

memorial



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**SUBMISSIONS IN REPLY TO THE CALL FOR INPUTS  
ON CHALLENGES TO FREEDOM OF OPINION AND EXPRESSION  
IN TIMES OF CONFLICTS AND DISTURBANCES**

1. These submissions are made by Mass Media Defence Centre,<sup>1</sup> Memorial Human Rights Defence Centre,<sup>2</sup> Net Freedoms Project<sup>3</sup> and OVD-Info,<sup>4</sup> Russian human rights groups, in response to the Special Rapporteur's call for inputs on challenges to freedom of opinion and expression in times of conflicts and disturbances.
2. These submissions will deal with the recent legislative changes and judicial practice in Russia that followed the full-scale military invasion of Ukraine as of 24 February 2022. Building on the experience of these measures, the submission will proceed with recommendations on how international law should evolve to combat the measures contrary to Article 19 of the International Covenant on Civil and Political Rights.

**Please describe specific situations where disinformation, misinformation or propaganda have been used or restrictions have been placed on the media or access to the Internet in order to instigate, aggravate or sustain hatred, violence or conflict. What means and methods are used to manipulate information in such situations? - Question 1**

3. The Russian authorities imposed several restrictions on the media following 24 February 2022 that fall under the Special Rapporteur's Question 1a): blocking of web-sites of the media outlets (*i*), the application of the so-called "mass media foreign agent" legislation (*ii*)

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<sup>1</sup> Mass Media Defence Centre is a Voronezh-based media freedom NGO, promoting freedom of expression since 1996. MMDC is providing legal assistance and court defence on domestic and international levels to Russian media, journalists, bloggers, <https://mmdc.ru/>

<sup>2</sup> Memorial Human Rights Defence Centre was founded in June 2022 by supporters of Human Rights Centre which had been liquidated by the authorities of the Russian Federation. HRDC Memorial focuses on documenting grave human rights violations and providing help to victims of such violations, including political prisoners and members of vulnerable groups. <https://t.me/polniypc>

<sup>3</sup> Net Freedoms Project is a human rights group dedicated to protecting freedom of expression online and focusing on issues related to the use of new technologies to restrict human rights. It is a part of Agora International Human Rights Group. <https://t.me/NetFreedomsProject>

<sup>4</sup> OVD-Info is an independent human rights project aimed at monitoring cases of political persecution, <https://ovdinfo.org/>

and by other means (iii). We will further address the role the Russian Federation has in the manipulation of information (iv), as well as the impact of the specified measures on human rights and the lives of people (v) and the work of human rights defenders, journalists, civil society, humanitarian and development organisations (vi). Finally, we will address the major legal and policy gaps or inconsistencies on specified issues (vii).

*i. Blocking of web-sites*

4. Since the first day of the invasion of Russian troops into Ukraine, dozens of independent media have been blocked, leaving only state media materials and pro-Kremlin bloggers in free access. For this, both legal means created in recent years and *ad hoc* tools that do not have a legal basis were used.
5. The 2006 Information Act provides for more than two dozen separate grounds for prohibiting information,<sup>5</sup> including the right of the Prosecutor General and his deputies to demand immediate and extrajudicial blocking of calls for mass riots, unauthorised public actions, extremism, materials of undesirable organisations, as well as false and unreliable information.
6. According to Roskomsvoboda,<sup>6</sup> an Internet freedom watchdog, since 2012, more than 1,181 Internet resources and individual pages have been blocked in Russia, including more than 163 thousand pages at the request of the Prosecutor General. 5,300 further Internet pages have been blocked since the start of the military invasion of Ukraine.<sup>7</sup>
7. However, on 30 June 2022, the State Duma adopted a package of amendments to the law, which, along with expanding the rights and powers of the Prosecutor General in the field of restricting the activities of the media, repeals the possibility of web-site owners to delete the allegedly offending content when notified in order to avoid blocking. After the law's entry into force, online media that disseminate what the authorities deem false information of public interest would be immediately blocked without prior notice.
8. The “fake news” legislation appeared in Russian legislation and began to be actively used for the first time during the coronavirus pandemic.<sup>8</sup> Since the invasion of Ukraine, fake news laws have been systematically used to limit the dissemination of independent information about the progress of hostilities, war crimes, civilian casualties and losses of the Russian military.
9. Six hours after the beginning of the military invasion of Ukraine, Roskomnadzor, a federal censorship agency, published an official statement prohibiting the media, under the threat of blocking and heavy fines, from using information not obtained from official Russian sources, emphasising “that it is Russian official information sources that have and disseminate reliable

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<sup>5</sup> Federal Law of 27 July 2006 no. 147-FZ “On Information, Information Technologies and Protection of Information”, Articles 15.1 – 15.9.

<sup>6</sup> <https://reestr.rublacklist.net/visual/>

<sup>7</sup> <https://t.me/roskomsvoboda/9125>

<sup>8</sup> For example, in December 2020, the Russian Communications Authority, the Roskomnadzor, blocked a [human rights report on Covid19 in penitentiary institutions](#). See Agora report “[Epidemics of fakes](#)” for more detail.

and up-to-date information”.<sup>9</sup> What this meant was the threat of immediate blocking of any publications containing information from sources other than the Russian Ministry of Defence.

