



REUTERS/Anton Vaganov

People hold hand-made newspapers during a 2019 rally in support of Russian investigative journalist Ivan Golunov, who was arrested due to drug-dealing charges that were subsequently dropped.

UNDERSTANDING THE LAWS RELATING TO “FAKE NEWS” IN RUSSIA

For journalists and media outlets operating in Russia, the introduction of amendments to the country’s criminal and administrative codes in March 2022 marked the beginning of a new and dangerous era. The amendments provided for fines of up to five million rubles (US\$48,245) and prison terms of up to 15 years for those convicted of disseminating “fake news” or any information that Russian authorities deemed to be false, on the war-related coverage, posing a serious threat to coverage of the Ukraine crisis. Scores of Russian journalists felt they had no choice but to flee the country for their own safety, and many of the country’s best-known independent outlets relocated their newsrooms to bases outside Russia as the application of the new laws remained unclear.

This guide, co-published by the Thomson Reuters Foundation and the Committee to Protect Journalists, is intended to provide user-friendly, practical guidance for journalists and newsrooms seeking to understand the Russian “fake news” laws, and how they’ve been applied to local and international press.

I. INTRODUCTION

On 4 March 2022, the Russian Parliament adopted two Federal Laws (“**Laws**”) imposing administrative and criminal liability for the spread of “false” information, effective immediately on the same day. On 25 March 2022, the Laws were further amended (all together further referred to as “**March 2022 Amendments**”).

With Federal Law No. 32-FZ, the Russian Criminal Code (“**Criminal Code**”) was amended to criminalise:

- the spread of “knowingly false information” about the Russian Armed Forces (Article 207.3);
- the spread of “knowingly false information” about the exercise of their powers by Russian state bodies outside the territory of Russia (Article 207.3 as amended on 25 March 2022);
- public actions aimed at discrediting the use of the Russian Armed Forces, including public pleas or calls¹ for obstructing the use of military (Article 280.3);
- public actions aimed at discrediting the exercise of their powers by the Russian state bodies outside the territory of Russia (Article 280.3 as amended on 25 March 2022); and
- public pleas or calls for foreign states and organisations for the imposition of sanctions against Russia, its citizens or legal entities (Article 284.2).

In turn, Federal Law No. 31-FZ amended the Russian Code of Administrative Offences (“**Administrative Code**”) to introduce administrative liability for:

- public actions aimed at discrediting the use of the Russian Armed Forces, including public pleas or calls for obstructing the use of military (Article 20.3.3); and
- public pleas or calls for foreign states and organisations for the imposition of sanctions against Russia, its citizens or legal entities (Article 20.3.4).

This guide explains how “fake news” or information that is deemed to be false is defined within the Russian law (see below II.); penalties under the newly introduced amendments and if they have retrospective effect (see below III.); the jurisdictional reach of the law (see below IV.) and whether the Laws apply to non-traditional platforms and social media (see below V.), as well as photographers and photographs of the war (see below VI.).

II. HOW IS “FAKE NEWS” OR INFORMATION THAT IS DEEMED TO BE FALSE DEFINED WITHIN THE LAW?

There is no definition of “fake news” in the newly introduced Laws. Rather, the Laws speak about “dissemination of knowingly false information”. Specifically, the subject of the criminal offence under Article 207.3 of the Criminal Code introduced in March 2022 through Federal Law No. 32-FZ is

“public dissemination under the guise of reliable statements of knowingly false information containing data on the use of the Russian Armed Forces or exercise by Russian state bodies of their powers outside the territory of Russia for the purposes of protecting the interests of the Russian Federation and its citizens, maintaining international peace and security”.

Based on the above language, the following preconditions should be met for the dissemination of “knowingly false information” to be treated as a crime:

- information must relate to the use of Russian Armed Forces, or the exercise by Russian state bodies (i.e. by the President of the Russian Federation Government and Ministry of Defence, etc.) of their powers abroad;
- information should be knowingly false;
- dissemination should be public;
- statements should be intentionally disguised as reliable.

