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Russian Federation: The right to freedom of peaceful assembly – freedom in all but name

The right to freedom of peaceful assembly – fundamental to a stable, law-abiding society – has been increasingly restricted in Russia since 2012 and remains under severe clampdown. Events in 2017 and early-2018 have been illustrative of these restrictions, and of the reprisals that await those who insist on their right to demonstrate and express dissenting views. The authorities demonstrate little tolerance of any public assembly that openly defies them, proclaims views they do not support or takes place without express permission. With the 2018 presidential elections approaching, and the forthcoming football World Cup putting Russia in the international media spotlight, it is likely that an increasing number of people in Russia will try to exercise their right to freedom of peaceful assembly in the coming months. Yet, the authorities are persisting in tightly controlling the exercise of this right by people in Russia by routinely denying them the public space for protest, unleashing severe reprisals against “offenders” and even random by-standers, restricting access to information about public protest, pursuing extra-legal measures to deter protesters – particularly among young people – and further tightening the legal rules on street protest. Thus, the FIFA Confederations Cup in 2017 and the World Cup later this year, have been used by the Russian authorities as an excuse to introduce more severe restrictions on public assemblies.¹

Across the country, in 2017-2018, a wave of peaceful protests was disrupted, accompanied by violations of the rights of thousands of protesters – use of excessive force by police, arbitrary arrests, ill-treatment, unfair trials, heavy fines and lengthy “administrative detention” of up to 30 days. A number of protesters have faced criminal charges, often in connection with dubious accusations, and some have already been sentenced to prison terms. In light of these developments, the situation is likely to further escalate.

The Russian authorities should immediately end restrictions on the right to freedom of peaceful assembly and respect, protect, promote and fulfil this right for all. All victims of past violations should enjoy the right to an effective remedy, including adequate reparations.

Below is a summary of Amnesty International’s key concerns regarding violations of the right to freedom of peaceful assembly in Russia. This document builds on the findings of our report *A right, not a crime: Violations of the right to freedom of assembly in Russia*, published in June 2014, and is based on direct observation of several public assemblies in 2017-2018, including on 26 March 2017 and 28 January 2018, and trial monitoring, as well as interviews with protesters, activists, journalists reporting on public assemblies, human rights defenders and lawyers, and desk-based research.

1. Restrictive law: “unlawful” unless expressly permitted

The legislative framework governing public assemblies in Russia and the relevant practice are unduly restrictive

¹ Presidential Decree No. 202 “On Peculiarities of Application of Enhanced Security Measures during the 2018 FIFA World Cup and the 2017 FIFA Confederations Cup in the Russian Federation”, dated 9 May 2017 (as amended on 22 May 2017), available at http://www.consultant.ru/document/cons_doc_LAW_216364/.

and, as such, vastly inconsistent with Russia's international human rights obligations and commitments. The details and Amnesty International's analysis of this huge disparity between Russia's international human rights obligations and its national law and practice, are offered in its report, published in June 2014.² Since then, further legislative changes have been introduced by the Russian authorities, which in most cases are harsher measures to undermine and impermissibly restrict public assemblies.

In a nutshell, the Russian authorities have long regarded as "unlawful" any public assembly held without their express prior permission or deviating, however inconsequentially, from the specifically prescribed terms. In recent years, the authorities have extended restrictions to different forms of street protest which previously were subject to more permissive rules while also expanding and drastically increasing penalties for non-compliance with the restrictions.

2. Routine arbitrary denial of permissions to hold public protest

To hold most types of public events, the organisers are required to submit to relevant local authorities a written request (misleadingly called "notification" in the law) for permission.

By law, the authorities may deny the permission on just two grounds, when the person requesting the permission cannot be an organiser of a public assembly, and when holding assemblies at the proposed location is expressly prohibited in law. The authorities may also request the organisers to choose a different location and/or a different time for the proposed event. They may also impose certain conditions (for instance, to choose a different form of public protest, or change the proposed goal) to ensure compliance with the law.

