



Moscow, April 21, 2021 / Photo: Evgeny Feldman for Meduza

03.09.2021

Protection of human rights in the context of peaceful protests during crisis situations: Submission to the UN Special Rapporteur

Доклад на русском языке: [Защита прав человека в контексте мирных протестов во время кризисных ситуаций: представление Спецдокладчику ООН](#)

INTRODUCTION

Moscow Helsinki Group is the oldest existing human rights organization in Russia, founded in 1976. The mission of the Moscow Helsinki Group is to promote respect for human rights, protect from human rights abuses, build and develop democratic institutions in Russia. To achieve this goal, MHG conducts constant monitoring and documentation of human rights violations, provides expert analysis for the Government and civil society, organizes public campaigns, and participates in legislative processes.

OVD-Info is an independent human rights media project aimed at monitoring cases of political persecution in Russia

and providing legal assistance to victims of such persecution. OVD-Info operates a 24-hour federal hotline to collect data on all types of political persecution, coordinate legal assistance to its victims, provide legal education to activists, and research different political persecution types in Russia.

“*Coming Out*” LGBT group is a regional nonprofit initiative founded in 2008 in St. Petersburg, Russia, which works for universal recognition of human dignity and equal rights of all regardless of sexual orientation or gender identity by lobbying and advocacy, educational and cultural events, and providing psychological and legal services to LGBT* people.

OVD-Info and MHG are monitoring the situation and provide legal help to people detained at peaceful assemblies.

We collect our unique detention database, monitor open sources, and publish reports on the topic. E.g., [Freedom of assembly in Russia during the pandemic](#) (What happened from March 10 to April 22, 2020); [Freedom of Assembly in Russia During the Pandemic](#) (six months of bans); [Legislative restrictions of freedom of assembly at the end of 2020](#) (New constraints on holding gatherings and solo demonstrations, new punishments for activists and journalists); [Crackdown on peaceful protests in January — February 2021 in Russia](#); [Unresolved Freedom of Assembly Issues in Russia in 2020](#) (Submission to the Committee of Ministers of the Council of Europe); and [others](#).

In the submission, we will provide our expertise on freedom of assembly in the following aspects:

- Health crises, especially the Covid-19 outbreak and the relevant measures taken by Russian authorities.
- Crises of systemic discrimination against particular groups, e.g., LGBT, non-citizens, underage and young people.
- Crises related to terrorism, with the focus on the negative effects of anti-terrorist operations and security rhetoric and measures.
- We would also briefly touch on the topic of military crises, namely, the situation in Crimea during and immediately after the 2014 transfer of effective control from Ukraine to Russia.

We have been monitoring the impact of the health crisis on the exercise of the right to peaceful assembly particularly closely.

For any additional information you may contact:

- 1** Roman Kiselyov — Moscow Helsinki Group, Head of Legal Programmes — mhg@mhg.ru // r.d.kiselev@gmail.com.
- 2** Denis Shedov — OVD-Info, lawyer — data@ovdinfo.org.
- 3** Aleksandr Voronov — «Coming Out» LGBT Initiative group, Coordinator of monitoring and advocacy — voronov@comingoutspb.ru.

HEALTH CRISIS

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

The Covid-19 pandemic is a global crisis. According to official data, nearly 6 million cases had been identified in Russia by mid-July 2021, including just over 149 000 patients with fatal outcomes. The total excess death toll is estimated to be several times higher. In Russia, the first case of Covid-

19 infection was detected at the end of January 2020. The first restrictive measures have been taken at the beginning of March 2020. Amongst others, outdoor protests were restricted or even absolutely prohibited in many Russian cities; new administrative and criminal sanctions were enacted, new surveillance technology, including face recognition, was widely applied. All these measures interfere with freedom of assembly and in many cases seem disproportionate. Having restricted protest gatherings, Russian authorities did not provide any alternative ways to exercise the freedoms of assembly and expression. Some restrictions are discriminatory: during the prohibition of the protests, pro-governmental and commercial gatherings are possible.

