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Is war propaganda no longer prohibited by law? Lawyers of OVD-Info and Memorial appeal to the UN

[Russian version](#)

At the end of September, lawyers of the Memorial Human Rights Centre and OVD-Info [filed a complaint](#) to the UN Human Rights Committee (the UN HRC) against the article on discrediting the Russian army (Article 20.3.3 of the Administrative Code). They also raised concerns about war propaganda. Ten individuals who have been prosecuted under the article participate in this collective appeal. This is not an ordinary complaint because the Committee has no established practice for cases of war propaganda, and lawyers have put new controversial issues before it. More details can be found in the authors' column below.

Our appeal to the UN HRC involves 10 different applicants who have one thing in common: they were prosecuted for publicly expressing disagreement with the war in Ukraine. Some of them held solitary protests with posters, others spoke out on social media. All of them were brought to administrative liability under Article 20.3.3 of the

Administrative Code for discrediting the army and state authorities. Unfortunately, criminal cases were later initiated against some of the applicants too.

In May 2022, politician Ilya Yashin was charged with administrative offence three times under the article on discrediting the army for several critical statements on social media. For example, the phrase «Bombing for peace is the same as fucking for virginity» was recognized as discrediting the honor of the armed forces.

On 9 December 2022, Yashin was sentenced to 8.5 years in prison, but this time under the criminal article on «fake facts» about the Russian army. The case was initiated because of his words on a YouTube livestream about the events in the Ukrainian city of Bucha.

Another of our applicants, human rights activist and co-chairman of the Memorial Human Rights Centre, Oleg Orlov, after being charged with administrative offence under Article 20.3.3 of the Administrative Code, also became a victim of criminal prosecution. On 11 October 2023, the Golovinsky District Court of Moscow found him guilty of re-discrediting the army and sentenced to a fine of 150.000 rubles (ca US\$ 1,635). Orlov held solitary pickets with anti-war posters several times, and also wrote [an article](#) named «They wanted fascism — they got it», where he criticised current events in Russia and spoke out against the invasion of Ukraine. During the trial, the prosecutor asked for a psychiatric examination of the defendant due to his «exacerbated sense of justice». Now the prosecution has appealed the verdict and demands Orlov to be sentenced to three years in prison.

These examples show that in the fight against dissent, the authorities do not limit themselves to administrative prosecution. One of the main dangers of charging someone under Article 20.3.3 of the Administrative Code is that it appears to be the first step towards a criminal case under Article 280.3 of the Criminal Code. In the case of Ilya Yashin,

the administrative case became a signal of criminal prosecution under another article — on «fake facts» about the Russian army.

Lawyers from OVD-Info and Memorial have sought to defend the applicants in Russian courts, attempting to argue that such persecutions for words constitute an unlawful and discriminatory infringement on freedom of expression and assembly. Unfortunately, their efforts were in vain. Nine out of ten of our applicants tried to seek justice in the Constitutional Court, but the court refused to even consider their complaints. The Constitutional Court deemed Article 20.3.3 of the Administrative Code to be entirely consistent with the Constitution. Now it is time to seek justice in international authorities.

This appeal to the UN HRC largely repeats our arguments presented to the Russian Constitutional Court. We state the violation of Articles 19 and 21 of the International Covenant on Civil and Political Rights, which protect the rights to freedom of expression and peaceful assembly. Additionally, we draw attention to the discriminatory nature of the persecution within the meaning of Article 2, paragraph 1, and Article 26 of the Covenant. While in our appeal to the Constitutional Court we referred to the provisions of the Constitution, here we refer to similar provisions of the Covenant.

Our complaint also addresses another aspect of this discrediting legislation: by suppressing the voices of dissent, it contributes to the dissemination of solely the position of authorities. Therefore, we also refer to the violation of Article 20, paragraph 1 of the Covenant which prohibits war propaganda. While this provision does not explicitly mention human rights like other articles, it establishes **an obligation** for the member states: **»Any propaganda of war must be prohibited by law.»**

Evidently, war propaganda constitutes one of the most dangerous forms of incitement to violence. Importance of fighting such propaganda was recognised and reflected in international law long before the Covenant was adopted. For instance, in 1936, the League of Nations ratified The International Convention Concerning the Use of Broadcasting in the Cause of Peace, requiring member states to limit broadcast of opinions that threatened international peace. A series of UN General Assembly resolutions in the 1940s and 1950s condemned «all forms of propaganda threatening or resulting in an act of aggression or breach of the peace.»

