

## **Conclusions:**

1. When courts were hearing cases under art. 20.3 of the Russian administrative offense code, they approached to evidence of the subject of the crime superficially and with frequent gross errors. The courts do not apply the established and introduced norms concerning demonstration of Nazi symbols even if they have an opportunity to apply them, they use extremist legislation instead, which is distinguished by the absence of clear norms or registers of extremist symbols.
2. There is none among the analyzed cases which would contain acquittals or be returned for revision. In many cases, courts are not inclined to select softer forms of punishment, even when it concerns the elderly or women. Sole demonstration of Ukrainian symbols quite often leads to finding the person guilty immediately under 2 or even 3 articles of the Administrative offense code.
3. Amid other mostly illegal repressive methods applied for expressing pro-Ukrainian stance, court processes look only like legalization and formal justification of illegal actions as the ones that were directed at fighting extremism or Nazi propaganda.

## **Description of the situation:**

A significant number of cases connected with public support of Ukraine has been recorded in the occupied Crimean territory since the beginning of the full-scale invasion and implementation of the norm regarding 'discrediting of the Russian army'. This support is mostly expressed by posts on social media containing images of the Ukrainian state flag and coat-of-arms, performing or listening to Ukrainian songs, and saying the motto 'Glory to Ukraine!'

Until recently, Crimean courts found difficulty grounding the qualification of these actions as 'public actions aimed at discrediting the Russian armed forces' because the Russian army was obviously not the subject which the 'illegal' action was directed at in some of the cases., for example, when the court brought people to accountability for listening to the anthem of Ukraine in their homes or dancing to Verka Serdyuchka's songs.

On the other hand, the Russian law enforcement officers probably consider accountability for supporting Ukraine under art. 20.3.3 on discrediting too mild a penalty as it implies paying a fine only. Numerous facts of beating people during detention speak in favour of such conclusions, despite the absence of resistance and very insignificant social threat of the potential offense as well as a certain number of fabricated indictments of storing drugs (for example, in the Gantsevsky case), non-compliance with the police officers' legal requirements (for instance, in the Osmanov case), petty hooliganism (the Gogolenko case) and other offenses which involve administrative arrest as a penalty.

But the most common approach was issuing of protocols with the definition '... are attributes (or an 'unofficial anthem', as it is in the cases of performing the song 'Chervona Kalyna') of a Ukrainian nationalist organization whose activity is recognized as extremist in the territory of the Russian Federation' and bringing to accountability under article 20.3 of the

Administrative offense code 'Propaganda or public demonstration of ... attributes or symbols of extremist organizations, whose propaganda or demonstration is prohibited by the Federal legislation'.

According to Russian legislation, the following were included into the list of extremist organizations whose activity is prohibited:

According to ruling of the Russian Supreme court N АКПИ14-1292С of 17.11.2014:

- "Pravy Sector";
- UNA-UNSO;
- "Trident named after Stepan Bandera";
- Ukrainian Insurgent Army (UPA);
- "Brotherhood".

By ruling of the Russian Supreme court of 08.09.2022:

- Voluntary Movement of OUN;
- "Sich S14";
- the "Black Committee" group.

The fact that all the Ukrainian organizations prohibited as extremist do not have symbols or attributes defined by the Russian legislation adds more specificity. One in two court's decisions about the prohibition was not made public at all, the second one does not contain a word about emblems, flags, mottoes or other details of the symbols. However, such a situation is not typical. For example, a [decision](#) carried out by the Supreme court of the Russian Federation on recognizing the Ukrainian military nationalist association 'Azov' as terrorist contains descriptions of the official emblem, chevron, graphic representation of the symbols.

Since 18.01.2024, the decision of the Russian ministry of justice added the status of 'Nazi' to the status of 'extremist' to the UPA, and the overall list of the Ukrainian organizations whose symbols were prohibited as Nazi, as of the time when the research was being prepared, was as follows:

- UPA (Ukrainian Insurgent Army)
- OUN (Organization of Ukrainian Nationalists)
- UNRA (Ukrainian People's Revolutionary Army)
- UNS (Ukrainian People's Self-defense)

Since then, the Russian authorities determined on the legislative level that the official greeting 'Glory to Ukraine, glory to the heroes!', several graphic representations of the Trident, the emblem of the OUN, and the red and black flag were attributed to the prohibited symbols and attributes. So, it became possible to bring people to accountability under article 20.3 of the Russian administrative offense code not only for indefinite extremist symbols but also for concretely defined 'Nazi' symbols.