10. Starting on 25 February 2022 and during the fortnight that followed, Russian authorities blocked 47 mass media web-sites, including popular federal and regional outlets<sup>10</sup> and foreign media,<sup>11</sup> as well as NGOs (the web-site of Amnesty International).
11. These web-sites’ offence was to disseminate “information about the ongoing operation, its form, methods of warfare, losses of the Russian Armed Forces, casualties among the civilians”. Because the web-sites reported other information than that published by the Russian Ministry of Defense and official Russian sources, such information was regarded as “false” by the Roskomnadzor, however genuine and fact-checked it was.
  - ii. Application of the so-called “mass media foreign agents” and “undesirable organisations” legislation*
12. The law establishing the “foreign agent media” roster was passed in 2017.<sup>12</sup> Initially, it only applied to foreign media outlets. However, since the end of 2019,<sup>13</sup> the status of a “foreign agent media” can also be assigned to individuals and Russian legal entities.
13. In order to be declared a “media foreign agent”, either the legal entity or an individual should meet two requirements: to receive foreign funding, no matter how small it is, and distribute any information materials, including publications on social media.<sup>14</sup>
14. As of 11 July 2022, 47 media outlets and other legal entities and 120 persons, most of whom are journalists or bloggers, have been put on the roster of “foreign agent media”.<sup>15</sup>
15. Both legal entities and persons recognised as “foreign agent media” are obliged to label their publications with a foreign agent label consisting of 24 words, and to submit quarterly reports on their income and expenses to the Ministry of Justice. Failure to fulfil these obligations might lead to fines of up to 1,000,000 roubles (EUR 17,500) for legal entities and up to two years of imprisonment for individuals.<sup>16</sup>
16. Media outlets recognised as “foreign agent media” suffer from economic consequences of this status, such as the loss of advertisers. Thus, those “foreign agent” media outlets that do

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<sup>9</sup> [https://t.me/rkn\\_tg/189](https://t.me/rkn_tg/189)

<sup>10</sup> Echo of Moscow, Krasnoyarsk News, Zvezda, Meduza, Wonderzine, DOXA, Taiga.Info, Mediazona, Republic, Vazhnye Istorii, LentaChel, The Village, Novaya Gazeta, Listock, Colta, Radio Liberty, TV-channel Dozhd etc.

<sup>11</sup> Kazakh Telegraph Agency, Channel One (Georgia), Estonian National Broadcasting Portal, BBC Russian Service, Deutsche Welle.

<sup>12</sup> Federal Law of 25 November 2017 no. 327-FZ on amendments to Articles 10.4 and 15.3 of the 2006 Information Act and to Article 6 of the Law of the Russian Federation "On Mass Media" (1991 Mass Media Act).

<sup>13</sup> Federal Law of 2 December 2019 no. 426-FZ amending the 1991 Mass Media Act and the 2006 Information Act

<sup>14</sup> While foreign media and individuals should meet the requirement of distributing any information materials publicly in order to be recognised as foreign agents, Russian legal entities should either disseminate information materials produced by other “foreign agent media” or participate in producing their publications.

<sup>15</sup> OVD-Info’s dataset on foreign agents and undesirable organisations, <https://inoteka.io/ino/foreign-agents-en>

<sup>16</sup> Article 19.34.1 of the Code of Administrative Offences, Article 330.1 of the Criminal Code.

not have external funding have to either switch to a paid subscription model, or to a donation model of funding.

17. The reporting requirement seriously intrudes on the right to privacy of persons listed as “foreign agent media”. This requirement makes it almost impossible for them to find a job at an organisation which itself is not listed as a “foreign agent”. In fact, these persons are put in a situation where they have two opportunities: to be deprived of a normal life and be isolated from the rest of society, or to leave Russia.
18. The amendments to the legislation on foreign agents passed by the State Duma of Russia in June 2022 with entry into force on 1 December 2022,<sup>17</sup> will make getting a “foreign agent” status even<sup>18</sup> easier since the requirement of receiving foreign funding is replaced with the requirement of receiving “foreign support” or being under “foreign influence”. Moreover, this law introduces a status of a “person affiliated with a foreign agent”. This status will apply to all employees of organisations recognised as “foreign agents”.
19. The law on undesirable organisations<sup>19</sup> is also used for banning journalistic activities. According to the letter of the law, only a foreign or an international organisation can be recognised as undesirable. However, if the authorities declare that the activities of a Russian media outlet are, in fact, the activities of a foreign undesirable organisation,<sup>20</sup> this media outlet will have to stop its activities within Russia because implementing the activities of an undesirable organisation is a crime punishable by up to six years of imprisonment.

*iii. Other means restricting the work of independent media and freedom of expression in general*

20. New amendments to several laws relating to the dissemination of information and the media adopted by the State Duma in June 2022<sup>21</sup> provide new grounds for blocking for fake news about a “special operation” and discrediting the Armed Forces of the Russian Federation, as well as the dissemination of calls for sanctions against Russia, its citizens and legal entities. Accordingly, they empower the Prosecutor General’s Office to extrajudicially suspend the activities of the media for up to 6 months, ban the activities of foreign media and block sites infinitely without the possibility of unblocking them.
21. These measures will allow the authorities to block the dissemination of any information that contradicts the official point of view. Registered media can lose their licences infinitely, which will lead to the complete closure of the media. It will become practically impossible for journalists to work in Russia. This can be called a kind of cleansing of independent and dissenting media. In this situation, citizens of the Russian Federation risk being left without up-to-date reliable information about what is happening.

