



RUSSIA: NO PLACE FOR PROTEST

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Cover photo: *National Guard officers are arresting a peaceful protester in downtown Moscow, 27 July 2019.*

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INTRODUCTION

“Everyone has the right to freedom of peaceful assembly and association”.

Universal Declaration of Human Rights, Article 20(1)

“Citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, meetings and demonstrations, marches and pickets”.

Russian Constitution (1993), Article 31

The right to freedom of peaceful assembly is a fundamental human right enshrined both in international and regional treaties to which Russia has agreed to be bound and in Russian law. However, the Russian authorities are flouting the obligations of the state to respect, protect, promote and fulfil this right by using increasingly repressive measures to restrict and suppress peaceful protests.

Laws introduced in Russia in recent years and the way in which they have been implemented have critically undermined the right to freedom of peaceful assembly. The Federal Law on Assemblies, Rallies, Demonstrations, Marches and Pickets, amended 13 times since its adoption in 2004, has seen progressively greater restrictions imposed on protesters including on who can organize a protest, where people can protest and when. Requirements for notification of protests or for their relocation have been implemented in such a way as to effectively require people to obtain permission to exercise their right to freedom of peaceful assembly and to give the local authorities wide discretion for refusing the permission, including on vague and arbitrary grounds. Other relevant laws, such as the Code of Administrative Offences and the Criminal Code, have also seen a drastic proliferation of provisions restricting the rights to freedom of expression and peaceful assembly, as well as the imposition of harsher sanctions for various “violations”.

This increasingly repressive legislation is being enforced through measures including unfair trials, unfounded and disproportionate sanctions, and excessive use of force against protesters.

This tightening of restrictions on the civic space for exercising the right to freedom of peaceful assembly pre-dates the restrictions imposed in response to the Covid-19 pandemic. Discriminatory implementation of the law has enabled the authorities to target people expressing criticism of the government policies or actions. This suggests that these measures are intended to have a chilling effect on civil society at the national and local levels and on those seeking to give voice to concerns, such as journalists, trade unionists and campaigners on local and nationwide issues.

INTERNATIONAL AND REGIONAL STANDARDS

Russia is a state party to the International Covenant on Civil and Political Rights which guarantees the right to freedom of peaceful assembly and states that this may only be restricted in limited circumstances¹:

“No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others”.

The European Convention on Human Rights, to which Russia is also a state party, contains similar provisions.²

Russia is also a member of the Organization for Security and Cooperation in Europe (OSCE), which in 2020 produced, jointly with the Venice Commission, the third edition of its *Guidelines on Freedom of Peaceful Assembly* (OSCE Guidelines). This practical toolkit draws on good-practice examples from national legislation in OSCE states and the case law of the European Court of Human Rights to illustrate the various legislative options used to regulate issues relating to the right to freedom of peaceful assembly. The Guidelines also note the states' “positive duty to facilitate and protect the exercise of the right to freedom of peaceful assembly” and to protect “assembly organizers and participants from third party individuals or groups who seek to undermine” this right.³

International and regional treaties require that the authorities “show a certain degree of tolerance towards peaceful gatherings”, even if they deem the assembly “unlawful”.⁴ In particular, when dealing with protests, police should not use excessive or unnecessary force. The UN Human Rights *Guidance on Less-Lethal Weapons in Law Enforcement* notes that: “the fundamental human rights of the participants shall be respected and protected, even if an assembly is considered unlawful by the authorities”.⁵ In addition, the UN Human Rights Council encourages “all States to avoid using force wherever possible during peaceful protests, and to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force”.⁶

This document highlights some of the numerous instances and exposes the patterns when the Russian authorities have ignored the provisions, standards and guidelines set out in these international and regional instruments which it has undertaken to uphold, and how it is undermining the rights they set out to protect.

GRADUAL TIGHTENING OF RESTRICTIONS IN RUSSIAN LAW

The 1993 Russian Constitution contains what should be a robust protection of human rights, including the right to freedom of peaceful assembly⁷:

“The rights and freedoms of human and citizen may be limited by the federal law only to such an extent to which it is necessary for the protection of the fundamental principles of the constitutional system, morality, health, the rights and lawful interests of other people, for ensuring defense of the country and security of the State”.

However, legislation introduced in 2004 – the Federal Law on Assemblies, Rallies, Demonstrations, Marches and Pickets (Law on Assemblies) – places restrictions on the right to freedom of peaceful assembly that effectively undermine the right set out in the Constitution. The 2004 law has since been amended 13 times; nine of these amendments have been introduced since 2014 in the context of a crack-down on anti-government protests. Most of these amendments introduced additional restrictions on organizers of peaceful rallies and journalists covering them, as well as new pretexts for authorities to deny the right to freedom of peaceful assembly.

Although Russian legislation avoids explicitly using terms like “permit” or “ban” in relation to protests, it effectively requires organizers to seek authorization for their assemblies. Recent amendments to the Law on

¹ International Covenant on Civil and Political Rights, adopted on 16 December 1966, Article 21.

² Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), adopted on 4 November 1950, Article 11.

³ OSCE Office for Democratic Institutions and Human Rights and European Commission for Democracy through Law (Venice Commission), *Guidelines on Freedom of Peaceful Assembly, 3rd Edition*, [venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)017rev-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)017rev-e), paras 22-23.

⁴ European Court of Human Rights, *Case of Oya Ataman v. Turkey*, Application no. 74552/01, 5 December 2006, para. 42.

⁵ Office of the United Nations High Commissioner for Human Rights, *Guidance on Less-Lethal Weapons in Law Enforcement*, 2020, UN Doc. HR/PUB/20/1, para. 6.3.1.

⁶ UN Human Rights Council, Resolution 19/35: The Promotion and Protection of Human Rights in the Context of Peaceful Protests, adopted on 18 April 2012, UN Doc. A/HRC/RES/19/35, operative para. 6.

⁷ Конституция Российской Федерации, adopted on 12 December 1993, Article 55(3).

Assemblies, signed by President Putin on 30 December 2020, solidify existing practice: local officials have a final say in where, when and how the protest can proceed. If the organizers disagree, they must cancel the protest.⁸

RESTRICTIONS ON WHO CAN ORGANIZE PEACEFUL ASSEMBLIES

The Law on Assemblies currently prohibits certain categories of people from organizing protests. Among those banned from organizing protests are: foreign citizens and stateless people; minors under the age of 18 (except rallies and indoor assemblies where the minimum age is 16); and people convicted of “crimes against the constitutional order, state security, social safety or social order” or of protest-related administrative offences more than once in the preceding 12 months (Article 5(1), 5(2)(1.1)).

While this does not prevent people in these categories from participating in protests, it nevertheless restricts their ability to exercise their right to freedom of peaceful assembly.

The Law on Assemblies also introduced a requirement of prior notification for one-person pickets that use “rapidly erected constructions” (such as pop-up banner stands, popular in Russia). The law does not clarify whether people in these categories are also banned from this type of public event (which leaves it open to such restrictive application). If these restrictions are applied to one-person pickets, it would effectively mean people in these groups are denied their rights to freedom of expression as well as peaceful assembly.

RESTRICTIONS ON WHEN PEOPLE CAN PROTEST – PRIOR NOTIFICATION

The most intrusive and burdensome requirements imposed by the Law on Assemblies, the principal means used by the authorities to ban protests, are those relating to notification of public events (Article 7(1) and 7(1.1)).

