



# RUSSIA'S STRIDENT STIFLING OF FREE SPEECH

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47 – the number of criminal prosecutions filed by the Russian state against critical journalists and bloggers: the cases often alleged libel



The number of politically-motivated cyberattacks on journalist websites has increased fourfold from 30 in 2015 to 122 in 2016



Russian court's bans on access to information increased threefold from 7300 in 2015 to 24000 in 2016



The Law on Combatting Extremist Activities has 4015 items on its list of prohibited issues. The list significantly impacts the work of political and religious figures, commentators and journalists



Reported incidences of violence or threats of violence against internet users almost doubled, from 28 in 2015 to 50 in 2016



Encyclopaedias of sexual development have been removed from bookshelves as they were said to be behind an increase in Russian adolescents acquiring sexually transmitted diseases



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## **1. Introduction**

In 2014 the Assembly of Delegates of PEN International, meeting in Bishkek for the 80<sup>th</sup> World Congress, adopted a resolution on the Russian Federation stating that ‘the free expression environment in the Russian Federation worsened considerably during 2014, with the authorities taking ever more extreme measures to consolidate their control over the flow of information. The increasing legislative chokehold on free expression has been accompanied by a general growth in pressure placed on journalists and other writers to stay in line with official opinion, and by the blocking of websites carrying opposition views.’ PEN International called on the authorities of the Russian Federation to repeal laws stifling free expression, to end efforts to pressure, demonise or criminalise opposition voices and to comply fully with its international obligations under the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR).

Three years later, the onslaught on the right to freedom of expression continues unabated with the authorities taking increasingly extreme legal and policy measures with a view to consolidating their control over the free flow of information. As this report illustrates, the legal environment has deteriorated considerably since the return to power of President Putin in 2012, and the examples of violations, taken mostly from the last three years, in many ways show an acceleration of the clampdown on free speech and free media, both online and offline.

The below report is based on the report ‘Violations of and state restrictions on the freedom of speech, the freedom of publication, and the freedom of artistic creativity’, published on 16 May 2017 by the Free Word Association (FWA) with the support of PEN International and in collaboration with the Centre for the Protection of Media Rights; the ‘Support of persons prosecuted for political reasons under criminal procedure and protection of civic activists’ programme of the Memorial Human Rights Centre; the Monitoring Service of the Glasnost Defence Foundation; OVD-Info; Irina Balakhonova, publisher; Ravel Rudnev, theatre critic; Andrey Plakhov, film critic; and, Olga Varshaver, translator. This current report was drafted for PEN International by Laurens Hueting (Europe Programme Coordinator) based on the Free Word Association’s research and additional desk research; review was provided by Romana Cacchioli and Sarah Clarke.

## **2. Executive summary**

In recent years, there has been a marked deterioration of the right to freedom of expression and free media in the Russian Federation.

As set out in more detail below, since the return to office of President Putin in May 2012 a host of new laws and amendments to existing legislation have been adopted, which overall have served to provide the authorities with the tools to restrict access to information, to carry out surveillance and to censor information online. Among other restrictions, access to a website can be blocked based on its addition to a blacklist allegedly created with a view to protecting children from information ‘harmful to their health’, or because the Prosecutor General deems it contains calls for mass riots, extremist activity or participation in unsanctioned mass public events. Furthermore, as part of the so-called 2016 ‘Yarovaya Package’, which purported to introduce measures to combat terrorism and ensure public security, telecommunications companies and certain internet service providers must store copies of communications and metadata and disclose them to the authorities upon the latter’s request, without the need for a court order. Tougher controls have been put in place for bloggers and news aggregators, and restrictions on foreign investment and media ownership were introduced. In addition, other laws appear to aim to reduce the space for public debate on issues deemed threatening by the authorities. Most prominently a so-called ‘gay propaganda’ ban was

introduced in 2013, with the stated aim of protecting children through the prohibition of ‘promoting the denial of traditional family values’ by promoting ‘non-traditional sexual relations’. The law was found to be in violation of Russia’s obligations under international human rights law by the European Court of Human Rights and the UN Human Rights Committee. Other laws include the introduction of offending the religious feelings of believers as a crime into the Criminal Code, and an overly broadly worded amendment of the Criminal Code concerning the crime of ‘rehabilitation of Nazism’.

While not claiming to be comprehensive or exhaustive, this report provides a wide range of examples of violations of the freedom of expression and freedom of the press, showing how the Russian authorities routinely infringe upon the exercise of these rights, making use of the new laws and amendments as well as pre-existing legislation.

The media are under attack in various ways. Journalists as well as other media employees frequently suffer physical attacks and intimidation, often followed by a lack of investigation and impunity for the alleged perpetrators. Nikolay Andrushchenko, for example, has paid for his reporting on corruption and protest actions with his life, having succumbed to injuries sustained in an attack by unknown assailants in March 2017. Furthermore, journalists and bloggers regularly face criminal prosecutions such as criminal libel as well as, in the context of the North Caucasus, spurious charges of transportation of narcotics and other serious crimes. On several occasions, moreover, journalists have been detained while covering mass protests, often followed by administrative charges, for instance concerning ‘disobeying the lawful demands of a police officer’.

This report also provides examples of the broad scope of politically motivated prosecutions based on legal restrictions of the right to freedom of expression, for instance relating to calls for extremist activities, incitement of hatred or other crimes. A large number of cases were initiated in relation to the conflict between Russia and Ukraine. For example, Oleg Sentsov, a prominent Ukrainian writer and filmmaker was arrested and sentenced to 20 years in prison in 2014 on terrorism charges, following an unfair trial by a Russian military court marred by allegations of torture. In another example, Natalya Sharina, former director of the state-run Library of Ukrainian Literature in Moscow, has been on trial for incitement of hatred towards the Russian people for holding ‘extremist literature’ which in reality was banned Ukrainian nationalist literature. This report also details a host of prosecutions for ‘separatism’ in relation to the Russian occupation of the Crimea, with people being prosecuted and convicted based on the publication of social media posts, poems, or interviews.

Finally, censorship is on the rise in the Russian Federation: as detailed below, internet freedom is in decline while more traditional media including literature, theatre and cinema also face undue restrictions. For instance, young people’s access to literature is being unnecessarily constrained, under the guise of protecting them against materials harmful to their health.

In light of the concerns detailed in this report and Russia’s commitments under international and national law, PEN International and the Free Word Association call on the authorities of the Russian Federation to immediately end its crackdown on freedom of expression and attacks on the free press and to create an environment in which free public debate can thrive.

### **3. The right to freedom of expression and freedom of the press: Russia’s human rights obligations**

#### **3.1. International universal and regional law and standards**

Freedom of expression is a right in itself and a component of other rights, including among others the right to freedom of assembly, and is protected in international universal and regional human

rights law and standards.<sup>1</sup> Under the European Convention on Human Rights, to which the Russian Federation is a State party,<sup>2</sup> it is protected in the following terms:

1. *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*

2. *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.*

Freedom of expression is ‘indispensable ... for the full development of the person, ... essential for any society’, and constitutes ‘the foundation stone for every free and democratic society’.<sup>3</sup> States must guarantee the right to freedom of expression, including the right to seek, receive and impart information and ideas of all kinds regardless of frontiers. It includes, among other things, ‘political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse’. Importantly, the scope of the right also embraces ‘expression that may be regarded as deeply offensive’.<sup>4</sup> Expression moreover does not only include written or spoken words, but also extends to pictures,<sup>5</sup> images,<sup>6</sup> actions<sup>7</sup> and cultural heritage<sup>8</sup> intended to express an idea or present information.

Nevertheless, certain forms of speech fall outside the protection offered under international human rights law. For instance, under the European Convention on Human Rights incitement to violence is not protected.<sup>9</sup> Equally, hate speech directed at different minorities and Holocaust denial fall outside the scope of protected expression.<sup>10</sup>

Moreover, in specific circumstances it may be permissible for a State to restrict freedom of expression. Under the European Convention on Human Rights, the Court applies a three-part test to assess the interference with the right to freedom of expression:

- The interference must be prescribed by law;
- The interference must be aimed at protecting one or more of the following exhaustively listed interests or values: national security; territorial integrity; public safety; prevention of disorder or crime; protection of health, morals, or reputation or rights of others; preventing the disclosure of information received in confidence; and, maintaining the authority and impartiality of the judiciary. And,

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<sup>1</sup> Among others, see Universal Declaration of Human Rights and Article 19 and International Covenant on Civil and Political Rights (ICCPR), Article 19. The Russian Federation is a State party to the ICCPR.

<sup>2</sup> The Russian Federation signed on 28 February 1996 and ratified on 5 May 1998. See [http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p\\_auth=IFIDVJbi](http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=IFIDVJbi).

<sup>3</sup> Human Rights Committee, General Comment 34: Article 19: Freedoms of opinion and expression, para. 2.

<sup>4</sup> Human Rights Committee, General Comment 34, para. 11.

<sup>5</sup> European Court of Human Rights (ECtHR), *Müller and others v. Switzerland* (24 May 1988).

<sup>6</sup> ECtHR, *Chorherr v. Austria* (25 August 1993).

<sup>7</sup> ECtHR, *Steel and others v. United Kingdom* (23 September 1998).

<sup>8</sup> ECtHR, *Khurshid Mustafa and Tarzibachi v. Sweden* (16 December 2008).

<sup>9</sup> ECtHR, *Sürek v. Turkey (No. 3)* (8 July 1999).

<sup>10</sup> ECtHR, *Vejdeland and others v. Sweden* (9 February 2012); ECtHR, *D.I. v. Germany* (26 June 1996), decision.

- The interference must be necessary in a democratic society, proportionate and non-discriminatory.

