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## How they taught us the fear of protests

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**Russian version**

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### INTRODUCTION

- If I go to the rally today and they catch me again, would it be considered aggravating circumstances?
- What are my options if they catch me for the third time?
- What kind of punishment can I face if they arrest me again?
- Tell me, if I participate in protests again — would it be a criminal offence?

These are the questions that arise most frequently during the waves of mass protests — when one rally is immediately followed by another. That is how it was with the anti-war

protests in 2022. The police frequently try to intimidate those detained at rallies by threatening them with criminal charges in case the latter get caught again.

The option of putting a person in a colony for regularly participating in peaceful protests was introduced by mid-2014. The Criminal Code was then amended with an article on repeated violations during public events, with imprisonment for five years as the maximum punishment. New Article 212.1 (also referred to as «the Dadin article» by the last name of the first person convicted on its grounds) follows Article 212 on mass riots.

But what is actually considered a «crime», and at what point does a person end up in a «risk group»? We have thoroughly studied all cases under Article 212.1 of the Criminal Code that we are aware of. In this Report, we explain when there is a chance of criminal prosecution and why it is harder to initiate a case than it looks. We also describe the disastrous consequences caused by Article 212.1 of the Criminal Code far beyond the matters of the freedom of assembly and tell why the article should be repealed. For details on the circumstances of each particular case, please see the [Annex](#) to the Report.

[Go to the Summary of the Report](#)

## **THE LEGISLATION ON RALLIES MADE STRICTER IN 2014**

Introducing criminal liability for peaceful rallies was another stage in making the legislation on rallies stricter. The process started at the beginning of Putin's third presidential term, and it is not finished yet, after almost ten years.

The first significant restrictions to the freedom of assembly were introduced in [2012](#): a considerable increase in the amounts of fines, the introduction of community service

as one of the possible punishments, the addition of a new article to the Code of Administrative Offences of the Russian Federation introducing punishment for «Organization of mass simultaneous gathering and (or) movement of citizens in public places that has entailed a public order disturbance» (Article 20.2.2 of the Code of Administrative Offences of the Russian Federation), the establishment of lists of places, where public events are allowed or forbidden. These changes were a response to the series of mass protests that were held against the State Duma election fraud and Vladimir Putin's inauguration for the third presidential term, continuing from December 2011 through May 2012.

The latest changes were introduced not so long ago, in 2022, in reaction to protests against the War in Ukraine. New Article 20.3.3 of the Code of Administrative Offences refers to «public actions aimed at discrediting of the use of the Russian Armed Forces for protection of interests of the Russian Federation and its citizens, maintenance of international peace and security or to enable the government bodies of the Russian Federation to act in the discharge of these purposes». This article increases the punishment when the said actions are coming with «calls for unauthorized public events». One more **draft law** was introduced at the end of the year. It extends the list of places where rallies are forbidden, including in the proximity of the authorities and some other territories.

A significant step towards the legislation stiffening followed in 2014 when a **draft law** was presented in the State Duma, introducing amendments to both the Code of Administrative Offences and the Criminal Code. The authors of the law were two United Russia MPs, Alexander Sidyakin and Andrey Krasov, and A Just Russia MP Igor Zotov. Among the penalties for organizing an unauthorized event, administrative arrests were introduced, and separate penalties (including arrests again) were introduced for participation in rallies that

obstructed the movement of motorized vehicles and the functioning of infrastructure (part 6.1 of Article 20.2 of the Code of Administrative Offences).

The most important innovation was the introduction of punishments that can be imposed with consideration to the previous offences. Article 20.2 was amended with part 8 imposing punishment for «repeated» violations of the established procedure of conducting a public event, i.e. committed within a year since the punishment for the previous violation is executed (completion of an arrest or community service, payment of a fine). It was suggested that «offenders» to this part of the article would be punished a lot more harshly: by a fine of up to 300,000 rubles (~US\$8,500 at the time, ~US\$3,700 as of April 2023), community service of up to 200 hours, or arrest of up to 30 days (the maximum detention period provided by the Code of Administrative Offences that previously (before these changes) had been applied to those who violated the requirements of the State of emergency or the Counterterrorism operation legal regime).

In addition to the concept of repeated violation, a notion of recurrent violation was also introduced. The latter, as suggested, would become subject to criminal punishment when committed at rallies. The new Article 212.1 of the Criminal Code, as conceived by the authors, was to apply to people who had committed another «violation» while already having more than two court judgements for similar «violations» (that is, based on cases under Article 20.2 of the Code of Administrative Offences) within six months. These «persistent violators» were to be punished with a fine of 600,000 to one million rubles (~US\$17,000 — 28,400 at the time, ~US\$7,400 — 12,400 as of April 2023), public services of up to 480 hours, corrective labour of up to two years, compulsory labour of up to five years, or detention for the same period.

# CRIMINAL PUNISHMENT FOR RALLIES AS A RESPONSE TO PROTESTS IN KYIV

One of the triggers for the legislation stiffening was **the mass protests in Kyiv** in late 2013 — early 2014. These protests entailed clashes that led to many casualties and the change of power in Ukraine. Russian propaganda constantly revisits the «Maidan» events, depicting them as mass riots and a series of crimes leading, on orders from the West, to overthrowing the legitimate Ukrainian government and establishing an anti-Russian regime. The name «Maidan» refers to the Independence Square (Maidan Nezalezhnosti) in Kyiv, which was the heart of the protest. By contrast, for many representatives of the Russian opposition, «Maidan'' has become an example of a successful street protest.

In February 2014, a new government was formed in Ukraine — and the new draft law was presented to the State Duma in March. One of the law's co-authors, MP Alexander Sidyakin **called** their brainchild «a Maidan vaccine». During the **discussions** of the initiative, before it passed the first reading, on 20 May 2014, he said: «When a right for mass gatherings becomes an absolute one, the rights of a minority start to dominate over the rights of the majority. Implementing these rights might lead to events like those we saw in Ukraine. Those who participated in protests burned tires on the streets, attacked police, took stones out of paved roads and threw these stones at police. It was them who have led their country to the point where no rights granted to the Ukrainians by their constitution are preserved: the right to freedom of assembly, the right to freedom of speech, and the right to live in a safe state — all these are now nothing because a minority managed to force its will on the majority, to force its will on the state through unlawful methods. And our task as Parliament representatives is to stand against this kind of thing».

The other trigger was the protests that took place in Moscow in February and March 2014. That was the first time since 2011-2012 when a protest led to mass arrests. Two of the rallies that took place on 24 February 2014 [near the Zamoskvoretsky District Court](#) and [near Manezhnaya Square](#) (where more than 600 people in total were arrested) and became a response to the verdict in [the Bolotnaya Square case](#) are even mentioned in the explanatory note to the draft law. The protests in March were prompted by the Federation Council's decision to authorize troops to enter Ukraine.

When presenting the draft law in the State Duma, Sidyakin stressed the need to introduce criminal liability for so-called «recidivism» when violating the legislation on rallies. The explanatory note stated: «Among 681 people detained (at the rallies on 24 February 2014 — *OVD-Info*) there were 49 citizens who had been previously prosecuted under Article 20.2 of the Code of Administrative Offences. 3 of them had been prosecuted for more than 10 times, and 11 of them had been repeatedly subjected to administrative liability under the said article». Based on that, the MP concluded that «the law fails to fulfil its preventive function and the people who repeatedly violate the legislation on rallies, would do it again and again».

Some MPs argued against the idea of criminal prosecution for rally participants.

For example, Vladimir Fedotkin (The Communist Party of the Russian Federation, CPRF) and Valeriy Gartung (A Just Russia party) noted that those who constantly participate in rallies were not «recidivists», but people driven to despair. Gartung pointed out that the system where organizers would need to simply notify the authorities of upcoming public events had, in some regions, transformed into a regime where organizers would need to obtain permission for an event. People were being arbitrarily denied the right to organize

rallies, and the courts were «effectively covering up for officials». The deputy noted that the Duma had already made the legislation on rallies stricter not so long ago (in 2012), and various ways to punish organizers of public events were already in place, so there was no need to move forward with the criminal prosecution.

Aleksandr Kravets (CPRF) considered it not fair to introduce criminal liability for those participating in mass events, while there was no such liability, for example, for those who had repeatedly crossed a road in undesignated areas. In his speech against this law, Dmitry Gudkov (A Just Russia party), also speaking out against the bill, described how police had detained peaceful citizens at a meeting with himself outside the Duma building. When arguing with the authors of the initiative, his colleague from CPRF, Nikolay Kolomeitsev, mentioned the story of a Mordovian woman who, according to her, had been fined three times for participating in a rally because of her «hostile relationship with the head of the local administration» — as Kolomeitsev noted, the law would effectively make this woman a criminal.

Sidyakin responded to these objections that the law would make the idea of «cobblestones as a weapon of the proletariat» a thing of the past and that the law was intended against those who «make holding rallies their profession, deliberately call people to the barricades, urge them to break down pavements, attack the police and break through somewhere». In his opinion, the initiative was supposed to prevent «flagrant violations of the law» (despite the fact that there was nothing about «flagrant violations» in the text of the draft law). A representative of the Committee on Constitutional Legislation and State Building, Viktor Pinsky (the United Russia party), supported his fellow party member and insisted that the initiative aimed before anything else against «professional revolutionaries» and created no difficulties for peaceful protests.

On 20 May, the majority of MPs supported the law in the first reading: 237 voted in favour and 96 against. On 1 July, the day of the second reading vote, there were no discussions: 239 out of 393 MPs supported minor changes to the text. On 4 July, in its third reading, the law was supported by 237 of 276 MPs. The law passed successfully with only some insignificant amendments. In July 2014, Article 212.1 was introduced to the Criminal Code.

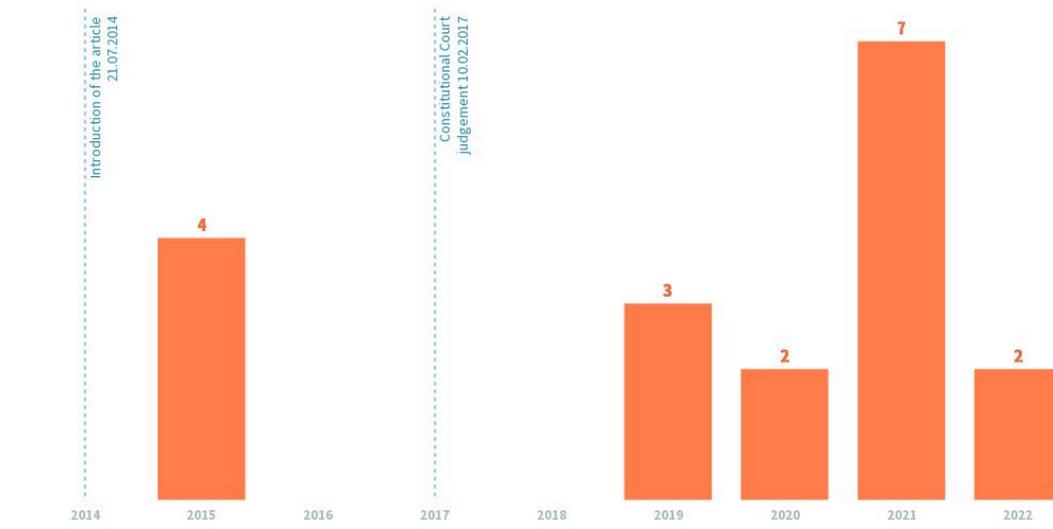
## HOW OFTEN IS THE ARTICLE APPLIED?

The first cases under Article 212.1 of the Criminal Code were initiated a half year after its introduction — at the beginning of 2015. However, its use has not become widespread — at the time of publication of this Report, i.e. over eight years, we are aware of **18** criminal cases.

After the first sentence under Article 212.1 of the Criminal Code of the Russian Federation was handed down — in the case against Ildar Dadin — the defence **filed a complaint** with the Russian Constitutional Court. On 10 February 2017, the Constitutional Court **issued a ruling**: the court refused to find Article 212.1 unconstitutional. However, the court emphasized that criminal cases should be initiated under this article only when a person's actions had been intentional and had caused «a real threat» of harming one's health or property, the environment, social order or public safety. The next criminal case was initiated only two years later, in 2019.

The use of Article 212.1 of the Criminal Code peaked in 2021, with seven new cases opened after the rallies in support of Alexei Navalny. Two more cases were initiated in 2022.

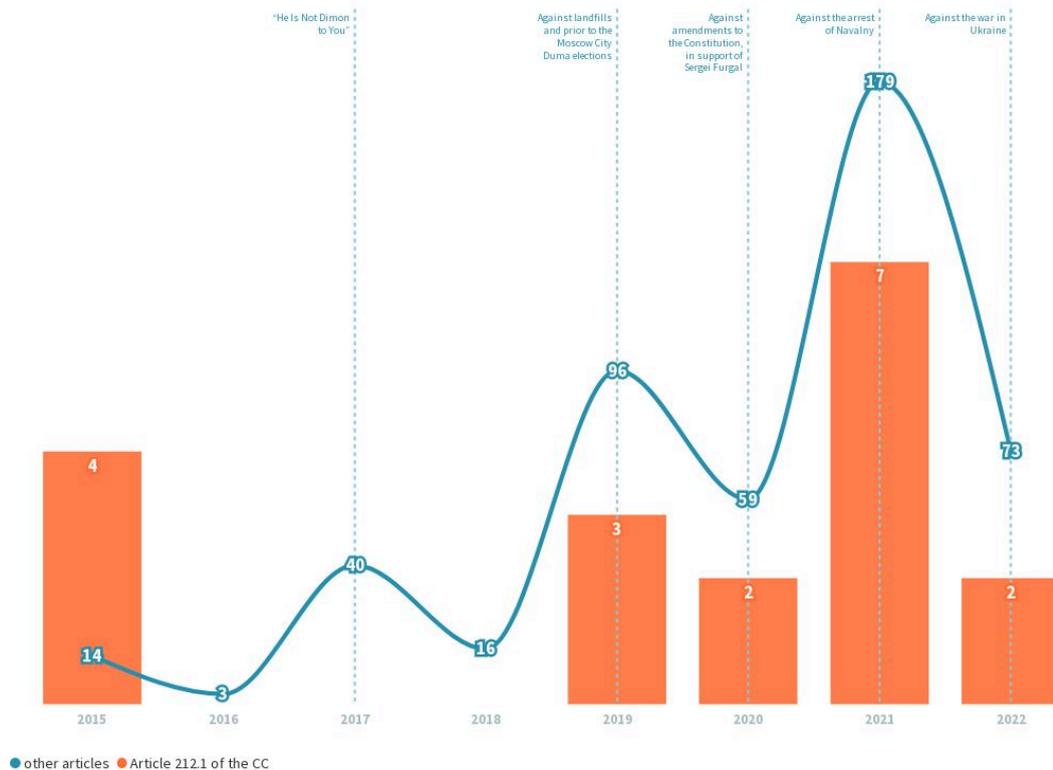
After the pause in 2016-2018, **Article 212.1 of the CC** came to be applied again. In 2021 there was an increase in the number of cases initiated under it



По данным на 10 февраля 2023 года.

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Although the number of cases initiated under **Article 212.1 of the CC** has decreased compared to those initiated under **other articles**, the peak years related to them coincide.



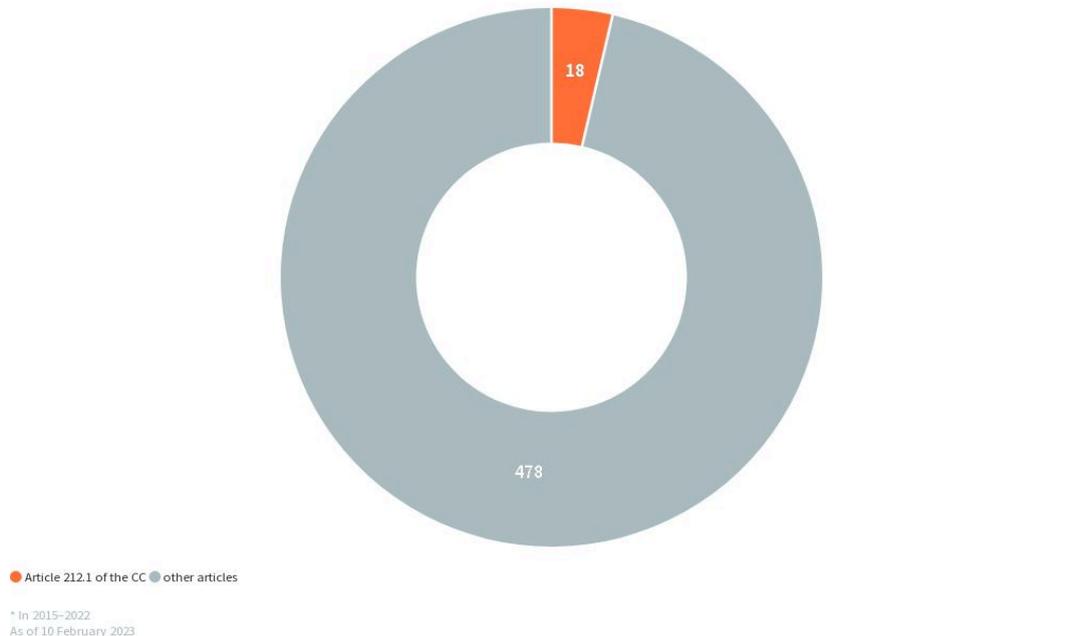
● other articles ● Article 212.1 of the CC

As of 10 February 2023  
The dotted lines show the topics of the most attended protests in the specified years.

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However, we cannot claim with 100% certainty that we are aware of all the cases that have ever been initiated under Article 212.1 of the Criminal Code. The official statements on this subject are contradictory.

Only 4% of those who faced criminal prosecution connected to street rallies were prosecuted under Article 212.1 of the CC\*



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An insignificant number of cases under Article 212.1 of the Criminal Code in no way means that the rallies during the last years have seldom been a reason for initiating criminal cases. On the contrary: according to our data, since 2015, **about 500 people** in total have been prosecuted in Russia in criminal cases initiated, directly or indirectly, in connection with public protest actions. However, in the majority of the cases, other articles were used as a reason for conviction, and it was usually something else rather than participation in a public event that would serve as *corpus delicti*. In most cases, Article 318 of the Criminal Code on the use of violence against a representative of the authorities was applied. We **have already noted** that the punishment against public action participants under this article is, on average, more severe (and sentences longer) than against individuals who would come into confrontation with police officers under other

circumstances. Article 212 of the Criminal Code on civil disorder was also applied repeatedly. In 2019 and 2021, in response to the rallies in Moscow and across all of Russia, the articles of the Criminal Code that had never been previously used against protesters were applied: on obstructing the work of election commissions (Article 141 of the Criminal Code), on abandoning children to danger (Article 125 of the Criminal Code), on violating sanitary and epidemiological standards (Article 236 of the Criminal Code), on the road blocking (Article 267 of the Criminal Code), on involving minors in dangerous activities (Article 151.2 of the Criminal Code).

## **WHO IS THE ARTICLE BEING APPLIED AGAINST?**

Despite the law's authors and sympathizers making statements concerning the danger of another "Maidan," Article 212.1 of the Criminal Code came into effect at the moment when "maidan" perspectives in Russia did not seem real: by the beginning of 2015, any large-scale rallies in Russia had almost come to a stop, the protest action becoming mostly local and dispersed.

The first defendants under Article 212.1 of the Criminal Code were members of a small group of Moscovites that would regularly gather in the city centre for protest actions dedicated not to the local agenda but to the federal one: Vladimir Ionov, Mark Galperin, Ildar Dadin, and Irina Kalmykova. All four cases were initiated in 2015. Till 2019, these four persons remained the only ones who this article had been applied against.

Generally, this kind of criminal cases was mostly used against street activists who would regularly participate in rallies, and every new "wave" of the article's application would serve as a response to another rise of the protest movement.

The first two cases initiated in 2019 were apparently a response to so-called “garbage protests,” i.e. rallies against dumping waste from Moscow in the Moscow Region (Oblast) — [Vyacheslav Yegorov's case](#) — and in Arkhangelsk Oblast ([Andrei Borovikov's case](#)).

Among the defendants in the criminal cases under Article 212.1 of the Criminal Code [Konstantin Kotov](#) deserves to be mentioned separately – he was a permanent participant in the street rallies in Moscow from late 2018 through most of 2019. Kotov would speak in support of Crimean film director Oleg Sentsov (convicted in a terrorism case), and also against the war in Donbas, in support of anarchist and mathematician Azat Miftakhov (prosecuted for breaking a window in a United Russia office), and of the journalist Ivan Golunov (accused of an attempt to sell drugs), of both defendants in the [New Greatness](#) and [Network](#) cases.

The case against Kotov was initiated in August 2019; it became part of a large wave of prosecutions responding to the protests against the non-admission of opposition candidates for elections to the Moscow City Duma. At the same time, Kotov himself could not participate in the largest rallies in support of opposition candidates, having been arrested for ten days for a post calling for protests. After his release, he tried to participate in a rally but was arrested literally 30 seconds after leaving the subway.

[Yulia Galyamina](#), who had a case initiated against her in 2020, can be called one of the most prominent independent politicians in Moscow. In 2019, she actively participated in the rallies against the non-admission of opposition candidates for elections to the Moscow City Duma and in 2020, she led a campaign against the amendments to the Constitution. Moreover, Galyamina was planning to participate in the State Duma elections in 2021. However, in 2020 a law [was passed](#) banning those convicted under Article 212.1 from running for elections.

In July 2020, protests of unprecedented scale and duration broke out in support of the former governor of the Khabarovsk Region (Krai) Sergei Furgal – he was put in a pre-trial detention centre on charges of organizing murders. In response to the protests, the authorities used **various pressure methods**, including initiating criminal cases – one of which became the case against **Alexander Prikhodko** under Article 212.1 of the Criminal Code. Participating in rallies in support of Furgal was mentioned in at least two similar criminal cases – that of **Yana Drobnokhod** from Novosibirsk and that of **Alexey Vorsin** from Khabarovsk. In addition, many other participants in those actions were subjected to preliminary investigation under Article 212.1.

In 2021, investigative bodies initiated seven cases under this article – more than in any other year. All the defendants — the aforementioned Yana Drobnokhod and Alexey Vorsin, as well as **Pavel Khokhlov** from Krasnoyarsk, **Victor Rau** from Barnaul, **Alexander Kashevarov** from Chelyabinsk, **Vadim Khairullin and Evgenia Fedulova** from Kaliningrad — were participants of the January and April mass rallies in support of Alexei Navalny, who had been arrested upon his return to Moscow from Germany where he had been undergoing treatment after a poisoning attempt, and had been sent to a colony, with his suspended sentence in an old case having been replaced with a real one. Some of these defendants were prominent political activists in their respective regions from before the nationwide rallies in Navalny's support. Alexey Vorsin was the head of the Navalny headquarters in Khabarovsk.

The 2021 rallies in support of Alexei Navalny prompted large-scale criminal prosecutions — the so-called “**palace case**,” — affecting over 180 people, including the aforementioned defendants in the Article 212.1 cases.

The main theme of the year 2022 was the war in Ukraine. The protest actions — not only street rallies but also public statements — resulted in criminal cases against **more than**

450 people. Nevertheless, the first case under Article 212.1 initiated in 2022 had nothing to do with the anti-war protests, even though the protest actions had been going on continuously for several weeks, and some of the protesters had had more than one report drawn against them under Article 20.2 of the Code of Administrative Offences. A leftist activist from Moscow, Kirill Ukraintsev, was charged for another reason: in 2021, he had been prosecuted administratively for publications on protests by Delivery Club couriers and the trial over a broken window in a United Russia office. However, shortly before his detention and arrest, Ukraintsev also wrote that the couriers' salaries had decreased due to the "special operation".

In October 2022, another case was opened under Article 212.1 – war-related this time. The reason for initiating the case against Olga Nazarenko, an activist from Ivanovo, was her anti-war actions.

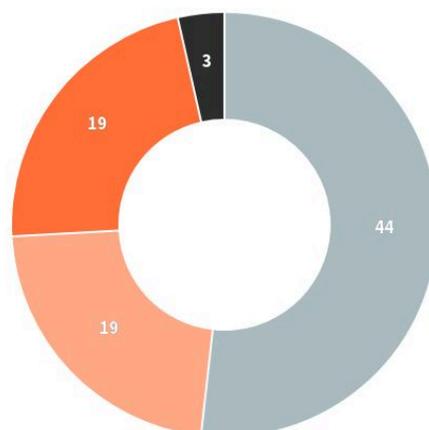
## **ACTIONS THAT LED TO CRIMINAL PROSECUTION**

The 18 criminal cases known to us that were opened under Article 212.1 of the Criminal Code are based on 85 counts of what the authorities deemed violations of the legislation on rallies.

These counts include:

- Participation in people’s gatherings, rallies, marches, mass picketing, collective performances, flash mobs, protest "walks," as well as traffic obstruction (44 counts);
- Conducting solitary pickets or participating in a series of solitary pickets (19 counts);
- Publications or series of publications on social media, which the police and/or investigation considered as organizing unauthorized events (19 counts – if several posts appear in one administrative case, we consider this as one episode). There were 14 publications in which the authors announced protest actions, and, in one case, the rally did not even take place. Two other publications — both appearing in Vyacheslav Yegorov's case — did not call for protests at all: in one post Yegorov wrote that anyone could come to the court hearing, while the other said that "people across the region cannot dream of coming out [to the streets], and even rallies are banned." Kirill Ukraintsev's case is based solely on his social media posts.
- Three more counts are related to Pavel Khokhlov’s case. Unfortunately, we were not able to find out the details of the administrative cases that led to his criminal prosecution. Based on published court rulings, it can be assumed that the violations he was charged with were linked to two collective actions and one publication.

Almost half of known episodes in cases under Article 212.1 of the CC is not related to participation in collective protest actions



● Collective protest actions\* ● Solitary pickets\*\* ● Social media posts ● No data

\* "Collective protest actions" include participation in mass gatherings, collective pickets, rallies, marches, walks, performances, flash mobs, blocking of streets and highways.  
 \*\* "Solitary pickets" include participation in solitary pickets and series of solitary pickets.

Not a single criminal case involves burning tyres or cobblestones pulled out of the pavement, or any other atrocity that MP Sidyakin used to scare his Duma colleagues. In fact, the very wording of Article 212.1 contains nothing of the sort. The vast majority of protest actions are peaceful and are by no means always numerous, let alone solitary pickets, which certainly create no risk of mass disorder. And not a single publication called for "barricades."

However, at least four of the protest actions in connection with which cases under Article 212.1 of the Criminal Code were initiated — 27 July 2019 in Moscow, 10 October 2020 in Khabarovsk and 23 January 2021 in Barnaul and Krasnoyarsk — were also the ones where criminal cases on violence against representatives of the authorities (Article 318 of the Criminal Code) were initiated.

However, the mere fact that a case is initiated under Article 318 of the Criminal Code is not yet evidence of the non-peaceful nature of protest actions. Based on our many years of monitoring experience, such cases are initiated either without any grounds at all or without taking into account the violence (often much more significant) on the part of the representatives of the authorities. And in Article 212.1 cases initiated because of the same protests, the events from Article 318 cases are not reflected and do not affect them in any way.

- The non-peaceful nature of the 10 October 2020 protest in Khabarovsk was not mentioned in Alexey Vorsin's case.
- The case against Alexander Prikhodko, also related to the 10 October 2020 protest action in Khabarovsk, and that of Viktor Rau, related to the 23 January 2021 rally in Barnaul, were both dropped before trial precisely because, in the opinion of the investigators, the actions of those prosecuted did not create public danger.
- The 27 July 2019 protest in Moscow, which was mentioned in Yulia Galyamina's case, was not taken into account by the court at all.

## **RESULTS AND NEGATIVE CONSEQUENCES**

### **Sentences**

Of the 18 criminal cases under Article 212.1 that we are aware of, eight have reached conviction.

In **four** cases the defendants were sent to a general regime penal colony. **One man**, Kirill Ukraintsev, was sentenced to time in a "colony-settlement" (an open prison).

- The first sentence — three years in prison — was handed down in December 2015 to Ildar Dadin; the appeal brought the sentence down to two years and a half. The conviction was later overturned and the case was dismissed.
- In 2019 Konstantin Kotov was sentenced to four years in prison, which is the longest sentence handed down under Article 212.1 so far. In 2020, the Constitutional Court noted in its **ruling** on Kotov's case that restrictions on freedom should only be applied if the violation of the rules of a public event "involved the loss of its peaceful nature <...> or causing or actual threat of causing significant harm to individual health, property, environment, public order, public safety or other constitutionally protected values." The appeal brought Kotov's sentence down to one and a half years.
- Despite the ruling of the Constitutional Court, restrictions on freedom continue to be applied: in 2021, Vyacheslav Yegorov was sentenced to three years and three months in a penal colony and in 2022 Vadim Khairullin received a year-long prison sentence. In 2023, Kirill Ukraintsev was sentenced to one year and four months in prison, but he was released, having already served that time in custody.

**Two** more people received suspended sentences: Yuliya Galyamina was sentenced to two years and Alexey Vorsin was sentenced to three. **One** of the convicted, Andrei Borovikov, was sentenced to 400 hours of community service.

Interestingly, so far, no one has been sentenced to a fine. A Novosibirsk activist Yana Drobnokhod was required to pay a "court fine," which is not a form of punishment – her case was closed by the court (but later reopened and sent for reconsideration).

