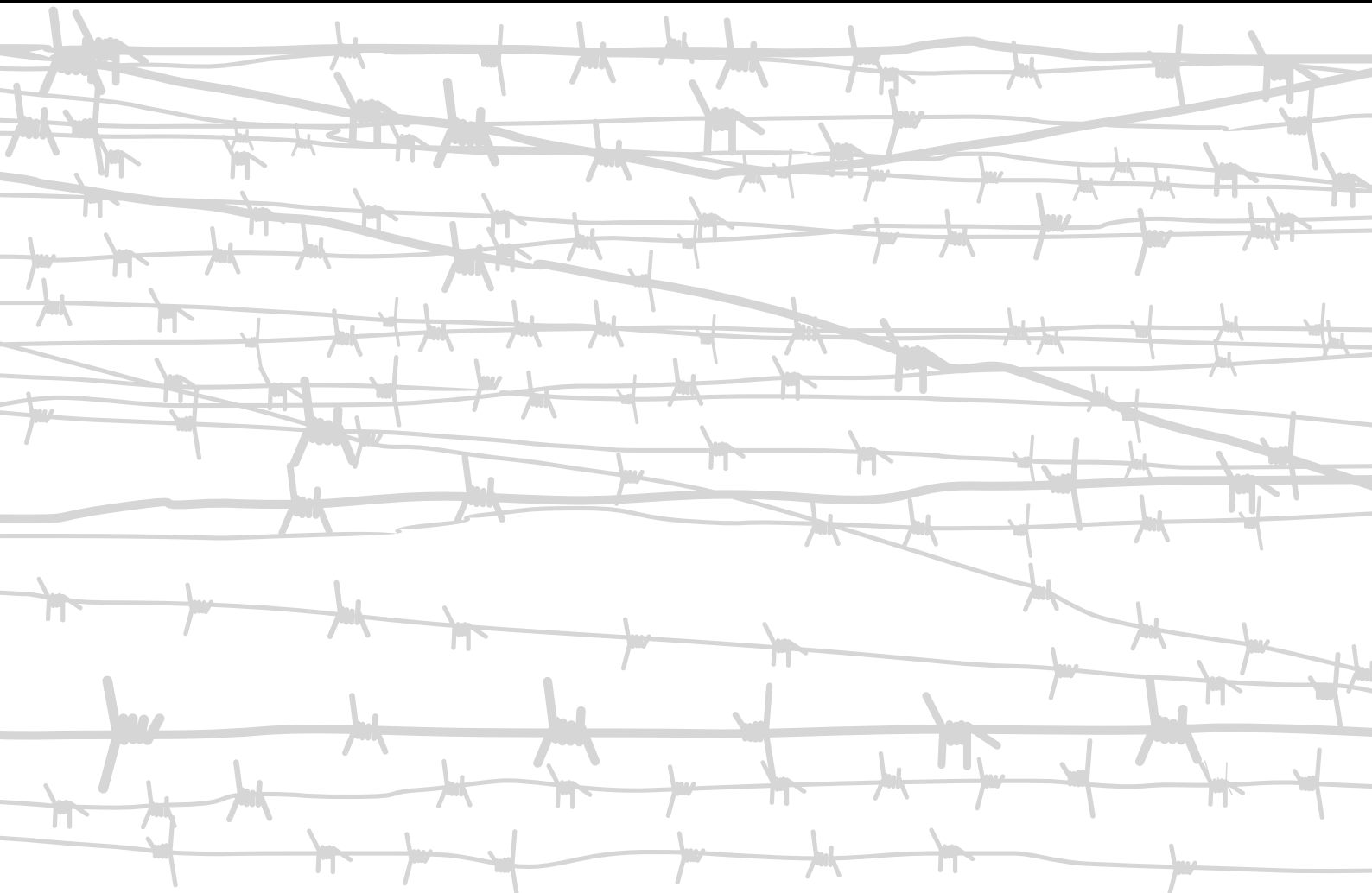




Application of the Article on a Terrorist Association of the Russian Criminal Code against Political Activists

Darya Kostromina

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NOTE:

THE REPORT MENTIONS ORGANIZATIONS OFFICIALLY BANNED IN RUSSIA SUCH AS SYNDICATE "AUTONOMOUS COMBAT TERRORIST ORGANIZATION", "NETWORK", "HIZB UT-TAHRIR" RECOGNIZED AS TERRORIST BY COURT; "ARTPODGOTOVKA" IS RECOGNIZED AS EXTREMIST

Terrorism charges have been steadily rising. Over the past years, even those who don't track information on political persecution in Russia heard at least about the trial of the *Network* case, which, according to the investigation and court, is allegedly an anarchist militant group trained to carry out terrorist attacks and overthrow the government, but according to the defense, a dispersed group of amateur airsoft players engaged in paramilitary sports for fun. As for those who happen to follow these cases closely, this story became a logical continuation of the trend and, alas, far from the end.

Political activists of completely different ideologies, from far-right to far-left, have already suffered from completely or partially trumped-up charges of terrorism. These groups include Orthodox monarchists, adepts of the USSR, nationalists of different degree of radicalism, antifascists, anarcho-communists, defenders of territorial integrity of Ukraine. Accusations of such kind are also applied to journalists.

On the one hand, fabricated terrorist charges against activists and journalists are just the tip of the iceberg, with Muslims and migrants from predominantly Islamic countries at the center. On the other hand, the secular part of terrorism charges is expanding, and this problem deserves the utmost attention.

This report gives an overview of the persecution of political activists under **Article 205.4 of the Russian Criminal Code** (*“Organizing a terrorist association and participating in it”*), since this report, along with others, is usually imputed to participants in group cases. Activists and journalists are persecuted not just as groups, but sometimes as individuals, as in the case of the anarchist *Ilya Romanov* or the pro-Ukrainian resident of Crimea, *Oleg Prikhodko*. Dagestani journalist *Abdulmumin Gadzhiev* is charged with financing terrorism, and Pskov journalist *Svetlana Prokopyeva* is charged with justifying terrorism. Nevertheless, group cases are the mostly large-scale; they are used to a greater extent for state propaganda, and more fully illustrate repressive methods. We will not just study the accusations of involvement in terrorist communities per se, but also related charges incriminating the subjects of these criminal cases: of preparing and carrying out acts of terrorism, possession of weapons and ammunition, etc.

For our analysis, we have selected four of the most famous cases of persecution under **Article 205.4 of the Russian Criminal Code** (*the case of Oleg Sentsov, the case of the Baltic Avant-Garde of Russian Resistance (BARS), Artpodgotovka case, and the Network case*), as well as the criminal case of *Autonomous Combat Terrorist Organization (ABTO)*, where sentence had been passed before **Article 205.4 of the Russian Criminal Code** was issued, nevertheless in all respects it is similar to further cases under the article.



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Article 205.4 of the Russian Criminal Code within the system of persecution for terrorism

Article 205.4. Organizing a terrorist association and participating in it

*1. Organizing a terrorist association, which is, a stable group of people who grouped in advance for the purpose of carrying out terrorist activities or preparing or committing one or more crimes provided for by **Articles 205.1, 205.2, 206, 208, 211, 220, 221, 277, 278, 279, 360 and 361 of the Russian Criminal Code**, or other crimes for the purpose of propaganda, justification and support of terrorism, as well as leadership of such terrorist association, its part or structural subdivisions of such association shall be punishable by deprivation of liberty for a term of fifteen to twenty years, and penalty of the amount up to one million rubles or in the amount of the salary, or any other income of a convicted person for a period up to five years or without it or with restriction of liberty for a term of one to two years, or life in prison.*

2. Participating in a terrorist association shall be punishable by deprivation of liberty for a term of five to ten years, with or without a fine in the amount up to 500 thousand rubles, or in the amount of salary, or any other income of a convict for a period up to three years.

The [Russian Criminal Code](#) contains a group of articles that punish for terrorist crimes. Most of these articles came out of **Article 205 of the Russian Criminal Code**. Initially, in 1996 (when [the Russian Criminal Code](#) was implemented), the crime under this article was called “*Terrorism*”; later, when differentiating terrorist crimes in the Russian Criminal Code, the article was renamed “*Act of Terrorism*”.

In 2002, **Article 205.1** was implemented (now it is called “*Contributing to Terrorist Activity*”), and in 2006, **Article 205.2** appeared (“*Public Calls for Committing Terrorist Activity or Public Justification of Terrorism*”).



In 2013, three new Articles were added to **the Russian Criminal Code: 205.3** (“Undergoing Training for the Purpose of Undercovering Terrorist Activity”), **205.4** (“Organizing a Terrorist Association and Participating in it”), **205.5** (“Organizing Activities of a Terrorist Organization and Participating in it”). For today, the last one for **Article 205** became **205.6** (“Failure to Report a Crime”) issued in 2016. The history of development of counter-terrorist criminal articles is summarized in [Memorial HRC report](#) issued in 2018).

We have set aside other articles related to terrorism, such as **Article 206** (“Hostage-taking”), **Article 361** (“An Act of International Terrorism”) etc., since they are far from the topic considered.

Terrorist association vs. terrorist organization

As it was stated above, **Article 205.4 of the Russian Criminal Code** appeared in 2013 simultaneously with two other criminal anti-terrorist articles. Soon after that, there was a sudden and swift increase in the number of sentences under “Articles 205”, not only due to applying new articles, but also due to high use of already existing **Articles 205.1** and **205.2 of the Russian Criminal Code**.

In connection with the new articles, not only specific activities (for example, committing terrorist acts and preparing for them, financing terrorism, involvement in terrorist activities) were punished, but also belonging to a terrorist group.

Articles 205.4 and **205.5 of the Russian Criminal Code** reflected already existing anti-extremist **Articles 282.1** (“Organizing an Extremist Association and Participating in it”) and **282.2** (“Organizing Activities of an Extremist Organization and Participating in it”) **of the Russian Criminal Code**. The difference between **Articles 205.4** and **205.5** is that a terrorist organization is a group that has already been recognized as terrorist by court, and an association is a group concerning which no such decision has been made. If a person is accused under **Article 205.5 of the Russian Criminal Code**, it is sufficient just to prove their belonging to a terrorist organization, and if under **Article 205.4** it is necessary to prove the existence of the association and the fact that it was formed for the very terrorist crimes.

Article 205.5 of the Russian Criminal Code opens up the possibility of “conveyor” of criminal cases of the same kind: after all, minimal effort is required from law enforcement agencies. This is illustrated best by the example of repressions against members of the Islamic organization *Hizb ut-Tahrir*, which in 2003 was recognized as terrorists by *the Supreme Court of Russia* (details of persecution of *Hizb ut-Tahrir* members by the Russian authorities can be found in [Memorial HRC survey](#)). Often inculcation of this article is not supplemented by any other charges: belonging to the organization is considered a self-sufficient crime.



On the contrary, for charges under **Article 205.4**, it is necessary, if not to conduct, then at least to simulate a detailed investigation. Most often, this article goes with other charges: of committing or preparing terrorist attacks, of keeping explosives and ammunition, etc. In this regard, **Article 205.4 of the Russian Criminal Code** is applied much less massively than **Article 205.5**. Thus, according to *Justice Department of the RF Supreme Court*, in 2019, judgments of conviction were issued for 131 crimes under **Article 205.5 of the Russian Criminal Code**, and only 29 ones for crimes under **Article 205.4**.

Whereupon, both articles are defined by the extreme severity of penalties. Thus, under both articles, leaders (a founder and a leader of an association or an organizer of a cell) undergo punishment from 15 years to life in prison.

Some specifics of applying Article 205.4 of the Russian Criminal Code

A terrorist association, according to the definition of the Russian Criminal Code, is a group of people who come together in order to participate in terrorist activities, or to commit crimes provided for by both anti-terrorist criminal articles and some other articles, for example, **Article 208** (*“Organizing an Illegal Armed Formation, or Participating in It”*), **Article 278 of the Russian Criminal Code** (*“Forcible Seizure of Power”*), **Article 279 of the Russian Criminal Code** (*“Armed Rebellion”*). Thus, not only is a terrorist association recognized as a terrorist, but also a “revolutionary” one.

According to *the resolution of the Plenum of the RF Supreme Court of February 9, 2012 No. 1 “On some issues of judicial practice in criminal cases of terrorist crimes”*, the crime under **Article 205.4, part 1, of the Russian Criminal Code**, is considered complete from the moment when two or more people unite as a terrorist association, and a crime under **Article 205.4, part 2, of the Russian Criminal Code**, which is from the moment a person joined an already created association with the intention to participate in crimes. Thus, only goals and intentions can actually be a completed (grave) crime, while real criminal acts are classified under other articles and charged additionally.