In any borderline case, the freedom of the individual must be favourably balanced against a State's claim of overriding interest.<sup>11</sup>

Although Article 10 of the European Convention does not explicitly mention the freedom of the press, the Court has developed a body of principles and rules granting the press a special status in the enjoyment of the right to freedom of expression in light of its role as 'public watchdog'.<sup>12</sup>

Furthermore, in light of some of the developments and cases raised in this report, it is worthy of note that the European Convention on Human Rights 'applies both offline and online', entailing among other things that measures taken by state authorities or private-sector actors to block or otherwise restrict access to internet platforms or information and communication technologies tools must comply with the usual conditions of Article 10 of the ECHR regarding legality, legitimacy and proportionality of restrictions.<sup>13</sup>

### **3.2. Domestic law**

Freedom of expression is also protected under domestic Russian law. The Constitution sets out the following:

#### *Article 29*

- 1. Everyone shall be guaranteed freedom of thought and speech.*
- 2. Propaganda or agitation, which arouses social, racial, national or religious hatred and hostility shall be prohibited. Propaganda of social, racial, national, religious or linguistic supremacy shall also be prohibited.*
- 3. Nobody shall be forced to express his thoughts and convictions or to deny them.*
- 4. Everyone shall have the right freely to seek, receive, transmit, produce and disseminate information by any legal means. The list of types of information, which constitute State secrets, shall be determined by federal law.*
- 5. The freedom of the mass media shall be guaranteed. Censorship shall be prohibited.*

Furthermore, also other subordinate legislation, such as the Law on Mass Media,<sup>14</sup> contains certain safeguards specific to their normative context.

## **4. A deteriorating climate: legislative changes affecting the right to freedom of expression**

Since the return to office of President Putin in May 2012, there has been a notable deterioration of the legal landscape affecting the rights to freedom of expression, opinion and information. Overall, the laws briefly described in this section have served to provide the government with the tools to restrict access to information, to carry out surveillance and to censor information. Some laws appear to reduce the space for public debate on issues deemed threatening by the authorities, while others aim to undermine the privacy and security of internet users.

### **4.1. Creation of a blacklist registry**

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<sup>11</sup> ECtHR, *The Sunday Times v. United Kingdom* (18 May 1977).

<sup>12</sup> ECtHR, *Lingens v. Austria* (8 July 1986).

<sup>13</sup> Council of Europe Recommendation CM/Rec(2016)5 of the Committee of Ministers to member States on Internet freedom.

<sup>14</sup> Law No. 2124-I of 27 December 19 'On the Mass Media'

In July 2012, a uniform registry of websites subject to blocking managed by Roskomnadzor, the Federal Service for Supervision of Communications, Information Technology and Mass Media, was introduced as part of a law 'On Introducing Amendments to the Law on Protection of Children from Information Harmful to Their Health and Development' (also see 4.2 below).<sup>15</sup> If a website is added to the registry, the hosting provider, which includes among others social media companies, has 24 hours to notify the site's owner to remove the material. If the owner does not comply, the hosting provider must restrict access or remove the material itself. If the material is not removed, internet service providers are required to block access to the website.

#### **4.2. 'Gay propaganda' ban**

The so-called 'gay propaganda' ban<sup>16</sup> has the stated aim of protecting children through the prohibition of 'promoting the denial of traditional family values' by promoting 'non-traditional sexual relations'.

The law is in clear violation of international human rights law. In the recent case of *Bayev and Others v. Russia*, the European Court of Human Rights ruled that the 'gay propaganda' ban violates Article 10 (freedom of expression) and Article 14 (prohibition of discrimination) of the European Convention. In its judgment, the Court found that the law reinforces stigma, encourages homophobia and discriminates against an at risk minority, harming children in the process.<sup>17</sup> In 2010, the Court had already rebuked the Russian government's morality-based arguments for banning gay pride events, stating among other things that it would be incompatible with the values of the European Convention if the exercise of rights such as the freedom of assembly by a minority group were made conditional on its being accepted by the majority.<sup>18</sup> In the case of *Fedotova*, which concerned the Ryazan Law on Administrative Offences that similarly to the 'gay propaganda' ban prohibited 'public actions aimed at propaganda of homosexuality among minors', the UN Human Rights Committee, among other concerns, emphasised that limitations for the purpose of public morals, which are derived 'from many social, philosophical and religious traditions', could not be based solely on a single tradition. Furthermore, any such limitations 'must be understood in light of universality of human rights and the principle of non-discrimination', which also comprises discrimination based on sexual orientation. The Committee stated that Russia 'has not shown that a restriction on the right to freedom of expression in relation to "propaganda of homosexuality" ... among minors is based on reasonable and objective criteria'.<sup>19</sup>

#### **4.3. Criminalisation of offending religious feelings**

In June 2014, the Criminal Code was amended<sup>20</sup> to include the crime of offending the religious feelings of believers. The law does not provide a definition of 'religious feelings' or what would be considered to be offending to such feelings. Sanctions range from heavy fines to one-year imprisonment.

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<sup>15</sup> Federal Law No. 139-FZ of 28 July 2012.

<sup>16</sup> Law No. 135-FZ of 29 June 2013 'On Amendments to Article 5 of the Federal Law "On Protecting Children from Information Harmful to Their Health and Development" and Separate Legislative Acts of the Russian Federation with the Purpose of Protecting Children from Propaganda of Denial of Traditional Family Values'.

<sup>17</sup> ECtHR, *Bayev and others v. Russia* (20 June 2017).

<sup>18</sup> ECtHR, *Alekseyev v. Russia* (21 October 2010).

<sup>19</sup> UN Human Rights Committee, Views on Communication No. 1932/2010, UN Doc. CCPR/C/106/D/1932/2010 (19 November 2012).

<sup>20</sup> Federal Law No. 136-FZ of 29 June 2014 'On Amendments to Article 148 of the Criminal Code of the Russian Federation and separate legislative acts of the Russian Federation against Offending Religious Feelings of Citizens'.

#### 4.4. Anti-extremism law

Adopted in December 2013 the ‘Lugovoi Law’,<sup>21</sup> named after the Member of Parliament who proposed it, mandates the authorities to block online sources that disseminate calls for mass riots, extremist activities or participation in unsanctioned mass public events. The Prosecutor General or his or her deputies can ask Roskomnadzor to block access to media containing such contents, without the need for a court order. Once Roskomnadzor receives the request, it notifies the internet service provider who then must block access and has 24 hours to notify the website’s owners, who must at once remove the offending content. Website owners can seek judicial appeal.

Also in December 2013, Parliament adopted article 280.1 of the Criminal Code, which criminalises public calls aimed at violating the territorial integrity of the Russian Federation, which entered into force in May 2014.<sup>22</sup> Separatism is a form of extremism under Russian law, and making extremist calls was already prohibited by article 280 of the Criminal Code.<sup>23</sup>

#### 4.5. ‘Blogger’s law’

In April 2014, Parliament adopted the so-called ‘Bloggers’ Law’ as part of a broader counter-terrorism legislative package.<sup>24</sup> The law requires Russian bloggers with more than 3000 unique visitors per day to register with Roskomnadzor. ‘Blogger’ is defined broadly, potentially bringing many social media users within the scope of the law. Once registered, they assume practically the same legal obligations as mass media outlets, without corresponding protections or privileges, such as responsibility for verifying the accuracy of information and complying with restrictions on support of electoral candidates. They can also be held liable for comments posted by third parties on their website or social media page, and they must provide their real surname, initials and contact details on their website or page. The maintenance of the bloggers’ register was stopped in August 2017, pursuant to the enabling provisions being cancelled in a legal amendment.<sup>25</sup>

The law furthermore introduces the concept of ‘organisers of dissemination of information’ on the internet, which comprises persons and entities who provide information systems or software aimed at or used for receiving, transferring, delivering or processing users’ electronic messages on the internet. The law instructs Roskomnadzor to create and manage a national database of such ‘organisers’. The latter are required to store certain user data for six months, provide this data to law enforcement and security services at their request and install equipment that facilitates interception of communications.

#### 4.6. Law concerning the rehabilitation of Nazism

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<sup>21</sup> Federal Law No. 398-FZ of 28 December 2013 ‘On Amendments to the Federal Law “On Information, Information Technologies and Protection of Information”’.

<sup>22</sup> Also see The Guardian, ‘Russia toughens up punishment for separatist ideas – despite Ukraine’, 24 May 2014, <https://www.theguardian.com/world/2014/may/24/russia-toughens-punishment-separatist-ideas>.

<sup>23</sup> English translation available at <http://legislationline.org/documents/section/criminal-codes/country/7>.

<sup>24</sup> Federal Law No. FZ-97 of 5 May 2014 ‘On Amendments to the Federal Law “On Information, Information Technologies and Protection of Information” and Separate Legislative Acts of Russian Federation concerning Information Exchange with the Use of Information-Telecommunication Networks’.

<sup>25</sup> Law No. 276-FZ of 29 July 2017 ‘On Amendments to the Federal Law on Information, Information Technologies and Information Protection’. Also see <https://en.crimerrussia.com/gover/roskomnadzor-finished-with-bloggers-register/>.

In May 2014,<sup>26</sup> section 354.1 was added to the Criminal Code, which introduced fines and prison terms for ‘rehabilitation of Nazism’, which includes the denial of or expressing approval for the Nazi crimes as established in the Nuremberg trials, as well as ‘the dissemination of information expressing obvious disrespect towards society for information about the days of military glory or memorable dates for Russia associated with the defence of the Motherland as well as the desecration of symbols of Russia’s military glory’. Human Rights Watch notes that experts have criticised the law as vague and overly broad, with potential negative impact on journalists, activists, archivists, museum curators and historians.<sup>27</sup>

#### **4.7. Restrictions on foreign investment and media ownership**

Two sets of amendments to the Mass Media Law<sup>28</sup> introduced new restrictions and requirements related to foreign investment in and ownership of media or broadcasting organisations. Among other restrictions, the amendments reduce the permissible foreign participation in the registered capital of any print media, online media, television or radio broadcaster from 50 to 20 percent. Furthermore, a foreign state, international organisation or an organisation under their control, a foreign legal entity, a Russian legal entity with foreign participation, a foreign citizen, a stateless person or a Russian citizen who also holds citizenship of another state no longer has the right to found a media outlet or broadcaster, to be on the editorial board or to be a legal entity engaged in broadcasting or publishing. All media outlets, broadcasters and publishers must moreover report all funding originating from broadly defined ‘international sources’ to Roskomnadzor.

