



## Legislation introduced in Russia to stifle dissent about war in Ukraine, multiple violations of the Convention

The case of [Novaya Gazeta and Others v. Russia](#) (applications nos. 11884/22 and 161 others) concerned legislation introduced in Russia after its full-scale invasion of Ukraine in 2022 making it an offence to “discredit the military” or spread “fake news” about its actions.

178 individual applicants in the case were convicted under the new legislation either in criminal or administrative proceedings and *Novaya Gazeta* and Dozhd TV, two independent media organisations, were shut down.

In today’s **Chamber** judgment<sup>1</sup> in the case the European Court of Human Rights held, unanimously, that there had been a **violation of Article 10 (freedom of expression)** of the European Convention on Human Rights.

The Court found in sum that there had been a systemic and widespread pattern of reporting restrictions related to the war in Ukraine, revealing a coordinated effort to suppress dissent rather than counter any threat to national security. Essentially the national courts had criminalised any reporting/statements that contradicted the official narrative describing the invasion of Ukraine as a “special military operation”. No effort had been made to balance the competing interests at stake, in particular to take into account a matter of crucial interest to the public, namely a major armed conflict and allegations of war crimes.

It also held, unanimously, that there had been a **violation of Article 34 (right of individual application)** concerning the termination of the publication licence of the newspaper *Novaya Gazeta* and the blocking of access to its websites, despite interim measures issued by the Court.

Lastly, it held, unanimously, that there had been a **number of other violations** of the European Convention with regard to five of the individual applicants, variously: **Article 3 (prohibition of inhuman or degrading treatment)** as concerned confinement to a metal cage and narrow glass cabin during hearings about detention; **Article 5 §§ 1, 3 and 4 (right to liberty and security)** as concerned arrests, pre-trial detention and delays in examining appeals against detention orders; and, **Article 8 (right to respect for private and family life)** with regard to unjustified searches of residences.

### Principal facts

The 162 applications were lodged by two Russian independent media organisations, *Novaya Gazeta* and Dozhd TV (Rain TV), and 178 individual applicants.

On 24 February 2022 the President of Russia launched a full-scale invasion of Ukraine, which he described as a “special military operation”.

Reporting restrictions were immediately set in motion. The authorities announced that only official sources should be used to report on the “operation”, while new legislation was adopted on 4 March 2022, within one working day, making it an offence to “discredit” or “disseminate knowingly false information about” the deployment of the Russian Armed Forces.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

The individual applicants were convicted under this new legislation in criminal (seven applicants) and administrative (171 applicants) proceedings.

They were in particular sanctioned for expressing critical views of Russia's military actions in Ukraine or disseminating information that diverged from official accounts. Their statements and/or reporting fell into several categories: peaceful anti-war protests, such as displaying the slogan "No to war"; expressions of support or solidarity with Ukraine; drawing historical parallels between the current conflict and past wars, in particular comparing the "Z" symbol used by Russian forces with the Nazi swastika; sharing information about civilian casualties and alleged war crimes, in particular the Bucha massacre and the Mariupol theatre bombing; and, general criticism of Russian Government policy and support for international sanctions against the Russian leadership.

Certain applicants employed satirical or provocative forms of expression to convey their anti-war messages. For instance, one applicant posted a picture of a dog defecating on the "Z" invasion symbol, while another employed a "smoking kills" style warning against the "special military operation" to mock the official euphemism for the war.

The sanctions included administrative fines ranging from 30,000 to 150,000 Russian roubles, pre-trial detention and prison sentences. The longest sentence given was 25 years, in respect of an opposition politician and journalist (Vladimir Kara-Murza) for speeches he had made to international organisations. One of the charges for which he was convicted included "high treason".

The two applicant media organisations were shut down for their media coverage on the war. *Novaya Gazeta* was a newspaper with an average weekly circulation of 300,000 copies and an online daily audience of about 3 million, while Dozhd TV was a television channel with an annual audience of about 18 million.

Both organisations had been given warnings and issued with "take-down requests" before access was blocked to their websites in March (Dozhd TV) and July (*Novaya Gazeta*) 2022.

The courts also found *Novaya Gazeta* guilty of the administrative offence of disseminating "fake news" and in September 2022 suspended its publishing licence and granted an application to terminate the operation of its online version, despite an earlier interim measure issued by the European Court (under Rule 39 of the Rules of Court) to the authorities indicating that they should refrain from "blocking or terminating *Novaya Gazeta's* activities".

## Complaints, procedure and composition of the Court

Relying on Article 10 (freedom of expression), the applicants complained about the shutdown of media organisations and prosecution of individual applicants for their war reporting or statements advocating for peace. They alleged in particular that the measures had amounted to censorship, with a ban on any information which did not correspond to the Russian authorities' official position.

*Novaya Gazeta* also alleged under Article 34 (right to individual petition) that the Russian authorities had terminated its publication licence and blocked access to its websites, despite interim measures issued by the European Court.

