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CRIMINAL PROSECUTIONS FOR TERRORISM IN RUSSIA
AND ABUSES BY THE STATE

A SERIES OF SURVEYS

#3 Statements in support of Terrorism

This is the third survey dedicated to the repressive application of the criminal law on terrorism in contemporary Russia. In the [first](#) report we talked about the scale and general tendencies of criminal prosecutions of this kind. In the [second](#), we examined the hundreds of criminal cases brought for participation in the international religious organisation Hizb ut-Tahrir al Islami.

The focus of the current review is located at the nexus of prosecutions for statements and prosecutions for terrorism. Article 205.2 of the Criminal Code of the Russian Federation criminalises public incitement of terrorism, public justification of terrorism, and propaganda of terrorist activity. For convenience we shall call all these taken together as 'statements in support of terrorism.'

Before commencing the analysis, it is necessary to make a number of clarifications. Firstly, we do not use here the notion of 'political prisoner.' Among the defendants of criminal cases mentioned here are those who have been recognised by Memorial as political prisoners, those who may be recognized as such in the future, those whose cases do not meet the necessary criteria as such, and also those about whose cases we have very limited information.

Secondly, the mention of a particular case in this review does not mean that we are ready to vouch for the innocence of a defendant or the harmlessness of the statement. Still less does this mean that we agree with the statement. We give a number of cases simply as illustrations.

Thirdly, we discuss as part of the review whether in general it is permissible to prosecute for statements. We have in mind that, from the thesis that 'earlier for such a thing a person would have been charged with extremism, and now they are charged with terrorism,' the conclusion does not follow that 'it is good to bring charges under anti-extremism law.' The correct conclusion is that 'political repressions are becoming more severe.'

205.2: Incitement, justification and propaganda

Over the last few years, out of all convictions for terrorism (under Articles 205 – 205.6 of the Russian criminal Code) on average about a third have been handed down for statements in support of terrorism. At the same time, the number of convictions under Article 205.2 of the Russian Criminal Code has increased approximately at the same speed as the general number of convictions under Article 205 (more detail about the dynamic of prosecutions under terrorism law can be read in Survey No. 1 [‘How the System was formed’](#)).

Articles of the Russian Criminal Code mentioned in the survey:

205.2 — Incitement of acts of terrorism, public justification of terrorism or propaganda of terrorism (Section 1); with use of the Internet or media (Section 2).

280 — Incitement of acts of extremism (Section 1); with use of the Internet or media (Section 2).

282 (until 27 December 2018 года) — Actions intended to incite hatred or enmity, and also to denigrate the human dignity of a person or group of persons on the basis of gender, race, nationality, language, origin, attitude towards religion, or membership of any social group, including with use of the Internet or media (Section 1); with aggravating circumstances (Section 2).

In the period 2010-2013 nine people were convicted for offences under Article 205.2 of the Russian Criminal Code (with numbers varying from one to four in a year), while only two were sentenced to real terms in prison. However, since 2014 there has been a rapid rise in the number of convictions under this Article (see Table 1). All prosecutions ended in convictions.

Among the articles of the Russian Criminal Code that criminalise various kinds of statement, in recent years the three articles have been most frequently used are Articles 205.2, 280 and 282.

Traditionally, the most frequently used was Article 282 of the Russian Criminal Code: hundreds of sentences were handed down under this article every year. In 2017 convictions for 626 crimes under this article were handed down. In second place was Article 280 of the Russian Criminal Code: in 2017, 175 convictions were handed down under this article. The number of convictions under both these articles increased in the years up to and including 2017. Article 205.2 of the Russian Criminal Code was in third place with 111 convictions in 2017.

In terms of the severity of punishment, however, the positions of these articles were reversed. Article 205.2 of the Russian Criminal Code formally provides for the more severe penalties and in its application the great majority of cases result in a real term in prison (see Table 1); under Article 280 of the Russian Criminal Code, however, in the first six months of 2018 only 18% of cases saw defendants sentenced to terms in prison; while under Article 282 of the Russian Criminal Code, prison terms were handed down in 11% of cases.

Table 1. Dynamics of convictions under Article 205.2 of Russian Criminal Code¹

	2014	2015	2016	2017	First six months of 2018
Number of convictions under Article 205.2 of Russian Criminal Code where this Article was the most serious of the charges	10	26	47	76	39
Percentage of convictions (among the above) where sentences were a term in prison	3 (30%)	13 (50%)	31 (66%)	57 (76%)	32 (82%)
Total number of offences under Article 205.2 of Russian Criminal Code for which convictions were handed down ²	13	35	66	111	60

In the first six months of 2018 the increase in the number of convictions under Article 282 of the Russian Criminal Code halted: there were 270 convictions as opposed to 268 in the first six months of 2017. The number of convictions under Article 280 of the Russian Criminal Code also fell: to 61 from 75 in the first six months of 2017. However, the number of convictions under Article 205.2, on the contrary, continued to rise over the same period: to 60 convictions from 46 in the first six months of 2017; moreover they were equal to the number of convictions under Article 280.

Finally, at the end of 2018 Article 282 of the Russian Criminal Code was in part decriminalised: a first violation in the course of the year now carries with it administrative liability and only the second violation falls under criminal law. Most likely, the result of this will be a significant reduction in the frequency with which prosecutions are brought under this article of the Criminal Code.

