

The Crimean Process continues to research in detail the instruments of persecution of civilians in the temporarily occupied territory of Crimea for demonstrating their pro-Ukrainian sympathies and beliefs. Previously, we have researched the practice of bringing to administrative responsibility under Article 20.3 of the Administrative Code of the Russian Federation for demonstrating 'extremist' symbols in relation to pro-Ukrainian residents of Crimea, and this text will analyse the practice of courts established in the occupied territory to bring to administrative responsibility under Article 20.3.3 of the Administrative Code of the Russian Federation for 'discrediting the Russian army'.

The purpose of this research is to test the hypothesis that in the occupied territory of the Autonomous Republic of Crimea, the method of prosecution under the article on discrediting the Russian armed forces is used, among other things, without any grounds, to combat the growth of Ukrainian sentiment.

The subject of this research is the practice of the Crimean courts in applying Article 20.3.3 of the Administrative Code to prosecute Crimeans for expressing pro-Ukrainian beliefs or sympathies for Ukraine under the guise of bringing to justice for discrediting the Russian armed forces (authorities, volunteer formations).

At the same time, we understand the administrative offence under Article 20.3.3 of the CAO to have three integral components, without any of which the offence cannot be considered complete:

- 1) publicity of actions
- 2) the direction of these actions towards (Targeting):
 - Russian armed forces (not in general, but those that protect the interests of the Russian Federation or act in the interests of maintaining peace and security)
 - government authorities (not in general, but those that protect the interests of the Russian Federation or act in the interests of maintaining peace and security within their powers)
 - Volunteer formations (not in general, but those that assist the Russian armed forces in performing tasks)
- 3) signs of discredit in the actions

All three of these elements must be present at the same time.

Publicity of actions

The Constitutional Court of the Russian Federation recognised that 'the concept of "public nature" is to some extent evaluative... However, this does not prevent the qualification of specific actions'. Judging by the explanations on the [website](#) of the Prosecutor's Office of the Republic of Komi, the public nature of actions means bringing information to an unlimited number of persons or its dissemination directly in the presence of several persons, or in a way that makes it possible to bring this information to outside listeners, for example, through social networks, by posting information on the Internet. At the same time, communicating this information in a private conversation is not public dissemination of information.

Targeting

In accordance with Article 10(1) and (2) of Federal Law No. 61-FZ 'On Defence' The Armed Forces of the Russian Federation is a state military organisation that forms the basis of defence. It should be borne in mind that this provision only applies to the actions of the Russian armed forces to protect the interests of the Russian Federation or to maintain peace and security. Part 2.1 of Art. 10 of the said Federal Law reveals that in order to protect the interests of the Russian Federation and its citizens, and to maintain international peace and security, formations of the Armed Forces of the Russian Federation may be used promptly outside the Russian Federation in accordance with the generally recognised principles and

norms of international law, international treaties of the Russian Federation and this Federal Law to solve, in particular, the following tasks 1) repulsing an armed attack on units of the Armed Forces of the Russian Federation, other troops or bodies stationed outside the Russian Federation; 2) repulsing or preventing an armed attack on another state that has requested the Russian Federation to do so; 3) protecting citizens of the Russian Federation outside the Russian Federation from an armed attack on them.

The state authorities include the Federal Assembly, the Government (including federal services and federal agencies of Russia, managed by the President or subordinate to and managed by the Government of Russia), and the federal judiciary.

Volunteer formations, according to Article 22.1 of Federal Law No. 61-FZ 'On Defence', are entities that may be created by the Ministry of Defence (the National Guard) by decision of the President of the Russian Federation.

