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Anti-Extremism in Virtual Russia, 2014–2015

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This report¹ provides a review of the enforcement of anti-extremist legislation on the Russian segment of the Internet in 2014 and 2015.² The results of monitoring, underlying the report, are based on data from open sources and on statements by citizens involved in these cases.

Television continues to be the dominant source of political information in Russia, but the number of people, who get their news from the Internet, is growing as well. Most importantly, the Internet now provides the primary space for independent public debate and oppositional political propaganda, including, of course, all sorts of propaganda by radical groups. Unavoidably, the authorities become concerned. Their concerns inevitably translate into sanctions in this area. Various legal mechanisms can be used for this purpose, but the existing Russian anti-extremist legislation, which is excessively broad and lacks clarity, provides a perfect instrument for imposing sanctions. The law enforcement targets can vary depending on the political situation and public sentiments.

The report analyzes criminal and administrative prosecution practices directed at online “extremism” as well as the Roskomnadzor sanctions against online media and Internet providers. The current report is a shortened version of the original report in Russian,³ which we recommend for further information.

Criminal Prosecution

Statistics and Geography

Criminal prosecution is the most powerful tool in the state’s fight against the “extremist statements” on the Internet. We designate as “extremist” the statements, for which someone was convicted under the criminal code articles relating to the anti-extremist legislation, or which precipitated administrative measures of the same character. At this point, we don’t intend to provide an evaluation of the statements from the political science perspective or a legal assessment of the enforcement actions (both will be discussed below).

We know that, in 2015, 194 out of 232 convictions for public statements qualified as extremist (or approximately 84%) were issued for the statements made online. In 2014, such sentences constituted at least 138 of the 165 total verdicts,⁴ that is, the same 84%. We say “approximately,” because we cannot claim to have information on all the sentences, but we can

¹ The Report was prepared in June 2016 as part of the project, the implementation of which uses state support funds allocated as a grant in accordance with the Presidential Decree of April 1, 2015 No. 79-rp and on the basis of competition held by the Civil Dignity Movement (<http://civildignity.ru>).

² We have previously released two reports on the subject:

N. Yudina, *Virtual Anti-Extremism: On Peculiarities of Enforcing the Anti-Extremist Legislation on the Internet (2007–2011)* // SOVA Center. 2012. 17 September (<http://www.sova-center.ru/racism-xenophobia/publications/2012/09/d25322/>).

Shortened English translation: Yudina Natalia, *Virtual Anti-Extremism: Peculiarities of Enforcing the Anti-Extremist Law on the Internet in Russia (2007–2011)* // SOVA Center. 2012. October 31 (<http://www.sova-center.ru/en/xenophobia/reports-analyses/2012/10/d25679/>).

N. Yudina: *Fight against Extremism in a Virtual Realm, 2012–2013* // East European History and Culture Forum. October 2015 (<http://www1.ku-eichstaett.de/ZIMOS/forum/docs/forumruss23/16Yudina.pdf>).

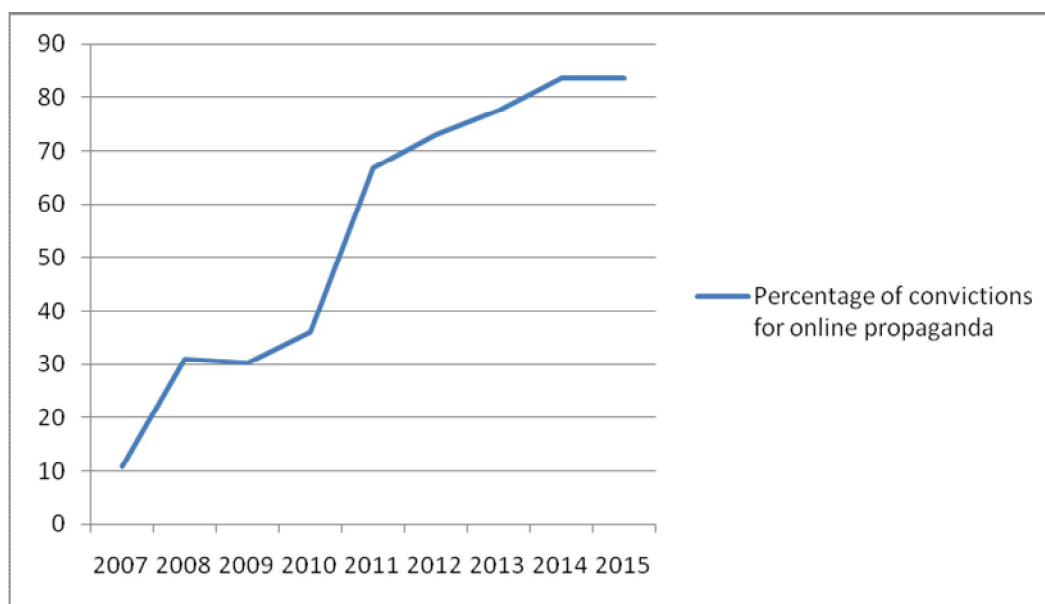
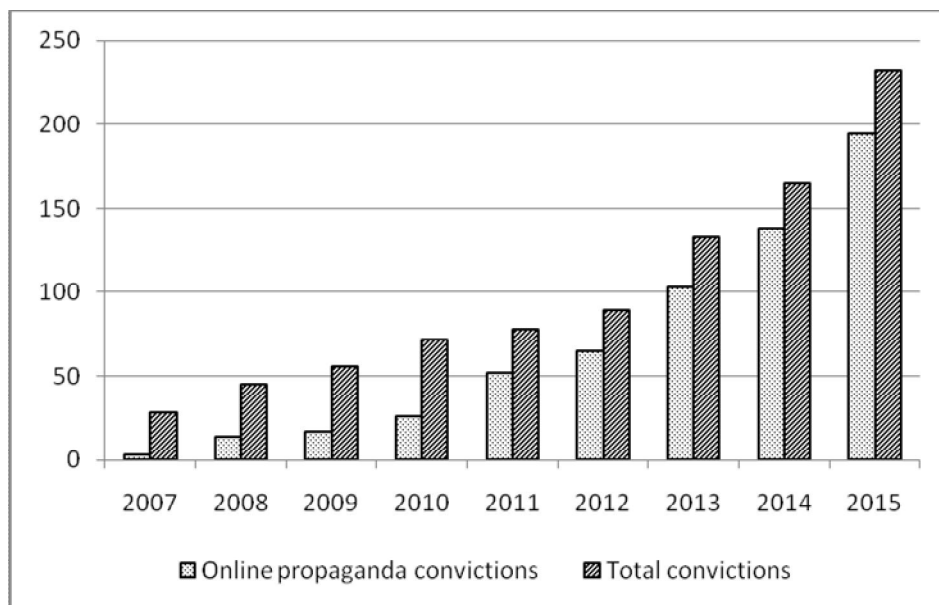
³ Natalia Yudina, *Anti-Extremism in Virtual Russia, 2014–2015* // SOVA Center. 2016. 29 June (<http://www.sova-center.ru/misuse/publications/2016/06/d34913/>).

