹⁵ See also: Amnesty International, “Russia: Authorities deploy new criminal laws to silence criticism of Russia’s war in Ukraine” (Index: EUR 46/5988/2022), 2 September 2022, [amnesty.org/en/documents/eur46/5988/2022/en](https://www.amnesty.org/en/documents/eur46/5988/2022/en)

¹⁶ OVD-Info, *Anti-war case. Infographics on criminal prosecutions for anti-war stance*, en.ovdinfo.org/antiwar-infographics

¹⁷ Kavkazsky Uzel, “Правозащитник Олег Орлов обвинен в нарушении правил пикетирования”, 10 April 2022, kavkaz-uzel.eu/articles/375065

¹⁸ Mediazona, “Дверь сотрудника «Мемориала» исписали символами Z и наклеили портрет с надписью «Коллаборант»”, 28 March 2022, zona.media/news/2022/03/28/door

¹⁹ Oleg Orlov, Facebook post on 29 April 2022, [facebook.com/photo/?fbid=3331597943831554&set=pcb.3331598213831527](https://www.facebook.com/photo/?fbid=3331597943831554&set=pcb.3331598213831527)

²⁰ Oleg Orlov, Facebook post on 14 November 2022, [facebook.com/story.php?story_fbid=pfbid02wQeRgS6vUme8QoyrS5B2C7q95E2dvwHTEpuBfPUVaVb6v3w8YzvMu262g4RKdtz5l&id=100009441420415](https://www.facebook.com/story.php?story_fbid=pfbid02wQeRgS6vUme8QoyrS5B2C7q95E2dvwHTEpuBfPUVaVb6v3w8YzvMu262g4RKdtz5l&id=100009441420415)

²¹ Tverskoy District Investigative Department of Moscow, Indictment against Oleg Petrovich Orlov, 29 April 2023, on file with Amnesty International.

VLADIMIR RUMYANTSEV

Vladimir Rumyantsev worked as a stoker in the city of Vologda (400 km north of Moscow). A radio amateur, he equipped a small radio studio in his flat. After the full-scale invasion of Ukraine, he used it to broadcast banned media outlets and bloggers. He also reposted videos condemning the invasion on his VK page (a popular social media platform in Russia). Vladimir Rumyantsev tried to inform his audience of war crimes committed by the Russian forces in Ukraine, such as the killings of civilians in Bucha and Irpin,²² the bombing of a drama theatre in Mariupol²³ and others.

On 19 April 2022, police detected the source of the radio signal, searched Vladimir Rumyantsev's apartment and confiscated the equipment.²⁴ He was later arrested and placed in pretrial detention on charges of "public dissemination of knowingly false information about the Russian Armed Forces" under Article 207.3(2) of the Criminal Code. Vladimir Rumyantsev maintained that he was exercising his right to freedom of expression. However, on 22 December, he was convicted and sentenced to three years' imprisonment. The sentence was upheld on appeal on 13 April 2023.

The court did not try to check the facts reported by Rumyantsev; instead it simply noted that his publications are "refuted by the information of the Ministry of Defence of the Russian Federation", which accordingly made them "knowingly false".²⁵ The court also failed to analyse whether the prosecution violated Rumyantsev's human rights, merely pointing out that "dissemination of knowingly false information about the Armed Forces is directly prohibited under the Criminal Code".

Amnesty International considers Vladimir Rumyantsev a prisoner of conscience who has been detained solely for exercising his right to freedom of expression. Russian authorities must immediately and unconditionally release him.

HARASSMENT AND INTIMIDATION

Authorities have also increasingly put pressure on critics of the war through other arbitrary means without any legal process, including dismissal from work and cancellation of events. These are often combined with administrative sanctions or "foreign agent" designations (see below).

On 5 April 2022, School #6 in the town of Korsakov in Sakhalin (an island in the Pacific Ocean in the south-east of Russia) reportedly fired Marina Dubrova, an English teacher, after discussing the invasion of Ukraine with her students. Local media cited the regional Ministry of Education as stating that the teacher's expressing "a negative attitude... regarding the ongoing special operation in Ukraine" is a deed that "goes against the moral and ethical principles of a pedagogue".²⁶

"[A] negative attitude... regarding the ongoing special operation in Ukraine" is a deed that "goes against the moral and ethical principles of a pedagogue."

Ministry of Education official

Many music performers who have spoken out against the war have had their performances cancelled and are often forced to go into exile due to fear of reprisals. For example, since April 2022, most or all concerts of well-known bands Aquarium, Bi-2, DDT, Louna, Mashina Vremeni and Splin have been cancelled in Russia, apparently under pressure of the authorities.

