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ONLINE AND ON ALL FRONTS

Russia's Assault on Freedom of Expression



Online and On All Fronts

Russia's Assault on Freedom of Expression

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Online and On All Fronts Russia’s Assault on Freedom of Expression

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Glossary/Abbreviations

Center E – An abbreviation for the Russian Ministry of Internal Affairs' Center for Countering Extremism. Mandated to combat terrorism and extremism, the center also conducts surveillance and special operations.

DDoS (dedicated denial of service) – An attack that attempts to make a website or server unavailable by overwhelming it with traffic from multiple online sources, which prevents users from accessing that website or service. Such an attack is often the result of multiple compromised systems flooding the targeted system with traffic.

Domain name – A unique name that identifies a website.

DPI (deep packet inspection) – A type of data processing that enables the examination of the content of communications (an email or a website) as it is transmitted over an internet network. Once examined, the communications can be then copied, analyzed, blocked, or even altered. DPI equipment allows internet service providers or governments to monitor and analyze internet communications on a large scale in real time. While DPI does have some commercial applications, DPI can also enable internet filtering and blocking and highly intrusive surveillance.

FSB (Federal Security Service) – Russia's federal executive body with the authority to implement government policy on national security of the Russian Federation, counterterrorism, the protection and defense of state borders.

Gazprom – A Russia-based global energy company focused on geological exploration, production, transportation, storage, processing, and sales of gas, gas condensate, and oil, sales of gas as a vehicle fuel, as well as generation and marketing of heat and electric power. It holds the world's largest natural gas reserves.

ISP (internet service provider) – An organization that provides services for accessing and using the internet. An ISP may be organized in various forms, such as commercial, community-owned, nonprofit, or otherwise privately owned.

LiveJournal – An international online platform for over 50 million blogs.

Metadata – Data that describes other data and summarizes basic information about data, which can make finding and working with particular instances of data easier. For example, mobile phone calls produce metadata, including the phone numbers called, times of calls, durations of calls, and location information.

Roskomnadzor – Russia’s federal executive authority responsible for overseeing online and media content. Its full name is the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications. Created in December 2008, it is authorized to carry out permitting and licensing activities, validation and supervision in the spheres of telecommunications, information technologies, and mass communications.

Server – A computer that is used only for storing and managing programs and information used by other computers.

Vkontakte (international name: VK) - A social network with headquarters in St. Petersburg, Russia. It is the most popular social network site in Russia and several other countries in the region.

VPN (Virtual Private Network) - A network technology that creates a secure connection over a shared or public network such as the internet. VPNs are often used by large corporations, government agencies, and educational institutions to allow users to access private networks remotely. Security mechanisms, such as encryption, also allow VPN users to shield their communications from interception and circumvent internet filtering.

Summary

Since 2012, the Russian authorities have intensified a crackdown on freedom of expression, selectively casting certain kinds of criticism of the government as threats to state security and public stability and introducing significant restrictions to online expression and invasive surveillance of online activity.

While new restrictions on freedom of expression appear to target political opposition or civic groups, they affect all Russians. Curbing free speech denies a voice to anyone dissatisfied with the ongoing economic crisis or even mildly critical of Russia's foreign policy.

The Russian government's clampdown on free speech comes as a part of a larger crackdown on civil society, unleashed after the 2011-2012 mass protests and Vladimir Putin's return to the presidency in May 2012. Since then, Parliament has adopted numerous laws that limit or can be used to interfere with freedom of speech and information. The authorities have wasted no time in invoking many of these laws. Some of the more recently adopted laws threaten privacy and secure communications on the internet and, in effect, make no digital communication in Russia safe from government interference. Such unchecked surveillance has a stifling effect on freedom of expression online.

Authorities have unjustifiably prosecuted dozens on criminal charges for social media posts, online videos, media articles, and interviews. Today, many Russians are increasingly unsure about what is acceptable speech and what could land them a large fine or prison term.

State intrusion in media affairs has reached a level not seen in Russia since the fall of the Soviet Union. The laws passed since 2012 have dramatically increased the state's control over the media landscape. With few exceptions, mainstream media outlets have become the voice of the state and use elaborate propaganda tools to mobilize patriotic support for the government. State-driven media outlets promote biased reporting and, at times, blatant misinformation on many issues of the day, especially concerning the situation in Ukraine.

While the government can control the media narrative on politically sensitive issues on state-controlled television and other mainstream media, government critics can,

potentially, reach most Russians online because of the growing use of social media. Most independent debate now takes place online, especially through social media. In the last four years, and especially following the revolution in Ukraine in 2014 and the subsequent Russian military intervention in Ukraine, Russian authorities have stepped up measures aimed at bringing the internet under greater state control.

Some of these measures relate to internet infrastructure. For example, in 2016, parliament passed a law requiring telecommunications and internet companies to retain the contents of all communications for six months and data about those communications for three years. The law makes it easier for the authorities to identify users and access personal information without judicial oversight, unjustifiably interfering with privacy and freedom of expression. A 2015 law which applies to email services, social media networks, and search engines prohibits storage of Russian citizens' personal data on servers located outside Russia. In November 2016, Russian authorities blocked access to LinkedIn, a business social networking service with over 400 million users worldwide, for noncompliance with the 2015 legislation.

For the most part, post-2012 laws concerning internet content, data storage, and online activity are in their early stages of implementation, and the manner and scope in which they will be enforced remain unclear.

Meanwhile, the authorities have vigorously enforced older laws to prosecute online speech. In doing so they have increasingly conflated criticism of the government with "extremism," especially on certain topics such as the occupation of Crimea, criticism or satire regarding the Russian Orthodox Church, or Russia's armed intervention in Syria. The number of criminal cases stemming from "extremism" charges, especially in connection with sharing statements and opinions online, has soared. Based on data provided by the SOVA Center, a prominent Russian think-tank, the number of social media users convicted of extremism offences in 2015 was 216, in comparison with 30 in 2010.

Between 2014 and 2016, approximately 85 percent of convictions for "extremist expression" dealt with online expression, with punishments ranging from fines or community service to prison time. In the period between September 2015 and February 2017, the number of people who went to prison for extremist speech spiked from 54 to 94.

In December 2015, a court sentenced a blogger from the Siberian city of Tomsk to five years in prison for “extremism” after he posted videos on YouTube and social media criticizing Russia’s military intervention in Ukraine, making discriminatory remarks about people arriving in Russia from eastern Ukraine, and alleging corruption by local officials. One year later, in December 2016 another blogger from Tyumen, Siberia, received a two-and-a-half year prison sentence for the extremist crime of “public justification of terrorism,” after writing a blog post criticizing Russia’s military involvement in Syria. While the first blogger’s sentence was severely disproportionate, the second was convicted of a crime and jailed simply for expressing his opinion.

In the three years of Russia’s occupation of Crimea, authorities have silenced dissent on the peninsula, claiming to be “combating extremism.” Russian authorities have aggressively targeted critics for harassment, intimidation, and, in some cases, trumped-up criminal charges. Crimean Tatars, an ethnic minority that is native to the Crimean peninsula and that has openly opposed Russia’s occupation, have been particular victims of the government’s crackdown. This report documents the most recent cases of persecution of Crimean Tatar activists, their lawyers, and others who publicly and peacefully expressed criticism of Russia’s actions in Crimea. The Russian authorities have forced the closure of all independent media outlets in Crimea.

The authorities have actively enforced legal provisions that make a criminal offense of “offending the feelings of religious believers.” Authorities introduced this crime into the Criminal Code in 2013, following the highly publicized unauthorized punk music performance in a Russian Orthodox cathedral in Moscow by the feminist group Pussy Riot. In 2016, the authorities charged at least six people under this provision. At this writing, five individuals were convicted and handed sentences ranging from a fine to two years’ imprisonment.

In May 2017, a court convicted a 22-year-old video blogger, Ruslan Sokolovsky, on criminal charges of incitement of hatred and insult to the religious feelings of believers. The charges stemmed from a prank video by Sokolovsky, which he shared on social media, playing Pokémon GO on his iPhone in a Russian Orthodox Church in Ekaterinburg. Sokolovsky also made several other satirical or critical videos or blog posts about the Orthodox Church. The court gave the blogger a three-and-a-half year suspended sentence (reduced on appeal to two years and three months).

At the same time, authorities used extremism laws offline as well to ban the Jehovah's Witnesses and to harass other minority religious groups with a smaller presence in Russia.

Russian authorities have actively enforced a 2013 law, which bans dissemination of information about so-called "nontraditional sexual relations," otherwise known as the anti-LGBT "propaganda" law. At this writing, Russian courts have found at least six people guilty of violating that federal law. Specifically, the law prohibits information that normalizes same-sex relationships or portrays them as acceptable and of equal value to heterosexual relationships. While Russian government officials and parliament members claim that the goal of the ban is to protect children from potentially harmful subject matter, the law directly harms children by denying them access to essential information and creating a stigma against LGBT children and LGBT family members.

Independent nongovernmental groups have also felt the noose tightening on their freedom of expression. Enforcement of the 2012 "foreign agents" law has served to discredit and demonize independent groups that accept foreign funding. Russians and Russian groups are also affected by the 2015 "undesirables" law, which empowers the prosecutor's office to ban, as "undesirable" foreign or international organizations that allegedly undermine Russia's security, defense, or constitutional order. The prosecutor can use the "undesirables" law not only to end a foreign organization's activity but also force Russian groups to cut off all contact with the targeted foreign organization. The purpose appears to be to further isolate independent Russian organizations from their international allies and partners.

Russia's Constitution guarantees freedom of thought and expression and prohibits censorship. Russia is a party to several international treaties that impose legal obligations on governments to protect freedom of expression and information. International law permits some justifiable interference with or limitations on freedom of expression, but any such measures must be taken in pursuit of a recognized legitimate goal, have a proper basis in law, be justified as necessary and proportionate in a democratic society, and cannot be discriminatory.

Freedom of expression constitutes one of the essential foundations of a democratic society and it extends not only to information and ideas that are received favorably but also to those that offend, shock or disturb. The Russian government should respect and

uphold the right of people in Russia to freely receive and disseminate information and express diverging or critical views.

Recommendations

To the Government of the Russian Federation

- Immediately end the crackdown on freedom of expression. Remove all undue restrictions on the right of people in Russia to freely receive and disseminate independent information and express critical views.
- As a matter of urgency, amend Russia's vague and overly broad extremism legislation. End politically motivated prosecutions on "extremism charges," such as "public calls to separatism" or "incitement to hatred," including for online statements. Immediately quash criminal convictions or drop all charges against individuals who have been unjustifiably prosecuted under anti-extremist legislation, including for online expression, including Alexei Kungurov, Rafis Kashapov, Ekaterina Vologzheninova, Mykola Semena, Ruslan Sokolovsky, Konstantin Zharinov, Vadim Tyumentsev, Darya Polyudova, Ilmi Umerov, and others; release those held in custody.
- Lift all measures directed at shutting down public debate and ensure that restrictions can only be placed on free speech by an independent judicial body on a case-by-case basis following an assessment that the speech constitutes a genuine and imminent threat to public or individual safety; any restrictions should be strictly necessary, proportionate, and nondiscriminatory.
- Ensure that the Russian government's efforts to control expression on the internet are not in violation of Russia's international human rights obligations, including the obligation to respect, promote and protect free speech, online and offline. Repeal legislation that expands the powers of law enforcement and security agencies to control online speech and keep dissenters in check. In the meantime, desist from implementing laws that inhibit public debate and encroach on human rights and immediately cease overly broad blocking of websites.
- Cease political censorship on the internet and ensure that restrictions apply only to information with legitimately harmful and illegal content, rather than to personal views and opinions. Cease the use of online censorship as a tool to persecute protected speech by government critics and silence online media and dissenting voices.

- Repeal the 2014 Bloggers’ Law and refrain from requiring social media users to register with their real name.
- Repeal the 2016 counterterrorism legislation requiring telecommunications providers and internet companies to store all communications data for six months and all metadata up to three years for potential access by security services. Also repeal the 2015 data storage law requiring service providers to store Russian personal data on Russian territory. These laws make it easier for the authorities to identify users and access personal information without sufficient safeguards, in violation of human rights protections. Ensure any request for user data complies with international human rights standards and is subject to prior judicial authorization;
- Ensure that independent nongovernmental groups can operate freely and without undue interference, including by prompt repeal of the 2012 “foreign agents” law and the 2015 “undesirables” law;
- Repeal the 2013 law banning LGBT “propaganda”;
- Immediately cease harassment, intimidation, and politically motivated prosecutions of Crimean Tatars, including under trumped up charges of “extremism”. Ensure that media in Crimea can operate freely and convey a plurality of views, even if they do not support Russia’s actions in Crimea;
- Cooperate fully with the special procedures of the United Nations Human Rights Council, including by issuing a standing invitation for country visits and responding positively to pending requests for access to Russia by the UN special rapporteurs on the situation of human rights defenders, on the rights to freedom of association and of assembly, and on the promotion and protection of the right to freedom of expression.
- Request that European Commission for Democracy Through Law (the Venice Commission) examine the following laws, with a view to determining whether they, taken separately or in combination with each other, comply with Russia’s obligations under the European Convention on Human Rights:
 - Federal Law № 139-FZ;
 - The 2013 amendment to article 148 of the criminal code criminalizing “a public action expressing clear disrespect for society and committed in order to insult the religious feelings of believers”;
 - The Lugovoi law;

- The 2013 amendment to article 280.1 of the criminal code, criminalizing “public, online calls aimed at violating the territorial integrity of the Russian Federation”;
- Federal Law № FZ-97 “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”;
- Federal Law № 464-FZ “On Amendments to the Law on Mass Media and the Code of Administrative Offenses”;
- The 2013 amendment adding article 354.1 to Russia’s Criminal Code, establishing fines of up to 300,000 rubles (about \$8,300) or prison terms of up to five years to those convicted for “rehabilitation of Nazism”;
- Federal Law № 464-FZ “On Amendments to the Law on Mass Media and the Code of Administrative Offenses”;
- Federal Law № 242-FZ “On Amendments to Separate Legislative Acts Concerning Processing Personal Data in information and Telecommunication Technologies”;
- The “Yarovaya” amendments;
- Federal Law № 208-FZ from June 23, 2016 “On Amendments to the Federal Law ‘On Information, Information Technologies and Data Protection’ and the Code of Administrative Offenses”;
- Draft law banning software which allows access to internet content that has been banned in Russia (VPNs and internet anonymizers);
- Draft law banning anonymity for users of online messenger applications.

To Russia’s International Partners

- The European Union, its individual member states, as well as OSCE participating states—including Canada, Norway, Switzerland, and the United States, as well as Russia’s BRICS partners—including South Africa and Brazil—should raise concerns about the human rights violations documented in this report in all relevant multilateral forums, including at the UN Human Rights Council, the Organization for Security and Co-operation in Europe, and the Council of Europe, as well as in their bilateral dialogues with the Russian government. They should persistently

press Russian authorities and those in Russian-occupied Crimea to promptly implement the recommendations addressed to them. In particular, as a matter of utmost urgency, they should insist that the authorities:

- Amend Russia’s vague and overly broad extremism legislation and end politically motivated prosecutions on “extremism charges,” such as “public calls to separatism” or “incitement to hatred,” including for online statements;
- Immediately quash convictions or drop all criminal charges against Alexei Kungurov, Rafis Kashapov, Ekaterina Vologzheninova, Mykola Semena, Ruslan Sokolovsky, Konstantin Zharinov, Vadim Tyumentsev, Darya Polyudova, Ilmi Umerov, and others, unjustifiably prosecuted under anti-extremist legislation, including for online expression; release those held in custody;
- Repeal legislation that expands the powers of law enforcement and security agencies to control online speech, including the Bloggers’ Law, the Yarovaya laws, the Data Storage law, and the gay propaganda law;
- Ensure that independent nongovernmental groups can operate freely and without undue interference, including by prompt repeal of the 2012 “foreign agents” law and the 2015 “undesirables” law;
- Press for immediate and unfettered access to Crimea for relevant human rights mechanisms of the OSCE, the UN, and the Council of Europe;
- Step up public contacts with civil society in Russia on the occasion of all high-level meetings with Russian authorities; continue support of Russia’s civil society groups.

Additional Recommendations to the Council of Europe, the European Union, and the Organization for Security and Co-operation in Europe:

- The Committee of Ministers, the Secretary General, the Parliamentary Assembly of the Council of Europe, or the European Union (European Commission, European Council and the European External Action Service, and the European Parliament), or the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE) should request that the European Commission for Democracy Through Law (the Venice Commission), examine the laws listed above, with a view to determining whether they, taken separately or in

combination with each other, comply with Russia's obligations under the European Convention.

- The OSCE Representative on Freedom of the Media, jointly with the OSCE Office for Democratic Institutions and Human Rights, should compile a joint report on freedom of expression in Russia that provides a comprehensive analysis of relevant legislation and recommendations to the Russian government.

To Internet Companies Operating in Russia (such as Twitter, Facebook, Microsoft, Google, VK, etc.):

- Assess government requests to censor content against international human rights standards and refrain from complying where the underlying law or specific request is inconsistent with those standards;
- Minimize the amount of user data stored in Russian territory, given the inadequate safeguards for the right to privacy in Russian law and practice. Require a court order that clearly articulates the legal justification before complying with any request for user data or to facilitate surveillance/interception. Refrain from complying where the request is overbroad or not consistent with international human rights standards;
- Adopt human rights policies outlining how the company will resist government requests for censorship or surveillance, including procedures for narrowing requests that may be disproportionate or challenge requests not supported by law;
- Publish semi-annual transparency reports, covering Russia and all markets where companies operate. At a minimum, such reports should provide information on:
 - number of government requests to restrict access to content or suspend/delete accounts received;
 - number of pieces of content or accounts affected by such requests;
 - number of such requests complied with, in whole or in part;
 - number of government requests for user data or other surveillance assistance (i.e. interceptions) received, and the number of accounts affected by such requests;
 - number of requests complied with, in whole or in part;

- Incorporate end-to-end and strong encryption into products and services by default wherever possible, and refrain from complying with any demands to weaken security features or build “back doors” into encryption to facilitate abusive surveillance.

Methodology

This report is based on research carried out by Human Rights Watch researchers through interviews and document reviews conducted between September 2015 and May 2017 and includes earlier research published in Human Rights Watch news releases and other public documents from 2012 to 2017.

Researchers conducted over 50 interviews with lawyers, staff and leaders of nongovernmental organizations (NGOs), as well as journalists, editors, political and human rights activists, and bloggers and their family members.

All interviews were conducted in Russian or English by Human Rights Watch researchers who are fluent in both languages. All interviewees were informed of the purpose of the interview, its voluntary nature and the goal and public nature of our reports. All interviewees gave their oral consent to participate in the interview. Pseudonyms have been used for some bloggers and additional identifying details have sometimes been withheld. No interviewee received compensation for providing information. Most interviews were conducted by telephone or via internet communication.

Human Rights Watch researchers also reviewed laws, including legislative amendments adopted since 2012, and relevant government regulations and rules pertaining to internet content and freedom of expression. While the report discusses the implications of some of these laws on the right to privacy, a full discussion of Russia's surveillance systems, including the country's System of Operative Search Measures (SORM), and legal framework are beyond the scope of this report.

Researchers also obtained and analyzed copies of documents relevant to specific cases, including indictments and court judgments of persons convicted on politically motivated charges.

Human Rights Watch has closely monitored human rights developments in Russia throughout Russia's post-Soviet history. During that time, we have called on the authorities to repeal regressive laws and allow the unimpeded work of independent nongovernmental groups in accordance to Russia's international commitments to uphold

freedom of expression, association, and assembly. We have also called on Russia's international partners to play a positive role in ensuring the government protects fundamental human rights in Russia.

I. Closing Civic Space

The years since the start of Vladimir Putin's third presidential term in 2012 have been the worst for human rights in the country's post-Soviet history. Persecution of the Kremlin's critics, accompanied by a barrage of repressive and discriminatory laws, have dramatically shrunk public space for civic activism, independent media, and online freedom. The attack on activists and critics began immediately after President Putin's inauguration, ebbing only slightly in the lead up to the February 2014 Winter Olympic Games in Sochi. The backlash intensified considerably after the Games ended and as the political crisis in Ukraine, including Russia's occupation of Crimea and the Russia-backed armed conflict in eastern Ukraine, escalated.

Mobilizing 'Patriotic' Sentiment and Branding Critics as Traitors

The backlash against dissent began in response to unprecedented anti-government mass demonstrations that swept through Moscow and several other large Russian cities in 2011 and 2012. Tens of thousands protested against what they perceived to be rigged parliamentary and presidential elections.¹

With Putin's return to the presidency in May 2012, the Kremlin rammed through the parliament a raft of laws that severely curtailed freedom of assembly, introduced massive restrictions on the work of nongovernmental organizations (NGOs), re-criminalized libel, and expanded the definition of high treason to allow selective and arbitrary application, including against those taking part in routine discussions with foreign counterparts or presenting human rights reports at international conferences.²

At the center of the government's crackdown on fundamental freedoms was the effort to discredit and marginalize Russia's vibrant human rights movement by accusing its members of promoting Western interests in exchange for funding. This effort found its legislative instrument in the so-called foreign agent law, adopted in 2012 and amended in

¹ "Russia: Reject Restrictions on Peaceful Assembly," Human Rights Watch news release, June 8, 2012, <https://www.hrw.org/news/2012/06/08/russia-reject-restrictions-peaceful-assembly>.

² "Russia: Worst Human Rights Climate in Post-Soviet Era," Human Rights Watch news release, April 24, 2013, <https://www.hrw.org/news/2013/04/24/russia-worst-human-rights-climate-post-soviet-era>.

2014, which clearly sought to stifle independent advocacy and other activities by critical NGOs by branding them as “foreign agents” if they accepted any foreign funding.”³ The law also provides individual criminal penalties for “malicious evasion” of the duty to file the documents required for inclusion in the register of nonprofit organizations “performing the functions of a foreign agent.”⁴

Government-controlled and pro-Kremlin broadcasters have aired numerous documentary-style programs portraying human rights defenders and groups as “national traitors” and spies.⁵

At this writing, the “registry of foreign agents” by Russia’s Ministry of Justice includes over 90 NGOs, practically all the country’s leading domestic rights groups among them. Between 2012 and 2016 at least 30 groups closed down rather than accept the “foreign agent” label.⁶ In June 2016, authorities for the first time criminally prosecuted a human rights defender under the law, charging Valentina Cherevatenko, a chair of a human rights and peace-building group in the south of Russia, with “malicious evasion” of registration as a “foreign agent.” If found guilty, Cherevatenko will face up to two years in prison.⁷

Some government leaders repeatedly and publicly expressed profound contempt for certain human rights norms or alleged that foreign or foreign-funded organizations in Russia aimed to destabilize Russia and undermine its sovereignty.⁸

³ “Russia: Government Vs. Rights Groups,” Human Rights Watch news release, February 21, 2017, <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle>.

⁴ Ibid.

⁵ In one egregious case, an environmental activist from the Chelyabinsk region had to flee her home in Russia with her children in October 2015 after a television report portrayed her as a spy as a result of accepting foreign funds to run her human rights NGO. See, for example, Deutsche Welle story with original footage: Deutsche Welle, “France: Life in Hiding-Focus on Europe,” video report, January 21, 2016, <https://www.youtube.com/watch?v=JAu9aK2BMx4> (accessed February 16, 2017). See also, NTV, “How Human Rights Defenders from Amnesty International Provoked a Bloody Terrorist Attack: NTV Investigation [Как правозащитники из Amnesty International спровоцировали кровавый теракт: расследование НТВ],” video report, November 31, 2016, <http://www.ntv.ru/novosti/1727222/> (accessed January 17, 2017).