Organizers of almost all types of protests must submit prior notification to the authorities. The length of notice required varies according to the type of assembly. For most assemblies, organizers must give between 10- and 15-days’ notice; for smaller protests that do not use loudspeakers, the advance notice required is between three and 15 days. A notice submitted earlier is considered a violation of the law and results in denial. The only genuine exception to the prior notification requirement are one-person pickets without “rapidly erected constructions” and indoor assemblies.⁹

The purpose of prior notification should be to allow the authorities to make preparations to facilitate the assembly. The European Court of Human Rights has stated that such requirements should not represent a hidden obstacle to the freedom of peaceful assembly¹⁰ and that any restrictions should be based on facts, be proportionate and must not be arbitrary or politically motivated. Amnesty International’s research shows that this is not the case in Russia where notification procedures are frequently abused by the authorities to undermine what they consider to be unwanted peaceful protests.

SPONTANEOUS PROTESTS

Many assemblies are attempted unplanned, particularly when urgent. They may be a response to breaking news, an emergency or other unexpected event, or they may voice the need for immediate action by the authorities. By their very nature, prior notification for such assemblies is impossible.

These spontaneous protests are explicitly protected under international human rights standards. The European Court of Human Rights has ruled that peaceful protests in response to a political event should not be stopped merely because their organizers have not notified the authorities.¹¹ Similarly, the OSCE Guidelines call on governments to adopt legislation that exempts organizers of spontaneous protests from the need to give prior

⁸ Федеральный закон №54-ФЗ «О собраниях, митингах, демонстрациях, шествиях и пикетированиях», 19 June 2004, pravo.gov.ru/proxy/ips/?docbody=&nd=102087370, Articles 5(4)(2) and 5(5) (as amended on 30 December 2020).

⁹ The Law on Assemblies also allows for protests in “specially designated places”, which formally don’t require a notification. However, local laws in many parts of Russia have their own significant restrictions. See a chapter below on “specially designated places”.

¹⁰ European Court of Human Rights, *Case of Oya Ataman v. Turkey*, Application no. 74552/01, 5 December 2006, para. 38.

¹¹ European Court of Human Rights, *Case of Bukta and Others v. Hungary*, Application no. 25691/04, 17 July 2007, para. 36.

notice.¹² However, the Russian authorities have flouted their obligations to respect, protect, promote and fulfil the right to freedom of peaceful assembly and cracked down on those seeking to peacefully exercise that right spontaneously.

For example, in June 2019 journalists organized a peaceful assembly in response to reports in the media on 7 June 2019 that investigative journalist Ivan Golunov had been arrested in Moscow. Police reports about his arrest were contradictory, but there was mounting and widespread concern that he was held on charges of drug dealing, based on fabricated evidence and aimed at stopping his anti-corruption work. Fellow journalists decided to organize a peaceful protest. Ivan Golunov's arrest was unforeseen and the response needed to be swift, as Ilya Azar, a reporter for *Novaya Gazeta* and municipal deputy in Khamovniki District in Moscow, explained:

"I realized that this was an attack on freedom of the press, so I had no doubts that it was necessary to start some action... The situation in our country is this: if something involving a criminal case is not resolved immediately, it is unlikely to be resolved later, because the system starts working, the wheels start turning. The investigation, the prosecutor's office and the court all perform functions according to a predetermined scenario. Therefore, if you want to break that cycle, then it is better to do it right away.

"I had never organized mass protests before. I did not understand then how it works. [On 9 June] we organized a face-to-face meeting [of those wishing to organize the action]. There we discussed how and where it would take place. On 10 June, in the morning, I posted the event on Facebook and wrote that we urged people to go along the route on 12 June.

"It was impossible to cancel such an event: people would find themselves face to face with the police. A group [of the initiators of the action] went to the mayor's office [to agree on holding the event], but they said that [the officials] did not listen, but simply demanded that the event be cancelled".

The refusal of the authorities to discuss holding a safe and peaceful protest left Ilya Azar with few options. As Russian law contains no provisions for spontaneous, urgent protests, he would have had to notify the authorities about the march no later than 1 June – almost a week before Ivan Golunov's arrest. Even to have a small picket, he would have had to file a written notification, signed by at least three individuals, on the very day the arrest was first reported. Ilya Azar had either to cancel the march altogether or to hold it despite city authorities' threats. He chose the latter and was fined 20,000 roubles (approximately US\$300)¹³ under the Code of Administrative Offences (CAO, Article 20.2(6.1)). More than 500 people were arrested at the protest of whom more than 100 were released without charge; the vast majority were fined between 10,000 and 20,000 roubles and three people were detained for nine to ten days: Aleksei Navalny, Ruslan Shaveddinov and Pavel Saygin.

Faced with the strong public indignation in response to the news of Ivan Golunov's arrest, including spontaneous protests, the authorities were forced to admit that the evidence against him had been fabricated. He was released on 11 June, and the criminal proceedings against him were dropped.

International human rights law allows states to regulate public assemblies. However, freedom of peaceful assembly is a right and its exercise does not require state authorization. The European Court of Human Rights has repeatedly concluded that the lack of notification, "does not justify an infringement of freedom of assembly" particularly if "demonstrators do not engage in acts of violence".¹⁴

In Russia, the requirement for prior notification has been used precisely as a tool in the armoury of the authorities to ban spontaneous protests, as well as to ban planned protests, as explained below.

RESTRICTIONS ON WHERE PEOPLE CAN PROTEST

The Law on Assemblies itself states that "any suitable place" can be used for public gatherings provided there is no danger to the safety or security of participants. However, it also lists several sorts of venues where assemblies are prohibited. These include public spaces near courthouses, prisons and presidential residences. Amendments passed in December 2020 added emergency services to the list.

However, once prior notification of a public assembly is given, the local authorities can "request" (in effect, impose) a change of place or timing (Article 12.1(4) and 12.1(2)). The law clarifies that any such request by the

¹² OSCE Guidelines, para. 25 (previously cited).

¹³ The approximate US dollar equivalents given throughout this briefing refer to the exchange rate prevailing at the time.

¹⁴ European Court of Human Rights, *Case of Oya Ataman v. Turkey*, Application no. 74552/01, 5 December 2006, paras 39 and 42.

authorities should be a “substantiated proposal”. However, the text of the law does not limit or specify the circumstances in which such a request for a changed location can be made. This provision is routinely used by the authorities to prevent protests from taking place in prominent central locations, often by “requesting” changes on vague and unsubstantiated grounds and arbitrarily enforcing them.

The Code of Administrative Procedure, which was passed in 2015, allows organizers to challenge the authorities’ decisions regarding protest notifications in court. Importantly, it contains a requirement that such cases be considered before the date of the protest¹⁵ – a recommendation Amnesty International made in its 2014 report *A right, not a crime: Violations of the right to freedom of assembly in Russia*¹⁶. However, this remedy remains ineffective. Rulings come into force only 30 days after they were issued, which is, in any case, long after the protest in question was intended to take place.

A June 2018 ruling by the Supreme Court sought to address some of these concerns. The ruling also set out the possible grounds for denying “approval” for protests. Although the Supreme Court fell short of compiling an exhaustive list of such permissible reasons, it did state that the burden of proof that an assembly should not be held lies with the authorities. In particular, the ruling stipulates that obstacles to traffic *per se* cannot serve as a pretext for banning a protest unless established safety norms are violated.¹⁷ In practice however, this ruling by the Supreme Court is routinely ignored.

