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RUSSIAN FEDERATION: “Fake news” bill prompted by COVID-19 threatens freedom of expression

On 31 March 2020, the Russian authorities passed amendments to the Criminal Code and to the Code of Administrative Offences that introduced criminal penalties for “public dissemination of knowingly false information” in the context of emergencies, and administrative penalties for media outlets that publish such information. The legislative changes also expand criminal sanctions for violating sanitary and epidemiological regulations. The two respective laws were passed by the State Duma and Council of Federation and signed by President Putin with extraordinary speed, on the same day, with nearly no public discussion. Amnesty International is concerned that these amendments will be used to further curtail the right to freedom of expression and silence criticism of the authorities.

According to the first new law, two new articles will be introduced to the Criminal Code. Article 207.1 makes it a criminal offense to “publicly disseminate disguised as truthful knowingly false information about circumstances threatening life and safety of citizens and/or measures to ensure safety of the populace and areas, of ways and methods of protection from such circumstances”. The “circumstances” include a broad range of emergencies such as epidemics, accidents, natural disasters, and others. The offence will be punishable by fines of up to 700,000 rubles (about US\$ 9,000), mandatory labor or restriction of liberty (a non-custodial parole-like sentence) for up to three years.

The new Article 207.2 criminalizes “public dissemination of knowingly false information of public importance that has led to severe consequences”. It will be punishable by even higher fines, mandatory labor or up to five years’ imprisonment. There is no definition in law of what “information of public importance” is.

The second law has introduced fines of up to 10,000,000 rubles (about US\$ 127,000) for media outlets and other organisations that participate in “dissemination” of such information.

Although the amendments are officially described as part of the authorities’ response to the COVID-19 pandemic, the new laws do not restrict the new provisions to the current situation but rather will be applicable to any situation broadly defined as emergencies, and will remain in force after the pandemic ends. The language they use is very vague and broad, which leaves the new legal provision open to wide interpretation and abuse.

The Russian authorities must respect and protect human rights, including the right to freedom of expression and access to information, in spite of the coronavirus pandemic. While the right to freedom of expression is not absolute, under international human rights law restrictions need to be clearly defined in law, pursue a legitimate aim and be necessary and proportionate to that goal. Blanket prohibitions and penalties for the dissemination of a broad range of information based on vague and ambiguous concepts are incompatible with international human rights law and standards.

Amnesty International calls on the Russian authorities to repeal these laws, and step up their efforts to ensure that they disseminate reliable, accessible, evidence-based and trustworthy information, including on the measures that are being taken to protect public health and address the pandemic, which is crucial to counter false and misleading information. The Russian authorities should also allow for a free public discussion of possible problems in the government's response to emergencies.

BACKGROUND

Russia first introduced punishment for “dissemination of knowingly false publicly significant information” that “threatened life or health of citizens, property, public order” or caused other harm in the Code of Administrative Offences in March 2019. Since then, the new legal provision has been used against government critics and independent media.

The very first case opened under the earlier “fake news” law targeted human rights defender and environmentalist Elena Kalinina, who had called for a protest rally against a landfill project in Arkhangelsk Region (north-western Russia); the case has since been closed, and no charges pressed against her.¹ In July 2019, a court in Vladivostok (Russia's Far East region) convicted journalist Mikhail Romanov of disseminating “fake news” for publishing an interview with an activist who alleged that he had been tortured in custody. His conviction was later overturned by the Supreme Court. Also, in July 2019, a prominent activist Murad Daskiev in Ingushetia (Northern Caucasus) was fined 15,000 rubles (about US\$ 200) for claiming that the then-Head of Ingushetia had planned to sign an agreement delineating the administrative border with the neighboring North Ossetia. In October 2019, a court in Moscow fined the media outlet *Moment of Truth* and its Editor-in-Chief a total of 260,00 rubles (about US\$ 3,300) under the “fake news” law for publishing an interview with an opposition activist (it is still unclear which information in particular was considered “false”). In December 2019, human rights defender and environmentalist Sergey Belogorokhov was fined 40,000 rubles (about US\$ 500) for his blog post which alleged that the emergence of a sinkhole in a village near Chelyabinsk (Urals region) was linked to activities of a local mining company.

This pattern of abuse of “fake news” laws for the purpose of silencing criticism of the authorities has continued during the COVID-19 pandemic. On 31 March, the Investigative Committee (a stand-alone government agency responsible for investigation of serious crime) summoned for questioning Anastasia Vasileva, the Chairperson of Doctors' Alliance, an independent trade union of medics, in connection with her publication about the shortage of protective equipment in hospitals. If charged with and convicted of “disseminating knowingly false information”, she may face hefty fines.

¹ See our public statement: <https://www.amnesty.org/en/documents/eur46/0293/2019/en/>