

COVID-1984:

New Restrictions for Media Freedom in Russia caused by COVID-19 pandemic

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Russia is not the only one country in the world to impose media restrictions during the pandemic. But the Russian situation is different from many others because this health emergency has allowed the authorities to further tighten already-existing constraints on the media.

For example, a so-called "Fake News" law was passed in Russia last year, long before the epidemic. This law was severely criticized by experts and professionals in Russia and abroad. In December 2019, the EU Delegation in Moscow held a special discussion on the restrictions on the Russian Internet, where a comprehensive legal analysis of this legal novelty was presented. Analysts warned that due to its unclear definitions of "false information," the law could become a dangerous tool of censorship and selective justice for critical voices. At the time, however, it was an offence punishable under the administrative code, which prescribed the blocking of the site and a fine, whereas the brand new law adopted at the beginning of April 2020 considers spreading "false information" a criminal offence that may result in a prison sentence.

The other major problem for the work of journalists is digital surveillance and the suppression of any notion of privacy.

Digital ghetto

Surveillance has become a serious issue for journalists working in Russia during the coronavirus crisis, but its roots also predate the epidemic. In Russia, several amendments to anti-terrorism legislation, the Penal Code and certain other laws (collectively referred as the "Yarovaya package") have entered into force in July 2016. From that date, all mobile phone operators and Internet service providers in Russia have an obligation to retain all GPS and communications data for at least six months. And all Internet traffic must be thoroughly filtered and analyzed by Deep Packet Inspection (DPI). However, it must be said that according to the testimonies of communications operators, they have been sabotaging this law as its consistent implementation would come at a very high cost estimated to be several tens of billions of euros. So far, they have faced no consequences.

The outbreak of COVID-19 has given a new impetus to the authorities' desire for total control. Following the example of the Chinese system, in major Russian cities such as St. Petersburg and especially Moscow, the QR code pass system and facial recognition system were introduced. All public transport tickets are valid only if they are personalized (it's impossible to use the subway without these passes, for example) and the movement of vehicles is monitored by thousands of cameras that recognize the vehicles' registration plates. If you move through the city by car, but have not first registered your destination and specific route online with City Hall, each camera will generate a fine of about 60 euros, so your route will be tracked either case, but you will also receive a very high final bill. This system of authorizations and movement-tracking cannot function without a personal mobile phone. Thus, all data on the movements of a particular person are stored in a database generated by mobile operators. The mayor of Moscow has announced several times that geolocation linked to facial recognition will be used for the "identification of offenders". We don't know if this whole big data system is really 100%

functional, but it is obvious that all this represents an enormous threat to the work of journalists and, above all, to the secrecy of their sources.

Tougher legislation

Under the pretext of the epidemic, amendments have been made to Article 207 of the Criminal Code, which previously punished false statements about alleged terrorist acts. On 27 March, Vladimir Putin's spokesman, **Dmitry Peskov**, [declared](#) that the dissemination of false information about COVID-19 should be punishable by law to not "create panic". On 31 March, the Russian Parliament approved the amendments and on 1 April, Russian President Vladimir Putin signed them (a speed record!). Two amendments to this article of the Criminal Code are 207.1 - Public dissemination of deliberately false information on circumstances that constitute a threat to the life and security of citizens and 207.2 - Public dissemination of deliberately false information of public importance, which leads to serious consequences. They shall be punishable by a fine of between 8,000 and 25,000 € (approximate figures because in rubles) and/or imprisonment if they have caused public health damage or casualties.

From the point of view of jurists, punishment for the premeditated creation of panic, which, according to the explanation in this article of the Code "has caused damage to human health and the environment, significant material losses and the violation of the living conditions of the population" is theoretically justified. But since neither the "damage" nor the "false information" criteria are defined, but rather based solely on the opinions of individual judges--and in the current Russian judicial system, where the courts just confirm any charges in 99.75% (real figures) of cases (including even the most fantastic and absurd ones)--this law becomes a real sledge hammer for smashing freedom of expression. And not just the written word, but also the spoken one too!