This prohibition was largely influenced by the tragic experiences of the two world wars, particularly the propaganda machine in Nazi Germany, which employed numerous tools to manipulate the consciousness of the entire nation. False narratives about external threats were spread to justify invasions of neighbouring countries, and a fabricated heroic image of a national leader was constructed. The fascist propaganda system also implied suppressing the opposition and any disagreement with the authorities.

It was recognized that war propaganda essentially created the conditions for the start of the war, and ensured its acceptance by the population. Consequently, Julius Streicher, a Nazi ideologist and publisher of the anti-Semitic newspaper *Der Stürmer*, was among the defendants at the Nuremberg Tribunal. The Tribunal's Judgement stated that his propaganda »was the poison Streicher injected into the minds of thousands of Germans which caused them to follow the National Socialists policy of Jewish persecution and extermination.» A member of the Tribunal from the USSR remarked: «propaganda was invariably a factor in preparing and conducting acts of aggression and in training the German populace to obediently accept the criminal enterprises of German fascism.»

Unfortunately, neither international law, nor historical experience could prevent a new era of propaganda of violence in the world, including in Russia. The Russian Federation not only lacks laws that would distinctly prohibit war propaganda, which by itself does not comply with Article 20 of the Covenant. Moreover, the persecutions for advocating peace are happening amidst a massive government campaign to support invasion of Ukraine and to encourage those endorsing the official ideology. The authorities organise countless rallies, concerts, flash mobs and other public events in support of the «Special military operation» («SVO»). On 18 March 2022, a large-scale «Z-rally» was organised in Moscow. Hundreds of thousands of people were brought to this event to listen to President Putin's speech. Military action and «war heroes» are being discussed in school lessons. In the meantime, access to alternative information and opinions is severely limited: independent media are being destroyed or forced out of the country.

Clearly, the suppression of the dissent is an integral part of this campaign. As noted by experts from the UN Working Group on Arbitrary Detention in the case of Alexey Gorinov, a municipal deputy convicted for anti-war statements, this situation «completely inverts the provisions of the Covenant, especially Article 20.» Our appeal to the UN HRC is one of the steps to reestablish the principles of the Covenant.

By going to the UN HRC we insist that appeals to Courts of Cassation and the Supreme Court in Russia are ineffective when it comes to «anti-war» cases.

In a democratic society the legislative and judicial systems would not have allowed not only war propaganda, but also prosecution of anti-war activists. This is the responsibility of the national government. The international authorities presume that national courts are able to evaluate law interference in accordance with voluntarily accepted international obligations. The Covenant states that before

coming to the HRC one needs to go to the national courts. This means that one has to first utilise all available and effective means of legal protection in their own country. The fact that these means are not effective has to be proven.

In our opinion, looking for protection in the Russian courts is futile. The chance for a court ruling to be cancelled is miniscule, and it appears impossible to obtain the court's statement that anti-war expressions are acceptable. We have analysed all the available cases on discreditation that have been put to hearings in Courts of Cassation and the Supreme Court. The case statistic in Courts of Cassation is the following. In 94% of the cases, the judges upheld decisions of the first instance. The remaining 3% represent cases where the court only changed or annulled the appellate decision, or where the court made a decision that did not address the substance of the case. The latter typically includes decisions regarding the reinstatement of missed deadlines for filing an appeal.