Amnesty International has conducted a review of 42 rulings made between December 2018 and February 2019 by the Tagansky District Court of Moscow, which handles lawsuits related to protests in the capital’s centre. Only in two cases did the judge rule in favour of the protest organisers and took the view that the authorities were wrong to deny them the opportunity to hold the protest in their chosen location. Even in these two rulings, which entered into force after the dates of intended protests, the judge refused to award compensation for the thwarted gatherings or even to cover costs of the lawyers.

Under legislative amendments passed in 2021, the authorities obtained powers to “recall” permits which had already been issued using vaguely worded pretexts such as a “real threat” of “an emergency or a terrorist attack”. Officials can determine what constitutes such a “threat” and do not require a court ruling or any independent review to ban a protest. Similarly, if officials conclude that the assembly organizer has changed the protest’s objectives or format after submitting the notification, however slightly, this can also serve as an arbitrary pretext for banning the entire event.¹⁸ These and other provisions can be, and have been, used selectively against assemblies the authorities want to prevent.

Under international human rights law blanket restrictions on peaceful assemblies, such as blanket bans on places for protests, are disproportionate.¹⁹ The European Court of Human Rights has stated that the authorities should always try to accommodate organizers’ wishes²⁰ and noted that “any demonstration in a public place may cause a certain level of disruption to ordinary life and encounter hostility”,²¹ but this is not an excuse to prevent it from happening. An outright ban of a protest is an option of last resort and should only be considered when there is a real threat of violence that cannot be addressed otherwise.

If an assembly must be relocated, the venue proposed by the authorities should allow the protesters to achieve their aim. The OSCE Guidelines explicitly state that such places should be within “sight and sound” of their target audience.²² The new location should also not be particularly difficult to reach for likely participants and the media.

The actions of the Russian authorities in their response to peaceful protests have breached all these international standards.

¹⁵ Кодекс административного судопроизводства, 8 March 2015, pravo.gov.ru/proxy/ips/?docbody=&nd=102380990, Article 226(4).

¹⁶ Amnesty International, “*A right, not a crime: Violations of the right to freedom of assembly in Russia*” (EUR 46/028/2014), 3 June 2014, amnesty.org/en/documents/EUR46/028/2014/en, p. 32.

¹⁷ Supreme Court of the Russian Federation, *Plenary Decision No. 28*, 26 June 2018, vsrf.ru/files/26966, para. 12.

¹⁸ Law on Assemblies, Articles 12(6) and 12(5), respectively (previously cited).

¹⁹ UN Human Rights Committee, General Comment 37 on the right of peaceful assembly (article 21), 27 July 2020, UN Doc. CCPR/C/GC/37, para. 38.

²⁰ European Court of Human Rights, *Case of Sáská v. Hungary*, Application no. 58050/08, 27 November 2012 para. 21. See also OSCE Guidelines, para 2.2.

²¹ European Court of Human Rights, *Case of Oya Ataman v. Turkey*, Application no. 74552/01, 5 December 2006, para. 38.

²² OSCE Guidelines, para. 82 (previously cited).

ARBITRARY REFUSAL OF REQUESTED PROTEST LOCATION

In late 2018, Marianna Alferova learned that the St Petersburg Legislative Assembly had refused to designate nearby Malinovka Park as a protected zone and that, therefore, the park area could be used for construction projects. Marianna and her neighbours decided to hold a local protest rally in the park on 18 November to oppose this. They notified the local administration of their plans. However, the authorities replied that the rally could not go ahead because of “road repairs involving vehicles” taking place in the park at that time. Marianna explained:

“We didn’t expect this answer. We couldn’t hold the protest as a rally. There were indeed some works [in the park], but not where we planned the protest. In the end, we held one-person pickets, collected signatures and held a flashmob, but it’s not the same as a protest rally.

“We applied again and received another rejection: allegedly there were some children’s games in the park. We sued the authorities but lost the lawsuit”.

The authorities were able to use current provisions to prevent a peaceful local protest on grounds that were not proportionate or justified. They also failed to offer any alternative whatsoever. This scenario is not uncommon. For instance, between 2017 and 2019 the Moscow authorities responded in a similar way to three out of six notifications submitted by the Moscow Office of Amnesty International giving general justifications such as “inability to ensure safety” during the assemblies.²³

UNVIABLE ALTERNATIVE PROTEST LOCATIONS

Even when the authorities do propose alternatives, the suggested venues are often inadequate and do not allow participants to achieve their aims.

In June 2019, the Moscow health workers’ union Action tried to organize a protest in support of a jailed colleague, Elena Misyurina, who they felt had been wrongly convicted for the death of a patient. The union notified the authorities of its intention to hold a peaceful protest in Pushkin Square, one of the busiest city squares in Moscow. Andrey Konoval, co-chair of the Action union, explained what happened:

“We didn’t want to just talk on the Internet. We wanted to put pressure on the authorities with a street protest, to demand justice... We notified of our plans to hold 700-strong picket in front of Pushkin’s monument... We received a totally absurd refusal for a protest on this spot on the grounds that... Pushkin’s monument does not correspond to the stated goal... The law doesn’t require that the protest’s location be related to its goal. It’s up to the organizer to choose the place. It’s none of the government’s business if the picket has a point or not. This was all illegal... Besides, there is a poem about freedom on the Pushkin’s monument. From my point of view, Pushkin as a poet of liberty and free thought was a very appropriate object for the protest against the lawlessness of the authorities”.

However, the authorities refused to give a permit for a protest in the square and suggested instead that the protest take place in Sokolniki Park. Andrey Konoval said:

“Sokolniki is a very bad location, hard to reach, far from the metro. It’s fenced off, surrounded by trees. The procedure of relocating the process there was degrading. And the case was high profile, so we wanted a downtown location”.

The authorities’ arbitrary refusal to issue a permit for the assembly resulted in Action cancelling their protest.

²³ Larisa Tiunova, Deputy Prefect of the Central Administrative District of Moscow, letter to Amnesty International, 8 February 2019, on file with Amnesty International.

Even though Russia's Supreme Court has ruled that any alternative venue proposed by the authorities should "provide for achievement of legitimate aims of the event and correspond to its social and political meaning",²⁴ it has become the norm for the authorities to move protests arbitrarily to remote places where they will barely be noticed, if at all, by their target audiences. These places are also often difficult to reach, which inevitably reduces the number of participants and of journalists who cover them, thus undermining their purpose even more.

The Law on Assemblies affords no space for a dialogue between the authorities and the protesters regarding time, place or manner of a planned assembly. It only contains a vague notion that the venue proposed by the local authorities "shall conform to necessary conditions that allow for realization of the stated objectives of the public event".²⁵ Lack of any clarification of what these "conditions" are and the courts' reluctance to question government reasoning leave protest organizers practically powerless against arbitrary decisions by the authorities.

The Law on Assemblies also allows for regional laws to introduce additional restrictions on where protests can take place (Article 8(2.2), 8(3), 8(3.1)). At least some regional governments have used this clause to significantly extend the list of prohibited spaces. For instance, in Kirov Oblast, the law prohibits any gatherings near cultural, educational, medical or entertainment facilities, shopping centres, playgrounds and even public transport stops.²⁶ A 2019 decision of the Constitutional Court found this proliferation of "no-go" places through regional laws to be unconstitutional.²⁷ However, at the time of writing, the practice of additional restrictions imposed by local legislation remained in place in some parts of the country, including in Kirov Oblast.