Cases of Terrorist Groups of 2010-2020

Case of Autonomous Combat Terrorist Organization (ABTO): all in one group

In 2013, *the Syndicate "Autonomous Combat Terrorist Organization" (ABTO)* was recognized by the court as terrorist and banned on the territory of Russia

Articles of *the Russian Criminal Code* mentioned in the chapter (wording is given in the context of charges described):

Article 205, part 2, point "a", of the Russian Criminal Code - *terrorist attack by an organized group;*

Article 167, part 2, of the Russian Criminal Code - *destruction or damage of other people's property by arson or explosion;*

Article 213, part 2, of the Russian Criminal Code - *hooliganism by an organized group;*

Article 63, part 1, point "f", of the Russian Criminal Code - *committing hate crimes.*

In 2010, the security forces assembled a made-up criminal group from two different (though partially familiar with each other) groups of teenagers. One of the groups had committed several acts of arson motivated by national hatred, and the other one had thrown Molotov cocktails into *FSB* district department. All the acts of arson were classified as terrorist attacks. The first group included *Bogdan Golonkov, Kirill Krasavchikov, Aleksandr Bokarev* and *Yaroslav Rudny*, and the second group included *Ivan Astashin, Maksim Ivanov, Grigory Lebedev, Aleksandr Markhai*, and *Ksenia Povazhnaya*, with *Astashin* being declared the leader of the group.



At that time, there was no **Article 205.4 in the Russian Criminal Code**. The sentence was not about a terrorist association, but an “organized criminal group”, where “*Astashin took the lead*”. And nobody was charged under the article of an organized criminal association, although an aggravating factor was “*committed by an organized group*” (**Article 205, part 2, point “a”, of the Russian Criminal Code**).

Development of the criminal case

In winter of 2009-2010, *Bogdan Golonkov’s* and *Kirill Krasavchikov’s* group committed seven acts of arson at retail outlet places, cafes, and a hostel for hired workers and police stations. The acts took place in Moscow and the Moscow region. There were no casualties or injured people; however, owners of the business estimated overall damage of the property at 13.2 million rubles.

Members of *Ivan Astashin’s* group committed a single arson: on the night of December 20, 2009, the Day of Security Service Workers, they broke windows in *FSB Southwestern District of Moscow Department*, and threw Molotov cocktails inside. Nobody was hurt by the fire; the total damage was about 24,000 rubles. *Astashin* filmed what was happening, then edited it and made a video public under the title “Happy Chekist Day, Bastards!”

Golonkov, Krasavchikov and *Bokarev* were arrested in late February-early March 2010. Firstly, a case was initiated against them under the article on destruction and damage of property (**Article 167, part 2, of the Russian Criminal Code**), which implies up to 5 years in prison. Soon *Astashin* and *Povazhnaya* were arrested. The district police followed up about their involvement in the group of *Golonkov* and *Krasavchikov*, but at that time they could not confirm it; *Astashin* and *Povazhnaya* were not taken into custody.

During the year of investigation, the charges increased: first, act of arson were re-classified as acts of group hooliganism (**Article 213 part 2**, up to 7 years in prison), then as terrorist acts committed by an organized group (**Article 205, part 2, point “a”**). The case was being handled in chain order: from the district police department to the *Investigative Committee of Russia*.

On December 28, 2010 *Astashin* and *Povazhnaya* were arrested again. After that, *Astashin* confessed that he was preparing to blow up a thermal electric power station on Entuziastov Highway in Moscow. Later, he said that this was false; his confession was obtained under torture: operatives were beating up *Astashin*, strangling him, squeezing his genitals with their feet, and threatened to torture *Povazhnaya*.



Criminal case construction

The name “Syndicate “Autonomous Combat Terrorist Organization” (ABTO), according to the defendants, was invented by **Bogdan Golonkov**, as a reference to *Combat Terrorist Organization* from the Nazi *Georgy Borovikov*. **Golonkov** argued that ABTO as an organization has never existed in reality. **Astashin, Ivanov, Markhai, Lebedev, Povazhnaya**, who participated only in the arson of *FSB*, also became ABTO members, according to the line of inquiry.

According to the final line of inquiry, all ABTO’s terrorist attacks were committed with a single purpose to toughen migration policy and change the internal national policy in Russia for the benefit of Russians. If this logic fits into attacks on migrants and even police stations as state bodies that, from the nationalists’ point of view, lost control over illegal immigration, then *FSB* and the thermal electric power station are objects that hardly correspond to the topic. **Astashin**’s version is much more realistic, since he explained the action against *FSB* as a protest against political repression and “dictatorship of Chekists”.

Also the arson of the vendor stalls and migrant hostels and the arson of *FSB* department should not be equated from the perspective of public danger. While both are certainly criminal offenses, their social outcome is very different.

Migrants and national minorities are vulnerable compared to most of the country’s population; the danger of violence from the far-right is serious and real for them, and their loss of business could be crucial. The arson could scare people, make them stop working in the country, or even force them to leave Russia. In this case, the discussion on the classification of crimes is appropriate: it is understandable that there are arguments in favor of calling a series of such arson attacks terrorism, although it may be sufficient to use “standard” criminal articles (arson or hooliganism) with an aggravating circumstance, which is committing a crime motivated by national hatred (**Article 63, part 1, point “f”, of the Russian Criminal Code**).

On the other hand, *FSB*, which is one of the most vital state security forces and is in possession of the most powerful apparatus of control and coercion, can’t be frightened by such an insignificant act of arson that did not entail casualties, destruction of the building or other noticeably serious consequences. *FSB*’s level of security is ten times higher than that of migrants. It is unlikely that throwing three Molotov cocktails through the window at night, which ruined one of the locations of the district department, could “influence the decision-making” of *FSB* and force it to make compromises.



Astashin, in addition to arson of *FSB* and attempts to blow up the thermal electric power station, was charged with all seven crimes committed by **Golonkov** and **Krasavchikov**, despite the fact that **Astashin** did not personally participate in any of them. It was alleged that **Astashin** was giving orders to other arsonists.

Another charge against **Astashin** was not classified as terrorism and was not attributed to *ABTO*. Having made explosives as an experiment, he, according to himself, decided to test the obtained substance on an expensive insured car and blew up someone else's Lexus. For that he was charged with **Article 167, part 2**; **Astashin** pleaded guilty for this crime.

Astashin and **Povazhnaya** were also charged with production and possession of explosives and detonating devices; **Astashin** was additionally charged with calls for extremism and incitement to hatred.

Sentences

In April 2012, three judges of the *Moscow City Court* chaired by **Pavel Melekhin** found the defendants guilty on all charges. The court ignored **Ivan Astashin** retracting his statement on preparing explosion of the thermal electric power station and his statement of torture. At the same time, the testimony of his former friend **Igor Zaitsev** was taken into account, who said that **Astashin**, when staying at his place, was preparing an explosion. **Zaitsev** was the only defendant who received a suspended sentence in this case (for possession of explosives).

Astashin was sentenced to 13 years in a maximum security penal colony, after cassation the sentence was reduced to 9 years and 9 months. The rest of the defendants in the case, who participated in the only arson of *FSB* department, received from 6 to 10 years in prison (after the appeal, the terms were reduced to 4 to 8 years). The defendants who repeatedly set fire to trade stalls and other objects were sentenced from 6 to 12 years, later some punishments were mitigated too.

Case comment

The *ABTO* case, to some extent, was a "forerunner" to the subsequent partial or completely fabricated cases on terrorist associations against political activists. Blurred boundaries between a terrorist attack and other types of crime, negligent approach to proving the motive of the attack (which determines whether the act was a terrorist attack or not), accusations of especially grave crimes, description of imaginary criminal connections based solely on evidence of people dependent on the investigation.



The unevenness and bias of punishment is obvious: people who committed a single act of arson, however against *FSB*, received almost the same prison sentence as those who committed seven arsons, and *Ivan Astashin*, who is allegedly the mastermind behind the attack against *FSB*, seems to have faced large-scale fabrication of the criminal case, and his guilt was greatly exaggerated.

The case of Oleg Sentsov: within the framework of annexation of Crimea

The case of *Oleg Sentsov* had a great impact among political cases on terrorism. Four residents of the annexed Crimea who opposed the annexation of the peninsula by Russia were convicted: *Oleg Sentsov*, *Aleksandr Kolchenko*, *Gennady Afanasyev* and *Aleksei Chirniy*. Several more people were put on the wanted list. The case was based on two arson attacks and preparations for the destruction of a Lenin monument with an improvised explosive device.

Case construction

Both arson attacks (the targets were offices of the nationalist movement *Russian Unity* and the political party *United Russia*) were committed at night, when the buildings were empty as to not have any victims. As for damage, in the first case, a door was burned, and in the second one, a windowsill in the kitchen was damaged by fire. There was no demand from the arsonists. However, the acts of arson were classified as terrorist attacks. In a similar way, the investigation found that preparing for the destruction of the monument, and also planning to go in night with the absence of people, as preparing a terrorist attack.

The investigation united several people into a fake terrorist association, responsible for all the acts described above. According to the investigation, the association was created at the direction of the Ukrainian nationalist organization *Right Sector*. In reality, the only person who participated in both arson attacks and preparation of explosion was *Aleksei Chirniy*. It can be heard clearly from audio recordings of his conversations with the *FSB* informant that *Chirniy* refused to cooperate with those he had set fire to buildings with (in particular with *Gennady Afanasyev* and *Aleksandr Kolchenko*) while preparing the bomb. The investigation and courts have ignored the fact.



During the conversations, **Chirniy** denies any connection between the arsonists and the *Right Sector*. In general, nothing supports the assumption that the convicts' actions were inspired by the *Right Sector*.

Sentsov did not participate in any of the actions, however he was recognized as the organizer and leader of the association and due to that, accused of all the acts committed by his "subordinates". The role of the leader was based only on confessions of **Chirniy** and **Afanasyev**, who entered into a pre-trial agreement with the investigation.

Development of the criminal case

On the night of May 8-9, 2014, **Aleksei Chirniy** was arrested. According to *FSB* reports and operational footage, it happened when he was removing an explosive device from a stash (in reality, a dummy was placed in the stash under the control of *FSB*). On May 9, **Gennady Afanasyev** was detained. More than a year later, he said that he had been cruelly tortured with electric shocks and a gas mask. **Chirniy** and **Afanasyev** made a plea deal with the investigation and gave the evidence needed by the investigation.

On May 10, **Oleg Sentsov** was detained. He stated that he was beaten up and suffocated with a plastic bag. According to him, an investigator during the first questioning offered him a choice: to admit his guilt and testify against "Maidan leaders" or bear responsibility as the leader of the group. **Sentsov** refused to make confessions. On May 16, **Aleksandr Kolchenko** was detained: he admitted that he had participated in arson of *United Russia* office.

Trials of **Chirniy** and **Afanasyev** were held separately, they received 7 years of high security prison each. In the summer of 2015, the trial of **Sentsov** and **Kolchenko** took place, and during the trial, **Afanasyev** recanted his initial statement, stating that it was obtained under duress. Nevertheless, the court took into account only his initial statement. The verdict was passed by three judges of the *North Caucasus District Military Court* chaired by *Sergei Mikhailyuk*.

Kolchenko, who participated only in the act of arson, was sentenced to 10 years in a maximum-security penal colony, and **Sentsov** who was recognized as a leader of a terrorist association - 20 years. **Sentsov** was sent to serve his sentence in extremely harsh climatic conditions: first to Yakutia, then to Yamalo-Nenets Autonomous Okrug.

In 2016, as part of prisoner exchange between Russia and Ukraine, **Afanasyev** was released, and in 2019, were released **Sentsov** and **Kolchenko**, after they had served just over five years. **Chirniy** remains in a Russian correctional facility.



Case comment

The case of **Oleg Sentsov** clearly has a political motive. Many things confirm it: the **Right Sector** was added to accusatory theory without any good reason for propaganda purposes only; propaganda support emphasized the great danger from pro-Ukrainian terrorists in Crimea; the defendants in the case were called Russian citizens against their will (to point out that Crimea residents automatically acquired Russian citizenship); and finally, for several years the defendants' fate became subject of international negotiations.

Nevertheless, despite a heighten global awareness, the case was engineered with the use of established practices that **FSB** always uses (before and after this case): obtaining necessary evidence under torture, great significance of confession and disregard of facts from case materials, recognition of actions that could be called vandalism, arson or, at the very least, hooliganism, as terrorist acts.