#### **4.8. Laws regulating news aggregators**

In June 2016, parliament adopted amendments<sup>29</sup> requiring owners of search engines (‘news aggregators’) with more than one million daily users to be accountable for the faithfulness of content ‘essential for the public’, except when such content represents a *verbatim* reproduction of materials published by media outlets registered in Russia. Such materials are subject to restrictions imposed in the mass media law, including a ban on extremism, propaganda or pornography, cult of violence, use of swear words and defamation. If the authorities dispute the veracity of information of ‘public importance’, the news report will have to be removed within 24 hours. News aggregators must store all news information, including source and duration of dissemination, for six months and they must enable Roskomnadzor to access the stored data. The latter must compile an official register of aggregators and control compliance with the new provisions. Furthermore, Russian-language search engines, search engines in other languages of the Russian Federation and those potentially advertising their products and services for Russian audiences may only be owned by Russian companies or citizens.

#### **4.9. Counter-terrorism laws**

In July 2016, President Putin signed into law two federal laws known as the ‘Yarovaya Package’, named after the Member of Parliament for United Russia who introduced them, amending the Federal Counter-Terrorism Act, the Criminal Code and the Criminal Procedure Code, which ostensibly aimed to introduce ‘additional measures to combat terrorism and ensure public security’.<sup>30</sup> The introduced amendments, however, severely undermine the right to freedom of

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<sup>26</sup> Federal Law No. 128-FZ of 5 May 2014 ‘On Amendments to Separate Legislative Acts of the Russian Federation’.

<sup>27</sup> Human Rights Watch, ‘Online and On All Fronts. Russia’s Assault on Freedom of Expression’ (July 2017), p.23.

<sup>28</sup> Federal Law No. 305-FZ of 14 October 2014 and Federal Law No. 464-FZ of 30 December 2015.

<sup>29</sup> Federal Law No. 208-ФЗ of 23 June 2016 ‘On changes to the Federal Law “On information, information technology and information protection” and the Code of the Russian Federation on Administrative Offences’.

<sup>30</sup> Federal Law No. 374 of 6 July 2016 ‘Amending the Federal Counter-Terrorism Act and Certain Legislative Acts of the Russian Federation Regarding the Establishment of Additional Measures to Counter Terrorism and

expression in particular on the internet, as well as other rights including privacy and freedom of religion.

The amendments require telecommunications companies and certain internet service providers to store copies of all content of communications for six months, including text, voice messages and images.<sup>31</sup> Further, companies must retain metadata for up to three years. Internet and telecommunications providers are required to disclose communications and metadata to the authorities upon request and without a court order, with penalties up to one million roubles in case of non-compliance. The data must moreover be stored on Russian territory.

Furthermore, the amendments also increase the penalties for ‘public justification of terrorism’ online and a wide range of other crimes linked to terrorism and extremism, and they criminalise the ‘failure to report’ many of offences concerned.

#### **4.10. Changes in electoral legislation related to the work of the media**

Changes in relation to electoral legislation and regulations have served to restrict the rights of citizens to access information during election campaigns. Among other limitations, only accredited reporters can now be present on the premises of an election commission as independent observers and to monitor the vote count. At the same time, requirements for obtaining such accreditation have become more stringent: only those who have worked in the media under an employment or civil contract for at least two months can qualify. Furthermore, an accredited media representative may only photograph or make video recordings on voting premises if they have previously notified the chairman, deputy chairman or secretary of the relevant election commission. Non-accredited journalists are allowed at polling stations only for preliminary meetings of district election commissions.<sup>32</sup>

#### **4.11. Laws banning VPNs and controlling messaging apps**

Federal Law No. 276-FZ<sup>33</sup> bans anonymisers and Virtual Private Networks (VPNs). It will enter into force in November 2017. Under the new legislation, owners of VPNs and internet anonymisers will be prohibited from providing access to websites banned in Russia. It also authorises Roskomnadzor to block sites that provide instructions on how to circumvent government blocking, and authorises law enforcement agencies to identify violators and tasks Roskomnadzor with creating a special registry of online resources and services prohibited in Russia.

Federal Law No. 241-FZ,<sup>34</sup> which is scheduled to enter into force in January 2018, will prohibit companies registered in Russia as ‘organisers of information dissemination’, including online messaging applications, from allowing unidentified users. Companies will be required to identify

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Ensure Public Safety’ and Federal Law No. 375 of 6 July 2016 ‘Amending the Criminal Code of the Russian Federation and the Code of Criminal Procedure of the Russian Federation with Regard to the Establishment of Additional Measures to Counter Terrorism and Ensure Public Safety’.

<sup>31</sup> The entry into force of this provision was postponed until 1 July 2018, in light of the costs and technical difficulties associated with large-scale data storage.

<sup>32</sup> Federal Law No. 66-FZ of 09.03.2016 ‘On Amendments to Certain Legislative Acts of the Russian Federation on Elections and Referenda and Other Legislative Acts of the Russian Federation’; Resolution of the Central Election Commission of the Russian Federation on 11.06.2016, No. 18 / 134-7 ‘On the Procedure for the accreditation of representatives of mass media for attendance at voting places and in determining the results of voting, and determining the results of elections and referendums held on September 18, 2016’.

<sup>33</sup> Law No. 276-FZ of 29 July 2017 ‘On Amendments to the Federal Law on Information, Information Technologies and Information Protection’.

<sup>34</sup> Law No. 241-FZ of 29 July 2017 ‘on Amendments to Articles 10-1 and 15-4 of the Federal Information Technologies and Information Protection’.

users by their cell phone numbers, and the government is tasked with elaborating an identification procedure.<sup>35</sup>

## **5. Violations of the freedom of expression and freedom of the press**

The rights to freedom of expression and information are routinely violated by the Russian authorities, using the aforementioned new laws and amendments as well as pre-existing legislation to impose censorship. Meanwhile, journalists and bloggers face restrictions and frivolous prosecutions, as well as physical attacks and intimidation, often followed by impunity.

### **5.1. Attacks on the media**

The media are under attack in various ways. For one, operations of electronic media are blocked and there are reports of hacking attempts into the accounts of civic activists and journalists. Journalists and bloggers are exposed to criminal prosecutions and arbitrary arrests, while on the other hand the perpetrators of physical attacks, threats and intimidations against them are rarely prosecuted, resulting in a climate of almost complete impunity for the latter.

#### *5.1.1. Rankings press freedom*

In Reporters Without Borders' World Press Freedom Index 2017, Russia ranks 148 (out of 180 countries considered).<sup>36</sup>

Under the heading 'Stifling atmosphere for independent journalists', the organisation writes that 'pressure on independent media has grown steadily since Vladimir Putin's return to the Kremlin in 2012', highlighting government control of the media, propaganda, an oppressive climate for independent journalists and bloggers and pointing out that 'the oppressive climate at the national level encourages powerful provincial officials far from Moscow to crack down even harder on their media critics'.

#### *5.1.2. Physical attacks on and intimidation of journalists and other media employees*

Media employees in Russia frequently suffer physical attacks and intimidation. Usually, these instances are met with reluctance on the part of law enforcement agencies and prosecutorial services to investigate or prosecute. Consequently, the perpetrators remain unidentified and impunity prevails.

At times, reporters have paid for their journalistic activities with their lives. For instance, on 9 March 2017 Nikolay Andrushchenko, a journalist for the *Novy Petersburg* newspaper, was attacked by unknown assailants. He sustained a brain injury and died on 19 April, never having regained consciousness. Andrushchenko investigated corruption and reported on protest actions. According to the Committee to Protect Journalists (CPJ), there has been complete impunity for the perpetrators of the attack to date. Denis Usov, a colleague of Andrushchenko, told CPJ in May 2017 that the police had not contacted the newspaper since initially opening a preliminary probe and that they had not been informed of any progress in the investigation.<sup>37</sup>

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<sup>35</sup> Also see <https://www.hrw.org/news/2017/08/01/russia-new-legislation-attacks-internet-anonymity>; <https://www.ifex.org/russia/2017/07/10/internet-freedom-suppressed/>; <https://www.amnesty.org/en/latest/news/2017/07/russia-vpn-ban-is-a-major-blow-to-internet-freedom/>.

<sup>36</sup> Also see <https://rsf.org/en/russia>.

<sup>37</sup> Also see <https://cpj.org/killed/2017/nikolai-andrushchenko.php>.