The wording of Article 207.3 of the Criminal Code is broad. Such language effectively allows Russian authorities to exert pressure on anyone expressing an independent position regarding the actions of the Russian Armed Forces or Russian state bodies.

For example, a publication calling Russian actions in Ukraine a “war” or an “invasion”, or a crime against humanity, or showing damages caused by the Russian Armed Forces, or criticising actions of the Russian President or accusing him of a crime, has been regarded as a criminal offence under Article 207.3 of the Criminal Code. See, for example, Gorinov (Decision of Meshchansky District Court of Moscow No 01-0719/2022, dated 8 July 2022) and Milnikov (Decision of Olovyaninsky District Court of Transbaikalia No. 1-120/2022 dated 30 May 2022).

1. What is “knowingly false information”?

The Russian legislation, including the newly adopted Laws, also contains no definition of “knowingly false information”. However, the meaning of “knowingly false information” may be drawn from the clarification provided by the Russian Supreme Court² about the spread of “knowingly false information” regarding COVID-19 (covered under Articles 207.1 and 207.2 of the Criminal Code). Namely, “knowingly false

information” should be understood as any information (reports, messages, data, etc.) which does not correspond to reality (therefore, is objectively untrue), and which the person who distributed it knew of.

As a general rule under criminal law, dissemination of “knowingly false information” is supposed to be an act committed intentionally. This would be the case when somebody forges video or photo materials; invents stories, eye-witnesses, even official reports; or spreads such information despite knowing it is forged or invented. This implies the necessity to prove the knowledge and intention on the side of the person accused of spreading “knowingly false information”.

For the purposes of Art. 207.3 of the Criminal Code, “knowingly false information” would be interpreted to mean any information which does not come from Russian official sources. This understanding is based on the statement of the Federal Service for Supervision of Communications, Information Technology and Mass Media (abbreviated as *Roskomnadzor* in Russian), issued on 24 February 2022. According to Roskomnadzor, information is to be considered accurate only if based on Russian official sources. The aforementioned statement creates a so-called presumption of “knowingly false information”.

The Roskomnadzor statement was addressed primarily to the mass media compelling it to use only Russian official information:

“Roskomnadzor informs the *mass media and information resources* that when preparing their materials and publications concerning the special operation in connection with the situation in the Luhansk People’s Republic and Donetsk People’s Republic, they *are obliged to use information and data obtained by them only from Russian official sources.*”³ (Emphasis added)

Therefore, any information taken by journalists from Ukrainian, European, U.S. media sources could be considered as “knowingly false information” (if it is about the use of the Russian Armed Forces or the exercise by Russian states bodies of their powers abroad). Although Roskomnadzor’s statement is addressed primarily to the mass media and (registered) information resources, even independent opinions of experts, bloggers, journalists etc. analysing the conflict, regardless of whether they accuse the Russian Armed Forces or not, may be considered as false information as it is not in line with the position of Russian official sources.

Such presumption of “knowingly false information” introduces a simplified approach to the criminal offence under Article 207.3 of the Criminal Code: it is not necessary to prove that the person knew the information was false or had an intention to disseminate false or inaccurate information. It is enough to be deemed “knowingly false” if the information was obtained from sources other than Russian officials.

If expression of critical opinion does not contain any information which can be deemed as “knowingly false”, it may still be qualified as a criminal offence of discrediting the use of the Russian Armed Forces under Article 280.3 of the Criminal Code.⁴ This is due to the broad wording of this Article so that any negative comment against the use of Russian Armed Forces in Ukraine could be seen as discrediting. Moreover, Article 280.3 of the Criminal Code does not require “intention” or “knowingly false” criteria and constitutes a universally applicable provision.

Furthermore, the use of the word “war” is of great importance for journalists. In its statement addressed to mass media, Roskomnadzor specified that the information about the shelling of Ukrainian cities and the deaths of Ukrainian civilians caused by the Russian Armed Forces, as well as reports calling the ongoing operation an “attack”, an “invasion” or a “declaration of war”, do not correspond to reality and are published under the guise of credible reports.⁵ Based on this, the agency justified terminating the operations of ten mass media channels in Russia.