BARS case: between extremism and terrorism

Articles of *the Russian Criminal Code* mentioned in the chapter (wording is given in the context of charges described):

Article 282.1, part 1, of the Russian Criminal Code - *organizing an extremist association;*

Article 282.1, part 2, of the Russian Criminal Code - *participating in an extremist association's activities;*

Article 222, part 1, of the Russian Criminal Code - *illegal possession of ammunition;*

Article 222, part 3, of the Russian Criminal Code - *illegal possession of ammunition by an organized group;*

Article 222.1, part 1, of the Russian Criminal Code - *illegal possession of explosive devices;*

Article 222.1, part 3, of the Russian Criminal Code - *illegal possession of explosive devices by an organized group;*

Article 280, part 1, of the Russian Criminal Code - *public calls for extremist activity;*

Article 205.2, part 1, of the Russian Criminal Code - *public calls for terrorism.*



In May 2017, three residents of Kaliningrad, **Aleksandr Orshulevich**, **Aleksandr Mamayev** and **Igor Ivanov**, were arrested in the case of *BARS (Baltic Vanguard of Russian Resistance)* extremist association. The unregistered organization existed since 2008. There were few members: "According to **Orshulevich**, *BARS* never had more than ten members at the same time, and recently only two permanent members have remained in the organization - himself and 21-year-old **Igor Ivanov**," *Mediazona writes*. They are characterized by nationalist and monarchist views, Orthodox fundamentalism. The organization, in particular, sought decommunization of Russia and return to the legal system of the early 20th century.

Development of the criminal case

Back in early 2017, the prosecutor's office issued a warning to **Aleksandr Orshulevich**, who at that time was a leader of *BARS*, against extremist activities, and he left the organization, handing leadership over to **Igor Ivanov**. However, on May 27, 2017 he was charged with **Article 282.1, part 1, of the Russian Criminal Code** ("Organizing an extremist association").

Igor Ivanov and **Aleksandr Mamayev** were charged with **Article 282.1, part 2, of the Russian Criminal Code** ("Participating in an extremist association"). At the same time, **Mamayev**, a priest of one of the "alternative" Russian Orthodox churches (*Russian Orthodox Church Outside Russia, ROCOR*), according to **Orshulevich**, even was not a member of *BARS*.

In September 2017, Baltiysk's resident **Nikolai Sentsov** was arrested; he was also accused of participating in *BARS*. According to **Orshulevich**, **Sentsov** was not only a member of *BARS*, but also adhered to democratic views, and was also a Lutheran by religion. A few things that **Sentsov** had in common with *BARS* was the demand to return historical name Königsberg to Kaliningrad and joint participation in demonstrations by opposition.

During a search at **Sentsov's** place, weapons and ammunition were seized: 15 military cartridges of 7.62 mm caliber, 2 military cartridges of 5.45 mm caliber, 4 cartridges for the Makarov pistol of 9 mm, 7 cartridges for Mauser rifle of 7.92 mm caliber, F-1 fragmentation hand grenade and VOG-25 grenade launcher. According to **Sentsov**, the grenade, the grenade launcher and some of the cartridges were planted on him during the search.

In 2018, charges in the *BARS* case were changed towards drastic tightening: the investigation began considering *BARS* not an extremist group, but as a terrorist association. Accordingly, **Orshulevich** was charged with **Article 205.4, part 1**, and the rest of the accused were charged with **Article 205.4, part 2**. The accusatory theory remained the same.



In December 2019, the trial started. The trial was led by three judges from the *2nd Western District Military Court*, chaired by *Mikhail Kudashkin*. After nearly four months of judicial investigation, on April 1, 2020, the prosecutor's office made a motion to mitigate the charges, and the court upheld the motion. *BARS* was again considered an extremist association. The public prosecutor *Anna Yefremova* stated that:

- *BARS* was founded in 2008 and **Article 205.4 of the Russian Criminal Code** appeared only in 2013 and has no retroactive effect;
- It does not follow from the testimony of witnesses that *BARS* was created for terrorist activities;
- Over the entire period of its existence, the organization did not prepare or commit a single crime of a terrorist nature (although *Orshulevich*, *Mamayev* and *Ivanov* were eventually convicted under **Article 205.2, part 1, of the Russian Criminal Code** which formally refers to crimes of a terrorist nature, the prosecution apparently did not consider it a sufficient basis for finding the group terrorist);
- There is no evidence that *Sentsov* planned to supply *BARS* with weapons and ammunition, which means that he can't be considered a member of the association (according to the prosecution, *Sentsov's* only role in the association was supplying weapons and ammunition).

On April 9, the prosecution requested punishment for the accused: 10 years of ordinary prison for *Orshulevich*, 7 years of ordinary prison each for *Mamayev* and *Ivanov*, and 6 years in penal colony-settlement for *Sentsov*. On April 17, the sentence was pronounced: *Orshulevich* received 8 years of prison, *Mamayev* and *Ivanov* - 6 years of ordinary prison each, *Sentsov* was sentenced to 3 years in a penal colony and released in the courtroom.

Charges before and after reclassifying

According to the prosecution, *Aleksandr Orshulevich* founded *BARS* at the beginning of 2008, while

"he was persistently following the ideology of fascism and extremist views, supporting the idea of the need for unconstitutional replacement of the acting government in the Russian Federation, pursuing destabilization of political situation in Kaliningrad region and, ultimately, forcible seizure of power in Kaliningrad region".

According to the indictment, *BARS* was supposed to promote fascism, provoke ethnic conflicts out of anti-Semitic motives, *"deliberately destabilizing political situation in the region"* and, as a result, create conditions for the seizure of power in Kaliningrad region and its secession from Russia.



The association's structure, according to the indictment, was "close to the structure of a military unit, hierarchical orders with subordination based on the principle of unity of command", ideologically based "on ideas of fascism and restoration of Russian Orthodox Empire and Holy Russia".

BARS activities were supposed to be as follows:

- Searching for new members who are in opposition to the acting government of Russia;
- Holding opposition events "both within the context of acting legislation of the Russian Federation and violating the established order of such events" (i.e., agreed and not agreed with the authorities);
- Providing informational support on the Internet, work in social networks, including propaganda and reintegration of Nazism;
- Conducting paramilitary training with weapons and its replicas to practice storming buildings;
- Vandalism based on ethnic hatred;
- Distributing leaflets of propaganda nature;
- Drawing graffiti of extremist and terrorist nature.

The accusatory theory is based on the following alleged actions of the defendants:

1. In 2011, someone put a swastika on a memorial plaque in memory of the genocide of Jews during Kristallnacht (The Night of Broken Glass) of 1939. Witnesses in the case claim that *Orshulevich* and *Vyacheslav Popov* drew the swastika (*Popov* was participating in *BARS*, according to the indictment, from 2010 to 2013 and voluntarily left the organization, so he was not prosecuted).
2. In April 2011, *Orshulevich* and *Popov* posted images with anti-Semitic slogans on VKontakte. In 2013, *Orshulevich* was punished for this under **Article 280, part 1, of the Russian Criminal Code** by a fine of 40,000 rubles.
3. *Orshulevich*, *Mamayev* and *Ivanov* were distributing printed leaflets throughout Kaliningrad calling for the assassination of *Vladimir Putin*, and for violence against Jews and representatives of some Central Asian peoples (the defendants claimed that the leaflets were planted during a search). In this regard, they were additionally charged under **Article 205.2, part 1**, and **Article 280, part 1 of the Russian Criminal Code**



4. **Orshulevich, Mamayev** and **Ivanov** prepared stencils for graffiti calling for assassinating **Putin**, for violence against Jews and violation of territorial integrity of Russia (the defendants claimed that the stencils were planted during the search).
5. **Sentsov** was keeping weapons and ammunition at home (he claimed that these items were planted during the search).

Table 1. Charges before and after reclassifying

| Defendant | Charges at the start of the trial | Charges after mitigation |
|---|---|--|
| Aleksandr Orshulevich , 31 years old, a machine operator, was sentenced to 8 years in prison in medium-security prison with restriction of freedom for 1 year and deprivation of the right to manage Internet sites for 6 years | Article 205.4, part 1 (from 15 years up to life in prison) - for founding BARS and further leadership of the association | Article 282.1, part 1 (up to 10 years in prison) - for founding BARS and further leadership of the association |
| | Article 280, part 1 (up to 4 years in prison) - for distributing anti-Semitic leaflets, | Charges uphold |
| | Article 205.2, part 1 (up to 5 years in prison) - for distributing leaflets with a call for murdering Putin | |
| | Article 222, part 3 (up to 8 years in prison) - for group possession of weapons and ammunition at Sentsov's flat | Charges dropped |
| Aleksandr Mamayev , 59 years old, a priest of ROCOR , sentenced to 6 years at a medium-security prison with restriction of freedom for 6 months and deprivation of the right to manage Internet sites for 4 years | Article 205.4, part 2 (up to 10 years in prison) - for participating in BARS | Article 282.1, part 2 (up to 6 years in prison) - for participating in BARS |
| | Article 280, part 1 (up to 4 years in prison) - for distributing anti-Semitic leaflets, | Charges uphold |
| | Article 205.2, part 1 (up to 5 years in prison) - for distributing leaflets with a call for murdering Putin | |
| Igor Ivanov , 23 years old, a professional employee of PJSC VimpelCom, sentenced to 6 years at a medium-security prison with restriction of freedom for 6 months and deprivation of the right to manage Internet sites for 4 years | Article 222, part 3 (up to 8 years in prison), Article 222.1, part 3 (up to 12 years in prison) - for group possession of weapons and ammunition at Sentsov's flat | Charges dropped |



| Defendant | Charges at the start of the trial | Charges after mitigation |
|--|---|---|
| Nikolai Sentsov , 48 years old, a head of ship radio station, sentenced to 3 years in a penal settlement | Article 205.4, part 2 (up to 10 years in prison) - for participating in BARS Article 222, part 3 (up to 8 years in prison), Article 222.1, part 3 (up to 12 years in prison) - for group possession of weapons and ammunition at Sentsov's flat | Charges dropped Article 222, part 1 (up to 4 years in prison), Article 222.1, part 1 (up to 5 years in prison) - for individual possession of weapons and ammunition |

Case comment

The [BARS](#) case is remarkable for several reasons.

First of all, the state has changed its decision twice on whether to consider the association extremist or terrorist. This clearly demonstrates that the boundaries between the concepts in the Russian law enforcement are very blurred. The prosecution first called [BARS](#) extremist, then terrorist, then again an extremist association for virtually the same thing: radical disagreement with the current state system and nationalist hate speech. In fact, the only difference between the terrorist [BARS](#) from the extremist one was allegation about the association keeping weapons and ammunition at [Nikolai Sentsov's](#) place in order to use them in the future to "seize power in Kaliningrad region". Nevertheless, weapons could also be used for committing crimes of an extremist nature, and "forcible change of foundations of the constitutional order and violation of integrity of the Russian Federation" is included in the definition of extremist activities (according to the [Federal Law "On Counteracting Extremist Activities"](#)).

Second, this is an extremely rare case since representatives from the state authorities were ready to admit an obvious mistake. It would be enough for the state prosecution to mention an obvious legal error for reclassifying: an article that appeared in [the Russian Criminal Code](#) only in 2013 was applied to the event of 2008 (founding of [BARS](#)), which is obviously unacceptable, since laws that worsen the situation of the accused are not retroactive (in the chapter "Article 205.4 of the Russian Criminal Code in the system of prosecutions for terrorism" we have already indicated that, according to the relevant [resolution of the Plenum of the Supreme Court of Russia](#), a crime under **Article 205.4** is considered completed from the moment the association was founded or joined, and these events, according to the indictment, had occurred before **Article 205.4** was added to the Russian Criminal Code). Nevertheless, the prosecutor [Anna Yefremova](#) stated verbatim:



“Not based on the evidence collected ... findings of the preliminary investigation body that the purpose of founding [BARS](#) was committing terrorist crimes, since during the entire existence of the organization until 27.05.2017 its members have neither prepared nor committed a single crime of a terrorist nature.”

Wording from the ruling would fit into other cases on terrorist associations.

It is interesting that calls for terrorism (in this case, the assassination of [Putin](#)) are technically considered terrorist activities; even though the prosecutor’s office did not find that distributing leaflets was considered terrorism.

Nevertheless, for about a year and a half, those involved in the case were charged with involvement in the terrorist association, despite all the above arguments being obvious during both investigation and at the time when the same prosecutor’s office confirmed the indictment. The aggravation of charges made it possible to prolong the investigation. As a result, from the first arrests to the start of trial, more than two and a half years had passed, while defendants were detained in a pre-trial detention center, which was longer than the average term for even the most serious crimes.

The case of Artpodgotovka: the failed revolution

(In October 2017, Krasnoyarsk regional court declared [Artpodgotovka](#) an extremist organization)

Articles of [the Russian Criminal Code](#) mentioned in the chapter (wording is given in the context of charges described):

Article 30, part 1, in conjunction with Article 205, part 1, of the Russian Criminal Code – *preparing a terrorist attack;*

Article 30, part 1, in conjunction with Article 205, part 2, point “a”, of the Russian Criminal Code – *preparing a terrorist attack by an organized group;*

Article 222.1, part 1, of the Russian Criminal Code – *illegal possession of explosives.*

In 2016, Saratov’s blogger and politician, a former deputy of [Saratov Regional Duma Vyacheslav Maltsev](#) who tended to right-wing populism, became widely known in opposition circles. This happened due to his nomination in elections to the [State Duma](#) from [PARNAS](#) party. At the same time, the popularity of [Artpodgotovka](#) YouTube channel, created in 2011 and operated by [Maltsev](#), was growing.