At other times, journalists have suffered serious physical violence. For example, on 9 March 2016 Russian and foreign human rights advocates and journalists on board a bus of the Joint Mobile Group of the Committee for the Prevention of Torture, an independent NGO, were attacked on the border of Ingushetia and Chechnya. Armed men dragged the advocates and journalists off the bus and brutally beat them, and the bus itself was set on fire together with the equipment on board. On the day of the attack and the day before, a car with a Chechen license plate had been following the bus. The investigation into the attack was never concluded and the attackers were not identified.<sup>38</sup>

Intimidation takes various other forms, too. For instance, on 19 April 2016, a mourning wreath with the inscription 'To Yelena Petrovna from her friends in business' was placed outside the door of the apartment of Elena Petrovna Dorovskikh, editor-in-chief of the 1rnd.ru portal, in Rostov-on-Don.<sup>39</sup> In a recent example, on 3 April 2017 an assembly held at the central mosque in Grozny adopted a resolution promising that 'Retribution will catch up to the true instigators, wherever and whoever they are, without any statute of limitations'. The persons adopting the resolution were unhappy with the reporting by *Novaya Gazeta* on the mass persecution, including killings and torture, of (real or perceived) homosexuals in Chechnya. Despite appeals by journalists and human rights activists to the authorities, there has been no reaction by law enforcement authorities or the prosecution services to the publication of the resolution.<sup>40</sup>

### 5.1.3. Criminal prosecutions of journalists and bloggers

Criminal prosecutions of critical journalists and bloggers are rife in Russia. In 2016, 47 such cases were recorded (19 of them involving bloggers),<sup>41</sup> often alleging (criminal) libel.<sup>42</sup>

For instance, Sergey Vilkov faced the accusation of libel based on his publication of documents indicating a possible link between local political figure and businessman Sergey Kurikhin with the criminal world, and on the allegation by Vilkov that Kurikhin may have been involved in an attack on him. In 2016, the case was tried in court but returned to the Prosecutor's Office, only to be transferred to court again in March 2017. Prior to this Vilkov, a staunch anti-fascist, was repeatedly subjected to administrative proceedings for propagandising Nazism based on his posts on social media networks in which he discussed the views of his ideological opponents.<sup>43</sup>

In another example Olga Li, a former Deputy of the Kursk Regional Duma and journalist, faced charges of criminal libel of a judge pursuant to an investigation launched in March 2016 for her 'Statement on the Prosecution of the Regional Prosecutor Filimonov for Criminal Liability, in which she accused Lyudmila Shurova, judge of the Leninskiy District Court of Kursk, of violating the principle of the presumption of innocence in her examination of an administrative case. On 26 June 2017, she was sentenced to a fine of 90 000 roubles; her lawyer has indicated that he intends to challenge the verdict as 'unfair and illegal'. Simultaneously, Li also faced an investigation concerning incitement of hatred against the 'social group of government officials' in connection with the

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<sup>38</sup> Also see <https://www.frontlinedefenders.org/en/case/case-history-joint-mobile-group>.

<sup>39</sup> Rostov-on-Don news website, 'A mourning wreath was planted to the editor-in-chief of the Rostov site' (19.04.2016), <http://bloknot-rostov.ru/news/glavnomu-redaktoru-rostovskogo-sayta-podkinuli-tra-735761> (in Russian).

<sup>40</sup> BBC Russian service, 'The mufti of Chechnya has promised the "retribution of Allah" to the journalists of "Novaya"' (14.04.2017), <http://www.bbc.com/russian/news-39599431> (in Russian).

<sup>41</sup> See Defence of Glasnost Foundation report (10.01.2017), <http://www.zaprava.ru/fond-zashchity-glasnosti-soobshhil-o-napadeniyax-na-zhurnalistov-i-ix-presledovanii-v-2016-godu/> (in Russian).

<sup>42</sup> Article 128.1 of the Criminal Code, introduced by Federal Law No. 141-FZ of 28.07.2012.

<sup>43</sup> Also see <https://therussianreader.com/tag/sergei-vilkov/>; Agora Human Rights Group, 'Internet Freedom 2015: The Triumph of Censorship', p. 11.

publication of an appeal to Putin containing criticism of Russia's domestic and foreign policies. The investigation into incitement of hatred was dropped in October 2016.<sup>44</sup>

In addition to the above mentioned libel cases, journalists and bloggers at times also face more serious, but fabricated charges. Typically, these cases are from the North Caucasus region.

For instance, Zhalaudi Geriev, a journalist with the *Kavkazskiy Uzel* from Chechnya, was sentenced to three years in a standard-security penal colony for illegal storage and transportation of narcotics on 5 September 2016. According to the charges, Geriev plucked 160 grams of wild cannabis and travelled to a cemetery in the village of Kurchaloy in order to use the drugs there, but was stopped by the police who found the substance during a strip search. Geriev claims he was abducted at a bus stop on his way to the airport in Grozny where he was due to fly to Moscow for a seminar on forensic journalism, and taken to a forest and tortured. Although he signed confessions, he later retracted those. Memorial has concluded that the case against Geriev was completely fabricated.<sup>45</sup>

In a similar case from 2014, Ruslan Kutayev, who organised and hosted a conference on 'Deportation of the Chechen People: What Was It and Can It Be Forgotten?' that reportedly angered the head of the Chechen Republic Ramzan Kadyrov, was convicted under section 228 of the Criminal Code (illegal storage and transportation of narcotics) and sentenced to 3 years and 10 months in a standard-security penal colony, after police supposedly found heroin on his person during a strip search. Allegedly, Kutayev was abducted by Special Forces from the Ministry of Internal Affairs and Igor Kalyapin, the head Committee for the Prevention of Torture, an independent NGO, who visited Kutayev shortly after his arrest reported he saw haematomas and other signs of torture or ill-treatment. Memorial after investigation concluded that the circumstances of Kutayev's arrest were completely fictitious and the criminal case against him a fabrication.<sup>46</sup>

#### 5.1.4. Detention of journalists covering contentious events

On several occasions, journalists have been detained while covering mass protests. Their detention is often followed by administrative charges (for instance concerning disobeying the lawful demands of police officers) and not infrequently their equipment is also damaged.

For instance, on 26 March 2017 many journalists covering anti-corruption demonstrations that were organised by opposition activist Aleksey Navalny and his Anti-Corruption Foundation, which the authorities had declared to be 'not authorised', were detained.<sup>47</sup> They included, among others,

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<sup>44</sup> <https://sledcomf.ru/news/227719-v-otnoshenii-deputata-kurskoy.html> (in Russian); <https://sledcomf.ru/news/229156-v-otnoshenii-deputata-kurskoy.html> (in Russian); <https://ovdinfo.org/express-news/2016/10/05/sk-prekratili-delo-ob-ekstremizme-protiv-eks-deputata-olgi-li> (in Russian); <https://ovdinfo.org/express-news/2017/01/17/olge-li-perepredyavili-obvinenie> (in Russian); <https://ovdinfo.org/express-news/2017/06/26/eks-deputata-i-zhurnalistku-olgu-li-prigovorili-k-shtrafu-v-90-tysyach-po> (in Russian).

<sup>45</sup> Also see <https://www.frontlinedefenders.org/en/case/zhalaudi-geriev-sentenced-three-years-imprisonment-september-2016>.

<sup>46</sup> Also see <http://old.memo.ru/d/200968.html> (in Russian).

<sup>47</sup> Note that the UN Special Rapporteur on freedom of assembly 'believes that the exercise of fundamental freedoms should not be subject to previous authorization by the authorities ... but at the most to a prior notification procedure, whose rationale is to allow State authorities to facilitate the exercise of the right to freedom of peaceful assembly and to take measures to protect public safety and order and the rights and freedoms of others. Such a notification should be subject to a proportionality assessment, not unduly bureaucratic and be required a maximum of, for example, 48 hours prior to the day the assembly is planned to take place ... Should the organizers fail to notify the authorities, the assembly should not be dissolved automatically ... and the organizers should not be subject to criminal sanctions, or administrative sanctions resulting in fines or imprisonment.' Report of the Special Rapporteur on best practices related to the rights to freedom of peaceful assembly and of association, UN Doc. A/HRC/20/27 (21 May 2012), para. 28-29.

Aleksandr Plyushchev (*Ekho Moskvy*), Pyotr Verzilov (*Mediazona*), Pyotr Parkhomenko (*Kommersant-FM*), Timofey Dzyadko (*RBC*), Sofiko Arfidzhanova (*Otkrytaya Rossiya*) and the American journalist Alec Lun (*The Guardian*) in Moscow; Sergey Satanovskiy (*Novaya Gazeta*), Nadezhda Zaitseva (*Vedomosti*), Roman Pimenov (*Interpress*) and the independent journalist Artem Aleksandrov in St. Petersburg; Sergey Rasulov (*Kommersant*), Faina Kachabekova (*Kavkazskaya politika*), Vladimir Sevrinovskiy (*Eto Kavkaz*) in Makhachkala; and Aleksandr Nikishin (*Otkryty kanal*) in Saratov.<sup>48</sup>

On 29 December 2016, Vasily Polonskiy, a reporter for the *Dozhd'* television channel, was detained in Moscow's Kuskovo Park while filming for a reportage about the illegal cutting of trees. He was charged with disobeying the lawful commands of a police officer.<sup>49</sup>

In September 2016, reporters Yelena Kostyuchenko (*Novaya Gazeta*) and Diana Khachatryan (the *Takiye dela* internet portal) were detained in Beslan (North Ossetia) while they were covering memorial events commemorating the terrorist attack on the city's school. Two days after their release, they were attacked inside the school building.<sup>50</sup>

On 25 July 2016, journalists of REN TV were detained (and thereafter released without charges) near the local police department of the City of Ramenskoye near Moscow while they were filming a television story about the detention of activist and blogger Jan Katelevskiy. Activists Vadim Korovin and Konstantin Altukhov, who were also arrested, were charged with disobeying the lawful orders of a police officer.<sup>51</sup>

In June 2016 Daniil Aleksandrov, a freelance reporter for Latvia-headquartered *Meduza*, faced charges for working without a license (section 19.20 of the Code of Administrative Offences), while he was covering the death of children on Lake Syamozero. According to law enforcement officials, he should have obtained accreditation from the Russian Ministry of Foreign Affairs, as *Meduza* is a foreign publication.<sup>52</sup>

### 5.1.5. Hacking attempts of the accounts of journalists and civic activists

On several occasions, there have been attempts to hack into email and messaging accounts of journalists and civic activists.