So, the following main questions of the research were asked:

- 1) how many Crimeans were imprisoned within the framework of the newly established legislation concerning 'Nazi' symbols;

- 2) how Crimean judges had interpreted 'Ukrainian extremism' without definition of its symbols in the legislation before;
- 3) how common the practice of imprisonment for showing pro-Ukrainian sympathies was and has become.

**The objective:**

to research the peculiarities of court persecution of residents of Crimea who express Ukrainian stance under charges of demonstrating extremist and Nazi symbols

**The task:**

- 1) To compare the number of court decisions under such indictments which resulted in arrests with court decisions which imposed punishment in the form of fines;
- 2) To correlate the factual actions of the 'perpetrators' with the existing list of attributes and symbols of Ukrainian organizations;
- 3) To find the percentage of court decisions carried out for this 'offense' which became one of the several elements in the complex of persecutions for expressing Ukrainian stance;
- 4) To compare the dynamics of persecutions on the stage when expressing Ukrainian stance was attributed to expressing extremism with the dynamics of persecutions when these actions started to be attributed to also expressing 'Nazism'.

**The geography and the time frame:**

The research includes study of the practice applied by courts of general jurisdiction in the temporarily occupied territory of the Autonomous Republic of Crimea and the city of Sevastopol. The time frame of the research is between 1.06.2023 and 1.06.2024. The choice of the framework is due to the absence of sufficient resources for studying the issue during a wider time frame. The second reason is as follows: in order to, using balance, analyze the period when Crimeans were brought to accountability for extremism along with the period when they started to be brought to accountability for demonstration of Nazi symbols.

**Mechanics of the research:**

In order to complete the first task, a step-by-step processing of clusters of information was done. On the first stage, public court registers of cases published on the official websites of courts of general jurisdiction in the 'Republic of Crimea' and Sevastopol under article 20.3 of the Russian administrative offense code were scrutinized.

On the second stage, all cases which do not contain public rulings made by the courts were excluded from the data cluster since this article is not limited by Ukrainian symbols only, it also concerns attributes of Nazi Germans, fan groups, criminal gangs, etc.

On the third stage, the analysis of the rulings was done and all the cases which do not concern actions that have signs of public support for Ukraine were excluded.

On the third stage, the selected cases were divided by the principle of the selected administrative punishment: arrests or administrative fines.

In order to complete the second task, the Russian sources of legislation which contain or contained a list of attributes and symbols that belong to extremist or Nazi organizations were primarily defined.

- for extremist organizations, such sources were:

a) the decision of the Russian Supreme court of 17.11.2014 in case N АКПИ14-1292С which prohibits 5 Ukrainian organizations (no mentioning of any of their symbols or attributes is recorded)

б) the decision of the Russian Supreme court of 08.09.2022, which prohibits 3 other organizations, could be included. But this decision is not available for public access.

в) context search in the Federal [list](#) of extremist materials presented on the website of the Russian ministry of justice.

- for 'Nazi' organizations, such a source was:

г) 'List of organizations enumerated in p. 6 art. 6 of the Federal law 'On eternal commemoration of the Victory of the Soviet people in the Great patriotic war of 1941 – 1945' and the attributes and symbols of these organizations' which was made public on the official website of the ministry of justice of Russia on 18.01.2024.

The second stage was comparison of factual circumstances which are present in court decisions with the content of the sources of the legislative basis which regulates the list of symbols and attributes, and the description of results of such a comparison.

In order to complete the third task, monitoring of these persons being brought to parallel accountability also for 'discrediting the Russian army' was firstly done. For this, courts' public registers of cases under art. 20.3.3 of the Russian administrative offense code published on the official websites of courts of general jurisdiction of the 'Republic of Crimea' and Sevastopol were checked. Moreover, information search was done via open sources, it was aimed at establishing facts of humiliation of such persons' dignity, their dismissal from work, spreading their personal information, etc.