Signs of discredit

The Russian Constitutional Court has [published](#) its position on what constitutes defamation. According to the court's ruling No. 1399-O/2023, 'the CoAO does not specifically define the concept of discredit for the purposes of its Article 20.3.3, and, accordingly, this concept does not have any special meaning, different from the generally accepted meaning of discredit, which is understood as undermining the trust of individual citizens and society in general in anyone, in anyone's actions (activities). The objective diversity of forms of actions aimed at such undermining of trust (linguistic, visual and other) allows the legislator in this case not to specify the concept of discredit, since the focus of actions of a public nature is the one to be established in the course of consideration of the case on the relevant administrative offence.'

The Khabarovsk Krai Prosecutor's Office [clarifies](#) that the term 'discredit' is generally understood to mean intentional actions aimed at undermining authority, image and trust. The Constitutional Court added that the same category should include the determination of the expediency and necessity, nature and scope of the use of the Armed Forces of the Russian Federation, as well as the exercise of powers by state bodies for these purposes. Calls for actions that impede the adoption of decisions and measures by state authorities to ensure international peace and security should also be included.

Thus, the legislation has defined a set of signs on the basis of which one can judge the presence or absence of a crime. The court must answer the questions of whether these actions were public, whether they were directed at the Russian armed forces (+ government agencies, volunteer formations) and whether the actions are seen to be aimed at undermining the authority of the armed forces (government agencies, volunteer formations).

According to the Russian Constitutional Court, when considering cases of administrative offences under Article 20.3.3 of the CoAO, it is assumed that the court will [establish](#), [investigate](#) and [assess](#) the actual circumstances of such actions in their totality.

The research methodology included the following procedure for selecting court decisions:

- 1) the case was considered under Article 20.3.3 of the Administrative Code of the Russian Federation;
- 2) the case was considered in one of the courts in the occupied territories of Crimea on the merits and a published court decision is available;
- 3) the court ruling mentions that among the factual circumstances of the case there was a demonstration of symbols or other forms of declaring one's beliefs, opinions or sympathies for Ukraine;

The court decisions selected in this way were studied in the following **aspects**:

- the court's assessment of the publicity of the actions and verification of these circumstances

- research and assessment of the relevance of factual statements to the Russian armed forces (authorities, volunteer formations)
- Assessment of whether the factual statements are related to actions aimed at undermining authority, image, and trust (including doubts about the expediency and calls for obstruction of decision-making)

The timeframe of the research was from 1 January 2024 to 31 August 2024. The analysis of published court decisions was carried out in the period from 1 to 15 September 2024.

The research process:

In total, during this period, 130 court decisions on bringing to administrative responsibility under Article 20.3.3 of the Administrative Code of the Russian Federation were published in the courts of Crimea and Sevastopol established by the occupying authorities. Of these, only 41 were reviewed by the courts in circumstances that do not demonstrate obvious sympathy or support for Ukraine, and sometimes even relate to statements made by pro-Russian Crimean residents. For example, Maksym Kravchenko, who lives in Feodosia and was fined for criticising Russian generals who, in his opinion, are fighting ‘wrong’ and are not capable of ‘f*cking with “Poplars” (ballistic missiles with nuclear warheads) on Bankova Street’.

However, out of the remaining 89 court decisions, further research had to exclude another 32 court rulings. As it turned out, the Crimean courts often prefer not to disclose the circumstances that they have established in the course of the proceedings. Almost every fourth court decision has a laconic form of description of events such as: ‘published information/commentary’ (7 cases), “posted a publication/material” (8 cases), “showed photos/videos” (4 cases).

Sometimes judges were a little more detailed: ‘published a defamatory photo’, “text about supporting the armed forces” or “materials whose content is aimed at undermining trust”. However, even in these cases, there is clearly insufficient information in the court documents for a full analysis.

This number also includes 11 cases where the judges identified the details of the statements, but the meaning of the phrases was completely hidden, making it impossible to verify the objectivity of their assessments and the legality of the decisions. For example, in the case against Pichugin from Sevastopol, the court found that he had committed active public actions by saying the phrases ‘...’. The very phrases that [Pichugin](#) used to express through ‘active public actions’ were removed from the decision. Or another example - a resident of Simferopol, Yanyuk, ‘published pictures in support of Ukraine’. Of course, the court did not give the slightest idea in its decision what it saw in these ‘pictures’, how it related to the Russian army or officials and why it could discredit them.