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<sup>17</sup> Bill “On Control over the Activities of Persons under Foreign Influence”, <https://sozd.duma.gov.ru/bill/113045-8>

<sup>18</sup> Article 284.1 of the Criminal Code.

<sup>19</sup> Federal Law of 28 December 2012 no. 272-FZ “On Measures of Influence on Persons Involved in Violations of Fundamental Human Rights and Freedoms, Rights and Freedoms of Citizens of the Russian Federation”

<sup>20</sup> This happened with “Proekt.Media” and “Vazhnye Istorii” which publish corruption investigations.

<sup>21</sup> <https://sozd.duma.gov.ru/bill/101646-8>

22. On 6 July 2022, several criminal articles regarding the “state security threats” were adopted or amended by the Russian parliament. Thus, among newly adopted articles is Article 282.4, which provides a criminal punishment of up to 4 years of imprisonment in case of repeated public demonstration of prohibited symbols. Such symbols include, for example, those of imprisoned opposition politician Alexei Navalny’s organisations.
23. Another new Article 275.1 introduces criminal liability for “confidential” cooperation with foreign states and organisations, as well as international organisations with the punishment from two to eight years in prison. Confidential cooperation may imply an unlimitedly wide format of contacts — for instance, consulting foreign commercial organisations can fall under this category. There will be no offence only if people report all contacts with foreigners to government agencies.
24. Article 280.4 introduced liability for public calls for activities directed against the security of the state, Article 283.2 criminalised violation of the requirements for the protection of state secrets and Article 274.2 — violation of the rules for operating the Internet infrastructure.
25. As for amendments, the article on state secrets will be supplemented by a ban on participation in conflicts on the side of the enemy, as well as on the collection of information that can be used against the Russian army. These laws are also expected to be used to suppress dissent and alternative information.

*iv. The role of the state in the manipulation of information*

26. Russian State bodies are playing a major role in manipulation of information. According to the official position of the government, Russia did not initiate war but started a “special military operation in Donbas”. The goals are “protection of the population, demilitarisation and denazification of Ukraine”.<sup>22</sup> Russian officials disseminate the position that the Russian army does not attack civilians or destroy civilian objects or otherwise violate international humanitarian law and human rights of the people of Ukraine, Russian authorities being the only source of “truth”.

*v. The impact of the specified measures on human rights and the lives of people*

27. Disinformation and propaganda in the context of armed conflict particularly affect freedom of expression and freedom of assembly. Due to the authorities’ efforts, Russians do not have access to information alternative to the “official position” of the state in relation to armed conflict. Since all the independent media in Russia is blocked or forced to stop covering the armed conflict in Ukraine or terminate the activity inside of the country, the only unrestricted sources of information are state-owned ones transmitting the view that this is not war but a special military operation in Ukraine which is in full conformity with international law. Only those Russians who are familiar with VPN services might be able to read alternative

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<sup>22</sup> <https://ria.ru/20220224/operatsiya-1774620380.html>

sources.<sup>23</sup> Such state practice constitutes censorship and thus, we insist, violates the right of Russians to freely seek, receive and impart information and ideas under Article 19 ICCPR.

28. Moreover, this is a common practice of Russian authorities to block websites and other sources where the calls for rallies are published.<sup>24</sup> Such practice existed before the start of the armed conflict and continues now.<sup>25</sup> Internet sources containing information about upcoming rallies are often blocked on the grounds of the lack of authorisation of public events, even if such events are completely peaceful. It is worth mentioning that in Russia it is almost impossible to receive authorisation for the event by the authorities, especially after the start of the armed conflict in Ukraine.
29. The practice of blocking Internet resources that disseminate information about unauthorised public events is separately noted in international law as illegal. The Internet and technology are playing an increasingly important role in the exercise of the right to freedom of peaceful assembly, and it is difficult to imagine an assembly in which some form of the Internet would not be used. The General Comment notes that Article 21 and related rights protect participants not only during the assembly and at the venue. Related activities are also covered, such as resource mobilisation by participants or organisers, planning, dissemination of information about the upcoming event, preparation for the event, communication between participants before and during the assembly, and broadcasting of the assembly.
30. Therefore, blocking information about the rallies only on the ground of the lack of state authorisation of such an event is not proportionate and violates the right to freedom of assembly enshrined in Article 21 ICCPR of activists wishing to organise public events.
31. In addition, state officials regularly transmit propaganda of war in Ukraine, explaining the “special military operation” by the need “to demilitarise and denazify Ukraine”,<sup>26</sup> through official speeches, national television, the Internet and other sources, including, for example, disseminating propaganda among minors at schools<sup>27</sup> or placing in all possible places military symbols such as the letters “Z” or “V”.<sup>28</sup> This practice contradicts the prohibition of propaganda of war in Article 20 ICCPR.

*vi. The impact of the specified measures on the work of human rights defenders, journalists, civil society, humanitarian and development organisations*

32. The work of human rights defenders, journalists, civil society, humanitarian and development organisations is subjected to very strict restrictions. For instance:
  - Impossibility to criticise the Russian military operation in Ukraine and to call it a war;
  - Impossibility to advocate for the peaceful resolution of the conflict in Ukraine;

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<sup>23</sup> However, Russian authorities have been blocking VPN services as well. See OVD-Info report, “[Internet blocks as a tool of political censorship](#)”.

