

## **Trials against Crimeans who stand against the military aggression of the Russian army (two years of the war)**

The full-scale invasion of Ukraine triggered a wave of protests both inside the Russian society and in the occupied territories. One of the tools widely used to suppress the anti-war and pro-Ukrainian sentiment was article 20.3.3 of the Administrative offence code which provides for punishment for 'public actions aimed at discrediting the use of the armed forces of the Russian Federation in protecting the interests of the Russian Federation and its citizens, maintaining international peace and security, particularly, public calls for interfering with the use of the armed forces of the Russian Federation with the above stated aim, and directed at suppression of the use of the armed forces of the Russian Federation with the above stated aim, and a call for use of the Russian army'. The new norm was introduced on March 4, 2022.

Since then, the 'Crimean Process' human rights defending organization analyses judicial practice regarding this violation in the territory of the Crimean peninsula quarterly, as well as systematizes data about violating the standards of access to fair justice, adherence to which IV Geneva Convention relative for the Protection of Civilian Persons in Time of War and art. 6 of the European Convention on Protection Human Rights and Fundamental Freedoms demand. This report presents the results of a 24-month research initiated since the moment the full-scale military invasion of Ukraine began.

### **General Information**

During the research period, 642 materials on administrative offences under art. 20.3.3 of the Russian administrative offence code were considered on the merits in the courts of Crimea and Sevastopol<sup>1</sup>. To avoid repetition, this number does not include court decisions about filing a case on jurisdiction or returning a case in order to remove drawbacks and violations. Out of the total number of cases, the court declared the persons guilty of committing the offence in 630 of them, it terminated persecution due to the expiry date or the lack of evidence in 10 cases, and the hearings were postponed to the date outside the time frame of the research in 2 cases.

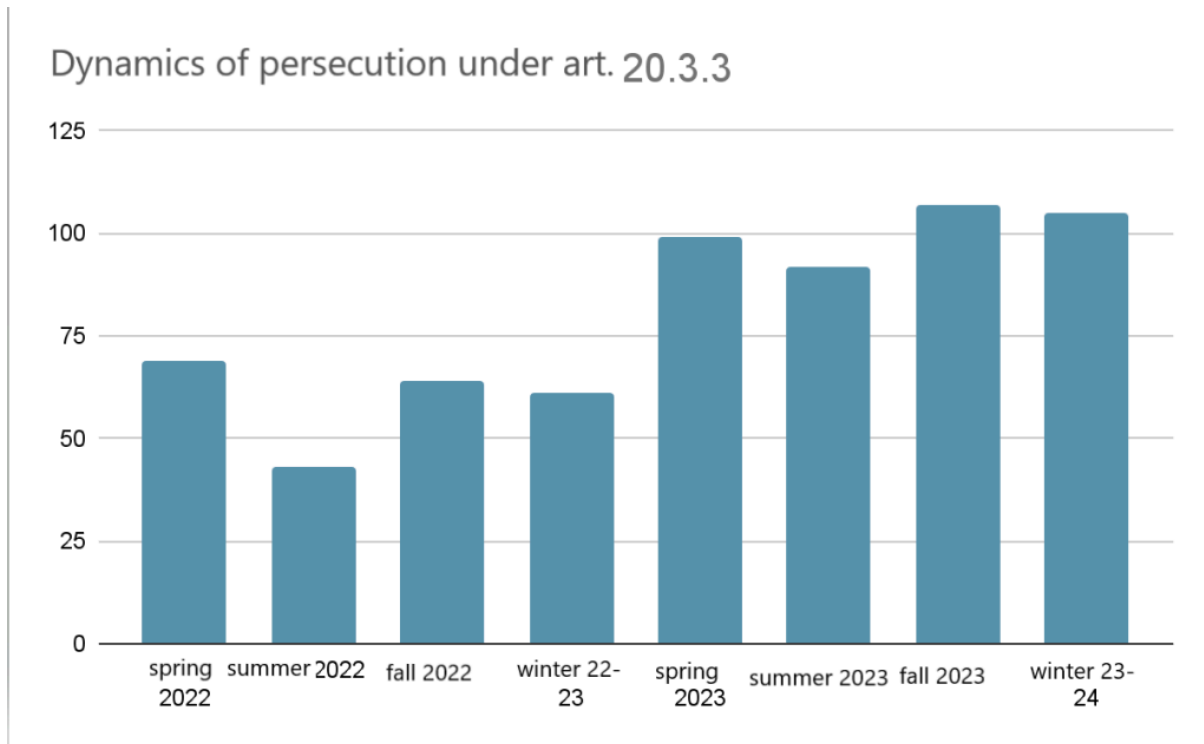
In total, the dynamics of repressions for anti-war statements and support of Ukraine had some fluctuations in the first year, and the average total for the year was 20 cases per month. From the beginning of second year of the war, the number has