For referring to the situation in Ukraine as a war and an invasion, Wikipedia was required by the Russian General Prosecutor’s Office to delete so-called inaccurate information or face an administrative fine of up to four million rubles in case of failure to comply (Roskomnadzor Statement dated 31 March 2022). Similarly, access to American internet app Zello Inc. was blocked by Roskomnadzor in Russia. Furthermore, Google was recently fined 11 million rubles by a Moscow court for failure to comply with the requirement to delete publications of video materials of an extremist nature. However, it is worth noting that the aforementioned cases of liability are based on Article 13.41 of the Administrative Code.

2. What is public dissemination?

According to clarifications offered by the Russian Supreme Court on the dissemination of “knowingly false information” with regard to Articles 207.1 and 207.2 of the Criminal Code,⁶ dissemination of “knowingly false information” should be deemed as public if such information is addressed to a group or an unlimited number of people and is expressed in any form accessible to them (e.g. orally, in writing, using technical means).

What can constitute means for disseminating “knowingly false information” is rather broad. Information may be considered as disseminated publicly when spread via mass media, information and telecommunication networks (including the popular social media platforms such as Facebook, Instagram, TikTok, Twitter etc. on personal or other users’ pages), as well as by means of instant messaging applications (e.g. WhatsApp, Viber and others), mass mailing of e-mails, distribution of leaflets, displaying posters, when making speech at a meeting, rally etc.

Sending something to one person is not public distribution, but if it is a chat or a group conversation that involves more than just a specific person, then it could be considered as public dissemination. Closed groups, chats and accounts also fall under this heading.

Since March 2022, various actions have been considered by the prosecution as “dissemination” under the Criminal Code or Administrative Code. For example, a former police officer publishing “false” eyewitness statements about the actions of the Russian army, a journalist who reposted an article on the events in Mariupol, a journalist calling the “Z” symbol a synonym of aggression, and an artist who switched price tags in supermarkets to flyers with information about the shelling of the Mariupol Drama Theater and the deaths of civilians.

3. What is “under the guise of reliable information”?

One of the prerequisites for liability is the dissemination of “knowingly false information” disguised as true information. Based on case law on the application of Articles 207.1 and 207.2 of the Criminal Code (“knowingly false information” about COVID-19), the forms and methods of presentation have to be assessed to determine whether false information has the appearance of truthfulness. Such forms and methods can be references to competent sources, statements by public persons, etc., the use of forged documents, video and audio recordings or documents and recordings related to other events.

III. WHAT ARE THE PENALTIES AND HOW ARE THEY APPLIED?

There are two types of penalties foreseen under the March 2022 Amendments: administrative and criminal. Administrative penalties are fines of different amounts, while criminal penalties range from a fine to an imprisonment.

As a general rule, neither administrative nor criminal liability may be imposed for actions undertaken prior to the amendments. However, should the information published remain available after the enactment of the amendments, the penalties will apply.

1. Administrative penalties

Any form of discreditation of the use of the Russian military or activities of its state authorities operating abroad,⁷ will result in a fine (Article 20.3.3 of the Administrative Code). The amount of the fine differs depending on whether the offence was committed by an individual, an official or a legal entity:

- individuals - between 30,000 and 50,000 rubles,
- officials⁸ – between 100,000 and 200,000 rubles,
- legal entities - between 300,000 and 500,000 rubles.⁹

Whenever discreditation is accompanied by pleas to conduct an “*unauthorised*” public event of any kind, which creates any kind of significant public threat (e.g. threatens someone’s life and/or their health or property; or threatens mass public disorder; or threatens to interfere or disrupt vital infrastructure, transport or social services, energy, industrial, or communications facilities), the following fines can be ordered:

- for individuals - between 50,000 and 100,000 rubles,
- for officials - between 200,000 and 300,000 rubles,
- for legal entities - between 500,000 and one million rubles.¹⁰

Russian citizens and legal entities are also subject to fines for pleas for the introduction or extension of political and economic sanctions against Russia, its citizens or legal entities by foreign states and state organisations/unions as follows:

- individuals¹¹ - between 30,000 and 50,000 rubles,
- officials –between 100,000 and 200,000 rubles,
- legal entities - between 300,000 and 500,000 rubles.¹²

Furthermore, it should be noted that if a legal entity is charged with an administrative liability, such does not relieve an individual of the administrative responsibility for the same offence. In practice, this can be understood to mean that both a specific journalist and the news agency they work for may be fined for discrediting use of Russian Armed Forces. This is particularly important because a journalist can face criminal liability for publishing “discrediting” information if recorded to have an administrative charge for a similar conduct within a one-year period.¹³

2. Criminal penalties

As of July 2022, only individuals can be held liable for a crime envisaged under the Criminal Code,¹⁴ since Russian criminal law does not foresee criminal liability for legal entities. Penalties prescribed by the newly introduced Articles 207.3, 280.3 and 284.2 of the Criminal Code are a fine,¹⁵ deprivation of the right to hold certain positions/offices or engage in certain activities,¹⁶ corrective labour,¹⁷ compulsory labour,¹⁸ arrest,¹⁹ restriction of freedom²⁰ and imprisonment.²¹



REUTERS/Maxim Shemetov.

Russian police officers detain a participant for staging a picket in support of journalist Svetlana Prokopyeva, who was charged with publicly justifying terrorism in Moscow in 2020.

a) Article 207.3 – dissemination of “knowingly false information”

Penalties for spreading “knowingly false information” about Russian Armed Forces and/or Russian state bodies operating abroad under the pretence of credible and reliable range from fine to imprisonment:²²

- fine in the amount between 700,000 to 1,5 million rubles (or otherwise, in the amount of the salary or any other income for the period of 12 to 18 months),
- corrective labour for a term of up to one year,
- compulsory labour for a term of up to three years,
- imprisonment for a term of up to three years.

If such spread of “knowingly false information” is committed

- using an official position (this may be interpreted to encompass journalists, as well as occasions when a manager distributes “knowingly false information” in a corporate instant messaging application or distributes information via email);
- by a group of persons (also by an agreement in advance) or by an organised group (such as in instances of an agreement/arrangement to distribute “knowingly false information” among persons and their contacts, for example, in instant communication chats or other means of communications);
- with manufacturing of evidence (such as forging of images, or editing of old video to look like new ones and similar actions that are further used to support the content of the “knowingly false information”);
- for mercenary motives (i.e., any form of financial benefit -money, property or rights to receive it, etc.-, including relief of material hardships)²³;
- out of political, ideological, racial, national or religious hatred or enmity, or by reason of hatred or enmity towards some social group (it is possible that military personnel or law enforcement officials can be considered as examples of such social groups),²⁴

the penalties that can be ordered are:

- a fine of three to five million rubles (or in the amount of salary or other income for the time-period of three to five years);
- compulsory labour for up to five years in addition to the deprivation of right to hold certain positions or engage in certain activities for up to five years;
- imprisonment from five to ten years along with deprivation of the right to hold certain offices or engage in certain activities for the same term.²⁵

Dissemination of falsehoods, which resulted in “grave consequences”²⁶ will lead to imprisonment for a term of 10 to 15 years along with deprivation of the right to hold certain positions or engage in certain activities for the same term.²⁷

Again, grave consequences are not defined under the Criminal Code and there are no reliable commentaries as to what could be considered as a grave consequence of dissemination of “knowingly false information”.

Grave consequences are generally understood as serious harm to health or death, but for the purposes of Article 207.3, this also can be mass public demonstrations, public actions against the state authorities, riots, etc. Considering the above-mentioned, Russian courts have a lot of room for interpretation and it is most likely that such grave consequences of dissemination of "knowingly false information" would be interpreted broadly.

b) Article 280.3 – "discreditation" of Russian Armed Forces and/or its state authorities

Russian law now criminalises discreditation, essentially criticism, of the use of the Russian military or activities of its state authorities operating abroad. Penalties include:

- fines ranging between 200,000 and 300,000 rubles (a fine of between one and two years of a salary or other income);
- compulsory labour for a term of up to three years;
- arrest for a term of four to six months; and
- imprisonment for a term of up to three years with the deprivation of the right to engage in certain activities or hold certain positions for the same term.