All this gives reason to believe that prosecutions for extremist statements, which have been very common in recent years, will gradually give way to more severe prosecutions for statements in support of terrorism.

¹ Source: Judicial Department of the Supreme Court of the Russian Federation – <http://cdep.ru/index.php?id=79>.

² The most serious charge need not be the only one: one person can be convicted at the same time of a number of crimes, while a charge of making statements in support of terrorism can be additional to, for example, the more serious charges of terrorism or the organisation of a terrorist group. For this reason, the number offences for which convictions are handed down is usually greater than the number of convictions.

Penalties under the Article. Internet as aggravating circumstance

In the first variant of Article 205.2, that appeared in the Russian Criminal Code in 2006, the more serious crime, under Section 2, concerned statements in support of terrorism using the mass media. In the remaining instances Section 1 was used, for which the maximum penalty was four years in a prison colony, while under Section 2 the maximum sentence was five years in a prison colony. In 2010 the maximum sentences were raised to five and seven years respectively, while a minimum sentence of two years was introduced for offences under Section 1.

In 2016, after adoption of the so-called 'Yarovaya's Law' (Federal Law No. 375), statements in support of terrorism on the Internet were equated with similar statements in the media and were classified under Section 2. At the same time, a minimum penalty for offences under this Section was also introduced (five years in a prison colony).

In 2014 Article 205.2 of the Russian Criminal Code was included among those articles of the Criminal code under which it was forbidden to hand down sentences beneath a lower limit. It was also not allowed to issue a suspended sentence.

Under both sections of Article 205.2 of the Russian Criminal Code alternative penalties in the form of a fine are possible: under Section 1 from 100,000 roubles to 500,000 roubles, or the size of income of the convicted person for a period of up to three years; under Section 2, from 300,000 roubles to 1 million roubles or the size of income of the convicted person for a period of up to five years. However, as Table 1 shows, alternative penalties are used increasingly rarely.

Taking into account that the absolute majority of statements investigated under Article 205.2 of the Russian Criminal Code are published on the Internet (as a rule, on social networks), the minimum prison sentence for them is five years. The punishment can only be reduced by a full confession of guilty and a plea bargain.

Thus, in February 2018 Kaliningrad student Valery Bogatyryov was given five years in a general-regime prison colony for saving a video on his VKontakte account (in the folder 'My Videos') of the far right extremist organisation Misanthropic Division. According to Bogatyryov, the recording was saved accidentally (the VKontakte interface makes this possible), he did not publish it on his 'page' and he did not try to attract readers' attention to it. The video shows three unidentified men in balaclavas holding automatic weapons who state that they are beginning a '*full-scale fight*' against the Putin regime. In reality, nothing is known about any armed struggle by Misanthropic Division that followed this video announcement against the regime.