"SPECIALLY DESIGNATED" PROTEST SITES

In 2012, at the suggestion of Vladimir Putin (then the Prime Minister), the Russian authorities adopted a law that provided for the selection of "specially designated" sites for public protests. The law stipulates that assemblies should "as a rule" be held in such places. Putin claimed that this amendment would expand freedom of assembly, because protesters would not need to submit notifications and could "freely, openly" express their opinions in a "decent" location.²⁸ The law also required the authorities to take into consideration the accessibility of "specially designated" locations and the ability of protesters to achieve their goals by assembling there.

Since the law was enacted, the authorities in many parts of Russia have routinely relocated "unwanted" protests away from traditional protest areas to "specially designated" sites.

Many of these "specially designated" locations are in places that are difficult to reach, have little through traffic and are far from any government bodies. Increasingly inaccessible locations have been "specially designated" in many places including Karelia, Pskov, Murmansk, Vladimir, Kemerovo and Moscow.

In addition, the regulations governing events in "specially designated" sites are defined by regional governments and these either significantly restrict the maximum numbers for such events (usually to 100 participants) or effectively apply the mandatory permit procedure, renamed "informing" rather than "notifying". For instance, in Moscow, Krasnodar Krai and Perm Krai organizers have to inform the authorities of the planned protest at least three days in advance and in Stavropol Krai at least 10 days in advance. As a result, spontaneous protests are not permitted in these venues as initially promised.

Moreover, the process for "informing" the authorities is often treated as a permission-based procedure. For instance, Moscow's only "specially designated" site is in Sokolniki Park and in the five years between 2016 and 2020, an average of one in five assemblies planned there was refused ("not agreed").²⁹ Park officials informed Amnesty International that assemblies may be refused for "various reasons", including violation of some unspecified "ethical norms".³⁰ The authorities are not required under the current law to suggest an alternative venue when a protest in a "specially designated" site is refused, so rejection results in a de facto ban on the assembly.

²⁴ Supreme Court of the Russian Federation, *Plenary Decision No. 28*, para. 13 (previously cited).

²⁵ Law on Assemblies, Article 12(1.2) (previously cited).

²⁶ Kirov Oblast, Закон №215-30 «О реализации на территории Кировской области отдельных положений Федерального закона "О собраниях, митингах, демонстрациях, шествиях и пикетированиях"», 6 November 2012, rg.ru/2012/11/12/kirov-zakon215-reg-dok.html, Article 3.

²⁷ Constitutional Court of the Russian Federation, *Judgment No. 33-P*, 1 November 2019, publication.pravo.gov.ru/Document/View/0001201911070023

²⁸ Kommersant, "Путин предложил создать аналог «Гайд-парка»", 14 February 2012, kommersant.ru/doc/1873572

²⁹ Sokolniki Culture and Recreation Park, Площадка для проведения публичных мероприятий (Гайд-парк), <http://park.sokolniki.com/activities/125/> (accessed on 16 April 2021).

³⁰ Aleksandr Lebedev, Deputy Director of Sokolniki Park, letter to Amnesty International, 19 April 2019, on file with Amnesty International.

The authorities in some cities, such as Moscow, have adopted a worrying practice of “suggesting” – in effect ordering – protest organizers to move their planned events to these “specially designated” sites. This makes some assemblies pointless and others less effective and embroils organizers in separate notifications for different administrations.

In short, the effect of the introduction of “specially designated” places has been to give the authorities new ways of significantly reducing visibility of, or outright preventing, protests and further eroding freedom of assembly.

FUNDING-RELATED RESTRICTIONS

In December 2020, President Putin signed into law amendments that introduce, among other things, restrictions on how assemblies can be funded and by whom.

For instance, foreign citizens, foreign and international organizations and people under the age of 16 cannot provide money or any property for protests, nor can Russian nationals and NGOs that the authorities have labelled “foreign agents”.³¹ Anonymous donations, money received from “illegal” sources and any leftover funds after the event must be returned to donors or sent to the state. In practice, these restrictions mean that all these groups are effectively denied the right to hold peaceful assemblies, because even using a placard may be considered “provision of property” for a protest.

If the assembly is expected to have more than 500 participants, its organizers must use a bank account for raising and spending funds on it. The law prohibits the use of cash or multiple bank accounts (including foreign ones) for collecting money. All donors must provide their full name, date of birth, home address and passport number, and verify that they are Russian citizens and are not prohibited from funding assemblies. Organizers must also provide a financial report to the authorities, which they may check and hold the organizers accountable for any irregularities.

At the time of writing, these new provisions had just been adopted and were yet to be implemented; their actual impact on the right of freedom of peaceful assembly remained to be seen. However, even the very fact that these new rules have been introduced creates excessive obstacles for protest organizers. In addition to all the other burdens of organizing an assembly, they will have to deal with bookkeeping, checking donations for possible violations of the law, returning “wrong” donations in time and preparing reports. Fines for violation of funding requirements are up to 20,000 roubles (approximately US\$270) for organizers and up to 15,000 roubles (US\$200) for donors. Donors also face the risk of possible reprisals for financially supporting protests.

SELECTIVE APPLICATION OF COVID-19 RESTRICTIONS

Since March 2020, the Covid-19 pandemic has created new obstacles to the exercise of human rights in Russia. Most restrictions in this instance were introduced not by federal, but by local authorities. While specific decisions and approaches differed from region to region, many used the pandemic as a pretext to curtail human rights, particularly the right to freedom of peaceful assembly, introduce disproportionate bans and crack down on those who organize or participate in protests.

For instance, the first Covid-19 related restrictions in Moscow were introduced on 5 March 2020 when City Mayor Sergei Sobyenin signed decree No. 12-UM. The decree has been amended several times since then but remained in force at the time of writing. Among other restrictions, the decree introduced a blanket prohibition of all “public and other mass events”, which was then cited to justify the banning of street protests.³² On 8 June 2020, the prohibition was extended indefinitely.³³ Notably, the restrictions apply to single-person pickets, which normally do not require notification and should not even theoretically affect the spread of Covid-19 (not least

³¹ For more details on the practice of labelling of independent NGOs and individuals see Amnesty International, “Russia stepping up its onslaught on freedom of association” (EUR 46/2223/2015), 4 August 2015, [amnesty.org/en/documents/eur46/2223/2015/en](https://www.amnesty.org/en/documents/eur46/2223/2015/en); “Russia: Agents of the People” (EUR 46/5147/2016), 18 November 2016, [amnesty.org/en/documents/eur46/5147/2016/en](https://www.amnesty.org/en/documents/eur46/5147/2016/en); “Russia: ‘Foreign agents’ bill threatens journalists” (EUR 46/1420/2019), 18 November 2019, [amnesty.org/en/documents/eur46/1420/2019/en](https://www.amnesty.org/en/documents/eur46/1420/2019/en)

³² Mayor of Moscow, Указ №12-УМ «О введении режима повышенной готовности», 5 March 2020, mos.ru/authority/documents/doc/43503220, Article 2.