However, criminal liability under the mentioned Article will only be faced if such "discreditation" is committed within one year of committing a similar act foreseen and punishable under the Administrative Code, which can be understood to be the newly introduced Article 20.3.3.

Should discreditation result *"in death by negligence and/or in harm to the health of citizens, to property, in mass violations of public order and/or public safety, or causing disruption of the functioning of or discontinuance of functioning of life-support facilities; transport or social infrastructure; credit organisations; energy, industry or communications facilities"*, a person, including a journalist who published information of discrediting nature, may face:

- a fine in the increased amounts ranging between 300,000 and one million rubles (or in the amount of salary or other income for the time-period of three to five years);
- or imprisonment for up to five years with the restriction of being able to engage in certain activities or hold offices.

c) Article 284.2 – pleas for sanctions

Finally, Article 284.2 newly added to Chapter 29 (crimes against the foundations of constitutional order and security of the state) of the Criminal Code, criminalises pleas for the adoption of measures that introduce or prolong sanction against Russia, its citizens or legal entities. Again, the criminal liability shall only follow if there is a previous administrative charge for a similar action committed within a one-year period. While not expressly referred to, it should be understood to relate to the newly introduced Article 20.3.4 of the Administrative Code.

The penalties in this case can be:

- a fine up to 500,000 rubles (the amount can also be determined by a salary or other income for a period of up to three years);
- restriction of freedom for a term of up to three years;
- compulsory labour for a term of up to three years;
- detention for a maximum term of six months; and
- imprisonment for up to three years being imposed along with a monetary fine.

Article 284.2 of the Criminal Code only applies to Russian citizens. Therefore, foreign citizens, including journalists, cannot be held liable under the mentioned Article for any statement they make in connection with the imposition or prolongation of political or economic sanctions, unless they hold Russian citizenship.²⁸

3. Retrospective application

Both administrative and criminal penalties can only be imposed for crimes²⁹ that took place after the introduction of amendments, i.e. after 4 March 2022 (if information concerns Russian Armed Forces) or after 25 March 2022 (if information concerns Russia's state bodies).

However, when "false information" was published prior to the March 2022 Amendments, but remains available after the effective date, it will still lead to criminal or administrative liability being imposed. Namely, these are situations when "false information" or a certain statement that can be considered as "discrediting" was published or otherwise spread prior to 4 March 2022 (or 25 March 2022 if the information concerns Russia's state bodies), but remains available (e.g. through a blog post, article, statement or similar published and available to public on the internet) and was not deleted or otherwise ceased to be available after the effective date of the amendments.

IV. WHAT IS THE JURISDICTIONAL REACH OF THE LAW?

As a general rule, administrative and criminal liability can be imposed for acts committed on the territory of the Russian Federation, i.e. when information is published in or from Russia. The Russian Criminal Code, however, also provides for the possibility to pursue crimes committed outside of Russian territory.³⁰ This means that even a foreign journalist acting from outside Russia might be regarded as committing a crime under the Russian Criminal Code. A journalist based in Russia publishing in another country may also be charged, especially if such publications become available in Russia.

Given the nature of the internet, including social media and other networks, even information that is published outside of Russia may still become available to the Russian public (through reposting on social media or in messengers). In the absence of any official clarifications, commentaries or court practice, it is yet to be observed how Russian courts will interpret such dissemination of information. It is likely that Russian courts will consider such information as publicly disseminated in Russia due to its availability through the internet resources.

Consequently, public availability of the “knowingly false” or “discrediting” information in the territory of Russia is more important for it being regarded as a crime, rather than the physical location and geographical scope of publication of the journalist. The administrative (see below 1.) and criminal (see below 2.) liability is explained below in more detail.