In his video blog, [Maltsev](#) was commenting on news and kept announcing that by November 5, 2017, he and his supporters would start a revolution in Russia and “a new historical era” would begin from that date. The chosen date seemed to have symbolic and artistic relevance. Not only would it coincide with the 100 year anniversary of events during 1917 in Russia, but it also was a reminder of Guy Fawkes’ Gunpowder Plot.

In summer of 2017, [Maltsev](#) left Russia because of criminal cases initiated against him on organizing an extremist association and calls for extremism. Later he obtained political asylum in France. In exile, he continued to urge his supporters to go to street protests on November 5, 2017 and to replace the government.

[Maltsev](#)’s speeches provoked various reactions from the audience: from laughter and enthusiasm to curiosity and irritation. On November 5, several hundred people gathered in downtown Moscow; protests also took place in some other cities of Russia, but with much fewer people participating. There were no riots, clashes with the police, or seizure of administrative buildings that day. Nevertheless, according to OVD-Info, 339 people were detained in Moscow, and in total 448 people in Russia.

It was followed by a repressive campaign from the authorities, which had begun even before the said date of “the revolution”. On October 26, 2017, [Artpodgotovka](#) was recognized an extremist organization by court.

“By its goals and objectives, [Artpodgotovka](#) as an interregional public movement was seeking dismantlement of the Russian statehood, its participants promote ideas of “the revolution”, urge people to “walk the streets” to defeat “administrations”, prepare “an armed wing” within their ranks for organizing mass riots”, reads appellate ruling of the RF Supreme Court.

Criminal cases were initiated against more than 20 alleged participants of “the revolution” in different cities.

A terrorist association within an extremist organization

While some of the criminal prosecutions against supporters of [Artpodgotovka](#) based on charges of preparing mass riots and call for extremism, for other cases the state used articles on counter-terrorism.

In particular, [Vyacheslav Maltsev](#) himself is accused in absentia of founding a terrorist association (**Article 205.4, part 1, of the Russian Criminal Code**). According to available materials of the criminal cases, the alleged terrorist association was functioning within the large extremist [Artpodgotovka](#) organization. The terrorist



association, according to the prosecution, was carrying out terrorist attacks in order to destabilize the political situation in the country and force the authorities to step down.

Maltsev 's former partner in crime, **Nadezhda Petrova**, is also connected to the case. She hid from the investigation and left Russia. In August 2018, she was arrested in absentia. **Petrova** is charged under **Article 205.4, part 2**, and **Article 205, part 2, point "a", of the Russian Criminal Code**. She appears in two Moscow criminal cases on terrorism: the case of **Andrei Tolkachyov, Yuri Korniy** and **Andrei Keptya**, and in the case of **Sergei Ozerov, Oleg Dmitriev** and **Oleg Ivanov**. In the first case, the investigation considers her to be an active participant of the terrorist association, who proposed in particular to imitate terrorist attacks to distract law enforcement officers from "the revolution of November 5". In the second case, it was declared that Petrova was a leader of the association consisted of **Ozerov, Ivanov** and **Dmitriev**.

Now let us examine in detail three cases of preparing terrorist attacks by *Artpodgotovka* supporters.

The case of Ozerov, Dmitriev and Ivanov

In the middle of October 2017, **Sergei Ozerov** and **Oleg Dmitriev** arrived in Moscow. Apparently, they planned to take part in "the revolution of 05.11.17". They also expected to find jobs, according to them. They were introduced to each other by **Nadezhda Petrova**, after that they rented a room in New Moscow together. Later, **Petrova** asked them to share the living space with a man she introduced as **Vadim Mayorov**. At the end of October, **Dmitriev** was joined by his acquaintance from Almeteyevsk, **Oleg Ivanov**.

In the evening of November 1, 2017, the apartment was searched. Operatives found 13 glass bottles of gasoline and two bottles of solvent on the balcony. **Ozerov, Dmitriev, Ivanov** and **Mayorov** were arrested, but on the way to a police station, **Mayorov** disappeared, having escaped escort officers under mysterious circumstances.

Later, **Ozerov, Ivanov** and **Dmitriev** claimed that **Mayorov** was an agent provocateur planted to the group by FSB.

"... [Mayorov] was interested in a certain model of Makarov's starting pistol, [the way] it could be remodel. He also said that November 5 was the most ideal moment to create a sensation and pinch a couple of rich men, and he had their addresses," Oleg Dmitriev wrote in his open letter.



Mayorov himself denies accusations of cooperation with *FSB*, saying that he really was able to escape from the operatives, went into hiding and left Russia for France under a false identity.

The next day after *Ozerov* was arrested, *Ivanov* and *Dmitriev* were arrested and held for 15 days on charges of disobedience to police officers (**Article 19.3, part 1, of the Russian Administrative Code**). After the end of the administrative arrest, they were charged under **Article 30, part 1, in conjunction with Article 205, part 2, point "a", and Article 205.4, part 2, of the Russian Criminal Code**. All three of them were taken into custody. In November 2018, three judges of the *Moscow District Military Court* chaired by *Evgeny Zubov* started examining the case.

According to charges produced in court, *Ozerov, Dmitriev* and *Ivanov* were members of the terrorist association headed by *Petrova*. However, proceedings on their case were conducted separately from the main criminal case on the terrorist association within *Artpodgotovka* that *Maltsev* and *Petrova* were charged with. The prosecution states that *Ozerov, Dmitriev* and *Ivanov* were preparing a terrorist act for November 5, 2017, however, the specific object of the attack was not identified, it was only said that an act of terrorism would take place

"by setting fire to government bodies of the Russian Federation and critical infrastructure facilities of the Russian Federation, also law enforcement officers who are on duty to protect public order and ensure public safety."



Before the debate, prosecutor *Elvira Zotchik* dropped the charges under **Article 205.4, part 2 of the Russian Criminal Code**, noting that the accused were communicating with each other only for a short time and did not have time to form a stable terrorist association. In January 2019, a sentence was passed (see Table 2).

Table 2. The case of Ozerov, Dmitriev and Ivanov

| Defendant | Charges | Sentence |
|---|--|--|
| <i>Sergey Ozerov</i> , 47 years old, a worker from Arzamas (Nizhny Novgorod region) | Charged under Article 30, part 1, Article 205, part 2 "a" of the Russian Criminal Code | 8 years in a high security prison and 1 year of restriction of freedom |
| <i>Oleg Dmitriev</i> , 40 years old, a worker from Almeteyevsk (Tatarstan) | During a search at their place were found Molotov cocktails on the balcony. | 8 years in a high security prison and 1 year of restriction of freedom |
| <i>Oleg Ivanov</i> , 42 years old, electrician from Almeteyevsk (Tatarstan) | The investigation believes that they were preparing a terrorist attack. The charge under Article 205, part 2 was dropped. They denied the accusation. | 7 years in a high security prison and 1 year of restriction of freedom |

The discovery of bottles of petrol and solvent on the balcony of the accused has signs of falsification. According to *Dmitriev*, after the arrest, the FSB agents put some cold objects to his fingers and fingers of the other. It is thought that those were the glass bottles, and several fingerprints were found on them later. At the same time, 11 out of 13 bottles of petrol and 1 of 2 bottles with solvent have no fingerprints at all. The theory that defendants were pouring petrol into bottles nearly a week before "the revolution", endangering themselves (everyone in the flat was a smoker) looks improbable, and besides, they would not mix petrol with engine oil to make burning mixtures more effective. Witnesses, who claimed that they saw *Ozerov* purchasing a petrol tin, and then petrol itself, were confused with their statement. A testimony of a witness with concealed identity who said that he learned about criminal plans of the accused from a conversation with them, but refused to explain when and where the conversation took place, so as not to disclose his identity, does not stand up to scrutiny.



However, even if preparations for throwing Molotov cocktails at police and administrative buildings were real, this would not mean that it should be ranked as a terrorist attack. In this case, it would be much more logical to charge the accused with preparation for participating in mass riots, the maximum sanction in that case would be 4 years in prison.

The case of Korny, Keptya, Tolkachyov

On the night of October 11-12, 2017, five men were detained at Manezhnaya Square, including **Yuri Korny** and **Andrey Keptya**. According to the police, the group had bottles of petrol with them. **Korny** and **Keptya** received 15 days of administrative arrest on charges of petty hooliganism. On October 23, *investigative branch of FSB of Russia for Moscow and Moscow Region* opened a criminal case on preparing a terrorist act against it, and on October 26, 2017, they were taken into custody in a criminal case.

The investigation believes that **Korny** and **Keptya** planned to set fire to hay and theatrical scenery left on Manezhnaya Square after Golden Autumn Festival. It was these failed actions that *FSB* characterized as a terrorist attack. The criminal case says that **Korny** planned to show the video of the arson on his YouTube channel **Russian Riot**, and to pressure the authorities to step down from office ahead of time.

On November 9, 2017, after the case on the terrorist association was opened against **Maltsev** and **Petrova**, **Andrey Tolkachyov** was detained. Security forces had already searched his house earlier in October and seized flash drives with audio recordings of conversations. According to the investigation, on these recordings **Tolkachyov** proposes to destroy power transmission towers for the energy blockade of Moscow. **Tolkachyov** claims that he has never made such recording and did not store these flash drives (it is possible that the recordings were made by one of the participants of the conversation, and then planted to **Tolkachyov** by operatives). The investigation states that **Alexander Svishchev** and **Denis Tukanov**, members of *Artpodgotovka* terrorist association who disappeared later, were seriously preparing for implementation of the plan to destroy the towers: they were purchasing tools, preparing bottles of petrol, and studying targets. *FSB* interpreted this as preparing a terrorist attack.

Tolkachyov was also charged with preparing arson on Manezhnaya Square: according to the investigation, he brought petrol to **Korny**.



In November 2019, the three judges of *the 2nd Western District Military Court*, chaired by *Vitaly Bakin*, began to examine the case on the merits. On June 3, 2020, the prosecution demanded the defendants to be sentenced to 8 up to 15 years in prison; on June 18, the sentence was pronounced (see Table 3).

Table 3. The case of Korny, Keptya and Tolkachyov

| Defendant | Charges | Position |
|--|---|---|
| <p>Yuri Korny, 50 years old, a blogger, came to Moscow from Magadan, sentenced to 10 years of high security prison and 1 year of restriction of freedom</p> | <p>Participating in the terrorist association organized by Maltsev (Article 205.4, part 2, of the Russian Criminal Code).</p> <p>Preparing arson of hay and theatrical scenery on Manezhnaya Square (Article 30, part 1, in conjunction with Article 205, part 2, point "a", of the Russian Criminal Code).</p> | <p>Pleading not guilty. Denies that he was preparing arson. Claims that he had tenuous relationship with Maltsev, and strained relations with Petrova and, thus, was not a member of any terrorist association.</p> |
| <p>Andrey Keptya, 44 years old, a building repairman, sentenced to 6 years of high security prison and 1 year of restriction of freedom</p> | <p>Participating in the terrorist association organized by Maltsev (Article 205.4, part 2, of the Russian Criminal Code).</p> <p>Preparing arson of hay and theatrical scenery on Manezhnaya Square (Article 30, part 1, in conjunction with Article 205, part 2, point "a", of the Russian Criminal Code)</p> | <p>Fully admitted his guilt. He was testifying at closed court hearing.</p> |
| <p>Andrey Tolkachyov, 42 years old, an entrepreneur in real estate, sentenced to 13 years of high security prison and 1,5 years of restriction of freedom</p> | <p>Participating in the terrorist association organized by Maltsev (Article 205.4, part 2, of the Russian Criminal Code).</p> <p>Bringing petrol to Korny who planned arson of hay and theatrical scenery on Manezhnaya Square (Article 30, part 1, in conjunction with Article 205, part 2, point "a", of the Russian Criminal Code).</p> <p>Planning to destroy power transmission towers (Article 30, part 1, in conjunction with Article 205, part 2, point "a", of the Russian Criminal Code).</p> | <p>Pleading not guilty. Denies that he brought petrol to Korny, admits that he brought some home-made distilled vodka. Can't remember any conversation recorded on flash drives.</p> |

Evidence of plans to destroy power lines seems rather confusing so far: firstly, the key evidence such as recordings of conversations may have been obtained illegally, and finding evidence from the crime is easy to falsify, since according to the investigation, they were found in [Svishchev's](#) car when [Svishchev](#) himself went into hiding. At the same time, [Tolkachyov](#) did not try to hide, although two weeks passed from the first search at his place till his arrest.