Additionally, the pandemic is also used to marginalize the protest. For instance, after mass protests in January-February 2021, many activists and opposition politicians have been criminally charged with violating sanitary rules.

Health concerns may discourage the participation by people with certain medical conditions, and those having vulnerable family members.

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

Russian authorities had not declared a state of emergency. Instead, since March 2020, regional authorities have imposed restrictions on outdoor activities and business, banned gatherings or assemblies specifically. In some cases, the ban covered solo demonstrations, in others exceptions for solo pickets were later introduced. By September 2020 a total ban was in effect in 26 regions of Russia, including Moscow and St. Petersburg. Some remain until this moment and some are introduced indefinitely. Meanwhile, bans on other mass gatherings (cultural and sports events,

nightclubs) have since been lifted. For instance, from mid-June to mid-July, several Euro 2020 **football matches** were held in St. Petersburg, to which spectators were allowed.

The law requires advance notification of an assembly. The authorities are using local bans as formal grounds to reject such notifications, effectively outlawing the assemblies.

New administrative and criminal articles were introduced or amended, providing for liability for violation of quarantine regulations, breach of mandatory isolation, and disseminating information about the coronavirus contradicting the official statements.

Code on Administrative Offences already contained Article 6.3 for violations of sanitary rules. Article 20.6.1 was introduced for violations of pandemic rules. Regions introduced their own misdemeanor offences for violations of regional pandemic rules. Those were applied inconsistently until the Supreme Court issued an interpretative ruling explaining how to delineate the offences. In some cases (St. Petersburg), arrests were imposed *en masse* for participation in a mass presence of citizens that led to violations of sanitary norms (social distancing) under Article 20.2.2.

Some of such sanitary rules impacting on assemblies are social distancing in public places (1.5 metres in Moscow), the requirement to wear masks and gloves, ban on leaving the place of residence without a pressing need, receiving a QR-code authorising the purpose of leaving the residence.

Those were applied to protesters exercising their rights to assembly even despite the existence of regional bans. In addition, charges were often brought under Article 20.2 (violation of the established procedure of conducting an assembly). Some protesters faced prosecution for a failure to comply with a lawful order by a police officer under Article 19.3 — the lawful order being to stop participating

in an assembly or a solo demonstration which were banned by regional authorities.

In the spring of 2020, Article 236 of the Russian Criminal Code (violating sanitary and epidemiological rules) was amended. The fine increased tenfold, the possibility of imprisonment up to two years was introduced. The article also came to cover not only actions with real negative consequences but also those «creating a threat» of mass illness.

During the pandemic, the authorities actively used video tracking and facial recognition to ensure mandatory isolation. These technologies are now being used to track and prosecute protesters. For instance, hundreds were identified by video recordings and prosecuted for taking part in 21 April 2021 rallies in support of Alexei Navalny even long after the actual date of the event.

When public attention was riveted on the global crisis during the pandemic, the authorities carried out a series of legislative reforms. In 2020, the Russian Constitution was amended in a major way, further limiting the application of international human rights law in Russia, a national vote to confirm them was held. At the end of 2020, **laws further limiting** the NGOs independence, journalism and assemblies were introduced. However, assemblies and solo demonstrations to protest such reforms were banned, any attempts to participate were suppressed by the police, and its participants prosecuted.

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly, amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

In practice all political assemblies are banned in most regions due to the pandemic. Blanket bans are presumed disproportionate. Coupled with a threat of prosecution for

mere participation, it provides a chilling effect on assemblies. In addition, bans on solo demonstrations are not pursuing any legitimate aims.

Because of the ban, it is impossible to exercise the right to assembly in a safe and responsible way because of the authorities' failure to fulfil their positive obligations. Such a ban is not necessary in a democratic society, since non-political events are allowed.

Specific restrictions such as the requirement to wear gloves in a public place, and prosecution for failing to do so during an assembly or a solo demonstration is also not necessary and is not pursuing any legitimate aims.

The pandemic context also leads to questions about whether assembly rules or sanitary norms are *lex specialis* in such a context. In practice, it leads to penalties being applied in an unpredictable manner, as well as violations of the *non bis in idem* principle.