1. Administrative liability

Administrative liability will be imposed on journalists publishing in or outside Russia as long as they are located in Russia, i.e. the act that is regarded as an offence under the Administrative Code is committed on the Russian territory.³¹

Furthermore, under the Administrative Code, an offence committed from outside the territory of Russia (i.e. when the journalist is not located in Russia) is not subject to administrative liability under that Code.³² This, however, is only the case if any statements or publications discrediting the Russian Armed Forces, or operations of Russian state bodies abroad, do not become available within the territory of Russia.

Even when information is not intended to be published in Russia and is created outside its borders, it may still become available to the public there. While it has not yet been tested in Russian courts, it is highly likely that Russian courts will consider such information as disseminated, i.e. the offence committed in Russia due to its availability through the internet resources. However, there are no legal means to impose administrative charges against people or legal entities based abroad.

2. Criminal liability

As mentioned above, criminal liability under the Russian Criminal Code can be imposed for acts committed in Russia, but there is a possibility to pursue crimes committed outside of Russian territory (Article 12, para. 3 of the Criminal Code).

The liability under the Criminal Code applies when information is published in Russia by a journalist located in Russia. With regard to further jurisdictional reach of the Criminal Code imposed for dissemination of “knowingly false” or “discrediting” information, two questions should be distinguished: whether the criminal liability can be imposed on journalists based in Russia but publishing in another country (see below a)) and whether journalists based outside Russia can be prosecuted (see below b)).

a) Can criminal liability for disseminating of “knowingly false information” be imposed on journalists based in Russia but publishing in another country?

A crime, such as dissemination of “knowingly false information”, committed on or from the territory of Russia is within the reach of the Russian Criminal Code.³³ According to general provisions of the Russian Criminal Code, this may only be enough to regard publications as dissemination of “knowingly false information”.

Moreover, in cases where a journalist based in Russia publishes outside the region, such publication can still become available in Russia via various means, such as mass reposting in instant messaging applications (e.g. in WhatsApp groups) or social media platforms. Such public availability of “restricted” information in Russia can lead to criminal liability being imposed against the journalists, regardless of their intent to make it available in Russia.

b) Can criminal liability for disseminating “knowingly false information” be imposed on journalists based outside Russia?

In principle, there is a possibility that the criminal liability for disseminating “knowingly false” or “discrediting” information can be imposed on journalists outside Russia. This is due to the general provision of the Criminal Code³⁴ providing that Russian citizens can be held criminally liable if they commit “*a crime against interests protected by this [Criminal] Code*” outside the territory of Russia.³⁵ At the same time, foreign citizens shall be criminally liable under the Criminal Code in cases where the crime “*is directed against the interests of the Russian Federation or a citizen of the Russian Federation or a stateless person permanently residing in the Russian Federation*”³⁶ even if committed outside the territory of Russia. The crimes introduced by the March 2022 Amendments can be very likely treated as a crime directed against Russian interests.

Therefore, the cases of dissemination of “knowingly false” or “discrediting” information under Article 207.3 of the Criminal Code³⁷, and statements “discrediting” Russia’s use of its Armed Forces and activities of Russia state bodies operating abroad under Article 280.3 of the Criminal Code may be pursued by Russian prosecution against journalists holding Russian citizenship, and even foreign journalists regardless of the physical location.

However, it is unlikely that in practice Russian authorities would pursue each journalist that operates outside Russia and whose conduct is considered as a crime under the Russian criminal law. The likelihood of prosecution increases in cases when (and if) such journalist travels to Russia. It is also worth noting that the possibility of extradition is very unlikely, due to the absence of corresponding treaties (e.g. between USA and Russia) and the absence of similar crimes imposed by other states which would be necessary for extradition.

V. HOW DO THE LAWS APPLY TO NON-TRADITIONAL PLATFORMS SUCH AS SOCIAL MEDIA?

Although it is not explicit under the March 2022 Amendments, it is very likely that the Laws and penalties established therein apply to all kinds of social networks or media platforms, including Bloomberg Terminal and TikTok. For example, with regard to the penalties for the spreading of “knowingly false information” about COVID-19, the Russian courts fined people who had posted false information (text or voice messages and videos with comments) relating to COVID-19 in a WhatsApp group chat and in a group on a social network platform (VKontakte). The same application is likely in relation to the spread of “knowingly false information” about the Russian Armed Forces and state authorities.