If the alleged destruction of the power transmission line can be considered a serious crime against public safety, and it is appropriate to argue about whether to classify it as a terrorist act or not, then to call a terrorist attack the night burning of hay and scenery on Manezhnaya Square is ridiculous. Anyone hardly considers it possible to achieve resignation of authorities ahead of time this way. We can talk about destruction of property by arson, about vandalism, or, at most, about group hooliganism. Nevertheless, without accusing [Korny](#) and [Keptya](#) of preparing the terrorist attack, the theory of their involvement in the terrorist association would be impossible.

Case of Sergei Ryzhov

The case of Saratov's blogger [Sergei Ryzhov](#) is also included in the system of persecution of [Artpodgotovka](#) supporters for terrorism, although [Ryzhov](#) is not charged with involvement in a terrorist association. He is charged under **Article 30, part 1, in conjunction with Article 205, part 1,** and **Article 222.1, part 1, of the Russian Criminal Code**. It is alleged that he was preparing the terrorist attack on his own. Specifically, the case file states that he

"made a decision ... to commit an explosion, arson and seizure, including use of a TNT slab and improvised incendiary devices like Molotov cocktails, of administrative buildings occupied by authorities and other organizations of Saratov, making a series of calls with false reports about critical infrastructure being mined in the city of Saratov and Saratov region, also actions to cut off communications and block main traffic routes and exits from the city of Saratov. "

During a search at [Ryzhov's](#), they found an explosive TNT slab and seven bottles of flammable liquid. It is claimed that with these items he was supposed to implement his criminal plans. [Ryzhov](#) himself claims that a TNT slab and bottles were planted on him.

The large-scale plan described by the investigation and resources available to [Ryzhov](#) do not seem to correlate. The indictment contains a large number of quotes from wiretaps of [Ryzhov's](#) conversations with his associates, which make it clear that he did not have any specific plan of action. He was discussing a variety of scenarios of November, 5: from "quiet imprisonment" to a quick one-day change in power. His statements are full of different unrealistic plans with lack of specificity, describing both possible violent activities (such as "cutting off the communications, blocking



the roads there, playing havoc, setting something on fire, blowing up something”) and nonviolent ones (distracting attention of police with announcements of demonstrations). On the whole, it is clear from [Ryzhov](#)’s conversations that he intended to evolve with the situation depending on development of events in Moscow.

General comments on terrorist cases of Artpodgotovka

According to law enforcement agencies, all members of [Artpodgotovka](#) are extremists, but some of them are also terrorists.

“...Maltsev V.V., realizing the inevitability of a forceful method of changes in power, with understanding that not all supporters of Artpodgotovka movement are ready to carry out violent unlawful actions that could pressurize power and cause its seizure, in the period of October 2016 to May 2017 (the investigation did not establish a more precise time) made a decision to create a terrorist association among his supporters ...”, reads the indictment in the case of [Tolkachyov](#), [Korny](#) and [Keptya](#).”

As the logic of the investigation implies, to be a member of an extremist organization is not sufficient for committing “violent illegal actions” and this reduces the concept of extremism to something like statements and appeals, or even nonviolent legal activities.

A keynote of many accusations in the cases of [Artpodgotovka](#) supporters is the idea that the movement sought to follow the practice of Ukrainian Maidan of 2013-2014, that is, to seek a change of power by organizing numerous protest actions, partly turning into clashes with security forces. As it was already mentioned, in some cases this is classified as mass riots, and in the other the same is considered terrorism, proving a voluntary approach of the security forces.

The Network case: war games

(In January 2019, the Network was a recognized as a terrorist organization by special ruling of the Moscow District Military Court)

Articles of [the Russian Criminal Code](#) mentioned in the chapter (wording is given in the context of charges described):

Article 222, part 1, of the Russian Criminal Code – *illegal possession of weapons and ammunition;*



Article 222.1, part 1, of the Russian Criminal Code – *illegal possession of explosives and detonating devices;*

Article 30, part 2, in conjunction with Article 167, part 3, of the Russian Criminal Code – *attempting to destroy or damage someone else’s property by arson;*

Article 30, part 3, in conjunction with Article 228.1, part 4, point “d”, of the Russian Criminal Code – *attempted illegal sale of narcotic substances on a large scale.*

The investigation of the *Network* case began in autumn of 2017 and the sentence was pronounced in winter of 2020; it became perhaps the most significant Russian case on terrorism in recent years. The combination of brutal torture claimed by the defendants, preposterous accusations, and severe sentences made this persecution high-profile.

Criminal case construction

According to the investigation, the *Network* is an interregional terrorist association that unites groups of anarchists. Its goal is a forcible change of the constitutional order in Russia. According to the investigation, the *Network* planned to overthrow the power by terrorist methods:

“by attacking law enforcement officers, military personnel, police buildings, ammunition storages, military commissariats, offices of the United Russia party, government agencies in order to destabilize activities of state government bodies of the Russian Federation, influencing their decision-making.”

Before the *Network* was created, no later than May 2015, **Dmitry Pchelintsev** and an unidentified person under the name of Timofey, according to the statement of prosecution, founded a battle group “5.11” in Penza. The group consisted of **Andrey Chernov**, **Ilya Shakursky** and **Arman Sagynbayev**. In summer of 2016, they were joined by **Maksim Ivankin** and **Mikhail Kulkov**.

In the period from January 1 to August 31, 2016, **Shakursky**, at the suggestion of **Pchelintsev**, created and headed a structural unit of “5.11” - *Voskhod* subgroup. *Voskhod* consisted of **Vasily Kuksov** and **Yegor Zorin**.

The prosecution claims that the *Network* itself was created by **Pchelintsev** no later than July 2016, and included “5.11” group in it as a structural unit. Moscow and St. Petersburg anarchists also joined the *Network* as *Msk*, *Marsovo Pole (The Field of Mars)* and *Jordan SPb* groups. If Moscow members of the *Network* were not identified



by the investigation, then in St. Petersburg members of the association were, among others, **Viktor Filinkov**, **Yuliy Boyarshinov**, **Igor Shishkin** and **Aleksandra Aksyonova** (the latter received political asylum in Finland).

The association had a clear division of functional roles:

- Leader - general coordination, formulation of documents, choice of training locations, recruitment of new members of the association;
- Tactician - supplying with special equipment, weapons and ammunition; teaching combat skills to members of the terrorist association;
- Scout - investigation of site and objects of prospective attacks, survival training, teaching topography;
- Sapper - supplying with improvised explosive devices, components for their manufacture, initiating devices, ammunition, incendiary mixtures;
- Signaler - supplying with communication equipment, communication between battle groups, observing secrecy;
- Medic - first aid, evacuation, first aid training.

The head of the *Network* and “5.11” group was **Pchelintsev**; *Voskhod* subgroup was headed by **Shakursky**. The signalers were **Chernov**, **Kuksov**, **Filinkov**, **Aksyonova**; sappers were **Sagynbaev** and **Boyarshinov**, medics were **Kulkov** and **Shishkin**, a scout was **Ivankin**, a tactician was **Zorin**.

The *Network* participants arranged training: they learned how to conduct hostilities, how to handle weapons and incendiary mixtures, and how to survive in the wild. As a rule, for training they went to the forest and on territories of abandoned buildings.

They used pneumatic airsoft drives, smooth-bore hunting guns, various dummies and models.

The *Network* members observed secrecy: they called each other by fictitious names, and used the Jabber messenger with a high degree of data encryption.

According to the indictment, the association has developed “founding documents”, namely the so-called *set of the Network’s documents*, a.k.a. *Provision.docx*. According to the case file, it includes description of the *Network’s* divisions, their functions and structure, basic security principles, recruitment rules, areas of combat training, the *Network’s* development prospect, and “consistent development of preparation for



violent acts". In February 2017, according to the investigation, the *Network* held a congress in St. Petersburg, where "issues of forms, methods and areas of activities for overthrowing the government" were discussed.

Table 4. The Network case

| Defendant | Charges | Position | Sentence |
|---|---|----------------------|--|
| Penza | | | |
| Dmitry Pchelintsev , 27 years old, a shooting instructor | <p>Together with an unidentified person, he first created a battle group "5.11", and later, the <i>Network</i> interregional terrorist association as a head of the association (Article 205.4, part 1, of the Russian Criminal Code).</p> <p>He illegally acquired and kept in the car two F-1 hand grenades with two igniter sets for hand grenades (UZRGM) (Article 222, part 1, of the Russian Criminal Code).</p> <p>In February 2011, he tried to set on fire a building of Oktyabrsky military commissariat of Penza with a Molotov cocktail (Article 30, part 3, in conjunction with Article 167, part 2, of the Russian Criminal Code). The charge was dropped.</p> | Pleading not guilty. | 18 years of high security prison and 1,5 years of restriction of freedom |
| Ilya Shakursky , 23 years old, a student | <p>He founded and headed <i>Voskhod</i> subgroup, a structural unit of "5.11" (Article 205.4, part 1, of the Russian Criminal Code).</p> <p>He illegally acquired and kept at home a Makarov pistol of 9 mm caliber and 8 rounds of 9 mm (Article 222, part 1, of the Russian Criminal Code).</p> <p>He illegally acquired and kept at home an improvised explosive device of an electric type of high-explosive action (Article 222, part 1, of the Russian Criminal Code).</p> | Pleading not guilty. | 16 years of high security prison, 1,5 years of restriction of freedom and a fine of 50 000 roubles |



| Defendant | Charges | Position | Sentence |
|--|---|---|-----------------------------------|
| Arman Sagynbayev , 27 years old, a businessman | Participating in the <i>Network</i> activities as a sapper (Article 205.4, part 2, of the Russian Criminal Code). | Pleading not guilty. | 6 years in medium-security prison |
| Vasily Kuksov , 31 years old, a constructor engineer | Participating in the <i>Network</i> activities as a signaler (Article 205.4, part 2, of the Russian Criminal Code). He illegally acquired and kept in the car a Makarov pistol of 9 mm calibre and 5 rounds of 9 mm (Article 222, part 1, of the Russian Criminal Code). | Pleading not guilty. | 9 years in medium-security prison |
| Andrey Chernov , 30 years old, a locksmith | Participating in the <i>Network</i> activities as a signaler (Article 205.4, part 2, of the Russian Criminal Code). With the purpose of drug distribution made five drug stashes of pyrrolidinovalerophenone (PVP) with a total weight of 6.69 g (Article 30, part 3, in conjunction with Article 228.1, part 4, point "d", of the Russian Criminal Code). | Pleading not guilty. | 14 years of high security prison |
| Mikhail Kulkov , 25 years old, a chef | Participating in the <i>Network</i> activities as a medic (Article 205.4, part 2, of the Russian Criminal Code). With the purpose of drug distribution made at least twenty drug stashes of pyrrolidinovalerophenone (PVP) with a total weight of 8,788 g and planned stashing another 8,608 g of the drug. (Article 30, part 3, in conjunction with Article 228.1, part 4, point "d", of the Russian Criminal Code) | He admits his guilt only in part of drug distribution, does not admit his participation in the terrorist association. | 10 years of high security prison |



| Defendant | Charges | Position | Sentence |
|--|--|---|--|
| Maksim Ivankin , 24 years old, a chef | Participating in the <i>Network</i> activities as a scout (Article 205.4, part 2, of the Russian Criminal Code). With the purpose of drug distribution made at least twenty drug stashes of pyrrolidinovalerophenone (PVP) with a total weight of 8,788 g and planned stashing another amount of 8,608 g of the drug. (Article 30, part 3, in conjunction with Article 228.1, part 4, point "d", of the Russian Criminal Code). | He admits his guilt only in part of drug distribution, does not admit his participation in the terrorist association. | 13 years of high security prison |
| St. Petersburg | | | |
| Viktor Filinkov , 25 years old, a software engineer | Participating in the <i>Network</i> activities as a signaler (Article 205.4, part 2, of the Russian Criminal Code). | Pleading not guilty. | 7 years in medium-security prison |
| Yuliy Boyarshinov , 28 years old, an industrial climber | Participating in the <i>Network</i> activities as a sapper (Article 205.4, part 2, of the Russian Criminal Code). Illegal possession of 408,9 g of black powder (Article 222.1, part 1, of the Russian Criminal Code). | Fully admits his guilt. | 5 years and 6 months in medium-security prison |
| Igor Shishkin , 28 years old, a businessman | Participating in the <i>Network</i> activities as a medic (Article 205.4, part 2, of the Russian Criminal Code). | Fully admitted his guilt, entered into a pre-trial cooperation agreement with the investigation. | 3 years and 6 months in medium-security prison |

Development of the criminal case

On October 17, 2017, *Yegor Zorin*, a student at *Penza State University* was detained in Penza under the influence of drugs. He was charged with drug possession. In addition, he confessed that he was a member of an anarchist terrorist association.