³³ Mayor of Moscow, Указ №69-УМ «О внесении изменений в указ Мэра Москвы от 5 марта 2020 г. № 12-УМ», 8 June 2020, mos.ru/authority/documents/doc/44017220, Article 1.1.

because under the current practice, there should be at least 50 metres between the single picketer and the next protester).

While many other restrictions on social gatherings related to Covid-19 have been lifted since June 2020, the prohibition of mass assemblies remains in place in Moscow and elsewhere and has been strictly enforced against protest gatherings. At the time of writing, nearly all public facilities in Moscow, including schools, restaurants, bars, night clubs and museums as well as offices, were operating with no or very few restrictions and theatres and cinemas were allowed to operate with 50% occupancy. Some government-aligned political events, such as a concert and rally in Moscow on 18 March 2021 commemorating the anniversary of the annexation of Crimea, were allowed to take place without any repercussions for the organizers and participants

In contrast, protests organized by government critics have been consistently banned. For example, the authorities prosecuted 10 prominent activists, who had allegedly posted calls for a protest rally against the arbitrary detention of Aleksei Navalny; they were accused of “incitement of violation of sanitary regulations” under Article 236 of the Criminal Code.³⁴ Although their publications do not contain any calls that seek to undermine sanitary regulations as such and do not amount to calls to challenge Covid-19 restrictions, the activists face up to two years’ imprisonment and, at the time of writing, were held under house arrest or curfew.

Activist Yulia Galiamina was convicted of “repeated violation of regulations governing protests” (see below on Article 212.1) for organizing several marches in Moscow in July 2020 against amendments to the Russian Constitution. At her trial, the state prosecutor argued that the gatherings put participants and the general public at risk because of Covid-19 restrictions. Yulia Galiamina was convicted of this “crime” and given a suspended sentence of two years’ imprisonment.

DISPROPORTIONATELY SEVERE SANCTIONS

Laws adopted since Vladimir Putin’s return to the Kremlin in 2012 impose disproportionate and excessively harsh sanctions on those found to have violated protest regulations.

The CAO is the main law used against protesters. In 2011, there were three possible kinds of violations of the Law on Assemblies: organization of an assembly in violation of the established procedure, participation in such an assembly, and holding an assembly near a nuclear site. By early 2021, the number of violations had risen to 17. The newly added types of violations include, for example, “implicating a minor in a non-sanctioned protest”, “submission of a notification of a protest without the aim of holding it” and violation of funding and financial reporting requirements for protest organizers and donors.

The possible penalties also rose significantly during that time. Until 2012, someone convicted of these sorts of violations was liable to a fine of up to 2,000 roubles (approximately US\$60 in 2012). Administrative detention for up to 15 days was only possible for protests near nuclear facilities, a norm that was rarely, if ever, used. Today, 12 out of 17 “violations” can also lead to administrative detention for a maximum of 30 days and 14 “violations” are punishable by up to 200 hours of community service. Financial penalties have been increased manyfold.

One of the general approaches of protest-related legislation is the emphasis on increased penalties for repeated “violations”. Article 20.2(8) is used if a person commits a repeated “offence” within a year and carries the most severe sanction in the entire CAO: a fine of up to 300,000 roubles (approximately US\$4,000), up to 30 days of administrative detention or up to 200 hours of community service.

Even more worryingly, Article 212.1 of the Criminal Code (introduced in 2014) allows for up to five years’ imprisonment for “repeated violation of the established procedure of organizing or holding public events”. It can be invoked if an individual has been found in violation of protest-related administrative offences four or more times within 180 days. It remains a serious threat for those who frequently take part in protests.

³⁴ Amnesty International, “Russia: Activists detained under absurd ‘sanitary’ charges for social media posts in support of public protest” (EUR 46/4027/2021), 23 April 2021, [amnesty.org/en/documents/eur46/4027/2021/en](https://www.amnesty.org/en/documents/eur46/4027/2021/en)

In 2015, Moscow activist Ildar Dadin became the first person to be convicted, and imprisoned, under this article. In 2017, he obtained a Constitutional Court ruling that someone could be prosecuted under this article only if their intentional actions had “harmed, or created a real threat to, citizens’ health, property, environment, public order, public safety”. Ildar Dadin’s conviction was overturned, and he was released. However, the Russian authorities have failed to clarify the article or bring its application in line with the Constitutional Court’s ruling.

Instead, beginning in 2019, the authorities started to use this provision again against peaceful protesters. Activist Konstantin Kotov was sentenced to four years’ imprisonment on 5 September 2019 for participating in several pickets and marches in Moscow; the term was later reduced to 18 months which he served in full. At least eight other activists have been prosecuted for the same “offence” since.

PUNITIVE CIVIL LAWSUITS AGAINST PROTEST “ORGANIZERS”

Another means employed by the Russian authorities to punish alleged organizers of protests is seeking “recovery of losses” through civil lawsuits, by the authorities or by local businesses acting in collusion with them. One of the first such precedents took place in St Petersburg in December 2018 when the city prosecutor sued alleged organizers of a peaceful protest in May of that year. The authorities claimed that protesters had damaged grass in a city square.³⁵ On 5 February 2019, the court ruled that two activists had to pay compensation of 7.3 million roubles (approximately US\$110,000 at the time) to the city authorities.³⁶

This practice then proliferated in other parts of Russia: various public and private organizations filed lawsuits against alleged organizers of “unsanctioned” rallies for what they claimed were their financial losses because of the protests. In most cases, courts awarded huge damages against the activists, even though the protests had been peaceful and relations between them and the “losses” were less than clear. In none of the cases were the “damages” incurred by violent acts by the protesters; rather they were either an unavoidable by-product of a peaceful mass gathering (for example, increased use of public transport or the rerouting of traffic) or the result of the actions of the authorities (for example, the closure of shops and restaurants in the vicinity of the rallies). For instance, a civil lawsuit was brought against nine protest leaders by the owners of a restaurant in central Moscow who claimed that the protest on 27 July 2019 forced it to stay closed resulting in loss of profit – an initiative widely regarded as politically motivated and government-supported. In October 2019, a local Moscow court awarded them 241,500 roubles (approximately US\$3,700 at the time).

The most bizarre – and undoubtedly unlawful – use of this approach is forcing the organizers to pay for the “services” of the law enforcement personnel. For instance, in January and July 2020, courts in Moscow ordered eight activists to pay a total of about 5.6 million roubles (approximately US\$80,000) to the police and National Guard (Rosgvardiya), to cover the costs of officers’ payroll and fuel during two peaceful rallies in the summer of 2019,³⁷ which had been dispersed by the police with excessive use of force. In effect, the protesters were obliged to pay for the privilege of being abused.

The selection of which protest “organizers” were liable was arbitrary and not based on any clear criteria (for instance, the lists of “organizers” often differed for different lawsuits related to the same rally) and they were held accountable for the actions of other people beyond their control.