According to Agora Human Rights Group,<sup>53</sup> an association of more than 50 human rights lawyers, an attempt was made in April 2016 to intercept text messages containing authorisation codes for the encrypted messaging app Telegram in order to gain access to the accounts of Oleg Kozlovskiy, a civic activist, and Georgy Alburov, an employee of the Anti-Corruption Foundation. In February, similar attempts had been made in relation to the accounts of other activists. In all these cases, the victims of the attempted interceptions used the services of operator MTS. Kozlovskiy and Alburov explicitly accused the company of assisting the hackers and assisting the intelligence agencies, whom they allege are behind the attempted breaches.<sup>54</sup>

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<sup>48</sup> Also see The Guardian, 'Opposition leader Alexei Navalny detained amid protests across Russia' (27 March 2017), <https://www.theguardian.com/world/2017/mar/26/opposition-leader-alexei-navalny-arrested-amid-protests-across-russia>.

<sup>49</sup> Also see <http://graniru.org/Society/Law/m.257764.html> (in Russian).

<sup>50</sup> Also see 'Statement by Amnesty International on the arrests in Beslan' (5 September 2016), <http://www.rightsinrussia.info/hro-org-in-english/beslan>.

<sup>51</sup> Also see <https://www.svoboda.org/a/27879102.html> (in Russian).

<sup>52</sup> Also see <https://meduza.io/en/news/2016/06/30/police-detain-a-meduza-freelancer-reporting-on-the-deadly-boating-accident-in-karelia>.

<sup>53</sup> Agora Human Rights Group, 'Russia. Internet Freedom 2016: On a War Footing', p. 3.

<sup>54</sup> Also see The Moscow Times, 'Russian Investigators Ordered to Find Out How Hackers Cracked an Activist's Telegram Account' (10 May 2017), <https://themoscowtimes.com/news/russian-investigators-ordered-to-find-out-how-hackers-cracked-an-activists-telegram-account-57954>.

In October 2016, Google warned dozens of civic activists and journalists that hackers tried to access their accounts. Independent analysts concluded that the Fancy Bear cyber espionage collective, which is allegedly associated with the military intelligence services, were behind the attempts.<sup>55</sup> Victims included, among others, Elena Panfilova, the Vice President of Transparency International; journalists Roman Dobrokhotov, Andrey Babitskiy, Ilya Klishin, Daria Kostromina and Roman Popkov; civic activists Nikolay Kavkazskiy, Sergey Boyko and Ruslan Leviev; and, political analyst Aleksandr Kynev.

#### 5.1.6. Blocking the operations of electronic media

On several occasions, Roskomnadzor has blocked access to opposition media or internet outlets that regularly publish content critical of the authorities. For example, in spring 2014 access was blocked to the popular opposition information publications *Grani.ru*, *Kasparov.ru* and the *Daily Journal*.<sup>56</sup>

#### 5.1.7. Denial of registration in the Crimea

Following the occupation and unrecognised 'annexation' of the Crimea by Russia in March 2014, the *de facto* authorities requested all media outlets to re-register under Russian law by 1 April 2015. Of the over 3,000 media outlets registered in Crimea before the 'annexation', only 250 outlets remain. Of those, 231 are re-registered Ukrainian media and 19 are Russian media that have subsequently started working in the peninsula. They include 18 TV channels, 36 radio stations, 184 print media and 12 information agencies.<sup>57</sup> Ukrainian channels that previously broadcast in Crimea were blocked, but experts assume that some 46% of households in Crimea have access to Ukrainian channels via satellite.<sup>58</sup> According to the Ministry of Information Policy of Ukraine in 2016, some 60 Ukrainian and Crimean Tatar online media sites had been blocked in Crimea.<sup>59</sup>

Of 11 Crimean-Tatar media outlets before the annexation only one newspaper, *The Voice of Crimea*, received a new license. Another smaller newspaper funded exclusively by members of the Mejlis, a Crimean-Tatar elected representative body, was deprived of its office in June 2016.<sup>60</sup> There are a few smaller Crimean-Tatar outlets, such as *YanyDunya*, *Kyrym* and a children's magazine *Armanchuk*.<sup>61</sup> After the Crimean-Tatar Channel *ATR* was pushed out of Crimea,<sup>62</sup> the Russian authorities established a new Crimean-Tatar channel *Millet* ('*The People*') which broadcasts in Russian half of the time and mostly presents the official Russian view.<sup>63</sup>

## 5.2. Politically motivated prosecutions based on legal restrictions of the freedom of expression

<sup>55</sup> Also see IBTimes.com, 'Russian activists and journalists receive Google warnings over nation-state hacking attempts' (12 October 2016), <http://www.ibtimes.co.uk/russian-activists-journalists-receive-google-warnings-over-nation-state-hacking-attempts-1586036>.

<sup>56</sup> Also see <https://www.hrw.org/news/2014/03/23/russia-halt-orders-block-online-media>.

<sup>57</sup> Tyshchenko, Y. (2016) (ed), 'Крим після анексії. Державна політика, виклики, рішення та дії. Біла книга» (Crimea After Annexation. State Policy, Challenges, Solutions and Actions. The White Book), p. 119.

<sup>58</sup> Tyshchenko, Y. (2016) (ed), 'Крим після анексії. Державна політика, виклики, рішення та дії. Біла книга» (Crimea After Annexation. State Policy, Challenges, Solutions and Actions. The White Book), p. 119.

<sup>59</sup> Ministry of Informational Policy of Ukraine, MIP: Ukraine presented the issues of violations of freedom of speech in Crimea and the Eastern Ukraine at the OSCE meeting in Warsaw, 23 September 2016, <http://mip.gov.ua/en/news/1459.html>

<sup>60</sup> Tyshchenko, Y. (2016) (ed), 'Крим після анексії. Державна політика, виклики, рішення та дії. Біла книга» (Crimea After Annexation. State Policy, Challenges, Solutions and Actions. The White Book), p. 120.

<sup>61</sup> Information provided by Gulnara Bekirova, PEN Centre Ukraine

<sup>62</sup> It moved to Kyiv and is available in Crimea via satellite

<sup>63</sup> Vesnyolova, V. (2017), 'Миллет» и Ко: сколько стоят новые рупоры власти в Крыму' ('Millet' and Co: How Much The New Speakers Of Power Cost in Crimea), Radio Free Europe Radio Liberty, 16 February, <https://ru.krymr.com/a/28313125.html>.

Russia's Criminal Code contains a number of provisions that allow for restrictions on freedom of expression, for instance:

- Section 148 criminalises offending religious feelings (see 4.3 above);
- Section 205.2 criminalises calls for terrorist activity and public justification of terrorism;
- Section 280 criminalises calls for extremist activities;
- Section 280.1 criminalises calls for the violation of the integrity of the Russian territory (see 4.4 above);
- Section 282 criminalises incitement of hatred or enmity and insults to dignity on the basis of sex, race, ethnicity, language, origin, religion or membership of a particular social group;
- Section 354.1 criminalises rehabilitation of Nazism (see 4.6 above).

Although certain restrictions of the right to freedom of expression may be lawful under particular circumstances (see 3.1 above), the below cases demonstrate how they are abused by the Russian authorities and hence unlawful in light of the country's obligations under international law.

The overview of cases below is not intended to be comprehensive, but rather aims to provide the reader with a sense of the wide scope of prosecutions.

### *5.2.1. Cases related to the conflict between Russia and Ukraine*

#### PEN Main Case: Oleg Sentsov

Sentsov is a prominent Ukrainian writer and filmmaker who was arrested and sentenced to 20 years in prison in 2014 on terrorism charges (section 205 of the Criminal Code; he also faced charges under section 222 related to alleged weapons trafficking) after an unfair trial by a Russian military court, marred by allegations of torture. Sentsov took part in the EuroMaidan demonstrations that toppled former Ukrainian President Viktor Yanukovich in February 2014 and helped deliver food to Ukrainian soldiers following Russia's occupation and annexation of Crimea. He claims he was arrested by the Russian security services at his apartment in Crimea on 10 May 2014 and reported being subjected to a brutal three-hour ordeal involving beatings, suffocation and threats of sexual assault. He was then taken to Russia in flagrant violation of international humanitarian law.<sup>64</sup>

#### Natal'ya Sharina

On 5 June 2017 Sharina, former Director of the state-run Library of Ukrainian Literature in Moscow, was found guilty of 'incitement of hatred' towards Russian people (section 282 of the Criminal Code) and 'embezzlement' (section 160 of the Criminal Code) and handed-down a four-year suspended sentence for holding 'extremist literature'. She was arrested in October 2015 after investigators found banned works by Ukrainian nationalist Dmitry Korchinsky in the library she headed. Sharina alleges the works were planted and are not a part of the library's collection. She spent 19 months under house arrest, throughout the investigation and trial, during which time her health seriously deteriorated. Sharina has appealed her conviction and her next trial hearing is expected to take place in the autumn of 2017.<sup>65</sup>

#### Vyacheslav Kuteinikov

In October 2016, Kuteinikov was sentenced to two years in prison and three years of probation based on section 282 of the Criminal Code. The charges against him relate to his posts on social

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<sup>64</sup> Also see <http://www.pen-international.org/newsitems/call-to-action-russia-free-oleg-sentsov>.