At the time of publication of this Report, **Six** of the cases reached the cassation stage, while **two** others only reached the appeal stage. In most cases, the courts of the second and

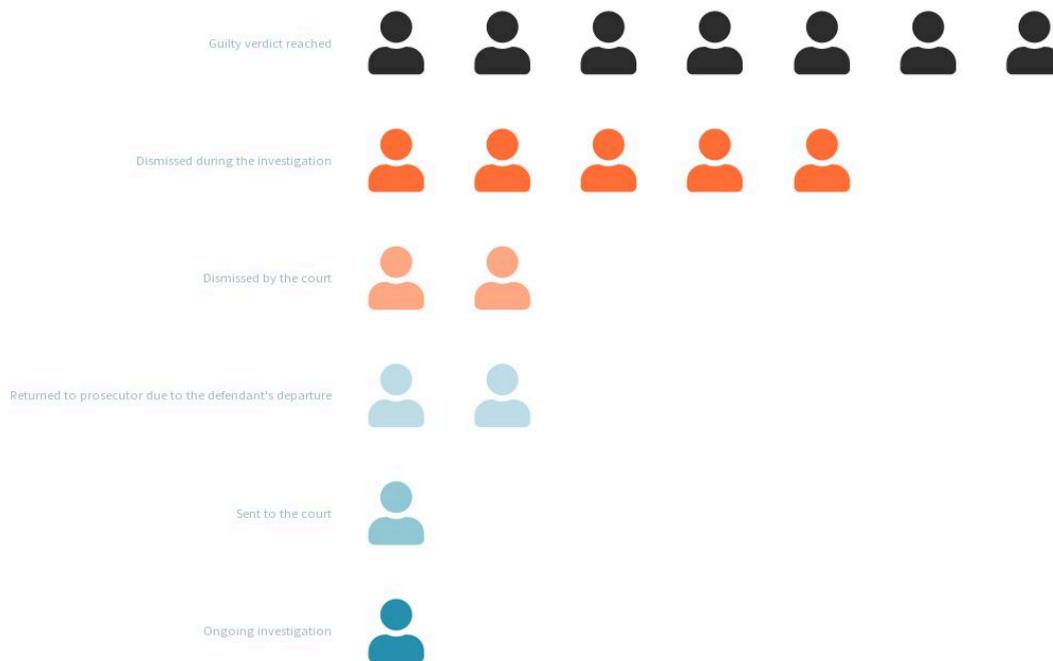
third instances made no changes to the sentence, only Ildar Dadin's sentence was shortened from three to two and a half years by the appellate court (the sentence was later revoked). The decision to close Yana Drobnokhod's case was overturned by the cassation court and the case was sent back for retrial.

The case against Konstantin Kotov was heard by the appellate and the cassation courts twice: after the appellate court made no changes to the original sentence, the Constitutional Court recommended that the case be retried, and the cassation court sent the case back to the appellate court. There, Kotov's sentence was shortened from four to one and a half years, a decision that was later confirmed by the cassation court during its reconsideration of the case.

**Less than 40% of the accused under Article 212.1 of the CC were found guilty\***

Ildar Dadin's guilty verdict is not reflected since his sentence was later revoked and the case was closed.

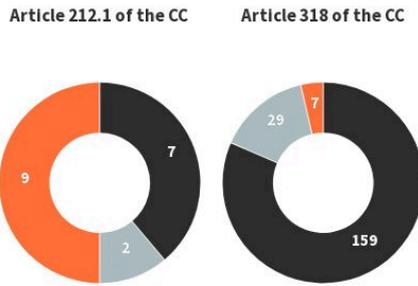
Yana Drobnokhod's case dismissal is not reflected either, since the decision to close the case was later overturned and the case was sent back for reconsideration.



As of 10 February 2023

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The conviction rate is much lower than for protest-related cases under Article 318 of the Criminal Code during the same period



- Guilty verdict reached
- Дело передано в суд или расследуется
- Преследование прекращено или дело возвращено в прокуратуру

As of 10 February 2023

\* Here we show the current state (as of June 2022) of cases opened between 2015 and 2021

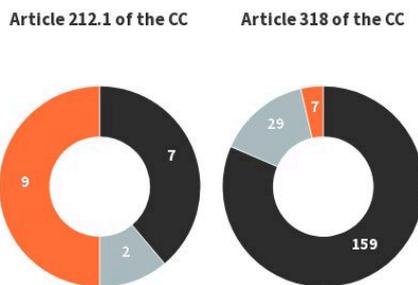
Not reflected is the conviction of Ildar Dadin since his sentence was later revoked and the case was closed. Also not reflected is the closure of the case against Yana Drobnokhod, since the decision to close the case was later overturned and the case was sent back for reconsideration

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## Measures of restriction

The measure of restriction chosen for the duration of the investigation can serve as severe punishment in itself. At first, investigators would limit measures of restriction to personal recognizance when it came to those prosecuted under Article 212.1 of the Criminal Code, and house arrest was more of an exception. The first time someone was placed in custody for the duration of the investigation took place no sooner than late 2019. In total, **four people** were placed in custody until trial.

- Konstantin Kotov spent the entire time until the verdict came into force at a pre-trial detention centre, which amounted to a total of two months and two days (the investigation and the first instance trial were concluded speedily, most of the time he spent awaiting the appeal trial). He then spent another month and a half in detention before getting transferred to a colony.
- Pavel Khokhlov was released from custody after little more than a month.
- Yana Drobnokhod spent a month and two days in custody.
- Kirill Ukraintsev spent over 9 months in custody.

House arrest was used in the cases of **four** prosecuted individuals, **two** of whom (Ildar Dadin and Alexey Vorsin) spent the entire time pending sentencing (ten months and six months respectively) under house arrest.

- For Yana Drobnokhod, the term of house arrest amounted to 18 days.
- Vyacheslav Yegorov spent about half of a year under house arrest.

Prohibition of certain actions was chosen as a measure of restriction in **two** cases, **one** of which included severe restrictions.

- Andrei Borovikov was prohibited from communicating with the participants of the demonstration he was accused of organizing. As a result, he was formally not allowed to interact even with his own wife.

Measures of restriction may lead to professional activity being impeded.

- Vyacheslav Yegorov lost his job due to his house arrest, all the while being the only person earning money in his household.

At the same time, Olga Nazarenko was **dismissed from her teaching position** simply because of the fact of the criminal case initiated against her. At the time she was under recognizance not to leave.

On the other hand, no measure of restriction was chosen at all for Alexander Prikhodko, who was simply under an obligation to appear in court. Alexander Kashevarov's personal recognizance was lifted after ten days, but was reinstated five months later (the court eventually sentenced him to prison).

## **Interrogations and searches**

Those prosecuted under Article 212.1 of the Criminal Code were subjected to interrogation and house searches.

- During the search in Kirill Ukraintsev's apartment, his work PC, laptop and smartphones were all **seized**.
- During the search in Yulia Galyamina's residence, she and her husband had their phones, computer disks and flash drives **seized**.
- Olga Nazarenko's phone and savings were **seized**.

At least one of the searches was accompanied by physical violence – Alexey Vorsin reported having been struck in the face with a fist six times, to the blood, as he was being

pressured to give up his phone PIN code, as well as having been beaten on his legs. He remained handcuffed for the entire four hours of the search and was not allowed to sit down or even lean against the wall. Pavel Khokhlov was also subjected to violence during his arrest.

In some cases under Article 212.1, interrogation and searches affected not only the suspects themselves but also their loved ones.

- Vyacheslav Yegorov's case started with the **searches conducted** on 31 January 2019, at the homes of eight members of the “Net svalke Kolomna” (“No to the Kolomna Landfill”) initiative group. The investigator requested that FSB conduct field operational investigative activities against the members and moderators of the VKontakte groups dedicated to the landfill, “with the purpose of obtaining information regarding the bank accounts used by V.V. Yegorov and his immediate circle, as well as their possession of safety deposit boxes” and “the cash flow at the aforementioned accounts” since 1 January 2017.
- Similarly, Alexey Vorsin's case started with searches in several people's homes – the local FSB directorate believed them to possess “information regarding Vorsin's illegal activities.”
- After the court hearing on the measure of restriction for Andrei Borovikov, all of the observers were issued a summons for questioning regarding his case. According to the attorney Elena Dolganova, who was working in cooperation with OVD-Info, police officers were planning to question all of the participants of the demonstration mentioned in the case.

## **Other negative consequences**

**Four** persons prosecuted under Article 212.1 were forced to leave Russia because of the criminal cases initiated against

them. Vladimir Ionov and Irina Kalmykova were placed on a wanted list. Victor Rau's and Alexander Kashevarov's cases were later dismissed.

Starting 2020, a criminal record under Article 212.1 of the Criminal Code, as mentioned above, disqualifies a person from running for elected government positions. Due to her guilty verdict, Yulia Galyamina lost not only her right to participate in the election but also her active mandate as the deputy of the Timiryazevsky district of Moscow.

## **ARTICLE 212.1 OF THE CRIMINAL CODE AS AN INTIMIDATION TOOL**

OVD-Info is aware of numerous cases in which people from different regions found themselves under threat of having a case under Article 212.1 of the Criminal Code initiated against them, or had representatives of various government departments warn them of such a risk.

The true degree of danger may vary. Investigation of an individual's actions for the presence of a criminal offence should be considered the form of enforcement action closest to initiating a criminal case. That procedure will be discussed further below.

There are known cases of activists receiving written warnings about the inadmissibility of breaking the law as outlined by Article 212.1 of the Criminal Code.

- The attorney defending Alina Ivanova, an activist from Moscow who had cooperated with Navalny's organizations and regularly participated in protest actions, found such a document in her administrative case files. The administrative proceedings against Ivanova were initiated on 10 August 2019, after she was **detained** at the gathering in support of the opposition candidates for the Moscow City Duma. On that day, officers of the Investigative Committee came to the police department in which Ivanova was being held and conducted preventive talks with the detainees. The activist later left Russia.
- Not long before the vote on amendments to the Constitution in the summer of 2020, a participant in a demonstration for fair elections held in Moscow a year prior was visited by a police officer and **handed** a written warning about the inadmissibility of "committing illegal acts," including possible criminal liability under Article 212.1.

At times judges and law enforcement officers would issue verbal warnings about the risk of criminal prosecution – despite the fact that many of the citizens that were issued such warnings had not yet reached the number of court decisions regarding administrative offences that would warrant a criminal case. Those warnings were baseless, and no consequences followed.

- In Khabarovsk, an individual was questioned and told their actions would be investigated. At the same time, they were being assured no criminal case would be initiated.
- Another activist from Khabarovsk was threatened with criminal charges by the judge who was considering his case under Article 20.2 of the Code of Administrative Offences.
- In Moscow, a judge considering an administrative case on repeated violation of the law on rallies (part 8 of Article 20.2 of the Code of Administrative Offences) against the activist Dmitriy Ivanov stated that the report had been drawn up incorrectly and that it was high time that a criminal case should be initiated against Ivanov under Article 212.1 of the Criminal Code. However, the judge later did consider the administrative case, sentencing the activist to 10 days of arrest.
- In Volgograd, an activist's nephew was informed that his uncle would be detained again once he left the detention centre, with the purpose of conducting an investigation. The consequences are unknown to us.

These stories illustrate that law enforcers use Article 212.1 as an intimidation tool.

On top of that, liability under Article 212.1 of the Criminal Code is the subject of press releases issued by authorities on the eve of mass protest actions. For example, prosecuting authorities published such announcements before rallies against the pension reform in **September 2018** and before the music festival held amid protests against the construction of a landfill site in Shiyes (Arkhangelsk Oblast) in **August 2019**.

After the start of protests against the war in Ukraine, OVD-Info began to receive numerous testimonies about law enforcement officers threatening detainees with liability under Article 212.1 of the Criminal Code. Moreover, police

officers also threatened detainees with part 8 of Article 20.2 of the Code of Administrative Offences, claiming that charges under it may be pressed after repeat detention, even though, legally, the decision regarding the first offence must come into force for that part of the article to apply. At times the police officers' statements seemed to imply that just two detentions were enough to entail criminal prosecution.

The following are examples of such testimonies:

- “They started <...> threatening me with criminal charges, said they will first detain me at a rally – and there will be an administrative case, and after that a criminal one right away”;
- “A criminal investigation department operative <...> said that if I hold a single-person picket again I’ll get locked up for 5 years”;
- District police officer “said that a repeat detention can be turned into a criminal case”;
- “I was detained for a single-person anti-war picket and sentenced to 10 days of arrest for disorderly conduct. They threatened me with criminal prosecution should I participate in a demonstration like this again”;
- “My coursemate, a girl, got a call – they said there had been some changes to the article, and that should we get detained again they’d press criminal charges, even though all that was not related to the article under which we had first been detained”;
- “They said that if they caught me again I’d be doing corrective labour, and the third time there’d be criminal charges”;
- “I was detained at a demonstration in January 2021 under part 5 Article 20.2 of the Code of Administrative Offences and signed a paper stating that the consequences of repeated offence were made clear to me; criminal liability was mentioned.”

It seems that such statements coming from police officers may be explained not only by the complexity of wording of Article 212.1 of the Criminal Code itself, but also by the officers in question either confusing detention with court decision or deliberately intimidating citizens out of further participation in protests and demonstrations.

The numerous inquiries received by OVD-Info revealed a grave issue: the law is worded in such a way that people genuinely do not understand when the threat of criminal prosecution may arise.

Many questions and fears are caused by the vague wording of the article: it makes it impossible to parse when a person has already committed a criminal offence and when they have not yet. Drawing on written laws, the Constitutional Court judgement and the history of cases under Article 212.1 of the Criminal Code, we elaborate below on which offences may and may not form the basis for a criminal case and when the risk increases.

## **WHAT PRIOR VIOLATIONS MAY LEAD TO CRIMINAL CHARGES**

A criminal case under Article 212.1 of the Criminal Code is formed by the following formal criteria: if multiple cases of liability under Article 20.2 of the Code of Administrative Offences (let us call them “prior episodes”) fall within a specific time period, the next offence (“the final episode”) becomes grounds for a criminal case.

Administrative cases under Article 20.2 of the Code of Administrative Offences are most commonly initiated following a detention at a protest action, but the detention itself cannot be considered a “preliminary episode” – a drawn-up report and a court verdict are necessary. On the other hand, a report may be drawn up without detention taking place, if an individual is identified post factum. Therefore, a criminal case may technically be initiated without a single detention at a protest.

There is a possibility, even though a fairly slim one, that a single protest action may result in more than one report being drawn up on one person under Article 20.2 of the Code of Administrative Offences.

- Two judgements have been issued in the case against Andrei Borovikov in connection with the protest action on 9 September 2018: the police and the court considered the rally and the subsequent demonstration as two separate events.

Different social media posts about the same protest may be treated as separate offences.

- The documents of the case against Alexey Vorsin include two posts announcing the 23 January 2021 protest action. Vorsin was fined under Article 20.2 of the Code of Administrative Offences for his 21 January social media post, and his 23 January post became the final episode leading to criminal charges against him.

It is important to keep in mind that people who took part in protests are often charged with unrelated offences, such as disobedience to a lawful request of a police officer (Article 19.3 of the Code of Administrative Offences), disorderly conduct (Article 20.1 of the Code of Administrative Offences), organizing a “mass simultaneous gathering and (or) movement” (Article 20.2.2 of the Code of Administrative Offences), failure to comply with rules of conduct in the event of an emergency or threat thereof (Article 20.6.1 of the Code of Administrative Offences), and discrediting the activities of the armed forces (Article 20.3.3 of the Code of Administrative Offences).

All the above-mentioned articles of the Code of Administrative Offences are in no way connected with Article 212.1 of the Criminal Code; therefore, administrative cases initiated under them cannot become the grounds for a corresponding criminal case.

However, it is possible to have a report drawn up against you under Article 20.2 of the Code of Administrative Offences even without participating in a protest. It is not rare to see random passers-by being treated as protesters. Besides,

charges can also be brought for an incorrect report on the expenditure of funds for the event or for a donation to a rally from a person designated as a “foreign agent”, as well as for a social media post announcing an unauthorized protest action.

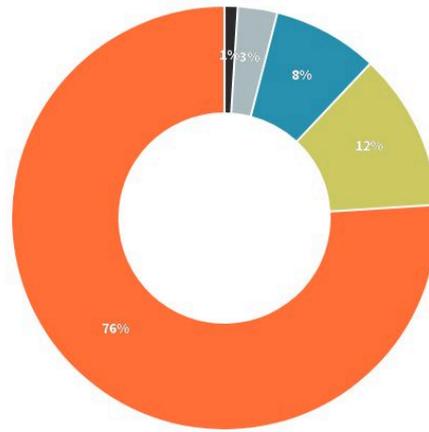
Just having a report drawn up under Article 20.2 of the Code of Administrative Offences is not enough. Only court convictions for the corresponding administrative offences can be used as grounds for initiating a criminal case.

According to the data from the Judicial Department of the Supreme Court, in 2021, 83% of district court cases under Article 20.2 of the Code of Administrative Offences ended with a conviction, and 3% of the cases were dismissed. The rest of the cases were either returned to the police or handed over to other courts, which could then hear them anew. The share of convictions can vary greatly from region to region: in Moscow, for example, it was 89% in 2021, while in St. Petersburg it was only 66%.

In any case, even having an indictment is not enough – it still has to enter into force. If a person has appealed against a court decision, it is not considered to have entered into effect until an appellate court has reviewed the appeal.

When hearing an appeal, a court can dismiss the case (then the conviction is overturned) or remand the case back to a court of first instance for a retrial. But still, in the majority of cases, the convictions end up entering into force after being appealed.

76% of cases under Article 20.2 of the Code of Administrative Offences reviewed by OVD-Info over the past year were **left unchanged** after being appealed



● Punishment reduced ● Appeal hearing denied ● Dismissed ● Case remanded to a first instance court or returned to the police ● Sentence left unchanged

\* Data on 560 cases under Article 20.2 of the Code of Administrative Offences handled by lawyers cooperating with OVD-Info from June 1, 2021 to June 1, 2022.

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Sometimes investigators have to exclude some episodes from a criminal case or even terminate the case entirely because court rulings for administrative offences have not yet entered into force.

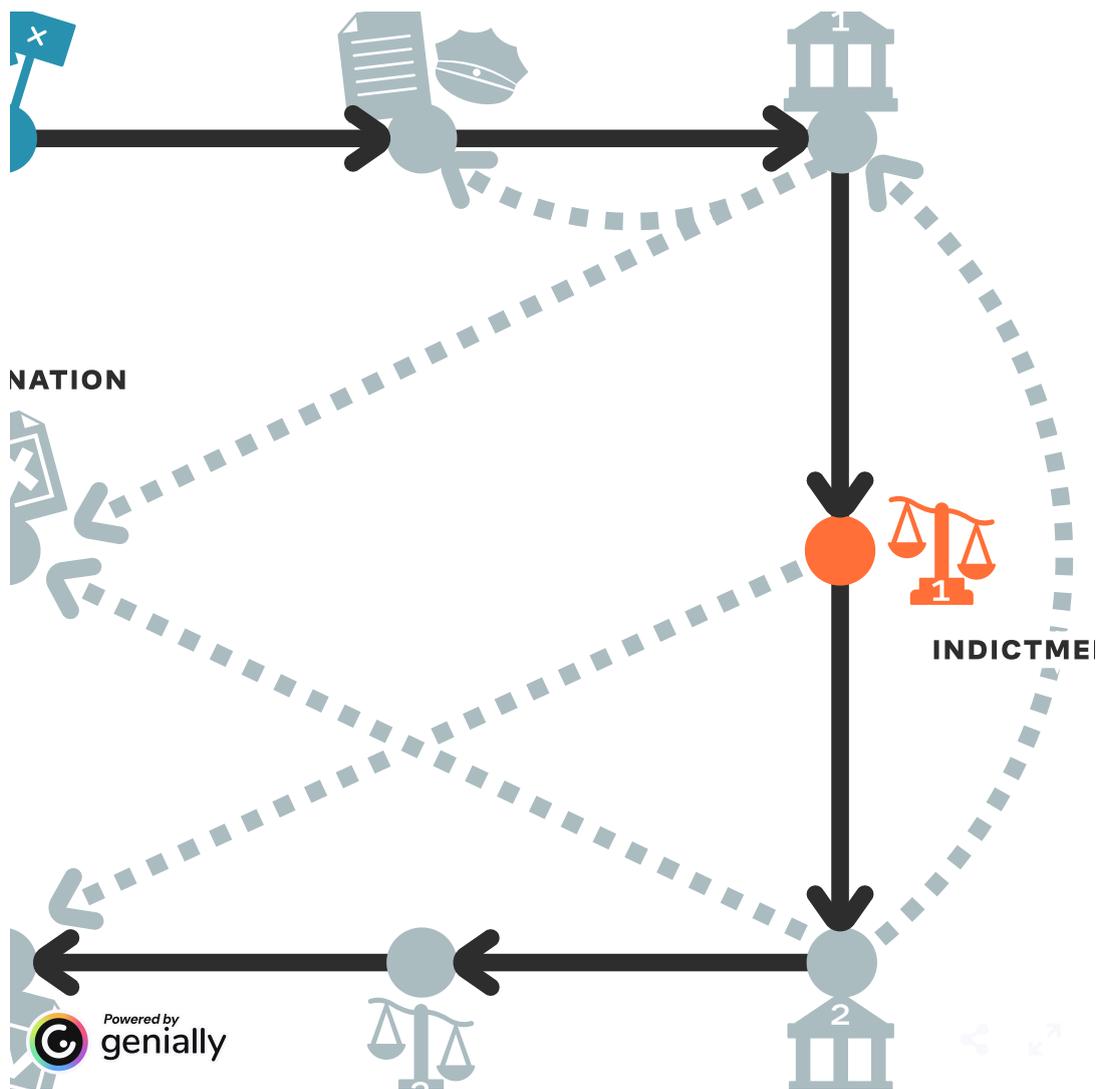
- The first cases under Article 212.1 of the Criminal Code — against Vladimir Ionov and Mark Galperin — were initiated on 16 and 20 January 2015, respectively, even though by then court rulings for holding an unauthorized protest action on 10 January had not yet entered into force. In the case against Ionov, the authorities found a workaround by initiating a new criminal case against him half a year later and then merging it with the original one. Galperin’s case was eventually terminated.
- A similar thing happened 6 years later, in 2021, in the criminal case against Alexander Kashevarov. Half a year after the investigation into his case began, it turned out that only one out of three court decisions on administrative offences that became part of the criminal case against him had entered into effect. After this, the authorities stopped prosecuting Kashevarov.
- In the case against Alexey Vorsin, not only did one of the court rulings enter into force, but it was made by a court of first instance after the “final episode” that took place 23 on January 2021, while the ruling on the previous “episode” was made on 25 January and entered into force on 24 February. The prosecutor even tried to appeal against the ruling, but to no avail. All this did not prevent the court from eventually convicting Vorsin.

Even after a court ruling enters into force, it can still be appealed in a court of cassation. If the court of cassation overturns it, the initial court ruling can no longer be taken into account in a criminal case.

- The criminal case against Evgenia Fedulova was dismissed because a court of cassation, after having heard her appeal in connection with one of the “preliminary episodes,” remanded the respective administrative case for retrial to an appellate court that subsequently dismissed it.

# HOW LONG ONE DOES “PRELIMINARY EPISODE” LAST

In order for a violation to become part of a criminal case, the violation needs to be documented and the offender punished. That can take months or even years; the process can extend depending on the duration of numerous intermediate stages.



An offence report may be drawn up not on the same day when the offence was committed, but significantly later. Unlike most articles on administrative offences, the deadline for bringing charges under Article 20.2 of the Code of Administrative Offences is not three months but one year.

If a person was detained at a protest action, a report is usually drawn up right away or within several days. However, in case of a social media post or in case of bringing charges post factum, a report may be issued months later.

For instance, reports against the participants of the 2020 Khabarovsk protest actions were drawn up in bulk long later after the protests had taken place. OVD-Info **reported** at least 121 detentions in between protest actions. Since 2021, protesters have become detained post factum en masse, with face recognition technology being employed. Learn more about this in our **report**.

No more than three days are allowed to pass between the moment a report is drawn up and the moment the case reaches a court of first instance. However, if one of the possible ways of punishment is an arrest, the report must be handed over to a court “without delay.” The vast majority of parts of Article 20.2 entail an arrest. Of the most frequently used, only part 5 is “non-arrestable” – the one on violating the rules of conducting a protest action by its participants.

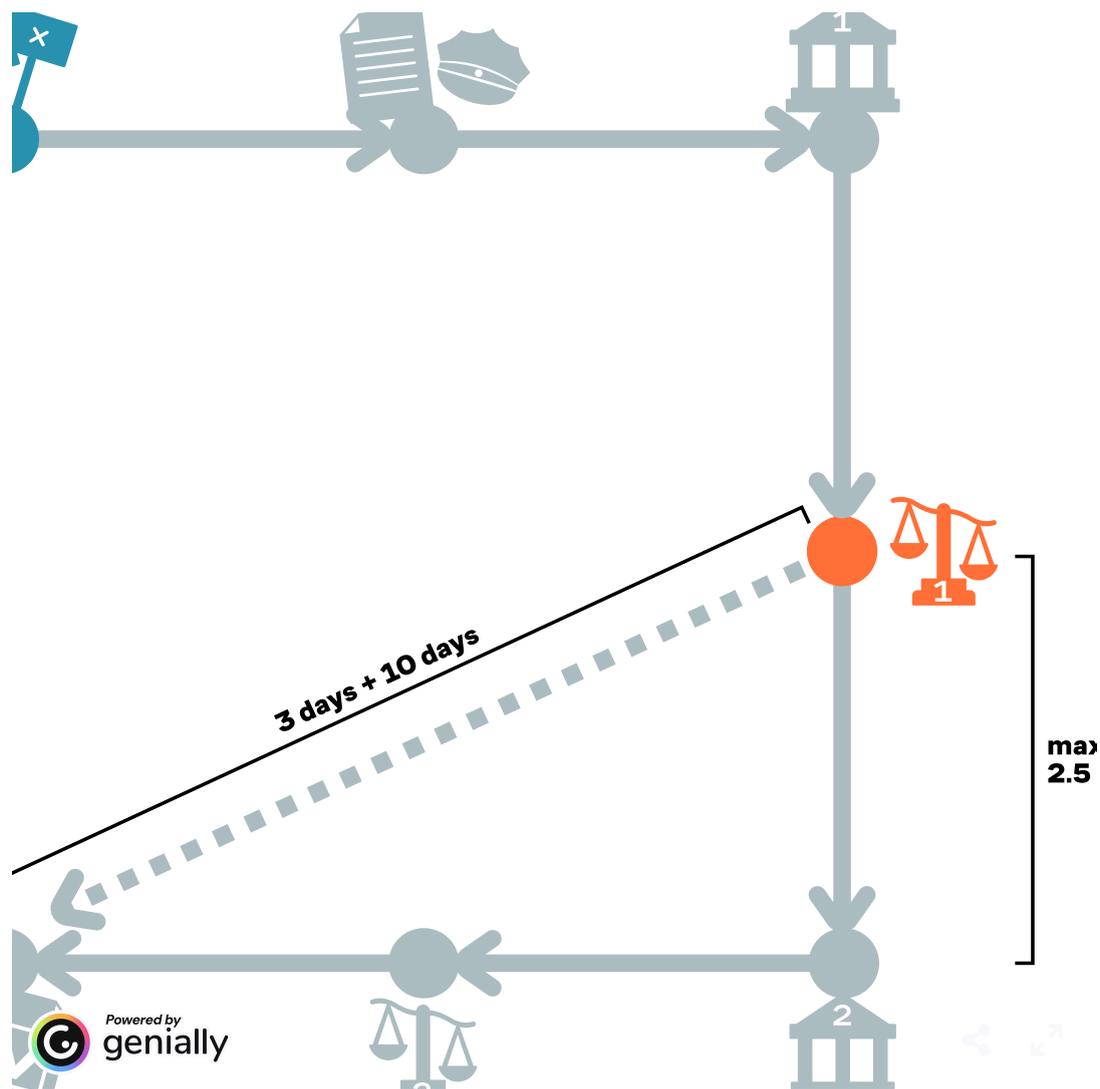
Article 29.6 of the Code of Administrative Offences requires courts to hear administrative cases within two months from the moment the case documents are received. However, if one of the possible ways of punishment is an arrest, a judge must hear the case “without delay.”

A court must hand-deliver its ruling or send it by mail **within three days** after it was made. After a person collects the ruling, they have **10 days** to appeal against it. If the ruling is not appealed within this time period, it is considered to have entered into effect.

According to Article 30.5 of the Code of Administrative Offences, appeals against court rulings must be heard within two months after being received by a court. If an appellate court confirms the conviction, it is considered to have entered into force on that day.

Even in the simplest development, when a case is not remanded to previous instances, the law allows the maximum time period from the time when the offence was committed

to the time when the ruling enters into effect to be one year, two months, and 13 days:



Experience shows, however, that courts do not always follow the deadlines prescribed by law. Besides, a case may be returned from a first instance court back to the police, then go to the court again, then come back from an appellate court to the first instance court, and so forth.

- As an example of an offence that was decided upon relatively quickly, we can cite one of the “preliminary episodes” in the case against Konstantin Kotov. A report for a rally at the FSB building on 13 May 2019 was drawn up on 14 May, the court arrested Kotov for five days on 15 May, and as soon as 30 May the court ruling entered into force; 17 days passed since the offence was committed.
- To the contrary, in the case against Yulia Galyamina, there were episodes related to protests of 15 and 17 July 2019, but the court rulings on them were made as late as 20 February 2020 — seven months after the offence was committed.
- Reports against Moscow municipal deputy Konstantin Yankauskas in connection with 15 and 18 July 2019 protest actions were drawn up as late as 12 December. A court reviewed them on 19 May 2020, and it was as late as 24 September (one year and two months after the offence was committed) that one of the rulings entered into force; the other one was overturned on 6 October.
- In the criminal case against Kirill Ukraintsev there was a court ruling that entered into effect one year and three months after the “offence” was committed (he published a social media post on 8 July 2020, and the ruling entered into force on 11 October 2021).
- A court ruling in the case against an LGBT activist Pavel Samburov, who was detained on Kiss Day in Moscow on 11 June 2013, entered into force only half a year later — on 18 December 2014.

A court ruling that has come into effect has a “validity period”: a person is considered “subjected to administrative punishment” from the moment it comes into force and until a year has passed from the next day after the punishment is executed (paying a fine, serving an arrest, completing

compulsory work). Until a person has paid a fine, they are considered to be subjected to administrative punishment.