Thus, the final subject of the study was a total of 57 court decisions of Crimean and Sevastopol courts, which do not conceal a description of what is being accused of the person being brought to administrative responsibility, and at the same time, the actions or statements established in the court acts have an obvious pro-Ukrainian orientation.

We analysed all 57 of these decisions for the presence of the 3 components mentioned above: publicity of actions, targeting a narrow list of addressees, and signs of discredit.

Publicity of actions

This component was established in 44 judgements (77%), some of them solely by reviewing screenshots attached to the case file. At the same time, 13 decisions do not contain data that would indicate that the court was fully convinced of the public nature of the actions taken. This mainly concerns accusations of oral statements. Moreover, there have been several cases where the circumstances of the offence exclude its public nature.

For example, the Central District Court of Simferopol found that citizen [Akhmedova](#) had written 'Ukraine will win' on a ballot paper while voting at a polling station. However, according to Russian law, voting is secret. According to part 2 of Article 67 of the Law 'On the Election of the President of the Russian Federation', in the case of transparent ballot boxes, the form of the ballot paper is established taking into account the need to protect the secrecy of the vote. The court did not establish in its decision how Akhmedova ensured publicity despite the existence of the secrecy of the vote.

This is not an isolated case. In Yalta, the compilers of the administrative protocol prudently noted that before the ballot paper was put into the ballot box, citizen [Nosik](#) publicly demonstrated it to everyone, along with the inscriptions 'Occupiers out!!!', 'Waiting for the Armed Forces', 'To hell!!!' and drawings in the form of the Ukrainian flag. The defendant herself denied that her ballot had been publicly displayed, but the court did not verify this fact, referring to the written explanations of witnesses.

In general, the court's refusal to summon for questioning persons who allegedly witnessed the oral statements of a person held administratively liable is a fairly common practice. For example, a judge of the Kyiv District Court of Simferopol refused to summon for questioning a person who allegedly heard a statement 'against the Special Military Operation and the policy of Russian President Vladimir Putin' from a citizen Mazan. Putin' from a citizen of [Mazanka](#). Although the latter denied such actions, the court determined the public nature of his actions based on the written testimony of the informant and another witness. The Railway Court of Simferopol questioned only one witness (a police officer) to the verbal conflict in the cases against [Abramova](#) and [Zinchenko](#), although the case file contained testimony from three witnesses. The Yalta City Court did not interrogate the witness who reported to the police about [Ilaev's](#) oral statements that 'Ukraine will soon come to Crimea, and everyone will be chased away'.

Such cases, taking into account the details provided in the case files, lead to the hypothesis that judges avoid calling witnesses, fearing that during the hearing they will give testimony that may differ from the case file, where their testimony is presented in such a way that it would certainly meet the signs of defamation and other elements of the offence.

Targeting

This component is not in doubt or at least somehow substantiated by the court in 11 decisions (19%). At the same time, 46 judgments, due to the obvious doubt or even complete absence of the addressee, do not contain any arguments on the basis of which the court concluded that this or that action was indeed aimed at the Russian armed forces, authorities or volunteer formations.

The most widespread statements, which were not obvious from the point of view of the addressee, were the phrases 'Glory to Ukraine!', 'Everything will be Ukraine', 'Happy Independence Day', 'I love Ukraine', lyrics from the song 'Ukraine has not yet died', comments 'Glory to the Heroes!', as well as images of a trident, yellow and blue hearts, a Ukrainian passport, a flag and similar images. There is no obvious semantic connection between these expressions and images and the actions of the Russian army and Russian authorities 'to protect the interests of the Russian Federation or to act in the interests of maintaining peace and security'. By themselves, these phrases undoubtedly constitute unaddressed vocabulary.