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By the moment the report was being prepared, according to the Representative of the President of Ukraine in the Republic of Crimea, the number of protocols had reached 737, however, our analysis covers only the ones that were written during 24 months

significantly risen and remains high almost without change during the whole period. The average total for the second year was 33,5 cases per month. The number of trials looks as follows in the quarterly distribution:



The biggest number of protocols were considered by Kyivsky district court in Simferopol – 105 cases, by Armyansk city court – 60 cases, Evpatoria city court – 59 cases. However, it is noteworthy that the number of violations was affected considerably by external factors in cases with Kyivsky district court and Armyansk city court. So, the main unit of the Counter-extremism center is located in the territory served by Kyivsky district court in Simferopol, therefore a certain number of persons detained by the center in other regions appeared before the court where the administrative protocol was issued. Meanwhile, a borderline checkpoint is located in Armyansk, residents of Kherson region move through it and the content of their mobile phones is inspected during the crossing. Some of them later appear in Armyansk city court which is located nearest to the checkpoint. Without the influence of external factors, the biggest number of persecutions is recorded in Sevastopol (74), Evpatoria (59), Yalta (56).

### **Time and methods of research**

Most rulings are delivered by courts on the day when the protocol is issued, which complicates the possibility of organizing personal observation of such trials

significantly. Due to this, direct monitoring was held only during several hearings, and the main research methods were: interviews with persons subjected to administrative persecution under art. 20.3.3, the analysis of court decisions, and the analysis of open sources. Documenting was implemented using the tools of direct monitoring, the analysis of court rulings, and interviews with trial participants..

Below are presented the total results of the 24-month research which covers the period between March 4, 2022 (the day when the norm was introduced) and March 4, 2024 and is the continuation of the work initiated last year on documenting and studying the practice of repressions against showing pro-Ukrainian and pacifist views in the territory of occupied Crimea.

### **Forms of 'discrediting'**

Regarding the practice of applying this norm, the actions which Crimean judges attribute to the 'public discrediting of the Russian army' administrative offence are of the biggest interest.

Out of all 443 decisions published or delivered by other means under article 20.3.3 in the courts of Crimea and Sevastopol, all the cases belong to one of the four categories:

- posts on social media and other online services
- oral statements (including interviews and singing Ukrainian songs)
- making inscriptions, anti-war or pro-Ukrainian graffiti or damaging of war symbols
- pickets or other forms of demonstrating anti-war/pro-Ukrainian symbols (including listening to Ukrainian songs)

Also, the choice of protest forms is not proportional: there are mostly persecutions for posts that residents make on various online resources – at least 270 cases (60,9%).