In order to compare the dynamics of court decisions against persons who demonstrate Ukrainian beliefs, within the framework of the fourth task, 2 separate clusters were created – one with accusations of demonstrating symbols of extremist organizations and one with accusations of demonstrating symbols of Nazi organizations. The quantitative indicators of each cluster became the basis for conclusions that were used to complete this stage of the research.

The following issues were not the subject of analysis:

- validity of inclusion of different organizations into the list of extremist or Nazi organizations;
- proof that the symbols and attributes of the organizations recognized by the Russians as extremist or Nazi are really such;
- the issue of legality of spreading Russian legislation on the occupied territories

### **Detailed description of the research:**

According to the step-by-step analysis of the clusters of information found on the official websites of courts under art. 20.3 of the Administrative offense code which contained public court decisions with punishment in the form of arrest, 26 cases were selected which

concerned persecutions of persons for demonstrating Ukrainian symbols or attributes. Out of those, 12 cases concern application of the norm on demonstration of symbols of extremist organizations, and 14 of them are attributed to the time when the court had to select between Nazi and extremist symbols.

Next, the analysis of court decisions was conducted from the point of view of proof that public actions in support of Ukraine are the subject of the offense under article 20.3 of the Administrative offense code.

Since 18.01.2024, the scheme in the category of 'Nazi' cases which establishes demonstrating sympathy towards Ukraine as the subject of the offense (and its accordance with p. 1 art. 20.3 of the Administrative offense code) has been as follows:

- 1) establishing the fact that certain information was spread publicly;
- 2) comparison of this information with attributes and symbols which are recognized as Nazi and prohibited (presented on the website of the ministry of justice);
- 3) exclusion of cases in which prohibited symbols and attributes were used with an aim that is not propaganda of Nazism (scientific research, art and fiction, condemnation of Nazism and description of historical events)

It was interesting that Crimean courts avoided using this scheme during the whole period of research: out of 14 court decisions carried out within this period, most of the rulings (11) rely on general experience of bringing to accountability for demonstrating extremist but not Nazi symbols. Only three decisions were recorded which defined the offense as propaganda of Nazi symbols. However, none of them compares the attributes which were made public with those recognized by the ministry of justice as Nazi. Moreover, in two of these decisions, the court hid what exactly was the subject of the offense – we speak about some unidentified actions (statements, posts) which the court and the specialist established as Nazi symbols.

Only the decision of the Yalta city court in the case against Mykhaylo Oleynik notes that the post 'Glory to Ukraine! Glory to the Heroes!' is qualified as public demonstration of Nazi symbols. An expert's conclusion is stated as proof, its content is not included into the court decision. The fact that the decision of the Russian ministry of justice, which prohibits a certain list of Ukrainian symbols, is absent from the motivational part of the ruling, indicated that this document was not the basis for the documents which the court relied on when it was hearing the case.

Meanwhile, in its motivational part, the court quotes p. 3 art. 6 of the Federal law 'On eternal commemoration of the Victory of the Soviet people in the Great patriotic war of 1941 – 1945' which prohibits propaganda or public demonstration of attributes or symbols of organizations that collaborated with persons and organizations found guilty by the decision of the Nuremberg tribunal or similar legislative bodies. However, the court's decision does not mention:

- 1) which organization with the attributes 'Glory to Ukraine! Glory to the Heroes!' collaborated with organizations found guilty by the decision of the Nuremberg tribunal or similar legislative bodies
- 2) the organization or persons that the unnamed organization with the attributes 'Glory to

Ukraine! Glory to the Heroes!' collaborated with

3) the decision of which court or which verdict of the Nuremberg tribunal recognized this unnamed organization or person as guilty in crimes connected with Nazism

4) what evidence the notion that the unnamed organization with the attributes 'Glory to Ukraine! Glory to the Heroes!' collaborated with an organization or person guilty of Nazism-related crimes relies on.

Under such circumstances, the court's qualification about demonstration of Nazi symbols looks unconvincing and unproven.

It is also necessary to add that all the three 'Nazi' rulings contain no information about the court's actions on excluding the option for the attributes to be published with the aim of forming negative attitude to Nazism or without signs of Nazi propaganda.

