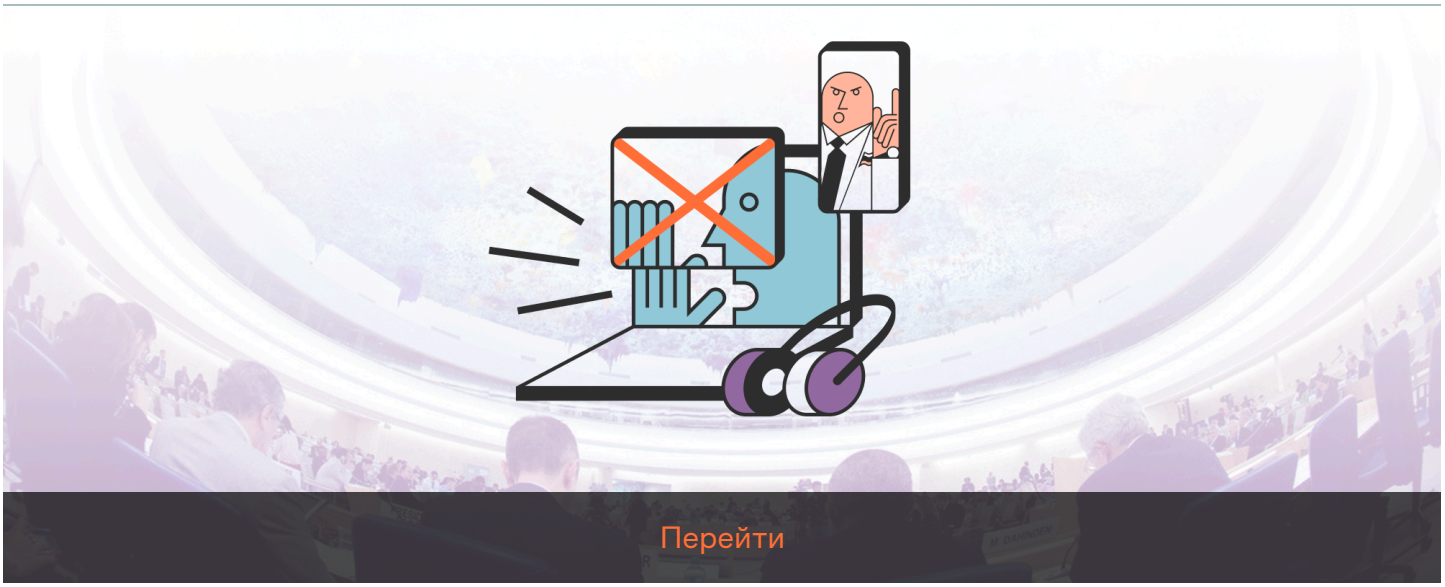

Illustration: OVD-Info / Photo: United Nations

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Cracking Down on Freedom of Expression: How Russian Authorities and Big Tech Companies Silence Dissent

ENGLISH

Input to The Human Rights Council Advisory Committee on the impact of disinformation on the enjoyment and realisation of human rights submitted by OVD-Info

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INTRODUCTION

OVD-Info is an independent human rights project aimed at monitoring cases of political persecution in Russia and providing legal assistance to victims of such persecution. After the full-scale invasion of Ukraine in 2022, OVD-Info began helping people who had been prosecuted for their anti-

war statements. OVD-Info also helps victims of the misuse of anti-extremist legislation.

OVD-Info operates a 24/7 hotline to collect information on all types of political persecution and provides direct legal assistance to victims of human rights violations. About 370 lawyers in 58 regions of Russia work with OVD-Info on administrative and criminal cases. We also conduct advocacy, strategic litigation campaigns, media coverage of human rights violations, and research, as well as carry out training and legal education. OVD-Info won over 2,400 freedom of expression and assembly cases in the European Court of Human Rights.

This input provides information on how the Russian authorities misuse legislation and use other measures to counter what they consider disinformation to suppress dissent in the country, violating fundamental rights and freedoms such as freedom of expression, freedom of assembly, and freedom of association. The input also reveals how Big Tech companies contribute to the crackdown on civil society.