Some forms of harassment, such as dismissals from jobs, are conducted by companies or private individuals and their motivation is not always explicit. Many such incidents remain unreported because the victims may be afraid of drawing

²² Amnesty International, *Ukraine: "He's not coming back". War crimes in Northwest areas of Kyiv Oblast* (Index: EUR 50/5561/2022), 6 May 2022, [amnesty.org/en/documents/eur50/5561/2022/en](https://www.amnesty.org/en/documents/eur50/5561/2022/en)

²³ Amnesty International, *Ukraine: "Children": The attack on the Donetsk Regional Academic Drama Theatre in Mariupol, Ukraine* (Index: EUR 50/5713/2022), 30 June 2022, [amnesty.org/en/documents/eur50/5713/2022/en](https://www.amnesty.org/en/documents/eur50/5713/2022/en)

²⁴ Materials of criminal case No. 12202190029061007, 2022, on file with Amnesty International.

²⁵ Vologda City Court, *Sentence in case No. 1-1375/2022*, 22 December 2022, on file with Amnesty International.

²⁶ Sakhalin.info, "Педагога на Сахалине уволили за «аморальный проступок» из-за разговора об Украине", 8 April 2022, sakhalin.info/news/219665

public attention. OVD-Info has documented 423 cases of undue pressure for expressing an anti-war opinion, including 142 politically motivated dismissals and 60 cancellations of events.²⁷

The authorities have also recorded videos of individuals “apologizing” for certain “unpatriotic” actions and publishing them on social media, typically Telegram channels, as another form of pressure. On 22 May 2022, a school student in the town of Izberbash, Dagestan in the North Caucasus, yelled out “No to war! Freedom to Ukraine! Putin is the devil!” at the school graduation ceremony. The next day, local Telegram channels published a video in which both the girl and her mother, visibly nervous and scared, were apologizing: the student said she was “very sorry for [her] recent action”; her mother said she “fully support[ed] the course of the President” and “the ongoing special operation”.²⁸ Such statements, clearly made under pressure of the authorities, degrade the human dignity of the individuals, violate their right to not incriminate themselves and serve to intimidate others from publicly speaking up.

USE OF “FOREIGN AGENTS” LEGISLATION

An increasingly widely-used method of punishing people for criticizing the invasion of Ukraine is by designating them “foreign agents”. The first law introducing such a legal designation was enacted in Russia in 2012, and from the start, it was used as a tool to stigmatize, discredit and silence NGOs critical of the authorities, by forcing them to label accordingly all their publications, and by introducing onerous reporting requirements.²⁹ Over 320 NGOs have been designated as “foreign agents” since the law was adopted.³⁰ Over the next decade, Russian authorities adopted several laws that expanded the notion of a “foreign agent” to apply to media outlets, non-registered and foreign NGOs, and individuals. The amendments introduced further requirements, restrictions and ever harsher penalties for violating these regulations.

In July 2022, the new Federal Law on Control of Activities of Persons under Foreign Influence was passed and entered into force on 1 December. It replaced and superseded the multiple different pieces of legislation and merged the various lists of “foreign agents” into one. The law also further expanded the scope of application of this designation.

DESIGNATION REQUIREMENTS AND PROCESS

Under the latest law, which uses overly-broad and vague language, an individual or organization (both Russian and foreign) may be designated a “foreign agent” if it “has received support or is under other forms of foreign influence” and engaged in one of the activities from a long list, including, for instance, preparing or publicly distributing messages of any kind. “Foreign influence” is also defined extremely broadly as “provision of assistance and/or having an effect by a foreign source upon a person, including by means of persuasion, coercion and/or by any other means”.³¹ Such a definition makes virtually any person a potential “foreign agent” leaving the actual decision of who to put on the list solely at the discretion of government officials and making the designation arbitrary from the outset, as well as contrary to international human rights law.