<sup>65</sup> Also see <http://www.pen-international.org/newsitems/russia-conviction-of-librarian-must-be-quashed/>.

networks in which he alleged an anti-Ukrainian campaign on Russian television, which the court considered to incite hatred towards Russians.<sup>66</sup>

### Andrey Bubeev

In May 2016, Bubeev was sentenced to two years and three months' imprisonment under sections 280, 280.1 and 282 of the Criminal Code (as well as section 222 related to alleged storage of ammunition). The charges relate to posts on the social network VKontakte, in which he condemned Russian aggression against Ukraine and expressed support for Ukraine, as well as his reposting of Boris Stomakhin's article 'The Crimea is Ukraine' (which states that Russia should disintegrate but does not call for violence).<sup>67</sup>

### Ekaterina Vologizheninova

In February 2016, Vologizheninova was sentenced to 320 hours of compulsory labour under section 282 of the Criminal Code for a repost on the social network VKontakte of 'Death to the invaders from Moscow!'. Other posts, including the publication of links to Ukrainian films and television shows about the 2014 Euromaidan Revolution and a video clip called 'Putin's Yacht', were excluded from the evidence in the course of the proceedings.<sup>68</sup>

### Vadim Tyumentsev

On 30 December 2015, political activist Tyumentsev was sentenced to five years' imprisonment in a standard-security penal colony in relation to video clips he published on YouTube and the social network VKontakte, in which he called on the viewer to attend (peaceful) protests. Tyumentsev was charged under sections 280 and 282 of the Criminal Code. According to the court, he engaged in extremist activities, calling for participation in unauthorised protests<sup>69</sup> and 'hostility towards citizens living on the territory of the Luhansk and Donetsk Regions'.<sup>70</sup>

### Aleksey Moroshkin

On 19 November 2015 Moroshkin, a former pro-Russia 'militiaman' who fought in the self-proclaimed Donetsk People's Republic but then changed his views and became pro-Ukrainian, was found guilty of charges under section 280.1 of the Criminal Code (and section 214 on vandalism), following posts on the VKontakte social network in which he expressed solidarity with Ukraine on behalf of 'Ural separatists', as Moroshkin designates himself. The court found that he suffered from paranoid schizophrenia and paranoid syndrome and ordered his confinement in a psychiatric unit. Moroshkin eventually spent 18 months in compulsory inpatient psychiatric treatment. Memorial declared him a political prisoner, as in their opinion nothing suggests that Moroshkin represented a danger to society, which was the justification for his forced confinement.<sup>71</sup>

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<sup>66</sup> <http://politpressing.org/data/583c88184e5bf80d349e928d> (in Russian).

<sup>67</sup> Also see <https://themoscowtimes.com/articles/russian-man-sentenced-to-2-years-in-prison-for-social-network-repost-52798>; <https://pen.org/press-release/russia-court-tightens-the-sentence-for-blogger-andrey-bubeev/>; <http://www.sova-center.ru/en/misuse/news-releases/2016/06/d34906/>.

<sup>68</sup> <https://www.svoboda.org/a/27563769.html> (in Russian).

<sup>69</sup> Also see footnote 47.

<sup>70</sup> <https://memohrc.org/special-projects/delo-tyumenceva> (in Russian).

<sup>71</sup> Also see <https://memohrc.org/news/memorial-priznal-uralskogo-separatista-alekseya-moroshkina-politzaklyuchennym>; <https://www.opendemocracy.net/od-russia/ovd-info/alexei-moroshkin-forced-psychiatry-russia>; <http://khpg.org/en/index.php?id=1469309565>.

In addition to the above cases, there have been a number of convictions related to similar activities, but based on different sections of the criminal code, such as vandalism, weapons-related charges or intentional infliction of light injury.<sup>72</sup>

#### Andrey Marchenko

In October 2015, Marchenko was sentenced to a fine of 100 000 roubles under section 280 of the Criminal Code (he was later granted amnesty). The prosecution was based on a Facebook post, in which Marchenko called for 'liberating Ukraine from the fascist Russian terrorists'. The post was published in the 'for friends only' mode.<sup>73</sup>

#### Aleksandr Byvshev

In July 2015, school teacher Byvshev was convicted to 300 hours of compulsory labour, the confiscation of a laptop and a two-year ban on working in schools under section 282 of the Criminal Code for the publication of the poem 'To the Ukrainian Patriots', in which he urged the people of Ukraine to defend the independence of their country against 'the Muscovite gang'. In January 2017 a new criminal case was initiated against Byvshev related to the poem 'On the Independence of Ukraine' in which he criticizes 'imperial and predatory sentiments' of the people of Russia. On 31 August 2017, Byvshev posted on Facebook that he was told by the authorities that if he did not stop performing his 'subversive, anti-state activities', within the framework of the new criminal case he could be put under home arrest, including deprivation of access to the internet and all telephone and mail communications.<sup>74</sup>

#### *5.2.2. Prosecutions for 'separatism' in relation to the Crimea*

##### Rafis Kashapov

On 15 September 2015 Kashapov, the chairperson of the All-Tatar Public Centre in Naberezhnye Chelny, was sentenced to three years in a penal colony under sections 280.1 and 282 of the Criminal Code. The charges against him relate to a photo collage he posted on social network VKontakte, which depicts military conflicts in Chechnya, Georgia, Moldova and Ukraine with the caption 'Where there is Russia, there are death and tears'. In addition, also posts saying 'Crimea and Ukraine will be free of occupiers', 'Yesterday Hitler and Danzig, today Putin and Donetsk!' and 'We will defend Ukraine and the whole Turkic world' were taken into evidence. (In 2009, Kaskapov had also received a provisional 1.5 years sentence for incitement of hatred for social media posts.)<sup>75</sup>

##### Ilmi Umerov

In June 2016 an investigation was commenced under section 280.1 of the Criminal Code against Umerov, who is a Deputy Chairperson of the Mejlis of the Crimean Tatar People (a self-governing body that was banned by the Kremlin), in relation to an interview he gave on ATR channel in the

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<sup>72</sup> For instance, Ukrainian journalist Aleksandr Kostenko was sentenced by the District Court of Simferopol to 4 years and 2 months in a penal colony for intentional infliction of light injury and illegal weapons possession, for allegedly throwing a stone on the Maidan in Kiev (note the alleged crime did not take place in Russia); Vladimir Podrezov was sentenced to 2 years and 3 months in prison for vandalism for allegedly installing the flag of Ukraine on a building in Moscow and the painting of a star in the colours of the Ukrainian flag.

<sup>73</sup> Also see <https://memohrc.org/news/blogger-andrey-marchenko-prigovoren-k-shtrafu-v-100-tysyach-rublej> (in Russian).

<sup>74</sup> Also see <https://ovdinfo.org/express-news/2015/07/13/shkolnyy-uchitel-aleksandr-byvshev-prigovoren-k-obyazatelnyy-rabotam-za> (in Russian); <https://ovdinfo.org/express-news/2017/01/17/protiv-byvshego-shkolnogo-uchitelya-aleksandra-byvsheva-vozbudili-novoe> (in Russian);

<https://www.facebook.com/byvscheff/posts/1140955282670992?pnref=story> (in Russian).

<sup>75</sup> Also see <https://www.rferl.org/a/tatarstan-crimea-activist-prison/27249218.html>.

Crimean Tatar language, for allegedly appealing to exert pressure on Russia in order to force Russia to leave the Crimea and the Donbass. In August and September 2016, Umerov was forcibly placed for psychiatric evaluation. Since then, he is kept under a written order not to leave his locality of usual residence as a measure of pre-trial detention. His trial started in June 2017. Memorial has called the case politically motivated.<sup>76</sup>

#### Nikolay Semena

Semena, a journalist, was charged under section 280.1 of the Criminal Code in relation to the publication of 'The Blockade Is the Necessary First Step Towards the Liberation of the Crimea', in which he supported the energy and food blockade of the Crimea by Ukraine, characterising it as a necessary military operation for returning the peninsula to Ukraine. As a measure of pre-trial detention, a 'written undertaking not to leave the place of residence' has been applied.<sup>77</sup>

#### Refat Chubarov

In October 2015 Chubarov, the chairperson of the Mejlis of the Crimean-Tatar Nation and people's representative of the Verkhovana Rada of Ukraine, was convicted to two months' imprisonment under section 280.1 of the Criminal Code in relation to an April 2015 interview with Ukrainian media in which he called for 'the exclusion of the Republic of Crimea from the Russian Federation and its accession to the territory of Ukraine'.<sup>78</sup>

#### Lenura Islyamova

Islyamova, the former Vice President of the Crimean government and owner of the Crimean-Tatar television channel ATR, was charged under section 280.1, in relation to statements to the effect that Russia should return the Crimea to Ukraine and that Crimean-Tatars were ready to fight for the peninsula.<sup>79</sup> Currently, Islyamova is in Ukraine.

#### Anna Andrievskaya

Andrievskaya, a journalist and Ukrainian citizen, has been charged under section 280.1 of the Criminal Code in relation to an article about volunteers in the Crimea2 battalion that discussed the return of the Crimea to the control of Ukraine. She has left the Crimea for Ukraine; the status of the criminal case is unclear.<sup>80</sup>

### *5.2.3. Prosecutions for insulting religious feelings*

#### Roslan Sokolovskiy

On 11 May 2017, the Verkh-Isetskiy District Court of Yekaterinburg handed down a conditional prison sentence of 3.5 years with a probationary period of three years under section 148 of the Criminal Code, as well as sections 282 and 138 (illegal trafficking in special technical equipment designed for the secret reception of information) against Sokolovskiy, a video blogger. In July, the sentence was slightly reduced on appeal, to a conditional sentence of two years and three months, with a probation period of two years. The charges against him concern three videos he posted online. In the first, he is playing the game Pokemon Go in an Orthodox church, the soundtrack of the

<sup>76</sup> Also see <https://www.rferl.org/a/russia-ukraine-crimean-tatar-separatism-trial/28533650.html>.

<sup>77</sup> Also see <https://cpj.org/2017/02/crimean-journalist-faces-trial-on-separatism-charge.php>; <http://europeanjournalists.org/blog/2016/04/28/crimea-journalist-nikolai-semena-charged-with-separatism/>.