<sup>24</sup> [Ibid.](#)

<sup>25</sup> <https://meduza.io/news/2022/05/26/glava-roskomnadzora-otchitalsya-ob-udalenii-38-tysyach-prizyvov-k-protestam-protiv-voyny-v-ukraine>

<sup>26</sup> <https://ria.ru/20220224/operatsiya-1774620380.html>

<sup>27</sup> See more in the OVD-Info report “[No to war. How Russian authorities are suppressing anti-war protests](#)”.

<sup>28</sup> [Ibid.](#)



- Impossibility to publicly mention the civilian victims of the conflict if the responsibility is attributed to Russia;
  - Impossibility to publicly mention the real number of casualties among Russian soldiers;
  - Severely limited possibilities for the expression of the organisations and individuals recognised as foreign agents in general and specifically in the context of the armed conflict. Since 24 February 2022, 66 new “foreign agents” (only 16 of them are organisations) have been added to the registries.
33. Such a situation developed mostly due to the legislative restrictions imposed by the State which made it possible for the State’s propaganda and disinformation to create among Russian society an opinion that the armed conflict was started by Ukrainian authorities, that Russia is liberating and helping Ukrainian people and that the foreign agents are supporting the crimes of Ukraine.
34. Due to all these factors, the organisations are forced to stop or seriously reduce their activities related to the conflict in Ukraine or to remove their work from Russia.
35. The State’s media are regularly conducting information campaigns against civil society organisations presenting them as enemies of the State which act in favour of other States and want to destroy Russia. For instance, one of the recent ‘foreign agents’ bill’s authors, Vasily Piskarev, publicly claimed that “foreign agents smoothly drag Russian children into extremist activities with the help of literature created with EU money”.<sup>29</sup> Other MPs who are authors of this bill openly claim that the wording of the law is so broad as to make it possible for the authorities to recognise any person they want as a foreign agent because previous legislation required them at least to ‘prove’ the foreign funding.<sup>30</sup>
36. Due to these campaigns, the State’s officials and a part of the Russian society do not want to cooperate with civil society organisations.

*vii. Where do you see major legal and policy gaps or inconsistencies on these issues? Please share your thoughts on how they could be best addressed.*

37. There are the main gaps and inconsistencies:
- It is often difficult to make a difference between a subjective opinion and disinformation.<sup>31</sup> For example, due to propaganda, a person can consider something as a fact which may be wrong. So, a person can make a statement without wishing to misinform others but in fact, his statement can contain disinformation. It is not clear if a person should be punished for disinformation if he was previously misinformed.
  - In Russia, any information regarding the armed conflict in Ukraine which is not confirmed by official sources is considered “false”. Thus, in fact, it is not disinformation that is prohibited, but information that contradicts the official position of the state.

<sup>29</sup> <https://t.me/komisgd/330>

<sup>30</sup> <https://www.youtube.com/watch?v=1AK20T2UDG8>

<sup>31</sup> *Chavunduka and others v. Minister of Home Affairs and another* [2000] JOL 6540 (ZS) at 16, per Gubbay CJ.

- Russian authorities frequently use measures that are considered “extreme” by international standards, such as closing the media outlets completely, banning their work or blocking their websites and social networks. According to international standards, any restriction on freedom of expression must strictly meet the three criteria of lawfulness, legitimate aim, necessity and proportionality, and the last criterion is not met in such a case. Regarding the legislation banning the distribution of information, it should be at least clear, understandable and concise.

**What legislative, administrative, policy or regulatory or other measures exist in your country to address online or offline: propaganda for war; disinformation and misinformation; and incitement to violence, discrimination or hatred - Question 3**

38. Most recent pieces of legislation relating to the propaganda for war and disinformation in war relate to the offences of discrediting the Russian Armed Forces, an offence punishing opinion, a value judgement (*i*) and dissemination of false information on the operations of the Russian military, punishing statements of fact (*ii*). We will provide information about the recent jurisprudence under these provisions (*iii*), assess how these measures impact the human rights of Russians (*iv*) and suggest how to improve these measures (*v*).

*i. Offences of discrediting the Russian Armed Forces*

39. On 4 March 2022, bills were introduced, immediately adopted by both houses of the Federal Assembly and signed into law by the President of the Russian Federation amending the Code of Administrative Offences and the Criminal Code. These amendments introduced, among others, a new Article 20.3.3 into the Code of Administrative Offences.
40. This new provision prohibited “public calls aimed at discrediting the use of Armed Forces of the Russian Federation to protect the interests of the Russian Federation and its nationals, international peace and security, as well public calls aimed at preventing such use of the Armed Forces”. On 25 March 2022, a new prohibition was added to Article 20.3.3, this time to make public calls “to discredit the actions of the public authorities of the Russian Federation abroad”. The fines are between 30,000 and 50,000 Russian rubles (approx. 500 to 820 EUR).
41. Repeated violation of the said prohibitions is a criminal offence under the new Article 280.3(1) of the Criminal Code punishable by fines up to 300,000 rubles (approx. 5,000 EUR), forced labour up to six months or imprisonment up to three years. Under Article 280.3(2) of the Criminal Code, the same public calls are a criminal offence if committed for the first time provided they led to death or injury, mass disorder, or create the risk of disturbances to the functioning of critical infrastructure, transport, social services, credit institutions, power plants, factories, telecommunications.

