



Russian Federation – Researched and compiled by the Refugee Documentation Centre of Ireland on 13 March 2018

New Domestic violence laws in Russia that decriminalises some forms of domestic violence.

The 2016 US Department of State country report on the Russian Federation, in a section titled “Women” (sub-section headed “Rape and Domestic Violence”), states:

“Domestic violence remained a major problem. There is no significant domestic violence provision in the criminal code and no legal definition of domestic violence. The laws that address bodily harm are general in nature and do not permit police to initiate a criminal investigation unless the victim files a complaint. The burden of collecting evidence in such cases typically falls on the alleged victims. Federal law prohibits battery, assault, threats, and killing, but most acts of domestic violence did not fall within the jurisdiction of the prosecutor’s office. According to NGOs police were often unwilling to register complaints of domestic violence and frequently discouraged victims from submitting them.” (US Department of State (3 March 2017) *2016 Country Reports on Human Rights Practices*, pp.55-56)

The Summary of a document from the US Law Library of Congress states:

“Russia decriminalized nonaggravated battery in July of 2016 and made it an administrative offense punishable by a fine or detention. However, repeated battery and battery committed against close relatives remained punishable under the Criminal Code. Russia amended the Criminal Code once again in February of 2017 and removed the provision regarding assaulting close relatives from the article on nonaggravated battery. As a result, violence committed against family members has also been made an administrative offense. Only repeated instances of battery are now prosecuted as criminal offenses and punishable by criminal law. International and nongovernmental organizations have noted that the failure to adequately protect victims of domestic violence may be incompatible with Russia’s international human rights obligations.” (The Law Library of Congress (June 2017) *Russian Federation: Decriminalization of Domestic Violence*, p.1)

In a section headed “Introduction” this document states:

“Russia is one of three countries in Europe and Central Asia that have not enacted laws specifically targeting domestic violence. The Criminal Code of the Russian Federation contains a number of provisions that criminalize the intentional infliction of harm to a person’s health and provide for punishment depending on the severity of the harm. However, the only legal provision applicable to prosecuting domestic violence appears to be article 116 of the Code. Article 116 deals with physical assault, defined as ‘battery or similar violent actions, which have caused physical pain but have not amounted to

light injury’—i.e., have not merely caused temporary harm to a person’s health or the insignificant loss of the general capacity to work.” (ibid, p.1)

An article from UK newspaper The Guardian states:

“Women’s rights activists have expressed fury over a legal amendment under consideration in the Russian parliament which, if passed, would decriminalise domestic abuse. The amendment would make ‘moderate’ violence within families an administrative rather than criminal offence, punishable by a fine rather than a jail sentence. Those behind the bill say they believe it supports ‘traditional values’ and stops the state from snooping into family matters. But activists say it removes protection for the vulnerable, normalising husbands who beat their wives, parents who beat their children, and family members who beat elderly relatives.” (The Guardian (19 January 2017) *Fury at Russian move to soften domestic violence law*)

A report from Radio Free Europe/Radio Liberty states:

“Russian President Vladimir Putin has signed a law that decriminalizes some forms of domestic violence. The law will categorize as administrative offenses -- instead of criminal acts -- cases of domestic violence that result in pain but not bodily harm. Dubbed the ‘slapping law,’ the bill would affect parents who strike their children and people who strike their spouses or partners. In the event of any danger to the victim’s health or in the case of repeat offenses, the perpetrator would face criminal charges.” (Radio Free Europe/Radio Liberty (7 February 2017) *Putin Signs Law Decriminalizing Some Domestic Violence*)

A report from Human Rights Watch states:

“A draft law pending in Russia’s parliament would seriously weaken protections against domestic violence, Human Rights Watch said today. Parliament should reject the law as dangerous and incompatible with Russia’s international human rights obligations.

‘Passage of this law would be a huge step backward for Russia, where victims of domestic violence already face enormous obstacles to getting help or justice,’ said Yulia Gorbunova, Russia researcher at Human Rights Watch. ‘The domestic violence bill would reduce penalties for abusers and put victims’ lives at even greater risk.’

The amendments would decriminalize a first offense of family violence that does not cause serious harm requiring hospital treatment. Only violence that leads to serious injuries like broken bones or a concussion would remain criminalized. The law would apply to violence against any family member, including women and children. Abusers, if found guilty, would face a minimal fine, up to 15 days’ administrative arrest, or compulsory community service.” (Human Rights Watch (23 January 2017) *Russia: Bill to Decriminalize Domestic Violence*)

An article published by the Russian Analytical Digest, in a section headed “Criminalizing Violence in the Family”, states:

“In 2016, an unexpected opportunity opened. As part of a larger packet of legal reforms, the Supreme Court was pushing the Duma to move several provisions of the Criminal Code to the Administrative Code, including the first part of Article 116 (battery), which is the primary crime that women have been using for domestic violence prosecution and which would decrease the penalties and punishments. Battery, a lesser crime than light injury (Art. 115), where the harm is not bad enough to require hospital treatment, was already barely criminalized, as it required no public prosecution. (Under Russia’s peculiar private prosecution, the victim is in charge of the prosecution herself.) Activists against domestic violence rallied, and in February, Putin signaled some concern about this decriminalization after the Duma’s first reading of the proposed legislation: ‘Some experts believe that the decriminalisation of these Criminal Code articles would lead to an increase in domestic violence,’ he said.