1. HOW CAN SOME MEASURES TO COUNTER DISINFORMATION NEGATIVELY IMPACT HUMAN RIGHTS' ENJOYMENT?

After the full-scale invasion of Ukraine, Russian authorities adopted criminal sanctions and administrative measures to combat what the authorities consider to be disinformation about the war and used them to suppress legitimate anti-war expression. Russian authorities claim that they are conducting a «special military operation» that is not a war. Any information that does not correspond to the official position of the state, including the Ministry of Defense, is considered false.

a. Use of disinformation laws to prosecute advocates for peace

Adopted into law in March 2022, article 207.3 of the Criminal Code outlawed spreading false information about the use of Russia's military, punishable with up to 15 years' imprisonment. According to OVD-Info monitoring of politically motivated prosecutions, at least 366 people faced charges under this article, with 103 people currently imprisoned.

The case of Aleksei Gorinov, an opposition politician and deputy of a municipal council in Moscow, serves as an example of this practice. According to the investigation, Mr Gorinov made a number of statements «which contained characteristics of the Russian armed forces that did not correspond to reality» on 15 March 2022, at a public meeting of the local council of the municipal district. Mr Gorinov argued that holding a children's drawing competition during the war would look like a «feast during the plague» because children in Ukraine were dying because of the actions of the Russian military. Mr Gorinov also called the Russian invasion of Ukraine a «war» and suggested honouring the memory of the victims with a minute of silence. During the trial, he cited UN reports that contained data on Ukrainian children killed during the war. However, the court ignored this evidence and found Mr Gorinov guilty of spreading «fakes». In July 2022, he was sentenced to 7 years of imprisonment under article 207.3 of the Criminal Code.

In a similar case, Igor Baryshnikov was sentenced to 7,5 years of imprisonment under the same article for sharing posts about the shelling of a maternity hospital in Mariupol, unlawful killings of residents of Bucha and other violations of IHL by the Russian army. The judge equated this information, backed up by reports of independent media, human rights and international organisations, with

«spreading false information about the use of the Russian military».

Article 20.3.3 of the Code of Administrative Offences, introduced in March 2022, penalises «public actions aimed at discrediting the use» of the Russian army and state bodies abroad, with a maximum fine of 100,000 rubles ($1,150).

According to our monitoring of judicial data, as of this writing, courts received at least 10,778 cases under this article. Law enforcement used it to prosecute people for peaceful anti-war expression, often penalising them for sharing information that authorities consider «false», including for using the word «war» while the courts rule that there is no war taking place between Russia and Ukraine.

For example, in one case, the court ruled:

«The text 'Freedom for political prisoners' points to false information about the existence of facts of criminal and administrative prosecution of individuals expressing dissatisfaction with the actions of the Russian Armed Forces, and the text (I express my personal opinion) informs other individuals about the possibility of expressing their disagreement in a similar manner, misleading about the overall picture of what is happening».

In dozens of other cases, courts punished people for sharing:

«unreliable information about the existence of a war between the Russian Federation and the Republic of Ukraine, which the President of the Russian Federation has not declared and in fact the war is not being waged».

In the case of *Novaya Gazeta and Others v. Russia*, the European Court of Human Rights found that the application of the aforementioned provisions violated 178 applicants' and two media organisations' right to freedom of expression. It ruled that Russian authorities automatically classified any information contradicting official accounts as «fake news», regardless of its source or potential accuracy, made no effort to verify such statements or to balance state interests with the public's right to be informed of serious war crime allegations. It concluded that «[r]estricting the dissemination of reports about alleged atrocities serves only to shield potential wrongdoing from scrutiny and undermine accountability, while blanket prohibitions on discussing alleged war crimes are incompatible with Article 10 of the Convention.»

By prosecuting people for sharing information on the war which does not correspond to the official narrative, the Russian authorities criminalised peaceful expression and imposed a chilling effect on further discussions of the topic.

b. Use of misinformation charges to stifle critics

Introduced in 2019, parts 9 and 10 of Article 13.15 of the Code of Administrative Offences («abuse of freedom of mass information») prohibit distributing «knowingly false information of public importance under the guise of reliable reporting» in mass media and on the internet. In April 2020, further offense definitions were added to address disinformation about the pandemic (parts 10.1, 10.2, and 11).