⁴ Here and below, we provide the data without breaking it down into “appropriate” and “inappropriate” convictions. See annual reports of the SOVA Center for more detailed data specifically on appropriate vs. inappropriate convictions: <http://www.sova-center.ru/en/xenophobia/reports-analyses/> and <http://www.sova-center.ru/en/misuse/reports-analyses/>, including the most recent ones: Alperovich Vera, Yudina Natalia. *The Ultra-Right Movement under Pressure: Xenophobia and Radical Nationalism in Russia, and Efforts to Counteract Them in 2015* // SOVA Center. 2016. April 8 (<http://www.sova-center.ru/en/xenophobia/reports-analyses/2016/04/d34247/>); Kravchenko Maria, Verkhovsky Alexander. *Inappropriate Enforcement of Anti-Extremist Legislation in Russia in 2015* // SOVA Center. 2016. June 3 (<http://www.sova-center.ru/en/misuse/reports-analyses/2016/06/d34694/>).

assume that the court decisions, not known to us, included approximately the same ratio of online statements as the known ones.

Almost all of them pertained to well-known right-wing radicals. Let’s review our data for the preceding years: we recorded 103 convictions for “the Internet” (out of the total of 133 propaganda convictions) in 2013, 65 out of 89 in 2012, 52 out of 78 in 2011, 26 out of 72 in 2010, 17 of 56 in 2009, – 14 out of 45 in 2008, and 3 out of 28 in 2007.

The charts below demonstrate the dynamics of this process from 2007 to 2015:



Thus, it is evident that the total number of convictions for “extremist statements” is growing with acceleration, and it is particularly true for Internet-related convictions. We have repeatedly pointed out the main cause of this phenomenon – the obvious change of direction by law enforcement officials toward prosecuting offenders who are relatively easy to find and to build a case against, in order to improve their “anti-extremism” reporting statistics. The investigative mechanism for propaganda cases (including online propaganda) was already fairly well established a few years ago, and investigation of such cases has become simple and routine. However, the growing number of Internet users as well as the increased importance of the Internet in Russia as a source of information and means of communication (and of political advocacy, of course) also have to be taken into account

Criminal prosecutions for online statements are, for the most part, based on Article 282 (“inciting ethnic hatred or hostility, and humiliation of human dignity”). Article 280 of the Criminal Code (“public calls for extremist activity”) is used less frequently. In 2014-2015, prosecutors started to utilize Article 212 Part 3 (“inciting mass disorder”) and Article 205² (“public calls for terrorist activity or public justification of terrorism”) quite actively. They also started to apply the new Article 280¹ (“public incitement to violation of territorial integrity of the Russian Federation”) in relation to various pro-Ukrainian statements on the Internet.⁵

The Targets of Hate

Since incitement of hatred is the most frequent charges in relation to Internet materials, and, even if cases don’t invoke Article 282, the offending statements still usually reference a certain “image of the enemy,” it is worthwhile to examine the groups, targeted as enemies by the convicted Internet users.

It should be mentioned that, in many cases, a target can’t be deduced from the available information. The official reports of convictions – often our only source – usually provide limited descriptions, such as: “...posted online files with extremist content,” “...statements of nationalist nature” or “...materials aimed at inciting hatred and humiliation of national dignity of citizens.” Therefore, the classification below is, by necessity, incomplete and approximate.

Wherever possible, we identified the following groups as targets of hostility (an incriminating material could express hostility toward more than one group).

Targets of hate	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
By Ethnic Criteria										
Natives of the Caucasus	1	7	7	9	20	29	36	37	46	192
Jews	1	4	4	5	5	15	18	15	16	83
Natives of Central Asia	0	0	0	0	0	16	14	18	26	74
Undefined non-Slavs	0	0	3	2	3	10	14	13	17	62
Russian	0	0	0	3	1	1	7	5	13 ⁶	30
Dark-skinned	0	0	2	0	2	2	3	7	10	26
Romany	0	0	0	0	0	1	1	0	1	3
Arabs	0	0	0	0	0	0	1	0	1	2
Malaysians	0	0	0	0	0	0	1	0	1	2
Tatars	0	0	0	0	1	0	1	0	0	2
Ukrainians	0	0	0	0	0	0	0	0	2	2
Turks	0	0	0	0	0	0	0	0	1	1
Komi	0	0	0	0	1	0	0	0	0	1
Bashkirians	0	0	0	0	1	0	0	0	0	1
Yezidi Kurds	1	0	0	0	0	0	0	0	0	1
Americans	0	0	0	0	0	0	1	0	0	1
Mongolians	0	0	0	0	0	0	0	1	0	1
Chinese	0	0	0	0	0	0	0	1	0	1
By Political Criteria										
“Infidels” (calls for the armed Jihad)	0	0	0	0	4	4	2	15	16 ⁷	41
State officials	0	3	2	2	2	2	4	3	14	32

⁵ For further details see Kravchenko and Verkhovsky, *ibid*.

⁶ Including Russians, who fought on the side of self-proclaimed DNR and LNR. We also put into this category the statements related to “vatniks” and “Moskals” in the context of the Ukrainian events. In this case, we followed the logic of the verdicts.

⁷ Including publication of ISIS materials.