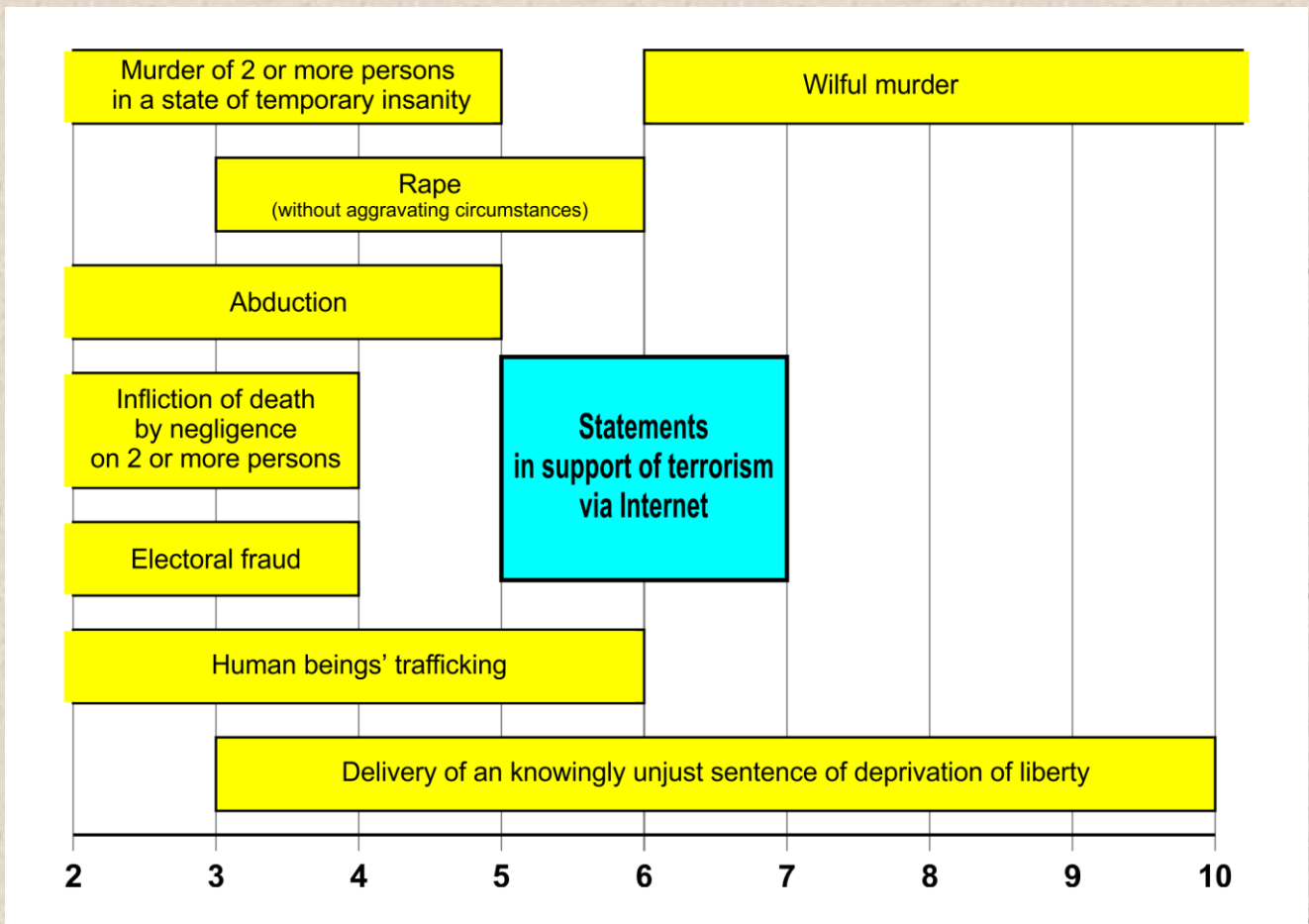


Figure 1. Minimum and maximum prison sentences (in years), provided for by the Russian Criminal Code for various types of offence

It is not absolutely clear how investigators and the courts chose to bring charges either under Section 1 or Section 2 in relation to publications on the Internet before Federal Law No. 375 entered into force (July 2016). In several similar instances law enforcement bodies cite the notion of a 'continuing offence,' asserting that the publication, not removed after the law became stricter, is punished under the new law. However, they also have the option of using the preceding version of the Russian Criminal Code that was in effect at the moment the publication appeared. In January 2019, North Caucasus Military Court announced two convictions under Article 205.2 of the Russian Criminal Code: Omar Magomedov was convicted for videos published in 2014 under Article 205.2, Section 1, and sentenced to 2,5 years in a low-security prison colony, and Zagalav Sultanbekov was convicted of an offence under Article 205.2, Section 2, and sentenced to five years in a strict regime prison colony. In Crimea, Nariman Memedeminov has been charged under 205.2, Section 2, in relation to three videos, two of which were made before the annexation of Crimea in 2013.

Characteristic features of prosecutions for statements in support of terrorism

1. Information vacuum

Less than 10% of such cases are covered in any detail by the media. Most often, detailed information appears in the media if the person being prosecuted is well-known as a human rights activist, or in a religious or other community.

Law enforcement agencies publish data about such criminal cases in generalised form, or talk about prosecutions in formulae that are maximally lacking in specifics. Here is a [typical press release](#) put out by official bodies:

The deputy prosecutor of Khabarovsk region has confirmed the indictment in the criminal prosecution of a 26-year-old resident of Khabarovsk who was born in Dagestan. He has been charged with committing offences under Article 205.2, Section 1, of the Russian Criminal Code (public justification of terrorism) and Article 282, Section 1, of the Russian Criminal Code (incitement of hatred and enmity towards a group of persons on the basis of their attitude towards religion, committed publicly using the Internet).

During the investigation it was established that the defendant on his personal page on the VKontakte social media site in the period from August to November 2015 posted video files justifying terrorism. In this way he made a public statement recognizing the ideology and practice of terrorism as correct, and needing support and imitation. Moreover, the video files he posted contain information justifying the use of force against representatives of a group defined in terms of its attitude towards religion, namely 'non-Muslims.'

It is impossible on the basis of this press release, of course, to analyse what the accused actually published, how dangerous the content is, or how far the prosecution is justified. It is just as impossible to identify the person (neither surname nor first name are given). If, at the same time, those charged believe that attracting attention to their case will only make things harder for them, then the chances of good publicity for the case are practically nil. Law enforcement agencies only make public the statistics about crimes solved that are difficult to analyse.

2. The minute public significance of the majority of statements for which individuals are prosecuted

On the New Year's night of 1 January 2014 in the town of Staraya Russa, Novgorod region, police brought a very drunk young man, Anton Izokaitis, to the police station. Locked up in a police van, Izokaitis shouted that he hated the police and Russians, supported the actions of Hitler, and was glad that two days previously Russians had been the victims of a terrorist act in

Volgograd. The police recorded his shouting on a dictaphone and, instead of 15 days' jail for petty hooliganism, Izokaitis was given two years in a low-security prison colony under Article 205.2, Section 1, and Article 282, Section 1. The investigation found no evidence Izokaitis had at any other time disseminated propaganda of hatred.

