



Declassified\*  
AS/Jur (2023) 13  
7 June 2023  
ajdoc13 2023

## Committee on Legal Affairs and Human Rights

# The arbitrary detention of Vladimir Kara-Murza and the systematic persecution of anti-war protesters in the Russian Federation

## Introductory memorandum

Rapporteur: Ms Þórhildur Sunna Ævarsdóttir, Iceland, Socialists, Democrats and Greens Group

### 1. Introduction

1. This introductory memorandum is based on two motions for a resolution on “Arbitrary arrest of Russian human rights defender and freedom fighter Vladimir Kara-Murza” ([Doc. 15514](#)) and “Systematic large-scale persecution against anti-war protesters in the Russian Federation” ([Doc. 15578](#)) that were tabled respectively on 28 April 2022 and 27 June 2022 and referred to the Committee on Legal Affairs and Human Rights. On 13 October 2022, the Committee agreed to merge the two references into a single report and appointed me as rapporteur. The motions strongly condemned the arbitrary arrest of opposition politician and human rights defender Vladimir Kara-Murza by Russian authorities in April 2022 and called for his immediate release, drawing attention to the fact that, with him, several thousands of protesters have been arrested and/or imprisoned in Russia for voicing their opposition to the war of aggression against Ukraine. The arrests and detentions have been carried out following the adoption of new laws criminalising the acts of “discrediting the Russian military”, “spreading knowingly false information about the Russian armed forces” which have been used extensively to curtail freedom of expression in the Russian Federation. The two motions drew attention to the systematic character of the crackdown against anti-war protesters, referring to the large number of arrests, detentions and (criminal and administrative) cases brought under the amended laws. In addition, I shall also take into account the motion for a resolution on “Sanctions of persons on the ‘Kara-Murza list’” ([Doc. 15632](#))<sup>1</sup>, which referred to new charges brought against Vladimir Kara-Murza (“cooperating with an ‘undesirable’ foreign NGO” and “treason”). Finally, it is worth mentioning the motions for a resolution on “Urgent need to combat state terrorism” ([Doc. 15599](#))<sup>2</sup> and “Europe should stand in solidarity with the Russian and Belarussian anti-war movement” ([Doc. 15633](#))<sup>3</sup>, which, for the purposes of this introductory memorandum, respectively highlighted that Russian authorities have been terrorising their own citizens for political purposes and that the Parliamentary Assembly should stand in solidarity with the Russian anti-war movement, inside the country and abroad, and support it to counter disinformation and contribute to democratisation.

2. Despite the expulsion of the Russian Federation from the Council of Europe in accordance with Article 8 of the Statute of the Council of Europe on 16 March 2022 (CM/Res(2022)2), the Parliamentary Assembly can – and should – continue its work related to the human rights situation in the Russian Federation. In its [Opinion 300 \(2022\)](#) on “Consequences of the Russian Federation’s aggression against Ukraine”, the Assembly considered that in the event that the Russian Federation ceased to be a member of the Organisation, the

\* Document declassified by the Committee on 25 April 2023.

<sup>1</sup> Assembly [doc. 15632](#).

<sup>2</sup> Assembly [doc. 15599](#).

<sup>3</sup> Assembly [doc. 15633](#).

Council of Europe should envisage initiatives to be able to continue to support and engage with human rights defenders, democratic forces, free media and independent civil society in the Russian Federation.<sup>4</sup> This was reiterated in [Resolution 2433 \(2022\)](#), in which the Assembly resolved to intensify its engagement with Russian civil society, human rights defenders, independent journalists, academia, and democratic forces respecting the values and principles of the Organisation, including the territorial integrity of sovereign member States. While the monitoring procedure is strictly reserved for member States and has therefore been formally terminated in respect of the Russian Federation (As/Mon (2022)09), the Committee on Legal Affairs and Human Rights has the competence to consider issues concerning the state of human rights and the rule of law in Europe, including in European non-member States. In addition, it is also important to recall that the European Convention on Human Rights was still applicable in the Russian Federation until 16 September 2022, and many of the situations covered in this report may give rise to continuing violations of some of its provisions that originated before that date (notably the right to liberty and security provided by Article 5 of the Convention). Some also result from the persistent failure by the Russian authorities to execute specific judgments of the European Court of Human Rights, which are and will remain binding beyond that date on the Russian Federation, in accordance with Articles 46.1 and 58.2 of the Convention.

3. In this introductory memorandum, I will start by setting a background of notable developments in the crackdown on anti-war protesters, referring also to the recent legislative changes that enabled criminal prosecution. Second, I will recall instances of systematic persecution of anti-war protesters in the Russian Federation previously examined by the Parliamentary Assembly. Third, I will concentrate on interventions on the issue by the Council of Europe Commissioner for Human Rights. Fourth, I will collect other international organisations' responses focussing particularly on the United Nations (UN) and the Organisation for Security and Co-operation in Europe (OSCE). Fifth, I will provide a preliminary legal analysis of the amendments to the Russian Criminal Code and explain why they violate human rights. I will finally make proposals on further work needed for the finalisation of my report.

## **2. Recent developments with regard to the arbitrary arrest of Russian human rights defender and freedom fighter Vladimir Kara-Murza and the systematic persecution of anti-war protesters<sup>5</sup>**

4. The persecution in Russia of those who protest war or military operations undertaken by the Russian Federation has been observed before the 2022 aggression against Ukraine. For example, on 25 October 2008, parties to a small protest in connection to the Russo-Georgian war were fined and detained for a few days.<sup>6</sup> Several were arrested and detained also during protests against the 2014 Ukraine crisis, notably during the "March for peace" of 15 March.<sup>7</sup>

5. Since the launch of the war of aggression against Ukraine on 24 February 2022, several anti-war public demonstrations took place in Russia. As a result, protesters ranging from notable political figures, journalists, and members of human rights organisations to "ordinary people" were persecuted. During one of the first mass demonstrations on 25 February 2022, 437 detentions took place across 26 cities.<sup>8</sup> Over the days of protests, more and more were arrested and detained. According to OVD-info, since 24 February, there have been 19,586 detentions at protests against war and military mobilisation and an average of 50 anti-war protester cases per week are heard.<sup>9</sup> Bearing in mind the continuous increase in arrests, detentions, trials and convictions, these data highlight the systematic character of the repression against anti-war activism.

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<sup>4</sup> Assembly [doc. op. 300 \(2022\)](#).

See also [Resolution CM/Res\(2022\)3](#) on legal and financial consequences of the cessation of membership of the Russian Federation in the Council of Europe.

<sup>5</sup> For the purposes of this introductory memorandum, an anti-war 'protester' is anyone who speaks out against the Russian war of aggression against Ukraine. The means through which the "protest" is exercised can be varied and can include personal social media activity, authoring of an article, participating in a public demonstration regardless of its legal status and size, etc.

<sup>6</sup> The New York Times, [Red Square protest echoes 1968 - The New York Times \(nytimes.com\)](#);  
Graniru, [Грани.Ру: В Москве прошел митинг против войны в Грузии | Политика / Россия / Акции протеста \(graniru.org\)](#).

<sup>7</sup> The Telegraph, [Video: Anti-Ukraine war activists arrested for protest in Moscow - Telegraph \(archive.org\)](#); BBC News, [Ukraine crisis: Russians opposed to Putin - BBC News](#);  
Unian, [У Росії затримали активістів, які протестували проти війни з Україною | УНІАН \(unian.ua\)](#).