Law enforcement repeatedly charged people under this provision for sharing calls to hold assemblies, claiming such assemblies would not be authorised and so could not legally proceed, making such calls «false». A media outlet was fined for posting a video about a protest as courts found its

headline «A revolution is being prepared in Russia» to be false.

Other reasons for prosecution included reporting on veterinary medicine shortages due to sanctions imposed on Russia, criticism of the state's inadequate response to the coronavirus pandemic and raising alarms over misuse of anti-coronavirus measures to limit civic and political rights, including the right to assembly, on the eve of a referendum to amend the constitution.

In December 2020, article 13.41 of the Code of Administrative Offences was introduced to punish social media platforms for failing to delete such disinformation. Moscow courts repeatedly fined Wikimedia Foundation for refusing to delete «false» information, including articles «Noon against Putin» about a 2024 presidential election protest, «Recognition of Russia as a terrorist state», and various articles on Russia's war on Ukraine. In June 2022, a court fined Telegram 4 million rubles ($45,610) for failing to delete 32 channels with false information about Russia's war on Ukraine.

After the start of the full-scale invasion of Ukraine, authorities also used these charges to prosecute journalists and media outlets that reported on Russia's attacks on Ukrainian civilian infrastructure and casualties — claiming all such reports and the existence of a war between Russia and Ukraine are false — and punished people that shared such reports on social media.

The provisions were used to punish people even for satire. A judge in St. Petersburg punished a local resident for a comment making fun of exaggerated rumors circulating online about the government's response to the coronavirus pandemic: «Everything is closed. Military and National Guard everywhere. Today I dashed and crawled my way out of Murino. I was wounded in the leg». Administrative offence record alleged that the author «published false information

describing the situation in Murino [St. Petersburg's suburb] in connection with the spread of the coronavirus infection, and thereby created an opinion among users about the threat of mass disruption of public order and public safety».

c. Protection of «historical truth»

Article 354.1 of the Criminal Code penalizes the denial of facts established by the Nuremberg tribunals as well as spreading intentionally false information about the Soviet Union's activities during World War II and veterans of the Great Patriotic War.

This article is often used to prohibit criticism of the Soviet regime. Sergei Volkov faced criminal charges for a post on his Telegram channel in which he argued that Soviet authorities had the opportunity to transfer food supplies to besieged Leningrad, but «the city was abandoned by Stalin. Despite his arguments with references to historical sources, a jury found Sergei Volkov guilty, and in September 2023, the court imposed a fine of 2 million rubles ($23,257).

In 2016, Vladimir Lusgin was found guilty and fined under article 354.1 of the Criminal Code for posting on his social media account an article by an unknown author entitled «15 facts about the Banderites, or what the Kremlin is silent about», which stated that in September 1939 «the Communists and Germany jointly attacked Poland», unleashing World War II on 1 September 1939.

In June 2024, a court fined Andrey Kolesnikov for publishing a post by another user arguing that the USSR entered World War II in 1939 on the side of Germany, participated in the partition of Poland, supplied Germany with goods and trained German soldiers. The author also criticised the narrative about the decisive role of the USSR in the victory over Nazi. As evidence of intent, the court stated in its judgement that «A.A. Kolesnikov confirmed that, by posting the above-mentioned article on his page, he realised that the

information contained therein was contrary to the official information about World War II».

d. Suppressing civil society under the guise of fighting disinformation

Russian authorities are widely using the convenient excuse of fighting disinformation to crack down on civil society's dissenting opinions.

According to OVD-Info's monitoring of the application of «foreign agent» and «undesirable» laws, the Ministry of Justice imposed over 300 «foreign agent» designations for «spreading false information» about public authorities' decisions, public policy, and the Russian election system. «Memorial. Human Rights Defense Center» and «Political Prisoners. Memorial» are among those designated, like many others, for criticising Russia's human rights record.

Russia's «foreign agent» legislation is burdensome, intrusive, stigmatising, and serves to suppress peaceful dissent. Its disproportionate effects and politically motivated application have been widely condemned by international human rights experts.

Similarly, the Prosecutor General's office cited alleged spreading of false information about Russia's war in Ukraine in announcing its decision to designate TV Rain, an independent Russian media outlet in exile, as «undesirable». The Prosecutor General's office justified its decision to designate another prominent exiled media outlet Novaya Gazeta Europe as «undesirable» with «false information about alleged widespread violations of rights and freedoms in Russia».
Russian Democratic Society, a group of exiled anti-war activists in Serbia, was designated over «disseminate in the internet false information about alleged deportation of Ukrainian children».