⁶ “Russia: Government Vs. Rights Groups,” Human Rights Watch news release, February 21, 2017, <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle>.

⁷ “Russia: Rights Activist Facing Charges,” Human Rights Watch news release, June 27, 2016, <https://www.hrw.org/news/2016/06/27/russia-rights-activist-facing-charges>.

⁸ For example, in December 2016, President Putin accused unnamed foreign governments of using environmental groups to “slow down certain growing segments of Russia’s infrastructure.” See, “Russian Environment NGOs: An Endangered Species,” Human Rights Watch dispatch, January 18, 2017, <https://www.hrw.org/news/2017/01/18/russian-environment-ngos-endangered-species>. See also, “Putin refused to negotiate with the opposition groups that receive funding from abroad [Путин отказал в диалоге финансируемым из-за границы оппозиционерам],” *Lenta.ru*, March 26, 2015, <https://lenta.ru/news/2015/03/26/putinopposition/> (accessed March 24, 2017).

A group of parliamentarians proposed to criminalize "anti-Russian" or "anti-patriotic" statements.⁹ Russian human rights lawyers remarked that if adopted, this bill would throw Russia back to being an "ideological" state reminiscent of the USSR, with a single, obligatory state ideology.¹⁰

In 2015, the Russian parliament adopted a law empowering the Constitutional Court to review rulings of international human rights bodies, including the European Court of Human Rights (ECHR), and to declare them "non-executable" in case of supposed contradictions with Russia's Constitution.¹¹ At this writing, the Constitutional Court has designated two ECHR rulings "unconstitutional."¹²

Also in 2015, a law on "undesirable organizations" entered into force.¹³ The law allowed the prosecutor general to extrajudicially ban foreign or international nongovernmental organizations deemed to undermine Russia's "state security," "national defense" or "constitutional order." Most disturbingly, the law introduced administrative and criminal liability for Russian citizens who maintain any ties with "undesirable organizations" with penalties ranging from fines to six years in prison.¹⁴

At this writing, the prosecutor general's office has banned 11 foreign organizations as "undesirable."¹⁵ All but one are American democracy promotion or civil society capacity-

⁹ "Lawyer Genry Reznik: 'This Norm Only Changes One Word – Instead of 'Anti-Soviet, It's Anti-Russian.' On Parliamentarians' Initiative to Jail Government Critics for 10 Years [Адвокат Генри Резник: "В это норме фактически меняется только одно прилагательное – с 'антисоветская' на 'антироссийская']," *Novaya Gazeta*, July 27, 2015, <https://www.novayagazeta.ru/articles/2015/07/27/65040-advokat-genri-reznik-171-v-etoy-norme-fakticheski-menyaetsya-tolko-odno-prilagatelnoe-8212-s-171-antisovetskaya-187-na-171-antirossiyskaya-187> (accessed February 13, 2017).

¹⁰ "'Anti-Russian,' a Dangerously Unconstitutional Update of 'Anti-Soviet,' Reznik says," *The Interpreter*, July 27, 2015, <http://www.interpretermag.com/anti-russian-a-dangerously-unconstitutional-update-of-anti-soviet-reznik-says/> (accessed February 20, 2017).

¹¹ "Russian Court Hopes to Thwart International Law Rulings," Human Rights Watch dispatch, December 10, 2015, <https://www.hrw.org/news/2015/12/10/dispatches-russian-court-hopes-thwart-international-law-rulings>.

¹² "Constitutional Court Found the ECHR Ruling on Yukos Non-Executable [КС счел невозможным исполнить решение ЕСПЧ по "делу ЮКОСа]," *Interfax*, January 19, 2017, <http://www.interfax.ru/russia/546027>; and "Constitutional Court: the ECHR Decision for Prisoners to Participate in Elections Is Partially Executable [КС: Решение ЕСПЧ по делу об участии в выборах в РФ заключенных можно исполнить частично]," *TASS*, April 19, 2016, <http://tass.ru/politika/3218221> (accessed November 10, 2016).

¹³ Federal Law № 129-FZ from May 23, 2015 "On Amendments to Separate Legislative Acts of the Russian Federation," <http://base.garant.ru/71035684/> (accessed February 9, 2017).

¹⁴ "Russia: Stop Draft Law On 'Undesirable' Groups," Human Rights Watch news release, May 15, 2015, <https://www.hrw.org/news/2015/05/15/russia-stop-draft-law-undesirable-groups>.

¹⁵ Ministry of Justice, "List of Foreign and International Nongovernmental Groups Whose Activity is Undesirable on the Territory on the Russian Federation," 2017, <http://minjust.ru/ru/activity/nko/unwanted> (accessed July 3, 2017).

building organizations, including the Open Society Foundations and the National Endowment for Democracy, which for many years provided solid financial support to leading Russian human rights groups.

There has also been a sharp increase, since 2014, in the number of criminal cases on “high treason” charges, including a high-profile case that was ultimately dropped but seemed aimed at sending a chilling message to people in Russia to be extremely cautious about taking actions that might expose Russia’s role in the armed conflict in Ukraine.¹⁶

Finally, in recent years the government has actively promoted “traditional values”—in partnership with the Russian Orthodox Church—as part of a new Russian national ideology. This is the context in which some of the religious insult “extremism” cases and the banning of LGBT speech, in certain circumstances documented below, has taken place. Since 2015, Russian nationalist and Russian Orthodox activists defending “traditional values” have forced the cancellation of at least two major productions at state theaters, claiming they offended feelings of religious believers.¹⁷ In 2016, such groups violently disrupted two art exhibitions in Moscow, causing one to close.¹⁸ Such developments have sparked questions about the future of artistic freedom in Russia.

¹⁶ According to expert analysis (see the end of the footnote for source), treason charges are most likely to be used against scientists, journalists, and civil society activists but also are sometimes used seemingly at random and concern “controversial” topics, such as the conflict in Ukraine. “Knight Vs. FSB: How Lawyer Ivan Pavlov Defends People Charged with High Treason [Рыцарь против ФСБ: как адвокат Иван Павлов защищает людей, обвиненных в госизмене],” *Meduza*, December 1, 2016, <https://meduza.io/feature/2016/12/01/rytsar-protiv-fsb> (accessed December 18, 2016).

¹⁷ “Opera on Trial in Siberia,” Human Rights Watch dispatch, March 10, 2015, <https://www.hrw.org/news/2015/03/10/dispatches-opera-trial-siberia>.

¹⁸ “‘Rebels’, Red Paint and Russia. Sakharov Centre in Moscow Vandalized Amid Crackdown on Dissent,” Human Rights Watch dispatch, October 3, 2016, <https://www.hrw.org/news/2016/10/03/rebels-red-paint-and-russia>.

II. Timeline of Restrictive Laws

Between 2012 and 2016, the Russian government established tighter control over freedom of expression through a raft of disturbingly regressive laws that provide the government with tools to restrict access to information, carry out unchecked surveillance, and censor information that the government deems “extremist,” “separatist,” or otherwise illegal and harmful to the public. The laws have been used to target a large variety of groups and people, ranging from individual social media users and bloggers to journalists, political opposition activists, large and small online media outlets, and online businesses.

The purpose of some of these laws appeared to be to shrink the space, including online, for public debate in general and especially on issues the authorities saw as divisive or threatening, such as the armed conflict in Ukraine, or the rights of LGBT people. Others apparently aim specifically to undermine the privacy and security of internet users, by regulating data storage, unjustifiably restricting users’ access to information, and ensuring that a wealth of data, including confidential user information and the content of communications, could be made available to authorities at their request often without any judicial oversight.

The timeline below summarizes the passage of these laws in chronological order. More detailed information on some of these laws and their implementation is provided in relevant thematic sections of this report.

2012

Creation of the Internet Blacklist Registry

In 2012, Russia’s parliament (State Duma) passed Federal Law № 139-FZ “On Introducing Amendments to the Law on Protection of Children from Information Harmful to Their Health and Development.” The law introduced a uniform registry of websites or URLs subject to blocking—or internet blacklist—to be managed by Roskomnadzor, the federal agency empowered to oversee online and media content.¹⁹ Once a website appears on the registry,

¹⁹ Federal Law № 139-FZ “On Amendments to the Law on Protection of Children from Information Harmful to Their Health and Development [№ 139-ФЗ О внесении изменений в Федеральный закон “О защите детей от информации, причиняющей вред их здоровью и развитию”], July 28, 2012,

Roskomnadzor gives the site's hosting provider 24 hours to notify the site owner to remove relevant material. If the owner does not comply, the hosting provider is required to restrict access to or remove the material itself. Hosting providers include social media companies and other platforms for user-generated content. If the material is not removed, internet service providers are then required to block access to the website. Roskomnadzor will remove the website from the registry only if the owner takes down harmful content and sends the agency a request for reinstatement, or successfully appeals the ban in court.²⁰

2013

“Gay Propaganda” Ban

Law № 135-FZ, which has the stated aim of “protecting children”, prohibits “promoting the denial of traditional family values,” by promoting, in particular, “non-traditional sexual relations.”²¹ In Russia, “non-traditional sexual relations” are broadly understood to mean relationships among lesbian, gay, bisexual, and transgender (LGBT) people.²² Under law, promoting “non-traditional sexual relations” to children includes: “spreading information aimed at instilling in children non-traditional sexual arrangements, the attractiveness of non-traditional sexual relations and/or a distorted view that society places an equal value on traditional and non-traditional sexual relations or propagating information on non-traditional sexual relations making them appear interesting.”²³ The law consists of a series of amendments to the law “On Protection of Children from Information Harmful to Their Health and Development and to the Code of Administrative Violations.” Online information deemed to represent “propaganda of non-traditional sexual relations” can be added to the “internet blacklist” described above.

<http://pravo.gov.ru/proxy/ips/?searchres=&&bpas=cdo0000&&intelsearch=28+%E8%FE%EB%FF+2012+%E3%EE%E4%E0+N+139-%D4%C7&&sort=-1> (accessed November 25, 2016).

²⁰ “Reviewing websites in the unified registry [Рассмотрение заявок в едином реестре],” *Roskomnadzor*, <http://eais.rkn.gov.ru/> (accessed November 26, 2016).

²¹ Federal Law of June 29, 2013 № 135-FZ, “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 [Федеральный закон от 29 июня 2013 г. № 135-ФЗ “О внесении изменений в статью 5 Федерального закона “О защите детей от информации, причиняющей вред их здоровью и развитию” и отдельные законодательные акты Российской Федерации в целях защиты детей от информации, пропагандирующей отрицание традиционных семейных ценностей],” <https://rg.ru/2013/06/30/deti-site-dok.html> (accessed January 15, 2017).

²² “Putin signed a law banning gay propaganda to children [Путин подписал закон о запрете гей-пропаганды среди детей],” *RIA Novosti*, June 30, 2013, <https://ria.ru/politics/20130630/946660179.html> (accessed January 15, 2017).

²³ Federal Law № 135-FZ.

The “propaganda” ban applies to information provided via press, television, radio, and the internet, and encompasses anything portraying LGBT relationships as normal or healthy. Under the law, people found responsible for “promotion of non-traditional sexual relations” to any child under 18, an administrative infraction, face fines of up to 5,000 rubles (US\$82); government officials face fines of 40,000 to 50,000 (\$660 to \$826); and organizations, up to 1 million rubles (\$16,521) or a suspension of activity for up to 90 days. Heavier fines may be imposed for the same actions if done through mass media and telecommunications, including the internet.²⁴

Offending Religious Feelings of Believers

A 2013 law makes it a crime to offend the “religious feelings of believers.”²⁵ The law was adopted one year after the 2012 conviction of several members of the feminist protest punk group Pussy Riot for criminal “hooliganism” in retaliation for their anti-Putin performance in a Moscow cathedral. The law amended article 148 of the criminal code to criminalize “a public action expressing clear disrespect for society and committed in order to insult the religious feelings of believers.” Punishment ranges from a heavy fine to one year in prison.²⁶ The law provides no definition of “religious feelings” and sets no threshold for “offending” them, allowing prosecutors and courts tremendous discretion to target critical speech.

“Lugovoi” Law

Federal Law № 398-FZ, adopted in December 2013, empowers the authorities to block—within 24 hours and without a court order—online sources that disseminate calls for mass riots, extremist activities, or participation in unsanctioned mass public events.²⁷ This measure, named after the parliamentarian who proposed it, authorizes the prosecutor

²⁴ Ibid.

²⁵ Federal Law № 136-FZ of June 29, 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 [Федеральный закон № 136-ФЗ от 29 июня 2013 г. “О внесении изменений в статью 148 Уголовного кодекса Российской Федерации и отдельные законодательные акты Российской Федерации в целях противодействия оскорблению религиозных убеждений и чувств граждан”], http://www.consultant.ru/document/cons_doc_LAW_148270/ (accessed July 1, 2016). See also, Rachel Denber (Human Rights Watch), “Pussy Riot and Russia’s Surreal Justice,” commentary, *CNN*, August 17, 2012, <https://www.hrw.org/news/2012/08/17/pussy-riot-and-russias-surreal-justice>.

²⁶ Criminal Code of Russia, art. 148, parts 1,2.

²⁷ Federal Law from December 28, 2013 № 398-FZ “On Amendments to the Federal Law ‘On Information, Information Technologies and Protection of Information’”, <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=156518&fld=134&dst=1000000001,0&rnd=0.3726380723019302#0> (accessed January 15, 2017).

general or his deputies to ask Roskomnadzor to block access to media containing such content. Based on the law, the prosecutor's office must provide Roskomnadzor with the site's domain name, web address, and the specific webpages containing the banned content." Once Roskomnadzor receives the request, it must immediately notify internet service providers about the banned content. The provider then must block access to the website and has 24 hours to notify the website's owners, who must at once remove the banned content. Website owners can seek judicial appeal. Russia's Presidential Human Rights Council advised the president against signing the law, calling it excessively restrictive and warning about its potential for selective, arbitrary implementation.²⁸ As described below, the authorities have repeatedly used the law to target critics.

Separatist Calls

Separatism is a form of extremism under Russian law, and making separatist calls is prohibited by article 280 of the country's criminal code. Nevertheless, in December 2013 parliament adopted article 280.1, criminalizing "public, online calls aimed at violating the territorial integrity of the Russian Federation." As described below, the authorities have used this new measure to prosecute and intimidate critics of Russia's actions in Crimea.

2014

"Bloggers' Law"

Adopted as part of broader counterterrorism legislation in April 2014, the "Bloggers' Law" requires Russian bloggers with more than 3,000 unique visits per day to register with Roskomnadzor.²⁹ The term "blogger" is defined broadly and may include anyone who posts on microblogs such as Twitter, or social networks, which could bring many popular social media users within the law. Once registered, those bloggers assume practically the same legal constraints and responsibilities as mass media outlets, without the same protections or privileges. They are held responsible for verifying information for accuracy, indicating the minimal age of the intended audience, ensuring data privacy protections, and complying

²⁸ "Russia: Halt Orders to Block Online Media," Human Rights Watch news release, March 23, 2014, <https://www.hrw.org/news/2014/03/23/russia-halt-orders-block-online-media>.

²⁹ Federal Law № FZ-97 from May 5, 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," http://www.consultant.ru/document/cons_doc_LAW_162586/ (accessed January 17, 2017.)

with restrictions on support of electoral candidates. Also, they can be held liable for comments posted by third parties on their website or social media page. Bloggers registered in the “3,000 visitors” category are also required to provide their real surname, initials, and contact details on their websites or pages. If they fail to do this, Roskomnadzor may instruct blogging platform providers or site administrators to provide additional information about such users, including names and contact information, to the authorities.³⁰

The law also introduces the concept of “organizers of dissemination of information” on the internet, which is a person or entity “providing informational systems or software aimed at or used for receiving, transferring, delivering or processing users' electronic messages on the Internet.”³¹ Under this broad definition, any service which enables its users to communicate with each other will fall within the definition of an “information dissemination organizer,” including social media platforms and online messenger applications. The law instructs Roskomnadzor to create and manage the national database of organizers of information dissemination.³² Failure to register with Roskomnadzor is punishable by websites or mobile applications being blocked and/or fines of up to 3,000 rubles (US\$49) for individuals, up to 30,000 rubles (US\$493) for officials and up to 300,000 rubles (US\$4,938) for entities.³³ As with the registries of bloggers, news aggregators and banned websites, while it is possible to search the registry to verify whether a specific entry has been added to the list, the list itself is not publicly available. According to Roskomsvoboda, an activist group that advocates for internet freedom, at this writing the list consists of 85 online entities, including the email service Mail.ru, the search engine Yandex, and VKontakte. It does not, at this writing, include some major online messenger applications, such as WhatsApp, but in June 2017, the online messenger application Telegram was added to the list.³⁴ Telegram Organizers of information dissemination are required to store certain user data for six months, raising

³⁰ “Russia: Veto Law to Restrict Online Freedom,” Human Rights Watch news release, April 24, 2014, <https://www.hrw.org/news/2014/04/24/russia-veto-law-restrict-online-freedom>.

³¹ Federal Law № FZ-97 from May 5, 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”, art. 1.1.

³² See: <https://97-fz.rkn.gov.ru/organizer-dissemination/viewregistry/>.

³³ Federal Law № FZ-97 from May 5, 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”, art. 2.3.

³⁴ Registry of Organizers of Information Dissemination, *Roskomsvoboda*, <https://reestr.rublacklist.net/distributors/2> (accessed February 17, 2017).

privacy concerns by making it easier for authorities to identify internet users. They are also required to provide this information to law enforcement and security services at their request and install equipment to facilitate interception of communications.³⁵

Media Ownership Laws

In October 2014, parliament amended the Mass Media Law to, among other things, reduce the permissible percentage of foreign ownership of any print media, online media, television, or radio broadcasters from 50 to 20 percent.³⁶ Another set of amendments to the Mass Media Law and the Code of Administrative Offenses, enacted in December 2015, requires media outlets, broadcasters, and publishers to report to Roskomnadzor all funding originating from “international sources,” which is broadly defined.³⁷

Rehabilitation of Nazism

A May 2014 law added article 354.1 to Russia’s Criminal Code, establishing fines of up to 300,000 rubles (about \$4,956) or prison terms of up to five years to those convicted for “rehabilitation of Nazism,” a formulation ostensibly aimed at glorifying Nazism.³⁸ If the offense involves the use of public office or the media the maximum punishment rises to 500,000 rubles in fines (US\$ 8,260) or up to five years in prison with a ban from certain posts and professions, for another three years.³⁹ Experts criticized the law as vague and overly broad, with potential negative impact on journalists, archivists, museum curators, and historians.⁴⁰ Its selective implementation has so far led to several unjust sentences.⁴¹

³⁵ Federal Law № FZ-97, arts. 1.1.

³⁶ Federal Law № 305-FZ from October 14, 2014 “On Amendments to the Law of Russian Federation ‘On Mass Media’”, http://www.consultant.ru/document/cons_doc_LAW_169740/3docac60971a511280cbba229d9b6329c07731f7/#dst100009 (accessed February 10, 2017).

³⁷ Federal Law № 464-FZ from December 30, 2015 “On Amendments to the Law on Mass Media and the Code of Administrative Offenses”, http://www.consultant.ru/document/cons_doc_LAW_191539/3docac60971a511280cbba229d9b6329c07731f7/#dst100009 (accessed February 10, 2017).

³⁸ Federal Law № 128-FZ from May 5, 2014 “On Amendments to Separate Legislative Acts of the Russian Federation” [Федеральный закон № 128-ФЗ от 5 мая 2014 г. «О внесении изменений в отдельные законодательные акты Российской Федерации»], http://www.consultant.ru/document/cons_doc_LAW_162575/.

³⁹ Ibid.

⁴⁰ Howard Amos, “Russia Steps Up War on Nazi Imagery,” *The Moscow Times*, May 14, 2015, <https://themoscowtimes.com/articles/russia-steps-up-war-on-nazi-imagery-46582> (accessed February 3, 2017).

⁴¹ Ibid. See also an example below, Charges of Rehabilitation of Nazism.

2015

Data Storage Law

Federal Law № 242-FZ, which entered into force in September 2015, requires website operators and service providers to store and process personal data of Russian citizens on servers located inside Russia.⁴² The law applies to email services, social networks, and search engines, such as Facebook and Google, and requires certain service providers, foreign and domestic, to store all personal data of Russian citizens in databases located inside the country. Failure to comply can result in fines or even a blocking order against the website.

2016

“Yarovaya” Amendments

The “Yarovaya” amendments, named for their key author, Irina Yarovaya, a member of parliament from the ruling United Russia party, were signed into law by President Putin in July 2016.⁴³ The amendments include numerous provisions that severely undermine the right to privacy and are detrimental to freedom of expression on the internet.⁴⁴

The amendments require telecommunications and certain internet companies to retain copies of all contents of communications for six months, including text messages, voice, data, and images.⁴⁵ Companies must also retain communications metadata for up to three years, which could include information about the time, location, and sender and recipients of messages. Internet and telecommunications companies will be required to disclose communications and metadata, as well as “all other information necessary,” to authorities on request and without a court order. Under the law, all the above-mentioned data must be

⁴² Federal Law № 242-FZ from July 2014 “On Amendments to Separate Legislative Acts Concerning Processing Personal Data in information and Telecommunication Technologies,” <http://base.garant.ru/70700506/> (accessed February 10, 2017).

⁴³ The provision requiring telecommunications and internet companies to retain copies of all contents of communications for six months, including text messages, voice, data, and images will enter into force in July 2018.

⁴⁴ The amendments are a set of two federal laws: Federal Law № 374-FZ from July 6, 2016 “On Amendments to the Federal Law ‘On Combating Terrorism’ and Separate Legislative Acts Concerning Countering Terrorism and Ensuring Public Safety”, <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=201078&fld=134&dst=1000000001,0&rnd=0.4015094842406974#0> (accessed February 19, 2017); and Federal Law № 375-FZ from July 6, 2016 “On Amendments to the Criminal Code and the Criminal Procedure Code of the Russian Federation Introducing Additional Counter-Terrorism and Public Safety Measures”, http://www.consultant.ru/document/cons_doc_LAW_201087/ (accessed February 19, 2017.)

⁴⁵ This provision is scheduled to enter into force in July 2018.

stored on Russian territory. The law increases penalties for companies that fail to disclose requested information, with fines of up to one million rubles (US\$16,521).⁴⁶

The Yarovaya amendments also require companies to provide security authorities the “information necessary for decoding” electronic messages if they encode messages or allow their users to employ “additional coding.”⁴⁷ Since a substantial proportion of internet traffic is “encoded” in some form, this provision affects a broad range of online activity. At a minimum, it could require companies to hand over encryption keys. But the provision also raises questions about how it will apply to companies that do not retain copies of encryption keys, like some major online messenger applications. It could potentially lead to a ban of such services or a requirement that companies build “back doors” and weaken the security of encrypted tools.⁴⁸

The Yarovaya amendments also affect issues not directly related to online communication. For example, they ban proselytizing and public speaking outside of officially recognized religious institutions and cemeteries, with the objective of engaging others in the activities of a religious organization. The ban does not apply to priests, heads of registered religious organizations, and persons specifically designated by heads of registered religious organizations.⁴⁹

The amendments also criminalize “the failure to report” a wide range of crimes related to terrorism and extremism with little specificity on when such a reporting requirement would apply.⁵⁰ The amendments increase penalties for “public justification of terrorism” online and

⁴⁶ Federal Law № 374-FZ, arts. 11, 13, 15.