The context of the pandemic is also leading to restrictions imposed on the fair trial guarantees as well as the right to defense. Russian courts restricted access of the public to court buildings. Lawyers and witnesses were often denied entry. Courts refused to accept urgent appeals on arrest cases through their registries ordering them to be sent by mail instead leading to unjustified delays. Police stations in certain cases also explained the refusal to admit attorneys to the detainees with the pandemic restrictions.

Article 236 of the Criminal Code (violating sanitary norms) has become an instrument for restricting freedoms of expression and assembly. Since the protests in early 2021, at least **ten people** are under criminal prosecution under this article. Mainly, well-known activists and opposition figures were accused of publishing information calling for participation in protest actions. According to the authorities, such information created a threat of violation of sanitary and

epidemiological norms. Mass searches and interrogations were carried out. We believe it is used to have a chilling effect on protesters.

All of the above indicates that the «preventive COVID-19 measures» have become a political and legal tool, used as a pretext to implement new restrictions in respect of human rights.

COVID-19 pandemic is also used as a propaganda tool to marginalize the protest.

Extensive use of surveillance and facial recognition technologies implemented for COVID control are actively used to track and prosecute protesters, violating their rights to privacy along with the right to assembly.

Russian authorities not only failed to implement any alternative means to exercise the right to assembly but actively resisted any such attempts. For instance, Russian telecoms watchdog Roskomnadzor in March 2020 blocked the website of the campaign against the amendments to the Constitution. In April 2020, Russia's major map service cleared 'an online assembly'. However, the authorities did conduct online assemblies for state-sponsored events. Additionally, no measures have been introduced to secure the health and safety of protesters during the pandemic. Mandatory mask regime or social distancing was not enforced as if the police were exempt from the regulations. On the contrary, the police extensively violated sanitary norms: police buses, stations and jails were **overcrowded**, masks were not provided. To the present date there has been no legal prosecution in respect of these violations.

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly, amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

Despite the dire situation with the freedom of assembly in Russia overall, some positive steps to ensure freedom of assembly during the pandemic may be suggested.

- In spring 2020 a nation-wide commemorative event «Immortal Regiment» took place online. Some local governments provided websites for this event, which seems to be a decent alternative in the context of the pandemic.
- In Khabarovsk and during 21 April 2021 Moscow rally, the police opted not to conduct mass arrests that lead to overcrowding in police buses, stations and jails.
- After an exceptionally brutal dispersal of the 21 April 2021 assembly in St. Petersburg, the St. Petersburg's human rights commissioner published his [report](#) about the protest and police violations. Observation by state institutions protecting human rights should be expanded.
- The Russian human rights commissioner suggested lifting bans on solo demonstrations during the pandemic.

We believe that the following measures could additionally improve the freedom of assembly during the pandemic.

- Bans on assemblies should be lifted. Organizers and authorities should find a way to safely conduct an assembly in each case. If mass gatherings and entertainment events are limited, restrictions on assemblies should always be lifted first, not last. Solo demonstrations and similar events should never be banned.
- Some of the positive practices introduced for other events should be used to safely conduct assemblies, such as taking temperature of the participants, allowing participants with valid QR codes proving a recent negative test or completed vaccination, marking social distance on the ground, distributing masks. However, collecting personal data of participants for contact tracing could be abused to track and persecute activists.
- To exclude the exercise of freedom of assembly from aggravating circumstances in criminal prosecution, which entail a more severe punishment and the application of more stringent interim measures.
- Access to alternative ways of expression and participation should be ensured: for example, online and on TV.
- Mass detentions should be avoided, escorting to police stations should be conducted individually, release should be as prompt as possible (as soon as the person is identified), other procedures such as compiling offence records should be scheduled in a way to avoid stressing the law enforcement systems. Arrests should not be imposed unless there are truly exceptional circumstances.
- The use of face recognition and video surveillance to identify peaceful protesters should be banned. COVID tracking systems should only be used for that purpose.

CRISES OF SYSTEMIC DISCRIMINATION: LGBT*

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

The coronavirus pandemic has caused significant damage to the Russian LGBT* communities. The pandemic caused not only deterioration of psychological and economic situation of LGBT* people but also additional restrictions on their rights, which are already widely violated.