In the category of 'extremist' cases, the scheme by which demonstrating sympathy towards Ukraine is established as the subject of the offense (and its correspondence with p. 1 art.20.3 of the Administrative offense code) is much less precise. As Oleksandr Ravnyushkin – a candidate of Law Sciences in the Crimean branch of the Krasnodar University of the Ministry of Internal Affairs - writes in his [work](#) 'Problems of Qualification of Administrative Offenses Committed in Public Places under p. 1 art. 20.3 of the Administrative Offense Code as of 2022', 'the official list and imagery of Nazi attributes and symbols, as well as symbols and attributes of extremist organizations, is not available to general public. Only a list of extremist organizations is presented. In connection with this, arguments occur regarding attribution of different signs and images to Nazi or extremist ones'. It is noteworthy that the situation with presenting the official list of attributes and symbols of extremist organizations has not changed for the better since then.

In his monograph, Ravnyushkin also suggests including into the list of extremist symbols primarily the images which are described in the statute documents of organizations recognized as extremist by the Russian authorities. Also, the author suggests including in the extremist symbols the symbols which are constantly or systematically used by extremist organizations but are not present in their statute documents. He adds that a certain number of such organizations does not have any statute documents at all. However, he does not suggest any approach which could help courts establish the fact of systemic or constant use of certain symbols by 'non-statute' extremist organizations.

Or, as Anatoliy Khomenko, a candidate of Law Sciences, and Nataliya Cheremnova, a candidate of Law Sciences from the Omsk academy of the Ministry of Internal Affairs – noted in their [work](#) 'Differentiating Extremist Indicators from Legal Behaviour within the Context of Art. 20.3, 20.3.1 of the Administrative Offense Code and art. 280, 282 of the Criminal code', due to the absence of precise criteria for extremist behaviour, 'the applier of justice is forced to rely on value judgments and their own understanding of different events'. The authors suggest investigating the issue of symbols (the text particularly mentioned Slavic symbols) with compulsory consideration of conclusions made by relevant expertise as well as the person's motives and behaviour (the content of social media pages, reposts, etc.) which might not contain any signs of illegal activity.

So, relying on the content of the scientific works dedicated to the analysis of 'anti-extremist' legislation and practice of its application, we can construct the following logical model for

determination of the subject of the offense:

- 1) establishing the fact of public spreading of certain symbols, attributes, etc.;
- 2) comparing the found symbols with the list of extremist materials made by the ministry of justice or establishing connection of the symbols with an organization recognized as extremist by the Russian authorities;
- 3) comparing the found symbols with those represented in the statute documents of an extremist organization;
- 4) if the statute is absent – establishing the use of the found symbols as constant or systematic in the activity of an organization recognized as extremist (with consideration of the conclusions made by relevant expertise);
- 5) studying the person's motives and behaviour for the subject of direct and willful extremist activity.

Out of 23 analyzed court decisions, there is none in which the court would rely on such an order of comprehensive scrutiny of the circumstances and the subject of the offense. The court never determined the presence of evidence about attributes in the list of extremist materials made by the ministry of justice and it never checked whether an extremist organization has any 'statute' symbols. Also, no actions were ever recorded which would ground the consistency or systematicity of the found symbols within the activity of an organization recognized as extremist, moreover, with consideration of the conclusions made by relevant expertise. Apart from that, the rulings do not contain any substantive determination of the person's motives and behaviour within the subject of direct and willful extremist activity.

The most common practice during court hearing of the cases which concern support for Ukraine in Crimean courts is establishing the fact of Ukrainian symbols being posted, which, by the help of unidentified conclusions made by an unidentified specialist, courts connect to a certain organization which was recognized as extremist by the Russian authorities' decision, and, by doing so, courts finish their proof of attribution of the posted Ukrainian symbols to the category of extremist symbols.

However, frequent are cases when courts digress even from such a 'simplified' model.

Sometimes, the court decides in its sole discretion whether certain attributes belong to an organization, not even relying on a specialist's opinion in its conclusions. For example, as it was in the [case](#) against Anzhela Kostyorina, in which the judge Halyna Khulapova attributed several variants of the song 'Chervona Kalyna' to unofficial anthems of several prohibited organizations in her sole discretion. Similarly, the same judge heard the [case](#) against Refat Kasymov who also had a variant of the song 'Chervona Kalyna' in his playlist on social media.