*ii. Offence of spreading false information on the Russian military*

42. Article 207.3 of the Criminal Code, also effective as of 4 March 2022, made it an offence to publicly disseminate “knowingly false information disguised as truth on the use of the Armed Forces of the Russian Federation to protect the interests of the Russian Federation and its



nationals, international peace and security”. Also on 23 March 2022, the *actus reus* was extended to include “discrediting the actions of the public authorities of the Russian Federation abroad”.

43. The dissemination of false information is punishable by fines between 700,000 and 1,500,000 rubles (approx. 11,470 to 24,500 EUR), forced labour or imprisonment of up to three years. When aggravated, the penalty may be a prison sentence of up to 15 years.

*iii. Recent jurisprudence or decisions in relation to these laws, policies or practices*

44. Both new types of offences are now widely applicable in Russia. They will be dealt with in turn.

a. Offences of discrediting the Russian Armed Forces

45. Article 20.3.3 of the Code of Administrative Offences received swift and massive enforcement. Already on 6 March 2022, Ms Irina Shumilova was fined for having held a poster “this war is sponsored by our taxes, but we need to crowdfund for sick children”. Further convictions were entered for wearing a green ribbon as a symbol of anti-war protest, all kinds of written and oral slogans “no to war”, posters “Fatherland is in danger, our tanks are on foreign land” (a famous quote from a song by Alexander Galich), “while we are silent, we support the killings in Ukraine”, “stop the military operation”, “fascism won’t pass” etc. Wearing yellow and blue clothes and a badge with the Ukrainian flag were also considered as offences.
46. On 10 March 2022, a priest from Kostroma, Father Ioann Burdin, was fined for an anti-war sermon he had given in his church denouncing the “killing of Ukrainians, our brothers and sisters in Christ”. His offence was also to have posted a link to the Change.org anti-war petition on his parish web-site.
47. On 13 March 2022, Mr Dmitry Reznikov was fined in Moscow for holding a poster with eight asterisks, equal to the number of letters making “no to war” in Russian (“нет войне”). On the same day, Ms Marina Dmitriyeva held a solo demonstration in central Moscow holding a poster saying literally “two words” (“no to war”, as shown above, are two words in Russian); she was later fined. On 14 March 2022, Mr Ilya Reinwald from Vladivostok was fined 80,000 rubles (1,300 EUR) for discrediting the Russian Armed Forces aggravated by calls to unauthorised assemblies because he had re-posted Alexey Navalny’s call to protest against the Russian invasion in Ukraine.
48. More recently, on 6 June 2022, a Yekaterinburg daily *Vechernie Vedomosti* was charged with 54 counts of discrediting the Russian Armed Forces for 54 news articles on anti-war protests.<sup>32</sup>

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<sup>32</sup> [https://zona.media/news/2022/06/06/54\\_posta](https://zona.media/news/2022/06/06/54_posta)

49. Several acquittals were entered or convictions quashed, primarily for those who were charged with holding posters “No to war”. They were treated as generic expression against war rather than the opposition to the Russian invasion in Ukraine.
50. The cases under the “discrediting” article also venture into the field of “false news”. Judges reason that “information about the war, and not about a special military operation, was publicly presented without reliable evidence, contrary to what was voiced by the Russian state and its leader in official data sources”.<sup>33</sup>
51. 11 judgments in Russian North-West find against the defendants because the impugned publications calling a “special military operation” a “war” were “untrue, invented or based on rumours and unverified information”, because they had been “refuted, among other things, by the Ministry of Defence of the Russian Federation as part of a daily briefing”. There are in total at least 50 convictions where the courts solely rely on the “official information from the government sources” without investigating or verifying it.
52. Currently, over 2,800 completed and pending cases under Article 20.3.3 are reported across Russia, with the total sum of known fines exceeding 560,000 EUR.<sup>34</sup> Moreover, 8 criminal cases have been opened under Article 280.3(1) of the Criminal Code for repeated convictions of the administrative offence.<sup>35</sup>

b. Offence of spreading false information on the Russian military

53. According to the *Net Freedoms Project*, there are currently over 70 defendants charged under Article 207.3. In Penza, Ms Irina Gen, a school teacher, is charged because of anti-war statements made in class and recorded by her students. In St. Petersburg, Ms Alexandra Skochilenko changed price tags in a supermarket replacing them with similarly looking figures related to the invasion of Ukraine. Not only has Ms Skochilenko been charged under the aggravated offence provided for in Article 207.3(2) and is facing up to 10 years in prison, she has also been placed in pre-trial detention, initially for 2 months.
54. Two other defendants from St. Petersburg charged under the same provision, Mr Boris Romanov and Ms Viktoriya Petrova, are also in pre-trial detention. Founder and leader of OSINT-investigating group *Conflict Intelligence Team* Mr Ruslan Leviyev and former *Echo Moskvy* journalist Mr Michael Naecke were charged because of the interview the former gave to the latter, their pre-trial detention was ordered by a court in Moscow *in absentia*. Novelist Mr Dmitry Glukhovskiy and investigative journalist Mr Andrey Soldatov have seen their Russian assets frozen after they were charged under Article 207.3 for war-related statements.