- In Blagoveshchensk, in December 2021, a local activist Dmitry Kravtsov was **arrested** by the court for 20 and 30 days following two reports of repeated violations (part 8 of Article 20.2 of the Code of Administrative Offences). Notably, a car rally that occurred on 9 May 2020, that is, 18 months prior, appeared as a previous offence in both cases. The court **fined** Kravtsov on 20 May 2020; in June, the decision came into force, but according to the case files, the activist did not pay the fine until December 2021, so the old administrative case did not “expire” in a year.
- In Konstantin Yankauskas’s case, a court ruling in connection with the protest action on 14 July 2019 was issued on 27 August, coming into force on 24 October, and the “validity period” expired only over two years later, on 19 January 2022, since the fine was deducted on 18 January 2021.

Therefore, one “preliminary episode” can fit into several weeks, or it can last for over a year. The person in question has practically no influence themselves on how much time will pass from the day of the “violation” to getting rid of the “brought to administrative liability” status: only the date of the “violation,” the fact of appeal and how speedily the punishment is executed (if a fine is imposed), depend on them. The rest will depend on the speed of the police and the courts’ work.

## **HOW MANY “EPISODES” MAKE UP A CRIMINAL CASE**

To initiate a criminal case under Article 212.1 of the Criminal Code, at least one “final episode” and **at least three** “preliminary” episodes, all fitting within a certain time frame, are required. We will go into more detail on timing in the next

chapter, and here let us elaborate on the number of “episodes” needed.

- Ten defendants under Article 212.1 of the Criminal Code had **three** decisions under Article 20.2 of the Code of Administrative Offences that had come into force. The situation appears to be the same for Pavel Khokhlov, but we do not have exact information about his case.
- Six defendants (Irina Kalmykova, Konstantin Kotov, Yulia Galyamina, Yana Drobnokhod, Alexey Vorsin and Viktor Rau) had **four** rulings that had entered into force.

Yulia Galyamina had **six** decrees that had entered into force.

The “final episode” of a criminal case is an action that the police consider an offence falling under Article 20.2 of the Code of Administrative Offences. At the same time, it is important that the “final episode” has not had an indictment within the framework of the Code of Administrative Offences – if the court has already assessed it in accordance with the Code of Administrative Offences, a criminal case cannot be initiated.

- In the first cases under Article 212.1 of the Criminal Code (in relation to Vladimir Ionov and Mark Galperin), decisions on administrative cases that later became “final episodes” had been made before criminal cases were opened. Both of the defendants later had their “final episodes” changed. But in Galperin’s new “final episode,” too, a ruling had been issued for an administrative case, so the criminal case fell apart.
- The Constitutional Court, in a 2017 judgement on Article 212.1 of the Criminal Code, stated that violation of the established procedure of holding public events becomes a reason for initiating a criminal case “only on the condition that for the incriminated act, the person has not been subjected to administrative punishment for an administrative offence provided for by this article (Article 20.2 of the Code of Administrative Offences — *OVD-Info*).”

In some cases, there is more than one “final episode.”

- In the case against Yulia Galyamina, the “final episodes” were several publications on social media in July 2020 with a call to participate in the 15 July rally.
- In the case against Yana Drobnokhod, the “final episodes” were the protests on 23 January 2021 in support of Sergei Furgal and Alexei Navalny (the investigation considered them as two violations following immediately one after the other) and on 30 January 2021 in support of Furgal. Therefore, there were formally three “final episodes” in the Drobnokhod case – the investigation deemed her to have committed a violation twice on 23 January: from 11:40 to 14:20 she participated in a picket in support of Furgal, and from 14:20 to 15:00 – in a rally in support of Navalny.

Thus, police officers’ statements that, after being arrested, a subsequent arrest automatically leads to a criminal case, are untrue. Article 212.1 takes into account not arrests, but court

decisions, and furthermore, there must clearly be more than two of them.

Either police officers deliberately misinform the detainees for the purpose of intimidation, or they actually do not understand how Article 212.1 of the Criminal Code works. Perhaps law enforcement officers confuse this article with other articles of the Criminal Code that depend on the Code of Administrative Offences too. For instance, in March 2022, Article 20.3.3 on discrediting the Armed Forces was included in the Code of Administrative Offences, and immediately began to be applied against anti-war protesters. And Article 280.3, with similar wording, was introduced into the Criminal Code; the first part of that article suggests that a case can be initiated if there is only one court decision under Article 20.3.3 of the Code of Administrative Offences that has entered into force during the year.

## **HOW MUCH TIME HAS TO PASS BETWEEN "EPISODES"**

A criminal case under Article 212.1 of the Criminal Code consists not of any "episodes," but only of those falling within a certain period of time. Neither the article itself nor the Constitutional Court's further explanations provide an unambiguous understanding of how these terms should be calculated. This chapter will elaborate the main points of contention, possible interpretations and compare all those with real practice.

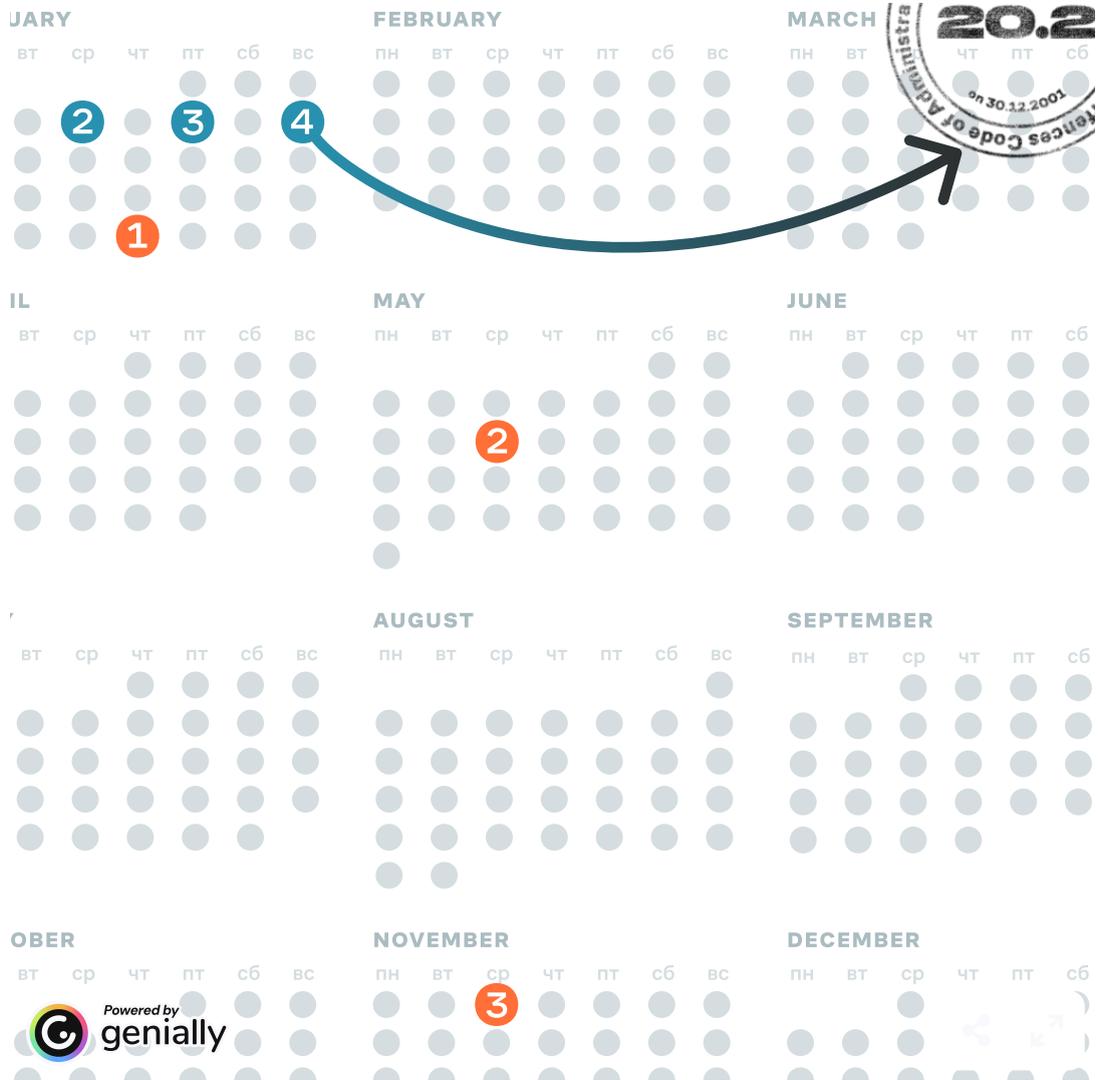
When creating the new article, legislators completed it with a note explaining what should be considered a "repeated violation of the established procedure of organizing or holding a rally": "A violation of the established procedure <...> repeatedly committed by a person, is a violation <...> if the said person has been previously brought to administrative liability for committing administrative offences under [Article](#)

20.2 <...> more than twice within one hundred and eighty days.”

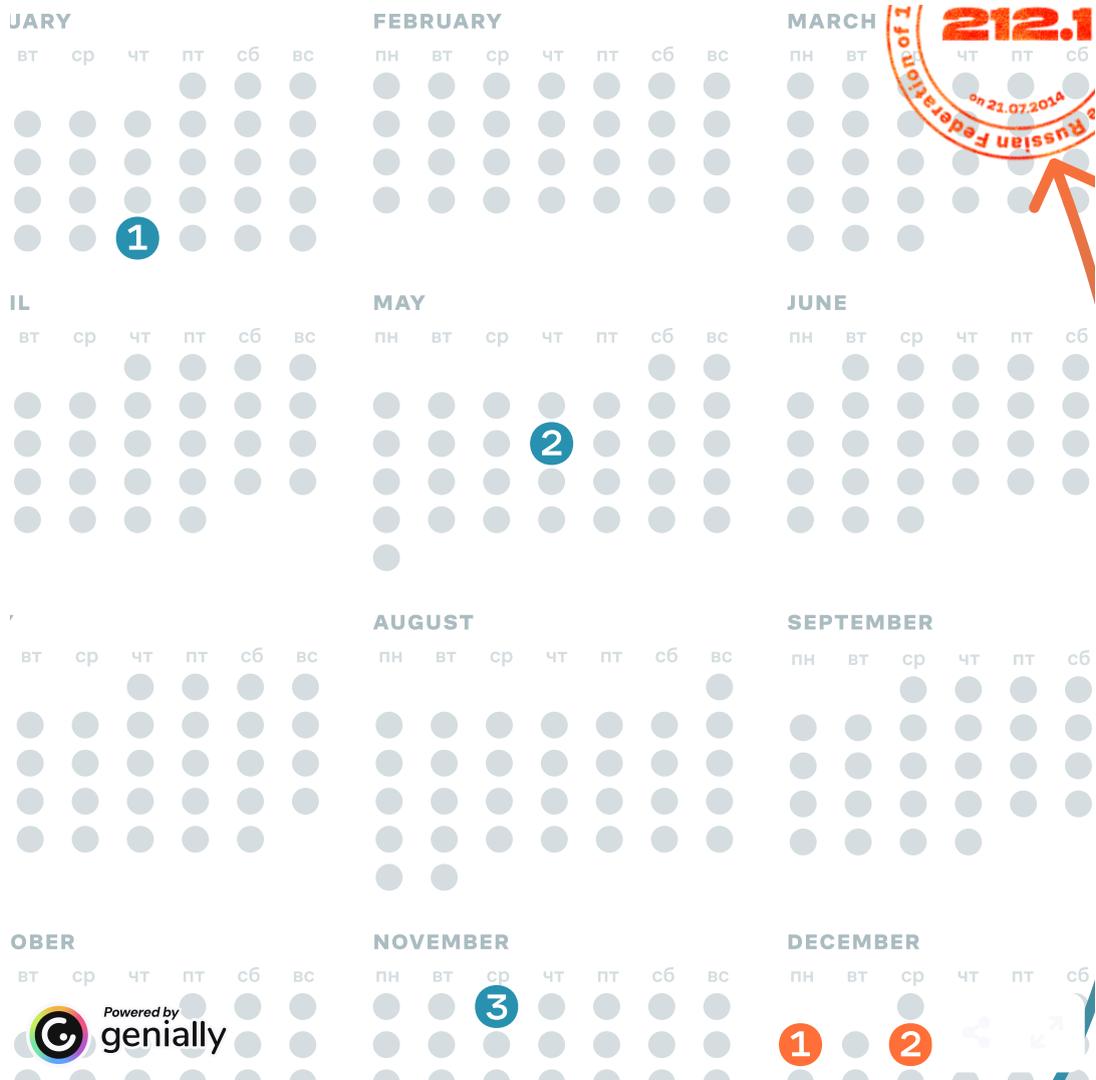
I.e., the “final episode” becomes the basis for initiating a criminal case if by that moment a person has had at least three “preliminary episodes” in 180 days.

Moreover, the 180 days are calculated not from the date of the “violation” in the first “preliminary episode,” but from the moment of “bringing to liability” in an administrative case.

Therefore, if a person committed three offences within six months, but for one of them a ruling was issued, for example, in January, for the second – in May, and for the third – in November, then the three of them do not add up to a criminal case. If a report was drawn up for a person four times during one week under Article 20.2 of the Code of Administrative Offences, the fourth time will not be able to become "final" – after all, the rulings will not yet have come into force.



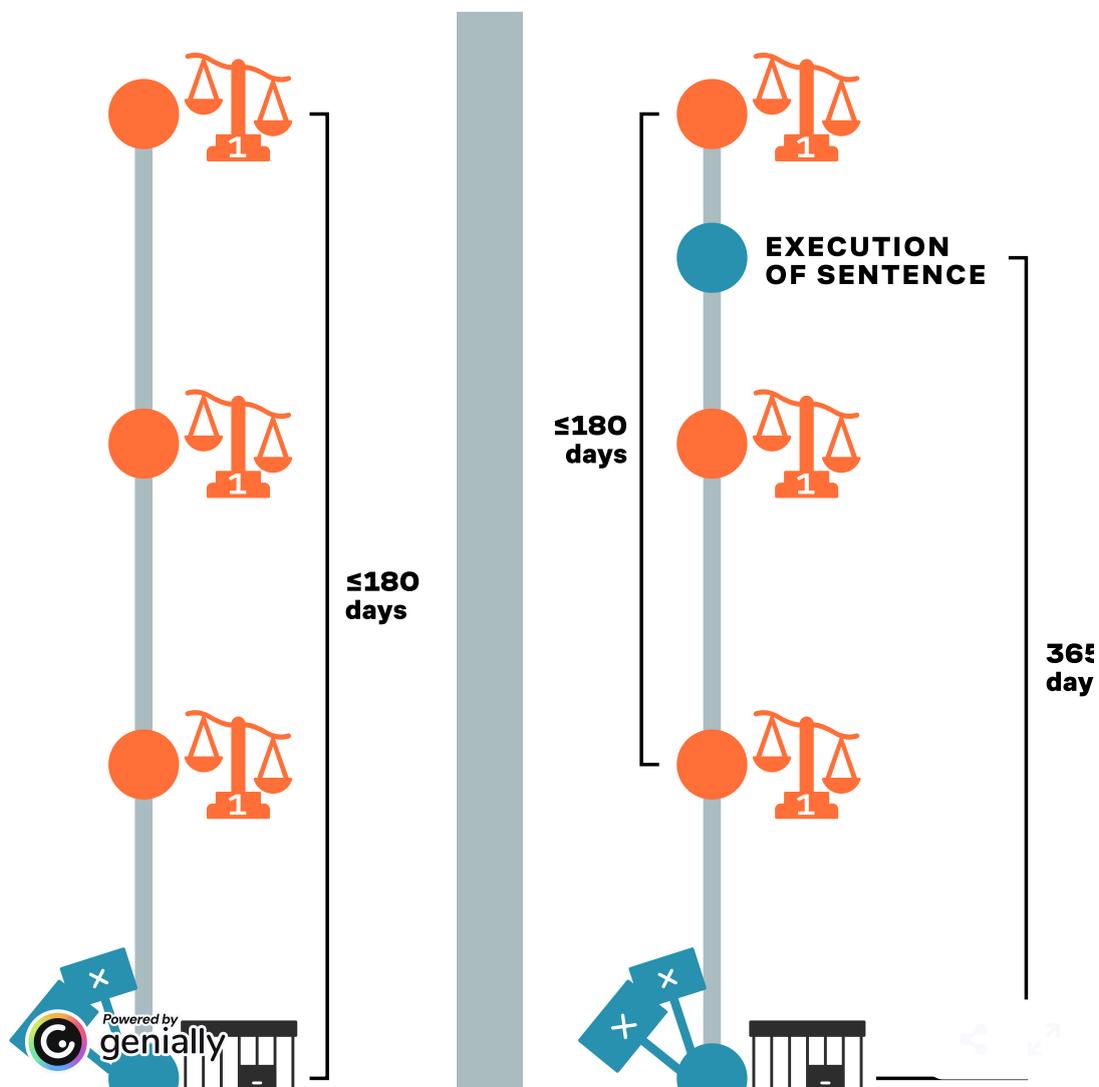
And vice versa – if the offences themselves occur in January, May and November, and the rulings on them are issued within six months, then the person has the required number of “preliminary episodes.”



However, it remains unclear what dates should be included in the stipulated 180 days – the date of the decisions of the courts of the first instance or the date when the decisions entered into force. Judging by the text of [Article 4.5 of the Code of Administrative Offences](#), the moment of bringing to liability should be understood as the date a court of first instance issues a ruling. But in practice, in some cases, the countdown starts from the date of the ruling, and in others – from the date the rulings come into force.

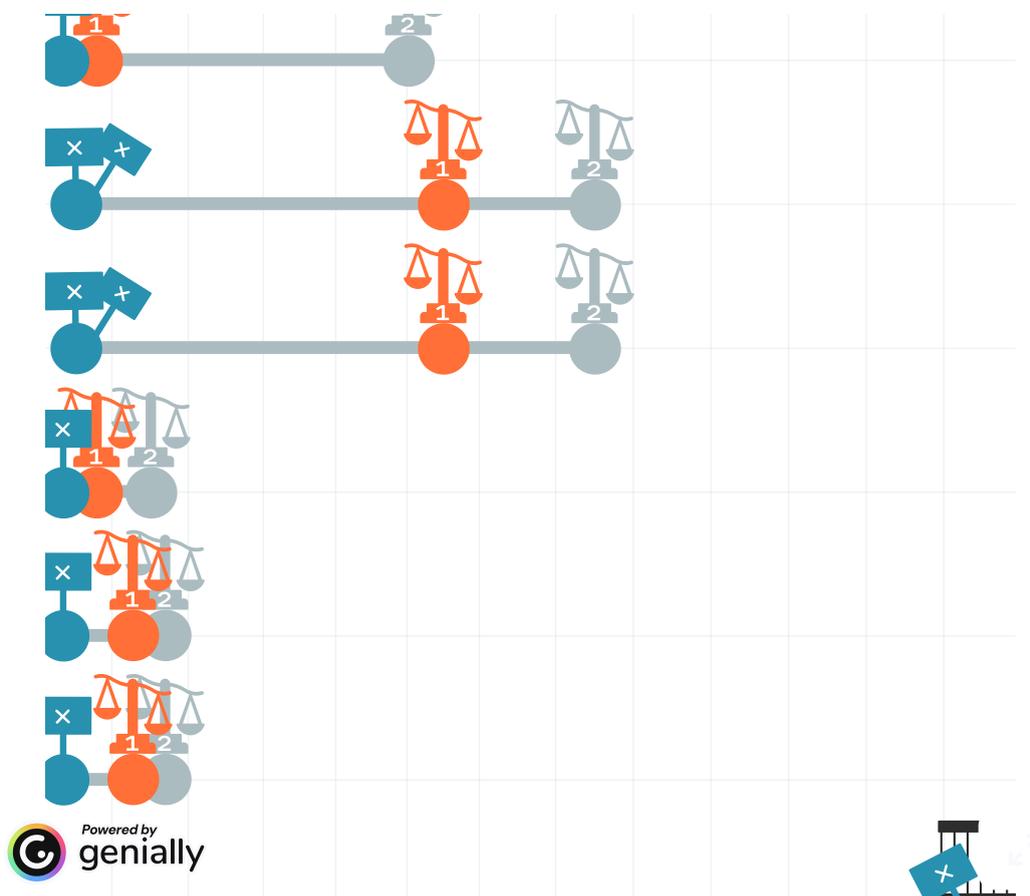
- Judging by the order regarding the initiation of a criminal case against Kirill Ukraintsev, the investigation was taking into account precisely the dates when the decisions came into force. It is these dates that fall within the required interval of 180 days, whereas the dates the rulings were issued by the courts of first instance do not. The judgements were issued on 2 March 2021, 27 May 2021, and 14 September 2021, so more than six months passed between the first and third of them. The rulings came into force on 21 July 2021, 22 September 2021 and 11 October 2021. In other criminal cases known to us, the dates the courts of the first instance issued the rulings fit into the required interval.
- Interestingly, the court decisions in Ukraintsev's administrative cases entered into force in reverse chronological order with respect to the offences. The order to initiate criminal proceedings indicated that Ukraintsev first published a post on 30 October 2020 (the ruling entered into force on 21 July 2021), then, "continuing his illegal actions," published a post on 12 October 2020 (the ruling entered into force on 22 September) and finally, "despite being brought to administrative liability yet again <...>, without drawing proper conclusions," published a post on 8 July 2020 (the ruling entered into force on 11 October 2021).
- There were six "preliminary episodes" in Yulia Galyamina's indictment, but the court decided to not take into account two of them, as the dates when the respective rulings entered into force did not fit within the six-months period.

Moreover, it remains unclear whether the "final episode" should also fall into the 180-day interval.



Assuming that the “final episode” is not included in the 180 days, the case may include “violations” that are further in time from the “final” one.

- In the case against Yulia Galyamina, the rulings on “preliminary episodes” were issued in July, August, and December 2019. The “final episode” happened in July 2020, that is, a year after the first “preliminary” ruling.



In this case, it is necessary to take into account the above-mentioned “validity period” of a court ruling in an administrative case: no more than a year should pass between the moment the punishment for the earliest “preliminary episode” is executed and the final “violation.”

In most criminal cases, the “final episode” fits into the same six-month period as the “preliminary” ones.

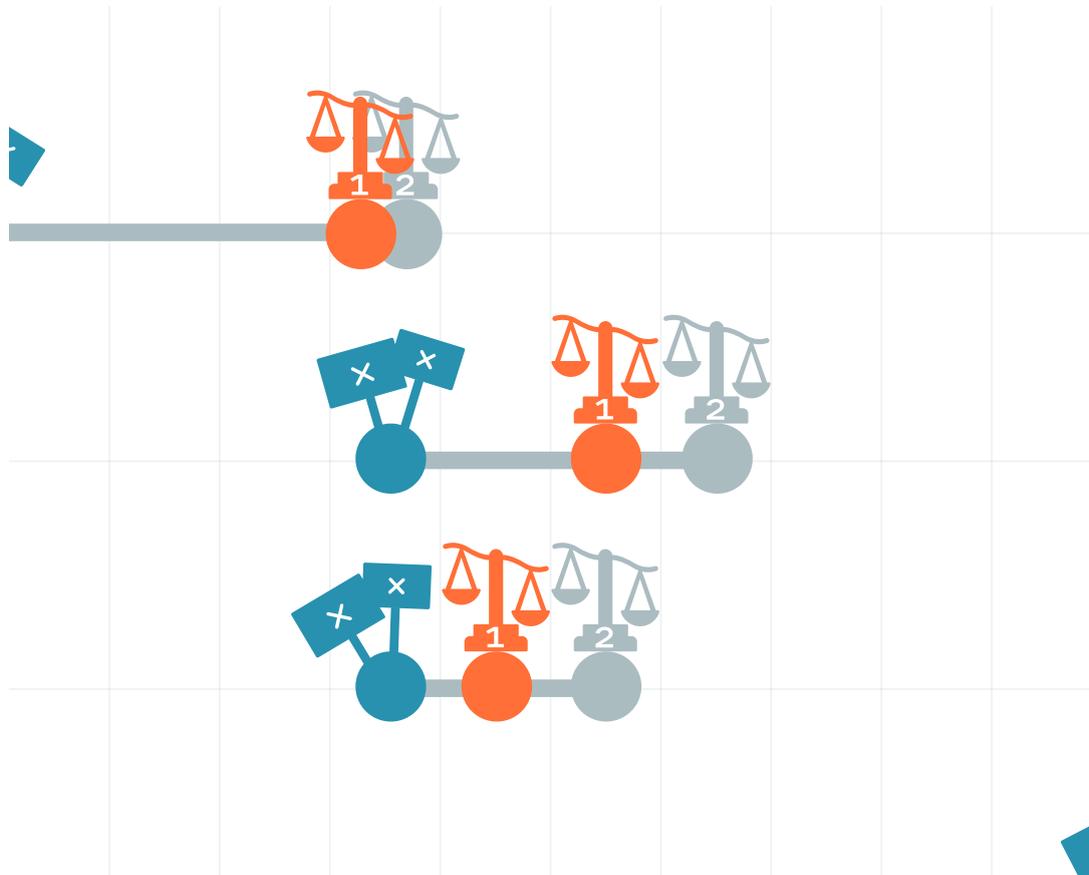
- For example, in Vadim Khairullin’s case, the rulings were issued in January and February, entered into force in February and March 2021, and the “final episode” took place in April.
- In Yana Drobnokhod’s case, the rulings on “preliminary episodes” were issued in October and November 2020, and the “final episodes” (there were more than one of them) took place in January 2021.

Sometimes the “final episode” does not fit into the same six-month period with all the “preliminary” episodes, if calculated based on the dates when the courts of the first instance

issued the rulings – but fits in that period if calculated by the dates the rulings came into force.

- In Vyacheslav Yegorov’s case, the “final episode” happened on 13 December 2019. The first "preliminary" ruling of the court of the first instance falls on 11 May, and of the appellate court – on 26 June.

In Andrei Borovikov’s case, the investigative officers intentionally argued that the last “violation” fits within the six-month period after the first indictment came into effect. In his case, the indictment on the first “preliminary episode” came into effect in September, while the “final episode” happened in April 2019, that is, more than six months later. But the investigation insisted that Borovikov's activities in organizing the event on 7 April began on 22 March, i.e. 178 days after the ruling on the first event that would become part of the criminal case came into effect.



According to the Constitutional Court judgement of 2017, it can be assumed that the “final episode” should still be

included in the 180-day period. Therefore, decisions on “preliminary episodes” must be made just prior to the last “violation.

## **WHO AND HOW INITIATES CASES UNDER ARTICLE 212.1 OF THE CRIMINAL CODE**

### **When can a case be initiated**

A criminal **case can be initiated** within six years after the “final episode.” This is the validity period for crimes of “medium gravity,” which includes “repeated violation of the established procedure of holding a rally.”

In cases under Article 212.1 of the Criminal Code known to us, the period within which a case was initiated ranged from one day to six months.

- In Yana Drobnokhod’s case, the “final episode” was her being detained at a gathering in support of Sergei Furgal, the former governor of the Khabarovsk Krai, on 30 January 2021. The fact that a criminal case was initiated became known literally on the same day.
- The maximum period between the “final episode” and the beginning of criminal prosecution is observed in the case against Kirill Ukraintsev. The post he published on 12 October 2021 became the reason for the case being initiated on 25 April, 2022.

### **Who Can Initiate a Case**

Both the Investigative Committee and the MVD (Ministry of Internal Affairs) investigators can initiate a case under Article 212.1 of the Criminal Code. Most (12) cases known to us, including the very first ones, were opened by the Investigative Committee. The MVD initiated six cases (against Andrei

Borovikov, Pavel Khokhlov, Yana Drobnokhod, Alexander Kashevarov, Viktor Rau, and Olga Nazarenko).

There are known cases of case files being transferred from the MVD to the Investigative Committee.

- After the number of Vyacheslav Yegorov’s “preliminary episodes” amounted to three, the Kolomna Directorate of MVD (Moscow Oblast) sent the preliminary investigation files for the initiation of a criminal case to the Main Investigative Directorate of the Investigative Committee in Moscow Oblast. However, the Main Investigative Directorate returned the files. It was explained that there was already a court order under Article 20.2 of the Code of Administrative Offences that had come into force for all three offences, but there was no “final episode” necessary to initiate a case. Later, when the “final episode” did appear, the police drew up an administrative offence report under Article 20.2 of the Code of Administrative Offences and handed it over to the Investigative Committee, which opened a criminal case.
- In Khabarovsk Krai, the MVD sent information to the Investigative Committee to conduct a preliminary investigation against several local activists. The IC returned the files, stating that the MVD could initiate cases under Article 212.1 itself. Later, it was the Investigative Committee that initiated the case against one of them, Alexey Vorsin. The other activists did not have proceedings initiated against them.

## **What Kind of Information is Required to Initiate a Case, and Who Has Access to the Data?**

For an investigative officer, the main difficulty of initiating a case under Article 212.1 of the Criminal Code is that the “final episode” — the action that triggers the mechanism of

criminal prosecution — does not differ from an administrative offence. They need to pay attention to a specific person and assess the presence of:

- a sufficient number of “preliminary episodes”;
- a “final episode”;
- “public danger” in the actions of a potential criminal. In 2017, the Constitutional Court deemed it to be necessary.

To understand that the “preliminary episodes” are not yet outdated, the respective rulings have come into force for all of them and are fitting within the required time, it is necessary to have a thoroughly documented judicial history of each administrative case and information about the date of execution of the punishment. At the same time, it must be taken into account that a court ruling should not yet be passed for the “final episode.”

The files from Ildar Dadin’s case, initiated back in 2015, show that at that time the investigators did not have all the necessary information. It contains an excerpt "from the Database on bringing Dadin I.I. to administrative liability." In addition, the case provides information about two and a half dozen detentions from March 2012 to September 2014. I.e., the violations with an expired “validity period” were included too. The cases mentioned are not only those initiated under Article 20.2 of the Code of Administrative Offences but also those under Article 19.3 of the Code of Administrative Offences (disobedience to a lawful request of a police officer). Both the dates of detention at protest actions and the dates of court rulings were included in these cases of “bringing to administrative liability” in the extract from the “Database,” and they were mixed up. The information about whether the rulings had come into force did not make it to the extract.