<sup>8</sup> Reuters, [Anti-war protests held in cities across Russia, 2,000 people arrested | Reuters](#).

<sup>9</sup>Eg. 60 cases were heard in the week of 6- 12 February 2023, 50 cases in the week of 20-26 February 2023, etc.

6. The legal framework that permits these detentions and under which cases have been brought stems from several articles of the Russian Criminal Code. On 2 March 2022, the Russian Parliament introduced amendments to the Code through an unrelated bill.<sup>10</sup> Article 207.3 was amended to criminalise the “public dissemination of knowingly false information about the use of the Russian Armed Forces” (5 to 10 years imprisonment, 15 years for offences entailing “grave consequences”); Articles 280.3 to criminalise “public actions aimed at discrediting the Russian Armed Forces” (up to 5 years’ imprisonment) and Article 284.2 to criminalise “calls to introduce restrictive measures against the Russian Federation, its citizens or legal entities” (monetary fine and up to 3 years’ imprisonment). The bill was passed by both houses of the Russian Parliament, signed by President Putin and entered into force within two days, on 4 March 2022. On 25 March 2022, article 207.3 of the Criminal Code was further amended to criminalise the “dissemination of knowingly false information” not only about the Russian Armed Forces but also any Russian state bodies acting abroad.

7. On 4 March 2022, an amendment to article 20.3.3 of the Russian Code of Administrative Offences also entered into force. Mirroring article 280.3 but used for less serious offences, the amendment led to 556 protesters being fined for thousands of roubles within a month and a half of taking effect.<sup>11</sup>

8. Moreover, on 1 December 2022, amendments to the administrative law on so-called “foreign agents” entered into force. These broadened the requirements that warrant listing as a foreign agent from receiving ‘foreign funding’ to being ‘under foreign influence’ and widen what qualifies as ‘political activity’ to include any activity related to ‘the rights and freedoms of man and citizens’, the ‘targeted collection of information in the field of military activities of the Russian Federation’, the public distribution of any messages and materials or partaking in the creation of such messages and materials.<sup>12</sup> Consequently, organisations or individuals who protest the Russian administration’s narrative on the war by, for example, reporting on activities of the Russian army in Ukraine or advocate against human rights abuses, can easily be qualified as a “foreign agent” and therefore face administrative sanctions and liquidation.

9. One of the first arrests and judicial proceedings brought under the new criminal code amendments<sup>13</sup> was against opposition politician, historian and human rights defender and Vaclav Havel Prize laureate Vladimir Kara-Murza. He is also the co-founder of the Russian Anti-War Committee established to oppose the large-scale invasion of Ukraine. A few days after he addressed our committee in a hearing in preparation for the “Reported cases of political prisoners in the Russian Federation” report,<sup>14</sup> he was arrested and sentenced to<sup>15</sup> 15 days’ administrative detention for allegedly ‘disobeying a police officer’ (on 12 April 2022). On 22 April, he was charged under article 207.3 of the Criminal Code for allegedly spreading “deliberate false information” about the actions of the Russian Armed Forces in Ukraine. He was charged for having given a speech at the Arizona House of Representatives in March, in which he criticised Vladimir Putin’s policies, denounced the West’s “appeasement” of the Kremlin, and highlighted the importance of the protest movement in Russia. Furthermore, Kara-Murza denounced the act of aggression against Ukraine, called it “a war of aggression”, referred to the Nuremberg Charter, and stated that “the cluster bombs on residential areas, the bombings of maternity wards, hospitals and schools are war crimes that are being committed by the dictatorial regime in the Kremlin” On 8 June, Kara-Murza’s pre-trial detention was extended.<sup>16</sup> In July, he was also charged with ‘organizing the activities of an undesirable organization’<sup>17</sup> over his alleged involvement with the Free Russia foundation, an NGO that is labelled by the Russian authorities as ‘undesirable.’ On 6 October, the authorities charged Vladimir Kara-Murza with ‘high treason,’<sup>18</sup> punishable by up to 20 years’ imprisonment. According to their investigation, the activist cooperated with a NATO country, as “proven” by his critical public speeches in

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« Political criminal » is how the organisation refers to the cases against anti-war protesters. This does not necessarily mean that the cases are of a political nature under the definition of political prisoner in Assembly [Resolution 1900 \(2012\)](#). OVD-Info, Homepage, [Независимый правозащитный медиа-проект ОВД-Инфо \(ovdinfo.org\)](#).

<sup>10</sup> On the criminalisation of implementation or support of international criminal sanctions imposed on Russia.

Amnesty International, [Russia: Authorities deploy new criminal laws to silence criticism of Russia’s war in Ukraine - Amnesty International](#), on Bill No. 464757-7 .

<sup>11</sup> The Moscow Times, [How Russia's New Law Against 'Fakes' is Being Applied - The Moscow Times](#).

<sup>12</sup> Inoteka, [The State Duma adopted a new law on «foreign agents». What will change? | Инотека \(inoteka.io\)](#).

<sup>13</sup> More specifically, under article 207.3.

<sup>14</sup> Assembly [doc. 15545](#).

<sup>15</sup> On 12 April 2022.

<sup>16</sup> Radio Free Europe/Radio Liberty, [Moscow Court Extends Pretrial Detention Of Opposition Politician Kara-Murza \(rferl.org\)](#).

<sup>17</sup> Under article 284.1(1) of the Russian Criminal Code.

<sup>18</sup> Under article 275 of the Russian Criminal Code.

Lisbon, Helsinki and Washington, DC<sup>19</sup>. On 6 March 2023 Kara-Murza's pre-trial detention was extended to 27 August.<sup>20</sup>

10. At the time of writing, Vladimir Kara-Murza has been sentenced to 25 years in jail for charges of treason, spreading "false" information about the Russian army and being affiliated with an "undesirable organization". During his pretrial detention he was forbidden from calling or seeing his family.<sup>21</sup> His health deteriorated drastically in detention, particularly after having been placed in a disciplinary cell.<sup>22</sup> Vladimir Kara-Murza has survived two poisoning attacks linked to the Russian authorities, but they have had very negative effects on his health wherein he must exercise regularly to stay healthy. After almost a year in pre-trial detention including one week in solitary confinement (in a cell measuring 3 meters by 1.5 meters) and being deprived of his right to daily walks, Vladimir Kara-Murza has developed polyneuropathy in both his feet. His trial was held behind closed doors on 17 April. The secrecy was justified on the ground that "Mr Kara-Murza wants to use the courtroom as a tribune to publicly discredit the existing regime...". The court that tried him included judge Sergei Podoprigrorov, who is on the "Magnitsky list" and has been sanctioned by the US and the UK. During the submissions, Mr. Kara-Murza stated his conviction that 'our [Russian] society will open its eyes and be horrified by what terrible crimes were committed on its behalf', 'even today, even in the darkness surrounding us, even sitting in this cage, I love my country and believe in our people. I believe that we can walk this path.'<sup>23</sup> World leaders have deplored the sentence and called for Mr Kara-Murza's release, including Council of Europe Secretary General Marija Pejčinović Burić, who condemned the "sham" trial<sup>24</sup> and European Union High Representative on Foreign Affairs, Josep Borrel.<sup>25</sup> The Assembly must do its utmost to draw attention to and follow the conditions of Vladimir Kara-Murza's imprisonment. It should also support the Council of Europe anti-torture Committee (CPT)'s activities in relation to Russia, and encourage the CPT to visit political prisoners, including detained anti-war protesters.