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<sup>33</sup> Case No. 5-517/2022, Pushkinsky District Court (Saint Petersburg). In another decision, the court found that the defendant “posted on his personal page an untrue publication aimed at discrediting the Armed Forces of the Russian Federation, including the text ‘On 24 February 2022, Putin attacked Ukraine for no reason...’”, without sourcing or investigating the matter. The court solely cited the official Russian government position.

<sup>34</sup> <https://t.me/ovdinfo/15106>

<sup>35</sup> Antiwar Prosecutions: An OVD-Info Guide. <https://ovd.news/news/2022/04/07/antiwar-prosecutions-ovd-info-guide>

55. In Moscow, a local councillor of Krasnoselsky District, Mr Alexei Gorinov, has been charged and put in pre-trial detention, for speaking about the armed conflict in Ukraine at the sitting of the local council. On 8 July 2022, he was the first defendant convicted by a trial court in adversarial proceedings. Meshchansky District Court of Moscow found him guilty and sentenced him to 7 years of imprisonment. The court considered “false” the information spread by Alexei about:
- the conduct by the Russian Federation on the territory of another sovereign state of military aggressive actions, calling such actions not a special military operation, but a war;
  - sending the Armed Forces of the Russian Federation to the territory of Ukraine with the aim of seizing its territory, liquidating its independence, changing its political or social system;
  - daily deaths of children on the territory of Ukraine as a result of the conduct of hostilities by the Russian Federation;
  - the actions of the Armed Forces of the Russian Federation on the territory of Ukraine, as an element of the system of state power, which are the actions of a “fascist state”.
56. This is the first verdict with a real prison term passed under Article 207.3 of the Criminal Code. The other two sentences already handed down included a fine of 1,000,000 rubles (17,000 EUR) and a suspended sentence, respectively. The main difference is that those people plead guilty, and Alexei did not.

*iv. The impact of these measures on human rights*

57. All the steps taken have a clear chilling effect. In the first days of the invasion, complete and partial suspension of work due to the inability to combine following all requirements and restrictions with the professional performance of journalist’s duties were announced by Znak.com, DOXA<sup>36</sup> and Tomsk regional TV-channel TV-2.
58. The Village and Bloomberg have announced the closure of the Russian offices. The Bell decided to completely stop covering the military operation, confining itself to its economic consequences. The decision to adjust their editorial policies also was taken by Novaya Gazeta, Republic, Taiga.Info, Colta and Urals online outlet It’s My City.<sup>37</sup>
59. Radio Liberty suspended its operations in Russia due to the initiation of bankruptcy procedures for the Russian office at the initiative of the Federal Tax Service, as well as in connection with the threat of criminal prosecution of journalists for covering the Russian invasion.<sup>38</sup>
60. New administrative and criminal articles on “discrediting”, as well as the criminal article on “false information” with regard to Russian military and state bodies violate freedom of

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<sup>36</sup> See, respectively, for [Znak.com](#) and for [DOXA](#).

<sup>37</sup> See, respectively, for [The Village](#), [Bloomberg](#), [The Bell](#), [Novaya Gazeta](#), [Republic](#), [Tayga](#), [Colta](#), [It’s My City](#).

<sup>38</sup> <https://pressroom.rferl.org/a/rferl-suspends-operations-in-russia-following-kremlin-attacks/31738011.html>

speech, including the right to information under Article 19 of the ICCPR. The wording of these provisions is vague and ambiguous, leading to their arbitrary application by the authorities.

61. For example, arbitrariness of the law enforcement under Article 20.3.3 of the CAO and Article 207.3 of the CC creates a situation where authors of war-related expressions cannot predict whether their actions will be prosecuted under administrative or criminal articles, especially with regard to information about killings of Ukrainian civilians, destruction of civilian objects in Ukraine by the Russian army or the losses in the Russian army. This additionally restricts alternative information flow, narrowing the information space even in social networks or group chats to “official information from the Russian authorities”.
62. The effect of these measures is to suppress any dissent and alternative information about the armed conflict in Ukraine. These provisions were hastily adopted a few days after the start of the full-scale armed conflict for this very purpose. Furthermore, the imposition of enormous (amounting to a monthly wage for a lot of Russians) fines for expressing the opinion on the activities of state entities or imprisonment with up to 15 years for sharing the information and data available to the general public is clearly disproportionate.

*v. The suggestions on how these measures can be improved to uphold human rights while countering war propaganda, disinformation, misinformation and incitement*
63. To uphold human rights in Russia, Article 20.3.3 of the CAO should be repealed. Those who were convicted under this provision for such anti-war expressions should be acquitted. Criminal liability for repeated discrediting under Article 280.3 of the CC should be repealed, and the people currently accused under this article – acquitted.
64. There should be no criminal liability for the “deliberately false information” about the use of the Russian army and execution of powers of state bodies and officials abroad. Thus, Article 207.3 of the CC should also be repealed and all people convicted under this provision should be acquitted. In general, “false information” should not be identified as any information not confirmed by state bodies and officials.
65. Russian authorities shall not use blockings as a tool for suppression of dissent in relation to the armed conflict in Ukraine. Blocking is an extreme measure that can be justified in accordance with international standards, in particular, if the information which is subject to blocks is not only illegal but also directly calls for unlawful violence against individuals or groups.
66. Instead of shutting off the alternative sources of information and persecuting people expressing their anti-war positions, Russia should let the flow of information of any kind exist. Providing evidence-based information and reliable sources will be an appropriate and effective measure to address any disinformation that may exist.
67. Moreover, journalists and media outlets distributing information which contradicts the official position of the Russian government should not be labelled as “foreign agents”. This label had widely been used in Russian authorities’ rhetoric to claim such people and

organisations as “spies”, “traitors” and generally someone who cannot be trusted, creating additional obstacles in disseminating alternative sources of information.