On October 18, *Ilya Shakursky*, one of *Zorin*'s classmate was detained. Operatives found an improvised explosive device, a Makarov pistol and eight rounds of ammunition at his place. On the same day *Vasily Kuksov* was arrested. A Makarov pistol and five cartridges were found in his car. Both *Shakursky* and *Kuksov* state that the objects found were planted on them.



On October 27, operatives detained **Dmitry Pchelintsev**. Two grenades were found in his car. He also stated that they were planted on him.

On November 5, **Arman Sagynbaev** was detained in St. Petersburg, he was brought to Penza for investigative activities. On November 9, **Andrei Chernov** was detained in Penza.

In January 2018, St. Petersburg's defendants in the case were detained: on January 23 - **Viktor Filinkov**, and on January 25 - **Igor Shishkin**.

Yuliy Boyarshinov was initially arrested for illegal possession of explosives: on January 21, police officers stopped him in the street and found that he had 400 grams of black powder. According to him, FSB officers later talked him into testifying against the defendants from Penza. On April 11, 2018, **Boyarshinov** was also charged in the *Network* case.

On July 4, 2018, Penza residents **Mikhail Kulkov** and **Maksim Ivankin** were detained in Moscow. Earlier in 2017, both had been charged with drug trafficking, but fled from investigation. After a new detention, they were also charged with participating in the *Network* terrorist association.

Yegor Zorin was released under travel restrictions after two months in a pre-trial detention center. In September 2018, the case on participation in the terrorist association against him was dropped. He remained a witness for prosecution. For possession of drugs, he was sentenced to three years probation.

Igor Shishkin entered a pre-trial cooperation agreement with the investigation. In January 2019, three judges of *Moscow District Military Court*, chaired by **Vadim Krasnov**, sentenced him under **Article 205.4, part 2, of the Russian Criminal Code** to 3 years and 6 months in medium-security prison, which is below the bottom limit of punishment under this article.

Hearings on the case of **Viktor Filinkov** and **Yuliy Boyarshinov** began in April 2019 in St. Petersburg and ended with a guilty verdict on June 22, 2020. The trial was led by three judges of the *2nd Western District Military Court*, chaired by **Roman Muranov**.

The trial of Penza defendants in the case continued from May 2019 to February 2020. The sentence was passed by three judges of *Volga District Military Court*, chaired by **Yuri Klubkov**.



Investigative techniques

Torture

Four defendants of the *Network* case, **Viktor Filinkov**, **Dmitry Pchelintsev**, **Ilya Shakursky** and **Arman Sagynbaev** stated that they were tortured with electric shock. Despite the fact that **Igor Shishkin** does not confirm publicly that he was tortured, there is every reason to believe that he underwent tortures too.

Mass media scandal began after **Filinkov** and **Shishkin** were arrested in St. Petersburg. Information about unauthorized methods of correctional techniques became public mainly due to visits by members of *St. Petersburg's Public Monitoring Commission (POC)*. Detailed circumstances of the visits to **Filinkov** and **Shishkin** in the first days of their detention are described in the [summary of POC working group](#). *POC* members **Yana Teplitskaya** and **Yekaterina Kosarevskaya** reported numerous burn marks on **Filinkov's** right thigh and chest, and a hematoma on his right ankle. Besides, when **Filinkov** was admitted to *SIZO-3 of St. Petersburg* on January 25, the facility staff made a record of skin punctures on his right thigh and chest at the register.

On January 27, 2018, when visiting **Shishkin**, **Teplitskaya** and **Kosarevskaya** noticed bruises, abrasions and blood spots on his face and a burn in the middle of his left hand on the back of the palm. Whilst **Shishkin** was wearing a long-sleeved jacket and trousers, and *POC* members could not see the condition of his body under the clothes. Later, on February 2, **Shishkin** showed them his back and rear of his thigh, and with regards to that they made the following entry in the act of visual inspection:

"... on the entire surface of the back of Shishkin I.D., also on the rear of his right thigh (at the top of it), there are numerous skin injuries (burns, presumably from electrical wires), over the right knee on the back of the thigh (going to the front) there is a large hematoma for about a third of the thigh. There is a hematoma around his left eye, and yellow circles under both eyes."

After the tortures in St. Petersburg received a wide coverage, in February 2018, Penza defendants of the *Network* case began to report them too. **Dmitry Pchelintsev** said that they started torturing him on October 28, 2017, immediately after he was taken into custody. He was taken to a punishment cell in the pre-trial detention center and was electrocuted with "dynamo". Because of the torture, his teeth were crumbling and the frenulum of his tongue was torn. The next day, **Pchelintsev** attempted suicide; he broke the toilet cistern in his cell and cut his arms and neck. He was given medical treatment.



On February 8, 2018, **Pchelintsev** retracted his earlier confession, and during interrogation, he talked about the torture. However, on February 14, he reverted back to his confession of guilt, denying that he had undergone tortures, and said that before he had made a “false statement in order to escape criminal responsibility”. Only in May 2018 he said that on February 10 he was tortured again.

Ilya Shakursky also said in February 2018 that he was tortured by electric shock in a punishment cell of the pre-trial detention center. In September 2018, **Arman Sagynbayev** reported tortures by electric shock. According to him, he was beaten up and tortured with electric shock when taken from St. Petersburg to Penza.

Vasily Kuksov and **Andrei Chernov** reported beating and threats from operatives.

Information about tortures towards some of the defendants influenced the position of the next detainees. Thus, **Chernov** [said at the trial](#) that after he heard from **Pchelintsev** about the unbearable suffering that the operatives had inflicted on him, **Chernov** agreed to sign the protocols without waiting for torture.

Yuliy Boyarshinov said that in the first months after his arrest he was placed in a so-called “press-hut” in **Gorelovo SIZO**, where he was kept in harsh and humiliating living conditions (overcrowding, lack of a personal bed, a scabies epidemic with the absence of any treatments or disinfection, and broken windows) and was subjected to violence from prisoners collaborating with the administration (beating, bullying, threats of rape). [According to Boyarshinov](#), although this situation is generally typical for Gorelovo SIZO, usually privileged prisoners abuse their inmates in order to extort money, but in his case, they acted on the instructions of the guard.

Tortures were reported not only by the accused, but also by witnesses in the case. Petersburg resident **Ilya Kapustin** said that in January 2018, five people in black uniforms and masks dragged him into a minivan, and for several hours they hit his stomach and groin with an electric shocker. Later, **Kapustin** left Russia and received political asylum in Finland.

At the trial in Penza, witnesses **Anatoly Uvarov** and **Mikhail Gundorin** stated that in October 2017, operatives brought them to the **FSB Directorate for Penza Region**, handcuffed them, made them kneel and read aloud an article of the Russian Criminal Code on terrorism.

Despite the fact that the verdict in Penza case did not include confession of the defendants they made during investigation and retracted in court, the court took into account testimonies of St. Petersburg defendants who were witnesses in Penza case.



Blackmail

A decision on what part of **Article 205.4 of the Russian Criminal Code** to apply became an instrument of pressure for the accused by the investigation. If **Article 205.4, part 2, of the Russian Criminal Code** provides for the punishment of 5 to 10 years in a penal colony, then **Article 205.4, part 1, of the Russian Criminal Code** provides for 15 years to life in prison. *Dmitry Pchelintsev* and *Ilya Shakursky* state that investigators put them before a choice: if they give evidence satisfying the investigation, they will be charged under part 2 as ordinary members of the *Network*; if they refuse to do so, they will receive punishment under part 1 as “founders” of the terrorist association.

The investigation used psychological abuse towards *Shakursky*’s mother *Elena Bogatova*. She claims that at the request of the investigator she persuaded her son to admit his guilt during her visit to him.

Possible planting and falsification of material evidence

Among all the defendants who went through seizure of weapons, an explosive device or ammunition, only *Yuliy Boyarshinov* admits the guilt. *Dmitry Pchelintsev*, *Ilya Shakursky* and *Vasily Kuksov* claim that the items that were found were planted by operatives. Several factors prove their statements. The weapons and ammunition seized from *Pchelintsev* and *Kuksov* did not have their biological marks. Biological marks of *Shakursky* on the explosive device seized from him were found only after the second examination. The searches took place under circumstances when suspects could not control actions of the operatives.

Text documents found on computers of *Arman Sagynbaev* and *Ilya Shakursky*, which, according to the investigation, contained the charter and minutes of the *Network* Congress, had amendments made to it after the defendants were arrested, according to an independent examination.

Case comment

The *Network* case became a unique one among other cases, since the terrorist association was not charged with a single group crime, not even charged with preparing a crime. The entire accusation, which led to sentences up to 18 years of high security prison, is based solely on alleged existence of the terrorist association which planned to seize power when the opportunity presents itself, on the “charter” of the association and paramilitary training.



Paramilitary training with legal weapons or dummy weapons is not prohibited in Russia. Moreover, **Yuliy Boyarshinov**, for example, took a paid course of military training “Partizan”, where he was taught exactly the same thing that is incriminated to the defendants of the *Network* case as practicing terrorist skills: combat training, shooting, and survival skills in the wild, handling explosive devices, etc. Other similar courses legally operate in Russia. The law does not prohibit informal groups to independently engage in paramilitary training, and in particular to play with airsoft guns.

The *Network* case is constructed from legal actions coupled with abstract speculation and conspiracy theories of the investigation, partially confirmed by confessions obtained under torture, and further supplemented by obvious planting of explosive devices and ammunition.

A new airsoft case

On April 6, 2020 it became known that three airsoft players were arrested in Yuzhno-Sakhalinsk in the case of a terrorist association: **Aleksandr Kozin**, **Arseny Lesnoy** and **Oleg Safonov**. According to the information available at the moment, they were part of *S.T.C.N. group* (“Sakhalin tactic club of nationalists”), and also searched for missing people.

Searches at the defendants took place on April 4. Later, *Mediazona* reported that six more people were detained on the same morning; they confessed and were released.

Some items similar to elements of explosive devices were seized from **Kozin** and **Lesnoy**. Also at **Lesnoy**’s place were found 11 cartridges of 5.45 mm caliber and an object that looked like a fuse with a grenade ring. The defense and relatives suggest that these items were planted on the accused.

The same way as in the *Network* case, the defendants are charged with preparing a violent seizure of power under the guise of airsoft training; only in this case they were going to establish the Nazi state system. They are also charged with practicing survival skills in the wild.

Common features of construction of criminal cases under Article 205.4 of the Russian Criminal Code against political activists

Blurred boundaries between extremism and terrorism

A confusion in notions of extremism and terrorism arises not only because of arbitrariness of law enforcers, but also because of lies in the very legislative base: the federal laws *“On Countering Extremist Activity”* (adopted in 2002) and *“On Countering Terrorism”* (adopted in 2006) and the corresponding articles of *the Russian Criminal Code*. Thus, the law *“On Counteracting Extremist Activity”* states that extremist activity is, “public justification of terrorism and other terrorist activity” (the concept of “other” activity is not disclosed). At the same time, by definition from the law *“On Countering Terrorism”*, justification of terrorist activity is considered terrorist activity. In part, this overlap could be explained by the fact that the law on extremism was passed earlier and lawmakers mentioned terrorist activities in it, which at that time were not described in other regulatory documents. However, after introducing the law on terrorism, the definition of extremism was not clarified.

Even more confusion was caused in 2013 by **Article 205.4 of the Russian Criminal Code**, which stated that an association is considered terrorist if it is created, among other things, to commit crimes under **Article 278 of the Russian Criminal Code** (*“Actions aimed at violent seizure of power or forcible retention of power are in violation of the Constitution of the Russian Federation, as well as aimed at forcible change of foundations of the constitutional order of the Russian Federation”*) and **Article 279 of the Russian Criminal Code** (*“Organization of an armed rebellion or active participation in it in order to overthrow or forcibly change the constitutional order of the Russian Federation or violate the territorial integrity of the Russian Federation”*). At the same time, “forcible change of foundations of the constitutional order of the Russian Federation and violation of the integrity of the Russian Federation” is still included in the definition of extremist, not terrorist activities.

All the above gives the security officials a kind of “switch”. Depending on the appropriateness the same statements, the same groups could be classified as both extremist and terrorist.



Despite the fact that to some extent the similarity between the extremism and terrorism concepts is normal, clear legal differences between them are extremely important. The consequences for those accused and convicted, depending on charges under extremist or terrorist articles, differ quite significantly. For example:

- maximum penalty under **Article 282.1, part 1, of the Russian Criminal Code** is 10 years in prison, under **Article 205.4, part 1, of the Russian Criminal Code** the minimum punishment is 15 years in prison, and the maximum is life in prison;
- **Article 282.1, part 1 and 2, of the Russian Criminal Code** provide for punishment alternatives to imprisonment in the form of a fine and forced labor, **Article 205.4 of the Russian Criminal Code** does not provide for alternative punishment;
- “favorable” credit for time served in pre-trial detention facilities is allowed for those convicted under extremist articles and is not allowed for those convicted of terrorist crimes, etc.