These decisions are made by the Ministry of Justice without a judicial process or even a prior notification of the individual or organization in question. All those designated “foreign agents” interviewed by Amnesty International said that they had learned of their new status from journalists who monitor the Ministry’s website. Some of them later received a written notification from the Ministry but it contained neither a justification of the decision nor an explanation of how to appeal against it.³²

Appealing against inclusion in the list of “foreign agents” is permitted under the law but futile in practice. Since the introduction of the “foreign agents” legislation in 2012, numerous NGOs attempted to challenge their designation as a “foreign agent” in court. Only in one known instance an NGO working to help HIV-positive people was de-listed by a

²⁷ OVD-Info, *Wartime Repressions Report. May 2023*, 23 May 2023, en.ovdinfo.org/wartime-repressions-report-may

²⁸ Current Time YouTube channel, “«Нет войне! Свободу Украине! Путин – черт!»: выпускница школы в Дагестане”, 23 May 2022, youtu.be/pvQ3TT3VY6w

²⁹ Amnesty International, “Russia: Voters’ Rights Group First Victim of ‘Foreign Agent’ Law”, 25 April 2013, amnesty.org/en/documents/pre01/200/2013/en

³⁰ Ministry of Justice of the Russian Federation, “Деятельность в сфере иностранных агентов”, minjust.gov.ru/ru/activity/directions/998 (accessed on 3 July 2023), “Реестр иностранных агентов”.

³¹ Федеральный закон «О контроле за деятельностью лиц, находящихся под иностранным влиянием», consultant.ru/document/cons_doc_LAW_421788, Article 2.

³² In March 2023, Amnesty International interviewed five individuals recently designated as “foreign agents” for this publication.

court's decision, in February 2022.³³ Many individuals, including all those interviewed by Amnesty International, have tried to challenge in court their inclusion in the list, but no one has succeeded. The only other option is to request the removal at least one year after the person or entity has ceased to meet the qualifying criteria (for instance, if they haven't received any foreign support for a year). This option has also been a challenge: as one person designated "foreign agent" told Amnesty International, the authorities have repeatedly ignored or denied their request on technical grounds.³⁴ Only 10 out of 313 individuals have managed to have their designation as "foreign agents" lifted as of July 2023.

OBLIGATIONS OF "FOREIGN AGENTS" AND SANCTIONS

Those designated as "foreign agents" must place special disclaimers in any messages or information they publish, including personal comments on social media. The exact wording, its location above the text, and even font size is specifically defined by the Russian government. They must also provide detailed quarterly reports on their finances and activities. Moreover, the law includes various restrictions on what "foreign agents" can do, some of which may make it impossible for them to continue their professional activities and it has often represented an interference with their private lives. These restrictions include express prohibitions of organizing protests, standing as candidates in elections to public bodies, endorsing candidates or political parties, working in education, producing information materials for children and many other activities.

Violation of obligations or restrictions imposed on "foreign agents" is a punishable offence. In most cases, the first two violations within a year are penalized under Article 19.34 of the Code of Administrative Offences and can lead to a fine of up to 50,000 roubles (about US\$660) for individuals or 10 times more for organizations. The third violation may be prosecuted as a criminal offence under Article 330.1 of the Criminal Code, which bears a maximum penalty of two years' imprisonment or, in some cases, up to five years.

After the amendment of this Article on 29 December 2022, the first criminal case under this amended version was opened only a month later against opposition activist Artyom Vazhenkov. He was charged for several online publications he had posted without adding the mandatory disclaimer.³⁵

USE OF "FOREIGN AGENT" DESIGNATION TO PUNISH ANY CRITICISM OF THE INVASION OF UKRAINE

Initially, all those designated as "foreign agents" were NGOs, but individuals were also included in the list as of December 2020. A total of 76 people were labelled "foreign agents" as of 24 February 2022, when Russia launched its full-scale invasion of Ukraine. After the start of the war, the rate of designations significantly increased: authorities have added 237 more individuals to the list as of early July 2023.

Many of the individuals designated "foreign agents" are well-known politicians, human rights defenders, journalists, bloggers, academics and artists. These include, for instance, former mayor of Yekaterinburg Evgeny Roizman; editor-in-chief of TV Rain (*Dozhd TV*) channel Tikhon Dzyadko; head of Civic Assistance human rights group Svetlana Gannushkina; and writer Dmitry Glukhovskiy. Several individuals were designated as "foreign agents" while already under arrest for expressing anti-war views, such as Vladimir Kara-Murza, Ilya Yashin and Dmitry Ivanov.

Many of the "foreign agent" designations were made explicitly as a punishment for their public anti-war position. Since January 2023, the Ministry of Justice has been publishing short explanations about why a specific individual had been placed on the list. In 64 out of 85 such recent designations available as of the end of June there were direct references to these people's anti-war opinions or criticism of the Russian Armed Forces, such as "spoke out against the special military operation in Ukraine" or "raised funds in support of an unfriendly country — Ukraine". All these justifications were in effect based on the individuals' exercising their rights to freedom of expression and freedom of association and are a direct violation of international human rights law.