Individual applicants also brought complaints under Articles 3 (prohibition of inhuman or degrading treatment), 5 §§ 1, 3 and 4 (right to liberty and security), 6 (right to a fair trial), 8 (right to respect for private and family life), 13 (right to an effective remedy), 14 (prohibition of discrimination) and 18 (limitation on use of restrictions on rights), and Article 3 of Protocol No. 1 (right to free elections).

The applications were lodged with the European Court of Human Rights on various dates between March 2022 and June 2023.

The Ukrainian Government were granted leave to intervene in the proceedings as a third party.

The Court's procedure for processing of applications against Russia can be found [here](#).

Judgment was given by a Chamber of seven judges, composed as follows:

Ioannis **Ktistakis** (Greece), *President*,

Peeter **Roosma** (Estonia),

Lətif **Hüseynov** (Azerbaijan),

Darian **Pavli** (Albania),

Oddný Mjöll **Arnardóttir** (Iceland),

Diana **Kovatcheva** (Bulgaria),

Mateja **Đurović** (Serbia),

and also Olga **Chernishova**, *Deputy Section Registrar*.

## Decision of the Court

Firstly, the Court established that it had jurisdiction to deal with the applications as they concerned facts which had occurred prior to 16 September 2022, the date on which Russia ceased to be a contracting Party to the European Convention.

### Article 10

The Court found that the individual applicants had, variously, been arrested, placed in detention on remand and convicted either in criminal or administrative proceedings. Some had been designated as “foreign agents” or “extremists/terrorists”, while others had had their bank accounts frozen. The media outlets had seen access to their websites blocked and *Novaya Gazeta* had had its publishing licence revoked. Such measures, taken in reaction to the applicants' statements or reporting, had amounted to an interference with their right to freedom of expression.

The Court had serious doubts as to whether that interference had been “prescribed by law” and was not satisfied that it was intended to protect the interests of national security or public safety.

Indeed, the measures imposed on the applicants had gone well beyond addressing whether the applicants' conduct or expression had genuinely represented a threat to national interests. In effect, they had targeted a wide range of expressions, from simple pacifist slogans and support for Ukraine to factual reports on alleged war crimes committed by the Russian Army.

Essentially the national courts had criminalised any reporting of information that contradicted the official narrative. They considered the mere use of the term “war” rather than “special military operation” as harmful, without considering the content or context of the expressions used. They had made no attempt to assess the accuracy of or the applicants' good faith in sharing information on alleged war crimes or civilian casualties, exclusively relying on official denials.

The national courts had, moreover, made no genuine effort to balance the competing interests at stake. They had not weighed in the balance the intense public interest and importance of the matter, a major armed conflict with profound implications for both European and global security and allegations of war crimes. Nor had they taken into account that satirical and controversial forms of expression or comparisons, even if offensive to some, contributed to debate on matters of public interest, as they were intended to provoke reflection on the nature of the conflict.

Similarly, the courts had not properly weighed in the balance the reasons for sanctioning the media outlets, beyond citing warnings they had previously received.

The Court also highlighted that the applicants had made no calls to violence, hatred or discrimination. It was a matter of particular concern that even innocuous expressions of solidarity with a neighbouring country under attack and its people had led to prosecutions.

The exceptional and disproportionate severity of the sanctions against both the individual applicants and the media outlets had not just been to punish; they had sent a clear and intimidating message to society at large and silenced important independent voices in Russian society on matters of crucial public interest.

Overall, the Court found that there had been no justification for restricting the applicants' peaceful, non-violent expression and that such restrictions had been part of a broader campaign to stifle dissent on military action in Ukraine. There had therefore been a violation of Article 10.

### Article 34

The Court considered that the Russian authorities had deliberately disregarded interim measures it had issued when obtaining court orders to terminate *Novaya Gazeta's* activities. By failing to comply with the interim measures, Russia was in breach of its obligations under Article 34.

### Other articles

The Court found that the authorities had failed to sufficiently justify imposing such an exceptional measure as pre-trial detention on five of the individual applicants, in violation of Article 5 § 3.

It also found that one of these five applicant's (Mr Kara-Murza) arrest and the timing of the criminal charges against him had most certainly been a pretext to silence his critical opinions, indicating bad faith, in violation of Article 5 § 1.

Regarding these five applicants' other complaints, namely confinement to a metal cage and narrow glass cabin during hearings about their detention (Article 3); excessive delays in examining appeals against detention orders (Article 5 § 4); and, unjustified searches of residences (Article 8), the Court referred to its finding of violations in similar circumstances and saw no reason to find otherwise in this case.

Lastly, the Court ruled that it was not necessary to examine separately the remaining complaints under Articles 6, 13, 14 and 18, and Article 3 of Protocol No. 1.

### Just satisfaction (Article 41)

The Court held that Russia was to pay the applicants: varying amounts in respect of pecuniary damage, as set out in the appendix of the judgment; EUR 7,500 – or such smaller amount as was actually claimed – in respect of non-pecuniary damage; and, EUR 850 – or such smaller amount as was actually claimed – per applicant, in respect of costs and expenses.

### Separate opinion

Judge Pavli expressed a concurring opinion, which is annexed to the judgment.

*The judgment is available only in English.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.