This practice violates international standards. The European Court of Human Rights has noted that “any demonstration in a public place may cause a certain level of disruption to ordinary life”.³⁸ General Comment No. 37, adopted by the UN Human Rights Committee in 2020, notes that requirements for participants or organizers either to arrange for or to contribute toward the costs of policing or security, medical assistance or cleaning, or other public services associated with peaceful assemblies are generally not compatible with the right to freedom

³⁵ Rambler, “Прокуратура Петербурга подала иск на 11 млн рублей к организаторам акции «Он нам не царь» за вытоптанный газон”, 14 December 2018, finance.rambler.ru/other/41431541-prokuratura-peterburga-podala-isk-na-11-mln-rublej-k-organizatoram-aktsii-on-nam-ne-tsar-za-vytopdannyy-gazon

³⁶ Pravo.ru, “Суд взыскал 7,3 млн руб. с организаторов митинга за вытоптанный газон”, 5 February 2019, pravo.ru/news/208807

³⁷ Interfax, “Суд взыскал более 2 млн рублей по иску прокуратуры к организаторам акций в Москве”, 15 January 2020, interfax.ru/russia/691327; TASS, “Суд в Москве удовлетворил иск полиции к Навальному на 3 млн рублей за акцию 27 июля”, 3 July 2020, tass.ru/moskva/8878735

³⁸ European Court of Human Rights, *Case of Oya Ataman v. Turkey*, Application no. 74552/01, 5 December 2006, para. 38.

of assembly. The Comment allows for organizers to be held accountable for damage or injuries for which they were not directly responsible only in exceptional circumstances and only in cases where evidence shows that they could reasonably have foreseen and prevented them.³⁹ There is no reason to suggest that these cases constituted exceptional circumstances or that the organizers could have prevented or foreseen the “damage”, if damage had indeed been caused. The real objective of this practice is to punish activists for solely calling for the peaceful protests and to discourage future demonstrations.

EXCESSIVE USE OF FORCE BY THE POLICE

“There were mass arrests during the march, many unnecessary. Plus, many were arrested with excessive force, women were dragged on the ground... This was lawlessness”.

Ilya Azar, who initiated a march on 12 June 2019 in Moscow to protest at the arrest of journalist Ivan Golunov

For many Russians who decide to organize or take part in peaceful assemblies, facing violence is more than a theoretical possibility. Police routinely and indiscriminately use unnecessary or excessive force, often without even attempting to communicate with protesters or giving them an opportunity to disperse, no matter how peaceful or small in numbers the protest may be.

Riot police carried out mass arbitrary arrests at a peaceful protest rally in St Petersburg on 23 January 2021. A widely circulated video from the protest shows three police officers in riot gear leading a young man away. A woman stands in front of them and asks: “Why did you grab him, guys?” In response, one of the officers kicks her in the stomach and she falls on the ground.⁴⁰ The woman, Margarita Yudina, required treatment in an intensive care unit. Although initially police moved to apologize to her, the authorities later refused to investigate the incident and said there was no wrongdoing in the actions of the officer.⁴¹ Moreover, the authorities retaliated against her demand for an investigation by hinting that they might seek custody of her 15-year-old daughter and threatening to draft her older sons into the army.⁴²

Russian police usually use physical force, martial arts techniques and batons to make arrests, disperse crowds or enforce compliance, sometimes causing serious injury. For example, on 27 July 2019, jogger Konstantin Konovalov was arbitrarily stopped before the start of a protest and thrown to the ground. A police officer allegedly stamped on his leg and fractured it. At a protest on 23 January 2021 in Moscow, an Amnesty International monitor saw a police officer advise his colleague, who was trying to arrest a protester: “Hit him in the kidneys,” which the second officer did.

The practice of dispersing, usually with the use of excessive force, any “unsanctioned” rallies violates the right to freedom of peaceful assembly. Given the legal and quasi-legal labyrinth that organizers must negotiate in order to obtain such a “permit”, this effectively means that anyone who plans to protest peacefully faces the risk of being beaten and arrested, and subsequently penalised with detention or a hefty fine. This is clearly in breach of a European Court of Human Rights ruling that the absence of notification of a demonstration does not justify an infringement of freedom of assembly.⁴³

When Russian law enforcement agencies use so-called less-lethal weapons, they often do so in an unlawful manner, causing unnecessary pain and suffering and risk inflicting serious injury. For example, in 2021, riot police widely used electric-shock devices during at least two major peaceful protest rallies, one on 31 January in Moscow and another on 21 April in St Petersburg. Amnesty International staff witnessed repeated use of such weapons at the rally in Moscow against a person who was lying on the ground. A video shot at the rally in St

³⁹ UNHRC General Comment 37, paras 64–65 (previously cited).

⁴⁰ Khuseynovich, ““Зачем вы его схватили, ребят?” силовики ударили женщину в живот МИТИНГ”, 23 January 2021, youtube.com/watch?v=NO8Kto4olak

⁴¹ PaperPaper.ru, “Против силовика, который ударил Маргариту Юдину, не будут возбуждать уголовное дело”, 26 February 2021, paperpaper.ru/papernews/2021/2/26/protiv-silovika-kotorij-udaryl-marga

⁴² Amnesty International, “Russian Federation: Assaulted peaceful protester denied justice: Margarita Yudina” (EUR 46/3695/2021), 12 February 2021, amnesty.org/en/documents/eur46/3695/2021/en

⁴³ European Court of Human Rights, *Case of Oya Ataman v. Turkey*, Application no. 74552/01, 5 December 2006, para. 39.

Petersburg shows police officers using an electric-shock weapon at least four times on someone who was not violently resisting.⁴⁴

UN Guidance on Less-Lethal Weapons in Law Enforcement prohibits the use of electric weapons to overcome purely passive resistance to an official's instructions through the infliction of pain, let alone their use to inflict pain as punishment. It advises law enforcement officers to avoid repeated, prolonged or continuous discharge of such weapons. The Guidance also notes that using the weapon in "drive-stun mode" (that is, when the weapon is applied directly, without firing darts), which is the mode typically used by the Russian police, has a high risk of inflicting pain or suffering so severe that it may amount to torture or cruel, inhuman or degrading treatment.⁴⁵ Amnesty International calls for a total ban on the use of drive-stun mode.⁴⁶

Journalists and human rights monitors are also increasingly targeted by the police at "unlawful" rallies. For instance, the Russian Union of Journalists has estimated that the police arrested or injured more than 100 media workers covering protests against the detention of Aleksei Navalny in January and February 2021.⁴⁷ The Committee Against Torture, a Russian NGO that monitors the use of force by law enforcement agencies, reported that the police arrested six of its members in three different cities as they were observing the protests on 31 January 2021.⁴⁸

Russian law limits the time a person can be detained without charge in most cases to three hours, but the clock only starts ticking when the detainee is brought into custody. During mass arrests, police regularly abuse this rule and keep protesters in overcrowded vans for hours without access to water or toilet facilities. This practice has become particularly worrying in the context of the Covid-19 pandemic as it significantly increases health risks for detainees. For example, an Amnesty International employee arrested for participating, in private capacity, in a peaceful protest on 31 January 2021 had to spend the entire night in a police van while being transferred from the court to a detention centre. Such practices may amount to torture and other ill-treatment.

UNFAIR TRIAL

Penalties for protesters are usually given under the provisions of Article 20.2 of the CAO, which lists 12 separate kinds of violations of the Law on Assemblies. Other articles frequently used against participants of peaceful protests include Article 20.2.2, which concerns gatherings that are not covered by the Law on Assemblies, and Article 19.3(1) on disobeying police orders. The police effectively draw the administrative charges, in the form of police reports, and submit them as evidence to district courts.