<sup>78</sup> Also see <http://www.interfax.ru/russia/444531> (in Russian); <http://khpg.org/en/index.php?id=1446036574>.

<sup>79</sup> Also see <https://memohrc.org/special-projects/umerov-ilmir-rustemovich> (in Russian).

<sup>80</sup> Also see <https://www.novayagazeta.ru/articles/2016/07/11/69229-svorachivayte-seti> (in Russian); <https://zona.media/article/2017/03/02/280.1-crimea> (in Russian).

game interwoven with prayer and an obscene parody of Orthodox hymns. At the end of the clip, Sokolovskiy complains that he has not caught ‘the rarest Pokemon ... Jesus, but what can you do – some say he does not exist at all’. In the second video, ‘The ideal Orthodox marriage?’, he criticises an article by Bishop Panteleimon of Orekhovo-Zuevskiy and the Russian-Orthodox Church as a whole. In the third video at issue, ‘Letters of Hatred – Believers’, he quotes from letters he received from believers containing threats of physical violence and verbal abuse, and responds to them using obscene vocabulary.<sup>81</sup>

### Viktor Krasnov

Krasnov, who considers himself an atheist, was charged under section 148 of the Criminal Code in relation to an online polemic on the social network VKontakte in which he argued with other users, writing among other things that ‘There is no God’ and that the Bible is ‘a collection of Jewish fairy tales’. In February 2017, the case was dismissed because the statute of limitations had expired.

#### *5.2.4. Prosecution for rehabilitation of Nazism*

In June 2016, Vladimir Luzgin was fined 200 roubles having been found guilty of charges under section 354.1 of the Criminal Code (rehabilitation of Nazism) for reposting the article ‘15 Facts About Bandera, or What the Kremlin Is Silent About’ on the VKontakte social network. A committee of experts composed of a lawyer, philologist and historian concluded that the statement that ‘the Communists and Germany jointly attacked Poland after unleashing the Second World War on 1 September 1939’ constitute a denial of the facts as established by the Nuremberg Tribunal and deliberately misrepresent the actions of the USSR during the war. Luzgin is not a public figure and about 20 people reacted to his post on the social network. He has filed a complaint at the European Court of Human Rights.

### **5.3. Censorship**

Censorship is very prevalent in Russia. Internet freedom is in decline, but also more traditional media including literature, theatre and cinema face undue restrictions.

#### *5.3.1. Internet*

Agora International Human Rights Group, in its report ‘Internet Freedom in 2016: In a State of Emergency’ based in monitoring conducted by the organisation throughout 2016 describes a marked deterioration concerning censorship on the internet. The report identifies 53004 instances of administrative intimidation, 35019 instances of restrictions on access to website and 298 criminal prosecutions of internet users. In addition, the report notes that there were 97 proposals put forward by politicians and officials to regulate the internet, and 170 civil law cases against internet users. For comparison, the organisation’s report for 2015 registered 5073 instances of administrative intimidation (10 times less than in 2016), 1721 instances of restrictions on access to the internet (20 times less) and 202 criminal prosecutions (1.5 times less), while the number of convictions involving prison terms was half that in 2016. In 2015 there were 48 proposals to regulate the internet (half as many as in 2016) and 49 civil law cases against internet users (3.5 times less than in 2016). In addition, the number of politically-motivated cyberattacks increased fourfold to 122 from 30 in 2015, court bans on access to information increased by a factor of 3 (24000 in 2016 as opposed to

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<sup>81</sup> Also see, among others, Amnesty International, ‘Russian YouTuber convicted of blasphemy after playing Pokémon Go in a church’, 11 May 2017, <https://www.amnesty.org/en/latest/news/2017/05/russian-youtuber-convicted-of-blasphemy-after-playing-pokemon-go-in-a-church/>; The Independent, ‘Russian blogger found guilty of inciting religious hatred for playing Pokemon Go in Orthodox church’, 11 May 2017, <http://www.independent.co.uk/news/world/europe/russian-blogger-ruslan-sokolovsky-inciting-religious-hatred-pokemon-go-orthodox-church-convicted-a7729646.html>.

7300 in 2015) and reported incidences of violence or threats of violence against internet users almost doubled (to 50 in 2016 from 28 in 2015).<sup>82</sup>

Watchdog organisation Freedom House in their Freedom of the Net 2016 index classified Russia as 'not free', with a steadily deteriorating score over the past years.<sup>83</sup> Among other concerns, they highlight the impact of the 'Yarovaya Law', a 'dramatic hike in arrests of social media users' and 'an unprecedented number of attacks ... against social media users in the past year, with members of political VKontakte groups targeted with physical violence and suffering property damage'.

### 5.3.2. *Libraries targeted for holding 'extremist materials'*

Pursuant to the Law on Combatting Extremist Activities<sup>84</sup> a list was created, indexing extremist materials. According to the Sova Information and Analysis Centre,<sup>85</sup> an independent NGO, this list was updated 54 times in 2016, adding 785 items, of which 711 were internet-based; in 2015, 667 items were added, of which 594 internet-based. In total, the Centre reports, the list contains 4015 items. Materials are added subsequent to a court order, but the law does not provide a clear definition of the concept of mass distribution of extremist materials or clear criteria for the designation 'extremist'. A wide range of materials has been added, including books, brochures, magazines, newspapers as well as individual articles, websites, videos, posters and slogans. The range of authors is equally wide and includes political and religious figures, commentators and journalists.

As a consequence of the law and the lack of clarity of its implementation, libraries have become hostages to the inconsistencies in the requirements of the legislative and executive authorities. All libraries are obliged to monitor updates to the list and regularly check their holdings, keeping thorough records. The Prosecutor's Office regularly conducts inspections of libraries in this regard. Hundreds of libraries are being targeted with sanctions for lack of compliance, with their number rising yearly. Moreover, whereas in the past the sanctions were mainly warnings and disciplinary measures, librarians are currently also receiving prison sentences and fines (see also 5.2.1 above).

### 5.3.3. *Restricting young people's access to literature*

Federal Law No. 436-FZ of 29 December 2010 'On the Protection of Children from Information Harmful to Their Health' focuses predominantly on content rating, requiring 'informational products', which includes mass media, printed materials and audio-visual materials, to be labelled. The law introduced a mandatory warning rating (with categories 0+, 6+, 12+, 16+ and 18+) based on the perceived harmful nature of contents, defined per age group, that 'may elicit fear, horror, or panic in children' or depicts violence, unlawful activities, substance abuse, or self-harm. The definitions appear to be, at least in part, guided by ideology. For instance, the fairy tale 'The Sleeper and the Spindle' by Neil Gaiman has a 10+ rating in the USA for moderate violence in the form of pricking with a spindle, whereas in Russia it has an 18+ rating because one of the illustrations depicts a (non-sexual) kiss between two people of the same gender. The Free Word Association has called the evaluation system itself 'half-baked'. They point out that it is unclear whether publishers have the right to evaluate books independently or whether designated and registered experts must be involved (in the latter case raising the questions who accredits those experts and on what basis).

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<sup>82</sup> Also see [https://meduza.io/static/0001/Agora\\_Report\\_2017\\_Internet.pdf](https://meduza.io/static/0001/Agora_Report_2017_Internet.pdf) (2016 report, in Russian) and <http://en.agora.legal/articles/Agora-presents-annual-report-Internet-Freedom-2015-Triumph-of-Censorship/1> (2015 report, available in English).

<sup>83</sup> Also see <https://freedomhouse.org/report/freedom-net/2016/russia>.

<sup>84</sup> Federal Law No. 114-FZ of 25 July 2002 'On combating extremist activity'.

<sup>85</sup> Also see <http://www.sova-center.ru/en/>.

The law is problematic for a number of other reasons. First, the ratings are perceived by many as an advisory rating, as such labels had been placed on children's books in Russia for decades. However, a 0+ rating does not mean that a book is intended, or suitable, for toddlers, but rather that it does not contain any of the themes deemed 'harmful' for that age group and up. Besides the fact that ratings appear to be (at least in part) ideologically determined, a further issue is that the emotional age of a child does not necessarily correspond to their actual age and that literature is an area of individual choice. It is not unlikely that uninformed parents may be intimidated by the age rating of certain books and, afraid of causing harm to their child, unduly restrict access.

Second, the law encourages denunciation, which has led to raids on children's libraries, removal of books and penalisation of librarians. In this regard, the Free Word Association notes that on several occasions, checks on libraries in Moscow and the Sverdlovsk region were carried out on the basis of statements by public 'parent committees' that included non-existent people. The law's implementation has created a burden on librarians, who spend a lot of time, effort and not infrequently their own funds to commission expert assessments of 'accused' books in order to prove that the works do not contain 'harmful' content. In other cases, librarians prefer to take no chances and simply remove contentious books from the shelves to avoid controversy. The Russian Association of Libraries has appealed to the Government,<sup>86</sup> pointing out the law's incompatibility with the Federal Librarianship Act<sup>87</sup> which, among other things, provides that censorship restricting the right of library users to freely access collections shall not be allowed;<sup>88</sup> that libraries have the right to independently determine the content and specific forms of their activities;<sup>89</sup> and, that policy should be based on the principle of creating conditions for universal access to information and cultural values collected and provided for use by libraries.<sup>90</sup>

Third, the Free Word Association points to several occasions where books were withdrawn from shops in response to a simple letter from former Child Ombudsperson Pavel Astakhov. For instance, encyclopaedias of sexual development were deemed by the latter to be responsible for an increase in the number of adolescents acquiring sexually transmitted diseases and were pulled from the shelves. The media enthusiastically picked up the story and amplified the message. Although the books were later 'rehabilitated' pursuant to a court decision, an official refutation on the part of the Ombudsperson never followed.