Anti-Fascists	0	0	0	0	0	3	3	1	3	10
By Religious Criteria										
Muslims	0	0	0	0	0	4	5	7	11	27
Christians	0	0	2	2	4	0	0	3	2	13
Followers of Judaism (as opposed to “Jews”)	0	0	0	0	0	1	0	4	3	8
Pagans	0	0	0	0	0	0	0	0	1	1
By Other Criteria										
“Pedophiles and Homosexuals”	0	0	0	0	0	0	0	2	3	5
Homeless	0	0	0	0	0	0	0	1	0	1
Drug Addicts	0	0	0	0	0	0	0	1	0	1
Unspecified	0	3	4	5	13	16	35	55	70	198

Unfortunately, we have no access to most of the materials, subject to criminal proceedings, and we have to trust the judgment of law enforcement officials and (or) experts they engaged.

The bulk of criminal prosecutions against the Internet propaganda relates to ethnic xenophobia, with radical Islamists taking the second place. According to our far-right online activity monitoring data, the rhetoric, directed against the natives of the Caucasus region, has dominated this Internet segment for many years, and the period 2014-2015 was no exception. To a lesser extent, the targets of their hostility included the “Jews,” the natives of Central Asia, unspecified “non-Slavs,” and the dark-skinned people. Other “ethnic” collective targets of hate have not been prominent.

New objects of hostility (the “Ukrainians” and the “Turks”) appeared in 2015, linked directly to the political events. The war in Ukraine also brought an increase in convictions for “anti-Russian” hate speech in 2015 (we should bear in mind that an investigation lasts for a long time, often for about a year, so most of these cases were initiated back in 2014). The fact that the above statistics shows low incidence of sentences for “anti-Ukrainian” xenophobic statements (in comparison with “anti-Russian” ones) simply indicates that the law enforcement has been paying less attention to it.

Targets of religion-based hatred are quite limited, and the percentage of criminal cases that involve hostile anti-Muslim and anti-Jewish rhetoric is low. In fact, among the right-wing radical youth ethnic hatred noticeably prevails over religious hatred. In the meantime, the rate of prosecutions for radical Islamic rhetoric has increased significantly throughout 2014-2015. The upsurge of such rhetoric on the internet and greater attention, paid to it, can be explained by the increasing interest – of the society, as well as the police – related to the events in Syria and Iraq.

As for hatred, based on belonging to a social group, the most frequently mentioned group was the “law enforcement officials,” which is, likely, a testimony to the political bias of these criminal cases. However, the Internet’s most radical segment undeniably includes a large number of anti-government statements that include incitement to violence.

The data, presented here, can also be used as a source of information regarding targets of hate speech on the Russian Internet in general. However, we must bear in mind that criminal cases do not constitute a fully adequate source for analyzing the characteristics of actual online hate speech; our statistics should rather be interpreted as information on the issues that attract police attention. Unfortunately, we have no additional data on this interesting topic.

Publishers

The statements are located on the following types of Internet resources:

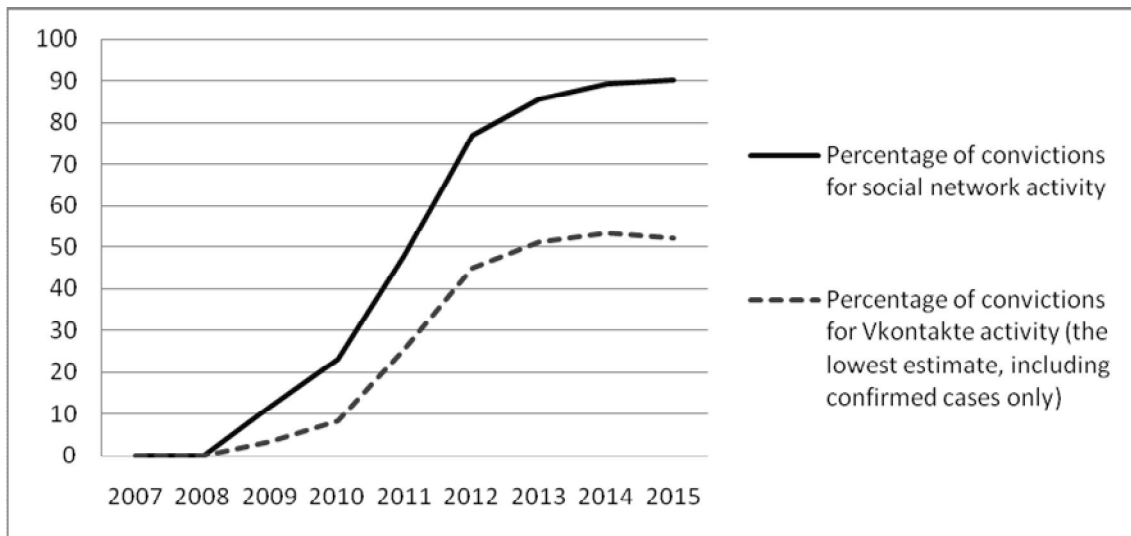
	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total	3	14	17	26	52	65	103	138	194
Websites	1	3	2	2	3	0	0	3	2
Social Networks (see the table below more details)	0	0	2	6	25	50	88	123	175
Blogs and Micro-Blogs	0	2 (LJ)	6 (LJ – 3)	1	1	0	1	1	3
Forum comments	1	4	1	2	5	5	2	4	0
Video Hosting ⁸	0	0	0	0	0	0	0	0	2
Local Network	0	1	0	1	4	0	3	0	0
Email	0	0	0	0	1	0	1	2	0
Unknown	1	5	6	13	11	10	8	5	12

Online propaganda offences were found on the following social networks:

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total:	0	0	2	6	25	50	88	123	175
Vkontakte (www.vk.com)	0	0	2	6	20	40	68	88	119
Facebook	0	0	0	0	0	0	0	1	1
Odnoklassniki	0	0	0	0	1	0	1	6	3
V Krugu Druzei (vkrugudruzei.ru/)	0	0	0	0	0	0	1	0	0
Moi Mir (https://my.mail.ru/)	0	0	0	0	0	1	1	0	0
Not Indicated	0	0	0	0	4	9	17	28	52

As evident from the data, since 2010, prosecution of real or alleged extremists is primary linked to their social network activity. The number of convicted social network users has almost doubled since 2013.