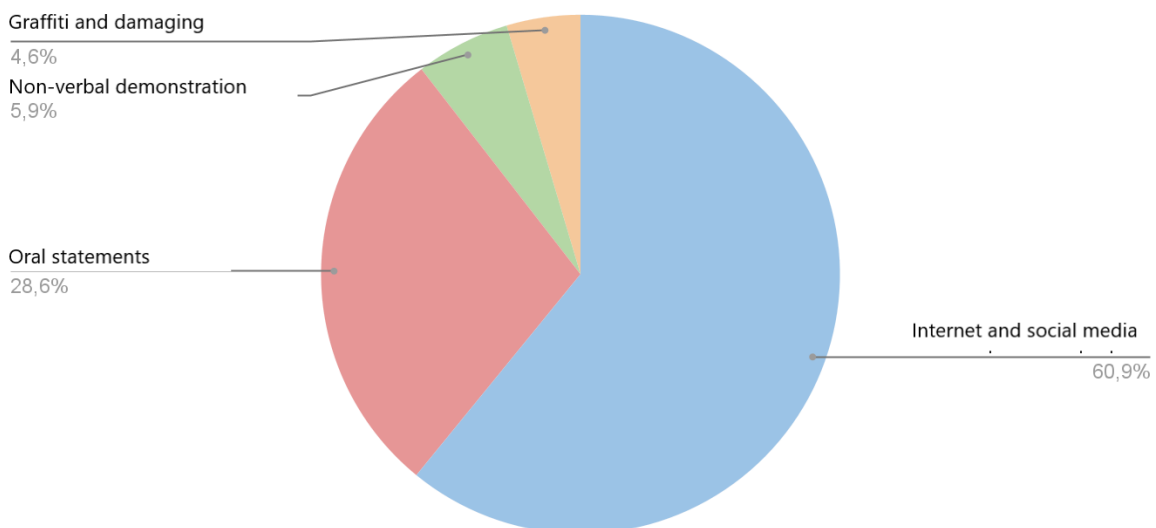
The second place in popularity is taken by citizens' oral statements for which at least 127 persons (28,6%) were held accountable for administrative offence during 18

months. It is also noteworthy that such cases have been recently recorded of Crimeans openly 'discrediting' the Russian army when communicating with Russian draft office staff or using humiliating phrases about wounded Russian servicemen and calling them 'smoked meat'.

Persecutions for various forms of demonstrating anti-war or pro-Ukrainian opinions were popular at the beginning of the full-scale invasion when a lot of people took to the streets with anti-war posters. In total, only 33 cases which ended with persecutions are known for 2 years, which makes 7,5% from the total number of well-known reasons for applying art. 20.3.3 of the Administrative offence code. The latest examples include the indictment of a female resident of Nizhnyogirsk district because she hung yellow and blue bedsheets when she was selling them, or a resident of Armyansk who was demonstrating a T-shirt with a trident and the word 'Ukraine' written on it.

The least common but stable form of 'discrediting' has been making anti-war/pro-Ukrainian inscriptions and graffiti or damaging of war symbols for two years. In total, it is known about 13 cases (3%), 1 - 2 cases are recorded per quarter on average. Among the latest examples, there is administrative accountability for a resident of Yalta who made a writing with paint on the roof of his building by which he 'expressed his discontent with the internal and external policy' of the Russian authorities, as well as the inscriptions 'Asshole: whom he served. Glory to Ukraine!' and 'katsaps: take your suitcases, go to the station and to moscow' written by a resident of Dzhankoy district on his neighbours' garage gate.

### Forms of expressing protest



## ***Analysis of adherence to separate standards of access to fair justice:***

### **Openness and publicity**

1) Out of 640 rulings in this category of cases, the court decisions were made public in 443 cases, which makes 69,2% from the total number. It is also noteworthy that these decisions, as a rule, are published by the courts with several months' delay.

2) In 451 cases (70%), information about the time and place of hearings was not posted on time on the court's website. On average, the relevant information appeared there on the following day or 2 days after the administrative case was heard, however, some cases were recorded when information about the time and place of hearings was posted only 21 days after the case was heard. Such practice makes effective public control of justice and its publicity impossible.

3) Out of 14 trials at which it was possible to organize direct monitoring, 12 were held in a closed mode without listeners or the press. Mostly, the court bailiffs refused to allow people in, referring to the anti-coronavirus regime or the high counter-terrorist security regime which claim that only participants of the trial are allowed into the court building.