On 21 April 2020, the Russian Supreme Court [explained](#) that the criminal consequences of any statement can arise not only when using media and social networks, but also simply when speaking in public. From a lawyer's point of view, this means that if you tell your neighbours that someone was taken to hospital because of COVID-19, and in reality they are suffering from scarlet fever, you could become a criminal. In short, it's become dangerous even to talk about the virus.

But what is perhaps most frightening is that all these amendments will almost certainly be widely used after the epidemic. Because, of course, there is no notion of SARS-CoV-2 virus in the text of the criminal code. "*We're opening a Pandora's box. After the outbreak, it will be used in other cases,*" [says](#) **Fyodor Trusov**, a Moscow lawyer.

For the time being all the known cases of the application of this new law concern exclusively the information related to the coronavirus:

- The [first known case](#) of prosecution based on this brand new law is that of **Anna Shushpanova**, a political activist from the St. Petersburg region. According to the investigators, she published an article in a local group of the social network VKontakte, claiming that one of COVID-19 patients had not been admitted to hospital. She was then reportedly forced to return home by public transport. Although her lawyer argued that it was merely a repost of someone else's article, criminal proceedings were initiated, Shushpanova's home was searched, and all her computer and telephone equipment were seized.
- On 9 April the Russian Investigative Committee [announced](#), without giving many details, that three more criminal investigations had been opened, because of online publications. The first one described the mass contamination of the Russian military in Syria, the second said that the authorities had made the decision to extend the lockdown up to 12 months, and the third described the imminent introduction of a pass system in Moscow. This system was, it should be noted, [introduced](#) two days later, but given the peculiar Russian judicial reality, there's absolutely no guarantee that this case will be closed...

- On 13 April, the same Investigative Committee announced that a whole series of criminal proceedings “for spreading public misinformation” have been initiated in different regions of Russia. The report listed Moscow, St. Petersburg, Saratov, Tver, Leningrad regions, the Republic of Buryatia, and Primorsky Krai. Pre-inspections are being carried out by the investigative services in the Samara, Sverdlovsk, Omsk, Khabarovsk and Krasnodar regions, as well as in others, [according to this communication](#). Most of this multitude of cases is only listed, without giving any details.
- One of the most recent cases is that of writer and journalist **Tatiana Voltskaya**, a member of St Petersburg PEN, who was targeted by investigators because of a publication about the lack of artificial lung ventilation equipment in local hospitals. Voltskaya quoted a doctor who said that because of this lack of equipment, his colleagues are forced to choose who they help and who they don't, "playing with the documentation". "*Guess who the chief investigator hurried to investigate..., the head doctors of the hospital, to ask if there's enough manpower and lung ventilation systems, or a journalist? A journalist!*" [wrote Tatyana Voltskaya](#) on her Facebook. "*It is clear that instead of focusing on the real facts, the authorities are trying to silence all the voices that tell the truth.*" The real reason for the pressure exerted on Ms. Volskaya is related to the request for disclosure of her sources, with which she refuses to comply.

The Mass Media Defense Center (MMDC) is a legal NGO working on judicial aspects and court cases affecting independent media and journalists in Russia. This organization reports a sharp increase in charges based on this newly adopted article of the Criminal Code.

“The new article (207.1) is already becoming the main problem for journalists and bloggers, and even social network users,” says the director of the MMDC, **Galina Arapova**. *“Our lawyers have already received many requests for help from different regions of Russia since April 1. Journalists and netizens are being targeted for information that differs from official reports and for any critical publication against the authorities or even for group discussions about the virus”*.

Lawyers and human rights activists are rightly concerned that once the pandemic is over, the similar provisions of the Administrative Code will be systematically replaced by those of the criminal one. The possibility of its exceptionally vague interpretation multiplied on the explanations recently given by the Russian Supreme Court will lead to a situation when in Russia where it will be dangerous not only to write, but even to express any point of view that differs from the official one. Such a view may well be considered "fake news" and thus a criminal offence.