Aggravation of petty offenses

In November 2015, a performance artist [Pyotr Pavlensky](#) set fire to the door of headquarters of [FSB, Russia](#). He was arrested while posing in front of the burning door. Initially, he was charged with **Article 214, part 2, of the Russian Criminal Code** (“*Vandalism based on political hatred*”), then the charge was re-classified to **Article 243, part 1, of the Russian Criminal Code** (“*Damaging cultural heritage sites*”): both articles are of medium-gravity crimes and involve up to three years in a penal colony. At the trial on applying a measure of restraint, [Pavlensky](#) immediately demanded that he would be accused of terrorism, as the defendants in [ABTO](#) case and the case of [Oleg Sentsov](#), who committed similar actions (arson of the FSB department, arson of the door of a pro-Russian public organization, etc.). Further, he repeated his demand both in court on applying a measure of restraint and during proceedings on the merits. However, the investigation, the prosecutor’s office and the court did not fulfill his demand, and [Pavlensky](#) was sentenced to a fine of 500 thousand rubles and released after eight months of detention.

This story can be considered a good illustration of the voluntarism that the Russian authorities show when they decide what to consider arson or vandalism, what is hooliganism, what is riot, and what is a terrorist act. Such decisions are influenced not by specifics of the case but political expediency: existence of a “contract”, a motive for fabricating a case, public attention to the process, possibility of using the persecution for propaganda purposes. If the defendants in [ABTO](#) case did not evoke any significant sympathy and interest in the society due to marginality of their views,



the case of [Oleg Sentsov](#) authorities used to whip up anti-Ukrainian sentiments and moral justification for the annexation of Crimea, as for [Pavlensky](#) who was popular in opposition circles at that time, there was no reason in harsh persecution.

There were other cases when similar actions (arson at night for the purpose of political protest) were filed under different articles. For example, in 2011 in [Bratsk](#) there was a night arson of the [United Russia office](#), the case was initiated under **Article 167, part 2, of the Russian Criminal Code** (*"Destruction or damage of other people's property by arson or explosion"*), involving up to 5 years in prison.

In April 2020, a criminal case was opened in Izhevsk for the same actions under **Article 213, part 1, of the Russian Criminal Code** (*"Hooliganism"*), which also implies imprisonment for up to 5 years. In 2019, in Shemurshinsky district of Chuvashia, **Article 214, part 2, of the Russian Criminal Code** (*"Vandalism based on political hatred"*) was applied for arson of the porch of the police department. Many other similar stories can be found by a simple search.

Similar unlawful acts can be classified as different crimes depending on goals and motives of those who commit them. However, proving intentions is rather difficult, and there is room for abuse. Publicly raised demands and appeals could serve as objective evidence of intention to destabilize authorities and influence their decision-making. There is no point in a terrorist attack, as its purpose could be identified only by law enforcement agencies based on the results of an investigation. However, the above cases have no direct confirmation of "participants in the terrorist acts" seeking to influence the authorities. Only in some cases, such conclusions could be drawn from the context to a degree (for example, arson of the police department by nationalists in [ABTO](#) case in terms of fighting illegal migration).

In our opinion, it is necessary to assess how realistic it is to influence decision-making of authorities with the help of the unlawful actions taken: after all, all defendants in the said cases are recognized as sane and can realize the consequences of their actions. For example, can a person in his right mind believe that setting fire to hay and used theatrical scenery on Manezhnaya Square will force the authorities to resign? Nevertheless, the prosecution ascribes such an intention to [Yuri Korny](#), [Andrei Keptya](#) and [Andrei Tolkachyov](#).

Abstract ideas about groups and leadership

The fact that a terrorist association existed in reality depends on a number of difficult to prove elements: intentions of the participants, the association's solidarity, stability, hierarchy.

The sentence in [ABTO](#) case reads:



“While an organized group committed crimes, each member coordinated their behavior and functions with other participants, realized an agreed part of united criminal encroachments carried out in connection with belonging to the group, and was fulfilling certain duties arising from the mission of this criminal organization. Input of each member of an organized group to each specific crime and to criminal activity in general was unequal in terms of the portion of actions performed, but eventually overall it led to the achievement of common criminal goals.”

The above quote is a good indication of abstract statements taken as a basis for charges with involvement in a terrorist association (or an organized group). It is noted that *ABTO* case deals only with an aggravating factor of committing a terrorist act; in subsequent cases, an independent accusation is proved with approximately the same abstract statements. In the *Network* case, the terrorist association, for example, is not charged with preparing any specific terrorist attack; the very existence of the association is a blame.

Taking advantage of the vagueness of ideas about how close-knit and stable a group should be, the investigation from time to time brings together people who are barely familiar or at war with each other into one association. Thus, in the *Network* case, the investigation and court did not take into account that **Dmitry Pchelintsev** and **Ilya Shakursky** were in a disagreement for personal reasons. The person involved in one of Moscow’s cases of *Artpodgotovka*, **Yuri Korny** claims that he was on the outs with **Nadezhda Petrova** and did not follow her instructions, nevertheless allegedly they belonged to the same terrorist association. In another case of *Artpodgotovka*, the prosecution refused to impute **Article 205.4 of the Russian Criminal Code**, due to its finding that the group did not have time to become united and stable (but retained the aggravating factor). It remains rather unclear how exactly the boundary between a stable and an unstable group is drawn; what is a fundamental difference between **Sergei Ozerov**, **Oleg Dmitriev** and **Oleg Ivanov**, who rented a room together, from those involved in the *Network* case, when not everyone was familiar with each other.

Accusations of leading a terrorist association dramatically aggravate a defendant’s position, both due to sanctions of **Article 205.4, part 1, of the Russian Criminal Code** and the fact that the leader is responsible for crimes committed by members of the association even without his personal participation. In the above cases that we have examined, leadership remains as abstract a category as associations’ characteristics. The history of how **Pchelintsev** and **Shakursky** had their charges changed from **Article 205.4, part 2**, to **Article 205.4, part 1, of the Russian Criminal Code**, depending on their loyalty/disloyalty to the investigation, illustrates quite well how easily the prosecution can switch between imputation of the roles of a leader and an ordinary participant without any changes in the circumstances of the case.



Importance of statements of the accused and witnesses

With a shortage of material evidence, statements of the accused and witnesses are of great significance. Particularly if it is necessary to prove such intangible things as an intention to destabilize the work of authorities, stability of the group, the fact that an association was created with intention of participating in terrorist activities. In fact, what makes conditional arson a terrorist attack, makes a group of friends (or even unfamiliar people) a terrorist association, is often proven solely by words. This motivates security officials to use dubious or criminal methods of obtaining evidence, namely torture, blackmail, and concealing identity of witnesses.

In three out of the five above cases (*ABTO* case, *Oleg Sentsov's* case, the *Network* case), the defendants stated that their confessions were obtained under torture: beating, torture with electric shock, and suffocation were used. As a rule, court takes into account confessions made during the investigation, despite the fact that later an accused retracted the statement (in particular, this happened to *Ivan Astashin*). The court that passed the verdict on Penza *Network* case though did not include information obtained from the accused during the investigation in the sentence, although it indicated:

"The court regards them [allegations of torture] as deliberately misleading the public, aimed at discrediting their own initial statements and drawing a significant public response to the criminal case."

However, the witnesses' retracted statements were added to the verdict.

Other defendants often act as witnesses, whose cases are heard separately. This makes it possible for another manipulation: to add to the verdict statements that the person made as an accused, which means they were not responsible for false testimony, that is, they had a legal right to lie in their defense. *Aleksei Chirniy* while acting as a witness in the case of *Oleg Sentsov*, at least confirmed his evidence given at the investigation, as for *Gennady Afanasyev* at the same trial and *Viktor Filinkov* at the trial in the case of the *Network* Penza unit retracted their statements made earlier, but court still took them as a basis for sentences.

Blackmail on the part of the investigation, public and private agreements on mitigation of penalty or exemption from criminal liability make the witnesses/accomplices dependent on the investigation and may motivate other defendants to slander. Thus, the testimony of *Yegor Zorin*, who was released from criminal liability for participating in a terrorist association and received a suspended sentence for drug possession, is of great importance in the *Network* case.



Witnesses with concealed identity are widely used in criminal cases on extremism and terrorism. The possibility “if necessary to ensure safety of a witness, their close family and relatives” to conceal personal data of the witness and interrogate them without visual observation, is provided for by **Article 278, part 5, of the Russian Code of Criminal Procedure**. In practice, the decision to classify the data of some witnesses’ identity is made at the stage of the investigation, and in all cases we are aware of, courts grant the prosecution’s request to question witnesses with concealed identity without disclosing their personal data, visual observation and with a disguised voice. Defendants and their defenders do not have access to information about who exactly supported the prosecution, and therefore cannot refute the witness’ statement or prove that they had a motive for giving false testimony.

We have to acknowledge that the state prosecution uses witnesses with concealed identity in order to confirm as much as possible the theory of the prosecution when there is not enough evidence. For example, at the trial in the case of **Sergei Ozerov, Oleg Dmitriev** and **Oleg Ivanov**, a testimony was given by a witness under the name of Maksim Maksimov. He stated with confidence that the defendants were preparing Molotov cocktails, planning arson attacks and discussing all this in Telegram chats and even personally informed him. At the same time, the presiding judge did not allow the defense to find out when the conversation took place and whether Maksimov visited the defendants in the flat, because “*the answer may cause declassification of the witness’ personal data*”.

The case of the **Network** Penza unit is known for the fact that conviction of the defendants was sustained, in particular, by the testimony of witnesses with concealed identity, namely Zaitsev, Volkov, Lisin and Snupov. All of them claimed that they were cellmates of some of the defendants (**Dmitry Pchelintsev, Vasily Kuksov**) and the defendants themselves told them that they had a combat group for preparing riots and a revolution.

Criminalization of legal activities

Legal activities which are not prohibited by law, thanks to the investigation, routinely turn into part of charges, some element confirming that the defendants are indeed terrorists. This was most clearly demonstrated in the **Network** case, where the designated substantive crime was development of combat techniques. In order to confirm that the **Network** members were involved in serious preparing for the violent seizure of power, skills of survival in the forest were added. In **Oleg Sentsov’s** case, the logic that the prosecution used was the fact that some of the defendants had first-aid kits at home as evidence that they were preparing for fighting.



The use of secure messengers for correspondence often confirms alleged criminal intentions of defendants, although nobody forbids people to take legal measures to protect their private correspondence. This happens not only in cases under **Article 205.4 of the Russian Criminal Code**, but in other terrorist (and not only) cases.



In addition to punishment

How the law aggravates the situation of those accused and convicted under Article 205.4 of the Russian Criminal Code

The legislation carries several additional restrictions for those accused and convicted under **Article 205.4 of the Russian Criminal Code**. In most cases, the same restrictions apply to those accused and convicted under all terrorist articles (except for non-serious crimes under **Article 205.6** (“*Failure to report a crime*”) and articles that are considered close to ones on terrorism, that is, an illegal armed formation, violent seizure of power, etc. Also, in some cases, similar restrictions are imposed on those accused and convicted under articles on extremism. However, since the report is about application of **Article 205.4 of the Russian Criminal Code**, we are further referring mainly to this article.

Investigation, trial and imposition of sentence

In general, the age of criminal discretion starts at the age of 16. In 2016, the age of criminal responsibility was lowered to 14 years for **Article 205.4, part 2, of the Russian Criminal Code**.

Those accused under **Article 205.4 of the Russian Criminal Code** are not to be released from liability after the statute of limitations expires; statute of limitations for execution of a sentence is not applicable either.

Those accused of terrorism do not have the right to a jury trial. This not only diminishes, but in the context of the current situation in Russia, actually deprives the defendants of any chance of acquittal. Thus, the share of acquittals in 2019, according to statistics of the [Judicial Department of the Supreme Court of the Russian Federation](#), amounted to 0.25%, while the jury, [according to Supreme Court Chairman Vyacheslav Lebedev](#), acquitted about 25% of the defendants in 2019.

Courts are prohibited from imposing a sentence below the lower limit (15 years in prison under **Article 205.4, part 1, of the Russian Criminal Code** and 5 years in prison under **Article 205.4, part 2, of the Russian Criminal Code**) or to impose a



lighter punishment than it is provided for by the article (**Article 205.4 of the Russian Criminal Code** only implies imprisonment). It is forbidden to impose a suspended sentence under **part 2** (gravity of **part 1** does not imply a suspended sentence at all). The only possible exceptions are plea bargains with the investigation or a special procedure of trial if a defendant agrees with the charges against him.