Vkontakte, the largest Russian social network, definitely tops this list, as clearly illustrated by the graph below. The graph shows the conviction rate for statements made on social networks and, specifically, percentage of convictions for VKontakte posts (using the lowest estimate) in relation to the total number of convictions for various statements.



⁸ Excludes the cases, in which, for example, a VKontakte user posts the link to a YouTube video. These cases are counted in the “Social networks” category.

Vkontakte originally positioned itself as a resource for the youth and is, indeed, very popular among the young people, including radicals. In addition, users of this network are easy to locate. Subscribers have to enter their contact information and phone numbers during their registration, and the VKontakte administration provides this information to law enforcement officials upon any request, unlike the managers of foreign social networks (Facebook or Twitter, for example), who will certainly consider a request from the police on the merits, compare it with their own regulations and may refuse to provide information.

Considering the table and the graph above, it should be, of course, taken into account that, for example, we cannot identify a social network for 30% of social networks-related sentences in 2015. From what we know, it was almost always VKontakte. As for other social networks, in 2014 and 2015, the law enforcement paid attention only to Odnoklassniki and Facebook.

The inability of the police and courts to consider the extent of social danger of the act – a key criterion to be taken into account in criminal proceedings – constitutes an important problem. This is especially significant when discussing online statements. If we believe that a public statement poses danger to the public, the extent of danger depends not only on the content of this statement, but is also directly proportional to the size of its audience, not potential (potentially, everything not hidden behind a password, is accessible to the entire human race), but actual. It is obvious that the real audience of the convicted Internet users varies widely in size. Unfortunately, this criterion is practically never taken into account in criminal cases and sentencing. We have repeatedly raised this issue in our reports, but, over the past five years, the law enforcement has shown no progress in this regard. Only a few court cases report the number of views and the degree of accessibility of the incriminated material, and, even then, the figures often indicate a relatively low level of public danger.

Traditionally, much of the enforcement against the “extremist statements” targets little-known ordinary VKontakte users, some of whom are, definitely, low-level right-wing activists. However, a number of significant figures in the movement were also convicted in the years 2014 and 2015, including St. Petersburg right-wing activist Dmitri “Besheny” Yevtushenko (the Slavic Strength (*Slavianskaya Sila*) and the Russian Sweeps (*Russkie zachistki*)), leader of the neo-Nazi “Restrukt!” movement Maksim “Tesak” Martsinkevich, Oleg Gonchar from Khakassia (head of the Press Service of the South-Siberian Cossack District organization), Nikolay Babushkin from Norilsk (coordinator of the National Union of Russia and administrator of the VKontakte group “Russian March-2013”), leader of the St. Petersburg Russian Sweeps Nikolai Bondarik, head of the group “The Right Wing for European Development” Vitaly Shishkin from Moscow, and ex-leader of the St. Petersburg Russian Runs Maksim Kalinichenko. Undoubtedly, their audience is much larger than that of the majority of low-level activists, convicted over these two years, most of whom didn’t even “create” their incriminating material (a video or an article), but merely shared it. (For example, users simply post the links to videos on their social network accounts; the items thus become part of their account content, but, in reality, exist outside of it.)

Genres

The genre breakdown for the online materials, subject to criminal charges in 2007-2015, was as follows:

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Audio- and video files (movies, videos)	1	3	5	10	24	46	59	60	106
Drawings or photographs	1	1	2	3	2	13	22	33	56
Articles or other	0	7	9	11	19	12	14	30	40

complete texts									
Statements, comments, forum posts	1	4	1	3	10	11	12	27	13
Creating social network groups	1	0	0	1	0	2	0	2	8
Unspecified	0	0	0	1	2	2	7	11	18

As you can see, since 2011, the percentage of convictions for multimedia content (video, audio, pictures and photos) has grown very high. The reason is obvious – such materials are much more immediate and easier to interpret than text. Furthermore, the number of online videos, “demotivators,” keeps growing, and linking to them (for example, to YouTube or RuTube) is very technologically simple. Notably, often not the videos per se, but only their republication is deemed criminal. Offenders, convicted for distributing videos on social networks were often neither authors nor even the first publishers of the offending item. Of course, if our goal is to fight against videos on social networks, then detecting their authors and the violence perpetrators (in case of violent scenes) would be much more productive than punishing random users for sharing – that is, pursuing the targets that failed to hide well.

The same can be said about published texts – in most cases, ordinary users, apparently chosen at random, are held criminally liable. As we have already noted, the enforcement trends in this area has shifted, and, in the years 2014 and 2015, a number of known far-right leaders also attracted attention of law enforcement agencies. However, even in some of these cases, the evidence base and prosecutorial choices of incriminated materials were questionable. It seems that the principle of “use the first thing that catches your eye” was applied here as well.

For example, in August 2014, a court in Moscow found Maksim “Tesak” Martsinkevich, a well-known neo-Nazi and the leader of the Restrukt! movement, guilty of posting three videos “Throw the Chinks out! The Election Campaign!,” “Tesak on the *Stalingrad* movie and the Biryulyovo situation” and “Tesak on the movie *Okolofutbola*”). We assume that the content of these videos contains offensive materials. Tesak’s videos enjoy very high degree of popularity, but it is unclear why specifically these (not the most indicative) materials were chosen from among numerous videos posted by the Restrukt! leader. For example, Martsinkevich also uploaded videos with scenes of brutal abuse under homophobic slogans. We believe that materials for criminal cases against people, who are well-known in their milieu, should be chosen with special care in order to clearly define the boundary of what is or isn’t appropriate for publishing.

Comments on social networks, blogs and forums could probably be regarded as “original text” rather than re-publishing but, in our opinion, individual replicas mostly do not merit prosecution – at the very least, because this genre does not imply special attention to an isolated comment.

On the other hand, creating social network groups for coordination of violence (we know of several such groups on the extreme right) is truly very dangerous. Unfortunately, the practice of persecution for administering such groups on the Internet is not developing very intensively. The number of cases that feature social network groups increased markedly in 2014-2015, although, of course, not all of these groups were associated with coordinating violence.