IMPACT OF "FOREIGN AGENT" DESIGNATIONS

Amnesty International has spoken to five individuals who were designated as "foreign agents" after the start of the full-scale Russian invasion of Ukraine. The effect of this status has been particularly damaging for those living in Russia at the time of their designation.

“I was deprived of the work of my life.”

³³ Secret Firmly, "В России суд впервые отменил признание фонда иноагентом", 18 February 2022, secretmag.ru/news/v-rossii-sud-vpervye-otmenil-reshenie-ob-inostrannom-agente-18-02-2022.htm

³⁴ Interview by voice call with "L" (interviewee preferred to remain anonymous), 17 March 2023.

³⁵ Correspondence by an instant messenger with Artyom Vazhenkov's lawyer Dmitry Kachurin, 10 March 2023.

The most direct effect is loss of income. Mikhail Benyash, a well-known human rights lawyer in the city of Krasnodar (southern Russia), told Amnesty International: “I was deprived of the work of my life... It became impossible to take up new cases”.³⁶ Julia Galiamina, an opposition politician in Moscow, lost her job at a university because “foreign agents” are prohibited from working in education.³⁷ “L”, a member of a regional parliament who asked not to disclose their identity, said they were also deprived of payments for their work as a councillor following their inclusion in the list of “foreign agents”. Singers and other artists are usually unable to continue their work after being labelled “foreign agents” since their performances are constantly cancelled and they usually have to leave the country to continue performing and avoid further reprisals.

Mikhail Benyash, lawyer

At the same time, “foreign agents” are obliged to undergo a financial audit every year. According to Julia Galiamina, even if there has been no foreign funding to report, the audit costs at least 70,000 RUB (approximately US\$900), a significant amount for many, especially those who lost their main source of income.

Designation of a “foreign agent” also comes with high levels of stigma. Since the Soviet times, the term has been associated with espionage and subversive activities. Mikhail Benyash felt it particularly harshly: “I was branded. People started to avoid me”. Roman Dobrokhoto, editor-in-chief of The Insider, a media outlet that specializes in investigative reporting, also says that the designation (of both him individually and, separately, of his media outlet) undermined their relationships with their information sources in Russia: “Some experts don’t want problems, they are not ready to give comments [to The Insider] or to write op-eds”.³⁸ “L” says that every time they speak at the parliament’s session, their political opponents question why they should listen to a “foreign agent” at all.

Roman Dobrokhoto says that the objective of the “foreign agent” campaign is to intimidate critics of the authorities and force them to choose between staying silent or fleeing the country: “Life in Russia is incompatible with the status of a ‘foreign agent’”. Julia Galiamina also sees it as a “method to pressure politically active people and politicians..., a hint to leave the country or not to return”. “L” mentioned two journalists who had to leave Russia, because the “foreign agent” designation prevented them from doing their job. Mikhail Benyash says that, more generally, this designation is a sign of unwanted attention from the authorities: “It is a feeling that the Eye of Sauron is fixed on you, and it’s watching”.

“Life in Russia is incompatible with the status of a ‘foreign agent’.”

Roman Dobrokhoto, journalist

Another, related effect of this is the fear and self-censorship of activists, journalists and ordinary people when it comes to the topic of the war. Aleksandra Garmazhapova, the founder of Free Buryatia Foundation and a “foreign agent” herself, who has lived in exile in recent years, says that “people in Russia... try not to write anything they can be persecuted for”.³⁹ At the same time, Julia Galiamina says that the impact of the “foreign agent” designation has been reduced in comparison to the more severe sanctions, including fines and prison terms, that the authorities came to use lately: “This is such a lesser evil... Those [activists] who stay in Russia are not afraid of anything anymore and are ready for everything”.

INTERNATIONAL LAW AND STANDARDS

Russia is a state party of many international and regional human rights treaties, which guarantee the rights to freedom of expression and association. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) guarantees everyone the right to freedom of expression, which includes the right to seek, receive and impart information and ideas of all kinds. Article 22 guarantees the right to association, which allows for individuals to form or join formal or informal groups to take collective action to pursue a common goal. Regional human rights conventions of the Council of Europe, of which Russia was a state party until 16 September 2022,⁴⁰ and of the Commonwealth of Independent States,⁴¹ as well as Russia’s Constitution,⁴² contain similar provisions.

³⁶ Interview by voice call with Mikhail Benyash, 15 March 2023.