With more pressure from activists and Putin’s assent, the second and final version of the legislation in July excluded from the decriminalization any forms of battery that were committed by people ‘close’ to the victim (including spouses, children, parents, grandparents, grandchildren or co-inhabitants). For the first time in Russian history, there were provisions in Russia’s criminal law that connoted some particular dynamics of domestic violence that made battery by family members more significant than violence by strangers. The changes also made this form of battery by close persons into a private-public prosecution crime in which the victim must initiate the process by filing a complaint, but the state is then responsible for investigating and prosecuting. Together, these changes effectively criminalized domestic violence. A version of the draft comprehensive legislation on domestic violence was then formally introduced in September 2016.” (Russian Analytical Digest (28 March 2017) *Gender Equality Policy: Criminalizing and Decriminalizing Domestic Violence*, pp.2-3)

In a section headed “De-criminalizing Domestic Violence” this article states:

“This success was to be short-lived. During and after the small reforms in the summer of 2016, the All-Russian Parents’ Resistance organized protests and petitions in a dozen cities across Russia, questioning whether beating family members should be a crime, arguing that such ideas were Western and collecting more than 200,000 signatures protesting the reforms. Federation Council Senator Elena Mizulina declared ‘even when a man beats his wife, it’s not as offensive as humiliating a man.’ At a December 23, 2016 press conference, Putin signaled his change of heart: ‘Unceremonious interference in family matters is unacceptable.’ Three days later, the women’s crisis center ANNA in Moscow, the most internationally prominent crisis center and the one connected with those who had protested the draft legislation, was suddenly put on the ‘foreign agent’ list.

By January 2017, Russia’s bicameral legislature began considering how to undo the summer reforms. Sponsored by Mizulina (along with Duma deputy Olga Batalina), the new legislation proposed to move battery by close persons, as long as it was the first violation reported to the police, to the Administrative Code (as had been the original proposal, equalizing the penalties and procedures for battery by close or non-familiar persons). The penalty would be only a fine of up to \$500, 15 days arrest, or 120 days of community service, and the victim would have to prosecute privately.¹²

Called the 'slapping Law' by opponents, the legislation went quickly through the required three readings in the newly elected Duma. On February 1, the Federation Council approved the legislation, and within the week, Putin signed it into law. Domestic violence, just criminalized, was then effectively de-criminalized." (ibid, p.3)

A report published by the European Asylum Support Office, in a section titled "Women (domestic violence)" (section 2.6.4)

"In July 2016, battery against strangers was downgraded to a misdemeanour under a presidential amendment that modified article 116 of the Criminal Code of the RF. However, battery committed against intimates (or motivated by hooliganism, hatred or enmity) became a matter of private-public prosecution, rather than private prosecution.

According to Mari Davtyan, a Russian lawyer and member of a working group drafting a federal law on prevention of domestic violence, in practice this change meant that 'victims need only to file charges (that is obligatory), but then the police will take over investigation of the crime, and subsequently, in court, the charges will be supported by the prosecutor, meaning a standard criminal trial will be the outcome'. The lawyer added that the new law on battery also did not stipulate 'paying a fine as a form of punishment', meaning that if convicted, the aggressor would not be able to pay a fine using the family budget.

On 7 February 2017, following a proposal by the ultraconservative Council of the Federation's senator Yelena Mizulina to decriminalise battery within families and turn it into an administrative offence, President Putin signed a new law that establishes that acts of violence committed within the family that do not cause severe injuries, or are reported only once a year do not qualify as domestic violence. Only in the event of danger to the victim's health or repeated offenses will the perpetrator face criminal charges.

In Yekaterinburg, the fourth-largest city in the RF, 'reports of domestic violence have more than doubled' since the new law entered into force, with 350 incidents of domestic violence being reported daily, as opposed to 150 in the past. According to the city's mayor, the 'change makes domestic violence seem acceptable'" (European Asylum Support Office (March 2017) *Russian Federation – State Actors of Protection*, p.91)

A report from Amnesty International states:

"After President Vladimir Putin signed a legal reform that decriminalizes some forms of domestic violence, Anna Kirey, Deputy Director for Campaigns for Russia and Eurasia at Amnesty International, said:

"While the Russian government claims this reform will 'protect family values', in reality it rides roughshod over women's rights. It is a sickening attempt to further trivialize domestic violence, an issue the Russian government has long attempted to downplay. Far too often, victims find they cannot rely on the law for protection and their abusers are let off the hook, with only a tiny fraction imprisoned for their actions.

“In the more than a decade since Amnesty International’s last report on rampant domestic violence in Russia, the authorities have failed to implement a single measure to enhance protection and services for the victims.”
(Amnesty International (8 February 2017) *Russia: Domestic violence law puts women at greater risk*)

An article from the Moscow Times states:

“For Svetlana, a 35-year-old mother of three from Moscow, domestic violence is a family affair. Her ex-husband repeatedly threatened to take their son away and beat her mother. Last spring, it was Svetlana's turn. ‘He cornered me in our flat in Moscow for several hours and beat me,’ she remembers. ‘He tried to rape me and said he would pour acid over me.’ Even though months have passed since the attack, the agitation in her voice is palpable. Especially because, after she reported the incident to the police, her ex-husband got away with just a fine. In Russia, domestic violence is often treated as a private matter and Svetlana’s case is far from unique, says Mari Davtyan, a women’s rights lawyer. But nine months after Russia decriminalized domestic violence — to the great alarm of rights defenders — women like Svetlana have even less protection. ‘Victims like her are now totally ignored,’ Davtyan told The Moscow Times.” (The Moscow Times (24 November 2017) *Nine Months After New Domestic Violence Law, Russian Women Still Struggle*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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