11. Thousands of other protesters have also been affected by the above-mentioned amendments of the Criminal Code and systematic repression against the anti-war movement. A notable example is Alexey Gorinov, local Moscow councillor who, during a council meeting, noted that "children were dying" and that "all efforts of Russian civil society should be aimed at stopping the war and withdrawing troops from the territory of Ukraine".<sup>26</sup> He was the first to be sentenced to almost 7 years' imprisonment under the amendments for spreading knowingly false information about the Russian army.<sup>27</sup> More recently, a student blogger has been sentenced to 8.5 years' imprisonment under the same provision for publications about Russian attacks and strikes in Ukraine, war crimes in Bucha and Irpin, as well as using the officially proscribed term "war" instead of "special military operation".<sup>28</sup>

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<sup>19</sup> Amnesty International, [Russia: Vladimir Kara-Murza, jailed prisoner of conscience, awarded Václav Havel Prize - Amnesty International](#);

Human Rights Watch, s. 'Freedom of Expression' [World Report 2023: Russian Federation | Human Rights Watch \(hrw.org\)](#).

<sup>20</sup> Novaya Gazeta, [Мосгорсуд продлил на полгода арест Владимиру Кара-Мурзе. Процесс пройдет в закрытом режиме \(novayagazeta.eu\)](#).

<sup>21</sup> iNews, [Imprisoned Russian dissident Vladimir Kara-Murza: 'None of us know how Putin's regime will end – but it will' \(inews.co.uk\)](#).

<sup>22</sup> Several tweets and the Eastern Herald, [The health of Vladimir Kara-Murza in the disciplinary cell has deteriorated \(easternherald.com\)](#).

<sup>23</sup> The Washington Post, [Opinion | Vladimir Kara-Murza's final statement to Russian court - The Washington Post](#).

<sup>24</sup> Council of Europe, [Secretary General condemns 25 year prison sentence for Russian opposition leader Vladimir Kara-Murza - Portal \(coe.int\)](#)

<sup>25</sup> European Union, European External Action Service, [Russia: Statement by the High Representative on the sentencing of Vladimir Kara-Murza | EEAS Website \(europa.eu\)](#).

<sup>26</sup> The Guardian, [Moscow councillor jailed for seven years after criticising Ukraine war | Russia | The Guardian](#).

<sup>27</sup> Under article 207.3 of the Russian Criminal Code.

Wilson Center, Grigory Vaypan, [The Gorinov Case Sets New Benchmark in the Kremlin's War against Dissent | Wilson Center](#).

<sup>28</sup> Amnesty International, [Russia: Student blogger sentenced to long imprisonment in brutal repression of anti-war dissent - Amnesty International](#).

12. Under the framework of the law on “Foreign Agents” or similar legal frameworks, several human rights organisations have been systematically liquidated. Prominent examples include Memorial,<sup>29</sup> of which appeal against December 2021 liquidation orders was turned down by the Russian Supreme Court on 3 March 2022.<sup>30</sup> The Moscow Helsinki Group, Russia’s oldest human rights organisation, was ordered to shut down in January 2023.<sup>31</sup> The US-based Andrei Sakharov Foundation, recently designated as ‘undesirable’<sup>32</sup>, also terminated its activities in Russia.

13. The crackdown affects, for the largest part, individual protesters.<sup>33</sup> OVD-Info has reported on thousands of individuals who may face prison sentences and/or high fines for the most miniscule exercises of freedom of expression. Examples include creating or sharing,<sup>34</sup> “liking” or otherwise commenting social media posts, keeping a poster in one’s home or car, calling actions of the army ‘invasive’, holding a blank sheet of paper, writing ‘no to war’ on buildings, discussing reports of the Russian Armed Forces killing civilians in Ukraine in a public video,<sup>35</sup> taking part in a solitary protest holding a placard calling President Putin a ‘murderer’<sup>36</sup>, reposting publications of Russian human rights defenders and calling the conflict a ‘war’<sup>37</sup>, or replacing price tags in a supermarket with notes containing information on the war in Ukraine.<sup>38</sup> The effects of the repression may even impact the parental rights of those subject to persecution for opposing the war. For instance, Alexei Moskalyov’s daughter, who had drawn an anti-war picture at school, is being kept in an orphanage after her father was detained in March 2023 for “discreditation” of the Russian army. He risks being deprived of his parental rights.<sup>39</sup>

14. The thousands of reported acts of protest have and still are taking place against a background of polls indicating wide public support for Putin’s war in Russia. Public opinion polls carried out by the Levada Center, the Federation’s main independent polling institute show that, since the February 2022 aggression, overall support of the war remained at or above 60% with a definite increase in support over time, as polls carried out in November 2022 show that 74% of Russians personally support the actions of Russian military forces in Ukraine.<sup>40</sup> However, 32% of the polled sample admit lacking or not seeking regular information on the war. Further, given the context of pro-Kremlin propaganda, disinformation and the active crackdown against protesters, several experts argue that Russians are unable and afraid to freely express their opinions in these polls<sup>41</sup> and that these should not be taken as indication of the level of public support to the war in Russia.<sup>42</sup>

### 3. Cases and situations already examined within the Parliamentary Assembly

15. Since the start of the unlawful and unprovoked military aggression against Ukraine on 24 February 2022, the Assembly, its committees and its rapporteurs have continued to react to the increasing repression of political opponents and civil society activists in the Russian Federation, in particular persons opposing the war. The following issues of relevance to this memorandum are presented in chronological order:

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<sup>29</sup> Oldest Russian human rights organisation of which research this Committee relied upon in the “Reported cases of political prisoners in the Russian Federation” Report. Assembly [doc. 15545](#).

<sup>30</sup> Radio Free Europe / Radio Liberty, [Memorial Says Russian Supreme Court Rejects Appeal Of Closure Order \(rferl.org\)](#).

<sup>31</sup> Human Rights Watch, [Russia’s Oldest Human Rights Group Faces ‘Liquidation’ | Human Rights Watch \(hrw.org\)](#)

<sup>32</sup> Human Rights Watch, [Russia Designates Another Rights Organization as ‘Undesirable’ | Human Rights Watch \(hrw.org\)](#).

<sup>33</sup> OVD-Info, [«The Anti-war Case» | ОВД-Инфо \(ovdinfo.org\)](#);

Amnesty International, [Russia: Authorities deploy new criminal laws to silence criticism of Russia’s war in Ukraine - Amnesty International](#).

<sup>34</sup> Lawyer, Dmitry Talantov among others.

<sup>35</sup> Opposition politician Ilya Yashin, among others.

Amnesty International, [Russia: Opposition politician Ilya Yashin sentenced to eight and half years in jail for denouncing Russia’s war crimes in Ukraine - Amnesty International](#).

<sup>36</sup> Former TV presenter, Marina Ovsyannikova. Known for showing a « No War » placard on live television.

<sup>37</sup> Student activist, Dmitry Ivanov.

<sup>38</sup> Artist, Aleksandra Skochilenko.

<sup>39</sup> [Alexey Moskalyov whose daughter drew anti-war picture at school sentenced to two years in prison, allegedly escapes arrest \(novayagazeta.eu\)](#).

<sup>40</sup> Levada Centre, [Levada-Centre : Conflict with Ukraine: November 2022](#).

<sup>41</sup> London School of Economics, [Do Russians tell the truth when they say they support the war in Ukraine? Evidence from a list experiment | EUROPP \(lse.ac.uk\)](#).

Politico Magazine [AI Can Tell Us How Russians Feel About the War. Putin Won’t Like the Results. - POLITICO](#);

Harvard University, [Assessing Russian Public Opinion on the Ukraine War | Harvard Kennedy School](#).