³⁷ Interview by voice call with Julia Galiamina, 3 April 2023.

³⁸ Interview by voice call with Roman Dobrokhoto, 17 March 2023.

³⁹ Interview by voice call with Aleksandra Garmazhapova, 15 March 2023.

⁴⁰ European Convention on Human Rights, Articles 10 and 11.

⁴¹ Commonwealth of Independent States Convention on Human Rights and Basic Freedoms, Article 11.

⁴² Constitution of the Russian Federation, Article 29.

Restrictions to the right to freedom of expression are only allowed when necessary and proportionate to a legitimate aim, which are a limited set of circumstances such as the respect of the rights or reputations of others and for the protection of national security, public order, public health or public morals. General Comment 34 of the UN Human Rights Committee,⁴³ the mechanism in charge of monitoring compliance with the ICCPR, clarifies that restrictions must conform to the strict tests of necessity and proportionality (para. 22). Laws containing such restrictions must be formulated with sufficient precision to enable an individual to regulate their conduct accordingly (para. 25). States parties should not prohibit criticism of institutions, such as the army or the administration (para. 38). In every case of restricting the right to freedom of expression, the state must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat (para. 35).

The legislation enacted and used by Russian authorities to target critics of the war and restrict their rights to freedom of expression and association is extremely vague and refers to terms such as “discreditation”, “false information” or “foreign influence” that are not clearly defined in the Russian legislation and are open to broad interpretation. In all the cases analysed by Amnesty International, the authorities have failed to demonstrate that the respective anti-war statements or actions violated others’ rights or constituted a specific, direct threat to national security or public order. On the contrary, the apparent goal has been rather to silence criticism of Russia’s war of aggression against Ukraine or to stop the dissemination of information about violations of international humanitarian and human rights law, such as unlawful killings committed by the Russian forces.

RECOMMENDATIONS

Amnesty International calls on Russian authorities to:

1. Repeal Articles 207.3 and 280.3 of the Criminal Code and Article 20.3.3 of the Code of Administrative Offences as they are incompatible with Russia’s obligations under international human rights law;
2. Repeal the legislation on “foreign agents” as it imposes undue restrictions on the right to association;
3. Repeal other legislation that unduly restricts the exercise of the right to freedom of expression, including legislation that has criminalized “dissemination of false information”, “discreditation of state bodies”, “calls for introduction of sanctions”, “offending religious feelings”, “participation in activities of an undesirable organization”, and “desecration of state symbols”;
4. Immediately and unconditionally release everyone detained solely for peacefully expressing criticism of the invasion of Ukraine or disseminating information about it;
5. Conduct an effective, impartial and independent investigation of all instances of arbitrary detention and other forms of pressure and harassment of individuals for expressing an anti-war opinion and bring those responsible for such persecution to account in fair trial proceedings;
6. Ensure that everyone who has faced criminal prosecution, detention, administrative sanctions, designation as a “foreign agent” or other arbitrary measures for peacefully exercising their rights to freedom of expression or association receives adequate reparations;
7. Ensure the right of everyone to freely express their opinion and impart information and ideas of all kinds, including about the war in Ukraine.

Amnesty International calls on the international community to:

1. Raise with the Russian authorities, in all appropriate bilateral and multilateral fora, cases of individuals facing persecution for their criticism of the aggression against Ukraine; in consultations with human rights organizations, ensure the fullest possible awareness of all such cases, and demand incessantly their immediate release and adequate reparations to the victims of arbitrary detention, in full compliance with Russia’s obligations under international human rights law;
2. Ensure that diplomats attend court hearings in trials of such individuals;
3. Explore ways of providing support to persecuted critics of the Russian aggression against Ukraine, including through direct communication with them, meeting with their family members, colleagues and legal

⁴³ UN Human Rights Committee, General Comment 34: Freedoms of opinion and expression (Article 19), 12 September 2011, UN Doc. CCPR/C/GC/34.

representatives, commenting publicly on their persecution, highlighting their peaceful activism and inviting them to relevant public events to raise the visibility of their cases and the human rights violations they are facing;

4. Ensure that anti-war activists and other individuals seeking international protection from politically motivated persecution have access to fair and effective asylum procedures and, in any case, are not forcibly returned to Russia;
5. Support relevant international mechanisms, such as the UN Special Rapporteur on the situation of human rights in the Russian Federation, to make sure they are sufficiently resourced and effective and, where appropriate, consider establishing new such mechanisms to address human rights violations in Russia.