«Undesirable» designation is discretionary, there is no effective remedy to appeal it. Such a designation completely outlaws an organisation in Russia; participation in its activities and sharing their materials is a prosecutable offense punishable with fines and imprisonment.

e. Pro-war propaganda

Russian authorities also use extrajudicial methods to control the narrative and manipulate facts about the war under the pretext of fighting disinformation. They introduce pro-war propaganda and spread disinformation about war with Ukraine, including among children.

Russian educational institutions conduct propaganda lessons, so-called «Important Conversations» («Разговоры о важном»). Moreover, in August 2023, Russian education authorities presented new history textbooks. The 11th-grade textbook features a complete overhaul for the 1970–2000 chapter and a new section on the events after 2014 (when Russia claimed to annex Crimea). A separate section covers the «special military operation» of Russia in Ukraine, quoting Vladimir Putin, who baselessly claimed that Russia launched a military campaign to prevent an attack from Ukraine. Russian schools started using these new history textbooks in the 2023 school year. Those teachers who do not comply with these policies and provide alternative information about the war face persecution, as OVD-Info documented in its 2024 report «The government's way or the highway: how Russian authorities persecute teachers with an anti-war stance».

Thus, the practice shows how countering disinformation can be misappropriated and used by authorities to deliberately limit the legitimate realisation of rights, such as the rights to freedom of expression and freedom of assembly.

2. FROM A HUMAN RIGHTS-BASED PERSPECTIVE, WHAT ARE THE GOOD AND BAD PRACTICES USED BY STATES AND/OR PRIVATE SECTOR TO ADDRESS DISINFORMATION?

The private sector can contribute to infringing human rights by fulfilling the requirements of a state seeking to suppress dissent disguised as countering disinformation and using a vast repressive toolkit. Aiming to suppress any dissent against Russia's aggression on Ukraine and internal repression, Russian authorities arbitrarily block the websites of independent media outlets and NGOs and require that technology companies also comply.

According to Roskomsvoboda, 21,834 internet resources fell under military censorship (information about war that contradicts the official position of the state) in Russia from 24 February 2022 to 13 February 2025. In such circumstances, to gain access to alternative information about the invasion of Ukraine people in Russia have to use VPNs, although Russian authorities restrict access to them.

Big Tech companies comply with the requirements of the Russian authorities and remove VPNs, applications and other content of NGOs. In July 2024, Apple removed at the very least 25 VPN apps from its App Store in response to Russian authorities' demands. GreatFire reported that «close to 60 VPN apps were silently removed by Apple between early July and September 18, 2024». Yet more were removed since.

In October and November 2024, Apple also removed applications of independent media outlets, Current Time and Radio Liberty's regional publications «Sibir.Realii» and «Sever.Realii».

Similarly, YouTube reached out to channel owners and asked them to remove under a threat of blocking three videos

explaining how draftees can avoid mobilisation in Russia. It also attempted to block the channels of Roskomsvoboda, Internet Protection Society and two independent journalists, also based on the orders of Russian authorities.

Big Tech often explains its actions by the desire to continue providing its services in Russia. However, their approach does not positively affect access to information and services, but on the contrary, complying with the Russian authorities' orders contributes to the crackdown on civil society in Russia and violates human rights responsibilities.

3. RECOMMENDATIONS

To states:

1. Repeal laws that allow to suppress dissent, including anti-war expressions, under the pretext of fighting with disinformation; Ensure that imprisonment is never imposed for a legitimate exercise of the right to freedom of expression, even if this expression contradicts the official position of the state;
2. Ensure that independent courts carry out an objective assessment of what constitutes falsehood and disinformation. Such a conclusion must not be based on the official position of the state on a particular issue;
3. Provide space for free discussion and exchange of information and opinions. Refrain from blocking websites, VPNs and other resources of information.

To the private sector:

1. Comply with the UN Guiding Principles on Business and Human Rights and consult with civil society organisations when conducting human rights impact assessment in relation to government orders;

2. Refuse to comply with government orders to restrict access to or block websites, social media accounts, and other online resources if such orders clearly violate human rights.