



# Arbitrary use of anti-disinformation laws by the state to discourage the exercise of the freedom of assembly in Russia Input for the Report on disinformation

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## About us

[OVD-Info](#) is a non-governmental human rights media project that provides legal assistance to those who face persecution for exercising their freedom of assembly.

In 2019, our lawyers handled 1,430 administrative and 30 criminal cases in the courts and assisted 2,212 detainees in police stations. In 2020, our lawyers participated in 502 court hearings, assisted 681 detainees in police stations, and filed 494 complaints with the European Court of Human Rights.

In our report, we will focus primarily on our area of expertise — freedom of assembly.

E-mail: [data@ovdinfo.org](mailto:data@ovdinfo.org)

# Measures taken by the Russian Government to combat disinformation

## Code of Administrative Offenses and the Criminal Code

In 2019, a federal law introduced administrative liability for distributing false information (items 9, 10 of article 13.15 of the Code of Administrative Offenses — CAO). On 1 April 2020, it was further amended to broaden its scope and to cover disinformation about the pandemic (items 10.1, 10.2, 11 of article 13.15 of CAO). On 30 December 2020, article 13.41 was introduced to punish the platform for a failure to delete such information.

Under item 9 of article 13.15 (“abuse of freedom of mass information”), the dissemination, under the guise of credible reports known to be false, of the information important to the public in the mass media as well as through telecommunication networks, if it caused a threat to life or health of citizens, public security, property, a threat of mass public disorder or a threat of impeding or terminating the functioning of facilities of vital facilities, transport or social infrastructure, credit institutions, energy, industry or communication facilities is punishable by a fine of up to 100,000 RUB (1,364 USD) for natural persons and up to 500,000 RUB (6,822 USD) for legal persons.

Item 10 of article 13.15 of CAO provides that the same actions that resulted in an actual impediment to the functioning of such facilities and infrastructure, or a repeat offense under item 9, are punishable by a fine of up to 300,000 RUB (4,092 USD) for natural persons and up to 1,000,000 RUB (13,065 USD) for legal persons.

If the dissemination of such information negligently caused harm to one’s health, such actions would be punishable with a prison term of up to 3 years under article 207.2 of the Criminal Code, or up to 5 years if it negligently caused death or other grave consequences. For legal persons, such actions (as well as those that resulted in mass disorder or an infrastructural collapse) would be punishable with a fine of up to 5,000,000 RUB (68,200 USD) under item 10.2 of article 13.15 of CAO.

Item 10.1 of article 13.15 of CAO provides for a fine of up to 3,000,000 RUB (40,920 USD) to legal persons disseminating false information about the circumstances threatening the life and health of citizens and (or) the measures being taken to ensure the safety of the population and protective measures against those circumstances. It has been extensively used to prosecute the media for reporting local shortages of medical equipment.

Item 11 of article 13.15 of CAO covers a repeat offense under items 10, 10.1, 10.2 and provides for a fine of up to 400,000 RUB (5,456 USD) for natural persons and 10,000,000 RUB (136,400 USD) for legal persons.

Recently introduced item 2 of article 13.41 of CAO provides for a fine of up to 4,000,000 RUB (54,520 USD) for a failure to delete the information (including false messages as defined above) as provided in law, unless it constitutes a repeat offense, in which case the fine amounts to from 5% to 10% of the previous year's total revenue, but no less than 4,000,000 RUB.

Article 354.1 of the Criminal Code criminalises (under threat of a prison term of up to 3 years) 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.

## Law on Information, Informational Technologies and the Protection of Information

On 30 December 2020, amendments were introduced to the Law on Information, Informational Technologies and the Protection of Information that compel mass media and online platforms to monitor their platforms and identify a variety of messages, including calls to participation in public events held in violation of the established procedure, the expression of disrespect towards the authorities and fake news as defined above. Such messages should be blocked by the outlet or platform. If in doubt whether such messages should be blocked, they must be blocked until the state body makes such a determination (the time limit for such a determination is not defined).

## The application of the criterion in practice

Although, in general, life and health, public security, property, public order and the functioning of transport, social or other vital infrastructure should be protected, the laws provide no safeguards on the application of such restrictions, especially in the context of exercising certain rights.

It is an established practice for the courts to punish protesters for taking part in an assembly that violated public order by the very fact of it not having been authorised by the authorities or for having impeded pedestrian or vehicle traffic, including by as many as one protester standing on a sidewalk or a public square — either in gross violation of the freedom of assembly as defined by the Human Rights Committee and the European Court of Human Rights.

Meanwhile, assemblies — including solo demonstrations — have been banned virtually everywhere in Russia since the start of the pandemic since participation is considered a threat to health or life, and criminal charges have been brought against the organisers on such grounds.

## How the application of such measures affects the enjoyment of human rights

We contend that measures to combat disinformation, broadly defined, or relying on wide discretionary powers of the authorities could endanger the exercise of such human rights as the freedom of assembly.

### Application against protesters

An environmental activist has been [charged](#) repeatedly with disseminating fake news for announcing a protest march, because, according to the police, the government had not authorised the march, holding it would have been illegal, and so the information that it would take place would have been fake. The charges were eventually dropped.

A regional deputy was [forced to delete](#) a video about protests because someone posted an illegal comment under it. A media outlet was fined for spreading disinformation after posting a video about a protest because the courts [found](#) its headline “A revolution is being prepared in Russia” to be false.

On 27 January 2021, after the outbreak of nationwide protests, Roskomnadzor, Russian government media watchdog, issued a [statement](#) that several social media platforms would be fined for failing to block calls to minors to participate in assemblies. On 31 January 2021, Roskomnadzor followed up with a [statement](#) that the social media are now blocking fake news, such as those containing “elevated numbers of participants of illegal rallies”, “alleged violence and clashes”, “deaths of assembly participants”. It threatened those that refuse to comply with prosecution under Article 13.41 of CAO mentioned above.

The government [routinely underestimates](#) the number of participants at protest rallies, by 60% on average, compared to assessments by non-partisan observers. The government fails to investigate excessive and unnecessary police violence, bordering on cruelty and torture in many cases. Such violence is well and widely documented.

Overall, this is a clear example of the government using the broad discretionary powers defined in law to advance its own interests, suppress the expression of dissent and provide a chilling effect on society discouraging it from exercising their human

rights. The powers ostensibly aimed at combating disinformation could be used for enforcing an official, certified version of the truth in the political realm as well.

## Arbitrary application

Meanwhile, social media have witnessed a wave of disinformation aimed at providing a chilling effect on protesters. Some of the notable messages were that [President Putin allowed riot police to shoot at the crowds of protesters](#), or at the windows of those that express support by lighting a flashlight. Bloggers have also been [paid to broadcast fake messages](#) that taking part in a rally is a criminal offense.

A [video](#) of a man allegedly trying to attack riot police officers with a baseball bat has been widely distributed by state media. The independent media, however, [reported](#) that the staged video was distributed under Kremlin's orders. The lack of criminal prosecution confirms such suspicions.

However, we are not aware of any investigations into or measures by the state to combat disinformation aimed at discouraging people from exercising their human rights, such as the freedom of assembly.

## Suggested materials

Our colleagues at Agora International Human Rights Group have prepared a [report](#) in English on the application of the anti-disinformation laws and its consequences for free speech (as of 2020).

European Audiovisual Observatory published a 2019 [report](#) on Disinformation in the media under Russian law.