In practice however, local authorities often do not respond to the organisers' requests at all. When they do, they routinely arbitrarily deny permissions for proposed public assemblies, or refuse to grant a permission to hold the event at the proposed time and place, particularly if the content of the event is of political nature. Often, the refusal either cites grounds that are not stipulated in law, or gives a false or arbitrary pretext, or offers no genuine ground. Among the typical reasons offered by local authorities for their refusals in recent years have been an overly disruptive nature of the proposed assembly (notwithstanding the fact that considerably more disruptive government-sponsored events may be held in very similar circumstances), planned construction works (whether these happen in earnest or not), potential confrontation with participants of another rally (conspicuously planned at the same time and place), amongst others. The wording of the official replies giving reasons as to why permission for the proposed street protest is being denied has sometimes been deliberately vague, incomprehensible, legally dubious or even borderline absurd.³

While denying the permission to hold a protest, the authorities routinely fail to propose an alternative location and time, as the law requires. When an alternative is offered, it is typically considerably less agreeable (for instance, a remote location), if not outwardly farcical. Thus, human rights project OVD-Info reported instances when local authorities suggested a graveyard (in more than one instance), an island, and a remote village as alternative locations, or suggested to hold the rally at 7am on a weekend.

There have been occasions when permission to hold a rally was denied and the proposed location simultaneously closed off for purported roadworks or reconstruction, or when a big public event (e.g., a street concert) was held, or merely simulated, on the given date. In such instances, no genuine efforts were made to allow the proposed protest event to go ahead.

The law prohibiting "propaganda of homosexuality", which was ruled as discriminatory and a violation of the right to freedom of expression by the European Court of Human Rights (ECtHR) in 2017, has been used regularly to prevent LGBTI activists and their supporters from exercising their rights to freedom of peaceful assembly and expression.

Additional overly broad regulations and restrictions were imposed on public assemblies in 2017 ahead of the

² See Amnesty International, *A right, not a crime: Violations of the right to freedom of assembly in Russia*, report, June 2014, available at <https://www.amnesty.org/en/documents/EUR46/028/2014/en/>.

³ The Administration of Sverdlovsk Region informed activists in March 2017 that the purpose of their proposed rally, "against corruption and for human rights", was violating the Russian Constitution and laws. See extracts of the official letter published at: <https://navalny.com/p/5278/>.

FIFA Confederations Cup in 2017 and for a period until after FIFA World Cup in 2018, in the 11 regions of the Russian Federation hosting these events. Notably, the forthcoming FIFA events were specifically cited as the reason for these additional regulations. Under these regulations, organisers of a proposed public assembly are required to seek approval for the location, time and number of participants not only with the local authorities, but also with the Ministry of the Interior and the Federal Security Service. These regulations do not apply to assemblies held “in connection with” sporting events, but it is not clear what constitutes such a connection and what does not, and what criteria are used to allow or deny permission for the proposed assembly. This gives the authorities a wide discretion to ban any public assembly. During the Confederations Cup in 2017, dozens of assemblies were banned in Moscow alone, as well as in other cities, under these additional regulations. Similar temporary restrictions on public assemblies were in place during the Sochi Olympics in 2014, and their enforcement resulted in numerous human rights violations.

3. Dispersal of peaceful assemblies, abusive use of force by police and ill-treatment of detainees

The Russian authorities show high level of intolerance to “unauthorised” peaceful public protest, regardless of whether they cause any disruption or none at all, and of the number of participants. Whilst not every such protest is dispersed by police, there are regular instances across Russia when rallies and even single-person pickets are forcibly disrupted. This intolerance was particularly visible during the anti-corruption rallies held across the country on 26 March and 12 June 2017. In dozens of cities and towns on those days, the authorities made little or no effort to find an accommodating arrangement with organisers to enable the protest to take place. In many cases, police arrested the organisers before they could take part in the planned assemblies, and then proceeded to disperse those who attempted to hold the rally and arrested hundreds of protesters on both days.