<sup>42</sup> Professor Guriev and Professor Bowring during a hearing with this Committee, 4 April 2022.

16. On 26 January 2022, Mr Piero Fassino (Italy, SOC) presented his report in his role within the Monitoring Committee entitled “Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of the Russian Federation”. Despite the fact that this was presented before the start of the full-scale aggression against Ukraine, the rapporteur expressed ‘utmost concern over the deteriorating situation with regard to pluralism, human rights and fundamental freedoms in the Russian Federation, manifested by the crackdown on opposition politicians, independent civil society, dissenting voices and critical journalists’<sup>43</sup>, signalling an already critical context for civil society in Russia. He particularly focussed on the detention of Alexei Navalny, the dissolution of Memorial, the restrictions on freedom of assembly and expression, as well as restrictive legislation that made Russia a hostile environment to the exercise of human rights and the sharing of independent information.<sup>44</sup>

17. In his 7 March 2022 statement, the President of the Assembly Mr. Tiny Kox ‘deeply deplored’ the legal amendments that set up until 15 years’ prison sentences for “discrediting the Russian Armed Forces”.<sup>45</sup>

18. In my 10 March 2022 statement, in my capacity as General Rapporteur on the situation of human rights defenders, I expressed deep concern at the ongoing crackdown on Russian civil society, condemning reprisals against Oleg Orlov and Svetlana Gannushkina and bringing to the attention of the Assembly the already very high amount of detention of peaceful anti-war protesters only a few days after the start of the Russian Federation’s aggression.

19. In the unanimously adopted [Opinion 300](#) of 15 March 2022, the Assembly ‘condemned the measures taken by the Russian authorities to further curtail freedom of expression and freedom of assembly through the closure of almost all remaining independent news organisations, the intensifying crackdown on civil society, the harsh repression of peaceful protests and severe restrictions on access to social media’.<sup>46</sup> It called on the Russian Federation to ensure full respect for these freedoms in accordance with international law.

20. In my 14 April 2022 statement, I deplored Vladimir Kara-Murza’s arrest and 15 days’ administrative detention, highlighting the context of ‘unprecedented crackdown on civil society and opposition figures who oppose the war’ and calling on Russian authorities to ‘release Vladimir Kara-Murza and stop all forms of reprisals...against those that legitimately exercise their right to freedom of expression’.<sup>47</sup>

21. On 27 April 2022, Mr Frank Schwabe (Germany, SOC) as rapporteur for the Committee on Political Affairs and Democracy, presented the report on “Consequences of the Russian Federation's continued aggression against Ukraine: role and response of the Council of Europe”. He addressed the necessity to reach out to Russian and Belarusian civil society, pointing out that many nationals of those countries do not support the war and do not have access to independent and objective information about it. He highlighted therefore the necessity for the Council of Europe to ‘continue to support Russian human rights defenders, democratic forces, free media and independent civil society, whether they are in the Russian Federation or abroad’<sup>48</sup> and suggested several ways to do so.

22. On the same day, Mr Damien Cottier (Switzerland, ALDE) as Chairperson of this Committee, strongly condemned the arrest and called for the immediate release of Vladimir Kara-Murza, underlining the ‘spurious’ grounds for his detention and prosecution under the new law, as a consequence of which he may face 5 to 10 years in prison for denouncing the Russian Armed Forces’ gross violations of international law.<sup>49</sup>

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<sup>43</sup> Assembly [Resolution 2422 \(2022\)](#), para. 7.

<sup>44</sup> Assembly [doc. 15443](#), s. 3.

<sup>45</sup> Council of Europe, [PACE President reacts to new Russian law against the media \(coe.int\)](#).

<sup>46</sup> Assembly [doc. Opinion 300 \(2022\)](#), para. 11.

<sup>47</sup> Council of Europe, [General Rapporteur on the situation of human rights defenders reacts to the sentence of Vladimir Kara-Murza \(coe.int\)](#).

<sup>48</sup> Assembly [doc. 15506](#), paras. 138 – 142;

See also Assembly [doc. Resolution 2433 \(2022\)](#) para. 17.

<sup>49</sup> Council of Europe, [Committee Chair calls for immediate release of Russian opposition politician Vladimir Kara-Murza \(coe.int\)](#).

23. On 20 May 2022, some members of the Assembly presented written Declaration No. 740, supporting the anti-war movement in the Russian Federation, highlighting the context of police abuse and calling on all Council of Europe member states to support Russian pro-peace movements.<sup>50</sup>

24. In my 3 June 2022 report on ‘reported cases of political prisoners in the Russian Federation’<sup>51</sup>, I presented an overview of all cases and situations related to political prisoners in the Russian Federation as examined by the Assembly between February 2014 and April 2022. I stressed the prevalent role of the Assembly, the European Court of Human Rights and the Council of Europe Commissioner for Human Rights in condemning arbitrary arrests and detentions of opposition political figures in Russia and declaring these as violations of the Convention. I relied heavily on the work of Memorial and other prominent Russian human rights organisations to legally analyse individual cases of imprisonment for political reasons. I found that, given the unequivocal jurisprudence of the Court in similar cases and overall response of the Council of Europe to said human rights violations, ‘those arrested for protesting against the current war in Ukraine...were detained in violation of their right to freedom of peaceful assembly’ and that Vladimir Kara-Murza’s detention is in violation of his right to freedom of expression. Further, that the restrictive laws on “foreign agents”, “undesirable organisations” and the law on “extremism” have contributed to the ‘systematic persecution of political opponents, journalists, human rights defenders and civil society activists’ and are ‘manifestly incompatible’ with the European Convention on Human Rights and other international human rights standards’.<sup>52</sup> In the Resolution, the Assembly called on the Russian Federation to ‘ensure the release without further delay’ of Aleksei Pichguin and Aleksei Navalny,<sup>53</sup> implement all relevant judgements of the European Court of Human Rights<sup>54</sup>, and adopt effective measures to address the structural and systemic problems with freedom of assembly, freedom of expression, and the right to liberty, including by repealing or amending certain laws.<sup>55</sup>

25. On 10 October 2022, Vladimir Kara-Murza was awarded the prestigious Vaclav Havel Human Rights Prize honouring outstanding civil society action in the defence of human rights. The Assembly clearly recognised the importance of his work, as well as his courage and determination to create a future peaceful and democratic Russia.<sup>56</sup>

26. On 11 October 2022, the Committee on Political Affairs and Democracy’s report on “Further Escalation in the Russian Federation’s aggression against Ukraine”<sup>57</sup> examined the crackdown on civil liberties in Russia. Mr Emmanuelis Zingeris (Lithuania, EPP) highlighted the ‘draconian’ character of the legal amendments until August 2022 and the worrying number of detentions justified under these laws. The report drew particular attention to the detention of political figures such as Vladimir Kara-Murza, Yevgeny Roizman and Ilya Yashin, and to the systematic closure of organisations such as Memorial. In its [Resolution 2463 \(2022\)](#) of 13 October 2022 based on this report, the Assembly denounced once again the far-reaching crackdown on civil liberties, implemented ‘with the goal to provoke a state of terror in the general public for political purposes’, and called on the Russian authorities to immediately release Vladimir Kara-Murza.<sup>58</sup>

27. On 20 March 2023, the leadership of the Assembly held an exchange of views with representatives of Russian democratic forces in Paris, as a follow-up to several resolutions calling for developing a dialogue with Russian civil society respecting the values and principles of the Council of Europe. The representatives of Russian forces included Vladimir Kara-Murza’s wife, Evgenia Kara-Murza and members of the Russian Anti-War Committee such as Dmitriy Gudkov, Natalia Arno, Sergei Guriev, Garry Kasparov and Mikhail Khodorkovsky.<sup>59</sup>

28. On 17 April 2023, following the sentence delivered to Vladimir Kara-Murza, Assembly President Tiny Kox called for the annulment of the verdict against Vladimir Kara-Murza and for his release.<sup>60</sup>

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<sup>50</sup>Written Declaration No. 740, [doc. 15480](#).