Penalties

Penalties for online statements are usually not too severe by Russian standards:

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total No. of Convicted Offenders	10	14	17	30	52	65	103	145	216
Including:									

Loss of Liberty	8	1	0	3	5	1	3	18	43
Fines	1	4	1	4	11	16	20	29	35
Mandatory Labor	0	0	5	5	9	21	33	45	61
Correctional labor	0	4	4	2	2	14	29	33	26
Suspended Loss of Liberty	1	5	6	15	24	9	5	11	40
Suspended Correctional labor	0	0	0	0	0	3	4	3	4
Restraint of Liberty	0	0	0	0	1	0	0	0	1
Educational Measures	0	0	0	0	0	1	0	0	2
Mandatory Treatment	0	0	0	1	0	0	3	3	3
Case Closed due to Repentance	0	0	0	0	0	0	0	1	0
Case closed due to statute of limitations	0	0	0	0	0	0	4	2	1
Unknown	0	0	1	0	0	0	2	0	0

Not only the absolute number of cases related to “extremist statements,” but also the percentage of people sentenced to actual incarceration increased significantly in 2015. Of course, some of these sentences were issued under aggregation of charges that included other articles (racist violence, vandalism, possession of weapons, theft, etc.). A number of offenders went to prison due to the existing suspended sentences or because they were already serving a prison term (in both cases, a prison sentence is almost inevitable). Some were convicted of “extremist statements” repeatedly, which greatly increases the risk of imprisonment. Five people received repeated convictions in 2015: already mentioned Maksim Martsinkevich,⁹ editor of the *Radical Politics* bulletin Boris Stomakhin, ex-leader of the Russian Runns Maksim Kalinichenko, and members of Bashkir opposition Airat Dilmukhametov and Robert Zagreev. We view the last four of these prison sentences as questionable. Only one person – aforementioned Boris Stomakhin – was repeatedly convicted in 2014.

However, in addition to the cases mentioned above, we know of a number of sentences that appear unduly harsh. At least 16 people, whose cases didn’t involve any of the above circumstances, were sentenced to prison terms for “words only” in 2015, and we believe that, in many cases, such a punishment was excessive. Convicting 16 people in one year to incarceration represent an unprecedented increase in this kind of punishments throughout all the years of our observations. We recorded only three such excessively harsh sentences in 2014. In 2012 and 2013, we recorded only one such case per year; 4 sentences to 6 people were issued in 2011.

Among the 2015 sentences, we view two verdicts – to left-wing activist Darya Polyudova in Krasnodar and to Tatar nationalist Rafis Kashapov in Naberezhnye Chelny – as clearly inappropriate.¹⁰

The majority of the convicted offenders faced charges for the statements against the government and personally the President of the Russian Federation, against the Russian armed intervention in the affairs of Ukraine, as well as for incitement to armed jihad. At least five were convicted for general incitement to xenophobic violence. To the best of our understanding, incitement to violence appeared in the verdicts of at least nine people (there were no such incitement in the cases of Polyudova and Kashapov, and we have no information regarding the remaining five).

⁹ We view this verdict as appropriate. Martsinkevich was charged with real systematic incitement to violence, addressed to a large and aggressive audience.

¹⁰ More on their cases see in: Kravchenko and Verkhovsky, Ibid.

All these sentences (except for the two mentioned above) don't seem altogether inappropriate,¹¹ but, for the most part, punishment by incarceration seems excessive. This is a worrisome sign, since even legitimate verdicts are often violate the principle of proportionality of punishment, and the balance, which must be maintained in restrictions on freedom of speech.

The proportion of suspended sentences in 2015 rose as well. The sentence, even a suspended one, is a punishment that inflicts significant damage to the reputation and potential career; being included on the Rosfinmonitoring Registry¹² for an extended period of time creates significant problems as well. In case of a repeated offense, the unserved time immediately leads to a more severe punishment.

However, we believe that real punishments, not connected with incarceration of liberty – mandatory or corrective labor or a fine – are more appropriate. Most of the convicted offenders in the past two years were sentenced to these penalties.

The fines ranged from 6 to 250 thousand rubles, most frequently 100 to 150 thousand rubles.

The society has long debated whether criminal prosecution is appropriate for “online speech.” The anti-extremist legislation is very problematic in general, and even more so in the area of combating hate speech. However, many of its provisions are quite common in modern European law. The law should apply equally to “online” and “offline.” So the answer regarding the possibility of criminal prosecution is largely positive. In practice, however, the use of anti-extremist legislation in the whole series of cases has led to its abuse. A crucial issue, particularly for the Internet – the problem of boundaries between undesirable, but acceptable, and criminally offensive – remains unresolved. Above everything else, it relates to the “extent of publicity” issue, discussed above.

When evaluating the “appropriateness” of sentences, we only discuss it in the first approximation, focusing on the cases where courts clearly ignored the literal meaning of the current legislation. We believe that at least nine people received such inappropriate convictions for online publications in 2015.

First of all, this number includes four convictions under Article 282. In addition to the above-mentioned Rafis Kashapov, these are the sentences to Elvira Sultanakhmetova from Pervouralsk for appeals to Muslims not to celebrate non-Islamic holidays, to Barnaul activist Anton Podchasov for sharing the text known as “posting of Russophobia,” which called for discrimination of Russians in Ukraine, and to schoolteacher Aleksandr Byvshev from Khromy for his poem “To Ukrainian Patriots,” which encouraged the Ukrainians to meet the “Moskal gang” with armed resistance.

Next, five persons were convicted under Article 280 of the Criminal Code for online publications, all related to Ukraine in one way or another. Dmitry Semenov from Cheboksary was punished for sharing a cartoon that accused the Russian authorities of conducting anti-Russian policies; Sergey Titarenko of Krasnodar – for sharing reports that Ukraine had allegedly offered a reward for the removal of the President of the Russian Federation; activist and blogger from Chelyabinsk Konstantin Zharinov – for sharing an appeal published by the Right Sector; LGBT activist from Khabarovsk Andrei Marchenko – for publishing on the social network the calls for violence against “Russian supporters of fascism and terrorism.” The case of the fifth offender, Anton Podchasov, was covered above.