### **ATTENTION TO CITIZENS!**

#### **Dear participants of trials and visitors of Krasnogvardeyskoe district court of the Republic of Crimea!**

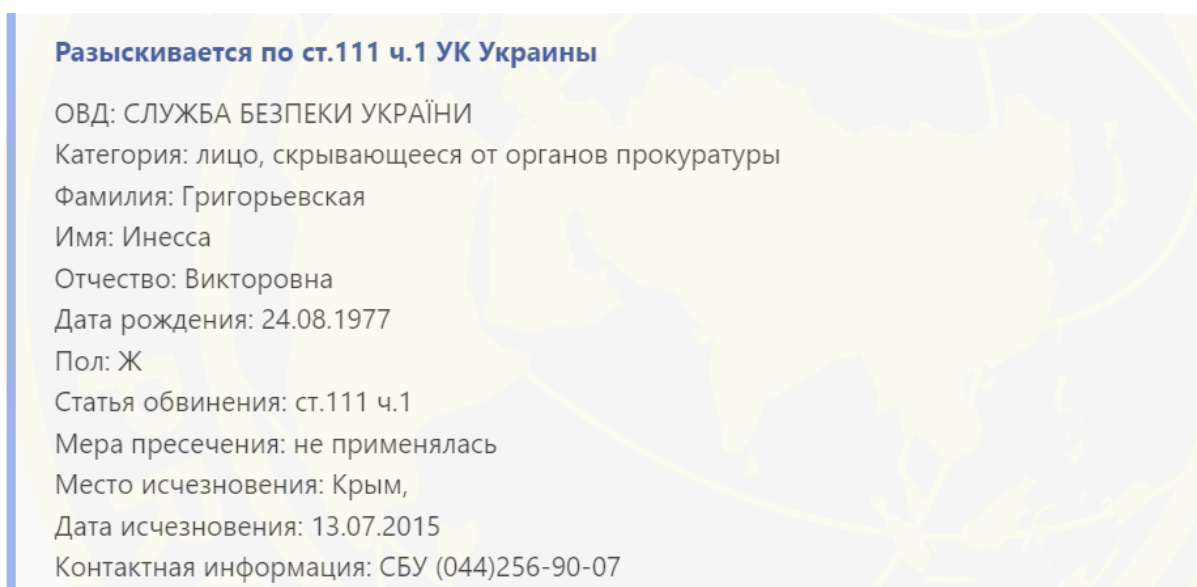
In order to strengthen the counter-terrorist measures in the court and to prevent illegal actions in the court, to raise the level of security of the judges, the staff and the visitors of the court, in accordance with measures planned by the joint order of the Court Department Management of the Republic of Crimea and Management of the Federal Court Bailiff Service in the Republic of Crimea of 25.02.2022 #48/12 'On strengthening counter-terrorist measures in the district and city courts of the Republic of Crimea' in the period from March 09 2022 and until a special order, entrance into the building of Krasnogvardeyskoe district court is restricted:

- no entrance into the court for persons who do not participate in trials;
- persons who are not participants in trials realize their rights by submitting forms and applications via the state Internet portal 'Justice' or by mail.

In at least one case, listeners and media representatives were not allowed into the court building, with reference to the absence of free seats since the hearing was being held in a small room. This is a gross violation of the publicity standard since the court had to have applied all possible measures in order to find a bigger room or to provide openness by any other possible means.

## Independence and impartiality of the court

1) Due to the fact that article 20.3.3 of the Administrative offence code was introduced after the beginning of the full-scale war against Ukraine, it is fairly logical that people who condemn the war may have obvious sympathy towards Ukraine. In connection with this, information which specifies whether Crimean judges involved in hearing cases on administrative offences under the above stated article are former judges of Ukraine is important to assess adherence to impartiality and independence of the court (in such a case they are either convicted *in absentia* or participants in criminal proceedings in Ukraine, which shapes their biased attitude to the conflict, to Ukraine or to persons who demonstrate their support of Ukraine.) Out of 156 judges who took part in hearing this category of cases in courts of the first instance, 74 of them (52,7%) were convicted *in absentia*, are wanted or may be declared wanted under the suspicion of committing a crime under art. 111 of the Criminal code of Ukraine 'High treason'.