⁴⁷ Ibid.

⁴⁸ In July 2016, Russia’s Federal Security Service issued order № 432 “On providing data by the organizers of sharing information on the Internet to the Federal Security Service of the Russian Federation, necessary for decoding digital communications of Internet users [Об утверждении Порядка представления организаторами распространения информации в информационно-телекоммуникационной сети «Интернет» в Федеральную службу безопасности Российской Федерации информации, необходимой для декодирования принимаемых, передаваемых, доставляемых и (или) обрабатываемых электронных сообщений пользователей информационно-телекоммуникационной сети «Интернет»]”. The order established the procedure of providing encryption keys to the authorized department of the Federal Security Service (in Russian, “Организационно-аналитическое управление Научно-технической службы ФСБ РФ”) and stipulates a fine of 1 million rubles (US\$16,521) for failure to comply. The order is available at <https://rg.ru/2016/09/02/fsb-prikaz432-site-dok.html>.

⁴⁹ Federal Law № 374-FZ from July 6, 2016 “On Amendments to the Federal Law ‘On Combating Terrorism’ and Separate Legislative Acts Concerning Countering Terrorism and Ensuring Public Safety”, art. 8.

⁵⁰ Federal Law № 375-FZ, art. 1.

penalize “inducing, recruiting, or otherwise involving” others in mass unrest. They also increase penalties for a wide range of other crimes related to terrorism and extremism.⁵¹

2017

Law Regulating News Aggregators

Amendments to the federal law “On Information, Information Technologies and Protection of Information” and the administrative code, adopted in June 2016, entered into force in January 2017. They require owners of online news aggregator sites with more than one million daily users to be accountable for the content of all information posted on the sites, except when such content represents a verbatim reproduction of materials published by registered media outlets.⁵² The amendments apply to news aggregators, including search engines and potentially social media sites, that disseminate news in Russian or other languages of the Russia Federation and restrict the ownership of such news aggregators to Russian companies or citizens.⁵³

Draft Law Banning VPNs and Internet Anonymizers

In June 2017, a group of members of parliament introduced into parliament a draft law banning software which allows access to internet content that has been banned in Russia.⁵⁴ The bill prohibits owners of VPN services and internet anonymizers from providing access to banned websites and empowers Roskomnadzor to block sites which provide instructions on how to circumvent government blocking and use blocked sites.⁵⁵

⁵¹ Ibid.

⁵² Federal Law № 208-FZ from June 23, 2016 “On Amendments to the Federal Law ‘On Information, Information Technologies and Data Protection’ and the Code of Administrative Offenses”, <http://www.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=200019#o> (accessed February 16, 2017).

⁵³ Ibid. See also, “The State Duma Passed a Law on News Aggregators [Дума приняла закон о новостных агрегаторах]”, *RBC*, June 10, 2016, <http://www.rbc.ru/rbcfreenews/575ac8e79a7947f486a8fcf1?from=newsfeed> (accessed January 31, 2016).

⁵⁴ Draft Law № 195446-7 from June 8, 2017, “On introducing amendments to the Federal Law “On Information, information Technology and Protection of Information”, [http://asozd2.duma.gov.ru/addwork/scans.nsf/ID/F071CE249CC1BD814325813900378252/\\$File/195446-7_08062017_195446-7.PDF?OpenElement](http://asozd2.duma.gov.ru/addwork/scans.nsf/ID/F071CE249CC1BD814325813900378252/$File/195446-7_08062017_195446-7.PDF?OpenElement) (accessed June 15, 2017).

⁵⁵ Ibid.

Draft Law Banning Anonymity for Users of Online Messenger Applications

On June 14, 2017, State Duma adopted in first reading a draft law prohibiting anonymity for users of online messaging applications.⁵⁶ The draft law requires companies registered in Russia as “organizers of information dissemination”, including online messaging applications, to identify their users by their cell phone numbers and prohibits them from working with unidentified users.⁵⁷ Failure to comply is punishable by fines of up to 5,000 rubles (about US\$82) for individuals, up to 50,000 rubles (\$826) for officials and up to 1 million rubles (US\$16,521) for companies. Under the draft law, applications that fail to comply with requirements to restrict anonymous accounts would also face blocking in Russia.⁵⁸

⁵⁶ Draft Law № 184222-7 FZ from May 24, 2017 “On Amendments to the Federal Law “On Information, Information Technologies and Protection of Information,” [http://asozd2.duma.gov.ru/addwork/scans.nsf/ID/B6DD5C7F26CF58344325812A002B840B/\\$File/184222-7_24052017_184222-7.PDF](http://asozd2.duma.gov.ru/addwork/scans.nsf/ID/B6DD5C7F26CF58344325812A002B840B/$File/184222-7_24052017_184222-7.PDF) (accessed June 15, 2017).

⁵⁷ *Ibid.* For the definition of “organizers of information’ dissemination,” see above “Bloggers’ Law.”

⁵⁸ *Ibid.*

III. Government Control of Mass Media

Today's level of state intrusion in the media is unprecedented in Russia's post-Soviet period. Over the last five years, much of the mainstream media, including television, print outlets, and websites, have become almost exclusively the voice of the state, as described below. Some mainstream media use elaborate propaganda tools, including in some cases blatant misinformation, to mobilize patriotic support for the government and its agenda. The laws passed since 2012, outlined above, have dramatically increased the state's control over the media landscape.

Formal and Informal State Control of Mass Media

The Russian government owns, partially owns, or exerts considerable influence over all the main television broadcasters. This includes three channels with nationwide coverage: Channel One (in which the government holds a 51 percent share), Russia One (run by the state-owned Russian State Television and Radio Broadcasting Company [VGTRK]), and NTV (run by the state-controlled Russian energy giant Gazprom).⁵⁹ In addition, of the three main Russian news agencies, two, TASS and Rossiya Segodnya (formerly RIA Novosti) are state-owned, and Interfax is privately owned.⁶⁰

Media consumption patterns are clearly changing in Russia, particularly among the younger generation. The majority of people in Russia, 52 percent, still get their news from television, a significant drop since 2015, when this figure stood at 62 percent.⁶¹ The share of people who go online to get their news increased from 22 percent to 32 percent in the same time period. Among people aged 25 to 34 years old, this figure stands at 50 percent, and it is 65 percent among Russians aged 18 to 24.⁶²

⁵⁹ "Russia Profile – Media," *BBC News*, February 25, 2015, <http://www.bbc.com/news/world-europe-17840134> (accessed November 29, 2016).

⁶⁰ Alyssa Rosenberg, "How censorship works in Vladimir Putin's Russia", *The Washington Post*, February 9, 2016, https://www.washingtonpost.com/news/act-four/wp/2016/02/09/how-censorship-works-in-vladimir-putins-russia/?utm_term=.4c85a616e639 (accessed November 30, 2016).

⁶¹ The survey was carried out by the state polling agency, VTsIOM. See, "Internet vs. television: the battle goes on," *VTsIOM*, May 3, 2017, <https://wciom.ru/index.php?id=236&uid=116190> (accessed on June 20, 2017).

⁶² *Ibid.*

Other forms of media—such as radio and print media—are unable to reach as wide an audience and thus struggle to influence public discourse. The most widely read publications support the Kremlin with the notable exception of the newspaper *Novaya Gazeta*, which has retained its editorial independence. Those media critical of the government regularly report pressure from the authorities and are compelled to exercise self-censorship.⁶³ The selective and, at times, arbitrary nature of enforcement by the government’s media and communications oversight agency also contributes to increasing self-censorship.⁶⁴

Since 2012, the Kremlin has forced several formerly independent media outlets to toe the line through forced ownership and editorial changes. This has included the 2013 reorganization of RIA Novosti, once the most independent of the state-run media, into Rossiya Segodnya.⁶⁵ The new aim of Rossiya Segodnya, according to Sergei Ivanov, then President Putin’s chief of staff, was “to explain to the world that Russia pursues an independent policy and is firmly committed to defending its national interests.”⁶⁶ A former RIA Novosti top manager told Human Rights Watch that with Rossiya Segodnya, the editorial mission of RIA Novosti changed “from reporting news and facts with professionalism, to becoming servants of the state. No one was forced to quit, there was no purge, but many people [including me] chose not to stay.”⁶⁷

In the case of Lenta.ru, then the country’s leading independent news agency, the authorities seized an opportunity to force out the agency’s independent leadership. In 2014, Lenta.ru published an article with links to materials deemed by the authorities to be

⁶³ “Russia”, Freedom in the World 2016, *Freedom House*, 2016, <https://freedomhouse.org/report/freedom-world/2016/russia> (accessed December 28, 2016).

⁶⁴ Alyssa Rosenberg, “How censorship works in Vladimir Putin’s Russia”, *The Washington Post*, February 9, 2016, https://www.washingtonpost.com/news/act-four/wp/2016/02/09/how-censorship-works-in-vladimir-putins-russia/?utm_term=.4c85a616e639 (accessed November 30, 2016).

⁶⁵ Elizaveta Surganova “Agency with No Cockerels: How RIA was Transformed into Russia Today,” *Forbes*, December 10, 2014, <http://www.forbes.ru/kompanii/internet-telekom-i-media/275199-agentstvo-bez-petukhov-kak-ria-novosti-prevrashchalos-v-ros> (accessed March 3, 2017).

⁶⁶ “International agency “Russia Today” will be created on the base of RIA Novosti [«Международное агентство “Россия сегодня” создается на базе РИА Новости»], *RIA Novosti*, December 9, 2013, https://ria.ru/news_company/20131209/982905485.html (accessed November 29, 2016).

⁶⁷ Human Rights Watch telephone interview with former top manager at RIA Novosti, March 24, 2017.

“extremist” (described below). Chief Editor Galina Timchenko was swiftly fired and almost the entire staff resigned in protest.⁶⁸

The 2014 media ownership law catalyzed the establishment of direct state influence on independent outlets by requiring some foreign stakeholders to sell their shares to Russian nationals, opening the door to political manipulation. For example, the editorial policy of the Russian language version of Forbes, formerly known for its critical reporting, has changed since the sale of foreign-held shares. The new Russian owner, Alexander Fedotov, stated publicly his intention to make the outlet “less political.”⁶⁹ The law also led to the selling, in the fall of 2015, of foreign stakes in Vedomosti, a prominent, critical business newspaper, by Finland’s Sanoma Group, the Financial Times Group, and the Wall Street Journal, to entrepreneur Damian Kudryavtsev. Kudryavtsev is the former chief executive of Kommersant, one of Russia’s largest media holdings, and an ex-business partner of controversial Russian oligarch Boris Berezovsky. Leonid Bershidsky, the paper’s founding editor, criticized the deal for lack of transparency and for destroying Vedomosti’s meticulous commitment to impartiality.⁷⁰ In the spring of 2017, Vedomosti editor-in-chief Tatiana Lysova resigned from the paper. ⁷¹Vedomosti’s board member, professor Anna Kachkaeva told Human Rights Watch that, despite “dramatic” developments in the newspaper’s management, Vedomosti’s editorial policy has not changed so far.⁷²

In 2015, the Sanoma Group also sold to Kudryavtsev its stake in The Moscow Times, an English language newspaper, part of the same publishing house as Vedomosti.

⁶⁸ “Russia: Halt Orders to Block Online Media,” Human Rights Watch news release, March 23, 2014.

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

⁶⁹ “Forbes’ New Owner to RBC: We Will Try to Not Go Into Politics,” *RBC*, October 16, 2015,

http://www.rbc.ru/interview/technology_and_media/16/10/2015/561fd53e9a794751f652b1d5 (accessed January 10, 2017).

⁷⁰ Dugald Baird, “Sanoma Sells Vedomosti Stake Amid Concerns over Russian Media Laws,” *The Guardian*, May 1, 2015,

<https://www.theguardian.com/media/2015/may/01/sanoma-sells-vedomosti-stake-amid-concerns-over-russian-media-laws>. See also: “Damian Kudryavtsev will become the owner of 100% of *Vedomosti* [Демьян Кудрявцев станет владельцем

100% “Ведомостей”], *Vedomosti*, November 20, 2015, <https://www.vedomosti.ru/technology/articles/2015/11/20/617777-kudryavtsev-vladeltsem-100-vedomostei> (accessed December 1, 2016).

⁷¹ Lysova was replaced by Ilya Bulavinov, former chief of online broadcasting at Channel One. “Former Chief of Online

Broadcasting at Channel One Becomes Vedomosti’s New Editor-in-Chief [Главным редактором “Ведомостей” станет

директор интернет-вещания Первого канала], *Vedomosti*, March 23, 2017, <https://www.vedomosti.ru/technology/articles/2017/03/23/682359-vedomostei-pervogo-kanala> (accessed May 5, 2017).

⁷² Human Rights Watch online interview with Anna Kachkaeva, June 15, 2017.

Kudryavtsev promised that the paper's editorial policy would not change.⁷³ Oliver Carroll, managing editor at *The Moscow Times*, said its ownership structure and the fact it is an English language publication both give it a degree of protection from censorship.⁷⁴ However, Carroll noted that the paper needed to take into account "advertiser sensitivities" regarding its content since much advertising is controlled by Kremlin-friendly organizations. Because of the weakness of the advertising market in Russia, many publications are in competition for the same business and this fosters a risk-averse culture.⁷⁵

Stifling Independent Media Outlets

In the examples described below, authorities used inspections, warnings, lawsuits, and other mechanisms to interfere with independent media.

RBC

RBC is the leading independent news company in Russia. It includes a daily newspaper, online news website, and the only 24-hour business news television channel, which broadcasts both online and as a satellite TV channel.

RBC's main website has a monthly audience of around 11 million from desktop traffic alone, making it one of Russia's top online news sources.⁷⁶ RBC's influence stems from this reach and from its funding. Since 2013, it has been owned by Russian oligarch Mikhail Prokhorov's investment fund ONEXIM. Prokhorov invested heavily in the company, expanding the staff by recruiting from other media outlets.

RBC is known for hard-hitting investigative reporting. It was the only major, mainstream Russian outlet to cover the Panama Papers in 2016, which were leaked financial documents that included information on Putin's ties to businessman and musician Sergei Roldugin. The leaked documents alleged that Roldugin funneled US\$2 billion through

⁷³ Peter Hobson, "Russian Owner Wants Modernized Moscow Times, Not Kremlin Stooge," *The Moscow Times*, May 4, 2015, <https://themoscowtimes.com/articles/russian-owner-wants-modernized-moscow-times-not-kremlin-stooge-46290> (accessed December 1, 2016).

⁷⁴ Human Rights Watch email correspondence with Oliver Carroll, managing editor at *The Moscow Times*, December 12, 2016.

⁷⁵ *Ibid.*

⁷⁶ Stephen Ennis, "Russia RBC Shake-up Seen as New Putin Raid on Media," *BBC News*, May 16, 2016, <http://www.bbc.com/news/world-europe-36301648> (accessed November 10, 2016).

offshore accounts.⁷⁷ In April and May 2016, RBC published several articles about President Putin's alleged luxury residence, and about the vast fortunes of his family and inner circle.

On May 13, 2016, RBC dropped its editor-in-chief Elizaveta Osetinskaya, the chief editor of RBC's news agency Roman Badanin, and chief editor of RBC's newspaper, Maxim Solyus. Over the next two months, more than half of the employees left the newspaper in protest.⁷⁸ In July, Elizabeth Golikova and Igor Trostnikov of TASS, a state-owned news agency, took over as chief editors of RBC.⁷⁹

In an interview with the Financial Times, Osetinskaya emphasized RBC's investigative reporting as the reason behind staff dismissal, in particular its investigations into the vast fortunes of members of Putin's inner circle.⁸⁰

In the first half of 2016, police raided RBC offices, and authorities started fraud probes.⁸¹ In April 2016, law enforcement officers carried out a search in Mikhail Prokhorov's offices.⁸²

In April 2016, the government-controlled oil company Rosneft, sued RBC seeking 3.179 billion rubles (approximately US\$51,611,916) in damages, alleging business reputational damage from an RBC article about Rosneft requesting government protection.⁸³ RBC lawyers argued that the lawsuit was aimed at bankrupting RBC, since the damages sought significantly exceeded RBC's annual revenue. In December 2016, a

⁷⁷ Ibid.

⁷⁸ "RBC Following the Chief Editors 20 Journalists Leave [РБК вслед за главными редакторами покинули еще 20 журналистов]," *Radio Free Europe Russia Service*, July 15, 2016, <http://www.svoboda.org/a/27859994.html> (accessed November 29, 2016).

⁷⁹ "TASS Former Staff Become Chief Editors at RBK [Редакцию РБК возглавили выходцы из ТАСС]," *Vedomosti*, July 7, 2016, <http://www.vedomosti.ru/technology/articles/2016/07/07/648323-golikova-trostnikov-rbk> (accessed November 10, 2016).

⁸⁰ Max Seddon, "Editors at Russia's RBC Media Group Sacked after Putin Article", *Financial Times*, May 18, 2016, <https://www.ft.com/content/45a8a9c4-1c3b-11e6-b286-cddde55ca122?mhq5j=e2> (accessed May 21, 2016). See also: "Osetinskaya cited possible reasons for dismissal of RBC editors [Осетинская назвала возможные причины увольнения редакторов РБК]," *Vedomosti*, May 18, 2016, <https://www.vedomosti.ru/technology/articles/2016/05/18/641510-osetinskaya-nazvala> (accessed May 21, 2017).

⁸¹ Nataliya Vasilyeva, "Russian Media Resignations Follow Increased Pressure", *Associated Press*, May 13, 2016, <https://arnews.com/3faafe006e7e45c2abe198da7ed2492d/3-top-editors-resign-top-russian-media-firm-rbc> (accessed May 17, 2016).

⁸² Stephen Ennis, "Russia RBC Shake-up Seen as New Putin Raid on Media," *BBC News*, May 16, 2016, <http://www.bbc.com/news/world-europe-36301648> (accessed November 10, 2016).

⁸³ "The Court Ordered RBC to Pay Almost 8,000 Times Less than RosNeft Demands [Суд Взыскал с РБК почти в 8 тыс. раз меньше требований "Роснефти"]", *RBC*, December 12, 2016, <http://www.rbc.ru/business/12/12/2016/584e6db39a79474f7do483b1> (accessed January 30, 2017).

court ordered RBC to remove the article and pay Rosneft the amount of 390,000 rubles (approximately US\$6,443).⁸⁴

RBC survived financially and remains a major media outlet. A former RBC senior financial reporter told Human Rights Watch there have been no dramatic shifts in the outlet's editorial line and that it continues to do solid investigative reporting. But it has stopped doing reporting on such sensitive topics as Putin's family and inner circle.⁸⁵ Moreover, the intense pressure and harassment RBC faced sends a chilling example to all outlets of the consequences to be faced for investigative reporting on such taboo issues.

In spring 2017, Mikhail Prokhorov began negotiating a deal with Grigory Berezkin, a major businessman close to the government who expressed interest in buying RBC. When commenting on the issue, the Kremlin's press secretary described RBC as "one of the best, dynamically developing business mass media outlets" and said that "negotiations about the sale are the owner's personal business."⁸⁶ At this writing, the deal has not been finalized yet but appears imminent.⁸⁷

TV Dozhd

Dozhd, an independent TV channel which mostly broadcasts live, was launched in 2010. It frequently invited to the studio public and political figures informally blacklisted by federal television channels and gave extensive coverage to politically sensitive events, including the 2011-2012 public protests and the Pussy Riot trial. A measure of its success during these years was the creation of Kontr-TV, established as a pro-Kremlin online alternative to Dozhd, and funded by the Kremlin-affiliated Institute for Social, Economic and Political Research.⁸⁸

Dozhd came under pressure after airing a controversial debate it broadcast in January 2014, which included an audience poll on whether the Soviets should have surrendered

⁸⁴ Ibid.

⁸⁵ Human Rights Watch interview, name withheld on request, New York, April 12, 2017.

⁸⁶ "The Kremlin commented on the news about the possible sale of RBC [Кремль прокомментировал новости о возможной продаже РБК]," *RBC*, April 12, 2017, <http://www.rbc.ru/politics/12/04/2017/58edf87a9a7947b642aeffce> (accessed May 5, 2017).

⁸⁷ "FAC approved the sale of RBC [«ФАС одобрила покупку РБК»]," *Vedomosti*, May 26, 2017, <https://www.vedomosti.ru/technology/articles/2017/05/26/691669-fas-odobrila-rbk> (accessed July 3, 2017).

⁸⁸ Robert W. Ortung and Christopher Walker, "Putin and Russia's Crippled Media," *Russian Analytical Digest*, No. 123 (2013), <http://e-collection.library.ethz.ch/eserv/eth:7220/eth-7220-01.pdf> accessed November 30, 2016).

Leningrad during World War II to save lives.⁸⁹ The poll coincided with the 70th anniversary of the lifting of the Nazis' 900-day siege of Leningrad. Several of Russia's largest TV providers dropped Dozhd immediately following the broadcast and, by February 10, 2014, Tricolor TV, Dozhd's remaining federal cable provider stopped airing it.⁹⁰ With its removal from major cable networks, the number of households in Russia able to access TV Dozhd dropped by more than 80 percent: from 17.4 million to fewer than 500,000.⁹¹ As of February 2016, Dozhd is reported to have 72,000 online subscribers plus 20,000 who were subscribed on a trial basis.⁹² At this writing, Dozhd remains cut off from federal cable television viewers and is available only on the internet.

A group of parliament members from the ruling United Russia party strongly criticized the broadcast and called on the general prosecutor's office to investigate Dozhd for extremism.⁹³ Putin's press secretary, Dmitry Peskov, said that the channel had crossed "a moral red line."⁹⁴ Although Dozhd editors removed the poll and issued an apology, the station suffered scores of problems in addition to loss of access to broadcasters: tax and labor authorities made unannounced audits;⁹⁵ its landlord refused to renew its lease;⁹⁶ and the majority of its advertisers withdrew.⁹⁷

TV Dozhd journalists argued that the decision to drop the channel was "a political move, planned for some months."⁹⁸ Tikhon Dzyadko, one of TV Dozhd's leading journalists, wrote

⁸⁹ Luke Harding, "Russian News Channel TV Rain May Close After Main Carrier Pulls Plug," *The Guardian*, February 4, 2014, <https://www.theguardian.com/world/2014/feb/04/russian-news-channel-tv-rain> (accessed November 30, 2016).

⁹⁰ "The Kremlin's Olympic Crackdown," Human Rights Watch commentary, February 17, 2014, <https://www.hrw.org/news/2014/02/17/kremlins-olympic-crackdown>.

⁹¹ Luke Harding, "Russian News Channel TV Rain May Close After Main Carrier Pulls Plug," *The Guardian*.

⁹² "Current number of TV Rain audience is announced [Названо нынешнее количество подписчиков телеканала «Дождь»]," *Sat-World.NET*, February 23, 2016, <http://sat-world.net/1360-nazvano-nyнешnee-kolichestvo-podpischikov-telekanala-dozhd.html> (accessed March 24, 2017).

⁹³ "The Kremlin's Olympic Crackdown," Human Rights Watch commentary, February 17, 2014, <https://www.hrw.org/news/2014/02/17/kremlins-olympic-crackdown>.

⁹⁴ "Peskov: TV Rain Crossed a Moral Red Line [Песков: Дождь перешел моральную красную черту]," *Vesti.ru*, January 29, 2014, <http://www.vesti.ru/doc.html?id=1230305&tid=106174> (accessed November 30, 2016).