Two clearly inappropriate convictions (in Kashapov and Polyudova cases) involved Article 280¹ of the Criminal Code.

We recorded only two clearly inappropriate sentences “for the Internet” in 2014, both under Article 282 – to Fauzia Bayramova, a prominent activist of the Tatar nationalist movement, for her articles about events in Ukraine and, the verdict, at least partially inappropriate, to a Vladivostok

¹¹ However, we don't have sufficient information to evaluate the appropriateness of verdicts in a number of cases. We also view some of them as partially inappropriate.

¹² More in: Kravchenko M., Inappropriate Enforcement of Anti-extremist Legislation in Russia in 2013 // SOVA Center. 2014. June 4 (<http://www.sova-center.ru/en/misuse/reports-analyses/2014/06/d29660/>).

resident for publishing on social networks, among other materials, the *Queens of Islam*, a harmless video for Muslim women.

Administrative Response

We distinguish three principal categories of administrative measures aimed at combating “extremist statements”; administrative prosecution of individual Internet users, measures aimed at Internet media outlets and measures targeting Internet hosting and service providers.

Prosecution under the Administrative Code Articles

In Internet-related cases, the law enforcement often uses the following articles of the Code of Administrative Offences (CAO): Article 20.3 (“Propaganda and public demonstration of Nazi paraphernalia or symbols”) and Article 20.29 (“The mass distribution of extremist materials, as well as their production or storage for the purpose of mass distribution”). The number of administrative verdicts under these articles increased in 2014-2015.

We know about 81 instances of penalties¹³ issued under Article 20.3 of the Administrative Code in internet-related cases in 2015. We recorded 42 such instances in 2014.

As with criminal prosecutions, we noted some cases of clearly improper enforcement; they are even more likely in the administrative cases. According to our estimates, 24 persons faced inappropriate sanctions under Article 20.3 of the Administrative Code in 2015. We noted three cases of inappropriate sanctions in 2014.

The percentage of Internet-related inappropriate penalties under Article 20.3 of the Administrative Code increased in 2015 (24 of 81), comprising 29% vs. 7% (3 of 42) in 2014.

Thus, the law enforcement, especially inappropriate law enforcement, in this area shows some very impressive dynamics.

Sanctions were imposed for demonstrating online images, depicting Nazi symbols and symbols of banned organizations, and for selling items with Nazi symbols in online stores. Most of the offenders were fined 1 to 3 thousand rubles, some were sentenced to administrative arrests of 5 to 15 days.

As we have repeatedly pointed out, the police and the court pay no attention to the context in which a symbol has been used. The sanctions “for the swastika” were imposed in a number of cases, when it constituted a part of a historical image, or used as a polemical technique against an opponent.¹⁴

Some cases are downright ridiculous. For example, in 2015, in Chelyabinsk, a local resident was fined for publishing on VKontakte a still frame from the movie *Iron Sky* – a sci-fi comedy about the war of earthlings against Nazis, who escaped to the Moon after the Second World War.

In 2015, 70 people faced responsibility under Article 20.29 of the Administrative Code (“Mass distribution of extremist materials, as well as their production or storage for the purpose of mass distribution”) for distribution of texts, videos, songs, etc. banned by the prior courts decisions. We know of 43 such cases in 2014.

As for inappropriate decisions related to the Internet, we recorded 14 such cases in 2015 vs. 9 in 2014. In total, we know about 47 inappropriate decisions under Article 20.29 of the Administrative Code made in 2015, compared to at least 46 in 2014; thus, inappropriate enforcement under this article has “shifted” toward the Internet.

¹³ Includes both physical and legal entities. For example, the internet store Dom Podarka was penalized for selling swastika-decorated souvenir daggers.

¹⁴ See also Kravchenko and Verkhovsky, *ibid*.

Under Article 20.29 of Administrative Code three people were sentenced by courts to of administrative arrests (5 to 7 days), one teenager was put on preventive monitoring, and the other offenders faced the fines ranging from 1 to 2 thousand rubles.

We also encountered an absurdity related to using this Administrative Code article and the Federal List of Extremist Materials. Two people were fined in the Tomsk region for posting on the social network the classic antifascist Walt Disney cartoon “Der Fuehrer's Face” from the Donald Duck Series, which was created in 1942 and ended up on the Federal List of Extremist Materials in 2013.

In September 2014, we encountered for the first time a punishment not for an original post or sharing, but for a social network tag. Yevgeniya Vychigina was sentenced in Perm to a fine of one thousand rubles, under Article 20.29 for being tagged on the banned video “The last interview of Primorye Guerillas (*Primorskie partizany*).” Someone among Vychigina’s VKontakte “Friends” tagged her (and about 30 other people), when sharing this video. She confirmed the tag, as she claims, without watching the video. We consider this decision inappropriate. After all, it is unclear what action constitutes distribution of extremist materials she is charged with – the young woman didn’t manufacture the prohibited video; she didn’t post a link to it on her social network page; she didn’t even react to the video. Tagging friends on pictures and videos in order to draw their attention to the material is a popular social networking practice; frequently, dozens of people are tagged in this manner, and it is not surprising that Vychigina had automatically confirmed the tag without watching the video. This is the first and, so far, the only known case of this particular kind of prosecution for “extremism.” If the example of the Perm law enforcement officers catches on, it will provide even more opportunities for arbitrary prosecution.

In addition to prosecutions of individual Internet users, Administrative Code articles are also used against the media. On May 2, 2015, the following amendments were made to the Administrative Code: Article 13.15 (“Abuse of freedom of mass media”) came to include the new sixth part, which introduces fines for legal entities (publishers, and so on) for the “*production and manufacturing of media that contains public incitement to terrorist activity, and (or) materials, publicly justifying terrorism, and (or) other materials calling for extremist activity, or justifying or excusing the need for such an activity.*” The fines range from 100 thousand to 1 million rubles.