The data collected by «Coming Out» over several years indicate that LGBT* people may be subjected to pressure, constructive dismissal and violation of their labor rights due to their appearance, LGBT* symbols they might wear, their participation in activist projects or as a result of outing. LGBT* people cannot simply go to work and perform their duties in safety like their heterosexual cisgender peers. This discrimination is caused by a high level of homophobia/transphobia in the Russian society.

LGBT* people have been traditionally one of the most discriminated groups in Russia. Since 2012, this situation has further deteriorated with the adoption of the 2013 «propaganda of homosexuality» law and the relevant penalties. The government considers everything connected with gender or LGBT* is interpreted as propaganda. All kinds of sexual education are unofficially forbidden in Russia. All information connected with sexuality may be interpreted as propaganda.

Not only discussing gender or sexual orientation is almost forbidden, but even symbols (like rainbow) which may be connected with LGBT. For example, head of «Russian women union» asked the president to examine if ice-cream in rainbow colors promotes homosexuality. Mother of 10-years schoolgirl was called to the school because of rainbow bracelet of her daughter.

The Government often uses «Propaganda law» for pressing on civil activists or any other «undesirable» groups. In March of 2021 teenagers **were detained** by the police for demonstrating a rainbow flag. The administrative charges **were brought** after publishing a photo of 2 kissing women at a peaceful protest. **The police detained Pussy Riot members** for shooting a music video, accusing them of spreading «gay propaganda».

Pride events are almost always banned. Authorities are refusing to allow assemblies in support of LGBT* and fail to protect their participants from violence.

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

The law on propaganda of homosexuality effectively bans all available means of public communication and expression of LGBT* agenda. No assembly that entails LGBT* topics will be authorized to take place. The same applies to pickets. A longstanding practice of the law well confirms this fact. This means that a whole portion of Russian population is absolutely prohibited from exercising their freedom of assembly.

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

The government is justifying the discrimination against LGBT* with promotion of the «traditional values». «LGBT ideology» is being interpreted as the influence of the West and an attempt to destroy the institution of the family and Russia at all. One of the recent amendments to the Constitution defines marriage as a union between men and

women. After adoption of these amendments, legislation is being changed accordingly. For example, on 14 July, the draft bill **was submitted** to the Parliament, seeking to change the Family Code which could make LGBT* people's lives much more complicated. During the protest action in July of 2020 against the adoption of this law 8 people **were detained** by the police.

On 12 November 2020 the police terminated the **«Bok o bok» (Side by side) film festival**, using the pandemic as a pretext.

At the same time, the activities by homophobic groups and movements are tolerated. For example, a group of 50 extremists **roamed the streets** of Yekaterinburg in September, 2020 harassing people they thought were LGBT*. In June 2020, homophobic activists staged demonstrations near the US embassy, showing anti-LGBT* signs and stomping on the rainbow flag. The police did not intervene.

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

A good example of freedom of peaceful assembly is the annual festival organized by «Coming Out» — **Queerfest**. **It was held** even despite the pandemic. Police came to the event venue only to exchange contacts with organizers.

Saint Petersburg Human Rights Ombudsman includes the information about LGBT* people's problems **to his annual report**.

In addition, the example of authorities' conduct during major international sports events like FIFA World Cup 2018 shows that they can provide a certain degree of tolerance (when they seem it necessary to save international public image)

towards public expression of LGBT* agenda and behaviour. For example, authorities allowed to **open** the Pride House in St. Petersburg for the duration of the Cup. At the same time, foreign fans that belong to LGBT* communities were allowed a larger degree of freedom in terms of self-expression.

CRISES OF SYSTEMIC DISCRIMINATION: NON-CITIZENS

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

«Civic Assistance» Committee's **annual report** shows systemic discrimination against non-citizens in Russia, including hate crimes and discrimination. They are more vulnerable when exercising political and other basic human rights than citizens.