The maximum time for the totality of crimes committed, if at least one of them is provided for by **Article 205.4 of the Russian Criminal Code** could be 30 years (as a general matter, 25 years), and on several counts it could be 35 years (as a general matter, 30 years).

Under **Article 205.4, part 1, of the Russian Criminal Code** an additional punishment is given to Russian citizens compulsorily in the form of restriction of freedom after serving time in prison. People who are subject to this form of punishment are forbidden to change their place of residence without consent of a specialized state agency, or travel outside the municipal district. The court also compels a convicted person to check in regularly with a specialized state body which supervises serving the sentence in the form of restriction of liberty. A convicted person may be prohibited from leaving home at certain times of the day, visiting certain places, attending places where mass and other events are held and participating in them.

Deferral of punishment for raising a child is impossible. Minors convicted under **Article 205.4 of the Russian Criminal Code** are not to be exempted from punishment due to placement in a closed educational institution.

Institutional treatment

At the end of 2019, a law was passed obligating courts to impose part of imprisonment to men who were found guilty under **Article 205.4, part 1, of the Russian Criminal Code**. The minimum term of imprisonment for such convicts, as a rule, is a year, and besides this, there should be at least a year in prison after the time served in pre-trial detention facility. With regards to men convicted under **Article 205.4, part 2, of the Russian Criminal Code** for a term exceeding 5 years, court, at its discretion, may decide to impose part of the term in prison. The legal norm, most likely, will apply to convicts who were detained after the law was adopted, that is from the beginning of 2020.

Prison regime implies the most severe regime of detention possible in the Russian Federation. Convicts are kept in locked cells and only leave them under escort for walks, visits by a lawyer or family, and if they are employed for work in some other premises of the prison (in reality, jobs for convicts in prisons are very rare). Walks, visits, care packages and parcels, the amount of money in the account are limited to a greater extent than in other prison systems.



In general, convicts, after having served half of their time in prison indicated by court may, if they have a certificate of good conduct, be transferred to a penal colony with strict regime. For convicts under **Article 205.4, part 1, of the Russian Criminal Code** there is no such possibility.

A choice of a penal colony

In general, the law requires sending convicts for imprisonment to penal colonies located in the region where they lived or were convicted, granting there are such facilities in the region. However, this rule does not apply to those convicted for terrorism; FSIN could send them anywhere in Russia.

On April 1, 2020, *Vladimir Putin* signed a law (which will enter into force in 180 days after its official publication), which requires detainees to be placed in the nearest neighboring region in the absence of facilities in the region of their residence. Also, this law gives convicts the opportunity to apply for transfer to the region where their close relatives' lives. These mitigations do not apply to those convicted of terrorism either.

On the other hand, *FSIN* is in a position to transfer those convicted of terrorism from one penal colony to another without any significant reason whereas in the general case, convicts should, if possible, be kept in the same colony throughout the entire time.

Mitigation of punishment, eased conditions of serving a sentence

Those convicted under **Article 205.4 of the Russian Criminal Code** can apply for parole only after serving $\frac{3}{4}$ of the term. In general, those convicted of grave crimes can apply for parole after $\frac{1}{2}$ of the term, and for especially grave crimes after $\frac{1}{3}$ of the term.

If a person convicted under **Article 205.4, part 2, of the Russian Criminal Code** was sentenced to punishment in a general regime penal colony, reduced credit for time served in a pre-trial detention center (one day in a pre-trial detention center is counted for a day and a half in a penal colony) is not applicable. **Article 205.4, part 1, of the Russian Criminal Code** time of punishment could be served only in a colony of strict or special regime, or in prison.

According to the Code of Criminal Procedure, convicts can be provided with opportunity to receive, with the permission of the colony administration, a compassionate leave (for example, in the case of the death of a close relative) or a visit with a child.



Although this norm in general is rather illusive, for those convicted under **Article 205.4, part 1, of the Russian Criminal Code** and other “terrorist articles”, it does not apply in principle.

Administrative supervision after serving time of imprisonment

In 2017, a law was passed that provided for those who served time under “terrorist articles”, after their release from a penal colony, administrative supervision is to be established until cancellation of their conviction. The term of cancellation of conviction under **Article 205.4, part 2, of the Russian Criminal Code** is 8 years, and **Article 205.4, part 1, of the Russian Criminal Code** is 10 years.

The general requirement for those under supervision is reporting to law enforcement agencies from one to four times a month (the exact number of times is established by the court). Besides, the court may impose bans on: staying in certain places, attending mass and other events, being outside your home at a certain time of day (usually at night), and leaving a certain territory.

Those sentenced to restriction of liberty after serving a prison term, first serve the penalty of restriction of liberty, then they are subject to administrative supervision. For example, a person who has served a 15-year sentence for founding a terrorist association may be under rather severe restrictions for another 12 years after “becoming free”.

A list of Rosfinmonitoring (Federal Financial Monitoring Service)

Suspects and those accused of terrorist or extremist crimes, also those convicted of such crimes, are put on the List of Terrorists and Extremists by the Federal Financial Monitoring Service. This means freezing bank accounts. A person added to the list of Rosfinmonitoring has the right to withdraw from their salary (pensions, scholarships) only 10 thousand rubles per month for himself and for each family member who has no other income. They are also allowed to receive social benefits. In practice, this means that each receipt of money requires a package of documents to be submitted to the bank.

To be removed from the list is only possible in case of overturning a sentence, terminating a criminal prosecution, or clearing a criminal record. As it was mentioned above, for clearing a criminal record, it takes 8 years after serving a sentence for those convicted under **Article 205.4, part 2, of the Russian Criminal Code** and 10 years for those convicted under **Article 205.4, part 1, of the Russian Criminal Code**.



How charges of terrorism informally worsen the position of the accused and convicted

First of all, charges of terrorism negatively influence public opinion regarding those accused. For the majority of people, mass brutal murders are associated with terrorism: explosions of crowded places, people who fire into a crowd, crushing people with a truck, etc. According to a sociological survey conducted in April 2020 by [Levada Centre](#), 80% of Russians surveyed believe that terrorists need to be eliminated, and this percentage is higher than one for pedophiles and murderers.

Due to external factors, most citizens do not have the opportunity for detailed analysis of charges, specifics of antiterrorist legislation and its application, therefore, in many cases, they are guided by negative prejudices.

This makes accusations of terrorism a handy tool for propaganda. For example, [Oleg Sentsov](#)'s case was aggressively used for propaganda.

"The goal of the group's criminal activities was subversive terrorist acts in the cities of Simferopol, Yalta and Sevastopol, and subsequent destruction of vital infrastructure, railroad bridges, electric power lines," [FSB](#) said in May 2014, and it was quoted by lots of mass media.

At the same time, few people know that [Aleksei Chirniy](#) mentioned bridges and power lines only once and in passing; moreover, from recording of his conversation it follows that it was not even he himself who proposed to blow up such objects, but his friends, who later became witnesses to the prosecution.

Also [Vladimir Putin](#) replied to the request of director [Aleksandr Sokurov](#) to release Sentsov as follows: "...actually he devoted his life to terrorist activities ... and thank God there are none [no casualties], but they could happen if he was allowed to carry out his intentions."

It is politically unprofitable for the authorities to grant an amnesty for those convicted under articles on terrorism (at least in recent years, we have not observed a single amnesty of this kind), to mitigate or decriminalize criminal articles.

The low awareness of the society about criminal cases under articles on terrorism is facilitated by investigation bodies and courts. Investigators often make lawyers sign a pledge of secrecy; thus, a criminal case's circumstances remain unknown to the public until the end of the investigation. Decisions on extension of detention for those under investigation in some cases are made behind closed doors restricting journalists' activities. For example, in March 2018, a court bailiff of Dzerzhinsky District



Court of St. Petersburg prohibited *Mediazona* reporter *Sasha Bogino* from broadcasting a live text from the extension of detention to *Igor Shishkin*, a defendant in the *Network* case, and then expelled *Bogino* and another reporter of the outlet *David Frenkel* from the hall.

Court hearing on the merits are mainly held in public, however, some of its parts could be in private. As it was already mentioned above, the interrogation of *Andrei Keptya* who was accused in one of *Artpodgotovka* Moscow cases was held in private. Military courts dealing with cases on terrorism rarely publish information about dates of hearings on time, they hide names of the accused on their websites from time to time, and never publish sentences. The exception was *Military Collegium of the RF Supreme Court*, which published most of the appellate rulings, but since October 2019, appeals in cases on terrorism are considered by *Military Court of Appeal in Vlasikha* (an urban-type settlement, Moscow region), which does not publish judicial acts on such cases. Besides, *Vlasikha* is a closed administrative-territorial entity (ZATO), entrance to its territory is allowed only with special passes. According to those who tried to attend sessions of *Military Court of Appeal*, visitors and journalists were not allowed inside the village, and the session was broadcast at the checkpoint.



Summary

2012. A sentence was passed in the *ABTO* case, partly based on a number of real-life hate crimes against a vulnerable group of people. *Ivan Astashin* who was accused of the above and other crimes (for the totality of eight terrorist acts and preparing another one) also of the leadership of terrorists, was sentenced to 13 years in prison, the appeal reduced this time to 9 years and 9 months. Those who actually repeatedly participated in acts of arson of migrants' stalls received up to 12 years in prison.

2015. *Aleksandr Kolchenko* was sentenced to 10 years in a penal colony for participating in only one arson of the future office of United Russia.

2018. The defendants in the *BARS* case were charged with terrorism only on grounds of a hate speech attributed to them against other nationalities and *Vladimir Putin*.

2019. *Sergei Ozerov*, *Oleg Dmitriev* and *Oleg Ivanov* were sentenced to time in prison for 7 to 8 years for preparing arson of an object known neither to the prosecution nor to the accused.

2020. The defendants of the *Network* case, who were not charged with a single group crime, except for their very involvement in the terrorist association, which was allegedly preparing a revolution, received up to 18 years in prison. *Yuri Korniy* was sentenced to 10 years in prison for arson of hay and used theatric scenery that have never happened. *Sergei Ryzhov*, accused of preparing a terrorist attack against an unknown object, is awaiting trial.

Thus, we observe the development and toughening of repressions against political activists via accusing them of group terrorism and specifically with the use of **Article 205.4 of the Russian Criminal Code**:

The authorities more intensely take advantage of uncertainties in anti-terrorism legislation (the blurred distinction between extremism and terrorism, the difference between arson, hooliganism and a terrorist attack, the concept of group cohesion, leadership, etc.). Accusations of terrorism depend largely on interpretations, often controversial or notoriously unfounded.

The investigation takes an interest in seeking confirmation of such interpretations by cruel criminal means, including torture of defendants and witnesses and planting material evidence.



The need for **Article 205.4 of the Russian Criminal Code**, as a whole, is controversial, since there is also an aggravating factor “committed by an organized group”, which aggravates charges of a terrorist act, and an aggravating circumstance “*committing a crime within an organized group or a criminal association*” (**Article 63, part 1, point “c”, of the Russian Criminal Code**) which is applicable to any crime. It is clear, however, that to apply an aggravating circumstance or an aggravating factor of **Article 205.4** is possible only when a specific crime is committed, and **Article 205.4 of the Russian Criminal Code** is “good” because it could be applied without specific criminal acts being mentioned for sentencing the accused to huge terms of punishment.

Russian antiterrorist legislation in fact has extended the concept of terrorism to preparing revolutions and overthrowing the government. A group that was formed to overthrow the government is considered a terrorist association. At the same time, such conception of terrorism is broader than one documented in international law, for example, in [UN Security Council Resolution 1566](#) or [International Convention for the Suppression of the Financing of Terrorism](#), adopted by the UN General Assembly in 1999. Besides, in accordance with Russian legislation, a violent change in the foundations of the constitutional order, forced obstruction of legitimate activities of state bodies meet the definition of extremist activity, not terrorist one.

Meanwhile, the cost of a mistake and abuse by the authorities in cases of terrorist associations (as in other cases of terrorism) is extremely high. According to **Article 205.4 of the Russian Criminal Code**, life in prison is applicable, and a number of laws are in force that significantly worsen the life of those accused and convicted under the article. Also, the accusation of terrorism becomes a specific stigma that creates significant problems in revealing the fact of unfair persecution to the public.

Application of the article on terrorist associations, especially against political activists, is not widespread yet. However, the system of constructing criminal cases of this kind has acquired common features, and this creates a huge risk of dramatical increase in repressive practices.



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Мы обжалуем это решение.**





MEMORIAL HUMAN RIGHTS CENTRE

12 Maly Karetny pereulok,
Moscow, 127051, Russia

Phone: +7 (495) 225-3118
Fax: +7 (495) 699-1165

memohrc@memohrc.org
www.memohrc.org