№ 1 содержится различные документы административного материала (расписки, жалобы с приложениями, итд.), ходатайства, доверенности, подписки, письма). На страницах №№ 322-325 тома № 1 содержится решение суда Московского городского суда Гринина Д.В. от 26.03.2015 об оставлении без изменения постановления суда Басманного районного суда г. Москвы от 30.01.2015 по делу об административном правонарушении, предусмотренном ч. 6.1 ст. 20.2 КРФоАП в отношении Дадина И.И. На странице № 326 тома № 1 содержится расписка о получении копии решения.

**Вещественное доказательство, приравненное таковым постановлением от 18.06.2015 /г. 2 а.д. 80-81/, административный материал № 5-1804/14 в отношении Дадина И.И. по ч. 6.1 ст. 20.2 КРФоАП, содержащийся в томе № 1 уголовного дела № 385554 на страницах №№ 203-326.**

**Иные документы:**

- **Информации из Базы Данных о привлечении Дадина И.И. к административной ответственности /г.1 а.д. 43-56/, из которого следует, что Дадин И.И. 05.03.2012 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 06.05.2012 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 18.03.2013 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 18.03.2012 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 09.05.2013 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 13.08.2013 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 05.07.2013 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 24.07.2013 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 08.08.2013 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 13.08.2013 привлечен к административной ответственности по ч. 1 ст. 20.1 КРФоАП, 20.11.2013 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 20.11.2013 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 06.12.2013 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 06.11.2013 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 06.03.2014 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 01.05.2014 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 08.05.2014 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 06.05.2014 привлечен к административной ответственности по ст. 3.4 КРФоАП, 24.05.2014 привлечен к административной ответственности по ч. 2 ст. 20.2**

Information from the Database on bringing Dadin I. I. to administrative liability /vol.1 l.d. 43-56/, from which it follows ...

КРФоАП, 28.05.2014 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 21.06.2014 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 12.08.2014 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 12.08.2014 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 06.08.2014 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 18.08.2014 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 23.08.2014 привлечен к административной ответственности по ч. 1 ст. 19.3 КРФоАП, 23.08.2014 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 23.08.2014 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП, 23.09.2014 привлечен к административной ответственности по ч. 2 ст. 20.2 КРФоАП.

- **постановление о выделении в отдельное производство материалов уголовного дела от 23.06.2015 /г. 2 а.д. 122-123/, согласно которому в отношении Дадина И.И. из уголовного дела в отдельное производство выделен материал, из которого следует, что 21.11.2014 в 21 час 10 минут по адресу: г. Москва, Софийская набережная, д. 36 был задержан гр. Дадин И.И., который принял участие в несогласованной органами исполнительной власти массовой акции в форме шествия, жет «учено с изображением Президента РФ В.В. Путина, с использованием пиротехнических изделий (фаер). В ходе шествия выкрикивал лозунги: «Слава Украине!», «Восставшему народу слава!». На законные требования сотрудника полиции, прекратить незаконные действия гр. Дадин И.И. не реагировал и продолжал совершать противоправные действия, после чего был задержан и доставлен в дежурную часть ОМВД России по району Якиманка г. Москвы.**

- **постановление об отказе в возбуждении уголовного дела от 23.06.2015 /г. 2 а.д. 125-126/, согласно которому, установлено, что Дадин И.И. по ст. 20.2 КРФоАП к административной ответственности за совершение правонарушения, произошедшего 21.11.2014 на Софийской набережной, не привлекался, в связи с чем, уголовное дело в отношении Дадина И.И. по признакам преступления, предусмотренного ст. 212.1 УК РФ, возбуждено быть не может, на основании чего принято решение об отказе в возбуждении уголовного дела.**

- **постановление Тверского районного суда г. Москвы от 19.01.2015 в отношении Дадина И.И. (г. 1 а.д. 261-268, г. 2 а.д. 106-108), из которого следует, что Дадин И.И. признан виновным в совершении административного правонарушения, предусмотренного ч. 5 ст. 20.2 КоАП РФ, совершенного 15.01.2015 по адресу: г. Москва, ул. Манежная площадь, д. 1, и ему назначено наказание в виде штрафа в размере 20 000 рублей.**

Information from the Database on bringing Dadin I.I. to administrative liability /vol.1 l.d. 43-56/, from which it follows ...

At the end of 2016, the police either did not understand the analysis of which data was necessary to initiate a case or did

not have such data. This is demonstrated by the attempt to open proceedings against Igor Klochkov, an activist from Moscow.

- In December 2016, the Centre for Combating Extremism **demanded** from the Tverskoy District Court of Moscow the files of administrative cases against Klochkov to initiate a case under Article 212.1. But the judge refused because the court decisions had not yet come into force.

But even in 2021, at least one criminal case had “preliminary episodes” with rulings that had not come into force. We elaborate on this case in the chapter “**What Prior Violations May Lead to Criminal Charges**”.

## **What information do law enforcement officers have?**

Is all the necessary information regarding prior administrative cases available to police officers when they decide whether to initiate an administrative offence case under Article 20.2 of the Code of Administrative Offences?

When a court issues a ruling, its copy **must** be sent to the police officer who drew up the report. A similar procedure is **stipulated** when a ruling is made in the event of an appeal. Who will be **notified** of the execution of punishment depends on the type of sanction: the court is notified of the arrest, and the **bailiffs** service is notified of community service. **Banks** **submit data** on payment of fines to the “State Information System on State and Municipal Payments.”

The administration of the place where an administrative arrest is served is obliged to notify the judge who issued the administrative arrest order about the beginning, place, and end of serving the administrative arrest by persons subjected to administrative arrest. The administration must also provide information on the existence of the grounds specified in part

3 of Article 17 of this Federal Law for suspending or terminating the execution of administrative arrest orders.

A copy of the decision made by the judge on the complaint against the decision in the case of an administrative offence considered by the judge is sent within three days after being issued to the official who drew up the report on the administrative offence.

It follows from the laws that information about persons who have committed an administrative offence is stored in police "data banks." The Investigative Committee is one of the entities that rely on this data in its work: an investigative officer considering a case and wishing to obtain information from the MVD databases submits either a request to the department or an instruction to MVD operatives to provide information as part of operational investigative activities.

Recently, an impressive number of various electronic databases containing data on Russian citizens have appeared in the arsenal of law enforcement officers. We will mention only those of them that we often find in court rulings on cases regarding rallies.

Information about court rulings already issued to a person under Article 20.2 of the Code of Administrative Offences is contained in the Integrated Data bank of the MVD of the federal (IBD-F) or regional level (IBD-R[egional]) in the "Administrative Practice" section. We do not know much about the structure of these databases. Some light on this, although only for one region, is shed by the published order of the Main Directorate of the MVD of St. Petersburg and Leningrad Oblast, which gives instructions on how to enter data into the "Administrative Practice" database. The order was issued in 2011 and is still in effect. According to this document, it is assumed that the information that police officers should enter into the database is related to outcomes of court cases and the payments of fines (the document does not mention arrest or community service), as well as check

with the database when initiating an administrative offence case.

IBD references can be found among evidence in court rulings. But the examples that we have been able to find only mention information on previous cases of bringing to liability and on penalties imposed, but not on rulings coming into effect.

- A **ruling** issued by the Zyuzino District Court of Moscow, dated 18 April 2022, on a case on repeated violation of established procedure of holding public events (p. 8 of Article 20.2 of the Code for Administrative Offences) claims that “The facts of the administrative violation being committed by Chidaran S.A. are confirmed <...> by the information from IBD-R and by a reference to an individual, according to which, Chidaran S.A. was brought to administrative liability under part 5 of Article 20.2 of the Code of Administrative Offences on 24 October 2019 and 31 July 2020. She has a fine of 10,000 rubles (~US\$125 both at the time and as of April 2023) imposed on her, the information on payment of the fine is not available.”
- A **ruling** issued by the Kolpashevsky City Court of Tomsk Oblast on 11 October 2022 on the case on disobedience to police officers (Article 19.3 of the Code of Administrative Offences) stated that “according to an IBD reference on administrative offences, In 2021, Kireev O.V. was repeatedly brought to administrative liability under Chapter 19 of the Code of Administrative Offences of the Russian Federation. The administrative penalties imposed have not been executed to date.”

Police are also using the “**AS Russian Passport**” database. One of the administrative cases that we have access to features a record extract from this system. Judging by the document, the database contains information not only on passports, but also on administrative offences, including offence dates, report compilation dates, and dates of bringing

the people in question to liability – but no information on the date when rulings come into force.

Nevertheless, during Alexey Vorsin's court proceedings, at the request of the prosecutor, the Khabarovsk Internal Affairs Bureau sent a spreadsheet containing information about those prosecuted for the 23 January 2021 protest action, with a column titled "Date of entry into legal force." Where exactly this information was drawn from is unknown.

It seems that the police are not always able to check if a person has enough rulings to start a case under Article 212.1 of the Criminal Code. According to lawyers cooperating with OVD-Info, a police officer has to make a call to the Information Centre of the Ministry of Internal Affairs and give their password to obtain information on prior cases.

- On Saturday 5 November 2022, Ilya Povyshev was **detained** by the police in Moscow, wearing a mask with an anti-war inscription. At the police station he was **charged** with "repeated" violation at a protest action – under part 8 of Article 20.2 of the Code of Administrative Offences. However, the police officers claimed that they had no way of confirming that the prior violation under Article 20.2 of the Code of Administrative Offences had come into force – they would not be able to do this until Monday. They refused to provide a copy of the report and left the detainee at the station until Monday. According to the law, such a long detention is possible if the report is drawn up under part 8, but if the previous "violation" had not been confirmed and the report was drawn up under part 5, the detention should not have exceeded three hours.

Judging from this case, at least over the weekend the police may not have access to full information on previous administrative offences, their trial and the execution of the penalty. This means that a person can only be suspected of an offence under Article 212.1 of the Criminal Code after a manual check and not always immediately.

Despite the problems described above with access to at least part of the information, it is clear that the level of technical equipment of the police will continue to grow.

In recent years, the Ministry of the Interior has been working to improve its databases. The authors of the "Net Freedoms" 2022 **report** "Political profiling technologies" describe the attempts by the MVD to create a system that would integrate "disparate regional and departmental data banks and police databases." "The system, dubbed 'IBD-F 2.0', was intended to replace the obsolete IBD-F[federal] scheme, created at the end of the last century, and IBD-R[egional], which brings together autonomous police databases. The new generation programme was to provide centralised automated maintenance of all police records (investigative, operational, forensic and other) and their interaction with databases of federal and regional authorities, municipalities, state and municipal institutions," the report says.

The first attempts to create a unified base failed due to disagreements between the MVD and its contractor. But it is possible that the introduction of a new, improved system combining the existing bases could result in less selective prosecutions for "repeated offences."

## **How information is collected before a case is initiated**

According to Article 140 of the Code of Criminal Procedure, a message about a crime may become grounds for an investigation. The message, in this case, **can** be someone's statement, a confession of a crime, a **report** from a law enforcement officer, or a prosecutor's order to send respective files to a preliminary investigation body.

Article 143 of the Code of Criminal Procedure **states** that a report is written if the information regarding a crime (committed or prepared to be committed) is received from

sources other than a statement, a confession, or a prosecutor's order. A court ruling, a publication in the media, or a direct observation of a crime can serve as reasons for a report.

In the cases known to us under Article 212.1 of the Criminal Code, the report is the starting point, as the relevant information is initially at the disposal of law enforcement agencies and courts.

After the message about a crime is received, an enquiry officer, an enquiry body, an investigative officer or a head of an investigating body must conduct a preliminary investigation to answer the question if the event contains in fact elements of a crime.

At least **14** people were subjected to such preliminary investigations between 2018 and 2021, after which it was decided not to prosecute – most often because the actions of the "perpetrators" did not constitute a crime (we do not know the exact reasons for these decisions). Some people were investigated two or three times. 8 out of 14 investigations took place in Khabarovsk Krai, where, since July 2020, residents have been protesting in support of ex-Governor Sergei Furgal almost daily, resulting in at least three court rulings on administrative cases for many of the protesters. **According** to local attorney Andrey Bityutsky, who cooperates with OVD-Info, MVD investigators would conclude that "there are no elements of crime because there is absolutely no public danger in the actions of the protesters."

- The case against the Khabarovsk activist, Archpriest Andrey Vinarskiy, was denied because, according to a document prepared by the police, his "actions did not constitute a public danger warranting their criminalization, as they did not result in harm or a real threat to the health of citizens."
- A former coordinator of Navalny's headquarters in Murmansk, Violetta Grudinina, was subjected to such investigations on multiple occasions, the last one taking place in 2021. The case was never prosecuted.

- The case against Navalny's Khabarovsk headquarters coordinator, Alexey Vorsin, was initiated, despite the lack of reasons at the preliminary investigation stage.
- The case file shows that the reason for Vorsin's inspection was a report from a senior enquiry officer of a police department. The main point of the report was that from August 2020 to January 2021, Vorsin repeatedly participated in unauthorized rallies and published an Instagram post calling for people to come to the protests on 23 January 2021 in support of Alexei Navalny.
- In the course of a preliminary inspection (OIA "making inquiries"), the police established that Vorsin had three court rulings that had entered into force under Article 20.2 of the Code of Administrative Offences within six months, and that the protest actions that gave cause for administrative prosecution were causing traffic problems and violating sanitary and epidemiological regulations.
- The investigation files were sent to the Investigative Committee, but the IC sent them back, claiming that Article 212.1 cases can be investigated by the MVD itself.
- The MVD investigator continued the preliminary investigation and ordered to establish who had seen Vorsin's post on Instagram, which of these people had taken part in the 23 January protest, and whether serious harm had been caused as a result of these rallies. Criminal investigation officers conducted door-to-door visits (in most cases, they were not let in) and questioned people, some saying that they had not gone to the rally, some saying that they had passed by during the event, and some saying that they had taken part in it. A month later, the investigator decided not to initiate a case, having found no evidence of a crime in Vorsin's actions.

- However, the prosecutor, who, under Article 148 of the Code of Criminal Procedure, received the investigator's refusal to initiate a case, believed that the investigator had "not established the cause-and-effect links" between Vorsin's call to participate in the protest action and the subsequent "disturbances of public order." The files went back to the Investigative Committee – and this time the case was opened. The whole process of transferring the materials to one another took about a month and a half.
- Interestingly enough, when the case had already been initiated, the investigation would ask the department for the enforcement of administrative law at the local Internal Affairs Bureau whether the rulings on the "preliminary episodes" had entered into force.

In Vorsin's case, even before a criminal case was initiated, the files passed through three government agencies: the MVD, the IC, and the Prosecutor's Office. When administrative offence cases are considered, courts sometimes get involved in the process as well. If a court of first instance finds elements of a criminal offence, it may terminate the administrative case, and the appellate and cassation courts may overturn the previous rulings.

- The judge who considered Ildar Dadin's administrative case regarding participation in a protest action on Myasnitskaya Street in Moscow on 5 December 2014, **dismissed** it as she deemed there were elements of a criminal offence in Dadin's actions. Immediately after that Dadin was driven to the Investigative Committee, and then after which it became known that a criminal case had been initiated against him. However, as follows from the case files, the case had been initiated three days before the court hearing – therefore, the judge acted as an assistant to the investigators.
- In October 2020, the Khabarovsk Regional Court **overturned** a 25-day administrative arrest **ruling** against Dmitry Fedoseyev, a Komsomolsk-on-Amur resident, under Article 20.2(8) of the Administrative Code of Administrative Offences for a repeated violation of the established procedure of holding public events. The reason for the overturn was that the trial court had not assessed the information about the elements of the crime under Article 212.1 of the Criminal Code. The case materials contained not only information on Fedoseyev's prior administrative charges under Article 20.2 – the court rulings of 5, 6 and 7 August and 3 September, all of which came into force in September – but also a report on the discovery of evidence of a crime and even an order to transfer a message about the crime to the Investigative Committee. But for some reason, the Tsentralny District Court in Komsomolsk-on-Amur ignored all of this. In December, the district court **re-examined** Fedoseyev's administrative case. By that time, the Investigative Committee had already refused to initiate a case, as it had not found "elements of a criminal offence" in the activist's actions. Therefore, the court ruled to arrest Fedoseyev for 18 days and released him from punishment, as Fedoseyev had served this term before the regional court overturned the previous ruling.

- The cassation ordinary court of second instance ruled to overturn the decision to fine Moscow municipal deputy Elena Filina because the court of first instance had failed to take into account that there were sufficient grounds to initiate criminal proceedings – Filina had three court rulings under Article 20.2 of the Code of Administrative Offences which had come into force within a six-month period. According to Filina, this ruling had no criminal consequences and no case was brought against her.

As we can see, the process of applying Article 212.1 of the Criminal Code may involve several agencies, which makes the process very complicated. Different agencies may assess the same circumstances in different ways. It is not entirely clear what becomes the starting point for a preliminary investigation before a case is initiated. It is possible that police officers are tracking cases of the same people being prosecuted under Article 20.2, but we do not have precise information on this.

We see the law enforcers targeting "repeat offenders" against the backdrop of mass protests. Such searches were conducted in at least some regions in 2021 following several large rallies in support of Alexei Navalny.

- In Barnaul, on the same day, 28 April 2021, a week after the most recent rally in support of Navalny, Viktor Rau was subjected to a search and interrogation on a criminal case and Maria Ponomarenko was subjected to a preliminary investigation. Later it became known that no criminal case was opened against Ponomarenko, but the preliminary investigation files were used to initiate an administrative case for repeated violation of the established procedure of holding public events (part 8 of Article 20.2 of the Code of Administrative Offences).
- In Kaliningrad, in June 2021, a preliminary investigation was conducted into Evgenia Fedulova and Vadim Khairullin, and in August it became known that criminal proceedings had been initiated against both of them. The "final episode" for both was their participation in an April action in support of Navalny.

## **HOW GUILT IS PROVEN**

A significant part of the proof in cases initiated under Article 212.1 of the Criminal Code are rulings on administrative offences that have entered into force. This way, technically, there are circumstances in the case that have already been examined by courts. This approach allows for very short investigation timelines as in Konstantin Kotov's case – the investigation took only two days.

It is relevant here to **remember** the standard procedure of establishing guilt under Article 20.2 of the Code of Administrative Offences.

The standard evidential base when cases under Article 20.2 of the Code of Administrative Offences are examined in court is the administrative offence report, the record of detention and arrival at the police station, statements and explanatory reports written by police officers, and official confirmation that no prior notice of the event was given. In order to find a

violation proven, the court may only need the offence and apprehension reports and a report from a single police officer.

An offence record is typically a printed-out form with only the detainee's name written in by hand. The form is often prepared in such a way that the same version can be used regardless of the "offender's" gender: for example, it includes such forms as "выкрикивал (а)" ([he/she] shouted) or "продолжал (а)" ([he/she] continued). Police reports are "carbon copied" in a similar manner.

Despite the boilerplate nature of reports, discrepancies between case files and facts, and obvious mistakes, the vast majority of courts unquestioningly take the side of the police. "There are no reasons not to trust the police officer's report because the circumstances described in the report correspond to the administrative offence as described in the administrative offence report" is how judges respond to complaints from the defence. Attempts to challenge such decisions in the appellate courts usually fail. There is more about this in OVD-Info's [report](#) on the application of Article 20.2 of the Code of Administrative Offences.

Errors that significantly distort the facts can also be found in materials of cases initiated under Article 212.1.

- In the order on initiating Alexey Vorsin's case, the events of 15 August are dated 18 August. This error was found in the ruling of the court of first instance on the administrative case but was corrected to 15 at the appellate court.
- In the same case, the protest action of 21 January 2021 is incorrectly dated 2020 in the testimonies given by several witnesses (police officers).
- In the search warrant for Kirill Ukraintsev's home, two court rulings issued in 2021 are dated 2020.

In 2017, the Constitutional Court [judgement](#) on Ildar Dadin's case [stated](#) that in cases under Article 212.1 of the Criminal

Code, all of the “preliminary episodes” rather than only the “final” one must be investigated. In Vadim Khairullin’s case in 2021, witnesses — most of them being police officers — were questioned regarding the circumstances of the previous offences. In Alexey Vorsin’s case, in response to the investigators’ request, Khabarovsk police submitted detailed information on the events from the “preliminary episodes.”

## **Need for "threat"**

The key point in the Constitutional Court judgement was the requirement that Article 212.1 of the Criminal Code be applied only if “repeat violation of the established procedure of holding public events” resulted in “damage or real threat of damage to the health of citizens, property, environment, public order, public safety, or other constitutionally protected values.” This, however, does not allow us to make an unambiguous conclusion as to what exactly causes the threat: only the “final episode,” all of the “episodes,” or the repeated nature of the offence per se.

This issue was also **raised** by Grigory Vaypan, Head of Litigation Department at the Institute for Law and Public Policy and the author of the statement on Vyacheslav Yegorov’s case for the Human Rights Council. According to Grigory Vaypan, “the resolution does not state clearly whether the previous offences must pose a threat. The Constitutional Court only states that criminal liability may not be brought forth if the fourth offence does not pose a threat. It does not say whether prosecution under Article 212.1 is possible if the previous three were not dangerous.”

In 2021, the Legal Administration of the State Duma **noted** that Article 212.1 of the Criminal Code required clarification because only some parts of Article 20.2 of the Code of Administrative Offences provided for liability solely in case of adverse consequences (damage to health or property, endangering public safety or the environment, obstructing

the functioning of vital facilities, transport or social infrastructure, communications).



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After the 2017 judgement, in most cases, when examining a case, even if the investigation or the court did appeal to the Constitutional Court's requirement, they did so only formally, labelling almost anything as danger or threat of danger.

In certain cases, the emphasis was on the "final episode."

- For instance, in Vyacheslav Yegorov's case, the "gathering of 40 citizens in front of the entrance to the Kolomna City Court" was considered a *potential* threat. According to the investigators, Yegorov acted as the organizer of the gathering, having posted on Yandex.Zen that anyone could attend the court hearing. The police officers who were questioned during the hearings only supposed that the mass gathering could endanger the public.
- In Andrei Borovikov's case, obstructing traffic and disruption of a PE event were cited as a "real threat."
- In Kirill Ukraintsev's case, it was claimed that the people who, due to his post, gathered at the protest action, blocked access to the parking lot of a shopping centre.

In other cases, investigating officers claimed that all the "episodes" or at least some of the preliminary ones featured some threat.

- In Yana Drobnokhod's case, her participation in or organization of events was cited as "endangering public health, property of individuals and legal entities, the environment, public order, public safety, or other constitutionally protected values" without any specific details.
- In Vadim Khairullin's case, the investigation deemed that his "illegal participation" in public mass events and chanting slogans "created a real threat of damage" (and so on in line with the wording of the Constitutional Court).
- Alexey Vorsin's case featured three videos that the investigators attempted to interpret as calls to participate in the same event, but one of the videos became a "preliminary episode" and the other two became "final episodes." The investigators ordered a linguistic assessment of the videos and questioned the participants of the event in order to establish whether the videos had caused illegal acts. Besides, it was initially claimed that the event in which Vorsin called to participate disrupted the functioning of public transport, preventing 472 trips, but this was **left out** of the final version of the charges: the traffic control responded to the investigators' query that "the lost trips had been rescheduled." In addition, the investigators questioned a man who came across a column of event participants while driving and claimed that someone from the column was banging on his car and grabbing it.
- Yulia Galyamina's case featured references to the non-peaceful nature of the event of 15 July 2019. It was mentioned that the event "created a real threat of substantial damage to public order, public safety, rights and freedoms of the citizens, and constitutionally protected values."

In Konstantin Kotov's case, the threat, according to law enforcement officers, was the fact that at one of the protest

rallies he obstructed pedestrians' movement, and at another one, he called for unlawful actions "against the health of citizens, property of individuals and legal entities," and for "resisting lawful demands of law enforcement officers who were stopping the illegal holding of a mass event," and at a third one – both. Later, when the defence appealed against the conviction, the prosecutor's office cited among the threats arising from Kotov's actions the fact that citizens were unable to access Moscow's landmarks. The prosecutor also provided court rulings on **claims** for compensation of funds spent by the state to provide security in connection with the 27 July and 3 August 2019 rallies in support of unregistered opposition candidates for the Moscow City Duma. The lawsuit was brought against a group of opposition candidates. Not only was Kotov not among them, but he was also not even present at the rallies in question.

Some cases mention threats to constitutionally protected rights. Konstantin Kotov, Yulia Galyamina and Vadim Khairullin were accused of threatening the right guaranteed by Article 27 of the Constitution. As **stressed** by the author of the independent opinion in the Kotov case, legal expert Elena Lukyanova, this article refers to the right to freely move around the country and choose a place of stay and residence. The prosecution, followed by the court, in this case, applied this article to the movement of people around the city.

Starting in 2020, a new "real threat" appears in cases under Article 212.1 of the Criminal Code – the danger of COVID-19 infection. For the first time, this argument appears in the case against Yulia Galyamina – the investigation made not only claims regarding damage to restaurants in Moscow city centre caused by the protest action on 15 July 2020 but also claims that people in the crowd during the event did not keep the social distance. The investigation was unable to provide evidence for these claims.

Meanwhile, back in April 2020, a few months before the case against Galyamina was initiated, the Supreme Court **issued** a "review of judicial practice" in which it tried to clarify what should be understood by "mass disease" and "endangering." The Court drew attention to the following:

- when deciding whether to classify a disease as a mass disease, not only the number of people who fell ill or were poisoned should be taken into account, but also the severity of the illness (poisoning);
- to determine the extent of the disease or poisoning, the court may involve relevant specialists, e.g., representatives of federal executive bodies authorized to carry out state sanitary and epidemiological oversight or oversight of consumer protection and human well-being;
- it is necessary to prove the reality of the threat when the mass disease or poisoning did not occur only as a result of measures taken in time by the state authorities, local authorities, medical workers and other persons, or due to other circumstances beyond the control of the defendant.

This clarification, however, as can be **seen** in the OVD-info report on the application of the article on violation of sanitary and epidemiological rules (Article 236 of the Criminal Code) to protesters, has not prevented cases from being investigated and sentences from being passed without proof of real danger.

- The threat of coronavirus infection also appeared in Yana Drobnokhod's, but only one line was devoted to it.
- In the case against Alexey Vorsin, this threat was also mentioned. In particular, the photos of the 23 January 2021 protest action that were included in the case file specifically indicate that some of the participants did not have medical masks. What's more, there is a reference from Tatyana Zaitseva, head of Rospotrebnadzor Regional Directorate in Khabarovsk Krai, to the effect that the 23 January 2021 rally in support of Navalny could increase the number of people infected. However, Mediazona cites the **data** from the local operational headquarters for the coronavirus, showing that the number of detected cases was gradually declining in the following days.
- In Kirill Ukraintsev's case, the danger of contracting the coronavirus was mentioned as well.

Only one case mentioned inflicting physical harm on police officers, whereas there were no cases on violence against representatives of the authorities (Article 318 of the Criminal Code). Apparently, the investigation was trying to prove that the event had lost its peaceful nature – the Constitutional Court judgement cites such a situation as a possible condition for the application of Article 212.1 of the Criminal Code.

- Alexey Vorsin's case includes testimonies from police officers regarding how participants of the 23 January 2021 Khabarovsk rally in support of Navalny, with the announcement of which Vorsin was charged, tore their clothes and knocked out one of their teeth.

Yana Drobnokhod's case mentions her telephone conversations, during which she discussed the possibility of obtaining weapons to change the constitutional order by force – this was also presented as evidence that the actions of the accused contained a threat to public order.

The 2020 Constitutional Court **ruling** in Kotov's case contains an important statement that "holding any public event usually entails certain inconveniences for citizens not participating in it," but these "inevitable costs of freedom of peaceful assembly" "cannot in themselves be regarded as creating a real threat of harm."

At the same time, the Constitutional Court provides a list of actions indicative of real danger: "provocative appeals to violate the law, aggressive rejection of legitimate demands of authorized officials, use of masks or other means specifically designed to conceal a face or make it difficult to identify the person, etc." Thus, virtually any activity (and even the position) of an active participant can become a cause for initiating a criminal case, given the necessary number of decisions on administrative cases is reached, and given compliance with the necessary deadlines.

In the words of OVD-Info attorney Maria Eismont, "The ruling in the Kotov case has worsened the situation with freedom of assembly without resolving any of the problems with the ruling in the Dadin case, adding new uncertainties. One of these is the list of actions allegedly indicating real danger."

## **Need for intent**

The Constitutional Court judgement also **states** that there must be intent in the actions of a person prosecuted under Article 212.1. It is not entirely clear whether each violation of the rules for holding rallies must be committed "intentionally," whether a person must intentionally commit them "repeatedly" and how the existence of intent should be proven. From the Constitutional Court judgement, we can assume that if a person has broken the rules with the required number of "preliminary episodes" within a certain period of time, but "inadvertently," they should not be held criminally liable.

- For example, in the case against Vadim Khairullin, the investigation indicates that even in the very first "preliminary" offence he exercised the intent: at this time, he "decided to repeatedly and in violation of the established order participate in the organization and holding of rallies, marches and pickets."
- On the contrary, Yana Drobnokhod's case states that her intention came to be after she had been prosecuted four times for "preliminary episodes."

## **Marginalising the accused**

Sometimes the investigation tries to portray the accused as people dangerous to society. The verdict in the case against Konstantin Kotov mentioned his "destructive ideology" and "destructive behaviour" at the 10 August 2019 protest action, expressed in chanting slogans (although Kotov did not even have time to take part in the action, having been detained 30 seconds after leaving the metro station). "Destructive behaviour" was also imputed to Yulia Galyamina.

In Moscow and Khabarovsk, the investigators have been clinging to the wording "constitutionally protected values" mentioned in the Constitutional Court judgement. At least three defendants in the criminal cases initiated since 2019 — Konstantin Kotov, Yulia Galyamina and Alexey Vorsin — are accused of continuing, despite the already issued court decisions, to participate in actions "without drawing proper conclusions, despising constitutionally protected values, thus demonstrating a contemptuous attitude towards the state authorities of the Russian Federation and society as a whole."