<sup>51</sup>Assembly [doc. 15545](#).

<sup>52</sup>Ibid, para. 63.

<sup>53</sup>[Resolution 2446 \(2022\)](#), paras. 18.2 and 18.3.

<sup>54</sup>Ibid, paras. 18.1 and 18.4.

<sup>55</sup>Ibid. para. 18.5.

<sup>56</sup> Council of Europe, [2022 Václav Havel Prize awarded to imprisoned Russian opposition leader Vladimir Kara-Murza \(coe.int\)](#).

<sup>57</sup> Assembly [doc. 15631](#), s. 6.

<sup>58</sup> [Resolution 2463 \(2022\)](#), para. 7.

<sup>59</sup> [Exchange of views between the PACE leadership and representatives of Russian democratic forces \(coe.int\)](#)

<sup>60</sup> Tiny Kox, [Tiny Kox on Twitter: "Another mockery of justice in #Russia! @vkaramurza is sentenced to 25 years in prison for simply telling the truth! This verdict is a disgrace for the Russian authorities - it should be](#)

29. On the same day, I also expressed my dismay at the 'harsh' sentence for 'criticising Putin's war of aggression and denouncing war crimes in Ukraine'.<sup>61</sup>

#### 4. Interventions by the Council of Europe Commissioner for Human Rights

30. The Commissioner for Human Rights (the Commissioner) has also raised issues of relevance to the present introductory memorandum. The Commissioner's interventions illustrate many years of crackdown on human rights defenders and civil society in Russia, reiterate member States' duty to create a conducive work environment for anti-war protesters and ways in which member States may aid them in practice.

31. Already in 2017, Commissioner Nils Muiznieks, warned about the arbitrariness of the application and interpretation of laws on "foreign agents" against non-commercial organisations in the Ecodefence case.<sup>62</sup> Particularly, he noted that the law can be misused as a repressive tool against human rights defenders<sup>63</sup> due to the wide interpretation in practice of "political activity", easing the criteria to be labelled as a "foreign agent", the high administrative fines applied for violations of the law, the negative connotation of the label "foreign agent" which limits Russians' confidence in the work carried out by these organisations, and the risk of criminal prosecution for "malicious" non-compliance with the law. Considering recent amendments to the law making it easier for NCOs to be found acting under "foreign influence", the tightening of criminal liability in case of two administrative fines per year, the application of administrative penalties also to individuals labelled as "foreign agents" and taking into account the active use of these sanctions to limit organisations and individuals who protest the war,<sup>64</sup> the Commissioner's comments in 2017 remain relevant in the context of the current crackdown on protesters.

32. On 7 March 2022, Commissioner Dunja Mijatović raised concerns about the Criminal Code amendments punishing the spread of "false information" and "discreditation" of the Russian Armed Forces and pointed out the high numbers of protester arrests since the start of the aggression.<sup>65</sup>

33. On 31 August 2022, the Commissioner commented on the provision of support to Russian civil society and human rights defenders.<sup>66</sup>

34. On 12 December 2022, she summarised four ways in which member States can effectively support Russian civil society. Firstly, by speaking out against the active crackdown and violations of human rights against protesters. Secondly, by continuing to provide adequate financial aid and funding to those civil society organisations and human rights defenders who wish to continue working in Russia. Thirdly, by adopting comprehensive relocation policies in a cooperative effort among member States. Measures may include the sharing of good practices between member States, 'access to emergency visas and travel documents', 'cooperation and consultation with trusted civil society partners' who can aid in the verification proceedings

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[annulled and @vkaramurza freed! We stand with @ekaramurza! @PACE\\_News https://t.co/yT7o61tm3L" / Twitter.](https://t.co/yT7o61tm3L)

<sup>61</sup> Þórhildur Sunna, [Þórhildur Sunna on Twitter: "Appalled at 25 year sentence of Russian opposition politician @vkaramurza for criticising Putin's war of aggression and denouncing war crimes in Ukraine. The harsh sentence is proof of the threat the Kremlin perceives democratic forces and protestors to be - we must support them." / Twitter.](#)

<sup>62</sup> *Ecodefence v. Russian Federation*

[EcoDefence and others v. the Russian Federation](#) (Application No. 9988/13).

<sup>63</sup> Opinion CommDH(2015)17,

As cited in [Third party intervention by the Council of Europe Commissioner for Human Rights, Application n° 9988/13, ECODEFENCE and others v. Russia and 48 other applications](#), Para. 24.

<sup>64</sup> 176 organisations and people were declared "foreign agents" in 2022. More than 6 prominent civil society organisations were liquidated (eg. The Moscow Helsinki Committee) and 15 offices of international organisations shut down (Eg. Amnesty International Russia). 18% of "foreign agents" are under criminal prosecution in Russia.

OVD-Info, [Repressions in Russia in 2022 | ОВД-Инфо \(ovdinfo.org\)](#).

<sup>65</sup> Statement, [Russian authorities should stop the unprecedented crackdown on freedoms of expression, assembly and association in the country - Commissioner for Human Rights \(coe.int\)](#).

<sup>66</sup> Human rights comment, [Support Russian and Belarusian civil societies and human rights defenders - Commissioner for Human Rights \(coe.int\)](#).



and assist in protesters' arrival to safe countries. Fourthly, by granting them stable residence in host countries, facilitating their work and providing social benefits.<sup>67</sup>

35. In her 25 January 2023 statement, in light of the Moscow city court's decision to liquidate the Moscow Helsinki Group, which the Commissioner finds is 'based on allegations that lack credibility and aims at obstructing the legitimate work of human rights organisations', she reiterated that 'the crackdown on the freedoms of expression, assembly and association has been a key feature of the erosion of the rule of law and democracy in Russia', which has made the working environment for Russian human rights defenders 'extremely difficult and dangerous'.<sup>68</sup>

## **5. Other international organisations' responses to the arbitrary arrest and detention of Vladimir Kara-Murza and the crackdown on Russian anti-war protesters**

### *5.1. United Nations*

36. On 12 March 2022, UN Special Rapporteurs<sup>69</sup> were alarmed of the newly passed amendments to the Russian Criminal Code. These 'gag and blindfold an entire population', as 'the law<sup>70</sup> places Russia under a total information blackout on the war and in so doing gives an official seal of approval to disinformation and misinformation'. The effect of this is the 'choking' of independent and pluralistic Russian media as well as the deprivation of the Russian population of the right to access to diverse information; all while alleged indiscriminate use of force and mass arrests took place against protesters.<sup>71</sup>

37. On 13 July 2022, UN experts<sup>72</sup> condemned the heightened crackdown on Russian civil society and human rights defenders. They commented on the dramatic deterioration of an already existing 'disturbing trend', highlighting that the March 2022 amendments to the Russian Criminal Code and 'other sweeping restrictions on freedom of expression and association in Russia are being used to silence human rights defenders, journalists and civil society representatives. They expressed deep concern at the revocation of registrations of civil society organisations following amendments to the laws on « foreign agents » and « undesirable organisations », carried out 'without a thorough and transparent investigation'.<sup>73</sup>

38. On 14 September 2022, the UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, stated her deep concern for further amendments to the law on « foreign agents » and « undesirable organisations », as authorities may impose « foreign agent » status to anyone whom they consider being under a 'vague foreign influence' and anyone related to their work may be placed on a register of « foreign affiliates ». In addition to urging Russian authorities to halt the crackdown, she called on the international community to support exiled Russian human rights defenders and ensure that any measures affecting Russian citizens abroad do not put defenders in any further danger.<sup>74</sup>

39. On 7 October 2022, the Human Rights Council passed Resolution A/HRC/51/L.13 appointing a Special Rapporteur on the situation of Human Rights in Russia, who will be reporting at the Human Rights Council 54<sup>th</sup> Session.<sup>75</sup>

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<sup>67</sup> Statement, [Member states should provide more support to Russian and Belarusian human rights defenders - Commissioner for Human Rights \(coe.int\)](#).