The right to assembly is less accessible for non-citizens. Solo protesters are in a vulnerable position, since, according to the law on assemblies, they can be participants in an event, but not its organizers. However, **legal uncertainty exists whether a solo demonstrator is the organizer of their own solo demonstration.**

Declaring foreigners 'undesirable', deporting them and imposing a lifetime ban on reentry for protesting is commonplace. Such decisions are not subject to effective judicial control. The access to justice is thus also hindered.

Non-citizens only have very limited options of vaccination against COVID-19, making them more vulnerable when participating in protests.

B. What types of measures have you observed or do you have knowledge of being taken in response to such

situations, that impact on assemblies and other relevant human rights?

The main measure threatening foreign citizens is deportation.

On July 7, Varazdat Antonyan, Buryat activist and an assistant of a famous activist blogger, was detained in Ulan-Ude, his passport cancelled, and the activist **deported**.

On February 18, Malik Allamyradov, went to a solo picket on the main square of the city with a poster «The Turkmen dictator robbed us of money. This is genocide against the people.» against the restrictions imposed by the Turkmen authorities on the transfer of money to students studying abroad. After that, **as reported by the Human Rights Center «Memorial»**, he was threatened with deportation and expulsion.

Lawyer of the Anti-Corruption Foundation (FBK) Vladlen Los said he was **deported to Belarus** following wide scale protests in support of FBK founder Alexei Navalny.

Financing of public events by foreigners is banned.

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

The Ministry of Internal Affairs has banned 122 foreign citizens who participated in unauthorized protests in Moscow from entering Russia for 40 years, according to Moscow's migration police official.

Moreover, foreign citizens who participated in anti-government rallies abroad currently residing in Russia are also not protected. For example, **Alexey Kudin** was still deported to Belarus, despite an interim measure halting extradition indicated by the European Court of Human Rights under Rule 39. According to the information of the Moscow Helsinki

Group seven more Belarusian citizens await extradition for their participation in protests in Belarus and at least nine Belarusians were deported or otherwise removed from Russia for their involvement in Belarusian opposition movement and organization of assemblies in Russia dedicated to Belarusian protests.

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

There is definitely a lack of promising practices regarding the rights of non-citizens. However, civil society organisations, such as the «Civic Assistance» Committee are stepping in. They provide assistance to refugees and stateless people including free legal help. During the protests they supported the foreigners who have been detained and/or threatened with deportation. OVD-Info operates a 24-hour federal hotline and a Telegram bot, providing consultations, legal help and ensuring *pro bono* representation for people detained at protests regardless of their citizenship status. MHG is fighting extradition, deportations and other kinds of removal for activists sought by Belarus authorities for their participation in peaceful protests there.

CRISES OF SYSTEMIC DISCRIMINATION: MINORS

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

Age discrimination of young people in Russia is another big issue. It is often related to the youth's will to be included in the political process as rightful citizens. Russian authorities attempt to prevent their participation in political protests via

media campaigning, discriminatory laws and administrative and criminal prosecution for activists. Those measures create a negative image of minors who participate in opposition protests and build real barriers for them.

Although law on assemblies does not limit the participation of minors in **public assemblies**, the state propaganda condemns ‘involving’ of underage persons in ‘unauthorized’ protests, claiming they are ‘manipulated’ and ‘being involved in [intrigue and political] games’, calling it ‘childish curiosity, harmless pranks, posturing’.

Age discrimination in Russia is not just a social problem but also a matter of politics. The youth is often presented as a tool of the opposition or ‘the West’ to destabilize the political situation in Russia. As a result, the image of minors as immature persons leads to creating discriminatory legislation and also to introducing courses in school programs for ‘patriotic education’.

B. What types of measures have you observed or do you have knowledge of being taken in response to such situations, that impact on assemblies and other relevant human rights?

The minimum age for organisers of some assemblies is 16 years, others 18.

In November 2020, a juvenile affairs inspector at the police station in St. Petersburg **threatened** an underage activist with criminal prosecution, searches by the FSB (Russian federal security service) and seizure of equipment if she did not remove posts on political topics from social networks.