Trials are usually very short, sometimes taking as little as five minutes, and typically a mere formality. On average, around two thirds of them result in a penalty and 10% lead to acquittals (the rest of the cases do not result in a court decision, often due to administrative back-and-forth between the court and the police until their statute of limitation expires). Between 2012, when sanctions were overhauled, and 2020, Russian courts tried 33,991 individuals for alleged violations of the Law on Assemblies and in 22,877 cases the defendants were found guilty of the respective administrative offences, according to the official statistics published by the Supreme Court.⁴⁹ Almost 1,700 have been sentenced to administrative detention and most of the rest received fines totalling around 251 million roubles (approximately US\$3.35 million).

There is no state prosecutor in these administrative proceedings. Judges rule whether to summon key witnesses and typically refuse to do so, as they typically also refuse to consider defendants' evidence or question the truthfulness of police reports (which are often inaccurate if not plainly trumped up). The judges are unlikely to invoke international human rights case-law, such as the judgments of the European Court of Human Rights, although these are binding on Russia.

⁴⁴ OVD-Info, Twitter post, 21 April 2021, twitter.com/OvdInfo/status/1384958515735932932: "Use of a taser by security forces in Petersburg. We found footage where it is clearly visible. Video from our subscriber." (translation from Russian by Amnesty International)

⁴⁵ UN Human Rights, *Guidance on Less-Lethal Weapons in Law Enforcement*, paras 7.4.11–7.4.12 (previously cited).

⁴⁶ Amnesty International, *Projectile Electric-Shock Weapons*, February 2019, [amnesty.nl/content/uploads/2019/03/AI_position_paper_pesws_extended.pdf](https://www.amnesty.nl/content/uploads/2019/03/AI_position_paper_pesws_extended.pdf), para. 2.3.2.

⁴⁷ Russian Union of Journalists, "Центр правовой защиты журналистов СЖР - по поводу задержаний представителей СМИ 23, 31 января и 2 февраля", 3 February 2021, ruj.ru/news/tsentr-pravovoi-zashchity-zhurnalistov-szhr-po-povodu-zaderzhanii-predstavitelei-smi-23-31-yanvarya-i-2-fevralya-14443

⁴⁸ Committee against Torture, "The results of the monitoring of 31st of January protest rallies in several regions of Russia", 1 February 2021, pytkam.net/en/the-results-of-the-monitoring-of-31st-of-january-protest-rallies-in-several-regions-of-russia

⁴⁹ Supreme Court of the Russian Federation, "Данные судебной статистики", cdep.ru/index.php?id=79 (accessed on 28 April 2021).

Nikolay Biryov was walking down a street with his girlfriend in downtown Moscow on 31 January 2021 (a day when “unauthorized” peaceful protest rallies took place in the city) when he encountered a cordon of riot police. There were only several other onlookers and journalists around them and nothing which resembled an assembly. However, he was arrested by the police a minute later as he was standing 15 meters from the cordon and accused of participating in an “unlawful” protest with a group of 50 people, chanting slogans and blocking pedestrian and vehicle traffic. Biryov obtained and presented in court five video footages (examined by Amnesty International), which clearly showed that the accusations were false. However, the Moscow City Court ignored these as well as testimony of his girlfriend and accepted the police’s submission unquestioningly. It found him guilty under Article 20.2 of the CAO and fined him 20,000 roubles (US\$270) solely on the basis of the trumped-up police report.⁵⁰

The appeals procedure is a largely token process and very rarely overturns the verdict delivered in earlier unfair trials. There are no official statistics, but a survey of 100 cases related to peaceful protests in Moscow conducted in 2015 by OVD-info, a Russian NGO monitoring freedom of assembly, showed that only two out of 83 appeals submitted led to acquittal.⁵¹ According to the NGO, courts of cassation were just as unlikely to reverse the decisions of lower-level courts: as of December 2020, only two out of 107 cases in cassation monitored by OVD-info resulted in acquittal.

The authorities increasingly initiate criminal proceedings against participants and organizers of major protest rallies. Most such cases involve charges of using violence against police officers (Article 318 of the Criminal Code), which is often interpreted extremely broadly and carries clearly disproportionate sanctions for even the smallest acts of physical confrontation, such as touching a police officer’s hand without causing any injury or throwing an empty plastic bottle in the direction of the police. Others face charges such as violating the sanitary regulations (Article 236), repeated non-violent violation of protest regulations (Article 212.1) or hooliganism (Article 213).

Typically, in the criminal justice system in Russia, courts are heavily biased in favour of the prosecution. They commonly admit evidence obtained illegally and “confessions” extracted under duress or ill-treatment, and in general do not conform to international standards of fair trial. Since the beginning of the Covid-19 pandemic, many trials are effectively conducted behind closed doors, thus violating the rights of defendants to an open trial.

Russian protesters who cannot obtain justice in the national system can turn to the European Court of Human Rights. Many have done so. In 2020, the European Court of Human Rights found the Russian Federation to have violated the rights to freedom of assembly and association 23 times – more than all other Council of Europe member states combined.⁵²

Russian law also contains provisions for accountability of public officials for violation of the right to freedom of assembly. However, these norms are weak and not enforced. For example, between 2012 and 2020, there were only 121 administrative cases under Article 5.38 of the CAO, which penalizes interference with organizing, conducting or participating in an assembly and coercing someone to participate. Violation of this article is punishable with a fine of up to 50,000 roubles (approximately US\$670) for officials. Less than half of these cases ended in issuing a penalty and only 30 officials were found in violation and punished – in contrast to the 22,877 protesters convicted in the same period.

The Criminal Code also contains Article 149, which punishes the same offence (interfering with assemblies or coercing people to participate in them) if it is committed by a person in an official capacity or with the use or threat of violence. However, there have been no convictions for this offence in the past 13 years for which statistics are available. There is no better illustration of the atmosphere of impunity for violations of the right to freedom of peaceful assembly in Russia.

⁵⁰ Kuzminsky District Court of Moscow, *Judgment in the Administrative Offense Case v. Nikolay Biryov*, 18 February 2021; Moscow City Court, *Judgment in the Administrative Offense Case v. Nikolay Biryov* (7-4393/2021), 30 March 2021, on file with Amnesty International

⁵¹ OVD-Info, “Нарушение установленного порядка”, 17 March 2016, reports.ovdinfo.org/2015/20_2-report

⁵² European Court of Human Rights, *The ECHR in facts and figures 2020*, February 2021, echr.coe.int/Documents/Facts_Figures_2020_ENG.pdf, pp. 10–11.

CONCLUSION

Russia's Constitution and international human rights obligations contain robust and concrete guarantees of the right to freedom of peaceful assembly, in stark contrast with domestic regulations and practice. The legislation governing assemblies is a legal minefield for anyone trying to hold or take part in a protest. It combines rigid, excessive and often unrealistic requirements for organizers with a broad and vaguely defined mandate for the authorities to change the format of protests or to ban them altogether. When added to the zero-tolerance approach of law enforcement agencies to purported violations of this procedure and courts' bias against the protesters, this system effectively systematically violates the right to freedom of assembly at every level and offers no genuine and effective remedy.

Even more worrying is the trend of the Russian authorities of adding new hazards to this legal labyrinth, employing ever harsher and unlawful police tactics and increasing the list and severity of sanctions. Covid-19 has given a further impetus to this process as local authorities in many parts of the country use the pandemic as a pretext to outlaw protests.

Nevertheless, Russia's constitutional and international obligations to respect, protect, promote and fulfil the right to freedom of peaceful assembly remain in place and the authorities must take specific steps to effectively implement these obligations.