<sup>68</sup> Statement, [Human rights defenders in Russia need support - Commissioner for Human Rights \(coe.int\)](#).

<sup>69</sup> On the situation of human rights defenders, on the rights to freedom of peaceful assembly and association and on the right to freedom of opinion and expression.

<sup>70</sup> Referring specifically to article 207.3; yet the same conclusions apply to other criminal code amendments.

<sup>71</sup> UN Office of the High Commissioner for Human Rights, [Russia: UN experts alarmed by 'choking' information clampdown | OHCHR](#).

<sup>72</sup> Including the Special Rapporteur on the situation of human rights defenders, the Working Group on arbitrary detention, the Special Rapporteur on the rights to freedom of peaceful assembly and association and the Special Rapporteur on the right to freedom of opinion and expression.

<sup>73</sup> UN Office of the High Commissioner for Human Rights, [Russia: UN experts condemn civil society shutdown | OHCHR](#).

<sup>74</sup> UN Office of the High Commissioner for Human Rights, [Russia: UN expert alarmed at continued targeting of human rights defenders | OHCHR](#).

<sup>75</sup> October 2023.

40. On 1 December 2022, the UN Human Rights Committee (the Committee) published its concluding observations on the Russian Federation, following the country's 8<sup>th</sup> periodic review under the International Covenant for Civil and Political Rights (ICCPR). The Committee firstly observed a grave problem of harassment, violence and killing of opposition politicians, journalists, lawyers and human rights defenders, denouncing the treatment of Vladimir Kara-Murza among others especially in light of their anti-war activism. Secondly, it expressed its deep concern with the March 2022 amendments to the Criminal Code, the decision that media companies are to report exclusively on information provided by the government or face fines, reports of blocked access to several Internet sites and social media (Twitter, Facebook and Instagram), and the suspension of more than 20 media outlets, including Novaya Gazeta. In substance, it was concerned about limitations of freedom of expression, particularly with respect to anti-war statements, including in educational institutions, as well as in public. Thirdly, the Committee was deeply concerned about numerous and consistent reports of restrictions on freedom of assembly towards anti-war peaceful protests. The Committee noted the arbitrary detentions, reportedly, of hundreds of thousands of protesters, the violent response of law enforcement officials, the hampering effect of Federal law No. 260-FZ of 14 July 2022 (law on "foreign agents") on freedom of assembly, the practice of preventive detention and the unregulated use of facial recognition technology. Fourthly, it expressed its deep concern about the expansion of laws on "foreign agents" and "undesirable organisations", resulting in the liquidation and closure of several prominent human rights organisations. The Committee observed that the Russian Federation should conduct thorough and independent investigations into all allegations of harassment, intimidation, and unwarranted prosecution and ensure that victims are provided with effective remedies in accordance with article 2(3) of the ICCPR. It should also urgently take all measures necessary to guarantee the full enjoyment of the right to freedom of expression by repealing all legislation unduly restricting freedom of expression,<sup>76</sup> reviewing the detention of all journalists, and ensuring that the media can operate without undue State interference. Further, in light of article 21 of the ICCPR a, the Russian Federation should take measures to prevent and eliminate the excessive use of force against protesters, immediately release all persons detained in ways incompatible with the Convention and refrain from using facial recognition systems and pre-emptive detention to hamper participation in peaceful assemblies. Lastly, the Russian Federation should repeal or revise legislation that restricts freedom of association and end the persecution of individuals and organisations based on that legislation.<sup>77</sup>

41. On 26 January 2023, UN Human Rights Council spokesperson Marta Hurtado commented on the decision of the Moscow city court to the closure of the Moscow Helsinki Group, underlining that the Russian Federation should refrain from imposing such measures as 'any restrictions to the rights to freedom of opinion and expression and freedom of association... must conform to the strict tests of necessity and proportionality in the pursuit of a legitimate purpose'.<sup>78</sup>

42. On 22 February 2023, the United Nations High Commissioner for Human Rights, Volker Türk, expressed his concern about the extended detention of Vladimir Kara Murza.<sup>79</sup>

43. On 17 March 2023, the United Nations Working Group on Arbitrary Detention published its Opinions on Mr Alexey Gorinov's detention. They found it to be arbitrary and therefore in contravention of articles 2, 3, 7, 9, 19, and 21 of the Universal Declaration on Human Rights and articles 2(1), 9(3), 19, 25 and 26 of the International Covenant on Civil and Political Rights. The Group called for his immediate release on 19 November 2022.<sup>80</sup>

44. On 17 April 2023, United Nations High Commissioner for Human Rights Volker Türk deplored the sentence handed to Vladimir Kara-Murza and called for his release.<sup>81</sup>

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<sup>76</sup> Articles 207.3, 275.1, 280.3 and 284.2 of the Russian Criminal Code (the ones resulting in the greatest number of arrests) particularly.

<sup>77</sup> International Covenant for Civil and Political Rights, [Human Rights Committee Concluding Observations on the eighth periodic report of the Russian Federation](#).

<sup>78</sup> UN Office of the High Commissioner for Human Rights, [Comment by UN Human Rights Office spokesperson Marta Hurtado on Russia | OHCHR](#).

<sup>79</sup> Le Figaro, [L'ONU dénonce la détention prolongée de l'opposant russe Vladimir Kara-Mourza \(lefigaro.fr\)](#).

<sup>80</sup> United Nations Human Rights Council, Working Group on Arbitrary Detention, "Opinions adopted by the Working Group on Arbitrary Detention at its ninety-fifth session, 14 – 18 November 2022: Opinion No. 78/2022 concerning Alexey Gorinov (Russian Federation), A/HRC/WGAD/2022/78, 17 March 2023, paras. 95 – 98.

<sup>81</sup> The Guardian, [Russia-Ukraine war live: UN human rights head tells Putin to release Kremlin critic Kara-Murza \(theguardian.com\)](#).