⁹⁵ "The Kremlin's Olympic Crackdown," Human Rights Watch commentary, February 17, 2014, <https://www.hrw.org/news/2014/02/17/kremlins-olympic-crackdown>.

⁹⁶ Irina Petrovskaya, "Premier Got Rained On [Премьер попал под «Дождь»]," *Novaya Gazeta*, December 11, 2014, <https://www.novayagazeta.ru/articles/2014/12/11/62319-premier-popal-pod-171-dozhd-187> (accessed November 30, 2016).

⁹⁷ Tikhon Dzyadko, "Triumph of the Will: Putin's War against Russia's Last Independent TV Channel," *The Guardian*, April 10, 2014, <https://www.theguardian.com/commentisfree/2014/apr/10/putin-war-dozhd-russias-last-independent-tv-channel> (accessed November 30, 2016).

⁹⁸ Luke Harding, "Russian News Channel TV Rain May Close After Main Carrier Pulls Plug," *The Guardian*.

that the providers publicly said they dropped the channel due to the “offensive” debate/poll, but in private admitted to pressure from the Kremlin.⁹⁹

TV2

TV2 is one of the oldest TV stations in Russia, based in the Siberian city of Tomsk and known for its independent editorial policy. In December 2014, TV2 stopped airing after the state-run regional broadcasting center canceled its contract with the station. In January 2015, TV2 also stopped airing on cable channels.¹⁰⁰

Throughout January, thousands of Tomsk residents staged rallies in support of the station and in protest against what they viewed as part of the governmental crackdown on independent media.¹⁰¹

Following the station’s closure, in February 2015, TV2 staff organized a crowdfunding campaign to help move its broadcasting online, and the station eventually resumed broadcasting through several websites. The channel also secured a grant from Sreda, a private foundation that supports independent media in Russia.¹⁰² Sreda was declared a foreign agent three months later. In February 2015, TV2’s editor-in-chief stated, “The only way we can survive is through the internet.”¹⁰³

⁹⁹ Tikhon Dzyadko, “Triumph of the Will: Putin’s War against Russia’s Last Independent TV Channel,” *The Guardian*.

¹⁰⁰ “12 News Rooms in 5 Years”, *Meduza*.

¹⁰¹ “Protesters Demand Return of TV-2 Television Station in Tomsk,” *The Moscow Times*, January 11, 2015, <https://themoscowtimes.com/news/protesters-demand-return-of-tv-2-television-station-in-tomsk-42752> (accessed January 17, 2017).

¹⁰² Sreda Foundation was shut down in July 2015, after the Ministry of Justice of Russia designated it a “foreign agent”. See, for example, “Foundation ‘Sreda’ Providing Support to Media was Labelled Foreign Agent [Фонд поддержки СМИ “Среда” стал иностранным агентом],” *Vedomosti*, July 28, 2015, <http://www.vedomosti.ru/politics/articles/2015/07/28/602517-finansiruemii-ziminim-fond-sreda-stal-inostrannim-agentom> (accessed January 10, 2017).

¹⁰³ “Tomsk TV-Channel TV2, Shut Down by Authorities, Operates Online [Томский телеканал ТВ2, закрытый властями, работает в интернете],” *VOA Russia*, February 14, 2015, <http://www.golos-ameriki.ru/a/russia-tomsk-tv/2644267.html> (accessed February 1, 2017).

IV. Internet Freedom and Online Censorship

Most Russian mainstream media outlets have for years reproduced the official line on domestic and international issues, without providing a voice for dissenting or alternative views that the state considers undesirable or potentially dangerous to its agenda.¹⁰⁴ Such alternative and critical views found expression online and on social media, but starting in 2012, and accelerating in 2014, authorities stepped up prosecution of the government's critics for speaking out online, subjected internet content to new legal restrictions, blocked thousands of websites and webpages, and adopted or proposed further laws and measures designed to stifle freedom of expression. The restrictions targeted, first and foremost, information on public protests, political satire, information relevant to the LGBT community, and opinions about Russia's actions in Crimea, eastern Ukraine, and Syria.

The Role of the Internet in Russia's Media Landscape

The number of active internet users in Russia is around 100 million people, comprising about 70 percent of the country's population.¹⁰⁵ When Putin left the Kremlin in 2008 after two consecutive presidential terms, only 26 percent of the population was regularly online (slightly higher to the then-global average of 23 percent). By 2012, this number had risen to 60 percent (well above that year's global average of 36 percent). When he returned to the Kremlin after a four-year gap, Putin faced a very different digital landscape.

The mid-2000's saw the rise of global platforms that allowed users to easily and instantly communicate, share user-generated content, and access independent information through social networks, e-mail services, search engines, and other cloud-based services, within countries and across borders.¹⁰⁶ In Russia, these developments also allowed government critics to reach more Russians online. The country's political opposition actively uses social media, blog platforms, and independent news sites to reach their supporters.¹⁰⁷

¹⁰⁴ "Many Russians Called to Say 'Thanks for Crimea, Mister Putin'", Human Rights Watch dispatch, April 17, 2014, <https://www.hrw.org/news/2014/04/17/dispatches-many-russians-called-say-thanks-crimea-mr-putin>.

¹⁰⁵ "Around 100 million Russians active internet users – Russian presidential advisor," *TASS*, December 16, 2016, <http://tass.com/economy/919826> (accessed January 17, 2017).

¹⁰⁶ Soldatov, Andrei and Irina Borogan, *The Red Web: The Struggle Between Russia's Digital Dictators and The New Online Revolutionaries* (New York: Public Affairs, 2015), p. 195.

¹⁰⁷ For example, Alexey Navalny's Twitter account has 1.71 million followers: <https://twitter.com/navalny> (accessed November 21, 2016).

Russians actively use major international social networks, such as Facebook and Twitter, as well as VKontakte and Odnoklassniki, which are Russian-language social networks.

The Kremlin appears deeply apprehensive of the internet's ability to mobilize opposition and views it as a tool to disseminate dangerous ideas. In neighboring Ukraine, a Facebook post by a liberal journalist contributed significantly to mobilizing the November 2013 anti-government public protests, which eventually led to the overthrow of the Russia-backed government.¹⁰⁸ Putin has called the internet “a CIA project,” which threatens Russia's security.¹⁰⁹ The former head of the FSB and Putin's Security Council chief, Nikolai Patrushev, expressed his deep distrust of the internet, which he once said was used by forces “interested in aggravating the socio-political situation.”¹¹⁰

Since 2012, Russian authorities have achieved a great degree of control over mass media, including some internet-based outlets, but independent internet users continue to openly challenge the government's actions and expose discrepancies in the official portrayal of current events.¹¹¹

It is unclear how far the Russian government is prepared to go to control the internet. Responding to a blogger's question in April 2017 about whether Russia would adopt a Chinese-style “firewall” around the Russian internet space, President Putin said,

We prohibit propaganda of suicide, child pornography, terrorism, drug trafficking and so forth. These restrictions are all in effect; though, if you remember, when all of this was back at the discussion stage, there were numerous fears that the authorities would start shutting everything down, banning everything. But no, we have not banned everything. Everything is

¹⁰⁸ Facebook post by Mustafa Nayyem, November 21, 2013, <https://www.facebook.com/Mustafanayyem/posts/10201178184682761> (accessed January 31, 2017).

¹⁰⁹ “Putin called the Internet a CIA Project [Путин заявил, что интернет – это проект ЦРУ],” *BBC Russian Service*, April 24, 2014, http://www.bbc.com/russian/rolling_news/2014/04/140424_rm_putin_csi_internet (accessed November 13, 2016).

¹¹⁰ “Russia Security Chief Says Foreign Sites Foment Protests,” *Reuters*, June 1, 2012, <http://www.reuters.com/article/us-russia-internet-freedom-idUSBRE8500UA20120601> (accessed November 13, 2016).

¹¹¹ For instance, the website StopFake.org was set up by a group of journalists, activists, and media workers with the stated goal of exposing propaganda and misinformation by Russian state media during the conflict in Ukraine: <http://www.stopfake.org/o-nas/> (accessed January 31, 2017).

working normally... Personally, I believe that the [current] restrictions are sufficient at this point.¹¹²

However, the government is still looking for ways to bring the internet under greater state control, including ways to switch off internet access at times of “crisis.”¹¹³ In the spring of 2015, the authorities even ran a simulation of blocking internet access in Russia in case of a hypothetical political crisis.¹¹⁴ In 2016, Russia and China reportedly conducted several joint events and held a series of high-level meetings to discuss collaboration between the two countries on issues of “information security”—a term used in China to justify its comprehensive online censorship practices—presumably aimed at helping the Russian government to gain more extensive control over online activity in Russia.¹¹⁵ VKontakte founder and CEO, Pavel Durov resigned and left the country in April 2014 because of government interference (described in more detail below).¹¹⁶

Russia’s new information security doctrine, which replaced the doctrine adopted in 2000, entered into force in December 2016. Among other things, it calls for “a national system of managing the Russian segment of the internet,” but did not elaborate on how such a system would function.¹¹⁷ Another priority reflected in the document is “liquidating the dependence of domestic industries on foreign information technologies” and ensuring information security by developing effective Russian technologies.¹¹⁸

¹¹² “Vladimir Putin answered questions of media forum participants in St. Petersburg [Владимир Путин ответил на вопросы участников медиафорума ОНФ в Санкт-Петербурге],” *Channel One*, April 3, 2017, http://www.1tv.ru/news/2017-04-03/322765-vladimir_putin_otvetil_na_voprosy_uchastnikov_mediaforuma_onf_v_sankt_peterburge (accessed May 15, 2017).

¹¹³ During a state of emergency, a state may derogate from certain treaty obligations under the International Covenant on Civil and Political Rights and the European Convention on Human Rights. They may limit certain rights, such as freedom of expression, but the treaties also require any restrictions be necessary, proportionate, and non-discriminatory. Shutting down entire internet networks nationwide would be disproportionate.

¹¹⁴ Soldatov, Andrei and Iringa Borogan, “Putin Trolls Facebook, Privacy and Moscow’s New Data Laws”, *Foreign Affairs*, November 3, 2015, <https://www.foreignaffairs.com/articles/russian-federation/2015-11-03/putin-trolls-facebook> (accessed November 25, 2016).

¹¹⁵ “Putin Brings China’s Great Firewall to Russia in Cybersecurity Pact,” *The Guardian*, November 29, 2016, <https://www.theguardian.com/world/2016/nov/29/putin-china-internet-great-firewall-russia-cybersecurity-pact> (accessed February 10, 2017).

¹¹⁶ “Russia: Veto Law to Restrict Online Freedom,” Human Rights Watch news release, April 24, 2014, <https://www.hrw.org/news/2014/04/24/russia-veto-law-restrict-online-freedom>.

¹¹⁷ Presidential Decree № 646 “On Establishing Information Security Doctrine of the Russian Federation [Указ Президента Российской Федерации № 646: “Об утверждении Доктрины информационной безопасности Российской Федерации],” December 5, 2016, <http://kremlin.ru/acts/bank/41460> (accessed January 31, 2017).

¹¹⁸ “New Kremlin Information-Security Doctrine Calls for Managing Internet in Russia”, *Radio Free Europe/Radio Liberty*, December 6, 2016, <http://www.rferl.org/a/russia-informaiton-security-internet-freedom-concerns/28159130.html> (accessed January 31, 2017).

Roskomnadzor

The government’s main engine for enforcing censorship and limiting freedom of expression online is the country’s media oversight agency, the Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications, known by its shortened name—Roskomnadzor.¹¹⁹ Created by presidential decree in 2008, it is in charge of “licensing and permit issuing; control and supervision in telecommunications, information technology, and mass communications.”¹²⁰

Roskomnadzor has the authority to extrajudicially establish whether information online includes “unacceptable content” and, if so, order media outlets, website owners, and content hosting providers to remove it. In practice, Roskomnadzor generally issues such orders in response to demands from other official agencies, including the prosecutor’s office. If media outlets and website owners fail to cooperate with its directives, Roskomnadzor has the authority to blacklist webpages and entire websites and order internet service providers to block them. This chapter, and further chapters in this report, describe instances in which Roskomnadzor’s blocking ability has been used for political purposes to block information about official corruption or that is critical of government policy, such as Russia’s involvement in the armed conflict in eastern Ukraine, the occupation of Crimea, military operations in Syria, or discrimination against LGBT people.

Internet “Blacklists”

The authorities currently maintain at least three separate registries—or blacklists—of banned websites. As described above, authorities can seek to “blacklist” and block websites if they host content designated unlawful by a court ruling or, in the case of the “Child Protection” registry and Lugovoi registry, without a court order.

The authorities have legitimately blocked content that is not protected by free speech protections, for example child abuse images. But they have also blocked expression that may be offensive but should nonetheless enjoy protection from government interference.

¹¹⁹ Federal Service for Supervision in the Sphere of Telecom, Information Technologies and Mass Communications or Roskomnadzor; Федеральная служба по надзору в сфере связи, информационных технологий и массовых коммуникаций, or Роскомнадзор, <https://rkn.gov.ru/>.

¹²⁰ “Historical Background,” *Roskomnadzor*, http://eng.rkn.gov.ru/about/background_information/ (accessed February 3, 2017).

It is difficult to conduct an overall assessment of the content that the government has banned because of the lack of transparency in the registries described below. For instance, while it is possible to search the “Child Protection” and Lugovoi registries to verify whether a single specific website or webpage has been blacklisted, no full list of blocked websites is available.¹²¹ In addition, there is no publicly available information on how to track which websites have been blocked and then unblocked after the harmful content has been removed, and which websites have remained permanently blocked.

Unlike the “Child Protection” registry and Lugovoi registry, the Federal List of Extremist Materials includes a list of publications, audio and video materials, and images that have been banned by a court. The list, which has existed since 2002, is publicly available and maintained by the Ministry of Justice.¹²²

“Child Protection” Blacklist

The “Child Protection” blacklist, established by the 2012 legislative amendments to the law “On Protection of Children from Information Harmful to Their Health and Development” described above,¹²³ targets websites hosting child abuse images, material related to illicit drugs, and information that “incites suicide” or contains “suicide instructions.”¹²⁴ It is reasonable to ban access to such content. However, in the Russian context there are grounds for concern that authorizing government agencies to block content without a court order would lead to banning a much wider range of content that

¹²¹ Unified Registry of Domain Names, Webpages and Network Addresses Allowing to Identify Websites on the Internet containing information prohibited in the Russian Federation [Единый реестр доменных имен, указателей страниц сайтов в сети «Интернет» и сетевых адресов, позволяющих идентифицировать сайты в сети «Интернет», содержащие информацию, распространение которой в Российской Федерации запрещено], <http://eais.rkn.gov.ru/> (accessed November 25, 2016).

¹²² Federal List of Extremist Materials was introduced by the Federal Law №114-FZ “On Combating Extremist Activities” in July 2002. The list is available here: <http://minjust.ru/extremist-materials> (accessed November 24, 2016). At this writing, the list includes 3,931 items.

¹²³ Unified Registry of Domain Names, Webpages and Network Addresses Allowing to Identify Websites on the Internet Containing Information Prohibited in the Russian Federation [Единый реестр доменных имен, указателей страниц сайтов в сети «Интернет» и сетевых адресов, позволяющих идентифицировать сайты в сети «Интернет», содержащие информацию, распространение которой в Российской Федерации запрещено].

¹²⁴ Federal Law № 139-FZ On Introducing Amendments to the Law on Protection of Children from Information Harmful to Their Health and Development [№ 139-ФЗ О внесении изменений в Федеральный закон “О защите детей от информации, причиняющей вред их здоровью и развитию”], July 28, 2012, <http://pravo.gov.ru/proxy/ips/?searchres=&&bpas=cdo0000&&intelsearch=28+%E8%FE%EB%FF+2012+%E3%EE%E4%E0+N+139-%D4%C7&&sort=-1> (accessed November 25, 2016).

might be offensive or unusual, but that poses no harm to children.¹²⁵ Civil society and industry groups have warned that the blacklist process lacks due process safeguards to prevent it becoming an “electronic curtain” that would limit access to information without sufficient checks and balances.¹²⁶

Roskomnadzor has administered the registry since its launch.¹²⁷ Several other government agencies were authorized to submit websites for the Registry without a court order, including the Interior Ministry and Rospotrebnadzor, the Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing. [sic]¹²⁸

Additionally, Russian citizens can also contact Roskomnadzor directly to report supposedly prohibited content.¹²⁹ An investigative report found that the largest number of complaints about websites hosting “prohibited” information comes from the Media Guard, a wing of the pro-Kremlin youth movement Young Guard of United Russia.¹³⁰ The group’s Crowdsourcing Censors page on VKontakte publishes motivational pictures and reports on the number of blocked sites. The group does not hide its agenda. One image, for instance, depicts a man with a rainbow flag, above him a giant finger and the inscription: “You need to quash any plague immediately! LGBT, drug trafficking, perverse propaganda [are] designed to destroy the future.”¹³¹

Lugovoi Blacklist

A separate blacklist was set up for websites under the 2013 Lugovoi Law, which authorized the prosecutor general or his deputies to immediately block access to media that

¹²⁵ Human Rights Watch, *Laws of Attrition: Crackdown on Russia’s Civil Society After Putin’s Return to the Presidency*, April 24, 2013, (New York: Human Rights Watch, 2013), <https://www.hrw.org/report/2013/04/24/laws-attrition/crackdown-russias-civil-society-after-putins-return-presidency>, pp. 57-59.

¹²⁶ “Statement in relation to the draft law № 89417-6 ‘On introducing changes to the Federal Law ‘On protecting children from information harmful to their health and development’ [Заявление членов Совета в отношении законопроекта N 89417-6 “О внесении изменений в Федеральный закон ‘О защите детей от информации, причиняющей вред их здоровью и развитию’]” *Presidential Council for Civil Society and Human Rights*, <http://president-sovet.ru/documents/read/47/> (accessed November 25, 2016).

¹²⁷ Federal Law № 139-FZ, art. 3, para 2.

¹²⁸ The Russian Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing, *Rospotrebnadzor*, <http://www.rospotrebnadzor.ru/en/> (accessed July 1, 2017).

¹²⁹ Unified Registry, <http://eais.rkn.gov.ru/feedback/>.

¹³⁰ Danil Turovsky, “How Roskomnadzor Works [Как устроен Роскомнадзор],” *Meduza*, March 13, 2015, <https://meduza.io/feature/2015/03/13/kak-ustroen-roskomnadzor> (accessed November 25, 2016).

¹³¹ MediaGuard *VKontakte* page, https://vk.com/mediagvardia?z=photo-67431889_349769129%2Falbum-67431889_00%2Frev (accessed January 11, 2017).

“disseminates calls for mass riots, extremist activities, or participation in unsanctioned mass public events.”¹³²

According to a Roskomnadzor statement, 87,000 URLs have been banned in 2016, apparently a “record high” since the law’s adoption.¹³³

According to Roskomsvoboda, an activist group that advocates for internet freedom and conducts regular monitoring of websites and pages that have been banned, the number of blacklisted items has at this writing reached 77,084.¹³⁴ The same group claims that 97 percent of that number were backlisted unlawfully, restricting content that is not actually illegal.¹³⁵

Pressure on Social Media, Online Messaging Apps, and News Aggregators

In November 2016, Russian authorities blocked access in Russia to LinkedIn, a professional social networking service with over 400 million users worldwide and six million in Russia.¹³⁶ The blocking order followed a Moscow district court decision which found the company to be in violation of Russia’s data storage regulations. This was the first case in which a court found a major foreign company in violation of the 2015 Data Storage Law (described above), requiring websites to store the personal data of Russian citizens on servers in Russia.¹³⁷ Russia’s internet ombudsman Dmitry Marinichev, whose mandate is rather widely defined as

¹³² “Registry of Domain Names, Webpages and Network Addresses allowing to Identify Websites on the Internet Containing Calls for Mass Riots, Extremism, Participation in Unlawful Mass Gatherings [Реестр доменных имен, указателей страниц сайтов в сети «Интернет» и сетевых адресов, позволяющих идентифицировать сайты в сети «Интернет», содержащие призывы к массовым беспорядкам, осуществлению экстремистской деятельности, участию в массовых (публичных) мероприятиях, проводимых с нарушением установленного порядка], <http://398-fz.rkn.gov.ru/> (accessed November 26, 2016).

¹³³ Roskomnadzor statement from December 23, 2016, <https://rkn.gov.ru/news/rsoc/news42205.htm> (accessed February 20, 2017). See also, “Banned Doesn’t Mean Deleted [Запрещен – не значит удален],” *RBC*, February 16, 2017, <http://www.rbc.ru/newspaper/2017/02/16/588619a59a79473089dbad69> (accessed March 4, 2017).

¹³⁴ Roskomsvoboda website, <https://reestr.rublacklist.net/visual> (accessed July 3, 2017).

¹³⁵ *Ibid.*

¹³⁶ Mark Scott, “Russia Prepares to Block LinkedIn After Court Ruling,” *The New York Times*, November 10, 2016, <https://www.nytimes.com/2016/11/11/technology/russia-linkedin-data-court-blocked.html?action=click&contentCollection=Technology&module=RelatedCoverage®ion=EndOfArticle&pgtype=article> (accessed February 10, 2017).

¹³⁷ “LinkedIn Blocked in Russia [В России заблокировали LinkedIn],” *Meduza*, November 17, 2016, <https://meduza.io/news/2016/11/17/v-rossii-zablokirovali-linkedin> (accessed January 5, 2017); Shaun Walker, “Russia Blocks Access to LinkedIn Over Foreign-Held Data,” *The Guardian*, November 17, 2016, <https://www.theguardian.com/world/2016/nov/17/russia-blocks-access-to-linkedin-over-foreign-held-data> (accessed November 25, 2016).

representing interests of the “entire internet industry,” acknowledged that the decision was not reasonable but it was in accordance with the law.¹³⁸

It is unclear why the authorities blocked only LinkedIn, though some have suggested this was meant as a warning that other major companies may face similar legal pressure. For example, Leonid Volkov, staff member of Alexei Navalny’s anti-corruption fund, characterized the blocking of LinkedIn in Russia as the authorities’ “intimidation campaign against Facebook and, first and foremost, Google.”¹³⁹ German Klimenko, Putin’s internet advisor, has publicly stated that Google and Facebook, are “systematically” ignoring the law’s requirements and suggested they could be banned in Russia “sooner or later” if they do not follow Russian law.¹⁴⁰

In April 2014, Pavel Durov, founder and CEO of VKontakte, the Russian language analogue of Facebook, with close to 250 million users from across the former Soviet Union, was forced to resign from the company and leave Russia after he refused to comply with demands by Russian authorities to block controversial users and communities.¹⁴¹ Several days before his resignation, Durov explained that he had received an order from the FSB demanding the personal data of the organizers of 39 groups on VKontakte allegedly linked to Ukraine’s Euromaidan movement. In March 2014, the prosecutor’s general office instructed VKontakte to shut down a group run by anti-corruption activist Alexei Navalny, threatening to block the whole service if the firm failed to cooperate.¹⁴²

Durov responded on his blog: “[...] Neither I nor my team will engage in political censorship. We will not remove the anti-corruption community of Navalny or hundreds of other communities that we

¹³⁸ Russian Internet Ombudsman Calls LinkedIn Ban ‘Unreasonable’”, *TASS*, November 10, 2016, <http://tass.com/economy/911602> (accessed November 12, 2016). First appointed in 2014, the internet ombudsman serves as a liaison between the government and the Internet industry.