The very first decision under this new norm happened to involve an online media outlet. The sentence, passed by the Syktyvkar Magistrate Court in 2015, found a publisher of 7x7 online magazine guilty under Article 13.15 Part 6 of the Administrative Code. A fine of 15 thousand rubles was imposed for an image used to illustrate the material on the repeal of the acquittal of nationalist Alexei (Kolovrat) Kozhemyakin, who had desecrated the Jewish Cultural Center in Syktyvkar. The text was accompanied by a photo of the wall with swastika graffiti and an insulting inscription, made by Kozhemyakin. In our opinion, the decision of the court is inappropriate. By publishing an illustration to the news item, the editorial board in no way intended to show solidarity with Kozhemyakin or promote his views (on the contrary, the intent was to condemn his views), and certainly never called for any extremist activity. The Supreme Court ruling *On Judicial Practice Related to the Statute of the Russian Federation “On the Mass Media”* of June 15, 2010 stated that “*a court should take into account not only words and expressions (formulas) used in the article, TV or radio program, but also the context in which they were made.*”

Articles of the Administrative Code were also actively used in the struggle for content filtering in educational institutions, libraries, Internet cafes, post offices and other organizations that provide citizens with Internet access. Article 6.17 of the Administrative Code (“Violation of the protection of children from information legislation harmful to their health and (or) development”) went into force in 2013. The article implies a fine of from 5 to 10 thousand rubles for individuals and from 20 to 50 thousand rubles for legal entities.

At least 17 individuals and entities were fined in 2015 under Article 6.17 of the Administrative Code for improper filtering of “extremist” content. We recorded six such cases in 2014. This article was utilized to fine owners of computer clubs, shopping centers, cafés, and the Chicken House restaurant, as well as library directors and administrators of several schools for imperfect functioning of their content-filtering systems or lack thereof.

Some cases are patently absurd. Such is the case against the owner of the Fresh Pastries store, initiated and referred to a court in 2015 in the Penza region. The bakery’s Wi-Fi was not equipped with a system of content filtering, therefore, according to the prosecutors, “*children, visiting the store could use the Wi-Fi network via their phones,*” and thus gained access to banned information. The cafe owner was fined 5000 rubles.

We oppose the prosecution against the management of cafes, Internet cafes, hotels and similar establishments for lack of content filtering, since these places are intended not only for children (supervised by their parents), but also for adult users, whose rights should not be limited.

Roskomnadzor’s Warnings to the Internet Media Outlets

The Federal Service for Supervision of Communications, Information Technology and Mass Communications (Roskomnadzor) is responsible for supervising the electronic media editorial boards. Since 2014, Roskomnadzor has ceased to publish online its list of warnings for “extremist content” issued to media founders or editors-in-chief. However, the agency continues to issue these warnings. As a rule, they are related to political events of the moment. We know of at least about 14 warnings issued to online media outlets “for extremism” in 2015. Most of them are associated with partial republication of caricatures of the Prophet Muhammad from *Charlie Hebdo*, but there were also warnings for reports from Syria and Ukraine, and so on.

We have data only on seven warnings to online media outlets in 2014, and they were related to information about the activities of the opposition and, once again, to Ukraine.

We consider all the warnings, issued to online media in these two years, inappropriate. Therefore, it is evident that the efficiency of the law enforcement agencies in this area has clearly and drastically deteriorated.

Blocking Access to Extremist Content

In the past three years, sanctions against the ISPs have become the principal way of fighting “extremist” content on the Internet. Primarily, they take a form of orders to block access to such content, since there is no reliable way to remove content, unless it is located on a Russian server - and users, whose content comes under threat of deletion, transfer it outside of Russia. These access restrictions can be achieved via several legal mechanisms. In all cases, a prosecutor’s office is the key actual actor.

The oldest mechanism has been in operation since, at least, 2007 and is gradually fading away with the development of new ones (see below). Local prosecutors, checking against the Federal List of Extremist Materials to the best of their abilities, file court claims against local Internet providers demanding that access to these materials, or entire sites that contain them, be blocked.

The Federal List of Extremist Materials provides the legal grounds for blocking. The percentage of specifically online materials on the list keeps growing. At least 284 out 379 entries added in 2014 were materials from the Internet, as were at least 594 of 667 entries added in 2015. However, not the entire list is being used – the cases, for which we could identify incriminating materials, related to books by Hitler, Mussolini, Goebbels, Martsinkevich, and materials by Jehovah's Witnesses, Said Nursi, Hizb ut-Tahrir and several others.

The second operating mechanism of Internet filtering, based on the Uniform Registry of Banned Sites, exists since November 1, 2012. Initially, Roskomnadzor simply added to it the online

materials, which had been recognized as extremist and included in the Federal List. It differed from the first mechanism in that the Registry was to function as a guide to action for internet service providers across the country. However, in 2014, courts started issuing decisions to enter websites into the Registry without recognizing them as extremist, based on the fact that they contained materials similar to the ones already recognized as extremist (usually, practically identical).

Based on the data from Roskomsvoboda¹⁵ website, we believe that, as of June 1, 2016, the Uniform Registry included at least 566 “extremist items.”¹⁶ According to available data (only Roskomnadzor has complete information), courts added 283 resources for “extremism” in 2015, and 139 resources in 2014.

We view about 20 items entered into the Uniform Registry in 2014, as questionable or even inappropriate.¹⁷ In our opinion, the number of inappropriate entries in 2015 reached 72.

The third blocking mechanism was established by Lugovoy’s Law, which entered into force on February 1, 2014 and allowed the Prosecutor-General’s Office to demand that Roskomnadzor immediately, without a trial, block sites containing “*incitement to mass riots, extremist activity, incitement of ethnic and (or) sectarian strife, participation in terrorist activities, or participation in public mass events held in violation of the established order.*”

Roskomnadzor has created a separate registry on its website to work with this mechanism. 133 online resources were added to it in 2015, vs. 166 in 2014 (not counting various “site mirrors,” URL variations or sites which have been unblocked after the removal of undesirable content).

In 2014, we regarded as questionable or even inappropriate the decisions pertaining to approximately one-third of the materials (53) added to the Lugovoy’s Registry – most of them oppositional websites and announcements of the oppositional actions. We believe that about 25 pages were inappropriately blocked in 2015.

Formally, the two registries exist separately on the Roskomnadzor website, but the procedure of working with them is almost identical. At Roskomnadzor’s discretion, restrictions can be either based on a particular page address (URL), or have a much broader scope – using a subdomain name, or even a physical address (IP) and, thus, blocking numerous sites, known to be innocent and just located on the same server.