A female student at Moscow Medical University, Patimat Gadzhieva, had a page on VKontakte under another name, which, she says, had 3-4 followers. She blocked people she knew from following. In the summer of 2015 she saved an article on this page about the real nature of videos showing executions published by the terrorist organisation Islamic State, and the text 'O Allah Raise the Banner of Jihad.' According to Gadzhieva, she needed to make up her own mind about Islamic State, since her classmates were always asking her about it. One of the materials she later deleted herself. However, this did not help. In November 2015 she was arrested for the public justification of terrorism and charged on account of both texts, including the one she had deleted. Gadzhieva was held on remand for nine months, after which she was sentenced under Article 205.2, Section 1, to a fine of 400,000 roubles. Neither investigators nor the court considered, in principle, whether the publication had had any impact on public opinion.

*'Why don't you ask how many 'likes' there were there?' – Gadzhieva asked Judge Mikhail Kudashnikov, presiding at the trial, who responded: 'You know, to be classified under this Article, one 'like' is probably enough. And you talk of 'likes' in the plural... But if there is intention, it does not matter even if the text was not accessible to a wide audience. The main thing is the desire.'*³.

These two cases were reported in the media in considerable detail. There is every reason to believe that in other cases investigators and the courts also fail to take into account the low level of popularity and danger to the public represented by the statements in question. The fact that dozens of people who have been convicted of 'justifying terrorism' are quite unknown to the public speaks to the fact that their propaganda also, most likely, was noticed only by law enforcement agencies.

It should also be noted that prosecutions are often conducted in relation to content posted long before the criminal investigation began. For example, Kaliningrad resident Sevdar Musaev in 2015 was charged with publishing a video on VKontakte in 2011, while in 2016 Moscow imam Makhmud Velitov was arrested for a sermon he had given in 2013. In the criminal investigation and subsequent trial and conviction in these cases it was clearly not taken into account whether the statements in question had had any consequences since their publication.

³ <https://grani-ru-org.appspot.com/blogs/free/entries/253838.html>

3. Failure to distinguish between terrorism and extremism

Public officials have used these words in tandem for many years, demonstrating that there is no difference between these concepts, each of which is by itself broad and lacking in specificity. In many cases, prosecutions under Article 205.2 of the Russian Criminal Code are supplemented by charges under Articles 280 and 282 of the Russian Criminal Code, while at the same time one and the same act is often classified at the same time under several different articles. Of the criminal prosecutions for offences under Article 205.2 of the Russian Criminal Code that have gone through an appeal (at the division for military service personnel of the Russian Supreme Court in 2017-2018), about half contained charges under Articles 205.2 jointly with Article 280 or Article 282 of the Russian Criminal Code, or both at the same time.

Recently it has become possible to observe a tendency by which a statement that in recent years would have been classified only as 'extremism' or 'incitement of hatred' is now considered 'incitement of terrorism.' An example of such a case where the charges have been made more serious is that of Airat Dilmukhametov and Robert Zagreev. In 2015, both were sentenced to three years in a strict regime prison colony under Article 205.2, Section 1, of the Russian Criminal Code for the text 'Akhyr Zaman' (Dilmukhametov was the author, while Zagreev posted in on a number of Internet sites). 'Akhyr Zaman' urged the creation a 'new Bashkir Republic based on the principles of Bashkir national-democracy with a leading role assigned to Islam,' invocation of the 'military spirit' of the Bashkir people and even the assertion that Bashkirs must demonstrate they belong to the 'militarily assertive civilisations.' However the text's contents have nothing in common with the definition of terrorism contained in Article 3 of the Federal Law No. 35 of 6 March 2006 'On combating terrorism.'

In 2016 the so-called 'Yarovaya Law' finally removed the boundaries between extremism and terrorism. The law introduced into Article 205.2 of the Russian Criminal Code explanatory notes according to which 'terrorist activity' would be understood to include participation in illegal armed groups, the violent seizure of power, armed rebellion, or attempts on the life of a public or state figure.

One of the clearest examples of the new interpretation of statements in support of terrorism is the case against the Moscow musician Vyacheslav Eliseev. He has been charged with an offence under Article 205.2, Section 1, for the song 'To kill the president' that ends with the words, 'Putin will be executed.' At the same time, back in June 2018, Tver region opposition activist Vladimir Egorov was sentenced to a suspended prison term under Article 280, Section 2, for posting on the Internet the phrase: 'The chief Kremlin rat has to be brought down, together with his cronies and henchmen.' The post was accompanied by a photograph of Vladimir Putin

with the words, 'The Main Rat,' inscribed on his forehead. Investigators considered this post incitement to kill the Russian president.

4. Failure to take into account the purpose of a publication

The appeal ruling in the case of the soldier Murad Shakhbazov,⁴ sentenced in 2017 to three years in a low-security prison colony, states:

'During the preliminary investigation and the trial, Shakhbazov consistently maintained that he had a negative attitude towards the events recorded in the video he posted, but this was not taken into account by the expert assessing the material. The lawyer for the defence believes that the title the convicted person gave to the video – "How is it possible not for people with weak nerves" – asserts that "It's not right," in other words, [bears witness] to the negative attitude of Shakhbazov to the video.'

We have insufficient data to assert that such a practice in cases involving charges under Article 205.2 of the Russian Criminal Code is systematic. Nonetheless, we are well acquainted with a similar approach in criminal cases of extremism and incitement of hatred, especially in administrative law cases concerning Nazi symbols. It may therefore be supposed that state bodies also act in a similar manner in these cases: they investigate the banned content in a formal manner without linking it to the world view of the defendant, other statements by the defendant, and sometimes also the defendant's commentaries on their publications.