It is worth mentioning that the duties of bloggers have been subject to public discussions. Although Russian law does not provide a definition for the term blogger, the usual understanding is that a blogger is a person who posts regularly updated content – texts, images, multimedia – on a media platform or otherwise on the Internet. This content is usually made available to an unlimited number of people, and can be influential in shaping public opinion. Thus, bloggers are likely to be held accountable for information they post according to the applicable criminal and administrative law.

However, bloggers are not considered as mass media or information resources according to Russian media law. Thus, they are not directly captured by Roskomnadzor’s statement. Nonetheless, bloggers have to be very careful with information they post and words they use, considering that such posts can be deemed as “discreditation” of Russian Armed Forces and be subject to criminal offence under Article 280.3 of the Criminal Code. As of July 2022, there have been several cases known where bloggers are being prosecuted for using the word “war”, such as the cases of Dmitriy Glukhovskiy and Veronika Belozerkovskaya.

VI. HOW DOES THE LEGISLATION APPLY TO PHOTOGRAPHERS AND PHOTOGRAPHS OF THE WAR?

Whether photographs are considered as one of the means for dissemination of “knowingly false information” is linked to the question of whether there is publicity in such dissemination. The latter must be decided by the courts, taking into account the place, manner, setting and other circumstances. According to the Russian Supreme Court, the public nature of dissemination of “knowingly false information” may manifest itself in various forms, including giving a speech at a meeting, rally, distribution of leaflets or displaying posters.³⁸

Based on the above, the Laws are very likely to apply to photographs of war. In particular those that are accompanied by certain descriptions or narratives that might be considered as “knowingly false information”. Recently, many agencies took the approach of providing a disclaimer or naming a source of information alongside the photograph. However, such options might not escape liability since it is imposed for dissemination of “knowingly false information” and this broad term of dissemination includes the creation or use of information created by others. As mentioned above, Roskomnadzor regards everything as “knowingly false”, unless taken from Russian official sources.

REUTERS/
Maxim
Shemetov.
Members
of Russia’s
National
Guard block
participants of a
rally in support
of Russian
investigative
journalist Ivan
Golunov.