Among other doubtful ways of proving that Ukrainian symbols which were made public belong to 'extremists' there are operational and search measures entitled 'Inquiry Making', as in the [case](#) against Pavlo Frukhtin, a resident of Yalta. And this case is not isolated – in the [case](#) against Dinar Abduraimov, the operational officer issued a report in his sole discretion in which he stated that the found attributes had been used by Ukrainian nationalists who collaborated with the Nazis. This report became the key evidence of the guilt. In accordance

with the [position](#) of the Russian constitutional court, materials made during operational and search measures cannot be used as evidence, and moreover, as the key evidence that would prove that the subject of the offense is present.

One more option that was applied instead of using conclusions made by a specialist or expertise was simply asking a side person for an explanation in order to draw a conclusion about ties with extremist organizations. As in the [case](#) against Mariya Zamyraylo, explanations were taken from a history teacher in the school 'Lyceum' in Simferopol district; the teacher provided evidence necessary for the law enforcement officers by saying that the image of the Trident was a symbol of the OUN.

Cases occur when unidentified specialists classify such doubtful attributes as, for example, a video where doors are painted with red and white stripes of equal size as symbols of Ukrainian extremist organizations, as it was in the [case](#) against Dmytro Belolazov. Unfortunately, the court ruling does not mention how the stripes were measured to prove their equal size and what sources of information the specialist used to prove that the doors painted in such colours were a constant element in the activity of an organization which is recognized as extremist.

In the decision of the Kerch court in the [case](#) against Oleksiy Kharchenko, the conclusion was described as follows: 'During the inspection, it was found that the person 'NameSurnamePaternal1' who was administering the page made a public post on his social media page which contained the following materials: photos of people in tracksuits, national flags of the Russian Federation and Ukraine, and the text with the motto 'Glory to Ukraine!' as well as a portrait of 'Roman Shukhevych'. According to the specialist's conclusion, those are the symbols of the OUN – the organization of Ukrainian nationalists...' The rest of the text does not specify on what basis the specialist classified 'photos of people in tracksuits', a portrait of Shukhevych and the Russian tricolor as extremist symbols.

Among other curious conclusions made by unnamed specialists, in particular, in the case [against](#) Lyudmyla Nekrasova, we find the following: 'the symbols were used by the organization of the Ukrainian Nazis'. The court decision does not specify what 'Nazi' organization used those symbols. What kind of evidence the specialist used in order to draw the conclusion that the organization was Nazi – the court decision does not specify. Also, the same specialist notes in the text: 'the attributes... are recognized as extremist'. I. e. not the organization which used it but these attributes themselves. However, the court decision does not mention the specific number in the register of extremist materials of the ministry of justice or other legislative documents which would recognize these attributes as extremist. Our own scrutiny of the extremist materials list made by the ministry of justice showed that such symbols are not found in the register.

In fact, it is also interesting that in this case the court did not establish even a doubtful connection between the attributes which were made public on a social media page and the symbols of the Ukrainian organization which was recognized as extremist. The specialist, as it was mentioned earlier, referred to some mysterious organization 'of Ukrainian nationalists' without a concrete name and does not call the organization extremist. And later, the judge writes that 'the Pravy Sector' was recognized as extremist by the court, so the symbols which were made public by Nekrasova are extremist. The court ruling does not say what the



'Pravy Sector' has to do with it and why the symbols which were made public must be considered an element of this organization.

Apart from a large amount of bad quality 'expertise' concerning the subject of the offense, wrong conclusions that different Ukrainian organizations were recognized by the Russian court as extremist are a characteristic feature of such cases. This mostly concerns situations when unnamed specialists define the symbols which is publicly posted by Crimeans as attributes of the Organization of Ukrainian Nationalists, and the court does not differ between the OUN and the Voluntary Movement of the Ukrainian Nationalist Organization which was really recognized as an 'extremist organization' by the Russians in 2022. It is the trend when courts do not make any careful comparison of specialists' conclusions and legislative documents which mention the extremist status of an organization. For instance, as it was in the [case](#) against Oleg Lukashevych from Simferopol or in the [case](#) against Olena Romenska – a resident of Yalta.

The absence of actions that judges could do with the aim of comprehensive establishment of persons' motives and behaviour within the subject of direct and willful extremist activity draws special attention. The most illustrative is the [case](#) against Ivan Gorbashov when the person who was brought to accountability gave the court convincing explanation about demonstrating symbols with the aim of obtaining commercial benefit: the symbols were elements of a coin which the person had put on sale for coin collectors. Despite the declared motives which obviously indicate the absence of the person's intention to do extremist propaganda, the court did not check these circumstances, did not evaluate them and selected a measure of restraint in the form of imprisonment.