Thematic analysis of prosecutions

An absolute majority of prosecutions based on Article 205.2 of the Russian Criminal Code, as can be seen from an analysis of the published rulings on the website of the Supreme Court and also from media publications, concerns statements related to Islam. Often these are statements supporting the Islamic State terrorist organisation, or a number of other organisations, designated as terrorist, or armed groups.

As we have already written above, while before 2016 charges under Article 205.2 for 'revolutionary' texts or calls to overthrow the authorities were rare, 'Yarovaya's Law' has made possible the systematic conversion of extremism into terrorism. Judging by current tendencies, this will happen more often.

There are also other, less frequent and less typical groups of people subject to prosecution. Among them may be those who support Ukraine and its right to conduct military action against Russian and pro-Russian

⁴ <https://vsrf.ru/lk/practice/cases/9562530#9562530>

combatants, and also Ukrainian political and civil society figures. In several cases, prosecutions have been brought against Russian nationalists: for example, in 2018 under Article 205.2 of the Russian Criminal Code two supporters of a 'Russian Republic of Rus' were convicted.

Finally, there are the highly specific criminal prosecutions of Boris Stomakhin and his supporters. Stomakhin, the author of numerous anti-imperial publications, aggressively criticises the Russian people for chauvinism and submissiveness to the authorities.

We shall describe below in more detail the main thematic groups of prosecutions.

Prosecution for support of Islamic terrorism

In view of the very large number of these cases and the information vacuum, which we mentioned above, it is not possible to analyse them or to draw up even an approximate general picture. We concede that some of these prosecutions have been brought on grounds of real propaganda of terrorism, but we do not know how many.

As a rule, unjust criminal prosecutions become more well-known, and they are often based on political motives. For instance, Magomednabi Magomedov, imam of the Vostochnaya [Eastern] mosque in Khasaviurt (Dagestan), was sentenced under Article 205.2, Section 1, and Article 282, Section 1, to four and a half years in a general-regime prison colony for preaching non-violent civic struggle. His speech dealt with the increasing repression of the Salafites.⁵ Magomedov spoke about the closing of mosques, surveillance of religious leaders, fabrication of criminal cases, murders and threats.

'Today we have gathered here to say: we are together, we do not want to commit any crime, we don't want to go against any particular system. We say: leave us in peace...It is not we who are the terrorists, as they describe it. The terrorists are those who wear masks, who kill people. Those who defend the law [as we do], we are not terrorists,' – from Magomedov's sermon.

Earlier imam Magomedov had taken part in a march against the closure of the Severnaya [Northern] mosque. Also, according to media reports, a couple of months before the criminal case against him was opened, he received threats from armed fighters and from law enforcement officers.

In previous Survey No. 2 we referred to the very large number of prosecutions of participants in the international Islamic organisation Hizb ut-Tahrir, found to be terrorist by the Supreme Court in 2003. There we've

⁵ Salafites represent a conservative current in Islam that calls on believers to orient their way of life and belief towards the practices of early Islamic communities.

explained why, in reality, Hizb ut-Tahrir is not a terrorist organisation. Nonetheless, the decision of the Supreme Court of the Russian Federation is used to charge people with terrorism, including for statements in support of terrorism if they contain expressions of a positive attitude towards this organisation.

Makhmud Velitov, imam of the Moscow mosque Yardyam, was sentenced to three years in a general-regime prison colony under Article 205.2, Section 1, of the Russian Criminal Code for talking in a sermon about the Caliphate and making a short speech at the funeral of Abdulla Gappaev, allegedly a member of Hizb ut-Tahrir, who was killed in September 2013 by unknown persons in Dagestan. The investigators deduced that since Hizb ut-Tahrir is a terrorist organisation, then Gappaev is a terrorist, and therefore anyone who makes a speech that includes good words about him is justifying terrorism. This logic is absurd: apart from the fact that Hizb ut-Tahrir is not engaged in terrorist activity, there was no court decision to the effect that Gappaev had participated in this organisation. Nor did Velitov speak either about Hizb ut-Tahrir or about any actions by Gappaev that could be considered terrorist, or even blameworthy.

In March 2018 in Simferopol Nariman Memedeminov, a blogger and activist of the Crimean Solidarity organisation, was arrested by law enforcement agents. He was charged with an offence under Article 205.2, Section 2, of the Russian Criminal Code. The basis for the charges was a series of videos published by Memedeminov during 2013-2014 on YouTube. Two of them ('One ummah – one flag' and 'A rally instead of a conference') were dedicated to events held by Hizb ut-Tahrir in Simferopol in 2013 before the annexation of Crimea by the Russian authorities (on the territory of Ukraine the organisation is legal). In the first video, Memedeminov says that the recreation of the Caliphate is only possible in Islamic countries, but Muslims throughout the world are responsible for the struggle of ideas. In the second video, Memedeminov talks about how Hizb ut-Tahrir was not able to hold an international conference. In the third video ('Support to Muslims of Central Africa – Crimea') Memedeminov, under the flag that the Russian law enforcement agencies identify as the flag of Hizb ut-Tahrir, reads an appeal in English in defence of the Muslims of Central Africa. Not in one of the videos is there incitement or abetting of violence. As of writing, Memedeminov has been held on remand for more than 10 months.