Parents are also put under pressure if their children were involved in street protests. A woman from Sverdlovsk whose daughter participated in an anti-corruption rally on 26 March 2017 **was fined** 10,000 roubles (approximately \$135 at the exchange rate of 21 March 2021).

In June 2017, police officers **did not allow** the father to meet his detained underage son in Moscow. Despite this, detained minors **cannot leave** police stations without their parents even if the latter cannot arrive on the same day.

Young activists face pressure in school, which may lead not only to the deprivation of their rights as citizens but also to problems with learning and communication among classmates. At the same time, they can be prosecuted as adult protesters. In those cases, minors are placed in a more vulnerable position because of their lack of independence from family and school.

As a consequence, not only can minors themselves lose their willingness to participate in public assemblies because they are afraid of persecution, but also their parents, teachers and peers may condemn them for their political views saying they are irresponsible and being manipulated.

In Saint Petersburg, a 14-years-old 8th-grader was reprimanded in front of her class by a social worker who came to school after the girl was detained at a protest against the Pension Reform. After that the girl was forced to copy lines from the Administrative Offences Code about the 'simultaneous mass presence'. The student **was told** that she did not have a right to attend public events without parents because of her young age.

Compulsory military service is used as a tool to persecute politically active young people over the age of 18. The police announced they would check the service record of those detained at the protests. People were drafted into the army on the spot. Criminal charges were brought against draft evaders.

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

The state-oriented discourse constructs an image of minors as an immature and irresponsible group of people unable to make their own independent decision whether to participate in protests or not. The propaganda explains the involvement of young people in protests by their susceptibility to manipulative technologies on the Internet and in social media.

The leader of the Association of Parents' Committees Olga Letkova proposed to ban social networking service TikTok in Russia because of its ability to influence the youth and the **call** to rallies on 23 January 2021: 'Those western social networks, they manipulate our children in multiple ways to make them go outside and to do things... just like in Ukraine and Belarus.' Such allegations make many Russians believe that social media and their popularity among the youth can cause a 'color revolution' instigated by foreign countries.

Propaganda in the media is not the only way to frame political sentiments in society. Legislation and law enforcement practices may also serve as a way of political socialization. There are several laws in Russia which constrain people from showing their opposition to the authorities by exercising their right to freedom of assembly.

Special attention is paid to minors' involvement in protests. The Russian law system marginalizes those minors who want to take part in rallies by putting them under administrative pressure and even criminalizing some forms of political interactions between opposition activists and underage persons. As a consequence, their parents, teachers, and peers may condemn the young people for their political views, calling them gullible and irresponsible.

Unfortunately, for underage persons, there is no effective legal mechanism for self-representation in court without their parents or official representatives. That increases the minors' dependence on adults and reinforces the engineered image of all minors being immature.

The Presidential Council for Civil Society and Human Rights refers to Article 15 of the United Nations Convention on the Rights of the Child (UNCRC) that children have a right to freedom of assembly. In 2017, after mass rallies in Russian cities, the Council **recommended** to send an appeal to law enforcement agencies declaring unacceptable such actions as conducting interviews and interrogations of minors without their parents and official representatives.

The problem with intimidation of detained minors was also **highlighted** in the Memorandum of the Commissioner for Human Rights to Freedom of Assembly in the Russian Federation.

The Russian legislation explicitly specifies the minimum age for some forms of political activities.

Article 20.2 of the Code on Administrative Offences imposes liability for involving a minor in an unauthorized protest punishable with a fine of 30,000 to 50,000 roubles (currently approximately 400 to 675 USD), compulsory work of up to 100 hours or up to 15 days of arrest.

In January 2021, in the wake of protests in Russia in support of the opposition leader Alexei Navalny, a State Duma Deputy **proposed** imprisonment up to 5 years for involving minors in unauthorized rallies and up to 10 years for inciting them to organize mass riots.

Regional authorities decide where a public event can be held. In some cities, there are bans on organizing protests near schools or playgrounds. This instils the idea that political demonstrations as a form of political protest are something that is inappropriate for young people and should be separated from any relations with minors.