## 5.2. Organisation for Security and Cooperation in Europe

45. On 13 April 2022, the OSCE Parliamentary Assembly President and members of the Committee on Democracy, Human Rights and Humanitarian Questions, calling ‘in the strongest possible terms for the Russian authorities to fulfil their commitments to human rights’ denounced the detention of Vladimir Kara-Murza as well as the ‘widespread recent crackdown on any form of dissent and the newly adopted laws on anti-war protests and reporting’ as ‘shameful and unacceptable’.<sup>82</sup>

On 22 September 2022, the OSCE Moscow Mechanism presented its report on Russia’s Legal and Administrative Practice in light of its OSCE Human Dimension commitments.<sup>83</sup> The report found that legislative reforms have repressed Russian civil society, the peak of which was reached in July 2022 with the adoption of the above-mentioned amendments to the Criminal Code. As a result, human rights defenders have been forced to reduce or abandon their work or leave Russia. The “foreign agents” law amendments have the effect of qualifying virtually any Russian and foreign organisation and individual as “foreign agent” or “affiliated with a foreign agent”. The work of “undesirable organisations” is treated as illegal. Freedom of expression has been further curtailed by many new laws, particularly through the laws on “discrediting the Russian Armed Forces”, ‘completely banning anti-war protests’. Mass media and the internet have been regulated in such a way as to radically restrict access to information. Such laws are ‘not in line with OSCE standards’.

46. The report concluded that “the the authorities’ actions against civil society show that the ultimate goal is to create a monolithic society based on a certain pre-modern understanding of “Russian-ness”. Those who oppose it are seen as nails sticking out of the wall; they must be hammered into the wall and disappear. The President’s speeches about a “fifth column” and “insects to be spat out” reveal an attitude of deep-seated hatred. The main strategy of the Russian authorities is based on intimidation. Persecution is not hidden, but visible for all, especially when it is directed against public figures. The main aim seems to be to get people to give up or leave the country”. With regard to the aggression against Ukraine, the report noted that “repression on the inside and war on the outside are connected to each other as if in a communicating tube... To start a war with another country, the elite must be sure that there will be no two -front war (with one front inside and one front outside the country). Therefore, restrictive measures are considered necessary in order not to be disturbed during the preparation for war or after it has started. This explains the wave of repressive measures in Russia immediately before, but, above all, after 24 February 2022”.

47. The report recommended the Russian Federation to fulfil its commitments under the OSCE, to uphold the Russian Constitution’s freedom of expression, assembly and association guarantees against the enactment of laws which abrogate or impair human rights and freedoms. In addition, it noted that Russia should continue to co-operate with international human rights processes at the UN, and fully implement the judgments of the European Court of Human Rights. Lastly, the Russian Federation is recommended to consider the long-term effects of its policies and legal reforms aimed at the suppression of civil society.<sup>84</sup>

48. On 26 January 2023, leaders of the OSCE Parliamentary Assembly’s human rights committee issued a statement denouncing the dissolution of the Moscow Helsinki Group as setting back the protection of human rights in Russia. The leaders urged the reversal of said decision as shutting down the organisation could contravene Russia’s OSCE commitments to freedom of association.<sup>85</sup>

49. On 24 February 2023, OSCE Parliamentary Assembly Special Representative on Political Prisoners Steve Cohen (United States) argued that the war has been made possible by a growing trend of autocracy in Russia, characterised by the proliferation of political prisoners, which include Vladimir Kara-Murza.<sup>86</sup>

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<sup>82</sup> OSCE Parliamentary Assembly, [OSCE PA President and human rights leaders denounce jailing of political opponent in Moscow](#).

<sup>83</sup> [Report on Russia’s Legal and Administrative Practice in Light of its OSCE Human Dimension Commitments | OSCE](#).

<sup>84</sup> OSCE, Office for Democratic Institutions and Human Rights, Report on Russia’s Legal and Administrative Practice in light of its OSCE Human Dimension Commitments, <https://www.osce.org/files/t/documents/7/5/526720.pdf>.

<sup>85</sup> Statement issued by OSCE Parliamentary Assembly Committee on Democracy, Human Rights and Humanitarian Questions Chair Nikoloz Samkharadze (Georgia), Vice Chair Farah Karimi (Netherlands), and Rapporteur Johan Büser (Sweden),

[OSCE PA human rights leaders issue statement on court decision to shutter Moscow Helsinki Group](#).

<sup>86</sup> OSCE Parliamentary Assembly, [One year in: OSCE parliamentarians debate Russia’s continued full-scale war on Ukraine, Bureau issues joint statement](#).

50. On 17 April 2022, OSCE Parliamentary Assembly President, Margareta Cederfelt and the Special Representative on Political Prisoners, Steve Cohen denounced the verdict against Vladimir Kara-Murza and demanded his release, calling his trial a 'travesty for justice'.<sup>87</sup>

## **6. Preliminary analysis of the compatibility of the Russian Federation's legislative reforms and practice with human rights standards**

51. The above outlined reactions unequivocally show the international community's unanimously grave concern for the rights to freedom of assembly, expression, association and access to plurality of information in the Russian Federation's response to anti-war protesters. They further outline an increasingly worrying context of crackdown against those that denounce the war.

A history of violations of the Convention-secured rights to freedom of assembly,<sup>88</sup> freedom of expression and information<sup>89</sup>, freedom of association<sup>90</sup> in the Russian Federation point to an already dire situation for these rights before the start of the war of aggression against Ukraine. Considering that the Court will be hearing and deciding upon cases regarding potential Convention violations that took place until 16 September 2022 involving the Russian Federation,<sup>91</sup> the Court's judgments on such human rights violations as a result of the crackdown on anti-war protesters are to be expected in due course.

52. The majority (if not all) of previously mentioned amendments to Russian criminal and administrative codes since March 2022 violate human rights standards, including the Convention and the ICCPR.

53. Throughout the hundreds of cases I received reports on, the law and sentences administered do not appear proportionate to the gravity of the alleged offences. It is unacceptable to administratively fine persons for thousands of roubles for simply holding a one-person protest, holding up a white piece of paper, or to detain others for liking social media posts or sharing their opinion on the internet.

54. The legal reforms and their effects on Russian protesters, enacted before the Convention ceased to apply to the Russian Federation, clearly violate several international human rights. Firstly, the limiting of access to information, particularly online, with the Russian administration blocking over 8,000 online resources per week. Social media and digital companies such as Meta have been found by a Russian court to be exercising "extremist activities" under Federal Laws 374-FZ and 375-FZ and Facebook and Instagram have been blocked.<sup>92</sup> The internet is part of the principal means by which individuals exercise their freedom to receive and impart information and ideas and exercise their freedom of expression.<sup>93</sup> For this reason, any restrictions on access to a source of information must be strictly regulated, defining a limited scope of the ban as well as permitting judicial review. As neither can be found in the practice of internet information blocking in the Russian Federation, particularly about the war, this may violate article 10 of the Convention. Secondly, despite the possibility of applying limitations to these rights, the criminalisation or administrative consequences applicable for "discrediting" the Russian Armed Forces arguably infringe the freedom to hold opinions without interference.<sup>94</sup> This is because the limitation has an overly broad scope that is not necessary in a democratic

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<sup>87</sup> OSCE Parliamentary Assembly, ['Travesty of justice': OSCE PA leaders denounce Kara-Murza verdict, call for his release](#).

<sup>88</sup> Committee of Ministers of the Council of Europe, *Lashmankin and Others group v. Russian Federation* (Application No. 57818/09). <https://rm.coe.int/090000168089e171>.

<sup>89</sup> Judgment by the European Court of Human Rights, *Vladimir Kharitonov v. Russia*, Application no. 10795/14, <http://hudoc.echr.coe.int/eng?i=001-203177>;

Judgment by the European Court of Human Rights, *OOO Flavius and Others v. Russia*, Applications nos. 12468/15, 23489/15, and 19074/16, <http://hudoc.echr.coe.int/eng?i=001-203178>;

Judgment by the European Court of Human Rights, *Bulgakov v. Russia*, Application no. 20159/15, <http://hudoc.echr.coe.int/eng?i=001-203181>;

and Judgment by the European Court of Human Rights, *Engels v. Russia*, Application no. 61919/16, <http://hudoc.echr.coe.int/eng?i=001-203180>.