Criminal prosecutions for 'justification of Islamic terrorism' by non-Muslims fall into a special category of their own. The jailing of the popular LiveJournal blogger from Tiumen, Aleksei Kungurov, is an example of the use of the popular theme of 'combating IS' to put pressure on a writer and opinion-maker who is not loyal to the regime. It can be stated with certainty that Kungurov, whose world view is a complex mixture of political views (including socialism and Russian nationalism), has nothing to do with propaganda of radical Islam. Nonetheless, in 2016 he was sentenced to two years in a low-security prison colony for an offence under Article 205.2,

Section 1, for the text, 'Who are Putin's hawks in fact bombing?' In the criticism of Russia's military campaign in Syria the investigators identified 'justification of the activity of IS.' Once in a prison colony, Kungurov was transferred to a stricter 'general regime' colony. He was released in June 2018 and has since left Russia because, he says, law enforcement agencies threatened him with new prosecutions.

In 2017 the anarchist Ilya Romanov, having served a sentence in Prison Colony No. 22 in Mordovia, was prosecuted for an offence under Article 205.2, Section 2, of the Russian Criminal Code. In October 2018, Volga District Military Court added a further three years in a strict-regime prison colony to his previous sentence. According to current information, the criminal prosecution was the result of a provocation. A person in the next bed in the prison hospital offered Romanov a tablet to connect with the Internet, and on Facebook there was an account that was used by Romanov as well as other people. On 3 May 2017, when he logged in to the social network as he often did, police investigators burst in to the ward through the window and confiscated the tablet. It turned out that on the page of the account a video, entitled 'Invitation to Jihad,' had been published in which Chechen women called on people to join a 'struggle against the kafirs' (non-believers). Romanov has always been a convinced atheist. However, a witness for the prosecution (the person who gave him the tablet to use) stated in court that the defendant called the struggle against the current regime 'jihad.' Romanov believes his prosecution is retribution for his numerous complaints against prison officers in the prison colony and for publicising instances of torture in the institution.

Prosecution for 'revolutionary' texts

Criminal cases under Article 205.2 are brought on the basis of calls to change the government, not linked to specific incidents, and of publications timed to coincide with protests or important news events. The individuals prosecuted show a very diverse range of political views. Below we present a number of relevant examples.

In the spring of 2017 a detective epic began that appeared excessive in terms of the reasons for it. Law enforcement agencies opened an investigation into the publication on the SysAdmins.ru forum of texts urging readers to take part in a protest, and a clip showing violent clashes between groups of young people and the police.

*'On 2 April on Red Square. F*ck the need for permission. Bring what you can - rags, bottles, petrol, turpentine, expanding foam, acetone,' – a quotation from one of the texts.*

The post was made on 29 March from an account with the pseudonym 'Airat Bashirov' [Айрат Баширов]. On 2 April there were plans to hold a protest to follow on from the anti-corruption demonstration that took place

on 26 March. However, in fact the 'second attempt' turned out to be relatively poorly attended. There were no disorders on the day (nor were there on 26 March for that matter).

The first person in this case to be arrested was Moscow mathematics teacher Dmitry Bogatov, charged with an offence under Article 30, Section 1, and Article 212, Section 1 (preparation of the organisation of riots) and Article 205.2, Section 2. Bogatov had no connection with this text. He became a defendant because he had registered at his IP-address an exit node of the Tor network⁶. Nonetheless, he spent nearly four months in pre-trial detention and seven months under house arrest. Only in May 2018 were the charges against him dropped.

Two days later, on charges of having published the same text, Vladislav Kuleshov was arrested. It subsequently became known that he had pleaded guilty. Nonetheless, there is good reason to doubt his involvement in the case. On the SysAdmins.ru forum, as Mediazona reported back in 2017, there were five accounts with the name 'Airat Bashirov.' Kuleshov controlled one of them, but the publication at issue was made from another account.⁷ On 18 May 2018 he was remanded in custody. It is known that on 28 June his period on remand was extended by a further three months. There has been no further information about the fate of Kuleshov either in the media or on the court websites.

In November 2017 in Kaliningrad region, for an offence under Article 205.2, Section 2, of the Russian Criminal Code, Aleksandr Petrovsky was remanded in custody as part of a campaign by the authorities against supporters of the group 'Artpodgotovka'.⁸ The reason for his detention was the posting on 30-31 October 2017 of 44 voice recordings in free access on the Telegram-chat 'Revolution Kaliningrad'. The contents of the messages is not known to us. However, it has been reported that the texts contained the phrases '*move forward to the barricades*' and '*Molotov cocktail*.' Petrovsky pleaded guilty. In May 2018, following a plea bargain, Moscow District Military Court sentenced him to two years in a general regime prison colony.

In February 2018, in annexed Crimea, the anarchist Evgeny Karakashev, who is critical of the Russian authorities, was remanded in

⁶ TOR (an abbreviation of The Onion Router) is a system of proxy servers permitting the establishment of an anonymous connection protected from external monitoring. Such a system makes it possible for users to link up to websites through IP-addresses that are not their own. In particular, Bogatov's IP-address was used by another person.