Elena Lukyanova, Doctor of Law, Director of the Law Enforcement Effectiveness Monitoring Agency, noted in her [expert opinion](#) on Konstantin Kotov's sentence that she was unaware of such an objective aspect of the crime as

"contempt for the values." In addition, the professor stressed that neither the law enforcement bodies nor the court had the right to arbitrarily interpret these values without references to the decisions of the Constitutional Court.

In a number of cases, in order to smear the defendants, the investigation would mention additional facts not directly related to the case.

- For example, the case files of Arkhangelsk activist Andrei Borovikov stated that he "organizes provocations in order to use violence against representatives of the authorities" and recruited locals "prone to illegal behaviour" into the "Pomorye – ne pomoyka" ("Pomorye is not a dump") movement and that he himself was "prone to illegal and criminal behaviour," "aggressive," and had been prosecuted three times. Borovikov was presented as an instigator of riots and destruction: he allegedly repeatedly said that the construction of the landfill at Shiyes station should be stopped by force, and his calls were "implemented" by other eco-activists.
- Ildar Dadin's case included a character reference written by the district police officer at Dadin's place of residence, which mentioned his repeated trips to Ukraine and participation "in mass disturbances on the side of the Right Sector," as well as an interrogation of Dadin's father, who said that his son had participated in "anti-government demonstrations" in Kyiv in December 2013 or January 2014.
- Vadim Khairullin's case files feature a character reference drawn up by the head of the department of district police officers, which states that Khairullin "is characterized negatively by neighbours at his place of residence" and has been repeatedly brought to administrative liability not only for violation of the established procedure of holding public events but also for violation of traffic rules and even in relation to destruction or damage to another person's property. When this character reference was read during a court session, Khairullin **claimed** that he first learned about his involvement in the damage to property from this document and that none of the neighbours he had spoken to had been asked about it by the district police officer. As a result, even the prosecutor suggested that this document should be disregarded, as it "does not fatally affect the characterization of Khairullin's personality."

It is not only the defendants themselves that are marginalised but also those whom they encourage to participate in the actions. The sentences issued to Kotov and Galyamina feature the same wording about "the deliberate tortious behaviour of the participants of the illegal action, who have initially chosen a behavioural pattern outside the legal framework."

## **WHAT CONSTITUTES GROUNDS FOR DISMISSAL OR MITIGATION OF SENTENCE**

**Five** criminal cases under Article 212.1 of the Criminal Code were dropped during the investigation phase. In two of the cases, the reason was that the investigation did not find a real threat in the actions of those prosecuted, which the Constitutional Court deems necessary.

- In Khabarovsk, the investigator in charge of Alexander Prikhodko's case did not find anything criminal in the activist's actions and considered that they did not create a public danger, as they could not cause harm to the health of citizens, property or other values protected by law.
- Similarly, in Barnaul, the investigator **found** that Victor Rau's actions "did not contain a real threat of causing harm to constitutionally protected values" and that his posts on social media did not contain any calls for action.

In three other cases, formal grounds prevented the cases from proceeding to trial.

- In Alexander Kashevarov's case, only one of the three required court rulings on "preliminary episodes" had come into force when the criminal case was initiated.
- In Mark Galperin's case, all "episodes," including the "final" one, were dismissed by the court rulings. Moreover, the "final episode" took place two months after the criminal case was initiated.
- One of the court decisions under Article 20.2 of the Code of Administrative Offences that formed the basis of Evgenia Fedulova's case was subsequently overturned.

**Two** cases were dismissed by the court.

- In Pavel Khokhlov's case, the court mentioned no "real damage" and "active repentance."
- Yana Drobnokhod's case was dismissed due to her "making amends for the harm caused by the crime by providing charitable assistance" to a social rehabilitation centre for minors "Victoria." However, the prosecution has appealed against this decision, arguing that a charity donation could not be considered a reparation for the damage caused by the activist's actions. The case was later sent for a retrial.

**Two** sentences were commuted in appellate courts.

- Ildar Dadin had his sentence reduced from three years to two. The cause was that, according to the case materials, the activist had only violated the rules of conducting rallies, pickets, and marches, but not those of demonstrations and gatherings.
- Konstantin Kotov's sentence was reduced from four years to one and a half, but this happened after the Constitutional Court had ruled on his case, and the case was first taken to the Supreme Court, and then returned to the appellate court. The prosecutor's office asked for a reduction of the sentence on the grounds that the court had not explained why Kotov should have been sentenced to four years in a penal colony.

## **PROBLEMS AND NEGATIVE CONSEQUENCES FOR LEGISLATION**

We believe that multiple problems related to the application of Article 212.1 of the Criminal Code originate directly from the article creation and the wording of its norms.

Clarifications made by the Constitutional Court have been of little help. In many ways, these problems reflect the character traits of Russian law-making in general, with its prohibitive trends and unspecific definitions that leave a lot of room for interpretation. At the same time, the emergence of Article 212.1 of the Criminal Code has become a starting point for new approaches in the area of repressive law-making.

### **Actual offences are unrelated to those that the MPs intended to tackle**

As the draft law was discussed in the State Duma, the MPs arguing for Article 212.1 of the Criminal Code explained that it was targeting those who “make holding rallies their profession,” “deliberately call people to the barricades,” and “urge them to break down pavements, attack the police and

break through somewhere.“ According to the positions voiced, the new norm was not meant to crack down on peaceful protests, but rather on "recidivist, gross violations of the law," so that "cobblestones as weapons of the proletariat would be a thing of the past."

Adding a separate article, however, was absolutely not needed, since the Criminal Code already included liability for mass riots, calls to rioting, and violence against representatives of the authorities.

The last eight years have shown that Article 212.1 has been mostly applied in connection with peaceful protests. The primary violation in these cases is that the actions **were not approved** by the authorities – even when it is not formally required, like in the case of solitary pickets. The alleged criminals here are people who merely wanted to exercise the constitutionally guaranteed right to freedom of peaceful assembly.

## **Extremely severe punishment for non-violent acts**

The maximum sentence under Article 212.1 is five years in prison. Repeated offences at rallies are on a par with crimes such as the murder of a newborn child by their mother (Article 106), the illegal performance of an abortion resulting in the death of the mother (Article 123), or the homicide of two or more persons committed in a state of passion (Article 107 of the Criminal Code).

At the same time, obstructing a public demonstration, even when carried out with the use of violence (Article 149), is considered a misdemeanour and is punishable by up to three years of imprisonment.

Besides, as early as during the debates over the draft law in the State Duma, Viktor Pinsky – a United Russia MP – criticized the lower limit of the fine under this article

(600,000 RUB, ~US\$17,000 at the time of the debates, ~US\$10,200 at the time of the judgement, ~US\$7,400 as of April 2023) as too high, arguing that it would “will not allow judges the flexibility to take into account the circumstances of the case and the personality of the offender when determining a particular penalty.” Pinsky’s remarks, however, were not taken into account.

## **Whether there is a "crime" depends on the actions of the authorities**

The key criterion for initiating a criminal case is the time passed between two separate offence episodes. The starting point is considered to be not the date of the “offence” itself, but the conviction date or the date when it came into force. Thus, the transition from an administrative to a criminal offence depends not on the activists themselves, but exclusively on the police and courts.

The police can easily manipulate the time frames, initiating administrative cases right after the protest actions – or months after. This allows for “fitting” the offences into the necessary six-month periods, or — alternatively — for keeping three active “preliminary episodes” for as long as possible to prevent the activists from participating in further protests.

Apparently, such manipulations have been made with Yulia Galyamina’s administrative cases. At the 27 July 2019 protest action, she was detained twice, and on 6 and 21 August, she was detained and **arrested right after** leaving the detention centre. Two more reports were drawn up later, on 12 December, for the events that took place almost five months earlier – on 14 and 17 July. The court heard the corresponding reports on 24 December 2019, and the decision came into force in February 2020.

Similar developments were seen in the case of Moscow municipal deputy Konstantin Yankauskas, against whom no

criminal proceedings were initiated after all. Like Galyamina, he was detained multiple times in summer of 2019 in relation to the protest actions dedicated to the Moscow City Duma election; each detention led to an arrest or a fine. Five months later, he had two more reports drawn up against him for the July protest actions. In Yankauskas' opinion, this was done on purpose so that he would remain on the hook for a long time, under the threat of criminal proceedings.

Repeated arrests immediately after release from custody, followed by the prosecution for participation in past rallies, are a technique that was actively used in 2020 in Khabarovsk, where large-scale protests in support of former governor Sergei Furgal took place starting in mid-July. Such detentions have been dubbed "carousel arrests." You can read more about them in [this OVD-Info report](#). Although we are not aware of any criminal cases initiated following such "carousel" arrests in Khabarovsk, having several active administrative cases may have made protesters feel more threatened.

The use of facial recognition systems offers even greater opportunities to manipulate the time frames for offences. People who were not detained at protests can be detained and prosecuted for old offences months later. In Moscow, facial recognition systems have been [used](#) en masse to detect protesters since 2021. In 2022, people were preventively detained in the subway on official holidays – we [know](#) more than 140 such cases. According to the police, people who have been [detained](#) at protests in the past or whose faces could be identified in photos taken at the protests are given a dedicated tag in the “Sphera” database. When they enter the subway and the cameras identify their faces, this information is transmitted to law enforcers. People who were detained in the subway recounted to OVD-Info what police officers told them about how the system worked:

- “For those of you who took part in these rallies of yours, there’s usually a special tag in the system or something in the notes;”
- “Either a red or a green button lights up. Red means the dangerous category for today, and green — you were green — is not dangerous: we won’t draw up a report, just look at your phone and write down your first and last name.” The police officer was talking about 12 June when the police were apparently expecting mass street protests.

The general context of restrictions on freedom of assembly in all its manifestations should also be taken into account.

Liability under Article 20.2 of the Code of Administrative Offences of the Russian Federation is in most cases linked solely to a protest being “unauthorized.” Being able to obtain a permission for a public event depends directly on the rules imposed by the lawmakers, as well as on the actions of the specific authorities that review petitions for permissions for an upcoming event. It is they, not the organizers and certainly not the participants, who determine whether or not an action will be authorized. We explain the authorization procedure as a tool for controlling protests in detail in the reports [“The Art of Prohibition”](#) and [“The Art of Prohibition 2.”](#)

The police, for their part, have the choice of who to prosecute and under which article to classify the “offence.” For example, instead of part 6.1 of Article 20.2 of the Code of Administrative Offences — on participation in an event which obstructed traffic — Article 12.30 of the Code of Administrative Offences can be applied on violation of traffic rules resulting in “obstruction of traffic movement,” or Article 20.18 of the Code of Administrative Offences on “blocking transport communications.” We explain in detail which articles are used in connection with protests in the chapter [“What Prior Violations May Lead to Criminal Charges”](#).

# Transforming an article of the Criminal Code without making actual amendments to the Criminal Code

What constitutes an offence under Article 212.1 of the Criminal Code depends on how Article 20.2 of the Code of Administrative Offences changes, as well as on the requirements for obtaining authorization for an event and other aspects of the laws on rallies.

As of 2022, there are 13 parts to Article 20.2 of the Code of Administrative Offences. Four of them were added after Article 212.1 was created:

- part 1.1 — on involving a minor in an unauthorized protest (added in December 2018);
- part 6.2 — on the use of a distinctive sign of a mass media representative during a rally by an unauthorized person (April 2021);
- part 9 — on violation of fundraising or expenditure reporting requirements by the organizer (added in February 2021);
- part 10 — on the transfer of funds for the organization of an event by an entity, alien, person under 16, NPO or a person who had been declared a 'foreign agent' (added in February 2021).

Due to changes to Article 20.2 of the Code of Administrative Offences, not only participants and "organizers" of protest actions are now at risk of criminal prosecution, but also those who donate money for their organization, as well as those who "involve" minors in protests in some way or who fail to prove their right to use a distinctive media sign during a protest.

Thus, the definition of an offence under Article 212.1 of the Criminal Code appears to be too flexible – it can change

depending on changes to the Code of Administrative Offences without additional amendments to the Criminal Code. Yet changes to the Criminal Code require official reviews from the government and the Supreme Court of the Russian Federation and should not be included in the text of laws amending any other legislation.

What is or is not considered an offence under Article 212.1 of the Criminal Code is indirectly influenced by changes in the rules for organizing protests, as well as by the introduction of separate penalties for actions which could previously be interpreted as violations under Article 20.2 of the Code of Administrative Offences. Examples include Article 20.2.3 of the Code of Administrative Offences on filing a notice which does not state the purpose of the event, part 2 of Article 20.3.3 of the Code of Administrative Offences on calls for unauthorized actions aimed at discrediting the army, and Article 20.6.1 of the Code of Administrative Offences on failure to comply with the "coronavirus" restrictions.

With the beginning of the COVID-19 pandemic in 2020, the restrictions on public events that were clearly of discriminatory nature began to be introduced at the regional level as well. "In fact, the essence of the criminal act is now defined not only by the Criminal Code but also by the Code of Administrative Offences, as well as by decisions of regional officials. As a result, due to differences in regional legislation on the procedure of holding mass events or restrictions related to COVID-19, the same act may or may not lead to criminal liability depending on the region," explains lawyer Dmitry Piskunov.

## **Different kinds of actions are deemed "repeated" violations**

A criminal case under Article 212.1 of the Criminal Code is based on "repeated" violations under Article 20.2 of the Code of Administrative Offences. Lawmakers, and subsequently

the Constitutional Court, justified this by the need to increase liability for each subsequent offence.

- One of the authors of the draft law, Alexander Sidyakin, **explained** the need for the introduction of a criminal article as follows: "The law does not fully fulfil its preventive function, and people who violate the law on protests time and time again will keep doing it. One time is an accident, the second time is a coincidence, but when we are talking about someone violating the law for the third time, that is a pattern, so we propose to establish criminal liability and introduce a new Article 212.1 into the Criminal Code."
- Following the lawmakers, the Constitutional Court also argued that "the idea behind such legislative regulation <...> is to consistently (gradually) increase liability for violations of the established procedure of organizing or holding a public event committed two (administrative liability) or more (criminal liability) times"

This fails to take into account that Article 20.2 of the Code of Administrative Offences penalizes a wide variety of actions. As a result, "repeated" offences can take various forms – for example, solitary picketing, fasting, wearing a T-shirt with a protest inscription, or stepping onto a roadway during a protest.

The Russian government noticed this problem even before Article 212.1 was adopted, proposing that the Duma finalize the draft law. The government's review emphasized that Article 20.2 of the Code of Administrative Offences contained parts implying different conditions for liability, while the text of the criminal article listed any offences under Article 20.2 of the Code of Administrative Offences as equivalent. In addition, the government did not appreciate the fact that the criminal article suggested the same liability for organizers and participants of public events. The review was never taken into account: MP Sidyakin, speaking in the Duma

before the draft law was passed on first reading, described the government's review as positive.

In 2021, the Legal Department of the State Duma emphasized that Article 212.1 of the Criminal Code "does not meet the principle of fairness" and required specification, as it failed to take into account that some parts of Article 20.2 of the Code of Administrative Offences implied obligatory negative consequences, while others did not.

## **Use of unspecific terms**

Due to the complex and vague definition of "repetition," it is unclear which acts ultimately constitute a crime and which do not. Whereas clarification of certain terms can, with some effort, be found in other laws or in a ruling of the Constitutional Court, others leave room for different interpretations.

Although the Constitutional Court has required that consideration be given to whether the "violations" have resulted in a "genuine threat," the explanation of the term itself is not provided. In practice, such "threats" have been sought to include, for example, the possibility of spreading COVID-19, hypothetical interference with traffic, blocking pedestrian access to landmarks, and disrespectful attitudes towards the authorities.

Furthermore, it remains unclear whether the required 180 days should be calculated starting from the dates on which the courts of the first instance rendered their rulings or from the dates on which the rulings entered into force (see Kirill Ukraintsev's case description in chapter "[How Much Time Has to Pass Between 'episodes'](#)").

It has not yet been clarified which episodes have to fall within the 180-day period – only the "preliminary" ones or the "final" ones too. It may be recalled that in Andrei Borovikov's case, the investigation claimed that the "final episode" began not

on the day of the protest action, but rather when he began some kind of event organization activity.

The situation is exacerbated by the fact that there are articles in the Criminal Code in which the concept of 'repeatedness' has different meanings and criteria. According to Article 180 of the Criminal Code (On Illegal Use of Trademarks), for instance, two or more offences are considered "repeated", with no court rulings in relation to them. In a number of other articles, a single conviction in an administrative case is required so that the subsequent offence within a year of the execution of the penalty will be considered "repeated."

The use of vague wording can be explained by the low competence of lawmakers. However, such wording may have been introduced deliberately to intimidate potential protesters and create a more flexible tool for law enforcers. In recent years, the introduction of ambiguous notions has become a method that lawmakers employ to create new repressive laws, even though it is hard to prove that this is done deliberately.

- In 2022, United Russia MP Oleg Matveychev, in his [comment](#) for the podcast "Hello, You're a Foreign Agent" on toughening the legislation on foreign agents and its use of ambiguous criteria, explained that this would make the law more effective: "In order for the law to be effective, it is made in such a way that whoever we need we can always declare a foreign agent." According to Matveychev, "when discussing such issues in the State Duma, [co-author of the bill Vasily] [Piskaryov's](#) answer was simple: if your amendment is passed <...>, the effectiveness of the law, and therefore the issue of national security in our country, will be greatly reduced. In other words, we could just weed it out, make a million different amendments <...> and it would become easy to get around it, so there would be no point in passing it in the first place. Now, that way it won't be easy to get around and so, these people — we all know who we mean — they will get that sense of an axe, a thrust over their heads, and they will be afraid."
- Similarly, United Russia MP Viktor Pinsky, during discussions on Article 212.1 of the Criminal Code in 2014, answered the question on how peaceful rallies are supposed to be distinguished from "deliberate provocations": "I wanted to add that it will not be up to me to sort out and distinguish between recidivism and non-recidivism – that will be up to the judicial authorities. I think they will analyse the circumstances case by case and make the right decisions."

## **Constitutional Court Judgement on Article 212.1 of the Criminal Code as an argument for restricting freedom of assembly**

The Constitutional Court judgement in Ildar Dadin's case not only failed to relieve the peaceful protesters of the threat of criminal prosecution but also added reasons for prosecuting them under the Code of Administrative Offences. Courts

reviewing cases under Article 20.2 of the Code of Administrative Offences started to refer to this judgement when they wanted to explain that the constitutionally guaranteed freedom of assembly can be restricted.

The Constitutional Court's demand that there must be a real threat of adverse consequences in order to prosecute under Article 212.1 of the Criminal Code has been followed by the introduction of the notion of "threat" into other articles of the Criminal Code, as in cases of the articles on **obstruction of traffic** (Article 267 of the Criminal Code) and of **violation of sanitary rules** (Article 236 of the Criminal Code), which were also applied in connection with public protest actions. The lack of clear criteria for a threat in the context of public events has **created** opportunities for law enforcement authorities to misconduct.

## **Article 212.1 has established the use of criminal penalties for repeat administrative offences**

Criminal articles that took prior administrative offences into account already existed during the Soviet period. For instance, Article 79 of the Criminal Code of the RSFSR of 1922 stipulated criminal liability for repeated failure to pay taxes on time or to comply with levies after the first administrative penalty.

The first article featuring administrative prejudice in modern Russia was Article 151.1 of the Criminal Code on retail sale of alcohol to minors, which appeared in 2011. It was brought into play when a person had a court ruling under Article 14.16 of the Code of Administrative Offences.

The first time that prior administrative offences were taken into account in connection with protest rallies was in 2012. Among the amendments toughening the law on rallies there was a ban on organizing rallies for those who have been

"convicted twice or more" under a number of articles, including Article 20.2 of the Code of Administrative Offences, for as long as they were considered subjected to administrative penalty.

Since the introduction of Article 212.1 in 2014, the Criminal Code has been supplemented almost every year with penalties for various administrative offences committed more than once.

According to lawyer Dmitry Piskunov, the essence of administrative prejudice comes into conflict with the principle of legality (Article 3 of the Criminal Code) which stipulates that "the criminality of an act as well as its punishability and other penal consequences shall be determined only by this Code." Besides, as provided for by Article 14 of the Criminal Code, an offence is an act which is prohibited by "this Code."

During discussions around Article 212.1 at the Constitutional Court, it has been argued that criminal prosecution for a repeated administrative offence leads to a situation where a person is effectively punished twice for the same acts – even though according to the Constitution, "no one may be convicted twice for one and the same crime." The Constitutional Court responded that Article 212.1 of the Criminal Code only imposed punishment for the most recent "offence" for which there was no penalty. In practice, we see that in the materials of some cases, the entirety of "offences" is presented as a single crime. So, in the case against Vadim Khairullin, for example, it is even argued that the defendant had the "deliberate criminal intent" to repeatedly violate the rules of the rally even before his first rally.

The Criminal Code contains the notion of "recidivism," which is the commission of an offence by a person previously convicted of a criminal offence and which entails a harsher penalty. When recidivism is established, minor offences are not taken into account at all, whereas much less significant

administrative offences lead to criminal liability. As a result, a preceding administrative offence influences the next punishment more than a criminal one.

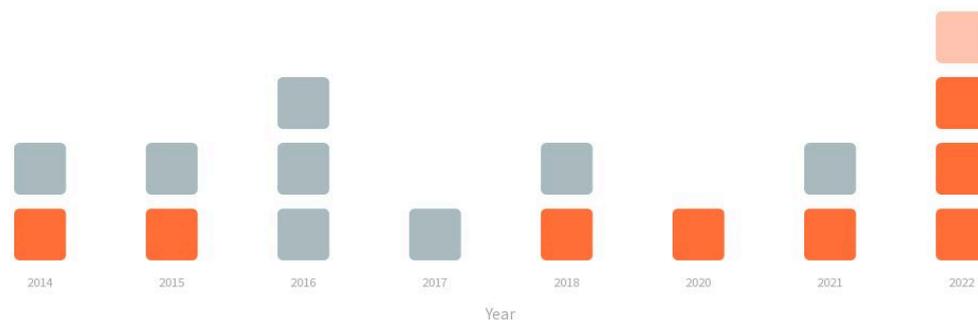
As of the end of 2022, there were at least 17 criminal articles with administrative prejudice. Eight of these articles involve restrictions on the right to freedom of expression, assembly or association. Apart from 212.1 itself, these are:

- Article 284.1 of the Criminal Code — for Article 20.33 of the Code of Administrative Offences — participation in the activities of an "undesirable organization" (2015);
- Article 282 of the Criminal Code — for Article 20.3.1 of the Code of Administrative Offences — "incitement to hatred or enmity as well as humiliation of human dignity" (2018);
- Article 280.1 of the Criminal Code — for Article 20.3.2 of the Code of Administrative Offences — "public calls for actions aimed at violating the territorial integrity of the Russian Federation" (2020);
- Article 280.3 of the Criminal Code — for Article 20.3.3 of the Code of Administrative Offences — "public actions aimed at discrediting the use of the Armed Forces of the Russian Federation to protect the interests of the Russian Federation and its citizens, maintain international peace and security, and enforce the powers of the public authorities of the Russian Federation for these purposes" (2022);
- Article 284.2 of the Criminal Code — Article 20.3.4 of the Code of Administrative Offences — "appeals for the introduction of restrictive measures against the Russian Federation, citizens of the Russian Federation, or Russian legal entities" (2022);
- Article 282.4 of the Criminal Code — for Article 20.3 of the Code of Administrative Offences — "public display of banned symbols" (2022);
- Article 330.1 of the Criminal Code — for Article 19.34 of the Code of Administrative Offences — "violation of the rules of operation of a foreign agent" (2022).

The internal mechanics of these laws may vary. For instance, Articles 20.3.3 and 20.2 of the Code of Administrative Offences involve punishment for appeals for unsanctioned public actions. However, criminal prosecution under Article

280.3 is envisaged to commence not after four but after as few as two "offences" within one year. For most of the articles to be applied, a single administrative court ruling is sufficient; for Article 314.1 of the Criminal Code, two rulings are required, while for Article 284.1, a single ruling within one year is now sufficient (previously, it was two rulings within two years). Article 212.1 of the Criminal Code is the only one that requires more than two rulings within six months to be applied.

8 out of 16 new articles punishing "repeated" administrative offences are related to the restriction of **the rights to assembly, free speech, or association**.



Article 330.1 of the Criminal Code, created in 2021, was significantly changed at the end of 2022. In the total number of articles, we count it once, but we display it twice on the chart.

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## ATTEMPTS AT DECRIMINALISATION OR MITIGATION

Since Article 212.1 of the Criminal Code was introduced, there have been multiple attempts to have it revoked or declared unconstitutional. Neither of them has succeeded as of the end of 2022, although one draft law is still pending review by the State Duma.

Article 212.1 was an object of two complaints to the Constitutional Court — in connection with criminal prosecution of Ildar Dadin and Konstantin Kotov — but was not found unconstitutional. Furthermore, in the 2015 **report**, human rights ombudswoman Tatyana Moskalkova expressed

an intention to have the Constitutional Court verify the consistency of Article 212.1 with Article 50 of the Constitution ("No one may be convicted twice for one and the same crime").

The Prosecutor General's Office also spoke against this article: in early 2017, when the Constitutional Court was considering a complaint in connection with Dadin's case, they **presented** a negative review of Article 212.1 of the Criminal Code. Deputy Prosecutor General Vladimir Malinovsky considered multiple violations of the law on demonstrations not to be "a circumstance increasing the degree of danger of such actions to the level characteristic of crimes" and appealed for amending the legislation to remove the ambiguity.

In 2017, after Ildar Dadin's sentence had been revoked, decriminalization was proposed by human rights ombudswoman **Tatyana Moskalkova** and even by Chief Justice of the Russian Federation **Vyacheslav Lebedev**. Press Secretary for the President Dmitry Peskov **noted** that Moskalkova's proposal "merited attention."

On 6 February 2017, several days before the Constitutional Court's judgement was issued, LDPR MPs Igor Lebedev, Yaroslav Nilov, Andrey Svintsov, Sergei Ivanov, and Alexei Didenko **presented** to the State Duma a draft law to remove Article 212.1 from the Criminal Code. The explanatory note stated: "Faultiness, haste, and insufficient practical and theoretical justification of introducing such articles with administrative prejudice to the Criminal Code have fully manifested themselves in the course of several criminal trials. The public outcry to Dadin's criminal sentence was to a large extent sparked by its injustice — the disparity between the severity of the sentence and the deed's danger to the public."

The authors indicated that the language of Article 212.1 is similar to that of Article 213 of the Criminal Code on hooliganism; however, the formal grounds for its application

are not a disturbance of public order but "the mere fact of repeated violations of the provisions of Article 20.2 of the Code of Administrative Offences of the Russian Federation regardless of who commits them, a participant or an organizer of a public event." The MPs also drew attention to the inconsistency of Article 212.1 of the Criminal Code with the constitutional principle stipulating that no one may be convicted twice for one and the same crime.

However, the draft law did not receive any support after the Constitutional Court ruled that Article 212.1 was consistent with the Constitution and that the legislative body is entitled to amend it to clarify the grounds for prosecution (no amendments were eventually introduced). In October 2017, the State Duma committee on state-building and legislation recommended rejecting the draft law. Since then, the issue was continuously postponed. As a result, the Duma **reviewed** (and rejected) the draft law as late as two years later, in 2019.

Furthermore, in 2019, CPRF MP Sergei Shargunov **suggested** reducing the severity of Article 212.1 and including the Constitutional Court's directives in it: deprive of liberty only if the act "resulted in the loss of the peaceful nature of the public event," inflicted harm to or endangered health or property of an individual or a legal entity, "the environment, public order, public safety, or other constitutionally protected values." his draft law also included a reduction of the maximum penalty threshold: in the case of a fine, from one million rubles to five hundred thousand (~US\$16,000 to 8,000 at the time, ~US\$12,500 to 6,250 as of April 2023); in the case of imprisonment, from five years to three. The relevant State Duma committee rejected the bill on formal grounds; in December 2019, Shargunov **reintroduced the draft law**. At the time of publication of this Report, the bill has not undergone its first reading. At the same time, even the Legal Department of the State Duma criticized Article 212.1; according to their statement, the article stipulates equal prosecution for different deeds under

Article 20.2 regardless of their character, consequences or absence thereof and therefore requires clarification.

Another **draft law** proposing to void Article 212.1 was introduced in 2020 by CPRF MPs Valery Rashkin, Denis Parfenov, and Olga Alimova. Their explanatory memorandum stated, in particular, that the offences envisaged by parts 1, 2, and 5 of Article 20.2 of the Code of Administrative Offences (let us note that parts 2 and 5 are used particularly frequently, and rulings on them regularly find their way into criminal cases under Article 212.1) "are not associated with harm or a real threat to people's health, property of individuals or legal entities, or other values protected by the law" while demonstration of such harm when applying Article 212.1 was required as per the Constitutional Court judgement on Ildar Dadin's case. The authors of the draft law mentioned Konstantin Kotov's sentence and declared it illegal and unconstitutional with reference to the Constitutional Court's ruling on Kotov's case. They also mentioned the criminal cases of Vyacheslav Yegorov and Andrei Borovikov. The authors emphasized that the Criminal Code contains as many as 20 articles applicable when "people's actions during unsanctioned public events do create criminal public danger, inflict considerable harm to the property of individuals or legal entities, real harm to people's health, the environment, public order, or public safety."

However, this draft law did not gain support either. The Legal Department of the State Duma concluded that Article 212.1 not only constituted "a measure of accountability for the commission of corresponding violations of public order and public safety" but also "functions preventatively to deter and prevent such violations." This bill has not been reviewed yet either.

## **CONCLUSION**

The criminal law article on "repeated" violations at rallies, aimed, according to MPs, against "professional" troublemakers became the first tool of criminal prosecution for the mere support of peaceful protests.