The international community also shares responsibility for ensuring that international human rights law is upheld in the country and that the Russian authorities are held to account for systematically violating the right to freedom of peaceful assembly.

RECOMMENDATIONS

Amnesty International calls on the Russian authorities to:

1. Amend the Law on Assemblies and relevant local legislation to ensure that:
 - Everyone can freely exercise their right to organize and to participate in peaceful assemblies, without fear or police violence or reprisals and regardless of their nationality, past administrative or criminal record or other grounds;
 - There are no blanket bans on protest venues such as, for example, public space near government or court buildings, nor is the law open to abuse by the local authorities to arbitrarily insist on protest venues of their own rather than the protesters' choice;
 - Local authorities do not abuse notification requirements and procedures to restrict or deny the right to freedom of peaceful assembly, including by arbitrarily dictating whether, where, by whom and under what conditions street protest is permitted. Instead, they accept and review notifications on a case-by-case basis without discrimination and take all reasonable steps to accommodate the plans of protest organizers;
 - Any changes to the timing or location of an assembly on which local authorities insist are made only when strictly necessary for genuine public-interest reasons clearly defined in law and to a place within "sight and sound" of the intended target audience. Any such changes should be made in dialogue with the organizers whenever possible, and be subject to a timely and impartial judicial review if agreement cannot be reached;
 - Assemblies can only be banned by a court and only when the authorities prove that there are no less restrictive alternative options and that the ban is necessary and proportionate to the public-interest goals clearly defined in law;
 - Spontaneous peaceful assemblies are considered lawful when submission of a notification within the period prescribed by law was impossible or impractical;
 - There are no requirements as to who can raise or make donations in money or in kind for protests and, in particular, no discriminatory criteria based on nationality, age, status as a "foreign agent" or other grounds. Abolish the requirement on the organisers to only raise funds via a bank account, and to provide mandatory financial reports;
 - Organizers of peaceful assemblies are not held responsible for the actions of other participants, non-participants, agents provocateurs or law enforcement personnel that they could not predict

or control – under no circumstances should they be forced to cover the costs of policing or security, medical assistance or cleaning;

- Monitors and journalists are allowed to freely observe and cover public assemblies without hindrance of any kind, and without any reprisals.
2. Review laws and regulations related to the Covid-19 pandemic to ensure that they are not abused to silence criticism and violate the rights to freedom of expression and peaceful assembly; end the practice of arbitrary and selective application and enforcement of restrictive rules towards people with dissenting political opinions; and end all forms of discrimination on the basis of political opinion.
 3. Amend the Code of Administrative Offences and the respective judiciary practice and procedures to ensure that:
 - They do not envisage penalties, including detention, mandatory community service or fines, merely for participating in, organizing or funding a peaceful protest, or otherwise realising one's rights to freedom of expression and peaceful assembly;
 - Any punishable acts constitute genuine recognisable offences clearly defined in law in full compliance with Russia's international human rights obligations;
 - Penalties for any such offences are adequate and proportionate to their gravity, are in full compliance with Russia's international human rights obligations, and do not seek to discourage free expression and protest as such.
 4. Amend the Code of Administrative Procedure to ensure that:
 - Effective legal remedies are available to and are easily accessible by all those whose right to freedom of peaceful assembly has been arbitrarily restricted or denied;
 - Court rulings challenging authorities' decisions related to protests come into force immediately.
 5. Reform the justice system, including administrative and criminal justice procedures, and the relevant practice as applicable to peaceful assemblies, and in particular:
 - Abolish Article 212.1 of the Criminal Code, which criminalizes repeated administrative violations arising in connection with mere participation in peaceful protest;
 - Ensure that penalties for any recognisable criminal offences arising in connection with street protest are adequate and proportionate to the gravity of the offence, are in full compliance with Russia's international human rights obligations, and not intended to discourage freedom of expression and protest as such;
 - Ensure justice for all individuals who have been arbitrarily penalised, in administrative or criminal proceedings, in connection with their attempts to exercise their rights to freedom of peaceful assembly and expression have access to effective remedies, including a prompt, effective and impartial judicial review of their past conviction or administrative penalty, and ensure that for the human rights violations they have suffered, including excessive use of force by the police and unlawful deprivation of liberty, they receive full and adequate reparations including restitution, compensation, rehabilitation, and satisfaction and guarantees of non-repetition;
 - Ensure that trials related to protests, whether under the Criminal Code, Code of Administrative Offences or Code of Administrative Procedure, are conducted in full compliance with fair trial principles, including independence of the judiciary, equality of arms, presumption of innocence until proven guilty, open trial, the burden of proof placed on the state, application of adequate and sufficient standard of proof, and without discrimination.
 6. Ensure that the police and National Guard forces are regularly trained in good practices and human rights-based approaches in relation to the policing of assemblies in line with international standards set by the UN and the OSCE, including regarding the use of force and less-lethal weapons.
 7. Combat impunity for violations of the right to freedom of peaceful assembly, including by prosecuting in fair trial proceedings law enforcement personnel who use excessive or unnecessary force against protesters, unlawfully deprive them of their liberty, or fabricate false evidence against detainees, and of public officials who unlawfully prohibit, disperse or interfere with peaceful rallies.

Amnesty International calls on the international community to:

8. Ensure regular and close monitoring of, and reporting on, the situation with regards to respect of the right to freedom of peaceful assembly and other human rights in Russia, including through regular and open monitoring of public assemblies;
9. Attend and observe respective administrative and criminal trials across Russia and make the resulting observations and recommendations public;
10. Raise the situation of human rights particularly relating to freedom of peaceful assembly in talks with the Russian authorities and in international forums, calling on Russia to respect its human rights obligations and to implement relevant recommendations.

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RUSSIA: NO PLACE FOR PROTEST

The right to freedom of peaceful assembly is a fundamental human right enshrined both in international and regional treaties to which Russia has agreed to be bound and in Russian law. However, the Russian authorities are flouting the obligations of the state to respect, protect, promote and fulfil this right by using increasingly repressive measures to restrict and suppress peaceful protests.

Laws introduced in Russia in recent years and the way in which they have been implemented have critically undermined the right to freedom of peaceful assembly. The Federal Law on Assemblies, Rallies, Demonstrations, Marches and Pickets, amended 13 times since its adoption in 2004, has seen progressively greater restrictions imposed on protesters including on who can organize a protest, where people can protest and when. Requirements for notification of protests or for their relocation have been implemented in such a way as to effectively require people to obtain permission to exercise their right to freedom of peaceful assembly and to give the local authorities wide discretion for refusing the permission, including on vague and arbitrary grounds. Other relevant laws, such as the Code of Administrative Offences and the Criminal Code, have also seen a drastic proliferation of provisions restricting the rights to freedom of expression and peaceful assembly, as well as the imposition of harsher sanctions for various “violations”.

This increasingly repressive legislation is being enforced through measures including unfair trials, unfounded and disproportionate sanctions, and excessive use of force against protesters.

This tightening of restrictions on the civic space for exercising the right to freedom of peaceful assembly pre-dates the restrictions imposed in response to the Covid-19 pandemic. Discriminatory implementation of the law has enabled the authorities to target people expressing criticism of the government policies or actions. This suggests that these measures are intended to have a chilling effect on civil society at the national and local levels and on those seeking to give voice to concerns, such as journalists, trade unionists and campaigners on local and nationwide issues.