**Разыскивается по ст.111 ч.1 УК Украины**

ОВД: СЛУЖБА БЕЗПЕКИ УКРАЇНИ  
Категория: лицо, скрывающееся от органов прокуратуры  
Фамилия: Григорьевская  
Имя: Инесса  
Отчество: Викторовна  
Дата рождения: 24.08.1977  
Пол: Ж  
Статья обвинения: ст.111 ч.1  
Мера пресечения: не применялась  
Место исчезновения: Крым,  
Дата исчезновения: 13.07.2015  
Контактная информация: СБУ (044)256-90-07

WANTED under art. 111 p. 1 of the Criminal code of Ukraine

IAB: Security Service of Ukraine

Category: person hiding from the prosecutors

Surname: Grogoryevskaya

Name: Inessa

Paternal: Viktorovna

Date of birth: 24.08.1977

Gender: F

Article of indictment: 111 p. 1

Restraint measure: not applied

Disappeared in: Crimea

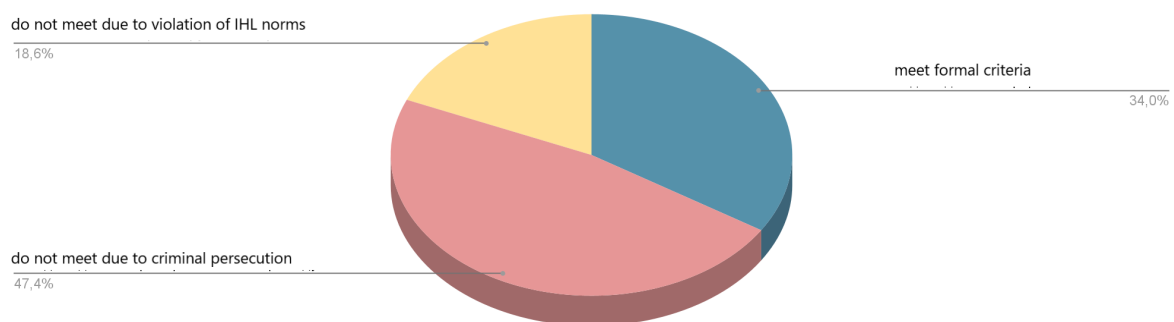
Date of disappearance: 13.07.2015

Contact information: SBU (044)256-90-07

Other 29 judges (19,1%) were transferred to Crimea from Russian regions and administer justice violating the norms of international humanitarian law. So, only 34% of the judges involved in hearing cases on discrediting the Russian army formally meet the criteria of an independent and impartial judicial institution.

In general, distribution of adherence to formal standards of independence and impartiality of Crimean judges in these cases looks as follows:

Impartiality of courts that hear cases under art. 20.3.3 of the Administrative code



2) Analysis of some open data connected the results of hearing cases under art. 20.3.3 of the Administrative offence code found only separate cases when a prosecutor took part in trials. The persons interviewed also stated that prosecutors had not been present during hearings, and that in some cases the court denied motions which called for a prosecutor. Courts in Crimea keep the trend of not providing a state prosecutor during administrative trials, and as a matter of fact, the prosecutor's functions (reading protocols, witnesses' testimony, showing photo charts and other evidence of crime) were taken by judges themselves. This can strongly affect the judge's biased position in favour of the prosecution.

3) The court's biased approach during hearings connected with the topic of the military conflict is sometimes recorded. So, for example, during a trial against a resident of Simferopol, Victor Mozhelyansky, a judge of the Central district court at that time, claimed publicly that he estimated the defendant's actions to be 'a shot in our boys' backs'. Subsequently, his bias was reflected in at least one court decision where systematic use of the word 'Ukraine' with a small letter draws attention.