The law in question was amended twice: to introduce the website blacklist and the 'gay propaganda' ban (see 4.1 and 4.2 above).

#### 5.3.4. *The creation of 'official' Russian history*

In 2009, a Commission under the President of the Russian Federation to Counter Attempts to Falsify History to the Detriment of Russia's Interests<sup>91</sup> was created, despite the fact that there is no law that defines the official history of Russia or what would constitute the falsification of history to the detriment of Russia's interest. Nevertheless, as the Free Word Association pointed out, the mere existence of this Commission appears to have given rise to the perception among some local regulatory authorities and 'proactive citizens' that there is a need to control attempted falsification of history, leading to publishers and libraries having to justify themselves.

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<sup>86</sup> Letter from the Russian Association of Libraries:  
[http://www.rba.ru/content/activities/address/doc/09\\_01\\_2013\\_2.php](http://www.rba.ru/content/activities/address/doc/09_01_2013_2.php) (in Russian); reply by Rozkomnador:  
<http://www.rba.ru/content/activities/address/1.pdf> (in Russian).

<sup>87</sup> Federal Law on Librarianship. First edition 23.11.1994; last amended 03.07.2016.

<sup>88</sup> Section 12.

<sup>89</sup> Section 13.

<sup>90</sup> Section 14.

<sup>91</sup> Created by Decree No. 549 of the President of the Russian Federation of 15 May 2009.

For instance, the Prosecutor's Office and the Department of Education have demanded that books by Viktor Suvorov and Lev Gumilyov be withdrawn from the libraries of several high schools. Although their works and theories are controversial among historians, they contain no illegal statements or appeals.<sup>92</sup> In another example, at a school in the Moscow region a check was conducted in connection with the fact that Yevgeny Yelchin's story 'Breaking Stalin's Nose' was discussed with students. The check, formally related to controlling for works that are on a list with banned extremist materials, was initiated pursuant to a denunciation by an 'alert citizen' who has no connection with the school. Consequently, the head of the school and the librarian had to write numerous memoranda to prove, with the help of an expert assessment, that the book is in fact a work of art that does not contain prohibited statements. Although eventually no charges were brought, the school's reputation within the community has been tarnished.<sup>93</sup>

### 5.3.5. Theatre

Theatres in the Russian Federation suffer from censorship in various ways.

First, theatre houses and production companies experience problems similar to those suffered by publishers in relation to the age rating required under the law purportedly aiming to protect minors, which in reality limit young person's access to the theatre.

Second, there appears to be a revival of the traditions of Socialist Realism, wherein the focus is 'on supporting the traditional values of our society ... [and] the purpose is the spiritual and physical well-being of our people, our culture, our society', in the words of Vladimir Aristarkhov, First Deputy Minister of Culture.<sup>94</sup> The government's view on the function of art in society has entailed that, for example, radical modern plays and other works that are deemed to undermine so-called 'traditional values' no longer receive state support. Since theatre productions are not economically viable enterprises, especially outside the major cities, this policy has contributed to the thinning of the cultural offering available.

Third, theatre makers have been affected by the law on offending religious feelings (see 4.3 above). An emblematic case is the controversy surrounding Timofey Kulyabin's staging of the Wagner opera 'Tannhäuser', which premiered in December 2014. Although arguably Kulyabin's interpretation is a deeply religious work sympathetic to the Christian faith, the Orthodox Church, invoking public outrage, saw an insult to the religious feelings of believers. (Allegedly much of the public outrage had been staged and the actual motivations were commercial interests related to removing the leadership of the Novosibirsk Opera.) Regardless of the underlying motivation, the controversy resulted in the Prosecutor's Office of Novosibirsk Region initiating a case against Kulyabin and Boris Mezdrich, who is the Director of the Opera and Ballet Theatre, for insulting the feelings of believers. The court eventually dismissed the case.<sup>95</sup>

Fourth, theatre makers are also exposed to other prosecutions, which may be politically motivated. A prominent example concerns the recent investigation and arrest of Kirill Serebrennikov, one of Russia's most prominent theatre makers, on allegations of fraud regarding the use of state funds,

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<sup>92</sup> Source confidential, on file with authors.

<sup>93</sup> Source confidential, on file with authors.

<sup>94</sup> Also see <http://www.interfax.ru/culture/433618> (in Russian).

<sup>95</sup> Also see The Guardian, 'Opera director charged by Russian authorities with offending Christians' (25 February 2015), <https://www.theguardian.com/world/2015/feb/25/opera-director-charged-by-russian-authorities-with-offending-christians>; The Moscow Times, 'Soviet-Style Censorship Returns to Russian Arts' (2 April 2015), <https://themoscowtimes.com/articles/soviet-style-censorship-returns-to-russian-arts-45397>; The Siberian Times, 'Court throws out claims Novosibirsk opera offended Orthodox believers' (13 March 2015), <http://siberiantimes.com/culture/theatre/news/n0150-court-throws-out-claims-novosibirsk-opera-offended-orthodox-believers/>.

which he denies. The Gogol Centre, of which Serebrennikov is the director, is a progressive, experimental theatre known for contemporary productions that often deal with political or sexual themes. Although the case is on-going and the allocation of funding for theatre productions is a notoriously murky process, many artists and intellectuals, including the Free Word Association, have expressed doubts about the grounds for the prosecution, and claim instead it is politically motivated, framing it in light of the authorities' kerbing of dissenting voices.<sup>96</sup>

### 5.3.6. Cinema

Cinematic productions are affected by the same curtailing of funding by the Ministry of Culture as those that affect theatre productions. The Ministry's priorities are contained in its directives, and include, among other things, providing incentive to creativity, 'constructive activity' and 'fighting crime, terror and extremism'. Crucially, state financial support is excluded for productions that criticise 'the lawfully elected authority of the country', leading to the entrenchment of self-censorship as lack of conformity and social criticism throws up barriers.<sup>97</sup>

For instance, although the scenario for the film 'Dear Hans, Dear Peter' by Aleksandr Mindadze earned high praise from an expert council set up to advise on financing cinema productions, the Ministry of Culture subsequently presented it for discussion in two other advisory councils, who ended up demanding that the meaning of the film be altered substantially.<sup>98</sup> Furthermore, also cinema makers are affected by the law on offending religious feelings. For instance, in November 2016 Deputy of the Duma Natal'ya Poklonskaya contacted the Prosecutor General's Office demanding a review of 'Matilda', a movie directed by Aleksey Uchitel about ballet dancer Matilda Kshesinskaya and her relationship with Tsar Nicolas II. Poklonskaya deemed the film to be 'a threat to national security' and said it offends the feelings of believers who honour the holy martyr Nicolas II.<sup>99</sup>

## 6. Recommendations

In light of the concerns detailed in this report and Russia's commitments under international and national law, PEN International and the Free Word Association call on the authorities of the Russian Federation to immediately end its crackdown on freedom of expression and attacks on the free press and to create an environment in which free public debate can thrive, including by:

1. Immediately release all those detained for their legitimate exercise of freedom of expression;
2. Quashing convictions of people who were unjustifiably prosecuted and convicted for exercising their right to free expression;
3. Ceasing politically motivated investigations and prosecutions of journalists, bloggers and media employees in connection with their exercise of their right to free expression;
4. Ceasing politically motivated investigations and prosecutions of persons in relation to their expression of peaceful views pertaining to the conflict between the Russian Federation and Ukraine;

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<sup>96</sup> Also see <https://www.theguardian.com/world/2017/aug/22/kirill-serebrennikov-arrest-russian-theatre-director-fears-of-clampdown-on-dissent>.

<sup>97</sup> Also see <https://www.kp.ru/daily/26218.4/3101923/> (in Russian).

<sup>98</sup> Also see <https://ria.ru/culture/20130814/956263279.html> (in Russian).

<sup>99</sup> Also see [https://tsargrad.tv/news/poklonskaja-film-matilda-provociruet-na-projavlenie-jekstremizma\\_51849](https://tsargrad.tv/news/poklonskaja-film-matilda-provociruet-na-projavlenie-jekstremizma_51849) (in Russian); <https://ria.ru/religion/20170810/1500152695.html> (in Russian).

5. Ensuring the proper investigation of attacks on and intimidation of journalists and other media employees with a view to bringing the perpetrators to justice and ending the cycle of impunity which emboldens perpetrators of violence against journalists;
6. Amending vague and overly broad anti-extremism and anti-terrorism legislation, with a view to ensuring the safeguarding of human rights and in particular the right to freedom of expression and the right to privacy;
7. Amending legislation pertaining to the control of expression on the internet, with a view to guaranteeing human rights, establishing proper judicial oversight and other safeguards, and reducing discretionary powers of law enforcement and security agencies, in order to thus ensure that efforts to control expression on the internet respect Russia's international human rights obligations and concern only legitimate restrictions of harmful and illegal contents;
8. Repealing the so-called 'gay propaganda' ban;
9. Ending practices of censorship in literature, theatre and cinema, and creating an environment in which the artistic expression of dissenting views can prosper; and,
10. Ensuring that the media can operate freely in the Crimea, including by creating and maintaining a safe and enabling environment for journalists and human rights defenders to perform their work independently and without undue interference.

PEN International promotes literature and freedom of expression and is governed by the PEN Charter and the principles it embodies: unhindered transmission of thought within each nation and between all nations. Founded in 1921, PEN International connects an international community of writers from its Secretariat in London. It is a forum where writers meet freely to discuss their work; it is also a voice speaking out for writers silenced in their own countries. Through Centres in over 100 countries, PEN operates on five continents. PEN International is a non-political organisation which holds Special Consultative Status at the UN and Associate Status at UNESCO. International PEN is a registered charity in England and Wales with registration number 1117008.

<http://www.pen-international.org/>