Since its introduction eight years ago, Article 212.1 has never been applied on a mass scale. Multiple preliminary investigations have not resulted in the cases being initiated, and a large number of such cases have not resulted in a sentence. This is primarily due to the complex internal mechanics of this law.

It is primarily employed for mass intimidation of those who wish to exercise their right to assembly. This is achieved by the law's ambiguous wording, extremely severe possible punishment, and real cases of prosecution resulting in imprisonment. We see that authorities actively use this instrument: prosecutor's offices – to warn people against taking part in protests before specific large-scale events, the police – to threaten the people detained at rallies with a possibility of a criminal case upon next detainment, even if in reality Article 212.1 is not applicable.

In order to initiate criminal proceedings, several prior administrative offences committed at rallies are required within a relatively short period of time. Therefore, the primary purpose of this article is to curb long waves of protests. It makes one feel that with each protest action, the risk of criminal prosecution increases. Since 2021, face recognition technology has been widely used for the identification and post-factum prosecution of protesters, which makes Article 212.1 of the Criminal Code even more intimidating, and its application – unpredictable.

Since 2014, the Constitutional Court has been asked twice to consider the constitutionality of Article 212.1. Not only did the Court refuse to recognize the article as unconstitutional, but it was also unable to resolve multiple issues regarding its application. Despite heavy criticism, including that by the

Prosecutor General's Office, the Supreme Court, and Russia's Commissioner for Human Rights, attempts to mitigate the punishment or repeal the article altogether have also been unsuccessful. Moreover, the article continued to be applied, and in 2021 the number of criminal cases initiated under it reached its maximum.

As long as the article is not repealed, it continues to be applied, which creates disproportionate risks for those who participate in peaceful protests or spread information about upcoming protest actions; the existence of this article also contributes to deterioration of the overall quality of legislation well beyond freedom of assembly.

## **SUMMARY**

- 1** Article 212.1 of the Criminal Code was introduced in 2014 by the Russian authorities in response to the protests in Kyiv in the winter of 2013–2014, as well as to the protests in Moscow in February and March of 2014 – first against the “Bolotnaya case” verdict and later against dispatching troops to the Ukrainian territory. The authors of the draft law intended to "prevent" repeat violations of the law on rallies and combat "professional revolutionaries" in this way.
- 2** The first cases appeared six months later: four cases were initiated in 2015, followed by a three-year break, since 2019 cases have been initiated every year, with the most new cases appearing in 2021. In total, we are aware of 18 cases.
- 3** Criminal charges were brought for participation in mass protests (44 counts), solitary picketing actions or a series of such actions (19), and online dissemination of information about upcoming protests (19).
- 4** Of the 18 known criminal cases initiated before 2022, at the time this report is being written eight have reached sentencing (one of these has been revoked) and one is being investigated. The others have been dismissed by the court (one of such rulings has been overturned and the case is currently in court) or at the investigation stage, or returned to the prosecutor's office.
- 5** In five cases, the defendants were sentenced to actual jail time. Konstantin Kotov received the longest sentence – four years of imprisonment. On appeal, his sentence was commuted to one year and a half. Ildar Dadin was sentenced to three years in prison (the sentence was commuted to two and a half years; later the case was dismissed). Kirill Ukraintsev was sentenced to one year and four months in prison, but he was discharged from punishment.

- 6 For some of the accused, the measure of restriction was not specified. Nevertheless, criminal prosecution often has negative consequences, such as being placed in a pre-trial detention centre or under house arrest, violence during searches, seizure of electronic devices and technical equipment, restrictions on professional and political activities. At least two people fled Russia before their trial, and at least two others did so during the trial before the verdict was issued.
- 7 Article 212.1 of the Criminal Code is used primarily as an intimidation tool: on a number of occasions, prosecution authorities would issue warnings before mass protests as a reminder about possible criminal liability; police officers or judges would threaten those detained during protests with a possibility of criminal charges under Article 212.1 if they were detained again.
- 8 However, detention at a protest rally per se does not constitute grounds for initiating criminal proceedings. The “crime” consists of three “preliminary” administrative cases under Article 20.2 of the Code of Administrative Offences and another (final) violation under the same article. The “preliminary” violations must result in an indictment, which needs to have come into force by the time the “final” violation is committed. If the indictment on the final violation under Article 20.2 of the Code of Administrative Offences is already in effect, a criminal case can not be initiated.
- 9 Furthermore, the “preliminary episodes” must all take place within a 180-day period. It is not about the dates of the violations themselves, but about the dates of "bringing to liability." In real cases, there are two interpretations: either the date of the first instance judgement or the date on which the ruling comes into force

- 10** Due to the vague wording, there are also two interpretations of the calculation of time limits. The more common – and narrower – interpretation, which is also supported by the judgement of the Constitutional Court, suggests that the “final” violation must also fall within the 180-day period. The broader interpretation suggests that the “final” violation need not be within the 180 days – as it happened, for example, in Yulia Galyamina’s case.
- 11** The timing of charging with an administrative offence depends on the police and the courts. It is their actions that determine whether or not an individual’s actions would constitute a crime. At the same time, the police have ample opportunity to manipulate the timeline. For example, an administrative case may be opened months after the alleged “violation.” This was made even easier after face recognition technology was introduced to identify protest participants.
- 12** The complicated inner workings of the article make its application unclear and thus very concerning. But apparently, it also leads to mistakes on the part of investigators, because of which preliminary investigations often do not result in criminal charges, and criminal charges do not result in a guilty verdict.
- 13** The article was reviewed by the Constitutional Court twice but was not deemed unconstitutional. Neither was the Court able to resolve all the controversial issues related to its application. At the same time, the Constitutional Court emphasized that the mere formal presence of the necessary administrative “episodes” is not enough to apply Article 212.1: multiple violations must be committed deliberately and entail significant adverse consequences or create a real threat of such consequences.

**14**This could have had an impact on legislative developments in other areas. For example, the necessary “threat” was later introduced in articles of the Criminal Code on obstructing motor vehicle traffic (Article 267 of the Criminal Code) and on violating sanitary rules and regulations (Article 236 of the Criminal Code), which were also applied in relation to protest actions. At the same time, there are no clear criteria for establishing the presence of a threat in the context of a public event, which creates room for abuse on the part of law enforcement agencies.

**15**Since Article 212.1 was introduced to the Criminal Code, legislators have been imposing punishment for repeated administrative offences more and more often. As of late 2022, there are at least 17 similar articles, with eight of them restricting the right to freedom of speech, freedom of assembly, or freedom of association.

**16**The article has been criticized by Russia’s Commissioner for Human Rights, Chief Justice of the Russian Federation, the Prosecutor General’s Office, and the Legal Department of the State Duma. On multiple occasions draft laws were introduced in the State Duma to mitigate or even remove Article 212.1 from the Criminal Code. Some of these draft laws have not been reviewed to this day.

**17**Article 212.1 should be removed from the Criminal Code.

## **ANNEX**

### **Cases where threats to use the article did not result in a case being initiated**

OVD-Info is aware of nine occasions when despite signs that criminal charges might be brought under Article 212.1, no procedural consequences followed: no criminal proceedings were initiated, and not even a preliminary investigation was conducted.

- In August 2019, Alina Ivanova, an activist from Moscow who had been working with Navalny's network and regularly participating in protests, received a warning on the inadmissibility of the violation of the law under Article 212.1. She shared her story with OVD-Info. At the time, she had already received several court decisions under Article 20.2 of the Code of Administrative Offences, which had come into effect within a six-month period. The warning was included in the materials of yet another administrative case. This case was initiated on 10 August, after Ivanova **was detained** at the gathering in support of opposition candidates running for the Moscow Duma. On that day, at the police station where the activist was taken, Investigative Committee officers "had talks" with detainees. Later Ivanova left Russia.
- In the summer of 2020, shortly before the vote on amendments to the Constitution, a participant of the Moscow rally in support of fair elections held on 3 August 2019 received a visit from a police officer, who **handed** him a warning on inadmissibility of "carrying out unlawful actions," including possible criminal liability under Article 212.1.
- In December 2016, the Center for Combating Extremism **requested** that the Tverskoy District Court of Moscow hand over the administrative case files of activist Igor Klochkov. The request stated that a criminal case must be initiated under Article 212.1. The judge refused the request because the court decisions with respect to Klochkov's administrative offences had not yet come into force.

- In the fall of 2017, Investigative Committee officers **threatened** to bring criminal charges against Vyacheslav Rybakov, an “Artpodgotovka” activist from Cheboksary. According to Rybakov, one more administrative offence episode was needed to initiate criminal proceedings against him. His words are quoted in **the ruling** of the Leninsky District Court of Moscow of 31 October 2017 (when Rybakov **was sentenced** to 190 hours of community service under part 8 of Article 20.2 of the Code of Administrative Offences: repeated violations of the established procedure of holding a public event).
- In July 2021, Sergei Rednikov, an activist from Kaluga, **was summoned** to the prosecutor’s office following a series of unsuccessful attempts to obtain permission to hold a protest action. According to Rednikov, he was shown his “case file”: the law enforcement officials believed that Rednikov had been calling on his fellow citizens to come out and protest political repression. He was then threatened with Article 212.1 of the Criminal Code.
- In December 2021, the police **threatened** Mikhail Savelkov, a Left Front activist from Tyumen, with bringing criminal charges against him.
- In March 2022, the police came to at least one person, who had been previously detained at an anti-war rally in St. Petersburg. The police left a **warning** with their neighbour that a repeated detention may lead to criminal charges. Notably, instead of Article 212.1 the document cited Article 212 of the Criminal Code (mass riots), which has nothing to do with administrative detention at rallies. In general, we have seen multiple occasions when police officers threatened those detained at anti-war rallies with criminal charges after their second or third detention.

- In April 2022, a judge of the Nikulinsky District Court of Moscow would **refuse** to hear the case against civil activist Dmitry Ivanov about a repeated violation of the established procedure of holding public events (part 8 of Article 20.2 of the Code of Administrative Offences). The judge argued that the report had been drawn up incorrectly, and that Ivanov must be charged under Article 212.1 of the Criminal Code. Eventually, however, the judge did agree to hear the administrative case and **sentenced** Ivanov to 10 days of arrest.
- A possibility of criminal charges is mentioned in a ruling by a court of cassation in the case against Elena Filina, a member of the Deputy Council of the Vernadsky Municipal District of Moscow. She **was fined** 150,000 rubles (~US\$1,940 at the time, ~US\$1,875 as of April 2023) under part 8 of Article 20.2 of the Code of Administrative Offences (repeated violation of the law on rallies) for participating in a solidarity chain with the wife of Alexei Navalny, Yulia, held on 14 February 2021 on the Arbat. On 3 September, the second cassation court of general jurisdiction, having reviewed the prosecutor's complaint against the ruling, **overturned** it: the court of the first instance did not take into account that at that time Filina had received three court rulings under Article 20.2 of the Code of Administrative Offences that had come into force within a period of six months:
- A ruling by the **Tagansky District Court of Moscow** of 23 June 2020 (came into force on 4 July): a 20,000 ruble fine (~US\$290 at the time, ~US\$250 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences (violation of the established procedure of holding a public event) for participating in **a series of solitary pickets** near the building of the Main Directorate of Internal Affairs of the City of Moscow (Petrovka Street) on 29 May. She was demanding to free the picketers detained a day earlier;

- A ruling by [the Tverskoy District Court of Moscow](#) of 9 July 2020 (came into force on 8 October): a fine (the amount unknown) under part 2 of Article 20.2 of the Code of Administrative Offences (organization of an unauthorized event) for a Facebook post calling on people to come out to Petrovka Street – likely also in support of detained picketers;
- 
- A ruling by [the Presnensky District Court of Moscow](#) of 30 July 2020 (came into force on 26 October): a 20,000 ruble fine (~US\$275 at the time, ~US\$250 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences (violation of the established procedure of holding a public event) for participating in a similar [series of solitary pickets](#) on Petrovka Street on 5 June. At that time, solitary picketing in Moscow was essentially outlawed due to [the ban on any public events](#) because of the COVID-19 pandemic. Mass picketing started after civil activist Viktor Nemytov and journalist and municipal deputy Ilya Azar were arrested for 15 days for solitary picketing on Petrovka Street.
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It should be noted that in Filina's case, the first of the court decisions listed above came into force before the start of the 180-day period leading up to 14 February, i.e., the date on which she, as argued by law enforcement, committed her fourth offence. In any event, criminal proceedings against the municipal deputy were never initiated.

## **Preliminary investigations without case initiation**

According to our data, at least 14 activists were subjected to preliminary investigations that did not result in legal proceedings under Article 212.1

- Violetta Grudina, a former coordinator of Alexei Navalny's headquarters in Murmansk, was **repeatedly investigated** in 2018. However, as stated in the 25 June 2018 **ruling** of the Oktyabrsky District Court, the case was dismissed due to lack of evidence. Grudina was also **informed** about a preliminary investigation conducted against her in August 2021.
- 
- In 2020-2021, a number of Khabarovsk Krai residents were subjected to preliminary investigations in relation to their participation in rallies supporting Sergei Furgal (ex-governor of Khabarovsk Krai). The police considers repeated participation in rallies to be a violation of the law, so it is not surprising that many of the residents had accumulated more than two court rulings under Article 20.2 of the Code of Administrative Offences (including some that had already come into force). In December 2020, it became clear that the Investigative Committee was **conducting a preliminary investigation** under Article 212.1 of the Criminal Code. **According** to Andrey Bityutsky, an attorney working in cooperation with OVD-Info, the Ministry of Internal Affairs requested the Investigative Committee to run a similar investigation in regards to Vladimir Gretchenko, a local activist. But the Investigative Committee returned the documents and did not initiate the case.
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- It is clear from the documents that investigations were conducted in relation to three more Khabarovsk activists who continuously participated in rallies supporting Sergei Furgal: Evgeny Kozlov, Andrey Vinarsky and Valentin Kvashnikov. The Khabarovsk Regional Court cancelled the arrest of Kvashnikov back in September 2020, explaining that the district court had not assessed the evidence of the elements of violating Article 212.1 of the Criminal Code in his actions. However, in March, it became clear that no criminal cases were initiated, either against **Kvashnikov** or against **Vinarsky**. In May, additional **information** about a second refusal to open the case against Vinarsky became known.

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- In April 2021, police officers **conducted a preliminary investigation** into Alexei Kadin: he was accused of participating in a protest supporting Alexei Navalny on 21 April, a march in support of Sergei Furgal on 12 October, a rally on 19 September, and another public event, where the specific date was not identified. Dmitry Timoshenko, a journalist, was also **promised** a preliminary investigation after being questioned by the Investigative Committee, all the while being reassured that there were no plans to initiate a criminal case.

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- The June 2021 **ruling** on Diana Luka's administrative case (repeated violation of established procedure of holding public events – part 8 of Article 20.2 of the Code of Administrative Offences) makes it clear that the Investigative Directorate of the Ministry of Internal Affairs tried to initiate a criminal case against her, but has failed to establish *corpus delicti*.

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- In late October 2020, the Khabarovsk Regional Court **overturned** the decision to arrest Komsomolsk-on-Amur resident, Dmitry Fedoseyev, stating that the trial court had failed to assess the elements of violating Article 212.1 of the Criminal Code. The December 2021 **court ruling** on Fedoseyev's administrative case (repeated violation of established procedure of holding public events – part 8 of Article 20.2 of the Code of Administrative Offences) mentions that the criminal case against him was not initiated.

- In April 2021 it became **known** that a preliminary investigation was being conducted into Matvey Aleksandrov, a Moscow activist. Later that month, we received information that there were plans to charge Ivan Larkin, an activist from Volgograd, under Article 212.1 of the Criminal Code. Allegedly, there were plans to apprehend Larkin when he would be exiting the detention facility, where he was then serving his sentence for drug use following his arrest at an Alexei Navalny support rally on 21 April. An officer informed Larkin's nephew about these plans. The consequences are unknown. At the end of April, Maria Ponomarenko, an activist from Barnaul, **told** OVD-Info that she was investigated in connection with a social media post about the 21 April rally in support of Alexei Navalny. The 2 July **ruling** on the administrative case against Vladivostok resident Anastasia Kapitonova (repeated violation of established procedure of holding public events – part 8 of Article 20.2 of the Code of Administrative Offences) includes a refusal to initiate a criminal case against her.

## **The case against Vladimir Ionov**



Vladimir Ionov / Photo: Moscow-Live Photobank

Vladimir Ionov, a regular participant of Moscow protest rallies, was the first person to be charged under Article 212.1 of the Criminal Code. On 16 January 2015 the elderly activist was taken to the Kitay-Gorod district police station straight from the court, after the hearing of his administrative cases in relation to 10 and 15 January rallies.

For some reason, Ionov was brought to court handcuffed and taken to the Khamovniki district prosecutor's office straight from the police station. At the prosecutor's office, it **became clear** that he was being charged with repeated violations of the established procedure of holding public events. This happened after the Internal Affairs Bureau of the Central Administrative Okrug of Moscow found elements of crime in Ionov's actions and handed over the investigation files to the Main Investigation Directorate of the Investigative Committee in Moscow.

The order to initiate a criminal case stated: "Considering the necessity to conduct a large number of investigative actions in order to establish the circumstances of the crime, the criminal proceedings should be delegated to an investigation

team." Another document, compiled by Moscow Central Administrative Okrug Internal Affairs Bureau employees, mentions that Ionov has committed several offences.

The "preliminary episodes":

- A solitary picket on **13 September** 2014, near a monument to Marshal Georgy Zhukov with a poster saying: “All Putin, no brains” (a pun on “all brawn and no brains”). Ionov was detained under the pretext of the “campaign silence day” before the Moscow Duma elections. The report stated that Ionov was picketing “as part of a group of approximately two people,” despite that fact that there was no “approximately second” person nearby, no one was detained together with Ionov and there were no attempts to determine the identity of the mythical “approximately second” person. On 23 September, the court fined Ionov 10,000 rubles (~US\$260 at the time, ~US\$125 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences (violation of established procedure of holding public events by a participant).
- Another rally on Manezhnaya Square in Moscow with posters containing anti-Putin content took place on **14 September** 2014. This time the report stated that there were “approximately three people” involved in the picket. The same article, same fine. On 25 September, the Tverskoy District Court fined Ionov 10,000 (~US\$260 at the time, ~US\$125 as of April 2023), and on 12 December, the Moscow City Court **reduced** the fine to 5,000 rubles (~US\$130 at the time, ~US\$63 as of April 2023).
- A solitary picket that took place on **10 January** 2015 at Manezhnaya Square was dedicated to the assault on the editorial office of the Parisian satirical magazine, Charlie Hebdo. Ionov was detained after a stranger stood next to him (most likely – a provocateur), making the solitary picket a mass one and, therefore, requiring authorization, according to Russian law. On 16 January, Ionov was **fined** 20,000 rubles (~US\$308 at the time, ~US\$250 as of April 2023). The court qualified his actions as an unsanctioned public event (part 2 of Article 20.2 of the Code of Administrative Offences).

The “final episode”:

- People’s gathering at Manezhnaya Square on 15 January 2015 dedicated to the verdict in the “Yves Rocher” case against Alexei and Oleg Navalny. The gathering did not actually take place – most of the attendees were pro-Kremlin activists of the Anti-Maidan movement, created not long before to prevent a colour revolution in Russia. Ionov did not even stand in a solitary picket with a poster. He was detained when he simply approached the supposed place of gathering, which was already occupied by Anti-Maidan activists. This time Ionov was fined 150,000 rubles (~US\$2,270 at the time, ~US\$1,875 as of April 2023) under part 8 of Article 20.2 (repeated violation of procedures for holding public events).

It so happened that all the rallies included in the criminal case took place in almost the same location. At that time, many protest rallies were held next to the Zhukov monument on Manezhnaya Square in Moscow, most of them small in numbers and with regular participants.

It’s important to note that at the time the case was initiated, the administrative case decisions in connection with the 13 September and 10 January rallies had not yet come into effect, while the decision on the 15 January rally, which was considered the “final episode” at the time, already had an open administrative case opened, and a court ruling issued. Both are in contradiction with the requirements of the law. Possibly, the investigators, having little experience working with Article 212.1 criminal cases, did not take these facts into account.

Ionov was released under recognizance not to leave.

The materials for the investigation were received by the Investigative Committee, and the Center for Combating Extremism of the Moscow Central Administrative Okrug Internal Affairs Bureau was conducting the investigation as

early as 13 January, before the 15 January rally took place. At that time, the official cause for initiating the criminal case was Ionov's participation in the 10 January rally, the events of 13 and 14 September being mentioned as "preliminary episodes." 6 August was mentioned as well. That day, Ionov did not even stand in a picket next to the Zhukov monument, he was sitting next to it. A young man that Ionov had seen before approached him, hit him on his hat and started threatening to use violence if the activists did not leave the place. Ionov called the police to help, but they instantly took Mikheev and Ionov to the Kitay-Gorod district police station. The young man who was threatening the protesters and several of his companions also headed for the police station on their own but were quickly released. A report on Ionov was drawn up under part 2 of Article 20.2 of the Code of Administrative Offences. Later the court reclassified it as part 5 and fined Ionov (the amount is unknown). The decision had not yet entered into legal force at the time the case was initiated.

On 10 July, Ionov was charged with the final edition of the charges. It turned out that the 13 and 14 September "offences" had been excluded from the case, and the 15 January rally had become a "preliminary episode." In addition, another "preliminary episode" appeared in the charges:

- A solitary picket on Pushkinskaya Square on 21 March in support of alternation in power. Ionov was detained again as a result of a provocation by unknown persons who were standing nearby. On 5 May, Ionov was fined 150,000 rubles (~US\$2,900 at the time, ~US\$1,875 as of April 2023) for this protest action under part 8 of Article 20.2 of the Code of Administrative Offences. The decision had not yet entered into legal force at the time the case was initiated.

And the "final episode" turned out to be:

- The series of solitary pickets on **11 May** near the Matrosskaya Tishina pre-trial detention centre on the birthday of Ukrainian pilot Nadiya Savchenko, who was detained there and accused of involvement in the murder of Russian journalists. The Sokolniki district police station drew up a report against Ionov under part 8 of Article 20.2 of the Code of Administrative Offences. However, the administrative case was later dismissed, and the materials were transferred to the Investigative Committee. This became the formal reason for the initiation of the new case in July.

The inclusion of new episodes became possible due to the fact that on 10 July, a new case was initiated against Ionov under Article 212.1 of the Criminal Code and was merged with the case initiated in January. Presumably, this explains the exclusion of the 14 September rally from the materials – the decision on it was made and became effective earlier than six months before the ruling on the 21 March rally. The ruling on the 13 September event came into effect in March: presumably, the investigation was primarily keeping in mind the date when the ruling of the court of first instance was issued.

However, the case materials included administrative rulings initiated earlier, namely in early 2014, including the determination on returning the case to the police, not only under Article 20.2 of the Code of Administrative Offences but also under the article on disorderly conduct (Article 20.1 of the Code of Administrative Offences).

During the investigation, the defence attorney questioned several eyewitnesses to Ionov's arrests on 10 and 15 January, but the investigator refused to include their statements in the case file. Later, however, the investigator announced that she would question them herself, but then reported that no one showed up for the questioning. The investigator ordered the witnesses to be brought in for questioning forcibly, but the

task force was unable to find any of them. Eventually, only one witness on the defence side was questioned. Otherwise, apart from Ionov, the investigator only questioned police officers and riot police officers who were involved (or claimed to have been involved) in the activist's arrest.

In August, the case was **handed over** to the Preobrazhensky District Court of Moscow, and the hearings began on 17 September. As attorney Olga Dinze, who was representing Ionov's interests, **described** to OVD-Info, the prosecutor repeatedly asked the prosecution witnesses – police officers who had detained the activist – leading questions or "questions that contain an answer, thus guiding the witnesses to the 'correct' answer." The defence would object to such wording, but the court only recorded the objections in the minutes without discouraging the prosecution. At the same time, the court did not allow the defence to ask questions: most often, they were rejected at the request of the prosecution, and remarks were made to the defence without any explanations. Sometimes the questions of the defence were not even recorded in the minutes – which is required by law even if the question is withdrawn. Judge Leonid Garbar would even allow himself to be rude to the attorney: when the latter said that she could not hear what the witness was saying, the judge said that one should wash their ears in the morning.

When the police officers claimed in court that Ionov's actions indicated protest against the existing constitutional order and the current government (which is not a violation of law and was not attributed to Ionov as an offence), the attorney asked which actions of her client demonstrated such an intention. The judge replied that the defence was trying to "add political connotations to the case."

The attorney drew the court's attention to the fact that in the arrest reports and the indictment, Ionov was referred to as a 'participant' of the events, while the Criminal Code specifies

'organizing' or 'conducting' the event. The defence requested a linguistic expertise of the relevant article of the Criminal Code to determine who the 'participant' refers to, but the court **refused**.

On 25 November, the prosecution **demanded** that Ionov be given a three years' suspended sentence with a ban on attending 'mass gatherings of citizens' and leaving the town of Lyubertsy (Moscow Oblast), where he resided at the time. On 21 December, two days before his final statement in court, Ionov **announced** that he had left Russia and was on Ukrainian territory. On 19 January 2016, he was **placed** on the federal wanted list. In August 2016, Ionov was **granted** refugee status by the government of Ukraine.

In November 2017, the court **resumed** the trial, but on 7 December **returned** the case to the prosecutor's office. The court agreed with attorney Olga Dinze, who remarked that the indictment did not specify the place or time of the crime and that, at the time of the investigation, the court rulings on Ionov's administrative cases had not yet come into effect. Furthermore, she drew the court's attention to the recommendation made by the Constitutional Court in connection with the case against Ildar Dadin that initiating a case under Article 212.1 of the Criminal Code of the Russian Federation should be done only if the actions of the suspected offender presented a danger to the general public. The prosecution **refused** to accept the case, but in January 2018, the Moscow City Court **ruled to allow** the return of the case files.





Mark Galperin / Photo: Vasily Petrov

Mark Galperin is another frequent participant of protest rallies in Moscow, who was detained many times at the same events as Vladimir Ionov. On 20 January 2015, it **became known** that a criminal case was initiated against him under Article 212.1 of the Criminal Code of the Russian Federation. Back then he was under administrative arrest at a detention centre for a 10 January solitary picket in the memory of the journalists of the Parisian magazine Charlie Hebdo. The case was initiated based on case materials of an investigation conducted by the Internal Affairs Bureau of the Central Administrative Okrug of Moscow, like in the case against Vladimir Ionov (see above).

Galperin was taken from the detention centre to the Main Investigation Directorate of the Investigative Committee for the Central Administrative Okrug of Moscow, where he was held for six hours inside a car, wearing slippers, before being allowed inside; he ended up with a fever.

In Galperin's case, the "preliminary episodes" were:

- A public action (in fact, it was another person's solitary picket that ended in mass detentions) in support of political prisoners on **6 August** 2014 at Manezhnaya Square. On 10 November, the court fined Galperin under part 5 of Article 20.2 of the Code of Administrative Offences of the Russian Federation, the amount is unknown.
- A rally on **5 December** 2014 dedicated to the three-year anniversary of the rally on Myasnitskaya Street protesting the official State Duma election results of 2011. On 8 December, the court fined Galperin under part 6.1 of Article 20.2 of the Code of Administrative Offences for participation in an unauthorized rally that resulted in the obstruction of traffic. The amount is unknown.
- A solitary demonstration on **10 January** at Manezhnaya Square dedicated to the attack on the editorial office of the Parisian satire magazine Charlie Hebdo. On 16 January, Galperin was **arrested** for eight days on charges of organizing an unauthorized event under part 2 of Article 20.2 of the Code of Administrative Offences; the decision was **approved** by the appellate court on 27 January.

The “final episode”:

- A people's gathering on **15 January** 2015 at Manezhnaya Square dedicated to the verdict in the “Yves Rocher” case against Alexei and Oleg Navalny. On 16 January, Galperin was **arrested** for 30 days on charges of repeated violation of part 8 of Article 20.2 of the Code of Administrative Offences.

It can be seen that two of the charges are connected with the same rallies that were also found in the case against Vladimir Ionov; another rally was considered in this regard as well but did not make it into the case. The rulings on the January episodes had not come into effect by the moment the case was initiated (the Moscow City Court **approved** them on **27 January**).

Galperin was released under recognizance not to leave.

In March 2015, the prosecution tried to convince the court to overturn the ruling on the 15 January rally; otherwise, it would turn out that every charge already had a ruling, and the “final episode” could not be considered as such. However, on 5 June the Moscow City Court left the ruling without change, citing that the decision of initiating a criminal case was made at 21:00 on 16 January, and Galperin was arrested for an administrative offence slightly earlier on the same day, at 12:30.

On 21 March, Galperin, like Ionov, was **detained** due to a provocation during a solitary picket in support of alternation in power at Pushkinskaya Square. The judge of the Tverskoy District Court, where the administrative case was sent, **made the decision** to hand over the case files to the Investigative Committee to add them to Galperin’s criminal case. It seems that, in this way, the investigation was trying to include in this case an episode without a court ruling – though at that time the case had already been initiated for more than two months. It is possible that there was a plan to initiate a new case — as was done with Ionov — which could then be combined with the first.