Endnotes

- 1 The Russian word “prizyv” can be translated also as “call for” e.g. sanctions against Russia.
- 2 Case law review by Russian Supreme Court dated 30 April 2020 No. 2.
- 3 Roskomnadzor Statement dated 24 February 2022.
- 4 Article 208.3 of the Criminal Code prohibits “[p]ublic actions aimed at discrediting the use of the Armed Forces of the Russian Federation for the purpose of protecting the interests of the Russian Federation and its citizens, maintaining international peace and security, including public calls for obstructing the use of the Armed Forces of the Russian Federation for the herein mentioned purposes, as well as such actions aimed at discrediting the exercise by state bodies of the Russian Federation of their powers outside the territory of the Russian Federation for the indicated purposes”.
- 5 Roskomnadzor Statement dated 26 April 2022.
- 6 Case law review by Russian Supreme Court dated 30 April 2020 No. 2, question 13.
- 7 Article 20.3.3 of the Administrative Code.
- 8 It should also be noted that pursuant to paragraph 2 of Article 2.4 of the Administrative Code, the term official should be understood to mean not only public officers and individuals exercising authority in state or local government bodies, governmental and municipal organisations and the armed forces, but also persons in position of power (such as chief officers, heads of departments, etc.) and other employees of private legal entities.
- 9 Article 20.3.3, para. 1 of the Administrative Code.
- 10 Article 20.3.3, para. 2 of the Administrative Code.
- 11 Only Russian citizens may face administrative liability under Article 20.3.4 of the Administrative Code and foreign citizens remain out of its scope.
- 12 Article 20.3.4 of the Administrative Code.
- 13 See Article 280.3 and 284.2 of the Criminal Code.
- 14 Article 19 of the Criminal Code.
- 15 Pursuant to Article 46, para. 4 of the Criminal Code, the amount of the fine is determined by the court, taking into account the gravity of the offence committed, as well as the financial abilities of the convicted person and his/her family.
- 16 Pursuant to Article 47, para. 1 of the Criminal Code, this form of punishment prohibits an individual to hold a public office or office in local government or to engage in certain professional or other activities.
- 17 Pursuant to Article 50, para. 1 of the Criminal Code, corrective labour envisages that the convicted person employed somewhere has to pay deductions from the salary in the amount ranging between 5% and 20%. In case the convicted person is unemployed, he/she shall serve corrective labour in places determined by the local authorities in consultation with the penitentiary inspection bodies.
- 18 Pursuant to Article 53, para. 1 of the Criminal Code, compulsory labour means that the convicted person will have to work in places determined by the state authorities. It is usually served in special institutions – correctional centres. It is used as an alternative to imprisonment only if the crime committed is of a small or average gravity or if a serious crime is committed for the first time.
- 19 Pursuant to Article 54, para. 1 of the Criminal Code, arrest means detaining the convicted person in strict isolation from society and can be imposed for a period of 1 to 6 months.
- 20 Pursuant to Article 53, para. 6 of the Criminal Code, restriction of freedom mainly consists of a restriction not to leave home (place of constant stay) at a certain time of the day, not to visit certain places (including demonstrations); not to participate in the specified activities; not to leave territory of specific municipality or not to change a place of residence or stay, place of work and (or) study etc. Restriction of freedom is not imposed on foreign citizens, as well as persons who do not have a place of permanent residence in Russia.
- 21 Pursuant to Article 56, para. 1 of the Criminal Code, imprisonment means isolation of the convicted person by means of placement in colony-settlement, educational colony, medical correctional institution, corrective colony of a general, strict or special regime or in prison. First-time offender may be sentenced to imprisonment only in the presence of aggravating circumstances or only if the corresponding article provides for imprisonment as the only form of punishment.
- 22 Article 207.3, para. 1 of the Criminal Code.
- 23 Resolution of the Presidium of the Supreme Court of the Russian Federation “On Judicial Practice in Cases of Homicide”, dated 27 January 1999, at para. 11.
- 24 Article 207.3, para. 2 of the Criminal Code.
- 25 Article 207.3, para. 2 of the Criminal Code.
- 26 Article 207.3, para. 3 of the Criminal Code.
- 27 Article 207.3, para. 3 of the Criminal Code.
- 28 Article 284.2 of the Criminal Code.
- 29 E.g. dissemination of “knowingly false information”, pleas for introduction/prolongation of sanctions against Russia, its citizens and legal entities and for discreditation of its Armed Forces or state authorities.
- 30 Article 12, para. 3 of the Criminal Code.
- 31 Article 1.8, para. 1 of the Administrative Code.
- 32 Article 1.8, para. 2 of the Administrative Code.
- 33 Article 11 of the Criminal Code.
- 34 Article 12 of the Criminal Code.
- 35 Article 12, para. 1 of the Criminal Code.
- 36 Article 12, para. 3 of the Criminal Code.
- 37 Although the situation is less clear with regard to dissemination of “knowingly false” information, namely, whether the law would be applicable to foreign media, reporting in languages other than Russian, outside Russia.
- 38 Case law review by Russian Supreme Court dated 30 April 2020 No. 2.

ABOUT US

COMMITTEE TO PROTECT JOURNALISTS

The Committee to Protect Journalists (CPJ) is an independent, non-profit organisation that promotes press freedom worldwide. We defend the right of journalists to report the news safely and without fear of reprisal. Every year, hundreds of journalists are attacked, imprisoned, or killed. For more than 40 years, CPJ has been there to defend them and fight for press freedom. With a team of more than 50 experts based around the world, CPJ documents and denounces press freedom violations, meets with heads of state and high-ranking officials, spearheads or advises on diplomatic efforts, and works with other organisation to ensure that justice prevails when journalists are jailed or murdered. CPJ also provides comprehensive, life-saving support to journalists around the world through up-to-date safety information and rapid response assistance. For more information about CPJ and the support available to journalists, please visit www.cpj.org.

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