⁷ https://zona.media/article/2017/05/05/waltz_with_bashirov

⁸ **Artpodgotovka** is the name of the YouTube channel run by the blogger and opposition politician Vyacheslav Maltsev. In his videos, Maltsev asserted that on 5 November 2017 there would be a revolution in Russia. In July 2017 Maltsev left Russia out of concern he might be prosecuted, and subsequently he received political asylum in France. Nonetheless, he continued to urge his supporters to take part in protests on 5 November. On the appointed day several thousand people took part in protests in various cities. Many of them were probably passive observers, however there were also people who were inspired by the hope of change of government. At the same time, nowhere were there any riots or other acts of violence by those taking part in the 'revolution.' As a result, the 'Maltsev revolution' became a pretext for a campaign of repression that has included terrorism-related prosecutions.

custody. He has been charged under Article 205.2, Section 2, of the Russian Criminal Code. Earlier, charges brought under Article 282, Section 1, had been dropped in connection with the partial decriminalisation of the article. While the first hearing on the merits of the case has been scheduled for 8 February, there is insufficient information publicly available about the specific content of the charges at this time. It is known that Karakashev has been charged in connection with a video, published in 2014 on VKontakte, and also a text, that begins with the words *'Use the grenade against'* and ends with the words *'into the windows of the government building. Wish you success'*.

On 31 October 2018 in Arkhangelsk a 17-year-old student, the anarchist Mikhail Zhlobitsky, blew himself up in the building of the regional FSB headquarters. Zhlobitsky was killed and three FSB officers were injured. Before the explosion, Zhlobitsky had published a post on Telegram, where he explained his motivation: *'Since the FSB is all f*cked up, fabricates criminal cases and tortures people, I decided to go ahead and do this.'* Several days later, on 4 November in Kaliningrad, on charges under Article 205.2, Section 2, of the Russian Criminal Code, Vyacheslav Lukichyov was detained for reposting Zhlobitsky's words on the Prometheus Telegram-channel and for calling Zhlobitsky a *'true hero'*. The investigation into the case was completed in January 2019. Lukichyov has been held on remand since he was first detained.

In absentia prosecution of Ukrainian politicians and civil society figures

Not many criminal prosecutions of supporters of Ukraine under Article 205.2 of the Russian Criminal Code are known that ended with a prison term in Russia. One such, for example, is the case of Kirill Silivonchik, a Belarus citizen, who prior to his arrest worked in Nizhny Novgorod. Silivonchik reposted publications urging people to take part in a partisan war against *'moskali'* [a pejorative term for Russians used in Ukraine and Belarus – *trans.*]. Silivonchik fully accepted his guilt under Article 205.2, Section 1, and in 2015 he was sentenced to two years in a low-security prison colony. After serving his term he was deported to Belarus.

In addition, a number of Ukrainian politicians and civil society figures have been charged in absentia with incitement to terrorism. Since the individuals in question are beyond the reach of the Russian authorities, their prosecution has either a declarative character or is used for other repressive purposes.

For example, on 1 March 2014, the day the Council of the Federation of Russia permitted forces to be sent to Ukrainian territory, on the VKontakte page of the Right Sector group there was published a so-called appeal by Dmitry Yarosh, then head of Right Sector, to the leader of a Chechen armed group, Doku Umarov. The text in part stated: *'Many Ukrainians with weapons in their hands supported the liberation struggle of the Chechens*

and other peoples of the Caucasus. Now the time has come to support Ukraine! As the leader of Right Sector, I call on you to actively take up the struggle.' That same day the press service of Right Sector issued a statement that the organisation had nothing to do with the appeal, and the page had been hacked by unknown persons. Nonetheless, Yarosh was charged with an offence under Article 280, Section 2, and Article 205.2, Section 2, of the Russian Criminal Code, and the charges remain to this day. Moreover, the publication, removed soon after its appearance, became one of the reasons for the ban on Right Sector in Russia.

In October 2015 a case under Article 205.2, Section 2, was brought against a deputy of the Ukrainian Verkhovna Rada [*parliament – trans.*], Anton Gerashchenko, for a post on Facebook⁹ about the military action of the Russian army in Syria. Gerashchenko had cited a letter from a Facebook 'friend' who had mocked boastful Russian TV propaganda showing a close-up of the faces of military service personnel, and suggested that 'Islamic State and their brothers in Russia' could find these individuals and wreak revenge on them.

In Moscow in November 2017, for an alleged offence under Article 205.2, Section 2, of the Russian Criminal Code, a warrant for the arrest of Amina Okueva¹⁰, was issued not only in absentia, but also posthumously. She had been killed several weeks earlier near Kiev. The contents of the criminal case against her are not known.

Prosecution of Boris Stomakhin and his supporters

Boris Stomakhin, the author of many anti-imperial publications aggressively criticising the Russian people for chauvinism and submission to the authorities, was twice convicted for justification of terrorism (in total he has been convicted on three occasions for expressing his opinions). Stomakhin's writings are quite original in nature and his convictions are based on texts that differ in nature. They therefore merit separate description.