**How do internet intermediaries address: propaganda for war; incitement to violence, discrimination or hatred; disinformation and misinformation that instigates or aggravates violence, instability or conflicts - Question 4**

68. The role of social media platforms changed since the start of the full-scale armed conflict. Previously IT giants (such as Google, Meta, Twitter and other corporations) complied with the Russian legislation – for example, in September 2021, Apple and Google LLC removed the Navalny app from their stores, and Google LLC also removed “smart voting” from the browser search results.<sup>39</sup>
69. However, most of the IT giants reacted to the invasion of Ukraine unequivocally negatively. In fact, already on 24 February 2022, Meta Platforms, Inc., which owns the social networks Facebook and Instagram, restricted the official accounts of several media outlets controlled by Russian authorities. In addition, the company imposed restrictions on the search output of materials from some Russian media, began to label them as unreliable and marked them with a label about them being under the control of Russian state structures. On 25 February Roskomnadzor declared<sup>40</sup> Meta “involved in the violation of fundamental human rights and freedoms, as well as the rights and freedoms of Russian citizens” and slowed down the traffic of Facebook and Instagram. On 21 March, a Russian court declared Meta’s activities “extremist” and banned Facebook and Instagram.<sup>41</sup>
70. However, Facebook had already been completely blocked<sup>42</sup> in Russia on 4 March 2022, on the “night of the blocks”; as was Instagram on 14 March. On 1 March, Roskomnadzor started slowing down Twitter again and on 4 March, blocked the social network completely. Unlike many IT giants, Google’s services are still not blocked in Russia. At the same time, Google constantly receives threats from Roskomnadzor, receives heavy fines and is transferring its employees out of the country.
71. Among the major social networks that can be freely used on the territory of Russia, there now only remain VK, which has a lengthy record of cooperation with law enforcement,<sup>43</sup> and Telegram. RKN only demanded<sup>44</sup> that the latter delete accounts from which Russian soldiers receive requests for information on their whereabouts. Before blocking Instagram, Roskomnadzor had recommended<sup>45</sup> that users switch to Russian social media, VK included.
72. VK and other minor Russian social networks like Odnoklassniki and Mail.Ru had long been noted as complying with Russian authorities’ demands. For instance, since the beginning of

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<sup>39</sup> On the [app removal](#) and on the [search results removal](#).

<sup>40</sup> <https://rkn.gov.ru/news/rsoc/news74108.htm>

<sup>41</sup> <https://mos-gorsud.ru/rs/tverskoj/services/cases/civil/details/de7ea6a0-a3ab-11ec-8a7e-51b31fb55b35>

<sup>42</sup> <https://rkn.gov.ru/news/rsoc/news74156.htm>

<sup>43</sup> Moreover, the VK holding is headed by Vladimir Kiriienko, son of the first deputy head of the presidential administration, Sergei Kiriienko.

<sup>44</sup> <https://rkn.gov.ru/news/rsoc/news74148.htm>

<sup>45</sup> <https://www.interfax.ru/digital/827820>

the full-scale armed conflict in Ukraine, VK and other social networks have massively blocked the pages of opposition activists, politicians, journalists, as well as public pages of independent publications. Thus, VK restricted access<sup>46</sup> to the pages of at least 10 independent politicians and activists, more than 100 communities and public pages of media outlets and other civil society groups, and numerous pages of people expressing their anti-war opinion. VK also deletes anti-war posts, videos and comments on a regular basis. Similar blockings and post erasure are carried out by the Odnoklassniki social network.

73. The censorship by internet intermediaries is done not only through “official” and “public” tools. For instance, Meduza’s full-scale investigation<sup>47</sup> claims that Yandex – the biggest Russian tech company with, among other products, a search engine and news service – has been displaying news on the main page from a list of publications agreed with the presidential administration since at least 2015. Service “Yandex.News” has been criticised before for its biased choice of news, but after the start of Russia’s invasion of Ukraine, claims due to censorship began to be publicly voiced even by Yandex employees.<sup>48</sup> Practically, Yandex shows on its main page only the news of 15 media outlets, from the list approved by the Administration of the President. According to statistics, traffic on the Yandex home page in March 2022 amounted to 37 million people. The daily audience of Yandex.News in March 2022 amounted to 14 million unique users, the monthly audience was 40 million – thus, an enormous amount of people do not get information from independent sources or get disinformation.
74. Moreover, according to “Roskomsvoboda”, almost all Russian mobile operators and some Internet providers replace traffic in such a way as to insert contextual advertising with materials justifying the war in Ukraine on sites that are not protected by the HTTPS encryption protocol.<sup>49</sup>

**What role has legacy media played in addressing disinformation, misinformation and propaganda in situations of conflict, violence and disturbances? What challenges do legacy media faced in combating such information manipulation? - Question 5**