¹³⁹ “Navalny’s Ally Explained Why Russia Blocked LinkedIn [Соратник Навального объяснил, зачем в России заблокировали LinkedIn],” *MK RU*, November 17, 2016, <http://www.mk.ru/politics/2016/11/17/soratnik-navalnogo-obyasnil-zachem-v-rossii-zablokirovali-linkedin.html> (accessed April 12, 2017).

¹⁴⁰ “Google Eats our Pies [Google Кушает Наши ПирогИ],” *Gazeta.ru*, January 27, 2016, <https://www.gazeta.ru/business/2016/01/27/8043521.shtml> (accessed January 30, 2016); and “Russia Can be Turned Off from the Global Internet [Россию могут отключить от мирового интернета],” *Russia Today*, December 29, 2016, <https://russian.rt.com/russia/article/346157-intervyu-klimenko-internet> (accessed January 30, 2016).

¹⁴¹ “Russia: Veto Law to Restrict Online Freedom,” Human Rights Watch news release, April 24, 2014, <https://www.hrw.org/news/2014/04/24/russia-veto-law-restrict-online-freedom>.

¹⁴² *Ibid.*

were ordered to block. Freedom of information is an inalienable right in a post-industrial society, and without this right the existence of VKontakte does not make sense.”¹⁴³

Experts have said that after Durov’s resignation and the installation of more compliant leadership, the firm has regularly cooperated with the authorities, including by sharing their users’ information with the security services.¹⁴⁴ Experts also agree that this is the main reason why, between 2014 and 2017, the majority of criminal charges of “extremism” brought against people for posts or shares online, was brought against users of VKontakte.”¹⁴⁵

Russian authorities have pressured social networks, in particular foreign networks, to also comply with the requirements of the 2014 “Blogger’s Law,” which requires bloggers with more than “3,000 unique visits” per day provide their real surname, initials, and contact details on their websites or pages.

In 2015, Roskomnadzor wrote to Facebook, Google, and Twitter warning them of the need to comply with the “Bloggers’ Law,” including the requirement to provide requested data on the number of daily visitors the pages of individual users, as well as information allowing the authorities to identify the owners of accounts with more than 3,000 daily visitors. The letter threatened the companies with closure in Russia should they fail to comply.¹⁴⁶

Targeting Online Messaging Apps

In April 2017, Roskomnadzor blocked online messaging apps BlackBerry Messenger (BBM), LINE, Imo.im, and a video chat Vchat for failure to comply with the “Bloggers’ Law.”¹⁴⁷ A Roskomnadzor official confirmed to the media that the messengers were blocked for failure to share with authorities data about their users, as required by the

¹⁴³ Pavel Durov VKontakte page, https://vk.com/pavel_durov_quotes (accessed November 10, 2016).

¹⁴⁴ Human Rights Watch wrote to VKontakte headquarters, requesting information about the company’s practices with regards to sharing user information with Russia’s security services as well as on other aspects of the company’s compliance with Russia’s legislation. At the time this report went to publication, we had not yet received a response. The letter is on file with Human Rights Watch.

¹⁴⁵ Human Rights Watch interview with Irina Borogan and Andrei Soldatov, Moscow, February 21, 2017; and Human Rights Watch interview with Alexander Verkhovsky, director of SOVA Center, Moscow, May 17, 2017.

¹⁴⁶ Alec Luhn, “Russia Threatens to Ban Google, Twitter and Facebook over Extremist Content,” *The Guardian*, May 20, 2015, <https://www.theguardian.com/world/2015/may/20/russia-threaten-ban-google-twitter-facebook-bloggers-law> (accessed May 5, 2017).

¹⁴⁷ “Roskomnadzor Blocked Four Messengers [Роскомнадзор заблокировал четыре мессенджера],” *RIA Novosti*, May 2, 2017, <https://ria.ru/society/20170502/1493497341.html> (accessed June 16, 2017).

“Bloggers’ Law,” as well as to provide Roskomnadzor with information necessary to register the messengers as “organizers of information dissemination.”¹⁴⁸

In May 2017, authorities also blocked the Chinese messaging application WeChat, but lifted the restrictions after the company complied with the government’s requirements.¹⁴⁹

Also in May, Vedomosti reported that Roskomnadzor petitioned the chat application Telegram, with around six million users in Russia, to provide information for the registry of “organizers of information dissemination.”¹⁵⁰ In June 2017, Pavel Durov, the founder of Telegram, agreed to provide the required information, but stated that the messenger would not share confidential user data with the authorities.¹⁵¹

Targeting News Aggregators

On January 1, 2017, the new law on news aggregators entered force, which, among other things, holds owners of internet news aggregators with more than one million daily users accountable for the content of disseminated information.¹⁵²

In February 2017, Roskomnadzor sent letters to six major news aggregators, including Yandex, Mail.ru, Google, Microsoft, and Rambler requiring them to provide information on their daily traffic.¹⁵³ Roskomnadzor also established a separate Registry of News Aggregators.¹⁵⁴

At this writing, it is too early to tell the extent to and manner in which this law will be implemented. However, it has been criticized in Russia and abroad for being difficult to

¹⁴⁸ Ibid.

¹⁴⁹ “Roskomnadzor Unblocked Messenger WeChat [Роскомнадзор разблокировал мессенджер WeChat],” *RBC*, May 11, 2017, http://www.rbc.ru/technology_and_media/11/05/2017/59142fac9a794774b5add598 (accessed June 13, 2017).

¹⁵⁰ “Telegram’s Administrators Warn of a Possible Blocking of the Messenger in Russia [Администраторы Telegram-каналов предупредили о возможной скорой блокировке мессенджера в России],” *Vedomosti*, May 15, 2017, <https://www.vedomosti.ru/technology/articles/2017/05/15/689967-administratori> (accessed June 15, 2017).

¹⁵¹ “Telegram App Agrees to Register in Russia, but Not to Share Private Data,” *The New York Times*, June 28, 2017, <https://www.nytimes.com/reuters/2017/06/28/technology/28reuters-russia-telegram-security.html> (accessed July 1, 2017).

¹⁵² Federal Law № 208-FZ from June 23, 2016 “On Amendments to the Federal Law ‘On Information, Information Technologies and Data Protection’ and the Code of Administrative Offenses”, <http://www.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=200019#o> (accessed February 16, 2017).

¹⁵³ “News Aggregators Must Share Data on their Daily Traffic,” *Roskomnadzor*, February 20, 2017, <https://rkn.gov.ru/news/rsoc/news43217.htm>, (accessed February 21, 2017).

¹⁵⁴ Registry of news aggregators, *Roskomnadzor*, <http://208-fz.rkn.gov.ru/>.

implement technically and for imposing excessive responsibility on internet search engines and websites for aggregation and distribution of online information.¹⁵⁵ The then-Representative on Freedom of the Media for the Organization for Security and Co-operation in Europe, Dunja Mijatović, stated that the law could result in “governmental interference of online information and introduce self-censorship in private companies.”¹⁵⁶ She argued that search engines should be exempt from the requirement to verify content.¹⁵⁷

Implications of the “Yarovaya” Amendments

The bulk of Yarovaya amendments entered into force in July 2016, with some provisions delayed to July 2018. As with the law on news aggregators, described above, it is too early to tell how the Yarovaya amendments will be implemented in practice.

The amendments give the authorities unprecedented powers of mass digital surveillance, with the goal in effect to ensure that no digital communication in Russia is safe from government interference. The data retention and localization requirements introduced by the amendments (described in more detail above) intrude on the privacy of every Russian phone and internet user, the overwhelming majority of whom will never be linked to wrongdoing. The amendments would effectively create stores of sensitive data and grant security agencies access to this data without judicial oversight. With legal protections for privacy already weak in Russia, these provisions greatly increase the access by security services to every user’s communications, online activities, and movements. The anti-encryption provisions would also endanger activists and journalists who rely on encrypted messaging applications to communicate securely.¹⁵⁸

In addition to the privacy implications, the financial implications of implementing the amendments are staggering. Telecom companies estimate that the requirement for cellular and internet providers to store all communications data in full for six months and all

¹⁵⁵ “News Aggregators Can Dump Unregistered Internet Media [Новостные агрегаторы могут отказаться от интернет-СМИ без регистрации],” *Forbes*, June 6, 2016, <http://www.forbes.ru/novosti/biznes/322039-novostnye-agregatory-mogut-otkazatsya-ot-internet-smi-bez-registratsii> (accessed February 21, 2017).

¹⁵⁶ “Law regulating news aggregators in Russia might negatively affect freedom of information on Internet, OSCE Representative says”, *Organization for Security and Co-operation in Europe*, <http://www.osce.org/fom/246471> (accessed January 31, 2017).

¹⁵⁷ *Ibid.*

¹⁵⁸ “Russia: Big Brother Law Harms Security Rights,” Human Rights Watch news release, July 12, 2016, <https://www.hrw.org/news/2016/07/12/russia-big-brother-law-harms-security-rights>.

metadata for three years coupled with the obligation to help authorities decode encrypted messaging services will cost more than US\$33 billion to implement.¹⁵⁹ The vice president of Mail.ru, a major internet company, said “This law will cause tremendous damage to the industry and is not compatible with its normal development.”¹⁶⁰

Initially, many analysts suggested the amendments would not be fully implemented, citing the lack of action taken by authorities to enforce the Data Storage law’s requirement for some companies to store the data of Russian users on Russian soil.¹⁶¹ However, Roskomnadzor’s decision to block LinkedIn in November 2016 for failure to comply with that requirement raised concerns about a similarly selective application of the Yarovaya amendments.¹⁶²

The anti-encryption provisions raise cybersecurity concerns, in addition to their impact on privacy, and may be ineffective at preventing terrorists or criminals from using encryption. Internet and telecommunications companies increasingly encrypt their services to protect users against cybercriminals and other malicious actors who seek to steal their information. In the digital age, sensitive data is routinely shared electronically, from financial information and commercial trade secrets to e-commerce transactions. If fully implemented, the amendments would force companies to weaken the security of their services, leaving Russian users and businesses vulnerable to unauthorized spying, data theft, and other harms. In contrast, sophisticated and determined malicious actors would still likely be able to shield their digital communications using tools made by companies not subject to Russian law.

Authorities are already looking into possible ways of accessing data on popular messaging services such as WhatsApp, Viber, Facebook Messenger, Telegram, and Skype, to fulfill the anti-encryption goals of the Yarovaya amendments. For example, the government is

¹⁵⁹ T.C. Sottek, “Russia Moves Toward Alarming New Counter-Terrorism Law”, *The Verge*, June 26, 2016, <http://www.theverge.com/2016/6/26/12033480/russia-counter-terrorism-bill-yarovaya-law> (accessed December 1, 2016).

¹⁶⁰ “‘Yarovaya’ Law has Entered Expert Force [‘Закон Яровой’ вступил в экспертную силу],” *Kommersant*, January 20, 2017, <http://kommersant.ru/doc/3196388> (accessed January 31, 2017).

¹⁶¹ “Russia’s New Personal Data Law Will Be Hard to Implement, Experts Say”, *The Moscow Times*, September 1, 2015, <https://themoscowtimes.com/news/russias-new-personal-data-law-will-be-hard-to-implement-experts-say-49268> (accessed December 3, 2016).

¹⁶² Alec Luhn, “Russia Passes ‘Big Brother’ Anti-Terror Laws,” *The Guardian*, June 26, 2016, <https://www.theguardian.com/world/2016/jun/26/russia-passes-big-brother-anti-terror-laws> (accessed December 1, 2016).

reportedly soliciting contractors to test solutions for interception and man-in-the-middle attacks on each chat service, with the most successful to receive full funding.¹⁶³

However, obtaining the level of access to data required by the amendments may be impossible, given the increasing prevalence of strong, end-to-end encryption. Such practices mean that companies are unable to disclose encryption keys, which raises the question of how the government intends to enforce the provision, including whether the government might ask companies like Google or Apple to remove encrypted messaging applications from their app stores in Russia.¹⁶⁴

There is also the potential for VPN providers to leave the Russian market rather than comply with the Yarovaya amendments, undermining the availability of secure internet connection tools in Russia that businesses and users rely on. This has already begun with VPN service Private Internet Access (PIA) withdrawing from the Russian market after discovering that some of its Russian servers were seized by authorities without notice or due process.¹⁶⁵

Online Censorship in Practice

Russian authorities have for years blocked websites on an ad hoc basis, rather than systematically. Since 2012 however, as the legal grounds for blocking significantly broadened, as described above, the practice of blocking websites has become more widespread.

Lack of transparency makes it difficult to analyze the authorities' policies and practices with regard to blocking of websites. In the cases described below it appears the authorities' aim was to prevent unsanctioned protests, and to silence and deter critical online commentary regarding Russia's actions in Crimea or, more generally, commentary challenging "traditional values."

¹⁶³ Valery Shiryayev, "To Decode Everything is Impossible, but Something – It's Possible [Расшифровать всех нельзя, но каждого – можно]," *Novaya Gazeta*, October 12, 2016, <https://www.novayagazeta.ru/articles/2016/10/12/70148-rasshifrovat-vseh-nelzya-no-kazhdogo-mozhno> (accessed December 1, 2016).

¹⁶⁴ Matthew Bodner, "What Russia's New Draconian Data Laws Mean for Users," *The Moscow Times*, July 13, 2016, <https://themoscowtimes.com/articles/what-russias-new-draconian-data-laws-mean-for-users-54552> (accessed December 1, 2016).

¹⁶⁵ *Ibid.*

Blocking Critical Websites

Grani.ru, Kasparov.ru, Alexey Navalny blog, Ej.Ru

In March 2014, weeks after massive street protests in Kyiv led to the ousting of the Russia-friendly Ukrainian government, Russian authorities blocked the opposition website Grani.ru, accusing it of “inciting illegal action,” including unsanctioned political rallies.¹⁶⁶ Grani.ru provided extensive coverage to public protests in Russia. It had closely followed the cases of protesters prosecuted for participation in the May 6, 2012, mass protest against Putin’s inauguration on Moscow’s Bolotnaya Square, which the authorities qualified as “mass rioting.”¹⁶⁷

Yulia Berezovskaya, general director of Grani.ru, told Human Rights Watch that despite the law’s requirements and her inquiries, Roskomnadzor never informed them what specific banned material their website contained, “therefore, we cannot correct anything until we know what our fault was.”¹⁶⁸

In March 2014, the government also blocked the LiveJournal blog of anti-corruption activist Alexei Navalny; Kasparov.ru, the website of former chess champion and opposition figure Gary Kasparov; and Ej.Ru, an opposition media outlet. The prosecutor’s office instructed Roskomnadzor to blacklist the sites because they contained, according to the explanatory note on the Roskomnadzor website, “calls for illegal activity and participation in public events held in violation of the established order.”¹⁶⁹ Kasparov.ru and Ej.ru remain blocked at this writing.

Similar to the case of Grani.Ru, Kirill Poludin, editor for the Kasparov.ru website, also told Human Rights Watch that Roskomnadzor blocked the site without providing any information about which material violated the law so it could not remove it and unblock

¹⁶⁶ “Russia: Halt Orders to Block Online Media,” Human Rights Watch news release, March 23, 2014, <https://www.hrw.org/news/2014/03/23/russia-halt-orders-block-online-media>.

¹⁶⁷ “Russia’s Protesters on Trial: What You Need to Know About the Bolotnaya Case,” Human Rights Watch news release, December 18, 2013, <https://www.hrw.org/video-photos/interactive/2013/12/18/russias-protesters-trial-what-you-need-know-about-bolotnaya-case>.

¹⁶⁸ Human Rights Watch phone interview with Yulia Berezovskaya, general director of Grani.ru, March 22, 2014.

¹⁶⁹ “Access suspended to websites containing calls for taking part in unauthorized mass events [Ограничен доступ к ряду интернет-ресурсов, распространявших призывы к несанкционированным массовым мероприятиям],” *Roskomnadzor*, March 13, 2016, <http://rkn.gov.ru/news/rsoc/news24447.htm> (accessed June 20, 2016).

the site, “No one told us what exactly we are supposed to correct to remove the blocking of the website.”¹⁷⁰

Rossiia 88

In February 2016, Roskomnadzor banned a YouTube page with a 2009 film about Russian neo-Nazis, titled “Russia 88.”¹⁷¹

The ban followed a ruling by a Naryan-Mar court, petitioned by a regional prosecutor, who argued that the entire documentary should be banned as extremist because a few fragments from it were used in another YouTube video that was banned as extremist by another court in 2012. The case caused public outcry and on February 3, Roskomnadzor removed the ban.

Open Russia and “March Against Hatred”

In February 2016, the Prosecutor General’s office and Roskomnadzor requested Open Russia to remove an article, “Short Memory: City administration refuses to sanction gatherings in memory of Boris Nemtsov,” from their website. Open Russia is an initiative promoting democracy and human rights that was founded by the former oligarch and Kremlin opponent Mikhail Khodorkovsky. According to the group’s statement, the authorities claimed that the article contained calls to public riots and incitement to extremist activities.¹⁷² Although the authorities did not indicate which parts of the text were objectionable, Open Russia believed they were targeted because of criticism of how authorities in another city had banned a similar march, and perhaps also because the group said it would carry out the march even if Moscow authorities did not approve the route. Open Russia complied with the authorities’ request.¹⁷³

¹⁷⁰ Human Rights Watch phone interview with Kirill Poludin, editor of the Kasparov.ru website, March 22, 2016.

¹⁷¹ “Anti-fascist film “Russia 88” was blocked by the Naryan-Mar city court [Антифашистский художественный фильм “Россия 88” заблокирован по решению Нарьян-Марского городского суда],” *Roskomsvoboda*, February 3, 2016, <https://rublacklist.net/14445/> (accessed July 7, 2017); and “The “Russia 88” YouTube page was blocked and then immediately unblocked [Страница YouTube с фильмом “Россия 88” заблокирована и сразу разблокирована],” *SOVA Center*, February 3, 2016, <http://www.sova-center.ru/misuse/news/persecution/2016/02/d33767/> (accessed July 7, 2017).

¹⁷² “Roskomnadzor Against Public Events in Memory of Boris Nemtsov [Роскомнадзор против акций памяти Бориса Немцова],” *Open Russia*, February 22, 2016, <https://openrussia.org/post/view/12814/> (accessed February 24, 2016).

¹⁷³ ““Open Russia’ Removed the Text about the Memorial Event for Boris Nemtsov at the Request of Roskomnadzor [“Открытая Россия” убрала текст об акции в память о Немцове по требованию Роскомнадзора],” *Meduza*, February 22, 2016, <https://meduza.io/news/2016/02/22/otkrytaya-rossiya-ubrala-tekst-ob-aktsii-v-pamyat-o-nemtsove-po-trebovaniyu-roskomnadzora> (accessed March 24, 2017).

In October 2016, VKontakte, at the Prosecutor General's request, took down pages set up by anti-fascist activists titled: "March against Hatred 2016."¹⁷⁴ The activists told media that they were not told the reason behind the ban but they believed the authorities' aim was to prevent a mass gathering.

Public Control Group

On June 22, 2015, Roskomnadzor blocked the website of the consumer protection group Public Control for publishing a memo in which it called Crimea an "occupied territory." The memo warned Russian tourists of potential security concerns when traveling to Crimea, including the risk of criminal prosecution for entering Crimea via Russia, and further warned against purchasing property in Crimea unless the purchases complied with Ukrainian law.¹⁷⁵ Russia's prosecutor general stated that the organization sought to undermine Russia's territorial integrity in violation of anti-extremism legislation.¹⁷⁶ The prosecutor general's office said that it had also forwarded the case to the investigation authorities to open a criminal inquiry, which was later dropped, for making separatist calls.¹⁷⁷

Mikhail Anshakov, director of Public Control, told Human Rights Watch that the organization received no warning and only discovered it was blocked "when people started calling and saying they could no longer access our website."¹⁷⁸

After the website was blocked for three days, Roskomnadzor sent a request to Public Control demanding it remove the memo. It complied and access to the website was restored and, at this writing, remains accessible.

¹⁷⁴ "VKontakte Page on 'March Against Hatred' Has Been Blocked [Страницу акции "Марш против ненависти" "ВКонтакте" заблокировали]," *Radio Free Europe Russia Service*, October 28, 2016, <http://www.svoboda.org/a/28080661.html> (accessed March 24, 2017).

¹⁷⁵ Although the memo has been removed from the Public Control website at the request of Roskomnadzor, it remains accessible here: <http://zapretno.info.3535.org/?p=802>.

¹⁷⁶ "Office of the Prosecutor General of the Russian Federation ordered to block access to the website, containing a so-called memo for Russian tourists holidaying in Crimea [Генеральная Прокуратура Российской Федерации требует ограничить доступ к сайту, где размещена т.н. памятка для российских туристов, направляющихся на отдых в Крым]," General Prosecutor of the Russian Federation, June 22, 2015, <http://www.genproc.gov.ru/smi/news/genproc/news-792681/> (accessed November 21, 2016).

¹⁷⁷ *Ibid.*

¹⁷⁸ Human Rights Watch phone interview with Mikhail Anshakov, June 23, 2014.

On June 23, 2015, in official remarks, Putin accused Public Control of “serving the interests of foreign states” under the guise of concern for Russian consumers. He said the legislation on nongovernmental organizations needs to be further toughened to prevent foreign countries from interfering in Russia’s domestic matters.¹⁷⁹

Deti-404 Online Group

Deti-404 is an online group that offers psychological support, advice, and a safe community for LGBT children who experience violence and aggression because of their real or perceived sexual orientation or gender identity. The “404” in the group’s title is a reference to the standard internet “error 404” message indicating that a webpage cannot be found. The group was created on VKontakte in April 2013 by Elena Klimova, an LGBT activist from Nizhny Tagil, in Sverdlovsk region.¹⁸⁰ In July 2016, the Deti-404 group had almost 66,000 followers.¹⁸¹

In August 2015, a court in Barnaul, in Siberia, found that the group’s information violated the law protecting “the informational security of children,” and banned it. VKontakte subsequently removed access to the group’s page.¹⁸² In September 2015, Deti-404 started a new VKontakte group under the same name, but yet another court ruling ordered the new group taken down. In April 2016, Deti-404 started yet a third group on VKontakte. At this writing, that online group is operational.¹⁸³ However, Deti-404’s website—www.deti404.ru—has been blocked since October 2016, following a court decision.¹⁸⁴

¹⁷⁹ “Putin commented on the situation around the memo by OZPP and spoke of ‘foreign agents’ [Путин прокомментировал ситуацию с памяткой ОЗПП и высказался об ‘иностранных агентах’]”, *Novie Izvestiya*, June 23, 2015, <http://www.newizv.ru/lenta/2015-06-23/222651-putin-prokommentiroval-situaciju-s-pamjatkoj-ozpp-i-vyskazalsja-ob-inostrannyh-agentah.html> (accessed November 26, 2016).

¹⁸⁰ Human Rights Watch interview with Hana, a psychologist working with Deti-404, Moscow, May 27, 2016.

¹⁸¹ *Ibid.*

¹⁸² Elena Klimova’s Facebook page entry: <https://www.facebook.com/klimovalitred?fref=nf&pnref=story>.

¹⁸³ Deti-404 VKontakte group: <https://vk.com/deti404>.

¹⁸⁴ The ruling, by a district court in Barnaul, was issued April 13, 2016. “Court in Barnaul Rules to Block Website of ‘Deti 404’ [Суд в Барнауле заблокировал сайт проекта “Дети 404],” *Radio Free Europe Russia Service*, April 13, 2016, <http://www.svoboda.org/a/27672970.html> (accessed November 5, 2016).