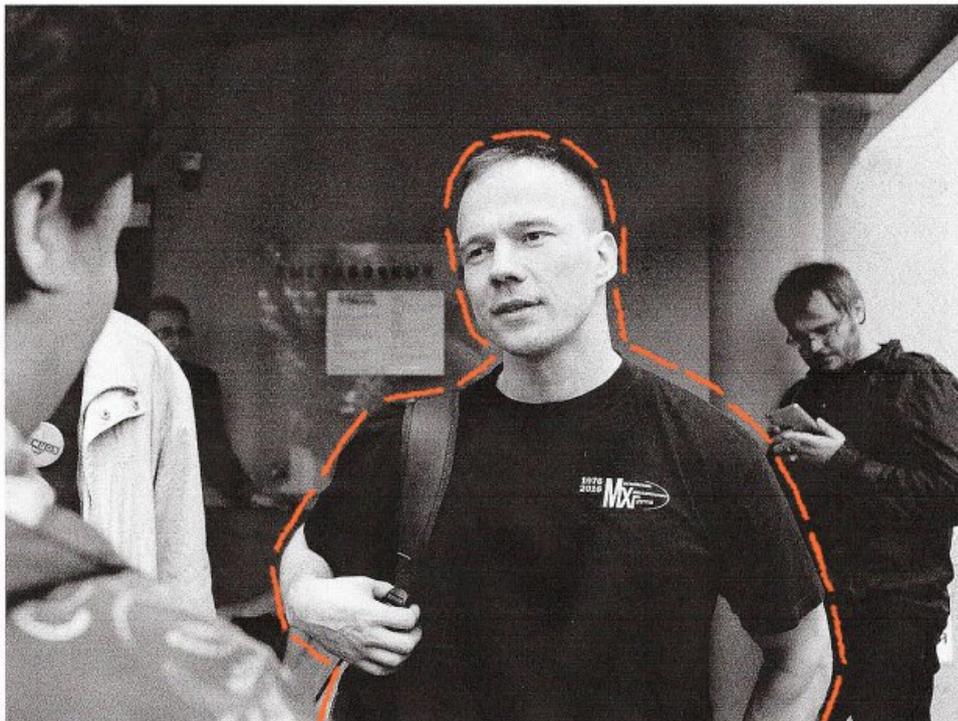
Yet the defence appealed the decision of the Tverskoy Court, and the Moscow City Court overturned it, sending the administrative case for retrial. During the retrial on 26 May, the judge of the Tverskoy District Court fined Galperin under Article 20.2 of the Code of Administrative Offences.

This way, not only all the charges that had already been included in Galperin’s criminal case, but also the new charge that was intended to be included, turned out to be “closed” with court rulings on administrative offence cases.

Later, Galperin’s case was dismissed at the investigation stage.

In 2016, a new case was **initiated** against Galperin – for calls to extremism through the use of the Internet (part 2 of Article 280 of the Criminal Code). The cause for that was an interview with Galperin about the need for a peaceful revolution. In June 2017, the activist was charged and **placed** under house arrest. On 7 March 2018, he was given a suspended **sentence** of two years of imprisonment, with a probation period of three years and a ban on participating in or organizing public events. On 10 October 2019, Galperin’s probation period was extended by a month, and he was obliged not to visit public events. This was preceded by multiple detentions and long-term arrests for administrative offences connected with the rallies of summer 2019. On 4 December 2019, the court **replaced** Galperin’s suspended sentence with a real one, and on the same day Galperin was placed in custody. On 25 March 2021, he was **released** from the colony-settlement No. 2 in Zelenograd.

## **The case against Ildar Dadin**



Ildar Dadin / Photo: Vasily Petrov

Ildar Dadin, same as Vladimir Ionov and Mark Galperin, was a constant participant of protest rallies in Moscow. During detentions he was beaten multiple times, as well as **handcuffed, had his feet wrapped in tape**, and had the psychiatric ambulance **called** on him. It's possible that law enforcers were irritated by Dadin constantly and energetically demanding respect for his rights. Dadin became the first person to be convicted and sentenced to prison under Article 212.1 of the Criminal Code of the Russian Federation; and the first one that brought the article to the public's attention (to this day the article is often called "Dadin's Article").

According to the case files, the criminal case against Dadin was initiated back on 27 January. It became known three days later, on 30 January 2015, when the judge **dismissed** another administrative case against the activist for the 5 December 2014 rally on Myasnitskaya Street, finding elements of a criminal offence in his actions. Dadin was **taken** to the Investigative Committee from the court, after which he was detained. His detention was expected to last for 48 hours, but the detention time was **extended**. On 3 February, the court **placed** him under house arrest.

Dadin became the first person to be charged under Article 212.1 of the Criminal Code who received a measure of restriction more severe than personal recognizance.

The "preliminary episodes" in Dadin's case:

- A protest action on **6 August** 2014 at Manezhnaya Square in support of political prisoners. Actually, it was Dadin's solitary picket, but seven other activists who were nearby were detained along with him, including Mark Galperin. In connection with this protest action, on 26 September Dadin was **fined** 10,000 rubles (~US\$260 at the time, ~US\$125 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences.
- Solitary pickets at Manezhnaya Square with anti-Putin slogans on **23 August**. Dadin was detained **twice** that day, and on 4 September, he was fined 10,000 rubles (~US\$260 at the time, ~US\$125 as of April 2023) in a similar administrative case. We were unable to determine which of the two detentions became the formal reason for the administrative case.
- A public action (a series of solitary pickets) on **13 September** 2014 at Manezhnaya Square. On 23 September, the court fined Dadin 15,000 rubles (~US\$390 at the time, ~US\$190 as of April 2023) on a similar case.

The “final episode”:

- The 5 December rally mentioned above, during which activists blocked Myasnitskaya Street, burning flares, carrying banners, and shouting slogans.

According to the case materials, another episode was severed on 23 June 2015 – Dadin's participation in the 21 November 2014 rally, where he burnt a Putin dummy in the Sofiyskaya Embankment area. However, on the same day, 23 June, the Investigative Committee decided that a criminal case under Article 212.1 of the Code of Offences “cannot be initiated” for this episode, as Dadin was not held administratively liable for that rally. It is unclear to us how the decision to sever this episode, as well as the decision to not initiate a case, correspond with the wording of Article 212.1.

The next day, 24 June, the investigation made a decision regarding another episode – the one related to the 15 January 2015 rally; that is, the episode took place after the “final episode.” This time the case was not discussed because Dadin received a fine for that rally on 19 January, and that decision was never appealed. “Therefore, Dadin I. I. cannot be held liable twice for the same act,” the document says.

The proof for the case contained character reference of Dadin, in which the district police officer supervising his area of residence reported not only multiple administrative detentions of the activist, but also his travels to the territory of Ukraine and participation in “mass disruptions on the side of the Right Sector.” Dadin’s participation in “anti-government demonstrations” in Kyiv in December 2013 or January 2014 is also mentioned in his father’s interrogation report.

On 7 December 2015, the prosecution **demand**ed to sentence Dadin to two years of imprisonment in a general regime penal colony. The verdict was announced the same day. The judge of the Basmany District Court of Moscow, Natalya Dudar, **issu**ed a more severe sentence – three years in a general regime penal colony. Dadin was placed in custody in the courtroom.

Attorney Alexei Liptser, who represented the activist’s interests, emphasized in a conversation with OVD-Info that he considered prosecution on the level of the Code of Administrative Offences unlawful, because by law a solitary picket did not need an approval; therefore, the administrative cases were illegitimate, and so was the criminal case. The defence drew the court’s attention to that, but judge Dudar only cited the police officers’ statements in the text of the verdict, and called the attorney’s arguments unfounded.

On 31 March 2016, the Moscow City Court, during a trial for an appeal complaint, **commu**ted the term to two and a half years. The formal reason was that Dadin had allegedly only

violated the laws of holding “rallies, marches, and pickets,” but not “assemblies, demonstrations.” After this, Dadin was supposed to be sent to a penal colony, but he was stuck in St. Petersburg for two months, being transferred from one pre-trial detention facility to another. At the end of June, he was sent back to Moscow for an unknown reason, where he was **questioned** for an unknown new case as a witness; the investigator asked the activist about his posts on social media, and if those posts could offend or humiliate someone. This story had no continuation, according to our data, and in September it **became known** that Dadin was delivered to corrective labour colony No. 7 in Karelia. In October, the Moscow City Court **denied** a cassation complaint on the verdict.

In the colony, Dadin was sent to a punishment cell several times; one time he was accused of keeping shaving razors, and two more times – of disrespectful conduct towards the officers of the Federal Penitentiary Service. Soon he was **transferred** into strict detention conditions. All these actions lowered the chances of being released on parole, which Dadin could expect at that time. On 1 November, the activist was **able to share** with the lawyer Liptser some information about beatings and humiliations that the prisoners of the colony were subjected to; according to Dadin, he was repeatedly dunked head-first into a toilet bowl and suspended by handcuffs clasped behind his back.

The announcement attracted public attention, including outside Russia, but it did not immediately lead to tangible results. First, Dadin was **transferred** to a cell-type room, that is, into more severe conditions than before, and it was **stated** that he was supposed to spend six months there. In early December, it **became known** that he had been sent to a different colony, and it was not clear at first which one; only a month later was he **able to communicate** from a penal colony in Altai Krai. The Investigation Committee **refused** to initiate a criminal case on torture in the Karelian colony.

However, in December, the Constitutional Court **allowed a trial** for a complaint on Article 212.1 of the Criminal Code per se, and on 10 February 2017, **ruled** that the article should only be applied if the actions of the “offender” present a danger to the public.

After that, Dadin’s defence **appealed** to the Supreme Court for a retrial. On 22 February, the Supreme Court **ruled** to dismiss the case and to release the activist. The reasons for dismissal were purely formal; the rulings on the administrative cases had not come into effect at the time the criminal case was initiated. On the same day, the prosecutor general office **overturned** the Investigative Committee’s refusal to initiate a criminal case on tortures in the penal colony (however, later the Investigative Committee again **refused** to initiate it). Several days later, Dadin was **released**.

**Ildar Dadin's bill of indictment.**

## **The case against Irina Kalmykova**



Irina Kalmykova / Photo from the personal archive of Kalmykova

Irina Kalmykova, like the three activists named above, frequently participated in protest rallies in Moscow.

On 6 June 2015, Kalmykova's mother, who resided in Kogalym (Khanty-Mansi Autonomous Okrug (District)) received a visit from the police officers, who wanted to know her daughter's location. On 8 June, an investigator of the Investigation Directorate of the Investigative Committee for the Central Administrative Okrug of Moscow **summoned** the activist for questioning.

The "preliminary episodes" in Kalmykova's case:

- The same **5 December** 2014 march that was mentioned in the cases of Mark Galperin and Ildar Dadin. On 8 December, Kalmykova was fined 19,000 rubles (~US\$360 at the time, ~US\$240 as of April 2023) under part 6.1 of Article 20.2 of the Code of Administrative Offences of the Russian Federation; the ruling came into effect on 12 January 2015.
- A public action in support of Nadiya Savchenko at Lubyanka on **26 January** 2015. On 12 March, Kalmykova was fined 15,000 rubles (~US\$240 at the time, ~US\$190 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences of the Russian Federation; the ruling came into effect on 25 April.
- Being present at Bolotnaya Square on **6 May** 2015, on the third anniversary of the 2012 rally that became grounds for opening a mass criminal case in connection with the event. A report was drawn against Kalmykova for repeated violation, and the next day she was **arrested** for six days despite having a daughter that was younger than 14 years old at the time. On 8 May, the Moscow City Court **ruled** that Kalmykova be released, however, finding her guilty.
- A series of solitary pickets in honour of Savchenko's birthday near the Matrosskaya Tishina pre-trial detention centre on **11 May** 2015. On 12 May, the court considering the respective administrative case **returned** the files to the police station. This "episode" appeared in the case one and a half month after it was initiated.

The "final episode":

- The **26 May** demonstration near the Ministry of Economic Development in support of small businesses.

It was later found that the 11 May episode was not included into the indictment – instead, there was a mention of the **15 January** gathering dedicated to the verdict in the Navalny

brothers' case, which appeared in the cases of Ionov and Galperin. For participating in that demonstration, Kalmykova was fined 20,000 rubles (~US\$355 at the time, ~US\$250 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences of the Russian Federation.

Kalmykova was released under recognizance not to leave.

On 1 October, the Tverskoy District Court **initiated the trial**. Kalmykova told OVD-Info that the judge, Maria Sizintseva, was denying all of the motions made by the defence and accepted all of the motions by the prosecution. Testimonies given by the police officers who acted as witnesses in court did not correspond to those they had given during the investigation – but the judge paid no attention to that.

On 26 January, Kalmykova **announced** that she had left Russia. She was **placed on the wanted list** and arrested in absentia. On 31 May, the court found flaws in the criminal case and **remanded** it to the prosecutor's office.

**Irina Kalmykova's bill of indictment.**

## **The case against Vyacheslav Yegorov**



Vyacheslav Egorov / Photo: SOTA

The first case initiated under Article 212.1 of the Criminal Code after the Constitutional Court judgement of 2017 was the case against Vyacheslav Yegorov, a civil rights activist from Kolomna (a city in Moscow Oblast) who protested, for instance, against the local landfill and construction of a waste burning plant.

During the first half of 2019, when Yegorov's criminal prosecution started, "garbage protests" in Russia became relatively frequent, and the authorities fought against them rather actively. Another example of this is the second case under Article 212.1 of the Criminal Code that was initiated against Arkhangelsk activist Andrei Borovikov in 2019 (vide infra). However, the protests in Kolomna started as early as the spring of 2017.

On 31 January 2019, Yegorov and other members of the initiative group "No to the Kolomna Landfill" had their houses **searched**. The Federal Security Service officers participated in the searches. On the same day, it was revealed that a criminal case was initiated against Yegorov.

Before that, back in April 2018, the activist was subjected to a preliminary **investigation** for elements of a criminal offence under the article on incitement to hatred (Article 282 of the Criminal Code) in his Facebook post where he addressed Kolomna's mayor demanding his attention to the local residents' protests against the landfill.

After the search on 31 January, Yegorov was placed in a temporary detention centre, and then, on 2 February, he was **placed** under house arrest. The decision was issued after Yegorov had spent more than the 48 hours stipulated by the law in detention, but Irina Agafonova, the Kolomna City Court judge, refused to release the activist. At the same time, the hearing was held behind closed doors – the judge referred to some secrecy of investigation and also stated that the case was still being investigated, the court was going to examine the presented files, and the public could affect the process of investigation. Legally, those grounds cannot count as sufficient to hold a hearing behind closed doors.

The formal grounds for initiating the case against Vyacheslav Yegorov was his **detention** on 13 December 2018 near the Kolomna court building, where a trial on the administrative cases of Dmitry and Gennady Gudkov was held. The Gudkovs were fined under the article on unauthorized rallies because they had invited the people who had been protesting against the Kolomna landfill to appear in a video. A lot of people came to the court that day; there was not enough space for everyone in the courtroom, so many people stayed outside. Yegorov was charged with organizing that rally – the same wording, according to attorney Maria Eismont who represented the activist on behalf of OVD-Info and Russia Behind Bars, appears in the criminal case as well.

The activist had a report drawn up against him under part 2 of Article 20.2 of the Code of Administrative Offences of the Russian Federation – organizing an event without authorization. The police handed the administrative case files

to the Main Investigation Directorate of the Investigative Committee for Moscow Oblast; on 25 January, the latter initiated a criminal case. Later **it came to light** that it was Yegorov's article at Yandex.Zen, "**New campaign launched: time to change slogans**," about the **trial** of the Gudkovs that was seen by the investigators as organizing an illegal rally. In the article, the activist stated that everyone interested could participate.

One of the formal grounds for initiating the criminal case was a report by the interim deputy chief of Kolomna police about finding "a gathering of citizens totaling to 40 people in front of the Kolomna City Court." The report does not state whether the people posed any public danger or what they were doing at all.

The "preliminary episodes" in Yegorov's case:

- **Detention** on 19 April 2018, when activists were crossing the road on the pedestrian crossing near the landfill to block the way for the garbage trucks. A report under part 6.1 of Article 20.2 – participating in an event that caused disruption to infrastructure or vehicles – was drawn up against Yegorov. On 8 June, the court **arrested** Yegorov for three days; the decision was approved by an appellate court on 17 July.
- Detention on 7 May 2018, when Yegorov, together with other activists, tried to prevent cars from entering the local Volovitchi landfill. The report was drawn up under part 5 of Article 20.2 on violation of procedure of holding an event by a participant. On 11 May, the court sentenced him to 30 hours of community service; the ruling came into effect on 26 June.
- A **post** made in the “VKontakte” group “NO to the Kolomna Landfill” in July. The court qualified the text as organizing an unauthorized rally — which never took place and was not even mentioned in the text — and, on 22 August, **sentenced** him to 25 hours of community service under part 2 of Article 20.2. The ruling came into effect on 26 June.

Attorney Maria Eismont notes that none of the offences Yegorov was charged with posed any threat to public safety – which would be necessary, according to the Constitutional Court. The police officers questioned as witnesses only assumed that the mass gathering could be dangerous for the wider public.

There were attempts to initiate a criminal case against Yegorov even earlier, in connection with the third of the “preliminary episodes,” but the police were not able to do it because at the time Yegorov already had a court ruling under Article 20.2 of the Code of Administrative Offences of the Russian Federation that had entered into effect. Therefore,

there was no “final episode” that would be needed to initiate a case.

**Рапорт**

Докладываю Вам, что 13.12.2018 года в 10:03 находясь у д.6а по ул. Коломенская, г.Коломна мною было обнаружено собрание граждан в количестве 40 человек, которые находились перед входом в здание Коломенского городского суда. О чем было мною сообщено в ДЧ УМВД России по Коломенскому городскому округу для проведения дальнейшей проверки.

Врио зам. начальника полиции по ООП  
УМВД России по Коломенскому городскому округу  
майор полиции

А.В. Нестеров

Зарегистрировано №: 22800  
13.12.2018 г.  
УМВД России по  
Коломенскому городскому округу  
Дежурный: [подпись]

Report of the Acting Deputy Chief of the Kolomna Police

Three witnesses **made their statements** during the trial on the administrative case initiated in connection with the VKontakte post: they stated that on reading the post (one of them, though, said that he never even read the post), they went to the landfill site where they were arrested. Yegorov and his defence believe those people to be provocateurs who were arrested just so that he could be charged with organizing an unauthorized event. One of Yegorov’s supporters said that those three were arguing, drinking vodka and throwing themselves under the garbage trucks. At the trial, the witnesses claimed that they were summoned to the court by the police.

Provocateurs were, evidently, involved in the last episode as well: according to the defence, detentions near the Kolomna City Court on 13 December 2018, started after two men — unknown among the activists and not Kolomna residents — shouted the slogan “Freedom to the Gudkovs” several times.

Those two were detained too, and even fined – but the fine amount was lower than the minimum amount envisaged by part 5 of Article 20.2 of the Code of Administrative Offences of the Russian Federation that they were charged under.

On 8 February, during the questioning, when Yegorov was officially charged, the activist told the investigative officer about the threats from Vadim Zverev, the Kolomna police chief. Entered upon record was a screenshot of a Radio Liberty [article](#) published in September 2018, where Yegorov, who at the time already had several court rulings due to his participation in “garbage protests,” said: “It all leads to them probably trying to revive Article 212.1 of the Criminal Code. The task is obviously to isolate me in some way or the other, I don’t know whether they are going to bring it to court – but they are definitely going to initiate a criminal case under this article. They are now waiting for the ruling on my third case to come into effect and then they will try to apply Article 212. Our police chief Zverev already threatened me with a three-year sentence: he said that if we did not take our activities down a notch, I would go to prison.”

The investigative officer handling the case addressed the Federal Security Service Directorate for Moscow and Moscow Oblast requesting operational investigative activities not only in relation to Yegorov, his “possible accomplices” as well as members and administrators of the VKontakte community dedicated to the landfill but also “in order to receive information about bank accounts used by V.V. Yegorov or his close relatives, about possible safety deposit boxes” and “about cash flows on those accounts” since 1 January 2017.

The Presidential Council for Civil Society and Human Rights (HRC) declared that there was no public danger in Yegorov’s actions and established that the order on initiation of a criminal case is illegitimate and subject to reversal. The author of the expert opinion for the HRC, Litigation

Department at the Institute for Law and Public Policy, Grigory Vaypan, **explained** to OVD-Info that the last “offence” committed by Yegorov (the article at Yandex.Zen inviting people to go to the court) did not present any “criminal public danger” in accordance with the Constitutional Court judgement.

“In Yegorov’s case, for the fourth episode, a report on an administrative offence under part 2 of Article 20.2 was initially drawn up. The Constitutional Court directly states in its judgement in connection with Dadin’s case that this part is not dangerous.”

In the HRC statement it is also stated that the order on initiation of a criminal case is illegitimate and subject to reversal:

“Based on the contents of the aforementioned publication by V.V. Yegorov, it can be concluded that it was directed to notify the public about the time and place of the open court hearings in the Kolomna City Court, of Moscow Oblast. There are no indications in the publication that V.V. Yegorov intended to hold any kind of public event <...> Therefore, there is no intent as a mandatory component of a crime envisaged by Article 212.1 of the Criminal Code in the actions of V.V. Yegorov <...> .”

Nevertheless, the Babushkinsky District Court of Moscow **deemed** the order on initiation of a criminal case legitimate. On 23 May, the ruling was **reversed** by the Moscow City Court. The grounds for the reversal were formal: Yegorov had not been brought to the district court trial, moreover, the court had not examined the defence’s reference to the Constitutional Court judgement and the HRC expert conclusion. On 9 July, the Babushkinsky District Court took into account the Moscow City Court review and **deemed** the order on initiation of a criminal case legitimate again. Judge Alexei Glukhov considered the reference to the Constitutional Court judgement inconsistent – and the HRC expert opinion,

according to him, “does not call into question the legitimacy of the criminal case initiation.” In the court’s opinion, the order on initiation of a criminal case was well-grounded, “because, at the time of the ruling, there were reasons and grounds to initiate a criminal case.” As for the “investigation into any actual facts of the case,” it was possible during the pre-trial investigation stage itself.

On 30 July, Yegorov was **released** from house arrest, and based on the investigative officer’s motion he was given a measure of restriction in the form of prohibition of certain actions, such as communicating with the parties to the case, participating in public demonstrations, using the Internet and disseminating the information about the criminal case. The court did not grant the investigative officer’s motion to bar Yegorov from leaving his house from 22:00 to 06:00.

The case investigation took a while – only 11 months after the case was initiated, on 25 December, a ruling on Yegorov’s arraignment appeared. The case made it to the court only by late 2020, and the verdict was rendered only in October 2021. There are reasons to think that, before indicting Yegorov, the investigating party waited for the ruling on a similar criminal case against Konstantin Kotov in Moscow — which became a reference point for the investigating parties in some other cases under Article 212.1 of the Criminal Code — to come into effect (v. *infra*).

On 27 December, the measure of restriction for Yegorov was **changed** to personal recognizance. When **commenting** on the verdict on Facebook, Yegorov noted that there had been no investigation since February.

In November 2020, the case was transferred to the Kolomna City Court. By then, the authorities had apparently become significantly less interested in it: the case was transferred from the Main Investigative Directorate of the Investigative Committee for Moscow Oblast to Kolomna city investigative department. On 21 December, the judge, Svetlana Belyaeva,

recused herself on the basis that she had also been the judge to sign two of the three verdicts related to Article 20.2 of the Code of Administrative Offences in the case. In February 2021, the court sessions resumed. As of September, the sessions happened approximately once per month. All witnesses on the prosecution side would admit that it were just people's gatherings posing no threat in the episodes Yegorov was charged with

On 14 October, the court sentenced Yegorov to one year and three months in a general regime penal colony (the prosecutor had demanded three years). The activist was placed in custody in the courtroom. The verdict was appealed not only by the defence, but by the prosecution as well: on 15 November, apparently past the appeal time window, the prosecution filed an appeal to change the verdict to a harsher one. The document specified neither the desired verdict nor the basis for it. Moreover, there is a mention of someone called "D." instead of Yegorov in the latter part of the document, which looks like it was copied from another case file. On 17 February 2022, the appellate court left the verdict as is. On 8 August, Yegorov was released after serving his sentence.

## **The case against Andrei Borovikov**



Andrey Borovikov / Photo from the page “Pomorje is not a garbage dump” on VKontakte

Andrei Borovikov – an Arkhangelsk resident, an activist of the “Pomorje is not a dump” movement — who became a head of local Navalny headquarters. As with Vyacheslav Yegorov, the cause for initiating a case against Borovikov was the “garbage protest.” Since 2018, Arkhangelsk Oblast residents had been protesting against the building of Moscow waste utilization facility at the Shiyes station.

Andrei Borovikov was **detained** on 30 April 2019, and on the same day, the movement headquarters were searched. On 2 May, the court **chose** the prohibition of certain actions as a measure of restriction, specifically prohibiting participation in mass events, usage of communication devices to organize mass events, as well as communication with the participants of the 7 April protest action, including not only Arkhangelsk eco-activists but also his wife.

OVD-Info attorney Elena Dolganova said that after the court session on the measure of restriction against Borovikov, all members of the audience were given summons for

questioning as part of the case. According to her, the police planned to question all protest participants.

According to the investigation, Borovikov was one of the organizers of the 7 April march and rally, and due to these “unlawfully organized events” people “unlawfully obstructed” car traffic and prevented an athletic event from being held at Lenin Square while ignoring the police officers’ demands to disperse. Moreover, it was stated in the ruling that Borovikov “constantly organizes” unauthorized events against the waste facility, “organizes provocations in order to use violence against representatives of the authorities” and recruited locals “with proclivities towards unlawful conduct” into the “Pomorye is not a dump” movement. Notably, the 7 April protest action itself did not end with any detainments, but later 37 people were fined in relation to it.

The “preliminary episodes“ in Borovikov’s case:

- The 5 May 2018 protest action dubbed “He is not our tsar,” organized by the local Navalny headquarters in reaction to Putin's inauguration. On 3 September, the court fined Borovikov 14,000 rubles (~US\$205 at the time, ~US\$175 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences; the ruling came into force on 25 September.
- The 9 September protest action against the pension reform, also organized by the local Navalny headquarters. Notably, the police and the court considered the 9 September march and the following gathering as two separate events. The case related to the gathering was at first dismissed by the district court. It was said in its resolution that the authorities had not suggested an alternative place for holding the event. Later, the regional court reversed the decision and returned the case for retrial. On 5 October, Borovikov was fined for the march, and on 27 November, he was fined for the gathering; in both cases, the fines amounted to 15,000 rubles (~US\$225 at the time, ~US\$190 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences. The regional court supported the decisions on 15 November and 27 December, respectively.

Borovikov recounted to OVD-info that the 5 May protest action in Arkhangelsk had originally been authorized, “but the prosecution office contested that, and it was deemed unauthorized. The absurd thing is that people had participated in an authorized event.”

Interestingly, the court ruling on Borovikov's case in connection with the 5 May protest action came into force on 25 September 2018, which is more than half a year before the 7 April 2019 protest action. However, according to attorney Dolganova, the prosecution insisted that Borovikov had started organizing the 7 April protest action on 22 March, 178 days after the ruling on the first protest action

that made it to the criminal case. It is true that on 22 March 2019, Arkhangelsk city authorities denied a request to authorize a gathering for 7 April. However, the official organizer of that gathering was not Andrei Borovikov but another activist, Yury Chesnokov. In this case, it is unclear what the investigation regarded as organizing.

It is specifically mentioned in the case that Borovikov's actions contained "a real threat to lives and health of citizens, the property of individual citizens and legal entities, a threat to the safety of traffic, public order and public safety," including obstructing road traffic and disruption of an athletic event. Moreover, the criminal case initiation order claims that Borovikov "has a proclivity towards unlawful and criminal conduct" and is "aggressive." It is noted that he was brought to criminal liability three times.

According to the activist, the case file showed that he had been under surveillance: "As a result, a search was conducted at the house of a person completely unrelated to me in a dacha settlement where I had never been before. Allegedly, we were making posters there together with him at night. But it turned out that the dacha belonged to neither me nor that person. They only found one banner somewhere in a barn and first attached it to the case file – and then they ruled the search unlawful. So what was it all for?"

The prosecutor attempted to present Borovikov as an instigator of riots and destruction: allegedly, he several times said that the construction works at the Shiyes station should be stopped by force and his words "were realized." Following a conflict with an excavator operator, four people who were keeping watch at the camp near the construction site were charged with a forcible assertion of right committed with violence or threat of violence, death threats and other crimes, but there is no information indicating that Borovikov was involved in any of these cases. The activist himself states that he hardly knows the defendants.

Court hearings on Borovikov's case at the Oktyabrsky District Court of Arkhangelsk began in August 2019. The prosecution **demanded** three years of compulsory labour at a state-run work site. On 27 September, the court **sentenced** Borovikov to 400 hours of community service. In November, the appellate court **refused** to change the verdict to a stricter one despite the prosecution's demands.

In 2020, a penal inspection requested the court change the measure of restriction to imprisonment. According to the inspection, in March, Borovikov skipped community service three times. According to Borovikov, he was ill, which was corroborated by medical documents, and he did warn the supervisory officer. On 3 July 2020, the court **denied** the inspection's request. On 23 December 2021, the sentence was **upheld** by the cassation court.

On 27 September 2020, Borovikov's apartment was **searched**. He was accused of posting a video on Rammstein's song "Pussy" on his VKontakte page on 19 January 2014. On 29 September, Borovikov was signed a personal recognizance not to leave, in connection with a case on dissemination of pornography. On 29 April 2021, he was **sentenced** to two and a half years of penal colony. On 15 July, an appellate court **commuted** the sentence to two years and three months. On 1 February, a cassation court **overturned** the appellate court decision and remanded the case to the appellate court.

## **The case against Konstantin Kotov**



Konstantin Kotov immediately after his release / Photo: Victoria Odissonova for Novaya Gazeta

Konstantin Kotov has been a frequent participant in Moscow protests since the summer of 2018. He was most active in protests in support of political prisoners. On 12 August 2019, he was **detained** near his house and transported to the Investigative Committee. This happened several hours after he was released (under obligation to appear in court) from the police station where he had been detained for approximately two days following the 10 August protest action in support of opposition candidates for Moscow City Duma. His participation in the protest — or, more specifically, the 30 seconds during which Kotov exited the subway and walked towards the Plevna heroes monument, after which he was detained — became **the basis of a criminal case** under Article 212.1 of the Criminal Code.