Numerous reports, as well as publicly available videos and photos, illustrate police using excessive force, and forcibly removing, arresting and beating protesters who were not acting in a violent way. While applying force, law enforcement officials often did not distinguish between protesters and passers-by. Journalists and monitors have also reported numerous instances when law enforcement officials attacked groups of peaceful protesters, snatching out and arresting random people, while pushing aside other protesters and journalists.

According to OVD-Info, on 26 March and 12 June respectively: the Moscow police arrested 1,043 and 866 persons; the St. Petersburg authorities at least 131 and 658 persons; and in Russian cities overall 1,675 and 1,769 protesters were arrested. An overwhelming majority of those arrested on both days were acting peacefully, with grounds for the arrests being entirely arbitrary. According to monitors and media, the individuals particularly targeted by police were those holding the Russian flag or a printed copy of the Constitution, or holding unfolded and even folded posters, shouting slogans, having a green-coloured face (this being a symbol of solidarity with political activist Alexei Navalny), wearing masks, or trying to engage police officers in a conversation.

On both 26 March and 12 June 2017, arrests were often carried out with the use of excessive force. In many cases, law enforcement officers did not identify themselves, or explain the reasons for their actions, as the law requires police officers to do. In many cases arrested protesters were ill-treated while in detention. For example, they were kept in overcrowded police vans (with up to over 40 arrestees being held and transported in a van intended to carry no more than 20 people) for extended periods of time, and were denied access to drinking water or sanitary facilities. Many had to spend the night at police stations, including in overcrowded conditions, while police were processing their paperwork (filing reports on administrative offences and arrests). Some detainees were provided with no sleeping provisions, however basic, and had to sleep on the floor. In many police stations, detained protesters were not provided any food, nor medicines when required, and were even denied the permission to accept such items from family members outside the police station.

4. Arbitrary charges and unfair trials

Many of those arrested on 26 March and 12 June faced unfair trials on politically motivated administrative and criminal charges. This was also a widely-used practice in relation to numerous smaller street protests in 2017-2018.

The administrative court trials – those in which protesters were brought before a judge for the alleged violation of the rules governing public assemblies or for allegedly resisting the police – have been typically swift, and appeared a mere formality. Those facing the judge were often denied the opportunity to consult with their lawyers or receive legal advice otherwise; did not have their rights explained to them as the law requires, and were not provided with copies of police reports on the basis of which they were brought before the judge. The trials often

lasted anything between just only one and 15 minutes. In many cases, judges failed to consider in earnest defence arguments, and did not allow arrested persons to present their evidence or call in their witnesses, including eyewitnesses who in many cases were present in the courtroom or inside the court building. Most trials relied on widely disputed reports and written statements presented by the police, as the sole pieces of evidence against the individuals standing trial. In most cases, judges accepted without question the police's claims, such as that the individual in question had resisted their legitimate orders, even when material evidence to the contrary – such as close-range video footage from the event – was available.

Lawyers representing arrested individuals protested that dozens of police reports used in court as evidence contained the same text, and were often a printed page where space was left in which the time of the arrest and the name of the arrested person(s) were added by police officers in handwriting. Effectively, numerous protesters stood uniformly accused of identical offences in identical purported circumstances where it came to specifying what they were doing, or holding, or shouting, at the time of the arrest. Most judges paid no attention to this, and refused to grant the defence's request to call in police officers to testify about this or provide any specific detail about the circumstances of the arrest of a specific individual. Administrative court trials routinely resulted in lengthy detentions and hefty fines for protesters for nothing more than exercising their rights to freedom of expression and peaceful assembly.