Jehovah's Witnesses

In 2013, Russia blocked the website of the Jehovah's Witnesses, a US-based Christian denomination, for allegedly “extremist content”.¹⁸⁵ In 2015, the authorities banned the group's website permanently. Regional courts in Russia have also banned dozens of publications by the Jehovah's Witnesses for the same reason.¹⁸⁶ In March 2017, the Ministry of Justice petitioned Russia's Supreme Court to ban Jehovah's Witnesses in Russia as an “extremist organization.”¹⁸⁷ The Supreme Court ruled on April 20, that the Jehovah's Witnesses organization should be closed down and no longer allowed to operate legally in Russia. The ruling affected an estimated 100,000 Jehovah's Witness followers across Russia.¹⁸⁸

Artyom Loskutov

In 2014, authorities attempted to orchestrate a media blackout against a performance art project dedicated to the “federalization of Siberia,” that took place in August 2014 in Novosibirsk, Russia's third largest city. The event was planned by well-known Siberian artist Artyom Loskutov, who mockingly called for more autonomy for Siberia from Moscow, as a satirical echo of the Russian government's call for Ukraine to grant more autonomy to the country's eastern regions.¹⁸⁹ Roskomnadzor issued warnings to fourteen internet-based media outlets for announcing the event, including major sites such as Polit.ru, Regnum, Rosbalt, and Slon.ru. Roskomnadzor threatened to block the BBC Russian Service unless it removed its interview with Loskutov about the project.¹⁹⁰ The BBC refused to do

¹⁸⁵ “Russia's Jehovah's Witnesses Fight Extremist Label, Possible Ban,” *National Public Radio*, May 17, 2016, <http://www.npr.org/sections/parallels/2016/05/17/476898973/russias-jehovahs-witnesses-fight-extremist-label-possible-ban> (accessed December 1, 2016).

¹⁸⁶ *Ibid.*

¹⁸⁷ “Russia Calls for National Ban on Jehovah's Witnesses,” *The Moscow Times*, March 17, 2017, <https://themoscowtimes.com/news/russian-justice-ministry-calls-for-country-wide-ban-on-jehovahs-witnesses-57458>.

¹⁸⁸ “Russia: Court Bans Jehovah's Witnesses,” Human Rights Watch news release, April 20, 2017, <https://www.hrw.org/news/2017/04/20/russia-court-bans-jehovahs-witnesses>.

¹⁸⁹ “Artyom Loskutov on March for Federalization of Siberia [Артем Лоскутов о марше за федерализацию Сибири],” *Article 20*, March 8, 2014, <http://article20.org/ru/news/artem-loskutov-o-marshe-za-federalizatsiyu-sibiri#.WDg-2Ge7qr8> (accessed November 27, 2016).

¹⁹⁰ “Moscow Freaks Out about Federalization Rally...in Siberia,” *Radio Free Europe/Radio Liberty*, August 5, 2014, <http://www.rferl.org/a/russia-separatism-rally-siberia/26515418.html>; see also “Editor's Blog: Artem Loskutov and ‘Federalisation of Siberia’ [Блог редактора: Артем Лоскутов и ‘федерализация Сибири’],” *BBC Russian Service*, August 3, 2014, http://www.bbc.com/russian/blogs/2014/08/140802_blog_editor_restricting_access.shtml (accessed November 29, 2016).

so, while Slon.ru had removed the interview with Loskutov from their website at the prosecutor's office request.¹⁹¹ The event went ahead as planned.

“There is No God”

In May 2015, Roskomnadzor temporarily blocked the VKontakte group “There is No God” after a Chechnya court declared it “extremist.” Without referring to any specific content, the Grozny prosecutor stated that the group had published “materials aiming to offend the religious feelings of the Orthodox, and their dissemination may precipitate the incitement of national, racial or religious hatred or enmity.”¹⁹² The group, which had about 26,000 members, mostly posted parody memes of Russian Orthodox figures.

¹⁹¹ “BBC will not remove the interview with Loskutov from the website [BBC не удалит с сайта интервью с Артемом Лоскутовым],” *Radio Free Europe Russia Service*, August 5, 2014, <http://www.svoboda.org/a/26515616.html> 2014 (accessed December 20, 2016). Ultimately the material was not blocked.

¹⁹² “Webpage of an atheist group blocked,” *SOVA Center for Information and Analysis*, July 13, 2015, <http://www.sova-center.ru/misuse/news/persecution/2015/07/d32414/> (accessed January 10, 2017).

V. Prosecution of Critics under Anti-Extremism Legislation

In recent years, the authorities have increasingly used vague and overly broad anti-extremism laws to stifle dissenting voices and promote self-censorship.¹⁹³ They have selectively enforced anti-extremism measures against individuals for critical views of the government, even when such views did not call for violence, and in some cases conflated criticism of the government with extremism. Legislative amendments adopted since 2012 in the name of countering extremism have further increased the penalties for extremism violations, especially online. As a result, Russians are increasingly unsure about the threshold of acceptable speech and at the same time are increasingly anxious about the consequences of speaking up online.

Stepped Up Use of Anti-Extremism Charges

After Russia's occupation of Crimea and the start of the armed conflict in eastern Ukraine, authorities stepped up their practice of designating some social media posts critical of the government's actions as "extremist speech," namely "calls to mass rioting," "precursors to incitement," and the like. The number of criminal cases stemming from charges of extremism, especially for online activities, soared.

Based on data provided by the SOVA Center, a prominent Russian think-tank, the number of social media users convicted of extremism offences in 2015 was 216, in comparison with 30 in 2010. Between 2014 and 2016, approximately 85 percent of convictions for "extremist expression" dealt with online expression, with punishments ranging from fines or community service to prison time. In the period between September 2015 and February 2017, the number of people who went to prison for extremist speech spiked from 54 to 94.¹⁹⁴

Some prosecutions under anti-extremism provisions are warranted. The SOVA Center, a Moscow-based independent think tank on nationalism, racism, religion, and political radicalism, says that the majority of extremism convictions have been well-grounded

¹⁹³ "New draconian legislation against backdrop of Ukrainian conflict," *Reporters Without Borders*, July 21, 2014, <http://en.rsf.org/russia-new-draconian-legislation-against-21-07-2014,46664.html> (accessed December 2, 2016).

¹⁹⁴ Human Rights Watch interview with Alexander Verkhovsky, head of SOVA Center, Moscow, July 13, 2017. See also: http://www.sova-center.ru/en/xenophobia/reports-analyses/2017/05/d36995/#_Toc481784938.

though at times disproportionate. Nonetheless many were not. And the number of such groundless cases has grown. SOVA Center explained:

In fighting online extremism, the state has increased pressure on various categories of citizens, from members of the radical nationalist opposition or Muslim activists to people and organizations, who simply happened to appear on the radar of the anti-extremism campaign. Predictably, starting in 2014, these ‘offenders’ came to include opponents of state policy toward Ukraine.¹⁹⁵

In recent years, those facing prison terms or hefty fines for alleged extremist activities have increasingly included bloggers, journalists, political opposition activists, ethnic minority activists, and other critics of the government, as well as people who mock the Russian Orthodox Church. In several cases, editors were also penalized for simply reporting information which the authorities deemed extremist or otherwise illegal or dangerous to the public.

For example, in October 2015, a court in Syktyvkar, in northwestern Russia, fined the editor of the online outlet 7x7 because the outlet reported news about an appeal court hearing for a far-right activist, on trial for defacing a Jewish cultural center.¹⁹⁶ Authorities took issue with a photo accompanying the articles that showed the offensive writing and swastika on the wall of the center.¹⁹⁷ The article did not include any editorial comments in support of far-right views.¹⁹⁸ However, the court imposed a fine of 150,000 rubles (approximately \$2,478) and required the publication to blur out the swastika.

¹⁹⁵ “Anti-Extremism in Virtual Russia, 2014-2015,” *SOVA Center for Information and Analysis*, August 24, 2016, <http://www.sova-center.ru/en/misuse/reports-analyses/2016/08/d35262/> (accessed November 28, 2016).

¹⁹⁶ Specifically, the editor was fined for “producing and distributing media which contains incitement to committing extremist acts”. Russia’s Code of Administrative Offenses, art. 13.15.

¹⁹⁷ “Online magazine 7X7 fined for swastika at the entrance to the Jewish Center [Интернет-журнал 7X7 оштрафовали за свастику на входе в европейский центр],” *FlashNord Information Agency*, October 13, 2015, <http://flashnord.com/news/internet-zhurnal-7h7-oshtrafovali-za-svastiku-na-vhode-v-evreyskiy-centr> (accessed December 1, 2016).

¹⁹⁸ Human Rights Watch reviewed the article, available here: <http://7x7-journal.ru/item/64418>, on December 1, 2016.

Authorities have automatically equated reposts of articles on social media and elsewhere as endorsements even penalizing simple citations of “extremist information,” without taking the context into consideration.¹⁹⁹

Under Russian law, only statements that represent a “danger to the public” are considered unlawful.²⁰⁰ However, in the cases described below, Russian courts have handed down criminal verdicts for extremist online statements even though the content is protected speech and the posts had a seemingly insignificant level of public danger as they were available to a very small group of people, sent in a group email, or made to a closed group of friends on social networks. Some criminal prosecutions have resulted in disproportionate punishments.

One of the starkest examples described below is the prosecution of Darya Polyudova, who is now serving a two-year prison sentence for a satirical comment she reposted that was implicitly about Crimea, that did not call for violence, and was seen by only by her very few followers.²⁰¹

The numbers of criminal extremism cases have risen dramatically, sending a powerful warning about the limits of free speech on certain topics, such as Russia’s role in Ukraine and the promotion of traditional values. Pavel Chikov, a human rights lawyer, said:

Internet users may not be afraid of being blocked but everyone fears jail time.²⁰²

The vagueness of the law together with its haphazard and arbitrary application increases its chilling effect. The Venice Commission, the Council of Europe’s advisory panel on legal matters, found that many definitions included in the Russian anti-extremism law are “too

¹⁹⁹ See, for example, the case of Andrey Bubeev, described below.

²⁰⁰ The Criminal Code of Russia, art. 14.

²⁰¹ Daria Polyudova’s case is described in more detail below.

²⁰² Yulia Smirnova, “Putin demands harsher sentences for critical online posts [Путин велит наказывать строже на критические посты в интернете]”, *Die Welt*, March 3, 2016, <https://www.welt.de/politik/ausland/article152844817/Putin-laesst-kritische-Posts-immer-haerter-bestrafen.html> (accessed November 29, 2016).

broad, lack clarity and invite arbitrary application through different interpretations in contravention of international human rights standards.”²⁰³

Two recent developments indicate the authorities are scaling back some of the more absurdly excessive applications of anti-extremism laws. In November 2016, Russia’s Supreme Court issued a statement to clarify the use of charges of extremism for online actions. The court instructed judges, particularly in cases that involved the sharing of allegedly extremist material on social media, to “take into account the context, form, and content of the information available, and the presence of any commentary or expressions related to it.”²⁰⁴ Second, on March 21, 2017, the Ministry of Communications proposed an amendment to the ban of display of the swastika to allow its use in scientific, literary, and artistic works.²⁰⁵

Anti-extremism: The Legal Framework

The backbone of Russia’s anti-extremism legislation is the Federal Law “On Combating Extremist Activities.”²⁰⁶ Amended multiple times since its adoption in 2002, the law provides a list of specific extremist activities, ranging from deeds that are universally recognized as highly dangerous, such as violent overthrow of government or terrorism, to non-violent acts, such as “incitement to social, racial, national or religious discord,” or making “knowingly false” public statements about extremist activities by public officials.

The framework legislation “On Combating Extremist Activities” also empowers the Ministry of Justice to create and maintain, based on court rulings, a list of materials that are considered extremist, including a wide variety of publications, audio, and video materials

²⁰³ Venice Commission opinion on Russian extremism law, adopted at its 91st Plenary Session in June 2012, http://www.europarl.europa.eu/meetdocs/2009_2014/documents/d-ru/dv/dru_2012_0710_06_/dru_2012_0710_06_en.pdf (accessed January 11, 2017).

²⁰⁴ The Supreme Court of Russia Plenary Statement № 41 from November 3, 2016, <https://rg.ru/2016/11/16/postanovlenie-dok.html> (accessed February 20, 2017).

²⁰⁵ Tatiana Shadrina, “Can Remain in Movies [А в кино может остаться],” *Rossiyskaya Gazeta*, March 23, 2017, <https://rg.ru/2017/03/23/v-minkomsviazi-predlozhili-razreshit-svastiku-v-proizvedeniih-iskusstva.html> (accessed July 3, 2017).

²⁰⁶ Federal Law № 114-FZ “On Combating Extremist Activities,” 2002, <http://base.garant.ru/12127578/> (accessed December 1, 2016).

and images.²⁰⁷ The list is at times contradictory and difficult to comprehend.²⁰⁸ Approximately one-fourth of the items on the list are Islamist texts and other Muslim publications.²⁰⁹ Russia is also enforcing this legislation in occupied Crimea, where it has had a discriminatory impact on Crimean Tatars who are predominantly Muslim.²¹⁰ At this writing, the list includes over 4,000 items.²¹¹ Verkhovsky, the director of SOVA Center, told Human Rights Watch that according to the center’s analysis, many items on the list were harmless and had been banned inappropriately.²¹²

In addition to FZ-114, “anti-extremism” measures are reflected in Russia’s Criminal Code, including (but not limited to) Articles 282 (“incitement of hatred or enmity on the basis of sex, race, nationality, language, origin, attitude to religion, as well as affiliation to any social group”), 280 (“calls for extremist activities”), 280.1 (“calls for separatism”), 205.2 (“justification of terrorism”), 354.1 (“rehabilitation of Nazism”), 148.1 (“insulting religious feelings”), 282.1 (“participation in extremist group”), and 282.2 (“organizing activities of extremist group”), and the Code of Administrative Offenses, including articles 20.29 (“mass distribution of ‘extremist materials’”) and 20.3 (“public display of banned symbols”).

Examples of Enforcement: from Politically Motivated to Absurd

The examples given below are of criminal prosecutions on various extremism-related charges in a dozen cities. Some cases involved political speech regarding Ukraine, others involved religion. While some of these cases involved speech that may have offended some people, none deserved to be subject to sanction, far less criminal prosecution leading to imprisonment. It is difficult to know why local authorities targeted these individuals, and whether other examples of similar speech went unpunished.

²⁰⁷ Federal Law № 114-FZ of 2002, art. 13.

²⁰⁸ Alexander Verkhovsky, “Main issues concerning application of anti-extremism legislation for freedom of expression online [Основные проблемы применения антиэкстремистского законодательства в сфере свободы слова в интернете]”, July 21, 2015, *SOVA Center for Information and Analysis*, <http://www.sova-center.ru/misuse/publications/2015/07/d32473/> (accessed November 16, 2016).

²⁰⁹ *Ibid.*

²¹⁰ Human Rights Watch, *Rights in Retreat: Abuses in Crimea* (Human Rights Watch: New York, 2014), <https://www.hrw.org/report/2014/11/17/rights-retreat/abuses-crimea>, p.17.

²¹¹ Federal List of Extremist Materials, http://minjust.ru/ru/extremist-materials?field_extremist_content_value=&page=19 (accessed July 2, 2017).

²¹² Human Rights Watch interview with Alexander Verkhovsky, director of SOVA Center, Moscow, February 8, 2017.

Justification of Terrorism Charges

Alexei Kungurov, Tyumen

In December 2016, a court convicted Alexei Kungurov, a 38-year-old blogger from Tyumen, in western Siberia, of justification of terrorism and sentenced him to two-and-a-half years in prison for criticizing Russia's role in the Syria crisis.²¹³ The authorities prosecuted Kungurov on the basis of an October 2015 blog post he wrote after the first Russian airstrikes in Syria. In the post, Kungurov offered his analysis of the Syria conflict and vehemently criticized Russia's intervention as "helping," rather than fighting, terrorists. Notably, his post did not include any positive assessments of actions of anti-government groups in Syria.²¹⁴

Kungurov's wife told Human Rights Watch that her husband has filed an appeal which at this writing is pending.²¹⁵ Kungurov has been in custody since June 2016.

Charges of Insulting Religious Feelings of Believers

Ruslan Sokolovsky, Yekaterinburg

On May 2017, a court convicted a 22-year-old video blogger, Ruslan Sokolovsky, on criminal charges of incitement to hatred and insult to the religious feelings of believers.²¹⁶ The court gave the blogger a three-and-a-half-year suspended sentence.²¹⁷ Citing the French satirical magazine *Charlie Hebdo* as his personal inspiration, Sokolovsky has created several satirical or critical pieces about the Orthodox Church, calling, for instance, priests "comic book heroes" on his blog.²¹⁸ The charges against him stemmed from an August 11, 2016 prank video Sokolovsky uploaded to his Youtube channel. In the video, Sokolovsky is seen playing Pokémon GO, the popular smartphone game, in the Russian Orthodox Church of All Saints in Yekaterinburg. For 40 seconds of the two-and-a-half

²¹³ "Crossing the Red Line," Human Rights Watch dispatch, December 22, 2016, <https://www.hrw.org/news/2016/12/22/crossing-red-line>.

²¹⁴ Alexey Kungurov's LiveJournal blog page, October 12, 2015, <http://kungurov.livejournal.com/183697.html> (accessed January 12, 2016).

²¹⁵ Human Rights Watch interview with Asia Baishihina, Tyumen, January 13, 2017.

²¹⁶ Criminal Code of Russian Federation, arts. 282 and 148. "Russia: Pokémon Go Blogger Convicted," Human Rights Watch news release, May 11, 2017, <https://www.hrw.org/news/2017/05/11/russia-pokemon-go-blogger-convicted>.

²¹⁷ Ibid.

²¹⁸ "Pokémon-Provokateur: Everything You Should Know about the Arrest of Blogger Sokolovsky [Покемон-provokator: все, что нужно знать об аресте блогера Соколовского]," *Ridus*, September 4, 2016, <https://www.ridus.ru/news/230846.html> (accessed February 3, 2017).

minute video, a priest can be seen praying in the background. At the end of the video, Sokolovsky says: “I regret not catching the rarest of Pokémons: Jesus. They say he does not exist.”²¹⁹ The video was widely shared online and reported in the media. The state-owned news channel Russia 24 reported that the video insulted the feelings of believers,²²⁰ and called Sokolovsky “mentally ill.”²²¹

Also in August 2016, Sokolovsky posted another video ridiculing the Russian Orthodox Church’s recommendations about marriage and family.²²² A week later, police in Sverdlovsk region announced that they were investigating both videos, the first for extremism and the second for violating freedom of religion, and called for a five-year prison sentence.²²³

On September 2, police obtained Sokolovsky’s keys, entered his apartment while he was sleeping, conducted a search, and arrested him. Police seized all Sokolovsky’s recording equipment and some printed materials.²²⁴

On September 3, the Kirov court in Yekaterinburg remanded Sokolovsky to two months’ pre-trial custody; he was released under house arrest following appeal. He was returned to custody on October 28, after the court found him in violation of the terms of his bail.²²⁵

In January 2017, authorities initiated a new criminal investigation against Sokolovsky for “trafficking in special technical devices [designed] for surreptitious obtainment of information” based on his possession of a pen with a video camera, which police officials

²¹⁹ Video viewed by Human Rights Watch on December 1, 2016, <https://www.youtube.com/watch?v=PfMn1yahGYk>.

²²⁰ “Pransker Sokolovsky, having caught Pokemons in the Church of All Saints, will have to answer for hatred towards believers [Пранкер Соколовский, ловивший покемонов в Храме-на-Крови, ответит на за ненависть к верующим],” Rossiya-24, September 3, 2016, <https://www.youtube.com/watch?v=sXhGr6dijms> (accessed September 5, 2016).

²²¹ “Pokemon mania has carried into the hands of Ekaterinburg youth [Покемомания довела до ручки юного екатеринбургжца],” Rossiya-24, August 19, 2016, https://www.youtube.com/watch?v=O7DTS_dHOlg (accessed August 21, 2016).

²²² Ruslan Sokolovsky Youtube blog: https://www.youtube.com/channel/UCyGPa4_EYA1OiBNjf6leF6A,

²²³ “Police Investigates Blogger Catching Pokémon in a Church [Свердловская полиция проверяет видеоблогера за ловлю покемонов в храме],” *Ekbura TV*, August 18, 2016, http://ekburg.tv/novosti/obshhestvo/sverdlovskaja_policija_proverit_videoblogera_za_lovlju_pokemnov_v_khrame (accessed November 10, 2016).

²²⁴ “Spy Pen Found During Search of Sokolovsky Apartment [При обыске у Соколовского нашли шпионскую авторучку],” *Vesti.ru*, September 6, 2016, <http://www.vesti.ru/doc.html?id=2795691> (accessed November 12, 2016).

²²⁵ “Blogger Sokolovsky Arrested Again [Блоггер Соколовский снова арестован],” *SOVA Center for Information and Analysis*, October 28, 2016 <https://www.sova-center.ru/misuse/news/persecution/2016/10/d35718> (accessed November 10, 2016).

seized from his apartment, and his pre-trial custody was extended.²²⁶ On February 13, Sokolovsky was released under house arrest until March, pending criminal trial.²²⁷

Amnesty International designated Sokolovsky a “prisoner of conscience,” punished for peacefully expressing his views.²²⁸

Sokolovsky’s lawyer Alexander Bushmakov, quoted the verdict as stating that Sokolovsky was found guilty of “denying the existence of Jesus Christ and the Prophet Muhammad.” He called Sokolovsky’s trial “a show trial” with the purpose of “frightening and intimidating” Russian people.²²⁹

Torfyanka Park Defenders, Moscow

In 2016, authorities in Moscow initiated a criminal investigation against a group of people who protested the construction of a church in Torfyanka Park. Protests have delayed the church’s construction, which was approved in 2013.

In November 2016, masked and armed riot police raided the homes of some of the protesters. Police smashed the door of one apartment and cut through the lock of another. One activist said at least 15 armed policemen forced their way into his apartment. They threw him on the floor, handcuffed him, and dragged him away in front of his children.²³⁰ The searches lasted several hours and police seized the phones and computers of the protestors. Police arrested the activists and interrogated them without a lawyer about their views on the Russian Orthodox Church and their affiliation with radical groups. Police released the activists the same day without charges but the investigation was ongoing at this writing.²³¹

²²⁶ “Blogger Sokolovsky Charged with a New Criminal Offense [Блогеру Соколовскому предъявлено новое обвинение],” *SOVA Center for Information and Analysis*, January 20, 2017, <https://www.sova-center.ru/misuse/news/persecution/2017/01/d36215/> (accessed February 2, 2017).

²²⁷ “The Blogger from the Urals to be Placed Under House Arrest [На Урале блоггера, ловившего покемонов в храме, перевели под домашний арест],” *RIA Novosti*, February 13, 2017, <https://ria.ru/incidents/20170213/1487878763.html> (accessed February 15, 2017).

²²⁸ “Jailed for Playing Pokémon Go in Church: Ruslan Sokolovsky,” *Amnesty International Russian Federation*, September 7, 2016, <https://www.amnesty.org/en/documents/eur46/4777/2016/en/> (accessed December 1, 2016).

²²⁹ Human Rights Watch interview with Alexei Bushmakov, Yekaterinburg, May 31, 2017.