<sup>90</sup> Judgment by the European Court of Human Rights, *Ecodefence and others v. Russia*, Applications nos. 9988/13 and 60 others, <https://hudoc.echr.coe.int/eng?i=001-217751>.

<sup>91</sup> Committee of Ministers, [Resolution CM/Res\(2022\)3 on legal and financial consequences of the cessation of membership of the Russian Federation in the Council of Europe](#), para. 7.

<sup>92</sup> The Guardian, [Russia bans Facebook and Instagram under 'extremism' law | Russia | The Guardian](#).

<sup>93</sup> *Cengiz and Others v. Turkey*, judgment of 1 December 2015, §§ 49 and 52.

<sup>94</sup> Article 10 ECHR, Article 19(1) ICCPR.

society, and lacks any convincing arguments related to the protection of national security, morals, public safety, or the reputation or rights of others.

55. Similarly, guarantees under article 11 ECHR and Article 21 ICCPR are disregarded through regulations that expressly and implicitly make it virtually impossible to for people to meet in public. For example, the strict requirement of prior approval by the law enforcement agency for any gathering, however small, the extremely high percentage of rejection of relevant permits, the amendments to laws imposing territorial restrictions to holding a demonstration (not in or near government buildings, airports, stations etc.) all point to the fact that the restrictions are too wide-ranging to be justified under the conventions' legality and necessity criteria. Furthermore, reports of disproportionate use of violence by law enforcement officers during protests and the practice of pre-emptive detention arguably also infringe the right not to be treated inhumanely or in a degrading manner.<sup>95</sup>

56. I will examine in more depth in my final report the extent to which most of the legislative (old and new) measures applied by the Russian authorities against anti-war protesters and dissidents are systematically in breach of Russia's obligations under international human rights law.

## 7. Preliminary conclusions and proposals for further work

57. The Assembly must strongly acknowledge that there is an opposition movement to the Russian aggression against Ukraine and that many Russians do not support the war, despite the propaganda and information blackout they are subjected to. The crackdown against dissent in the Russian Federation is vivid and affects political opponents, individuals and organisations alike, often for merely exercising their rights to freedom of expression and assembly.

58. The Assembly and member States should denounce in the strongest terms all aspects of such repression, from the enactment of laws that violate human rights to the use of violence by law enforcement officials during peaceful demonstrations; from the practice of pre-emptive and/or arbitrary detentions to the blocking of pluralistic information both online and offline.

59. Council of Europe member States should facilitate the work of anti-war protesters. This can be done by providing simpler asylum or re-entry procedures.<sup>96</sup> The Assembly has already called on all member States to facilitate the granting of visas and give careful consideration to asylum requests from former political prisoners and Russian opposition politicians, civil society activists, journalists and human rights defenders who need to leave the country in order to avoid persecution.<sup>97</sup> Another way would be by providing licences to independent Russian media companies that have relocated, avoiding a situation like that of TV Rain, forced to leave Latvia where the company had resettled due to its licence being taken away.<sup>98</sup>

60. Recent developments in Georgia<sup>99</sup> and Bosnia Herzegovina<sup>100</sup> suggest a worrying trend of Council of Europe member States planning to follow the Russian model of "foreign agents" laws and repressive tactics against civil society. This should be avoided at all costs.

61. The active crackdown against dissenting public opinion is curtailing freedom of information and censoring all independent and free media, making it difficult for ordinary Russians to be informed by anything other than propaganda. To this end, Council of Europe member States should provide free and accessible Virtual Private Network (VPN) connections in Russia, with the aim of combatting disinformation.

62. Further, there is a pattern of systemic repression, highlighted by the data and magnitude of arrests and detentions against protesters. The European Court of Human Rights previously found several Russian laws,

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<sup>95</sup> Article 3 ECHR, article 7 ICCPR.

<sup>96</sup> I have received reports of Russian residents in Georgia facing difficulties for re-entry to their country of residence, and, on some occasions, having it outrightly denied.

Washington Post, <https://www.washingtonpost.com/world/2022/04/03/ukraine-russia-georgia/>.

<sup>97</sup> [Resolution 2446 \(2022\)](#) "Reported cases of political prisoners in the Russian Federation".

<sup>98</sup> BBC News, <https://www.bbc.com/news/world-europe-63871289>.

The New York Times, [Exiled Russian TV Station's Reference to Troops Causes Fury in Latvia - The New York Times \(nytimes.com\)](#).

<sup>99</sup> Human Rights Watch, [Georgia: 'Foreign Agents' Bill Tramples on Rights | Human Rights Watch \(hrw.org\)](#).

<sup>100</sup> Radio Free Europe | Radio Liberty, [Bosnian Serbs Approve Measure On 'Foreign Agents' Mirroring Controversial Russian Law \(rferl.org\)](#).

such as the “foreign agents” law, to be incompatible with the Convention. The amendments to the Russian Criminal Code and the broadening of other statutes, as they extend those repressive measures previously found incompatible with the Convention, are likely to violate it too. Despite the fact that the Russian Federation is no longer bound by the Convention as of 16 September 2022, it will be responsible for all violations that took place before that date. The fact that the Russian Federation has stopped implementing the Court’s judgements since 15 March 2022 is extremely worrying and incompatible with the Committee of Ministers Resolution (2022)3.

63. In any case, the laws enacted with the purpose of repressing anti-war sentiment remain incompatible with other international human rights law standards and Conventions the Russian Federation is party to, such as the ICCPR. They should therefore be repealed or thoroughly amended.

64. With the aim of displaying the unequivocal solidarity of the Assembly with Vladimir Kara-Murza and the Russian anti-war movement, I would like to seek the Committee’s authorisation to declassify this Introductory Memorandum and, this way, show our awareness and condemnation of the recurring violations of international human rights standards in Russia.

65. In order to continue my work on the report, I would like to seek the Committee’s authorisation to organise a hearing with experts on the issue of the crackdown on anti-war protesters in the Russian Federation, exiled human rights groups and media and,<sup>101</sup> and the families of those detained for protesting against the war. In particular, I intend to invite Evgenia Kara-Murza to the hearing, as her testimony will be important to update our committee on the persecution and the conditions of detention of her husband. Other guests will be the exiled Russian journalist Tania Felgenhauer and Denis Shedov, lawyer of the imprisoned municipal councillor Alexey Gorinov, board member of the Human Rights Defence Centre Memorial, and analyst at OVD-Info. Furthermore, I would like to request that the committee authorize me to go on a fact-finding visit to a country with a high concentration of exiled anti-war protesters such as Latvia, Estonia or Lithuania, possibly jointly with the OSCE Parliamentary Assembly’s Special Representative on Political Prisoners. In addition, I would like to meet with the United Nations Special Rapporteur on the human rights situation in the Russian Federation.

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<sup>101</sup> Such as former employees of the Memorial human rights centre, or of OVD-Info; Russian protesters who have successfully fled such as Alexander Cherkasov. [Nobel Peace Prize winner Alexander Cherkasov: ‘The history of post-Soviet Russia is a chain of wars, crimes and impunity’ | International | EL PAÍS English Edition \(elpais.com\)](https://www.elpais.com/en/international/nobel-peace-prize-winner-alexander-cherkasov-the-history-of-post-soviet-russia-is-a-chain-of-wars-crimes-and-impunity).