It is also noteworthy that the proof of the action itself which was found unlawful was still doubtful in some of the cases. So, Pavlo Fruktin explained in the Yalta city court that he had not shouted 'Glory to Ukraine!' from his balcony. The evidence which persuaded the court that the action was present was a neighbour's denunciation and an official report issued by a policeman who registered the denunciation. These persons were not interrogated in the court, which could have been necessary in order to prove the absence of slander, bad relationship, revenge, etc.

Separately from 'Nazi' and 'extremists', a minor practice of bringing people to accountability for demonstrating 'other' attributes prohibited by the Federal laws is represented in Crimean cases under art. 20.3 and connected with Ukrainian symbols. Logical chain by which guilt is proven is clear from the definition of this part of the offense: if there is legislation which prohibits any concrete symbols – then there is an offense. If there is no separate act regulating prohibition of concrete symbols – there is no offense, either.

The most illustrative persecution of this type is the [case](#) against the independent attorney Oleksiy Ladin who was charged with demonstration of 'other prohibited attributes', namely an emblem of the Crimean Tatar voluntary battalion named after Noman Chelebidzhikhan which was recognized as a terrorist organization in 2022. In its decision, the court relies on conclusions made by an unnamed specialist who stated that symbols of a Ukrainian coat-of-arms with a Crimean Tatar tamga were used by the 'combatants' of this unit during a counter-terrorist operation in the territory of Ukraine'.

The court decision mentions that Ladin objected to such conclusions of a specialist during the process but it does not say what exactly he objected to. However, as the 'Crimean Process' knows, the defense paid attention to the fact that the Supreme court's decision which recognizes the Crimean Tatar voluntary battalion named after Noman Chelebidzhikhan as a terrorist organization gives a very detailed description of what this unit's emblem looks like. It has nothing in common with the drawing posted on Ladin's Facebook page except one common element – a tamga. But a tamga itself is not prohibited by any legislative act, so it cannot be the subject of the offense in the format 'propaganda of other symbols prohibited by the Federal laws'. The court did not explain its attitude to such differences in its ruling.

In total, due to the number and variety of such doubtful court decisions, an impression is made that the court's approach towards establishing the actions aimed at supporting Ukraine as propaganda of extremism or Nazism looks biased. This impression is strengthened by indicators of complex persecutions of Crimeans when expressing of pro-Ukrainian stance results in administrative responsibility not only under art. 20.3 of the Administrative offense code but under two or even three articles of the Administrative offense code at once. It is usually combined with a whole range of non-judicial actions, such as:

- detention with violation of existing norms or forced abduction;
- unprovoked violent actions during detention;
- searches and confiscation of all gadgets (smartphones, laptops, video registrators);
- humiliation of dignity (videos containing apologies, singing Russian songs);
- mass spreading of personal information on the media to incite hate among other users;
- dismissal from work.

Interesting is the fact that, among persons imprisoned by the court for demonstrating Ukrainian symbols, the percentage of those against whom some additional judicial and non-judicial forms of persecution were applied is significantly higher than in cases where courts imposed punishments in the form of administrative fines. Out of 26 persons who faced administrative arrests, 18 were subjected to either indictments under additional articles of persecution or non-judicial forms of repressions, or all of the described. At the same time, among those who were just fined, 11 cases of additional persecutions out of 33 were only recorded.

The total ratio in the number of cases in which the court imposes punishment in the form of administrative arrests for Ukrainian symbols is 1 to 1,25 cases in which punishment under the same article is not connected with imprisonment. In numbers, this looks as follows: 26 decisions about arrests and 33 decisions about punishment in the form of administrative fines. Among the ones fined there are 13 women, out of all arrested – six women, including a 64-year-old.

A trend was detected in which the court imposes severe punishments more often and under a bigger number of articles in cases when propagandist social media groups have already spread information about the detentions. This also serves as an additional argument in favour of conclusions that the court is only a dependent tool which legitimizes repressive policies against pro-Ukrainian citizens in the occupied territory of Crimea.

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