In the practice of the Crimean courts, there have been no attempts to distinguish between the targeted and untargeted use of the phrases under study, either by linguistic expertise or by the court itself. There were no attempts to find the addressee of the images either. In the vast majority of cases, the decisions on such 'offences' contain a complete lack of minimal explanation as to the basis on which these expressions were interpreted by the court as statements addressed to the Russian armed forces, authorities or volunteer formations.

Especially in such ambiguous statements as ‘racist pig-dogs’ (decision of the Feodosia City Court against [Smirnov](#)).

However, there are also a few exceptions (for example, the decision of the Krasnoperekopsk District Court against [Decik](#)), when judges argue that the statements are directed against the Russian army by the fact that these attributes are used by the Armed Forces of Ukraine, which are confronting the Russian Federation ‘during the military operations where Russian soldiers are killed’.

This argument seems insufficient, as the list of these symbols is not limited to those used by the Ukrainian military in the armed conflict. For example, the trident is used as an attribute of the Ukrainian authorities, is part of the symbols of Ukrainian sports teams, is used on vehicle licence plates and in other areas that are in no way related to the armed conflict.

Another example is the attempt of the Kyiv District Court of Simferopol to characterise the use of the yellow and blue colour scheme as ‘national colours and attributes used by the armed forces of Ukraine during armed conflicts and violent actions against the Russian Federation’ (in the case against [Lukashevich](#)). This argumentation does not stand up to any criticism, as this colour scheme is widely used in all spheres of life around the world, including on Russian territory. For example, blue and yellow are the brand colours of Russian Metro hypermarkets. The same colours are used in the design of both versions of the uniforms of the players of the Russian football club Rostov. If we follow the court's logic, any use of these colours can be seen as discrediting the Russian army.

And in the decision of the Leninsky District Court of Sevastopol against [Drozdov](#), the unspecified text, which is the introductory part of the greeting of the ‘Organisation of Ukrainian Nationalists’ used by modern Ukrainian nationalist organisations’, was classified as discrediting, with the argument that it is used by groups opposing the Russian army. The court did not rely on any sources or expert opinions and did not even cite the words themselves, and it is reasonable to assume that ‘formations opposing the Russian Federation’ use a large set of other words in their communication, the use of which, according to the court's logic, can also be regarded as discrediting the Russian army.

Another peculiarity in the practice of Crimean courts in assessing the targeting of a statement or action is an expansive interpretation, when the categories defined by law also include phrases such as ‘Nazis are Russians’, ‘And to the Katsaps for Christmas, so that all the good things come back!’, ‘Remember Russians’, ‘Russia is now a Nazi state’, etc. It seems obvious that these statements cover broader categories of society than those protected by the article on public defamation. But, as in other cases, the courts do not explain on what basis the court interpreted these statements as statements addressed to the Russian armed forces, authorities or volunteer formations.

Signs of defamation

This component was partially substantiated by the court in 3 decisions (5%). At the same time, 54 judgments with doubtful or even complete absence of signs of defamation (actions aimed at insulting, undermining trust or humiliation of authority) do not contain any arguments on the basis of which the court concludes that a particular action really had the signs inherent in the term ‘defamation’. More often than not, the court simply quotes a phrase or description of the image and then states, without any explanation, that defamation has been committed.

Here, as in the ‘targeting’ component analysed earlier, the bulk of questionable decisions are related to statements such as ‘Glory to Ukraine!’, ‘Everything will be Ukraine’, ‘Happy Independence Day’, ‘I love Ukraine’, lyrics from the song ‘Ukraine has not yet died’, comments ‘Glory to the Heroes!’, as well as images of a trident, yellow and blue hearts, a Ukrainian passport, a flag and similar ones. They do not contain any obvious semantics aimed at insulting, undermining trust or diminishing authority.