Following the 26 March and 12 June protests, at least 12 protesters faced criminal proceedings and have been convicted for violent offences in Moscow, St. Petersburg, Petrozavodsk and Volgograd. In most of these cases, their offences constituted physical resistance to arrest, in response to the police officers using excessive and indiscriminate force in relation to otherwise peaceful protesters. Of these 12 individuals, one was sentenced to a fine of RUB 100,000 (US\$ 1,750), three received conditional prison sentences, and the rest were sentenced to between eight months and eight months and three years in prison colonies. Criminal proceedings have been initiated against at least two further protesters; they faced further questionable charges, one of them – under anti-extremism legislation.

5. Expansion of law enforcement agencies' powers applicable to policing of public assemblies

Law enforcement agencies in Russia have wide powers that may be used for policing and control and dispersal of assemblies, and many of their powers have been expanded visibly in recent years. These range from the authority to use force and firearms, and a considerable discretion in this regard, given to officers of the Federal Security Service (FSB), to the police's wide powers to cordon off and restrict access to public space to members of public. In practice, even without any recent legislative changes expanding their authority, there are numerous instances in past years when, after law enforcement officers exceeded their authority during peaceful assemblies, their members enjoyed impunity for their actions.⁴

In a new development, a new 160,000-strong law enforcement agency, the Russian Federation National Guards (Rosgvardia) was created in 2016 on the basis of the Interior Troops, which was a military force under the Ministry of Interior, as well as several other of the Ministry's forces. Rosgvardia has already been deployed to police street protests. Its officers have wide powers and a wide discretion for their use, including in terms of use of force and weapons. Rosgvardia officers have the powers to terminate a public assembly, arrest and deliver people to police or Rosgvardia station, and in some circumstances to document administrative offences (which is ordinarily done by police). However, the law does provide sufficient safeguards to protect the rights of people arrested or otherwise targeted by Rosgvardia officers. The Human Rights and Civil Society Development Council under the President of the Russian Federation (Presidential Council) in its 2017 annual report to the President pointed out that, whilst policing public assemblies, Rosgvardia officers had no personal number badges or any other identification elements, nor did they identify themselves when dealing with individual protesters, whereby when specific officers committed human rights violations they could not be identified in the ensuing complaints.

6. Extra-legal punishment, harassment and intimidation

In many cases, the punishment, harassment and intimidation of protesters after the 26 March and 12 June went beyond bringing them to administrative and criminal liability. The authorities put pressure on young protesters through schools and universities by using informal warnings and expulsions. In some cases the authorities

⁴ For instance, see Amnesty International, *Anatomy of injustice: The Bolotnaya square trial*, public statement, 10 December 2013, available at <https://www.amnesty.org/en/documents/eur46/055/2013/en/>.

threatened to remove under-aged protesters from the custody of their parents. In at least four cases that came to the attention of Amnesty International, individuals were fired from their jobs, and in at least one a person was subjected to compulsory psychiatric examination; all these instances amounted to harsh and unlawful measures against protesters.

Amnesty International is also aware, from interviews with protest participants, human rights defenders and lawyers, that at least some of those who were victims of police brutality on 26 March 2017 have chosen not to report or complain about it, out of fear of retaliation. Their fear appears entirely merited: in previous years, human rights defenders reported cases of individuals who complained about excessive use of force by the police during protests in Russia and were later themselves prosecuted.⁵

On repeated occasions, Russian officials made public pronouncements that amounted to warning and intimidation of protesters. Thus, for instance, Deputy Interior Minister Igor Zubov stated in a media interview shortly after the big protests of 26 March that the police had exercised restraint in terms of force applied and the number of arrests carried out. In the same interview he warned that next time the police's response would be harsher "should provocative campaigns in Russia be on the rise".⁶

7. Suppression of information about peaceful protests

The Russian authorities try to control public information about planned and ongoing street protests. With the mainstream broadcast and printed media – and particularly the television – remaining under their effective control, they also deploy means that amount to censorship of online information about "unauthorised" public assemblies.