Four editors of a student magazine are currently charged under Part 2, Article 151.2 of the Criminal Code («Involvement of a minor in the commission of actions that

pose a danger to the life of a minor»). According to investigators, as a result of posting material about the upcoming protest action, minors took part in the rallies, being put in danger because of COVID-19. They are facing a prison term of up to 3 years. Alexey Navalny's associate Leonid Volkov is facing similar charges, he posted a video announcing the rally with age marking «0 «.

D. What good or promising practices have you observed or do you imagine might be possible that would help to ensure the right to freedom of peaceful assembly amongst other relevant human rights, is better respected, protected and/or fulfilled in such a crisis context?

In Russia, there are no policies in place to fight the problem of state officials putting pressure on underage persons who participated in unauthorised protests. NGOs are filling the gaps. For example, [OVD-Info](#) and the Public Verdict Foundation published [instructions](#) for minors who were detained at protests.

The Commission on Juvenile Rights and Affairs could be helpful in protecting minors against discrimination. However, the Commission in practice often legitimizes the status quo by [finding minors guilty](#) of participating in unauthorized rallies.

Administrative arrest cannot be imposed on minors, which is a good practice. However, minors should also be released after compiling an offence record, the presence of their parents should not be required.

Involving minors in protests should not be an offence. Their participation in assemblies is protected by international human rights instruments and should be respected in practice.

CRISES RELATED TO TERRORISM

A. In what ways have you observed or do you have knowledge of such a type of crisis situation impacting on assemblies and other relevant human rights?

Terrorism is also a global challenge. Laws to combat terror are in place, special security bodies are permanently conducting counter-terrorism operations. However, this sphere is untransparent and covered by the special regime of state secrecy. Civil society cannot obtain correct and up-to-date information on the terrorism threat level. NGOs advocating for transparency in this field are under tremendous pressure. For instance, human rights organization «Team 29» which fought illegitimate withholding of socially significant information in courts has been declared associated with undesirable foreign organizations and forced to close.

The terror crisis had been especially acute in Russia in the 2000s, right after the two Chechen wars, when terror attacks with mass casualties rocked the society. This was also used as a reason for the application of counter-terror measures to assemblies. However, the laws and practices remained even though no major attacks have taken place recently.

C. In what manners have you observed or do you have knowledge of the right to freedom of peaceful assembly, amongst other relevant human rights, being violated in such a context, or do you imagine it might be violated?

In many cases, the authorities have used a potential threat of terror as a pretext for banning assemblies or applying disproportionate restrictions on them. Such a situation was the subject of review by the European Court of Human Rights leading it to find such references relevant in abstract but often unsubstantiated and applied inconsistently, without relying on any evidence corroborating the existence of such risks or their specific assessment; sometimes used selectively to restrict only anti-government public assemblies.

Simultaneously, we see that counter-terrorism measures are taken for politically motivated persecutions in violation of the right to association. E.g., hundreds of followers of the declared in Russia as a terrorist party «Hizb ut-Tahrir» faced criminal prosecution in Russia.

Lawyers assisting detained protesters, including those provided by OVD-Info, are often not allowed into police stations due to the so-called «**Fortress**» plan, a special contingency protocol to repel a terrorist attack on a police station. The plan is widely used, but only against lawyers of peaceful protesters. The plan itself is an official secret making it virtually impossible to challenge.

Not only it violates the right to counsel, but also let the police get away with further violating the detainees' rights: confiscate their phones, check their personal photos and read their messages, beat or even torture them, force photograph and fingerprint them, take DNA samples, question in criminal proceedings, secretly escort for expedite court proceedings.

Counter-terrorism discourse covers many restrictive laws, which also affect the freedom of assembly.

Some Russian regional authorities introduced extensive territorial restrictions on the freedom of assembly for protected public locations in their counter-terrorism legislation. E.g., the list of banned areas prepared by municipal authorities covers **250** areas only in **Kazan**, including Kazan City Hall, the buildings of Tatarstan's executive and legislative bodies, and some other governmental bodies.

Moreover, territorial bans have been introduced prohibiting rallies near buildings of emergency response services, including the police and the federal security service (FSB). Those are frequent addresses of protest assemblies. A complete list of such services is established not by law but by local government order.