In 2014 Stomakhin was convicted in connection with a number of his publications for offences under Articles 205.2, 280 and 282 of the Russian Criminal Code. One of the charges under Article 30, Section 3, and Article 205.2, Section 1, (attempt to publicly justify terrorism) was based on the

⁹ <https://www.facebook.com/anton.qerashchenko.7/posts/928575253895989>

¹⁰ **Amina Okueva** (in her childhood known as Natalya Nikiforova) was born in Odessa. Her father was an ethnic Chechen. She took part in the second Chechen war. Subsequently, she returned to Ukraine where she studied medicine. In 2009 she married Adam Osmaev who, in 2012, was arrested by the Ukrainian authorities on suspicion of preparing to assassinate Vladimir Putin. Osmaev was released in 2014. Okueva gave medical assistance to participants in the EuroMaidan protests, and later served as a paramedic with the Kiev-2 volunteer battalion and was press secretary of the Dzhokhar Dudaev International Peacekeeping Battalion. On 1 June 2017 she foiled an attempt on her husband's life, wounding the would-be killer with a pistol shot. Investigators were thus able to secure the attacker alive and they established that he was Artur Kurkamaev, who had served in Ramzan Kadyrov's bodyguard unit. On 30 October, Okueva was killed when the car she was traveling with Osmaev was shot at. Osmaev was injured.

fact that in his home there was found a pile of copies of the samizdat newspaper *Radikalnaya politika* that contained a photo of a banner with the text 'The People's Will, your heroic deeds are not forgotten! 1881 – 2011.' This is a reference to the 1881 murder of the Russian tsar Aleksandr II by members of the People's Will organisation. Since the People's Will described their activities as 'revolutionary terror,' then statements in support of them were designated by the investigators as 'justification of terrorism' despite the fact that 130 years had passed since the murder took place. The arbitrary nature of the application of the law becomes clear if one considers that in several Russian cities there continue to be streets named in Soviet times after Sofia Perovskaya, and in Tver there is still a Zhelyabova Street (both Perovskaya and Zhelyabova were leaders of the People's Will who took part in the killing of the tsar), while People's Will Street still graces the centre of Ekaterinburg.

Other charges against Stomakhin for incitement of terrorism concerned texts in which he condemned the wars in Chechnya as crimes by Russia, supported the armed struggle for the independence of Chechnya, and also expressed support for acts of terrorism against the civilian population (Stomakhin believes that the population of Russia as a whole bears responsibility for the wars and war crimes committed by the Russian military and law enforcement in Chechnya). In addition, Stomakhin was prosecuted for writings in which he urged those participating in peaceful democratic protests in Russia to use force against government officials.

In 2014 Stomakhin was sentenced to six and a half years in a strict-regime prison colony; in 2015 he was sentenced to an additional six months in a prison colony on new charges of justifying Chechen terrorism.

Sergei Kryukov in 2014-2015 spent a year on remand in Ulyanovsk for publishing a blog entitled, 'Russia – A Prison of Peoples.' After he was released on bail under travel restrictions, he fled to Ukraine where he was given political asylum. He has been charged with offences under Article 205.2, Section 1, Article 280, Section 1, and Article 282, Section 1, of the Russian Criminal Code. Among the texts for which Kryukov was charged are reposts of articles by Stomakhin and articles by Liudmila Ivanova (a pseudonym of a resident in Irkutsk region named Svetlana Sinkova). The focus of Kryukov's blog was the same as that of Stomakhin: moral support for the Chechen national-liberation struggle, including for related acts of terrorism, and hatred of Russian colonialism. Sinkova was also put under a criminal investigation; in 2016 she fled to Finland where she was given political asylum.

In February 2018, at the request of the Russian authorities, Interpol included Sergei Kryukov on a list of wanted persons. However, in May Interpol revoked this decision.

In May 2018 a criminal case for offences under Article 205.2, Section 1, of the Russian Criminal Code was opened against Omsk journalist and

opposition activist Viktor Korb. The basis for the investigation was Korb's publication of Stomakhin's final address to the court at his trial in 2015. Stomakhin's speech largely consisted of a repetition of statements for which he had been convicted, including statements approving explosions by suicide bombers at the end of 2013 in Volgograd. In his speech, Stomakhin had called the acts of terrorism a '*modest retribution*' for the bombing of Grozny by federal forces in 1999. However, Korb had in no way expressed solidarity with the content of Stomakhin's speech. He consistently publicized the prosecution of Stomakhin, wrote commentaries on it from the point of view of human rights, and published materials from the open trial. Korb is currently on bail under travel restrictions.

Summary

The current use of Article 205.2 of the Russian Criminal Code on the whole demonstrates extremely dangerous repressive tendencies. Prosecutions for statements in support of terrorism in Russia are becoming more numerous each year. At present there are more than 100 convictions of this kind handed down annually. Criminal law is being made more severe (the minimum prison term for supporting terrorism on the Internet is five years), as well as law enforcement practice (in the great majority of cases the defendants are given a term in prison).

In many instances, these criminal prosecutions demonstrate an excessively formal approach and there is a noticeable disproportionality between the penalty and the real danger. Indeed, on occasion a prosecution can be retribution for political views or political or civil-society activity.

Gradually, and with increasing frequency, prosecutions for statements in support of terrorism are taking the place of prosecutions for extremism. At present, Article 205.2 is often used not only to prosecute statements in support of terrorism, but also in support of revolution, and civil unrest, despite the fact that Article 280 already exists to deal with statements against the constitutional order.