In February 2014, new legislation came into force allowing the authorities to block online resources without judicial review if these resources, amongst other, contain "incitement to ... participation in mass (public) events, held in violation of the established order".⁷ Since then, this legal provision has been put to use to suppress public information about planned and even past protests. On 13 March 2014, the Office of the Prosecutor General of the Russian Federation ordered the blocking of several popular websites under this legal provision, including Grani.ru, Kasparov.ru, EJ.ru, the blog of the opposition activist Aleksei Navalny on the Moscow Echo radio station's website and the Livejournal.com website which hosted many popular blogs.⁸ The Office of the Prosecutor General argued that "an examination of the information published on the pages of the said websites revealed a uniform thematic trend towards the coverage of public events of an unlawful nature on the Russian territory" from which "it follows ... that illegal protests ... are an acceptable and necessary form of expression of one's civic position", and as such amount to "a call to participation in such events".⁹ In essence, the websites were blocked for taking a positive view of past "unauthorised" protests. In a case currently before the European Court of Human Rights, Grani.ru and EJ.ru are arguing that indiscriminate and unwarranted blocking of the contents of their websites violated the right to freedom of expression and freedom of information.¹⁰

Following the peak of protest rallies in Russia (particularly in Moscow) in 2011 – 2012, and much smaller-scale protests in 2014 when the above legislation was introduced to suppress independent media coverage of such events, protest activities visibly declined over the subsequent two years. However, there has been a resurgence of street protest in 2017 – 2018.

While mainstream media remained conspicuously silent about the more recent significant mass rallies across Russia, those journalists and others who tried to break the official veil of silence about these events and provide their coverage have themselves faced arrest and harassment, and in some cases physical violence.

⁵ For instance, see OVD-Info, "Spravka OVD-Info: izbieniya zaderzhannykh i praktika zapugivaniya aktivistov", 11 September 2012, available at <https://ovdinfo.org/documents/2012/09/11/spravka-ovd-info-izbieniya-zaderzhannykh-i-praktika-zapugivaniya-aktivistov>.

⁶ See TASS, "Pri narastanii provokatsionnykh deistviy MVD namereno deistvovat zhestche, chem 26 marta", 28 March 2017, available at <http://tass.ru/proisshestiya/4131438>.

⁷ Federal Law No. 398-FZ "On Introducing Amendments to the Federal Law 'On Information, Information Technologies, and Information Protection'", dated 28 December 2013, available at <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=156518&fld=134&dst=1000000001,0&rnd=0.07754652222475955#04516495253531332>.

⁸ See Amnesty International, *Russia: Media black-out ahead of disputed Crimea referendum*, news story, 14 March 2014, available at <https://www.amnesty.org/en/latest/news/2014/03/russia-media-black-out-ahead-disputed-crimea-referendum/>.

⁹ Quoted in OOO FLAVUS against Russia and four other applications, available at <http://hudoc.echr.coe.int/eng?i=001-177236>.

¹⁰ Ibid.

At least 14 journalists were arrested at the protests of 26 March 2017, according to Reporters Sans Frontieres, and at least one journalist was charged with “disobeying police officers’ legitimate orders” (an administrative offence punishable by up to 30 days of administrative detention) and sentenced to four days of detention.¹¹ Among those arrested was a foreign journalist, Alec Luhn of *The Guardian*, who described his experience in detail, including the dubious administrative charges pressed against him and numerous other protesters who he witnessed being arrested.¹²