75. Even before the start of the full-scale armed conflict in Ukraine, legacy media in Russia were under intense pressure from the authorities, many of them stopped their activities due to financial difficulties or because of the persecution of journalists. But after the start of the full-scale armed conflict, all traditional channels for obtaining socially significant information (TV, newspapers, magazines, radio) fell under the complete control of the authorities or were forced to remain silent in response to propaganda and disinformation.
76. Russian media legislation was gradually restricted during recent years and, together with laws enacted after 24 February, now provides the authorities with a wide range of means of

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<sup>46</sup> <https://ovd.news/express-news/2022/07/02/vkontakte-zablokiroval-stranicu-aktivista-iz-komi>

<sup>47</sup> <https://meduza.io/feature/2022/05/05/my-zamuchilis-borotsya>

<sup>48</sup> In March, the head of Yandex.Q Tonya Samsonova published a letter of resignation on her Facebook page. In it, she asked to be dismissed of her own free will “due to the fact that Yandex does not display information on the main page that Russian troops are shelling the cities of Ukraine and killing civilians.”

<sup>49</sup> <https://meduza.io/news/2022/07/08/rossiyskie-provaydery-nachali-vstavlyat-na-sayty-bez-protokola-https-propagandu-voyny>



pressure on legacy media, up to their complete closure: revocation of a licence after only two warnings, “foreign agent” label, withdrawal of circulation, permanent blocking of the website.

77. For example, Novaya Gazeta stopped issuing the newspaper after receiving two warnings from Roskomnadzor. The circulation of local newspapers in the Sverdlovsk region, published by the VK-Media agency with a blank front page and a QR code for a petition to end the war, was confiscated. The Yakut newspaper “Vse dlya Vas” with an anti-war cover was denied the sale of newspapers without the approval of the cover by the authorities. Additionally, one of the oldest independent radio stations — Echo of Moscow — was taken off the air and consequently liquidated for distributing materials calling for extremist activities and false information about the actions of the Russian military as part of a special operation in Ukraine.
78. The authorities also use illegal methods of pressure: they force advertisers not to cooperate with “objectionable” media; landlords refuse to rent premises for editorial offices, state and municipal officials who read and distribute messages from “objectionable” media are scolded or fired; TV providers are pressured to exclude TV channels that criticise the authorities from broadcast networks — this happened, for instance, with Dozhd TV back in 2014.

**Please provide examples of good practices, including at the community level, to fight disinformation and hate speech during conflicts and disturbances. - Question 6**

79. The good practices used by Russian independent media outlets in order to fight disinformation during the armed conflict in Ukraine include (but are not limited to):
  - distributing information via social networks which are not blocked in Russia (such as Telegram) and email newsletters;
  - developing their own applications for mobile devices;
  - posting concise instructions on using VPN.
80. Unfortunately, the legislation criminalising the dissemination of information other than that confirmed by official sources of the Russian Government forced them to relocate their staff to neighbouring countries and continue their work from abroad.
81. A good practice adopted by some Scandinavian media and aimed at promoting the collection and dissemination of independent information for Russian-speaking people is posting news in Russian on their platforms.<sup>50</sup>
82. Some companies providing VPN services provide free VPNs to people living in Russia to make it easier for them to access independent sources of information.<sup>51</sup> Moreover, the security company Cloudflare decided to continue providing its services to Russian web-sites to protect them from blocking and DDoS attacks.<sup>52</sup>

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<sup>50</sup> See, e.g., <https://www.dn.se/in-russian-narod-rossii-imieiet-pravo-znat/>

<sup>51</sup> See: <https://doxaxmullvad.org/>

<sup>52</sup> See: <https://blog.cloudflare.com/steps-taken-around-cloudflares-services-in-ukraine-belarus-and-russia/>



**Please share any suggestions or recommendations you may have for the Special Rapporteur on how to protect and promote freedom of opinion and expression while countering the manipulation of information in times of conflict, disturbances or tensions - Question 7**

83. We urge the Special Rapporteur to recommend to the States:

- to use blocking of information as a last resort in extreme cases when the information in question is not only illegal but also directly calls for unlawful violence against individuals or groups;
- to eliminate the practice of criminal prosecution for “fake news” of any kind. According to international standards, citizens should be able to access true and false information, and then assess the validity of that information. Restrictions on expression are only permissible when they satisfy each element of the test under Article 19 ICCPR;
- to refrain from recourse to the notions of discrediting or disinformation in order to limit the expression of opinion and/or value judgements. One of the guarantees of limiting the abuse of human rights and freedoms by disinformation laws would be implementing a necessity clause, compliant with the ICCPR. Such a necessity clause should, for instance, prohibit shifting the burden of proof on the person accused of knowingly spreading false information (for example, about the activities of public authorities), and prohibit the government from treating criticism of public officials as disinformation;
- to refrain from considering information “false” only on the ground that such information was not confirmed by the state authorities. The falsity of information must be proved on the basis of verifiable facts and evidence. Dictating the only lawful way to report and talk about actions of the government to “counter” disinformation opens the possibility to grave abuses of human rights;
- to stop the practice of equating advocating for peace to disinformation against the State or the army or discrediting them;
- to stop the practice of criminalising critical statements towards the authorities or State agencies and bring legislation on freedom of speech in line with international standards;
- to not discriminate against the information produced by civil society organisations, media and individuals based on their sources of funding.