Also, in some cases, the court gives an unjustified assessment of how the person being prosecuted relates to the information posted by him or her. For example, in the decision of the Kyiv District Court of Simferopol against [Turta](#), it is stated that in the video he published, he mockingly talked about the sinking of a Russian ship. At the same time, the court did not provide any evidence that the video was in the nature of mockery, and not a manifestation of grief or any other feelings.

At the same time, in the practice of the Crimean courts, there have been no attempts to analyse the semantic analysis of these phrases with the help of linguistic expertise. And independent interpretations by the court itself took place only in 3 cases, but they can hardly claim the status of a full-fledged or at least sufficient argumentation. In particular, two [acts](#) of the Sudak City Court state that 'the analysis of the publication, in the context of its entire content, based on the verbal and visual semantic construction and the content and semantic orientation, in the court's opinion, is certainly aimed at generating negative information about the actions of the Russian Federation'. And in the [act](#) of the Gagarin District Court of Sevastopol regarding Kovalenko, who compared the symbol of Russian military aggression to the swastika, the judge briefly explained that the swastika is perceived negatively by society, so he considers such a comparison to be an undermining of trust.

Another notable feature in the practice of the Crimean courts in establishing the defamation element was the inclusion in this category of statements and actions aimed at supporting anyone, including the marking of 'likes'. Despite the illogicality of the construction that expressing support for one entity is associated with undermining the credibility and authority of another entity, Crimean courts have made similar decisions on numerous occasions, and without providing any reasoning. For example, the Leninsky District Court of Crimea in the case against [Hryko](#) concluded that he had spoken in support of Ukraine (which is not an administrative offence), but the court found him guilty of discrediting the Russian army. And in the decision of the Kyiv District Court of Simferopol against [Kharchenko](#), the court found undermining of trust for liking an image 'under which there was a text about supporting the armed forces of Ukraine' (spelling and syntax of the court document are preserved).

Also at this stage of the analysis of the offence, it was noted that the courts do not distinguish between actions aimed at discrediting and the right to free expression, including negative ones, guaranteed by the Constitution of the occupying country. For example, the Kyiv District Court of Simferopol in the case against [Barkovska](#) stated that her actions demonstrated a negative attitude, but did not explain how this relates to the signs of an administrative offence of defamation. In another case, the same court found Crimean resident [Tsikalo](#) guilty for saying 'Putin will not leave the war alive', considering it a demonstration of disagreement with his actions. In addition to the fact that the content of the phrase does not imply disagreement (perhaps it is an expression of regret or anxiety), the court does not explain how it regarded the forecast of the development of events as discrediting. Also, the Feodosia City Court concluded against [Mishchenko](#) that by shouting phrases from the Ukrainian anthem he 'broadcast disagreement with the actions of the Russian Federation', without explaining how 'broadcasting disagreement' (and in such an exotic way) could undermine trust or diminish authority.

Conclusions:

In general, when assessing each of the components of the administrative offence, it is easy to see that the Crimean courts often focus their conclusions on the proof of the 'publicity of actions' component and completely ignore the need for at least minimal argumentation in the presence of the other two components - targeting the addressee and especially the signs of discredit.

Having analysed the practice of assessing each component separately, we also looked at the situation in its entirety and obtained the following results:

- Cases where all 3 elements are undisputed: 0
- Cases in which the court established 2 of the 3 elements: 13 (23%)
- Cases where none of the elements of the offence are present: 8 (14%)

Thus, it can be concluded that in none of the 57 cases related to the demonstration of pro-Ukrainian positions did the courts created by the occupation authorities decide to bring to administrative responsibility for discrediting the Russian army in strict accordance with their own legislation and with the presence of arguments on all elements of this offence.

Such indicators clearly demonstrate that the prosecution for expressing pro-Ukrainian beliefs under Article 20.3.3 of the CAO is not related to a real desire to ensure the necessary level of law and order, but is aimed solely at formally legitimising the persecution of disloyal people under the guise of combating offences of discrediting the Russian army.