Direct censorship

The editorial staff of the information website *Vademecum*, specialising in medical issues and aimed mainly at healthcare professionals, was targeted by the Public Prosecutor's Office and the media regulator Roskomnadzor because of a publication that referred to case in which the public insurance policy is refusing to cover hospital fees for patients suffering from COVID-19, who were not brought by ambulance to hospital admission. Despite lacking clear legal means to do so (i.e. by a court order), the authorities blackmailed the editors, threatening to block the entire website. *Vademecum* is a private project that lives entirely on advertising revenue (120,000 unique visitors per week). Blocking it would be fatal. It should also be mentioned that the request for the deletion of this article contains a clear reference to the possibility of a criminal investigation on the basis of the new amendments to Article 207 of the Criminal Code. The regulator's letter states that the said article "calls for mass disorder and extremist activities".

The journalists protested against this act of censorship by publishing [an open letter](#) on 28 April. The same night, the website [was blocked](#) by the authorities. The following morning, the editorial staff withdrew the article (a copy of which is available [here](#)). Afterwards, the website was unblocked.

Earlier, *Novaya Gazeta* had to remove from its website the article "*Death by coronavirus is the lesser*

evil" by **Elena Milashina**, which described serious human rights violations in Chechnya linked to the virus epidemic. She wrote that doctors lacked protective equipment and local authorities were holding mass arrests for violations of the lockdown. The leader of this North Caucasian republic, **Ramzan Kadyrov** was furious. He called upon the FSB (secret service) to stop the *"provocative and explosive anti-Chechen bullying, brazenly and shamelessly arranged by the newspaper Novaya Gazeta."* On 15 April, following a threat of blocking by Roskomnadzor, the newspaper was forced to remove Milashina's article from its website. But this story is much more serious than that of Vademecum.

A Chechen case apart, as usual

This most blatant case has nothing to do with problems of legislation, digital surveillance and even of censorship in Russia. It concerns a region that is de jure a constituent of the Russian Federation,, but which lives de facto by the rules of the local potentate, Ramzan Kadyrov. Following the publication of her article on 12 ini April *Novaya Gazeta*, journalist Elena Milashina has received obvious [death threats](#) from him.

The first reaction to these threats came from the Committee to Protect Journalists (CPJ) who [declared](#) that Russian authorities should condemn Chechen leader Ramzan Kadyrov's frightening remarks and ensure the safety of Milashina.

"We didn't see anything unusual," [said](#) presidential spokesman Dmitry Peskov while commenting on these threats on the following day.

Therefore, Russian writers and journalists [PEN Moscow](#) and PEN St Petersburg, [Journalists and Media Workers Union](#) urged Russian authorities to protect Elena Milashina. The international community joined this campaign. Amnesty International and the Norwegian Union of Journalists [issued](#) a joint letter, while French Human Rights Ambassador **François Croquette** together with the Federal Government Commissioner for Human Rights Policy **Bärbel Kofler** issued a [common statement](#). EFJ/IFJ created a [Level 1 Alert](#) on the platform of the CoE. This Alert was co-signed by Article 19, PEN International and Reporters without Borders. And finally the EU issued an [official demand](#) to the Russian Federation to protect Milashina.

Earlier in February, an [attack against Milashina](#) took place in the Chechen capital Grozny (she was beaten), but despite the complaint filed, this case is apparently not being investigated yet.

"It is important to remember that Novaya Gazeta outlet and his journalists have been getting threats, including death threats, regularly since 2017, since Milashina's very first article on the serious violence against LGBT rights in Chechnya," says Galina Arapova from MMDC, *"And over all these years, the law enforcement agencies have not done their job properly and have not arrested the offenders, nor even pronounced their names."*

The impunity for crimes against journalists in Russia, which has become commonplace in recent years, is, in the current situation, reinforced by the *"fog of pandemic"*. And this does not only concern this example of direct threats to their physical integrity, as in this Chechen case, which is, let's face it, exceptional for the rest of Russia. What is perhaps even more dangerous, however, is the fact that, under the pretext of the fight for public health, the entire Russian state apparatus is looking for ways to silence the voices of independent journalists.

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