## Equality of the parties and right to defence

1) Persons accused of administrative crimes are often deprived of a possibility to have witnesses who gave testimony against them interrogated. The contradictions between data stated in protocols and the defendant's position are not removed by the court. During hearings, judges often ignore motions about interrogating witnesses, appointing expertise, etc. The contradictions found are not subsequently interpreted in favour of the defendant.

For instance, a Yalta resident claimed before the court that he had not cried out phrases aimed at discrediting the Russian army from his balcony. However, in its decision, the court relies exclusively on interrogation of one person, an official report given by a security officer of the Counter-extremism center (who had interrogated this person), and a protocol written after the results of the report. The court did not call the person who had addressed the Counter-extremism center for interrogation, it did not establish the reasons of the false allegation and it did not remove contradictions between this person's testimony and the defendant's testimony.

Such an approach restricts the right to defence for one of the parties, the presumption of innocence, and the right to presenting evidence severely.

2) The object of the crime is the Russian army's authority, and the method is public discrediting. Crimean courts did not establish the fact of publicity in the actions of defendants who denied their involvement in spreading the 'discrediting' materials.

For example, a Sevastopol resident was accused of storing an audio file on his Google disc and storing a text file on the cloud storage Mail.ru, both files had signs of discrediting. The defendant explained that the poems were on the cloud storages for personal use. The attorney specified that the case lacks evidence that the files from the storages were shared with other persons. But the court came to a conclusion that the person had publicly demonstrated the materials on cloud storages because the materials were available by the links. However, the fact of sharing the links publicly was not established.

3) The object of the crime is the Russian army's authority. A big number of rulings analyzed raises doubt about the presence of the objective part or any signs of discrediting which would include 'accusations, escalation of negative factors, insults, labelling, humiliating comparisons.'

In order to conduct objective and comprehensive research, in some cases linguistic expertise is necessary. For example, the presence of the object subjected to public discrediting described by the article is doubtful in the comments of a resident of Kirovskoe district, who posted the comment 'this is the circus that is taking place' under a video dedicated to a car rally that marked the 9<sup>th</sup> year of Crimea's annexation. Similarly, the signs of discrediting are not obvious in the phrase 'wish you a peaceful sky above your head', especially considering the position of the



defendant who pleaded innocent.

Moreover, during the research period, one case became known in which the court referred to the results of a 'scientific conclusion of Feodosia museum of antiquities'. It is important to note that this document is marked with the status 'report about a research conducted' in the court's decision, which means it is not a conclusion of linguistic expertise.

In all other cases, when court decisions include texts which raise doubt about the presence of any signs of discrediting the Russian army in them, the court does not explain the reasons for considering the contents of posts or statements as the ones that are aimed at 'deprivation of trust to anything, undermining the authority and the image'. During the research, no case of appointing linguistic expertise was recorded, in particular, even if required in the motions raised by persons subjected to administrative accountability.

### **Conclusions:**

1. Consideration of protocols on administrative offences for 'discrediting the Russian army's actions' under art. 20.3.3 of the Administrative code of the RF in the courts of Crimea is connected with systemic violations of main principles of access to fair justice – the principles of publicity, adversarial parties, right to defence, and the impartiality of trial. The vast majority of trials have some signs of politically motivated persecution for expressing opinions.
2. A general character of violating the standards of access to fair justice and automatic legalization of protocols of law enforcement bodies can indicate that trials in this category of cases are not aimed at establishing the truth and prevention of crime in the realm of public discussion of the Russian armed forces' activity and the war in the territory of Ukraine.
3. There is reason to claim that the norm of art. 20.3.3 of the Russian administrative code has been more and more actively used exclusively as a tool for legalization of repressions directed at oppressing anti-war and pro-Ukrainian sentiment in the territory of Crimea.