The following types of resources were entered into the Registries in the two years under review:

Resources:	Uniform Registry 2014	Uniform Registry 2015	Lugovoy’s Registry 2014	Lugovoy’s Registry 2015
xenophobic materials by modern Russian nationalists	71	125	19	19
materials by the classics of fascism and neo-fascism	6	21	0	0
xenophobic materials by other nationalists	1	3	0	0
materials of Islamist militants and other calls for violence, issued by political Islamists	20	18	66	22
other Muslim materials	17	65	9	17
materials of Jehovah’s Witnesses, L. Ron Hubbard, and other religious materials.	0	6	0	0
non-violent oppositional websites	1	10	46 ¹⁸	18
extremely radical anti-Russian statements from Ukraine	0	5	13	0
websites of banned Ukrainian organizations	0	0	0	18
other materials from Ukrainian media and the Internet	2	14	11	32

¹⁵ See: The Registry of Banned Websites // Roskomsvoboda (<http://reestr.rublacklist.net/>).

¹⁶ See an updated list: Extremist resources in the Unified Register of Banned Websites // SOVA Center (<http://www.sova-center.ru/racism-xenophobia/docs/2014/08/d30056/>).

¹⁷ The most notorious cases include the bans against *jw.org* (Jehovah’s Witnesses website) and *nurru.com*, the site of Said Nursi followers. *Gramotey* online library was blocked due to presence of one or several extremist materials in it.

¹⁸ *Grani*, *Ezhednevnyi Zhurnal*, and *Kasparov.ru* websites and their mirrors; Alexey Navalny’s blog, and “Appeal to Ukrainian People” by Borovoy and Novodvorskaya.

websites of the Russian Orthodox fundamentalists	0	2	0	
various anti-government materials, inciting violence and riots	11	7	0	4
non-violent materials critical of the ROC	0	1	0	0
parodies banned as serious statements	0	1	0	2
materials, obviously banned by mistake	0	4	0	0
a conspiracy film about September 11, ideology unclear	1	0	0	0
copies of the website that completely copy the Federal List of Extremist Materials, but with correct working hyperlinks	7	0	0	0
a collection of prohibited materials	0	0	1	0
website of an online library	1 ¹⁹	0	0	0
Big and varied set of texts, blocked in its entirety	0	0	0	1
materials impossible to identify	1	1	1	0

Based on the number of identical links, the Registries partially overlap, which is, in our opinion, an utter absurdity – we are talking about blocking the same page by the same mechanism.

The analysis of links from the Uniform Registry clearly shows the growth of yet another cumbersome and overloaded mechanism. The restrictions are implemented in a manner that is just as inconsistent and haphazard as the new additions to the Federal List of Extremist Materials.

Pages that contain incitement to radical violence, both by neo-Nazi skinheads and by Islamic militants, are intermixed on the Registry with harmless peaceful Islamic materials, let alone the pages clearly inappropriately recognized as extremist. Similarly, hyperlinks to very radical statements from Ukraine are found next to peaceful materials published by Ukrainian media outlets.

Starting in 2015, the Uniform Registry started to grow not by adding specific websites or pages, but through including the keyword search results, most frequently on music-related resources (*“the page containing links for downloading various audio files found by searching for the following keywords: “kill a cop,” “Doberman,” “David Lane,” “Kolovrat,” and so on”*), which is manifestly inappropriate – in practice, these keyword search results could bring up a wide variety of web pages.

Lugovoy’s Registry manifests even greater number of various absurdities and arbitrariness. In most cases, there was no specific demonstrate need for extrajudicial (i.e. emergency) blocking of materials, which (for example, various Islamic literature) have been available on the Internet for many years.

The Registry includes pages that were blocked due to the current political situation – for example, messages about various actions of the opposition. For the most part, we view such blocking as inappropriate and as violation of the right to freedom of assembly and freedom of speech.

The argument in favor of Lugovoy’s Law, adopted shortly after the riots in Moscow's Biryulyovo-Zapadnoe district, was based on the alleged need for such restrictions in order to prevent rapid mobilization of the potential riot participants. The experience of the previous two years only confirmed the obvious – it is impossible to stop mass mobilization by blocking all such information, because these events involve too many distribution channels simultaneously. All the online information about the meeting places reached its potential recipients almost instantaneously. A huge number of pages, identical or nearly identical to the blocked ones, still remain freely accessible.

Conclusion

The results of our monitoring are disappointing. In two years, the quantitative indicators have increased significantly; both the number of criminal convictions for online statements and the

¹⁹ Blocked due to a single material.

number of administrative penalties of various kinds has multiplied. The number of requests for blocking or removal of Internet content was growing rapidly as well.

However, the quality of the law enforcement has clearly been deteriorating. We see the increased pressure on the Internet users. Almost anyone can face prosecution, administrative or criminal, as clearly demonstrated by the last two years of enforcement practice. In its fight against virtual extremism, the state increases its pressure on various categories of citizens, from members of the radical nationalist opposition or Muslim activists to people and organizations, who simply happened to appear on the radar of the anti-extremism campaign. As expected, starting in 2014, these offenders came to include opponents of state policy toward Ukraine. In general, penalties are becoming harsher. While previously, actual prison terms for speaking out on the Internet were a rarity, their number soared in 2015.

The number of inappropriate sanctions of various kinds has also grown. As far as we know, nobody has been punished for “liking” something on a social network, but we know the case, in which the user was penalized for being tagged.

In addition to political objectives, “bureaucratic inertia” in the law enforcement also contributes to the situation. The latter largely explains the growing number of propaganda convictions – the fighters against online extremism have long been engaged in catching random users who share posts on VKontakte and generating numerous and often pointless requests for blocking materials that are far from being most dangerous (or aren’t dangerous at all). As a result of these pointless and chaotic demands, the society, law enforcement agencies, and radical groups lack clear understanding of the “red line,” of what is or isn’t acceptable.

Thus, the anti-extremist reporting statistics improves, but the current process contributes nothing to public safety and security and increasingly limits freedom of expression.