²³⁰ Human Rights Watch interview with a resident who participated in the protest, Moscow, November 17, 2016.

²³¹ Human Rights Watch interview with Evgeny Lebedev, Moscow, December 1, 2016.

A camera crew from the pro-Kremlin channel NTV was at the scene of most of the raids. NTV aired a story referring to the activists as “neo-pagans” and “cell members” alleging they had “ammunition and psychotropic drugs” in their apartments.²³²

Maksim Kormelitsky, Berdsk

In May 2016, a city court in Berdsk, Novosibirsk region, found 21-year-old Maksim Kormelitsky, an activist and a former member of the opposition party Parnas, guilty of inciting religious hatred and sentenced him to one year in prison.²³³

The case against Kormelitsky stemmed from a complaint filed by a group of Russian Orthodox activists in February that year about a post on Kormelitsky’s VKontakte page.²³⁴ Kormelitsky posted a photograph of people diving into icy water to emulate the baptism of Jesus and a comment, using crude language, mocking people for “jeopardizing their health for religion.”²³⁵ Kormelitsky told the court that his comment might have been offensive but denied allegations of extremism or criminal intent on his part.²³⁶

Charges of Separatism, Public Calls to Extremist Activities, and Incitement to Hatred

Andrey Bubeyev, Tver

On August 28, 2015, a court in Tver sentenced Andrey Bubeyev, an engineer and father of two to one year in prison for sharing posts by several pro-Ukrainian VKontakte groups on his personal VKontakte page and possession of ammunition.²³⁷

On May 5, 2016, in a second criminal trial, the court found Bubeyev guilty of “incitement to extremism” and “making separatist calls” for sharing, in an online post, an article called “Crimea is Ukraine” and a picture of a toothpaste tube with the words: “Squeeze Russia

²³² NTV news channel aired footage of the incident: <https://www.youtube.com/watch?v=pmrX66qhv5U> (accessed November 18, 2016).

²³³ “Berdsk resident sentenced to jail over an offensive comment about bathers in an ice hole [Житель Бердска приговорен к колонии за оскорбительный комментарий о купающихся в крещенской проруби],” *SOVA Center for Information and Analysis*, May 31, 2016, <http://www.sova-center.ru/misuse/news/persecution/2016/05/d34680> (accessed November 27, 2016).

²³⁴ “One Year and Three Months for Caring for the Health of Religious People [Год и три месяца за “заботу о здоровье верующих”],” *Radio Free Europe Russia Service*, June 1, 2016, <http://www.svoboda.org/a/27772414.html> (accessed December 1, 2016).

²³⁵ *Ibid.*

²³⁶ *Ibid.*

²³⁷ “Bubeyev Andrey Borysovich [Бубеев Андрей Борисович],” *Memorial Human Rights Center*, March 28, 2016, <http://memohrc.org/special-projects/bubeev-andrey-borisovich> (accessed November 30, 2016).

out of yourself!" He was sentenced to an additional two years and three months in prison. In July, Bubeyev lost his appeal.²³⁸ In January 2016, AGORA human rights group filed an application with the European Court of Human Rights (ECtHR) claiming that the prosecution violated Bubeyev's right to free speech.²³⁹ Bubeyev's lawyer, Svetlana Sidorkina, told Human Rights Watch that Bubeyev's prosecution was a warning intended to deter others from expressing their opinions online.²⁴⁰ At the time of his arrest, Bubeyev's VKontakte page had less than 20 followers.²⁴¹

Konstantin Zharinov, Chelyabinsk

In September 2015, a court in Chelyabinsk handed down a two-year suspended sentence to author and blogger Konstantin Zharinov, for incitement to extremism because he reposted a statement by the Right Sector, a Ukrainian far-right nationalist group, calling on Russians and "Russia's enslaved nations" to fight Putin's "regime" on his VKontakte page.²⁴²

Zharinov, who had published two books on the history of extremist organizations, told Human Rights Watch that his interest in the Right Sector and their publications was purely academic. He posted the statement on March 1, 2014, and deleted it two days later, he said, after realizing that it might not have been "the best idea."²⁴³ On March 4, 2014, the anti-extremism unit of the Chelyabinsk police questioned him regarding the re-post. On April 30, FSB officials opened a criminal investigation, and in August the authorities charged Zharinov with public incitement to extremism.

²³⁸ "Tverskoi District Court Upheld the Verdict for Andrey Bubeev for sharing a post [Тверской областной суд оставил в силе приговор Андрею Бубееву за перепост]", *Open Russia*, July 20, 2016, <https://openrussia.org/post/view/16499/> (accessed December 2, 2016).

²³⁹ "Agora Filed Complaint Against Bubeyev Verdict to ECtHR [В ЕСПЧ подана жалоба на приговор Андрею Бубееву]," *SOVA Center for Information and Analysis*, January 26, 2017, <https://www.sova-center.ru/misuse/news/persecution/2017/01/d36241/> (accessed February 10, 2017).

²⁴⁰ Human Rights Watch interview with Svetlana Sidorkina, Moscow, November 16, 2016.

²⁴¹ *Ibid.*

²⁴² "Beware the Share Button in Russia," Human Rights Watch dispatch, October 30, 2014, <http://www.hrw.org/news/2014/10/30/dispatches-beware-share-button-russia>. Human Rights Watch reviewed the original statement by the Right Sector.

²⁴³ Human Rights Watch phone interview with Konstantin Zharinov, November 24, 2016.

Russia's Supreme Court banned the Right Sector as an extremist organization in November 2014, eight months after Chelyabinsk law enforcement officials had opened the criminal case against Zharinov.²⁴⁴

Zharinov told Human Rights Watch: "The case [against me] is purely political. Towards the beginning of the investigation, [the authorities] constantly tried to cheat with the evidence in order to make it fit their theory."²⁴⁵ Zharinov's lawyer, Andrei Lepyohin, told Human Rights Watch that during the trial anti-extremism police officials wiretapped Zharinov's phones and monitored his blog and social media accounts. Zharinov was an active participant in demonstrations led by opposition leader Alexey Navalny and also took part in a public protest against Russia's occupation of Crimea in early March 2014, facts relied on by the prosecution at trial.²⁴⁶

Shortly after his sentencing, Zharinov benefited from a wide amnesty declared by the authorities on the occasion of 70th anniversary of victory in World War II. In March 2016, Zharinov lodged an application with the ECtHR claiming that his prosecution was politically motivated.²⁴⁷

Rafis Kashapov, Naberezhnye Chelny

In May 2015, authorities charged 56-year-old Rafis Kashapov, director of the Tatar cultural center in Naberezhnye Chelny, in Tatarstan, in central Russia, with "public calls for disintegration of Russia's territorial integrity" and "incitement of hatred towards the Russian authorities as a social group" for four articles he shared on his VKontakte page between July and December 2014, condemning Russia's actions in Crimea.²⁴⁸

Following several months of pre-trial investigation, which Kashapov spent in custody, on September 15, 2015 the Naberezhnye Chelny City Court sentenced Kashapov to three years

²⁴⁴ "Ban for The Three. UNA-UNSO outlawed [Запрет на троих. УНА-УНСО объявлена вне закона]," *Rossiyskaya Gazeta*, November 18, 2014, <https://rg.ru/2014/11/17/sud-site.html> (accessed November 17, 2016).

²⁴⁵ Human Rights Watch phone interview with Konstantin Zharinov, July 24, 2015.

²⁴⁶ Human Rights Watch phone interview with Andrei Lepyohin, October 29, 2015.

²⁴⁷ "Strasbourg over Re-post [Страсбург заступил на перепост]," *Kommersant.ru*, March 9, 2016, <http://kommersant.ru/doc/2932731> (accessed December 1, 2016).

²⁴⁸ "Rafis Kashapov: three years in jail for a word against Crimea annexation [Рафис Кашапов: 3 года тюрьмы за слово против аннексии Крыма]," *Krym.Realii*, September 15, 2015, <http://ru.krymr.com/a/27250125.html> (accessed December 10, 2016).

in prison and a two-year ban on the use of social networks.²⁴⁹ According to Kashapov's lawyer, the court took the fact of his ailing health into consideration when issuing the verdict, but also "recognized the high level of public threat presented by his actions."²⁵⁰ On November 13, the Supreme Court of the Republic of Tatarstan upheld Kashapov's conviction and imprisonment, but removed the ban on the use of social networks.²⁵¹

The SOVA Center commenting on the case said that criticism of the authorities' action is not incitement to hatred and should not be prosecuted.²⁵² Russia's Memorial Human Rights Center has designated Kashapov a political prisoner.²⁵³

Darya Polyudova, Krasnodar

On December 21, 2015, a court convicted Darya Polyudova, a 26-year-old woman from Krasnodar, in southern Russia, on charges of inciting separatism and public calls to extremist activities and sentenced her to two years in prison.²⁵⁴ The charges against her derived from three posts she published on her VKontakte page. The first post was a comment from another user, which Polyudova reposted on her account. The comment was satirical, about the supposed demands of local ethnic Ukrainians in the Krasnodar region to have the region incorporated into Ukraine.²⁵⁵

The second post was a photo of Polyudova holding a poster that said, "No war in Ukraine but a revolution in Russia!" The third post included the suggestion that Russians should follow the example of Ukraine's Maidan activists, take to the streets, and bring down the government. None of the posts include any specific action plan or calls to violence.

²⁴⁹ "Rafis Kashapov found guilty for making separatist calls and inciting hatred [Рафиса Кашапова признали виновным в призывах к сепаратизму и возбуждении ненависти]," *SOVA Center for Information and Analysis*, September 9, 2015, <http://www.sova-center.ru/misuse/news/persecution/2015/09/d32800/> (accessed September 13, 2015).

²⁵⁰ Human Rights Watch phone interview with Kamalova Rushana, Kashapov's lawyer, December 7, 2016.

²⁵¹ "The Supreme Court of Tatarstan confirmed the verdict for Rafis Kashapov [Верховный суд Татарстана утвердил приговор Рафису Кашапову]," *SOVA Center for Information and Analysis*, November 13, 2015, <http://www.sova-center.ru/misuse/news/persecution/2015/11/d33234/> (accessed November 17, 2015).

²⁵² "Rafis Kashapov found guilty for making separatist calls and inciting hatred [Рафиса Кашапова признали виновным в призывах к сепаратизму и возбуждении ненависти]," *SOVA Center for Information and Analysis*, September 9, 2015.

²⁵³ "Memorial Considers Kashapov a political prisoner [Мемориал считает Кашапова политзаключенным]," *Memorial Human Rights Center*, May 22, 2015, <http://memohrc.org/news/memorial-schitaet-rafisa-kashapova-politzaklyuchennym> (accessed November 28, 2016).

²⁵⁴ "Dispatches: The Crime of Speaking Up in Russia", Human Rights Watch dispatch, December 22, 2015, <https://www.hrw.org/news/2015/12/22/dispatches-crime-speaking-russia>.

²⁵⁵ *Ibid.*

Polyudova's VKontakte page had only 38 followers, and most of her posts drew very few comments. Polyudova's criminal prosecution was widely criticized for being unlawful and arbitrary.²⁵⁶ International human rights groups have called for her immediate release.²⁵⁷ On March 30, 2016, the appeal court of Krasnodar region upheld Polyudova's prison sentence.

Evgeny Kort, Moscow region

On November 3, 2016, a district court in Moscow found 20-year-old Evgeni Kort guilty of "incitement of hatred" and "humiliation of human dignity" for posting on his VKontakte page an image of Maxim Martsinkevich, a prominent neo-Nazi (who at this writing is serving a prison sentence for violent extremism), and Alexander Pushkin, Russia's most famous poet one whose great-grandfather was of African descent.²⁵⁸ The image depicts Martsinkevich pressing Pushkin against a wall and shouting a racial slur at him. Kort's lawyer said that according to the investigation, the image included "a set of psychological and linguistic attributes humiliating non-Russians."²⁵⁹ Kort said in a media interview that he did not intend to publish the image but accidentally saved it on his page.²⁶⁰ The court sentenced Kort to one year in jail, which was reduced to a fine of 200,000 rubles (US\$3,304) on appeal.²⁶¹

²⁵⁶ "Darya Polyudova's case transferred to court [Дело Дарьи Полюдовой передано в суд]," *SOVA Center for Information and Analysis*, March 8, 2015, <http://www.sova-center.ru/misuse/news/persecution/2015/08/d32545/>; and "Russia: Drop Charges against Blogger Anton Nossik," *Article 19*, September 30, 2016, <https://www.article19.org/resources.php/resource/38513/en/%E2%80%A8russia:-drop-charges-against-blogger-anton-nossik> (accessed November 29, 2016).

²⁵⁷ "Amnesty International Calls for Immediate Release of Darya Polyudova [Amnesty International требует немедленного освобождения Дарьи Полюдовой]," *Amnesty International*, March 30, 2015, <https://amnesty.org.ru/ru/2016-03-30-poljudova/> (accessed November 29, 2016).

²⁵⁸ "Muscovite sentenced to real jail term over publishing an image with Pushkin and Cleaver [Москвича приговорили к реальному сроку за публикацию картинки с Тесаком и Пушкиным]," *SOVA Center for Information and Analysis*, November 3, 2016, <http://www.sova-center.ru/racism-xenophobia/news/counteraction/2016/11/d35766/> (accessed December 1, 2016).

²⁵⁹ "Muscovite sentenced to one year in penal colony over an image with Pushkin and Cleaver [Москвича приговорили к году колонии-поселения за картинку с Пушкиным и Тесаком]," *TV Rain*, November 3, 2016, <https://tvrain.ru/news/krot-420299/> (accessed November 29, 2016).

²⁶⁰ "You'd be better off removing yourself from VKontakte altogether": how a criminal sentence was handed down for an image of Pushkin and Tesak ["Лучше вообще удалитесь из 'ВКонтакте'": как выносили приговор за картинку с Пушкиным и Тесаком]," *TV Rain*, November 4, 2016, https://tvrain.ru/teleshov/vechernee_shou/kort-420369/ (accessed November 29, 2016).

²⁶¹ "Evgeny Kort's Sentence Changed on Appeal [Изменен приговор Евгению Карту]," *SOVA Center for Information and Analysis*, January 16, 2017, <https://www.sova-center.ru/misuse/news/persecution/2017/01/d36184/> (accessed February 10, 2017).

The SOVA Center described Kort’s criminal prosecution as “groundless,” and his punishment “disproportionally severe.”²⁶²

Ekaterina Vologzheninova, Ekaterinburg

In February 2016, a court in Ekaterinburg convicted 46-year-old Ekaterina Vologzheninova of incitement to hatred towards “Russian people,” “Russian volunteers fighting on the side of the insurgents in eastern Ukraine,” and “authorities” and “residents of eastern Ukraine who do not support the political course of modern Ukraine” as ethnic and social groups.²⁶³ The charges stemmed from several posts on Vologzheninova’s VKontakte page, including a poem criticizing Russia’s actions in Ukraine and images reminiscent of USSR period posters with captions, “Stop the plague,” and “Death to Moscow invaders.”²⁶⁴

A Radio Liberty correspondent who closely monitored Vologzheninova’s trial reported that during the trial the prosecutor said several of Vologzheninova’s posts were against Russians as an ethnic group, including an image depicting Russian President Vladimir Putin leaning over a map of eastern Ukraine with a knife in his hands.²⁶⁵ The prosecutor also accused Vologzheninova of “discrediting [Russia’s] political order” on the basis of “ideological differences” and underscored Vologzheninova’s contact with “undesirable persons,” such as representatives of human rights groups, who criticized her prosecution.²⁶⁶ At the time, Vologzheninova’s VKontakte page had four followers.²⁶⁷

²⁶² Panel discussion at the Sakharov Center on combating extremism online, attended by Human Rights Watch researchers: “Like, Re-post, Arrest: Folklore on Trial [Лайк, репост, арест: фольклор под судом],” *Sakharov Center*, November 8, 2016, <http://www.sakharov-center.ru/discussions/?id=2740> (accessed November 10, 2016).

²⁶³ Human Rights Watch online interview with Roman Kachanov, Vologzheninova’s lawyer, December 2, 2016. See also, “Ekaterinburg: court handed the verdict for Ekaterina Vologzheninova [Екатеринбург: суд вынес приговор Екатерине Вологжениновой],” *Radio Free Europe Russia Service*, February 20, 2016, <http://www.svoboda.org/a/27563769.html> (accessed November 23, 2016).

²⁶⁴ “Trial ends in the case of Ekaterina Vologzheninova [Завершено рассмотрение дела Екатерины Вологжениновой],” *SOVA Center for Information and Analysis*, February 17, 2016, <http://www.sova-center.ru/misuse/news/persecution/2016/02/d33863/> (accessed November 23, 2016).

²⁶⁵ “In Ekaterinburg, end of Ekaterina Vologzheninova’s trial [В Екатеринбурге завершился процесс по делу Вологжениновой],” *Radio Free Europe Russia Service*, February 17, 2016, <http://www.svoboda.org/a/27557831.html> (accessed November 23, 2016).

²⁶⁶ “Trial ends in the case of Ekaterina Vologzheninova [Завершено рассмотрение дела Екатерины Вологжениновой],” *SOVA Center for Information and Analysis*, February 17, 2016, <http://www.sova-center.ru/misuse/news/persecution/2016/02/d33863/> (accessed November 23, 2016).

²⁶⁷ “Court ruled to destroy computer and mouse of the convicted for incitement of hatred [Суд постановил уничтожить компьютер и мышь осужденной за разжигание ненависти и вражды],” *Vedomosti*, February 20, 2016, <https://www.vedomosti.ru/politics/news/2016/02/20/630958-unichtozhit-kompyuter-razzhiganie-nenavisti> (accessed February 22, 2016).

Vologzheninova’s lawyer Roman Kachanov told Human Rights Watch that during the trial the court rejected all defense motions. He said that the case appeared politically motivated and intended to intimidate.²⁶⁸ The court sentenced Vologzheninova to 320 hours of compulsory labor and ordered to destroy her laptop, mouse, and charger “as instruments of a crime.”²⁶⁹ In April 2016, the verdict was upheld on appeal.²⁷⁰

Charges of Storage and Distribution of Extremist Materials

Dmitry Semyonov, Cheboksary

Opposition activist Dmitry Semyonov has faced numerous criminal and administrative investigations for posts on his VKontakte page.²⁷¹ In November 2016, a court in Cheboksary fined Semyonov 1,000 rubles (US\$16) for “mass distribution of extremist materials” for sharing two photos of the far-right politician and current member of parliament Vitaly Milonov, wearing a t-shirt with the phrase “Orthodoxy or death”—a slogan of conservative Orthodox Christians.²⁷² Milonov has not faced any sanctions in connection with wearing this t-shirt in public.

Previously, in September 2015, Semyonov was convicted for extremism because he re-posted a satirical photo of Prime Minister Medvedev in a traditional Caucasian robe with the caption, “Death to the Russian vermin” on VKontakte.²⁷³ Shortly after he had posted the photograph, in March 2015, the FSB raided Semyonov’s apartment where he lived with his parents, and his work place, and seized his electronic devices. The court found Semyonov guilty of “making public calls for extremist activities” fined him 150,000 rubles

²⁶⁸ Human Rights Watch online interview with Roman Kachanov, Moscow, November 30, 2016.

²⁶⁹ Ekaterinburg: court handed the verdict for Ekaterina Vologzheninova [Екатеринбург: суд вынес приговор Екатерине Вологжениновой],” *Radio Free Europe Russia Service*, February 20, 2016, <http://www.svoboda.org/a/27563769.html> (accessed November 23, 2016).

²⁷⁰ Human Rights Watch online interview with Roman Kachanov, November 30, 2016.

²⁷¹ “Chuvash opposition activist arrested for re-posting photos in Vkontakte [Чувашского оппозиционера задержали за перепост фотографий «ВКонтакте]”, *Republic*, May 28, 2014, <https://republic.ru/fast/russia/chuvashskogo-oppozitsionera-zaderzhali-za-perepost-fotografiy-vkontakte-1105023.xhtml> (accessed May 30, 2014); and <https://zona.media/article/2015/17/09/perepost>.

²⁷² Human Rights Watch phone interview with Dmitry Semyonov, November 15, 2016. Semyonov shared those photos on his VKontakte page in December 2013 and August 2014 respectively.

²⁷³ Ibid. See also, “In Cheboksary, the opposition activist Semenov goes on trial [В Чебоксарах начался суд по делу оппозиционера Семенова],” *SOVA Center for Information and Analysis*, July 27, 2015, <http://www.sova-center.ru/misuse/news/persecution/2015/07/d32515/> (accessed July 27, 2016).

(\$2,484); he was immediately amnestied.²⁷⁴ In April 2016, Semyonov lodged an application with the ECtHR alleging violation of his rights to freedom of expression and fair trial for both cases.²⁷⁵

Semyonov linked the prosecutions to his activism and specifically to his candidacy for the local parliamentary election.²⁷⁶

Charges of Rehabilitation of Nazism

Vladimir Luzgin, Perm

In July 2016, a court in Perm convicted Vladimir Luzgin under the provisions of the rehabilitation of Nazism law for “falsifying history” by reposting an article saying that the Soviet Union shares responsibility for starting World War II and that the Soviet Union and Germany attacked Poland simultaneously. The court fined him 200,000 rubles (US\$3,312), which was upheld on appeal.²⁷⁷ The court ruling referred to Luzgin’s high marks in history from grade school as proof of his competence in history and stated that Luzgin should have anticipated “harmful effects” of his re-post on the public at large, as the article promoted “persistent beliefs about the USSR’s negative activities” during World War II.²⁷⁸

Use of Anti-Extremism Laws to Curb Free Expression in Crimea

Since Russia’s occupation of Crimea in February 2014, the de facto Crimean and Russian authorities have imprisoned, attacked, disappeared, intimidated or exiled those who

²⁷⁴ “The verdict for re-posting demotivator with Dmitry Medvedev appealed [Обжалован приговор за репост демотиватора с Дмитрием Медведевым],” *OVD-Info*, September 28, 2015, <https://ovdinfo.org/express-news/2015/09/28/obzhalovan-prigovor-za-repost-demotivatora-s-dmitriem-medvedevym> (accessed September 28, 2016).

²⁷⁵ “Chuvash activist, sentenced for making extremist calls, applied to the ECtHR [Чувашский активист, осужденный за призывы к экстремистской деятельности, обратился в ЕСПЧ],” *SOVA Center for Information and Analysis*, April 13, 2016, <http://www.sova-center.ru/misuse/news/persecution/2016/04/d34295/> (accessed September 26, 2016).

²⁷⁶ Human Rights Watch phone interview with Dmitry Semyonov, November 15, 2016.

²⁷⁷ “Verdict Handed Down in Perm for Distributing False Information about USSR Activities [В Перми вынесен приговор за распространение ложных сведений о деятельности СССР],” *SOVA Center for Information and Analysis*, July 1, 2016, <https://www.sova-center.ru/misuse/news/persecution/2016/07/d34941/> (accessed November 10, 2016); “Supreme Court Upheld the Verdict to Luzgin from Perm for Rehabilitation of Nazism [Верховный Суд оставил в силе приговор пермяку Лузгину за реабилитацию нацизма],” *SOVA Center for Information and Analysis*, September 1, 2016, <https://www.sova-center.ru/misuse/news/persecution/2016/09/d35321/> (accessed November 11, 2016).