The NGO Anti-Corruption Foundation (ACF), founded and led by political activist Aleksei Navalny, has been running a public campaign which led to the mass anti-corruption protests in 2017. It has also been central to providing media coverage of these events, particularly through its popular online channel run by ACF’s staff and volunteers from their office in Moscow. On 26 March 2017, during a live broadcast on the channel featuring rallies in different Russian cities and towns on the day, the ACF’s office was raided twice by law enforcement officers who claimed they had information about a bomb threat and fire in the office, and forcing the broadcast to stop. The squad found no explosives or fire. However, the officers arrested all 14 ACF staff and volunteers who were in the office at the time, for purportedly “disobeying police officers’ legitimate orders”. Following their arrest, two were fined, and the remaining 12 were sentenced to several days of administrative detention each.¹³ On 28 January 2018, another day when Aleksei Navalny’s supporters organised street protests across Russia, police once again raided ACF’s office and disrupted its live broadcast. In an already familiar pattern, the intruders claimed there was a bomb threat, but found no explosives, and proceeded to arrest the members of the broadcasting team “to clarify the circumstances”. They were released soon after the protest was over. The broadcast presenters were accused and found guilty of the administrative offence of “disobeying police officers’ legitimate orders”. One, Dmitry Nizovtsev, was sentenced to ten days of administrative detention, while the other, Elena Malakhovskaya, was fined RUB 1,000 (US\$ 17). This time, the broadcast did not stop, because the ACF had set up a second studio in a discreet location.

Also during the protests on 28 January 2018, activist Dinar Idrisov who tried to organise live broadcast of the event in St. Petersburg, was assaulted by three unknown men and sustained serious injuries. To date, suspected perpetrators have not been identified let alone brought to justice for this attack.

Conclusion and summary of recommendations

The right to freedom of peaceful assembly has been progressively suppressed in Russia in recent years to its present state. The authorities effectively view it as a privilege which they can bestow or deny to the people in Russia, and have amended national law to conform to this view. Police have applied this approach in practice, by routinely dispersing “unauthorised” protests and arresting their participants, while police officers have enjoyed impunity for excessive use of force during such events. Meanwhile, legislation was amended to give law enforcement agencies in Russia wider powers applicable to crowd control and policing of assemblies. The Russian authorities routinely heavily penalise those who attempt to engage in “unauthorised” peaceful protest. Trials of arrested protesters in administrative courts are typically swift, proceed without due respect to the principles of fair trial, and have become a mere formality whereby individuals identified by police as offenders are sentenced to heavy fines or administrative detention of up to 30 days. The Russian authorities also suppress independent information about public protests in Russia. Journalists, activists and independent media who disseminate such information often do so at their own risk and in some cases face severe reprisals, including arrests, heavy fines and physical violence.

The Russian authorities must bring the laws and practice in Russia in line with their international human rights obligations. They should demonstrate full respect for the right to freedom of peaceful assembly, for everyone in Russia, and without discrimination against political opponents, members of the LGBTI community, or any other group. They should also ensure everyone’s right to a fair trial and the right to freedom of expression are fully respected, and that the media are free to collect and disseminate information about protests without obstruction

¹¹ Reporters Sans Frontieres, “Manifestations anticorruption en Russie : une quinzaine de journalistes arbitrairement interpellés”, 29 March 2017, available at <https://rsf.org/fr/actualites/manifestations-anticorruption-en-russie-une-quinzaine-de-journalistes-arbitrairement-interpelles>.

¹² Alec Luhn, “Why have I been arrested? Maybe you killed Kennedy, the Russian officer said”, *The Guardian*, 27 March 2017, available at https://www.theguardian.com/world/2017/mar/27/why-have-i-been-arrested-maybe-you-killed-kennedy-the-russian-officer-said?CMP=share_btn_tw.

¹³ For more information about the case of arrested ACF representatives, please see Amnesty International, *Russian Federation: Detained members of corruption watchdog are prisoners of conscience and should be freed immediately*, public statement, 31 March 2017, available at <https://www.amnesty.org/en/documents/eur46/5998/2017/en/>.

and fear or reprisals. Every instance of abusive use of force by law enforcement officers in relation to street protesters must be effectively investigated, and all those found to be responsible brought to justice in proceedings that meet fair trial standards._