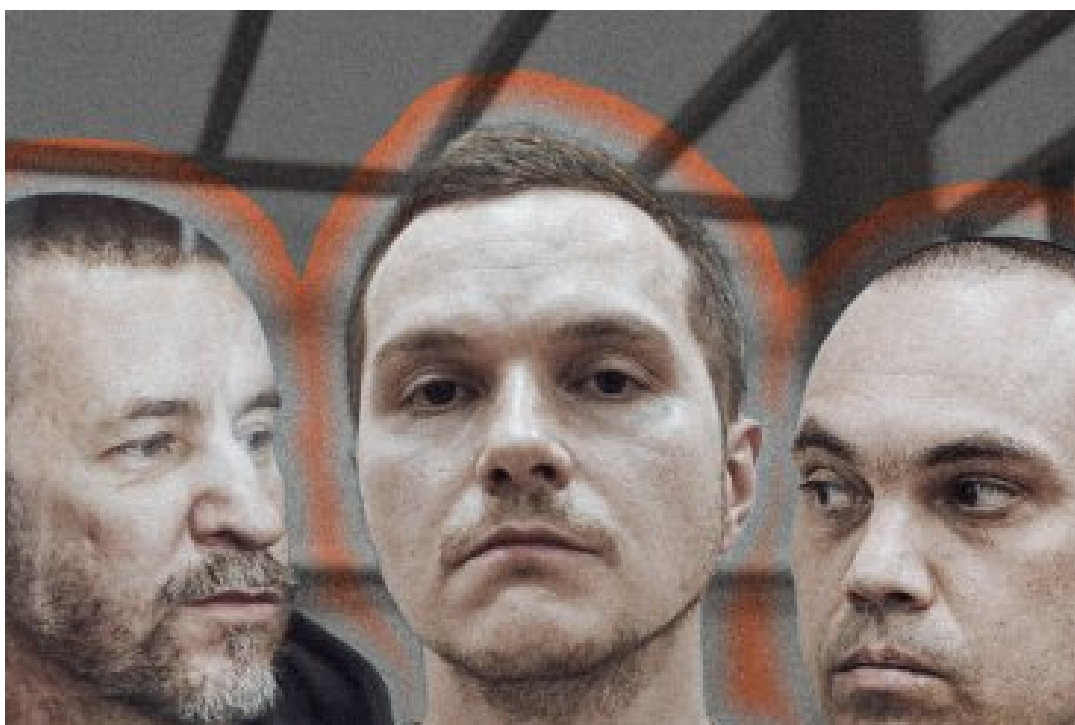
However, as lawyers we consider not only the ruling itself, but also the motivation of courts' decisions. It appears that in all the cases when Courts of Cassation overturned the initial indictment, it was done either on processual grounds, or the Court has found the participation in the event to be unproven. There were only four such cases, of which we have analysed three, as the fourth one was not available: it was not published on the Court's website.

There were only two reasons for stopping the judicial proceedings: in one case the person involved was wrongly deemed to be a participant of a public event, and in two other cases, the time limit for prosecution was missed. The Supreme Court has left the initial indictment unchanged in all cases it considered. Most importantly, not one Court has ruled that prosecution for peaceful anti-war statements is unlawful. It appears that within the Russian judicial system

there is no chance at all to prove that prosecution for anti-war expression is illegal.

After Russia's exclusion from the Council of Europe, the UN treaty bodies, including the UN Human Rights Committee, remain one of the few mechanisms for protecting human rights, although its practice is not as extensive as that of the ECHR. That is why we consider it important to address new questions to the Committee. The question of the effectiveness of appeals to Courts of Cassation and the Supreme Court in administrative cases has not yet been definitively resolved from a practical standpoint.

Ещё почитать



Защита политпреследуемых не должна быть вне закона. Заявление ОВД-Инфо о приговоре адвокатам Алексея Навального

17.01.2025 Суд приговорил адвокатов Алексея Навального к срокам до 5,5 лет лишения свободы за выполнение их профессиональных обязанностей. Адвокатов политика преследуют только за то, что для них еще имеет значение

буква закона и они не оставили человека один на один с репрессивной машиной.



Что такое «оправдание терроризма» и как за него преследуют?

В рейтинге уголовных статей, по которым россиян преследуют за антивоенные высказывания, первую строчку в 2024 году статья о публичных призывах, оправдании или пропаганде терроризма...



Требуем запретить «карусельные» аресты

В октябре 2025 года суд в Петербурге отправил под административный арест участников группы «Стоптайм»: вокалистку Диану Логинову (Наоко), барабанщика Владислава Леонтьева и гитариста...



Задержания, суды и давление за антивоенные высказывания и критику войны в Украине

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