Law on assemblies was **amended** to allow banning any public assembly, including on the eve or even on the day of the planned public assembly, if there is an emergency situation, terrorist act or a threat thereof, and the authorities can not ensure the safety of assembly participants. In such a case, the organizers have to file a completely new notification, further 10 days in advance.

This regulation is excessive. The law on assembly already contains such grounds to terminate an assembly. Moreover, authorities can now ban any assembly, denying the organizer the opportunity to effectively challenge it. The European Court of Human Rights has repeatedly found Russian judicial remedies ineffective since the courts only check the legality of the executive's actions and not whether they are necessary or appropriate. The proposed legal framework is also not compliant with the principle outlined in paragraph 52 of the General Comment No. 37, according to which an abstract risk of violence or simple assumption that authorities will not be able to prevent or offset a possible threat to public assembly participants is not sufficient for its suspension.

The organization and participation in unauthorized protest can be declared extremist activities. The legal concept of extremism is vast and vague; it also includes terrorism. That rhetorically mixes freedom of assembly with extremism and terrorism leading to a marginalizing effect. Such an approach allows harsh measures against participants and organizers of protests.

Anti-terrorism measures have the most negative effect on freedom of association. Authorities declared a long list of organizations as terrorist or extremist. Some of the decisions seem to be politically motivated and violate human rights. Russian legislation does not differentiate between terrorist and extremist organizations, essentially making these terms synonyms. All limitations and risks associated with terrorism are also applied to extremism.

For instance, in June 2021, the Anti-Corruption Foundation (FBK), founded by Russian opposition politician Alexey Navalny, along with its regional offices all across the country, was declared as an extremist organization.

The law prevents people found guilty of violating assembly rules or extremist activities from organising assemblies. The latter include not only violent extremism and discrimination but also some forms of expression against the government. Proportionality and necessity is not considered.

MILITARY CRISES

The situation on the Crimean peninsula is still a grey area and the focus of international debate. According to PolitPressing.Org, a database of political persecution in modern Russia, the Republic of Crimea is in second place after Moscow by the number of political detainees. Since 2014, Crimea has been under Russian legislation, which is characterized by repressive practices.

Shortly after falling under Russian control, Article 20.2 of the Russian Code on Administrative Offences (assembly law violations) was applied for the first time. On May 3, residents of Crimea began blocking highways on the peninsula in protest against the leader of the Crimean Tatars (People's Deputy of Ukraine Mustafa Dzhemilev) having been denied entry into Crimea. No one was detained that day but at least 49 administrative protocols were drawn up later. In most cases, protesters were found guilty of breaches and given large fines.

In addition, when on May 3 Dzhemilev tried to enter Crimea, his supporters who arrived to meet him at the border point of Armyansk broke through the cordon of the Russian military, resulting in a clash. The FSB was asked to prosecute the people involved for mass riots, the closure of highways, illegal crossing of the Russian border, the obstruction of the

legitimate activities of state bodies, as well as the use of violence against law enforcement.

On May 16, the Council of Ministers of Crimea banned mass events on the territory until June 6, explaining that «the ongoing events in many cities of the south-east of Ukraine, as a result of which there are victims and victims from the civilian population» and the purpose of «eliminating possible provocations by extremists who have the opportunity to enter the territory of the Republic of Crimea, in order to avoid disruption of the holiday season in the Republic of Crimea». Local authorities were asked to cancel the events already planned for this period. A similar order was signed by the Governor of Sevastopol.

This ban is especially noteworthy, taking into account that just right before annexation of Crimea, the peninsula was boiling with tension and many assemblies relating to the ongoing constitutional crisis in Ukraine **were taking place** across different cities of Crimea. By institution of this ban occupational authorities terminated all public debate depriving people from expressing their grievances over the occupation, making it impossible to communicate dissent.

More to read



Sanitization of the protest

Date of publication: 4 September 2021 Доклад на русском языке: Read the of the report By the time of Alexei Navalny's arrest and the publication of a high-profile investigation by the...