²⁷⁸ “Russian Court Convicts Man for ‘Falsifying History’ for Saying the USSR Shares Responsibility for Starting WWII,” *Meduza*, July 1, 2016, <https://meduza.io/en/news/2016/07/01/russian-court-convicts-man-of-falsifying-history-for-saying-the-ussr-shares-responsibility-for-starting-wwii> (accessed November 11, 2016).

peacefully opposed or openly criticized Russia's actions on the peninsula.²⁷⁹ Following the occupation, the authorities in Crimea have created a climate of pervasive fear and repression, in which free speech and media are virtually nonexistent. Authorities have also pressured and persecuted journalists who have openly criticized Russia's actions in Crimea.

The authorities in particular targeted Crimean Tatars, a predominantly Muslim ethnic minority that is native to Crimea and that has openly opposed Russia's occupation. The authorities have made Crimean Tatars pay for their principled stance by banning their leaders from the peninsula, harassing, and ultimately banning Mejlis,²⁸⁰ their representative body as extremist, imprisoning Crimean Tatar activists on trumped up charges and shutting down independent Crimean Tatar media outlets.²⁸¹

Authorities also arrested Mejlis members and searched their homes. Numerous Mejlis member received threats; some were attacked by individuals apparently acting in collusion with the authorities.²⁸² At this writing, two deputy leaders of Mejlis, Akhtem Chygoz and Ilmi Umerov, are being prosecuted on charges of separatism and rioting.²⁸³

Harassment of Lawyers Nikolai Polozkov and Emil Kurbedinov

Russian authorities intimidated and harassed defense lawyers representing Mejlis members and other Crimean Tatars and brought "extremism" charges against them.

On January 26, 2017, officials from the anti-extremism police unit in Crimea detained Emil Kurbedinov, a local defense lawyer, in the city of Bakhchysarai.²⁸⁴ Kurbedinov was on his way to see a client when traffic police stopped his car, claiming they were making a routine check. Anti-extremism officials arrived and arrested him. Officials took Kurbedinov to the

²⁷⁹ Human Rights Watch, *Rights in Retreat: Abuses in Crimea* (New York: Human Rights Watch, 2014), <https://www.hrw.org/report/2014/11/17/rights-retreat/abuses-crimea>, pp. 1-4.

²⁸⁰ The Mejlis of the Crimean Tatar People is a body elected at an all-Crimean Tatar assembly, Kurultai, to represent the community vis-à-vis the local and central authorities.

²⁸¹ "Ukraine: Fear, Repression in Crimea," Human Rights Watch news release, March 18, 2016, <https://www.hrw.org/news/2016/03/18/ukraine-fear-repression-crimea>; and Human Rights Watch, *Rights in Retreat: Abuses in Crimea* (New York: Human Rights Watch, 2014), pp. 1-4.

²⁸² "Crimean Tatar Elected Body Banned in Russia," Human Rights Watch news release, September 29, 2016, <https://www.hrw.org/news/2016/09/29/crimean-tatar-elected-body-banned-russia>.

²⁸³ "Crimea: Defense Lawyers Harassed," Human Rights Watch news release, January 30, 2017, <https://www.hrw.org/news/2017/01/30/crimea-defense-lawyers-harassed>

²⁸⁴ Human Rights Watch interview with Kurbedinov's colleague, Jemil, Kyiv, January 27, 2017.

district court of Simferopol, Crimea’s capital city, where he was convicted of a misdemeanor for “public distribution of extremist materials” and sentenced to 10 days in detention.²⁸⁵ Police also searched Kurbedinov’s home and office and confiscated two laptops and several electronic storage devices.²⁸⁶

On January 25, FSB officers in Crimea detained Nikolai Polozov, a defense lawyer from Moscow, on his way to a court hearing on Akhtem Chiygoz’s case. Six officers approached Polozov outside his hotel in Simferopol, forced him into a van and drove him to the Simferopol FSB, where officers questioned him without his lawyer.²⁸⁷ Two investigators asked him about his legal assistance to Chiygoz. Polozov asserted attorney-client privilege and declined to answer. Investigators released Polozov after two-and-a-half hours.²⁸⁸

Criminal Prosecution of Ilmi Umerov

The case against Ilmi Umerov, a former chairman of Mejlis, is a stark example of the government using anti-extremism legislation to silence Crimean Tatars through criminal prosecution.

In May 2016, Russia’s Federal Security Services detained Umerov in Bakhchisaray and charged him with separatism. Mark Feygin, one of Umerov’s lawyers, told Human Rights Watch that the charges stemmed from a March 2016 live interview with the Crimean Tatar TV channel ATR, which was also posted on YouTube.²⁸⁹ Russian authorities forced the ATR to shut down in April 2015, and it relocated to Kyiv.²⁹⁰ Feygin said that based on an “expert linguistic analysis” of the Russian translation of Umerov’s Crimean Tatar language interview, the FSB concluded that Umerov had threatened Russia’s territorial integrity by making public calls to get Crimea back from Russia.²⁹¹

²⁸⁵ “Crimea: Defense Lawyers Harassed,” Human Rights Watch news release, January 30, 2017.

²⁸⁶ *Ibid.*

²⁸⁷ See Nikolai Polozov’s description of the detention and questioning on Echo of Moscow blog, January 25, 2017, http://echo.msk.ru/blog/moscow_advokat/1916468-echo/ (accessed January 26, 2017).

²⁸⁸ *Ibid.*

²⁸⁹ Human Rights Watch phone interview with Mark Feygin, August 24, 2016.

²⁹⁰ “Crimean Tatar TV Station Forces to Close”, Human Rights Watch dispatch, April 1, 2015, <https://www.hrw.org/news/2015/04/01/dispatches-crimean-tatar-tv-station-forced-close>.

²⁹¹ Umerov interview transcript, according to his lawyer, states: “It’s important to make Russia leave Crimea, Donbass and Luhansk, if it was only possible to restore Ukraine’s former borders....”

On August 11, during a court hearing in Simferopol to examine an FSB petition for a psychiatric evaluation of Umerov, Umerov became unwell from pre-existing high blood pressure and was hospitalized directly from the courtroom. The court approved the petition in Umerov's absence and his lawyers immediately appealed. On August 18, in breach of procedural law, Umerov was transferred to a psychiatric facility before an appeals court could rule on the appeal. He spent a total of three weeks in the psychiatric facility and was released on September 7.

Umerov's daughter, Ayshe Umerova, told Human Rights Watch that Umerov suffers from diabetes, Parkinson's disease, and heart disease. According to her, the forced psychiatric confinement had a negative effect on his general health condition.²⁹² At this writing, Umerov's trial is ongoing.²⁹³

Criminal Prosecution of Mykola Semena

Russian authorities charged Mykola Semena, a Crimea-based pro-Ukrainian journalist, with "making public calls threatening the territorial integrity of the Russian Federation." The "separatism" charges stemmed from Semena's September 2015 article, entitled "Blockade—the Necessary First Step for Liberation of Crimea."²⁹⁴ The article, which was published under a pseudonym, contained no direct calls for violence.²⁹⁵

In the early hours of April 19, 2016, FSB officials searched Semena's home in Simferopol, seized his computers and phone, and took him in for questioning. Authorities charged him with making public calls threatening Russia's territorial integrity and banned him from leaving the peninsula. In addition, the authorities put Semena's name on Russia's federal list of "extremists." As a result, Semena is required to submit a written application to his bank every time he needs to withdraw funds—a common measure with

²⁹² Human Rights Watch interview with Ayshe Umerova, Kyiv, October 2016.

²⁹³ "Case of Mejlis' deputy chair moves to trial [Дело замглавы Меджлиса передано в суд]," *SOVA Center for Information and Analysis*, March 22, 2017, <http://www.sova-center.ru/misuse/news/persecution/2017/03/d36654/> (accessed March 30, 2017).

²⁹⁴ Human Rights Watch online interview with Semena, January 16, 2017.

²⁹⁵ The article is available here: <http://ru.krymr.com/a/27240750.html> (accessed January 16, 2016).

regard to those prosecuted for extremism-related crimes.²⁹⁶ If convicted, Semena faces up to five years in prison.

²⁹⁶ Human Rights Watch online interview with Semena, January 16, 2017.

VI. Access to Information: “Gay Propaganda” Ban

Homophobia is the natural state of any person. If they come up with a day against homophobia, then we can create a day against homosexuality because homophobia is much less harmful than homosexuality.²⁹⁷

—Vitali Milonov, politician, member of the State Duma for United Russia

As described above, any positive information about “nontraditional sexual relations” is effectively prohibited from public discussion in Russia. The purported rationale behind Russia’s federal-level “gay propaganda” ban is that portraying same sex-relations as socially acceptable and of equal value to heterosexual relations supposedly threatens the intellectual, moral, and mental well-being of children. While purporting to protect children, the ban in fact directly harms them through denying them access to essential information and creating a stigma against LGBT children and LGBT family members.²⁹⁸

On September 23, 2014, Russia’s Constitutional Court upheld the “gay propaganda” ban as protecting constitutional values such as “family and childhood.” The Court also found no interference with the right to privacy and did not view the ban as censoring debates about LGBT relations.²⁹⁹ Any information deemed to represent “propaganda of non-traditional sexual relations” can be included on the blacklist of banned websites established by the 2012 law aimed at protecting children from harmful information (see above).³⁰⁰

A legal opinion issued in June 2013 by the Venice Commission, the Council of Europe’s advisory panel on legal matters, concluded that the draft of the adopted federal anti-LGBT

²⁹⁷ “Milonov uses his car to fight gays [Милонов использует свое авто для борьбы с геями],” Rambler News, May 17, 2016, <https://news.rambler.ru/head/33644256-milonov-ispolzuet-svoe-avto-dlya-borby-s-geyami/>

²⁹⁸ Human Rights Watch, *License to Harm: Violence and Harassment against LGBT People and Activists in Russia* (New York: Human Rights Watch, 2014), <https://www.hrw.org/report/2014/12/15/license-harm/violence-and-harassment-against-lgbt-people-and-activists-russia>.

²⁹⁹ “Constitutional Court of Russian Federation Found Gay-Propaganda Ban Lawful [КС РФ признал законным запрет на гей-пропаганду],” *Rossiyskaya Gazeta*, September 25, 2014, <https://rg.ru/2014/09/25/reg-szfo/ks.html> (accessed November 9, 2016).

³⁰⁰ “Federal Law № 139-FZ “On Introducing Amendments to the Law on Protection of Children from Information Harmful to Their Health and Development.” [Федеральный закон “О внесении изменений в Федеральный закон “О защите детей от информации, причиняющей вред их здоровью и развитию” и отдельные законодательные акты Российской Федерации” от 28.07.2012 N 139-ФЗ (последняя редакция), http://www.consultant.ru/document/cons_doc_LAW_133282 (accessed March 30, 2017).

law was “incompatible with [the European Convention on Human Rights] and international human rights standards” and should be repealed. The opinion found that the purpose of the law “is not so much to advance and promote traditional values and attitudes towards family and sexuality but rather to curtail nontraditional ones by punishing their expression and promotion.”³⁰¹ The law drew widespread criticism from the Council of Europe, the Organization for Security and Co-operation in Europe, and the UN Office of the High Commissioner for Human Rights, among others.

During a periodic review in January 2014, the UN Committee on the Rights of the Child recommended that Russian authorities “repeal its laws prohibiting propaganda of homosexuality and ensure that children who belong to LGBTI groups or children of LGBTI families are not subjected to any form of discrimination by raising awareness of the public on equality and non-discrimination based on sexual orientation and gender identity.”³⁰²

However, Russia has made no moves to comply with these recommendations and, at this writing, Russian courts have convicted at least six people for violating the federal anti-LGBT “propaganda” law.

Elena Klimova, Nizhny Tagil

In November 2014, Roskomnadzor filed a complaint against Elena Klimova, founder of the Deti-404 group (see above, Banning Critical Websites), and the administrator of the group’s online activities, alleging that the group’s activities contained “propaganda for nontraditional sexual relationships.”

Roskomnadzor claimed that the information published by Deti-404 “could cause children to think that to be gay means to be a person who is brave, strong, confident, persistent, who has a sense of dignity and self-respect.”³⁰³

³⁰¹ Council of Europe Venice Commission, Opinion on the issue of the prohibition of so-called “Propaganda of homosexuality” in the light of recent legislation in some member states of the Council of Europe, CDL-AD (2013)022-e, June 18, 2013, [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)022-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)022-e) (accessed January 16, 2016).

³⁰² Convention on the Rights of the Child, Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation, CRC/C/RUS/CO/4-5, January 31, 2014, http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/RUS/CRC_C_RUS_CO_4-5_16305_E.pdf (accessed January 16, 2016).

³⁰³ Human Rights Watch interview with Elena Klimova, St. Petersburg, November 20, 2014.

On January 23, 2015, a court in Nizhny Tagil found Klimova guilty of “spreading information containing propaganda about non-traditional sexual relations.” The court fined Klimova 50,000 rubles (US\$828).³⁰⁴ However, on March 25, 2015, an appeals court sent the case for retrial, citing numerous procedural violations in the lower court.³⁰⁵ On July 23, 2015, the Nizhny Tagil court again convicted Klimova and ordered her to pay the fine.

Sergei Alekseenko, Murmansk

On January 18, 2016, a court in Murmansk, in northwestern Russia, fined Sergei Alekseenko, an LGBT rights activist, for violating the gay propaganda ban.

Alekseenko is the former director of Maximum, a group in Murmansk that provided legal and psychosocial support to LGBT people. The court found that certain items posted on Maximum’s website contained positive information about LGBT relations and imposed a fine of 100,000 rubles (US\$1,656).³⁰⁶ The ruling, which came after Maximum’s closure in October after being forced to register as a foreign agent, stated that as the head of the organization, Alekseenko was responsible for information posted on the group’s VKontakte page and that Alekseenko was fully aware that children might have access to the page.³⁰⁷ On April 1, the Murmansk city court upheld the district court’s decision.³⁰⁸

Police told Alekseenko that they had received complaints from unidentified individuals about “illegal activities” on Maximum’s VK account. It also said that a psycho-linguistic evaluation, which investigators ordered in May, had found that several posts on the account contained “linguistic and psychological elements of propaganda of non-traditional sexual relations.”³⁰⁹

Alekseenko told Human Rights Watch that one of the posts deemed “gay propaganda” was a re-post from another user’s account stating, “Children! To be gay means to be a person who is brave, strong, confident, persistent, who has a sense of dignity and self-respect.”

³⁰⁴ Ibid.

³⁰⁵ Human Rights Watch online interview with Elena Klimova, December 15, 2015.

³⁰⁶ “Russia: Court Rules Against LGBT Activist,” Human Rights Watch news release, February 3, 2016, <https://www.hrw.org/news/2016/02/03/russia-court-rules-against-lgbt-activist>.

³⁰⁷ Ibid.

³⁰⁸ Email correspondence with Sergei Alekseenko on April 1, 2016.

³⁰⁹ Ibid.

Another post was a poem by the 19th century Russian writer Mikhail Lermontov, describing a sexual scene between two young men.³¹⁰

³¹⁰ Human Rights Watch phone interview with Sergei Alekseenko, April 1, 2016.

VII. Russia's Human Rights Obligations

Russia is a party to the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR).³¹¹ Both the ECHR and ICCPR impose positive and negative legal obligations on governments to protect freedom of expression and information.³¹² These include the obligations to refrain from non-permissible interference with the rights to expression and information, to protect freedom of expression and information from harm including by private persons and entities, and to facilitate their exercise.

Russia's Constitution guarantees the right to privacy, including the privacy of correspondence, telephone communications, and other communications. Restrictions of this right shall be allowed only pursuant to a court order.³¹³ The Constitution also separately states that it is not permissible to collect, store, use or disseminate information about the private life of a person without his or her consent.³¹⁴

Nevertheless, as outlined above, many of Russia's laws are overly broad and criminalize activities, and speech that are clearly protected by international law.

Article 19 of the ICCPR provides:

Everyone shall have the right to hold opinions without interference; [...]
Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.³¹⁵

³¹¹ Council of Europe, Treaty list for a specific state: Russia, http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/country/RUS?p_auth=6ixTmRsn (accessed February 8, 2017). UN Office of the High Commissioner for Human Rights, Human Rights Committee, <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx> (accessed February 8, 2017).

³¹² ECHR, art.1, and ICCPR, art.2 (2).

³¹³ Constitution, art. 23. See also, Article 63 of the Communications Act of 2003 (no. 126-FZ), which guarantees the confidentiality of communications transmitted on telecommunications networks. Interception of communications is permissible only with a court order, "except in cases established in federal law."

³¹⁴ Constitution, art. 24(1).

³¹⁵ ICCPR, art.19 (1,2).

It also allows “certain restrictions” on the right if provided for by law and deemed necessary for respect of the rights or reputations of others, or for the protection of national security or of public order, health or morals.

Article 10 of the ECHR protects freedom of expression and the right to impart ideas and information in similar terms and provides that limitations can only be imposed on freedom of expression that are prescribed by law and “established convincingly” to be necessary in pursuit of a legitimate goal in a democratic society.³¹⁶

Freedom of expression constitutes one of the essential foundations of a democratic society and extends not only to information or ideas that are favorably received, but also to those that offend, shock or disturb in such domains as “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.”³¹⁷

Media freedom and media plurality are a central part of the effective exercise of freedom of expression. While the media may be subject to some restrictions necessary for the protection of certain vital interests of the state, such as national security or public health, the media has a role and responsibility to convey information and ideas on political issues, even divisive ones and the public has a right to receive them. The ability to practice journalism free from undue interference, to peacefully criticize government, and to express critical views are crucial to the exercise of many other rights and freedoms. The European Court of Human Rights has emphasized that the media has a vital role to play as “public watchdog” in imparting information of serious public concern and should not be inhibited or intimidated from playing that role.³¹⁸

³¹⁶ European Court of Human Rights, *Grinberg v. Russia*, no. 23472/03, judgment of July 21, 2005, available at <http://hudoc.echr.coe.int/eng?i=001-69835>, para.24. See also: European Court of Human Rights, *The Sunday Times v. The United Kingdom*, no.6538/74, judgement of April 26,1979, available at [http://hudoc.echr.coe.int/eng#{"itemid":\["001-57583"\]}](http://hudoc.echr.coe.int/eng#{), para.45.

³¹⁷ European Court of Human Rights, *Grinberg v. Russia*, no.23472/03, judgment of July 21, 2005, available at <http://hudoc.echr.coe.int/eng?i=001-69835>, para.23. See also: UN Human Rights Committee, General Comment No.34, The Freedoms of Opinion and Expression, U.N. Doc. CCPR/C/GC/34 (2011), para.11.

³¹⁸ European Court of Human Rights, *Von Hannover v. Germany*, nos.40660/08 and 60641/08, Judgement of February 7, 2012, available at [http://hudoc.echr.coe.int/eng#{"itemid":\["001-109029"\]}](http://hudoc.echr.coe.int/eng#{), para. 102.

The UN Human Rights Committee has stated that journalists include “bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere.”³¹⁹ In a 2012 resolution adopted by consensus, the UN Human Rights Council affirmed that “the same rights that people have offline must also be protected online.”³²⁰

In December 2015, the Grand Chamber of the European Court of Human Rights ruled unanimously in *Zakharov v. Russia* that Russia’s overbroad and excessively intrusive surveillance laws breached the right to privacy of Roman Zakharov, a publisher and chairperson of a media freedom NGO, and violated Article 8.³²¹ The court first found that Zakharov need not prove he had been under specific surveillance to bring his case because Russia’s secret surveillance measures were so broad in scope that they affected all users of mobile communications, and because there were no effective means to challenge (or even prove) alleged surveillance at the domestic level.³²²

The court then examined several Russian laws that govern surveillance, including the Operational Search Activities Act of 1995, the Code of Criminal Procedure, and Order no. 70 (requiring mobile operators to give Russian authorities direct access to their networks).³²³ The court ruled that this system of surveillance did not provide adequate and effective guarantees against arbitrary interference with privacy or risk of abuse, as required by Article 8. The court found that the laws left authorities an “almost unlimited degree of discretion” in conducting surveillance for national security purposes.³²⁴ Although specific provisions required prior judicial authorization for surveillance, in practice, the European Court of Human Rights found that Russian courts do not verify or scrutinize whether the interception request is justified, often do not have sufficient information to do so, and play no role in continuing oversight.³²⁵ The court was “not convinced by the Government’s

³¹⁹ UN Human Rights Committee, General Committee No.34, the Freedom of Opinion and Expression, U.N. Doc. CCPR/C/GC/34 (2011), para 44.

³²⁰ UN Human Rights Council, “The promotion, protection and enjoyment of human rights on the Internet,” Resolution 20 (2012), U.N. Doc A/HRC/20/L.13.

³²¹ European Court of Human Rights, *Roman Zakharov v. Russia* {GC}, no. 47143/06, Judgment of 4 December 2015, available at <http://hudoc.echr.coe.int/eng?i=001-159324>.

³²² *Ibid.* para. 174-179.

³²³ Order no. 70 on the technical requirements for the system of technical facilities enabling the conduct of operational-search activities using telecommunications networks, issued by the Ministry of Communications on April 20, 1999. This order requires mobile operators to install equipment to provide direct access to their networks, enabling surveillance by Russian authorities without the operators’ knowledge or intervention (a system also known as SORM).

³²⁴ *Zakharov v. Russia*, para. 248.

³²⁵ *Ibid.* paras. 263, 274.

assertion that all interceptions in Russia are performed lawfully on the basis of a proper judicial authorization,” and concluded that its findings “indicate the existence of arbitrary and abusive surveillance practices.”³²⁶

The Zakharov case addressed interception of mobile phone calls in Russian. However, the European Court of Human Rights’ findings also raise serious questions about the adequacy of safeguards that apply to other laws discussed in this report that enable Russian authorities to compel internet companies to disclose user data.

Everyone, including children, have a right to free expression. The Convention on the Rights of the Child guarantees freedom of expression (art. 13) for children in terms that are nearly identical to article 19 of the ICCPR, with the same strict test for permissible limitations. Having access to full information on health, sexuality, and identity is in the interest of every child, regardless of sexual orientation and gender identity. Having access to such information is in line with the aims of education as set out in the International Covenant on Economic, Social and Cultural Rights as “directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms” and should “enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups.”³²⁷

³²⁶ Ibid. para. 303.

³²⁷ The International Covenant on Economic, Social and Cultural Rights, art. 13.

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ONLINE AND ON ALL FRONTS

Russia's Assault on Freedom of Expression

Since 2012, Russian authorities have intensified a crackdown on free expression, treating criticisms of the government as threats to state security and public stability and curbing privacy online. The government has introduced significant restrictions to online expression and invasive surveillance of online activity.

Based on more than 50 interviews with lawyers, journalists, editors, political and human rights activists, bloggers and their family members, *Online and on All Fronts: Russia's Assault on Freedom of Expression* documents this process.

The report describes how the unjustifiable criminal prosecutions of dozens of people for social media posts, online videos, media articles and interviews, conflating criticism of the government with extremism are making Russians increasingly unsure about what kinds of speech are permissible and what could land them a large fine or a prison term.

Following the 2011-2012 mass protests around Vladimir Putin's return to the presidency and through summer 2017, Russia adopted new laws aimed at expanding government control over internet infrastructure and content. The authorities have also invoked numerous other laws that limit or can be used to interfere with free speech. This report analyzes these laws and assesses their impact on freedom of expression and information in Russia.

International human rights law and Russia's constitution guarantee freedom of expression and prohibit censorship. Human Rights Watch urges the Russian government to respect and uphold the right of people in Russia to freely receive and disseminate information and express diverging or critical views.



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