The “preliminary episodes” for Kotov were:

- Participation in the gathering “**In defence of the new generation**” in front of the FSB building on 13 May 2019. He had a report drawn against him under part 8 of Article 20.2 of the Code of Administrative Offences, and on 15 May, he was **arrested** for five days. On 30 May, the decision was upheld by the appellate court.
- Being detained at the **protest in support of Ivan Golunov and against criminal cases falsification** on 12 June. had a report drawn against him under part 6.1 of Article 20.2 of the Code of Administrative Offences, and on 27 June, he was **fined** 15,000 rubles (~US\$230 at the time, ~US\$190 as of April 2023). The decision came into force on 6 August.
- A call for gathering at Trubnaya Square on 19 July dedicated to the non-admission of opposition candidates for Moscow City Duma to the elections. On 15 July, Kotov published the call for action on Facebook, and on 24 July, he was **detained** and **arrested** for 10 days under part 2 of Article 20.2 of the Code of Administrative Offences. The decision came into force on 26 July.

On 14 August, Kotov was **taken into custody**. He became the first defendant under Article 212.1 of the Criminal Code to be arrested before a court session. The prosecution did not provide any evidence that he could flee, influence the witnesses (which had not been identified by the investigation), or destroy the evidence (that was virtually absent).

The investigation was **closed** in record time – within two days from the moment the case was initiated. The bill of indictment added the **detainment** on 2 March 2019 at the gathering in front of the Moscow State University main building in support of **mathematician Azat Miftahov** to the list of “preliminary episodes.” On 6 March, the court **fined** Kotov for that protest action 20,000 rubles (~US\$300 at the time, ~US\$250 as of April 2023) under part 5 of Article 20.2 of

the Code of Administrative Offences, and the decision came into force on 4 April. The defence **was given** three days to study the case files.

OVD-Info attorney Maria Eismont **recounts** how she learned that the investigation was over:

"<...>they revised the indictment – with all the beautiful phrasing that you can **read** in the Facebook post. And after that, they told me: ‘Let’s start giving statements.’ We said that we were ready to do so, but we needed some time for confidential communication to do that. To which they responded that it was possible only in the guards’ presence. <...> And then one of the investigators came, bewildered, and she said: ‘We are finishing the investigation and starting the examination of the case files.’ I was like – how? Finishing as in completely? And she replied: ‘Yes, I am not joking, that’s how it is. It’s the first time I see something like this.’”

The investigators attempted to qualify Kotov’s actions as posing a threat, in accordance with the Constitutional Court judgement. It was claimed that at the gathering in support of Azat Miiiftahov, Kotov was obstructing pedestrian movements (disregarding the witnesses’ statements that there were no pedestrians near the Moscow State University building), just as he did after the gathering in front of FSB, where he also called to some unlawful conduct (no witness statements support this). Calls to “active unlawful conduct against the health of citizens, property of individuals and legal entities and against the lawful demands of representatives of the authorities that were stopping the unauthorized holding of the mass event” were allegedly made by Kotov on 10 August as well.

According to the investigators, Kotov continued to participate in protest action after being punished for previous ones, “without drawing proper conclusions, despising constitutionally protected values, thus demonstrating a

contemptuous attitude towards the state authorities of the Russian Federation and society as a whole."

On 19 August, Kotov's case was transferred to the prosecutor's office, and on 21 August – to the court. The Tverskoy District Court of Moscow refused to return the case to the prosecutor's office. On 3 September, the court started to consider the case on the merits, and the debates started as soon as the next day; during the debates, the prosecution demanded four and a half years of prison for Kotov (five years being the maximum sentence). On 5 September, the judge, Stanislav Minin, sentenced Kotov to four years in prison. The court refused to include into the case materials the independent linguistic expertise of Kotov's banners that had been ordered by the defence (conducted by the leading researcher of the Russian Language Institute of the RAS, Irina Levontina) in the case materials, as well as a video recording of the aforementioned Kotov's walk from the subway exit to the monument.

At the request of attorney Maria Eismont, Elena Lukyanova, Doctor of Law, Director of the Law Enforcement Effectiveness Monitoring Agency, wrote an expert opinion on the court's decision. In particular, she noted that the court had unreasonably found that Kotov's actions violated the right of citizens to free movement guaranteed by Article 27 of the Constitution of the Russian Federation: this article refers to movement within the country and free choice of place of stay and residence, whereas the court decided to apply this to the movement of people around the city of Moscow, which Kotov had allegedly obstructed.

The verdict of the Tverskoy District Court did not include references to the Constitutional Court judgement on Ildar Dadin's case either, even though the Tverskoy District Court was obligated to take this judgement into consideration, Lukyanova highlighted.

The law expert particularly pointed out that the square in front of the main building of Moscow State University. Lukyanova noted that she had worked at the university for 32 years at the Faculty of Law and can confirm conclusively that the public garden where Kotov was "is remote from pedestrian routes and is an extremely sparsely populated recreational area. Being in and taking photographs in that public garden would under no circumstances interfere with anyone's ability to do anything, because it is simply not possible. On the contrary, when the law-enforcement authorities forcibly prevent Russian citizens from being in the public garden where a monument is located, this constitutes an obstruction of their constitutional right to access to cultural property, envisaged by part 2 of Article 44 of the Constitution of the Russian Federation."

While appealing against the verdict, the defence pointed to the absence of a danger to society in Kotov's actions. In response, the prosecutor's office stated that the actions had posed a real threat of negative consequences, namely violations of traffic rules and blocking the passage of citizens along the streets and access to Moscow landmarks.

Since the appeal against the verdict, Konstantin Kotov was defended by a total of 15 attorneys, most of whom contracted him for a symbolic sum of 212.1 rubles.

On 14 October, the Moscow City Court **upheld** the decision in Kotov's case, denying the defence almost all of its motions.

At the end of November, it **became known** that Kotov had been transferred to the colony. Initially he was in a detention centre in Vladimir, after which he was transferred to colony No. 2 in Pokrov. In January 2020, Kotov **was reprimanded** because another convict had given him his gloves, and in June, he was **sent to a punishment cell**: a member of staff filed a report against Kotov for allegedly failing to say hello.

Attorneys Maria Eismont and Sergey Golubok filed a complaint with the Constitutional Court against Article 212.1 of the Criminal Code, demanding that Kotov's conviction also be reconsidered. In January 2020, President Putin **instructed** the Prosecutor General's Office to check the legality of the sentence.

On 27 January, the Constitutional Court issued a **ruling** ordering to reconsider Kotov's sentence, emphasizing that the Tverskoy District Court and the Moscow City Court had not considered "the questions of whether the harm caused or the harm really threatening was significant and whether the public event that was taking place lost its peaceful character as a result of the organizer's breach of the procedure of organising or holding it." The Constitutional Court did not consider the complaint against the article itself, but referred to its own judgement of 2017 in connection with the case against Ildar Dadin.

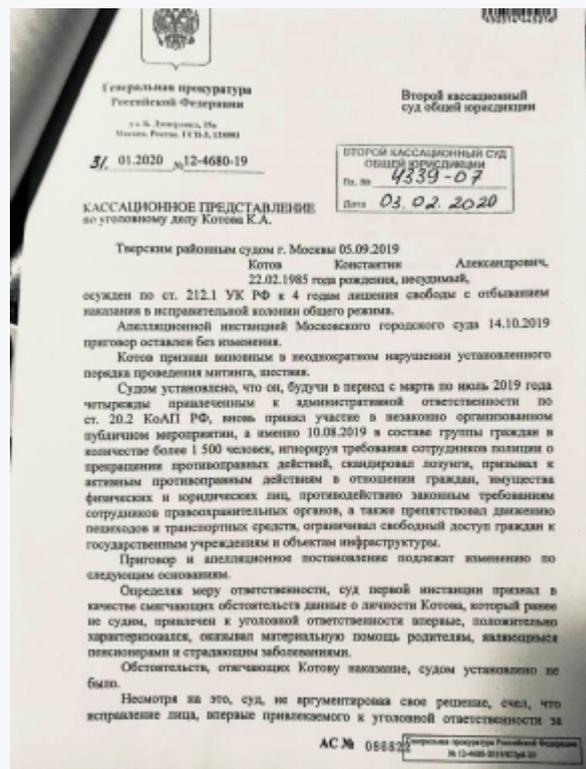
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**"The Constitutional Court's ruling, while improving Kotov's situation, has generally worsened the situation with freedom of assembly by not solving any of the problems of the ruling in Dadin's case, adding new uncertainties," commented Maria Eismont, an attorney working with OVD-Info, on the Constitutional Court's ruling. "One of them is the list of actions allegedly indicating real danger. This, according to the Constitutional Court's ruling, includes "provocative calls to violate the current legislation, aggressive rejection of legitimate demands of authorized officials, use of masks or other means specifically designed to conceal a person or make it difficult to identify them, etc."**

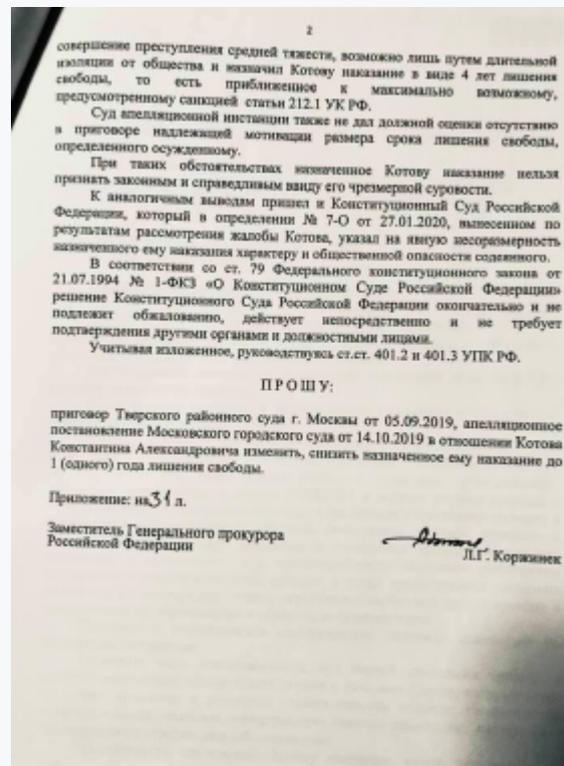
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At the same time, the Supreme Court **refused** to accept Kotov's defence motion to retry the case. On 3 February, the Prosecutor General's Office sent a **motion** to the Second

Cassation Court demanding that Kotov's sentence be commuted to one year in prison.



Materials of Konstantin Kotov's criminal case



Materials of Konstantin Kotov's criminal case

Translated text of the motion

The ruling of the Constitutional Court was not mentioned in the motion made by the Prosecutor General Office; it was only stated that the court had not explained why Kotov should have been sentenced to four years in a penal colony. On 2 March, the court of cassation **sent the case back** to the appellate court. During that court hearing, a representative of Tatyana Moskalkova — the Commissioner for Human Rights — argued for leniency.

However, the Second Cassation Court did not refer to the ruling of the Constitutional Court either, having only stated that the defence's arguments based on that ruling would have to be examined and assessed by an appellate court. The formal grounds for quashing the previous ruling of the appellate court was the Moscow City Court having failed to question most of the witnesses for the defence and to call in linguist Irina Levontina, who had analysed — at the request of the defence — the leaflets and posters found at Kotov's.

In April, Kotov was **transferred** from the penal colony to a pre-trial detention centre in Moscow. On 20 April, following a three-day hearing, the Moscow City Court **reduced** Kotov's sentence to one and a half years in a general regime penal colony – this time the exact sentence asked for by the state prosecutor. To prove the damages caused by Kotov's participation in the rallies, the prosecutor presented the court judgements on **lawsuits** filed against opposition politicians. The claims against the politicians were related to the 27 July and 3 August rallies, where Kotov was not even present – he was serving another administrative arrest at the time. One of the police officers who had detained Kotov at the rally in support of Azat Miftakhov, testifying as a witness, told the court that Kotov had not been disturbing anyone.

The Moscow City Court, when explaining its decision, referred to Kotov's "destructive behaviour," expressed in the slogans "Putin is a thief!" and "Down with Putin!" that he was

chanting and in the “destructive ideology” that united the participants of the 10 August 2019 rally.

In June, Kotov was **transferred** back to the penal colony and was soon **sent** to a punishment cell (SHIZO) because he failed to greet a staff member. In August, the Perovsky District Court of Moscow **found** Kotov’s punishment in the colony to be lawful.

On 24 September, the Second Cassation Court **upheld** the judgement of the Moscow City Court.

On 26 November, the Petushinsky District Court of Vladimir Oblast **refused** to release Kotov on parole. On 16 December, having served his sentence, the activist was **released**.

## The case against Yulia Galyamina



Юлия Галямина / Фото из соцсетей Галяминой

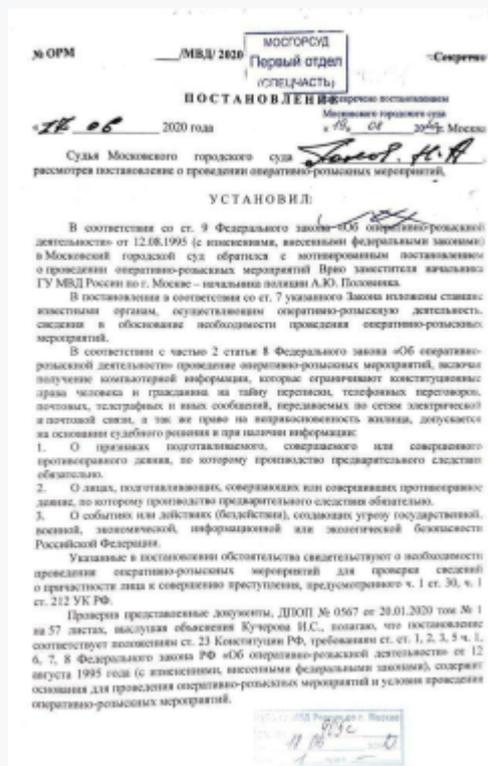
Yulia Galyamina, a deputy of the Timiryazevsky District Deputy Council in Moscow, was deprived of authority due to the criminal prosecution. She has been a regular participant in protest actions since the 2000s. In 2019 she was among a

large group of opposition candidates for the Moscow City Duma who were denied registration for the elections. Politicians disagreeing with the decision held a series of major protests in July and August, accompanied by mass arrests. Galyamina, like some other prominent opposition activists, was detained particularly frequently at the time. At the 27 July rally, during which a then-record 1,373 people were detained, Galyamina was detained twice, and in August, she was **detained twice** and **later arrested** right upon her release from the detention centre. Part of the corresponding court decisions formed the basis of a criminal case under Article 212.1 of the Criminal Code.

The case against Galyamina was **initiated** on 31 July 2020. However, the Investigative Committee **announced** the initiation of the criminal case before the deputy was **searched**. The immediate cause for the legal proceedings was a Moscow rally against the constitutional amendments which took place on **15 July**. The investigation alleged that Galyamina had organized the event by posting slogans on social media calling for participation in an unauthorized rally. The lawyers later **learned** from the case files that as early as 17 June — that is, a month before the “final episode” and a month and a half before the initiation of the criminal case — the Moscow City Court issued a resolution authorizing the tapping of Galyamina’s phone, which was done as part of “verification of information on the involvement of a person in committing a criminal offence under part 1 of Article 30, part 1 of Article 212 of the Criminal Code,” i.e., preparation for the organization of mass riots – a criminal offence that Galyamina was not charged with.



Materials of Yulia Galyamina's criminal case



Materials of Yulia Galyamina's criminal case

### Translated text of the ruling.

Maria Eismont, an attorney with OVD-Info who represented Galyamina, points out that the politician was placed under

surveillance virtually immediately after she spoke out against amendments to the Constitution, without any direct reference to any specific public protest.

Galyamina was released under recognizance not to leave.

The case contained six “episodes” in total.

The “preliminary” episodes:

- A tweet on 11 July 2019, containing a call to take part in a rally on 14 July in Novopushkinsky public garden (Moscow city centre) to support the unregistered candidates. On 15 July, the court accused Galyamina of organizing an unauthorized public event (part 2 Article 20.2 of the Code of Administrative Offences) and **fined** her 30,000 rubles (~US\$476 at the time, ~US\$375 as of April 2023). The court decision came into force on 10 September.
- A rally on 15 July at Trubnaya square (Moscow city centre) to support the unregistered candidates. On 24 December 2019, the court ruling **was issued** under part 5, Article 20.2. Galyamina was fined 20,000 rubles (~US\$320 at the time, ~US\$250 as of April 2023). The decision came into force on 20 February.
- A rally on 17 July, with the same agenda. The court ruling was based on the same article, resulted in the same decision and was issued on 24 December as well, coming into force on 20 February.
- A rally on 27 July, with the same agenda, in Moscow city centre. On 6 August, the court **arrested** Galyamina for 15 days, having found her guilty of violating the procedure of holding a rally which obstructed critical infrastructure (part 6.1 Article 20.2 of the Code of Administrative Offences). The decision came into force on 8 August.

The “final” episodes:

- A series of social media posts in July 2020 calling to take part in a protest on 15 July 2020 against the amendments to the Constitution.
- Another series of social media posts, after the protest was denied authorization, “to conceal unlawful acts by changing the form in which the public event, which has not been authorised by the Moscow city executive authorities, is held, under the guise of collecting signatures.”

Two additional “preliminary episodes” were added later:

- The 20, 23, 25, and 26 July Facebook posts calling to take part in a protest on 27 July. Galyamina was detained during the protest, and on the same day she was found by the court to have organized an unauthorized event (part 2 Article 20.2 of the Code of Administrative Offences) and **arrested** for 10 days. The decision came into force on 1 August.
- A 29 July Facebook post calling to take part in the 3 August rally in support of the unregistered candidates. Galyamina was detained on 21 August, when she was leaving the detention facility where she had served 15 days for the 27 July rally (see above). The next day, the court once again found her to have organized an unauthorized event and **arrested** her for another 10 days. The decision came into force on 27 August.

The "preliminary episodes" all referred to July 2019 and the "final episodes" – to July 2020. Thus, taken together, they did not fall within the six months mentioned in the law. The defence pointed that out as grounds for dismissing the case based on lack of *corpus delicti*. However, it turned out that this law requirement can be viewed differently: the investigators and the court apparently decided it was sufficient for the previous offences to have happened within the half-year and not necessarily right before the “final

episodes." See the chapter "[How much time has to pass between 'episodes'](#)" for details.

Of the "preliminary episodes," only two — in connection with the 15 and 17 July 2019 protest actions — formally fell within the six months immediately preceding the "final" ones, and that was because the [court rulings](#) on them came into force on 20 February 2020.

The bill of indictment uses the same phrasing as Kotov's case: "without drawing proper conclusions, despising constitutionally protected values, thus demonstrating a contemptuous attitude towards the state authorities of the Russian Federation and society as a whole."

As [pointed out](#) by Mikhail Biryukov, an attorney with OVD-Info, "As in the cases of Konstantin Kotov and Ildar Dadin, the prosecution believes that the mere fact of the mass gathering of citizens poses a threat to public safety." In July 2019, Galyamina allegedly blocked traffic and obstructed pedestrian movement.

However, according to Maria Eismont, the investigators in Galyamina's case did try to find a real threat in the defendant's action. First of all, because of the coronavirus pandemic, Galyamina was held responsible for the people who came to the protest on 15 July and did not maintain social distance. The defence noted that, of everybody detained on 15 July, there was not a single positive coronavirus test result and, moreover, official infection statistics did not show an increase in the number of infected after 15 July.

Secondly, the investigators claimed that Galyamina's actions had caused damage to the operation of restaurants in central Moscow. However, a representative of only one of the several companies found by the FSB appeared in court and was unable to confirm the damage, stating that she had no claims against Galyamina.

The investigation tried to estimate how many people were assembled by Galyamina for the 15 July protest. According to Eismont, this was done by identifying those who had "liked" Galyamina's posts on VKontakte and then requesting cell phone companies to find out which numbers had been logged at the rally venue that evening.

The bill of indictment claims that Galyamina violated Article 17 of the Constitution. However, as noted by the defence, that article merely states that human and citizen rights are acknowledged and guaranteed in the Russian Federation. It is left unclear which citizen rights were violated by the politician.

On 1 September, the investigation was concluded.

On 29 September, the prosecution **finalized** the charges, and the hearings **began** on 14 October. During preliminary hearings, the judge of the Tverskoy District Court, Anatoly Belyakov, refused to dismiss the case, stating that the defence motion to that effect was premature. During the hearings on 18 December, the prosecution **requested** three years of imprisonment. On 23 December, Galyamina **received** a suspended sentence of two years.

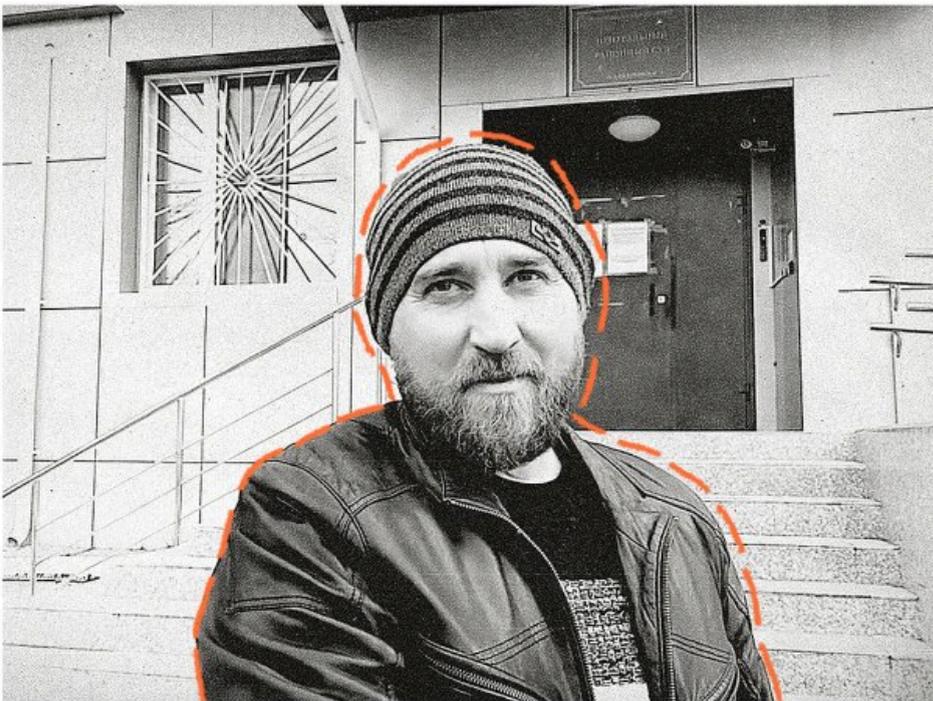
During the hearing, the court did not take into consideration two of the six "preliminary episodes" — the 27 July 2019 protest rally and a series of posts announcing that protest — because the decisions on these episodes came into force before the period between 27 August 2019 and 20 February 2020. Therefore, the court decided that the rulings on the "preliminary episodes" must happen within the half-year period, and the "final episode" may happen later.

On 11 March 2021, the Moscow City Court **upheld the sentence**, and so **did** the Second Cassation Court of general jurisdiction on 9 December. On 25 March, the Timiryazevsky District Deputy Council (where Galyamina served as deputy)

**disqualified** Galyamina by a majority vote. The press was not admitted to the council session.

On 19 July 2022, the Federal Penitentiary Service **warned** Galyamina that her suspended sentence could possibly be replaced by real jail time because the politician **had been arrested** in March for 30 days for her posts announcing a protest rally against the war in Ukraine. On 1 August, it became known that the agency **went to court** demanding that Galyamina's probation be extended. The court granted that demand one month later by **extending** the probation period for a month.

## **The case against Alexander Prikhodko**



Alexander Prikhodko / Photo: RusNews

Alexander Prikhodko actively participated in the protests that began in Khabarovsk in the summer of 2020, by the criminal case against ex-governor of Khabarovsk Krai Sergei Furgal. Since mid-July, residents of Khabarovsk and other cities took to the streets almost every day and the police did not interfere with them at first. However, later the protesters

began to be detained, not during the rallies as such, but at other times and in unexpected places – near their homes, at their workplaces, at bus stops or in shops. The detainees were taken to police stations, where a report would be drawn up, most often for participation in an "unauthorized" event which had obstructed traffic and infrastructure (part 6.1 Article 20.2 of the Code of Administrative Offences).

The first time the police **violently dispersed** a people's gathering in Khabarovsk was on 10 October 2020. Prikhodko had his nose broken while being apprehended. On the same day, it became known that a preliminary investigation was started against the activist under Article 212.1 of the Criminal Code. The criminal case was initiated but no measure of restriction was chosen: Prikhodko was **placed** under an obligation to appear as a measure of procedural compliance.

Three marches that took place in Khabarovsk on 16, 17, and 19 August became the "preliminary episodes" in Prikhodko's case.

- On 10 September, Prikhodko was **fined** 10,000 rubles (~US\$130 at the time, ~US\$125 as of April 2023) for both 16 and 17 August marches under part 6.1 Article 20.2 of the Code of Administrative Offences – "participation in an unauthorized march which resulted in blocking traffic and obstructing the passage of pedestrians and vehicles." Both rulings came into effect on 22 September.
- For the 19 August rally, he was **fined** on 16 September for 5,000 rubles (~US\$65 at the time, ~US\$62 as of April 2023) under the same part of the same article. The ruling came into effect on 6 November.

On 23 December, Prikhodko's case **was dismissed**: the investigator referenced the ruling of the Constitutional Court on Ildar Dadin's complaint and admitted that Alexander Prikhodko's repeated participation in the rallies to support the ex-governor Sergei Furgal "did not pose a threat to society

and did not require criminalization as it did not pose a real threat or cause harm to public health, property of individuals or legal entities, the environment, public safety or other constitutionally protected values.”

## The case against Pavel Khokhlov



Pavel Khokhlov before the search / Shot from the video of the Main Directorate of the Ministry of Internal Affairs for the Krasnoyarsk Territory

Pavel Khokhlov participated in various protest actions in the city of Krasnoyarsk. His detention (without his name being mentioned) **was announced** on the website of the Main Directorate of the Ministry of Internal Affairs for Krasnoyarsk Krai on 30 January 2021. The press release stated that the cause for initiating the criminal case was the young man’s participation in a 23 January protest action — on that day, rallies took place across Russia, protesting the arrest of Alexei Navalny, which was not mentioned by the website publication.

We do not know for sure which offences became the “preliminary episodes” in Khokhlov’s case. The press release

Main Directorate of the Ministry of Internal Affairs does not provide these details. However, we believe that the following were classified as offences:

- Khokhlov's Instagram post calling to participate in a public rally "Russia without Putin" on 15 August 2020. On 13 August, Khokhlov **was detained**, being deemed an organizer of an unauthorized public event (part 2 of Article 20.2 of the Code of Administrative Offences), and the following day, he **was arrested** for ten days. However, the appellate court **reduced** the sentence to eight days on 21 August.
- A march in support of Khabarovsk on 1 August 2020. On 1 September, Khokhlov **was fined** 10,000 rubles (~US\$135 at the time, ~US\$125 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences. The decision came into force on 30 September. It is not clear from the text of the ruling itself which event was being referred to, as some of the data in the text has been erased, but identical fragments of a similar **ruling** in the case against Lyudmila Stepanova suggest that it was the 1 August rally that was meant.
- A march in support of Khabarovsk on 8 August 2020. On 14 October, Khokhlov **was fined** 10,000 rubles (~US\$130 both at the time and as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences. The decision came into force on 18 November.

A video showing Khokhlov being brutally forced into the snow and handcuffed was attached to the press release by the Main Directorate of the Ministry of Internal Affairs for Krasnoyarsk Krai.

On 1 February, the court **ordered** Khokhlov into custody. In March, he was released under recognizance not to leave. On 5 July, the court **closed** Khokhlov's case because of his "active

repentance” and the lack of “real damage” caused by his actions.

Khokhlov was represented by Apologia Protesta attorney Vladimir Vasin.

## The case against Yana Drobnokhod



Yana Drobnokhod / Photo: Mikhail Kondryukov

Yana Drobnokhod is a frequent participant in protests in the city of Novosibirsk. On 30 January 2021, a criminal case against her **was initiated** under Article 212.1 of the Criminal Code after she **was detained** during the traditional rally in support of Khabarovsk Krai and its ex-governor Sergei Furgal, who had been taken into custody on the charges of organizing murders. The detentions of several participants were later **ruled** unlawful. The next day, Drobnokhod **was placed** under house arrest.

The “preliminary episodes”:

- “Group pickets” supporting Khabarovsk residents and Sergei Furgal on 26 September 2020. For those, Drobnokhod **was fined** 15,000 rubles (~US\$195 at the time, ~US\$185 as of April 2023) on 12 October. The court decision came into force on 27 October.
- An Instagram post on 23 October 2020, calling to participate in a public protest action dubbed “Feeding pigeons” (a traditional slogan used in multiple regions for protests supporting Furgal), which was qualified as organizing an unauthorized public event. For this “preliminary campaigning” Drobnokhod **was fined** 25,000 rubles (~US\$325 at the time, ~US\$310 as of April 2023) on 18 November. The court decision **came into force** on 21 January 2021.
- A similar post dated 29 October. This time she **was fined** 150,000 rubles (~US\$1990 at the time, ~US\$1875 as of April 2023) — the publication being considered a “repeated offence” — on 27 November. The decision **came into force** on 21 January 2021 as well.
- A public rally in support of Furgal on 14 November. Drobnokhod **was fined** another 150,000 rubles (~US\$1990 at the time, ~US\$1875 as of April 2023) under part 8 of Article 20.2 of the Code of Administrative Offences for her second “repeated offence” on 27 November. The court decision **came into force** on 28 January.

Drobnokhod’s case ended up having as many as three “final episodes”:

- The 23 January 2021 protest rally in support of Sergei Furgal and Alexei Navalny. The investigation counted it as two different “final episodes”: according to the case materials, the two rallies immediately followed one another in the same location.
- The 30 January 2021 protest rally in support of Furgal.

The indictment states that “Drobnokhod’s organization of and participation in illegal public events endanger public health, property of individuals and legal entities, the environment, public order, public safety, or other constitutionally protected values.” According to OVD-Info attorney Dmitry Shitov, the only danger posed by Drobnokhod's actions, as articulated by the investigation, was the assumption that she put people at risk of being infected with the coronavirus, which had only one line in the case file dedicated to it. Everything else that could be classified as "threat" or "danger" was described by words like "deliberately," "knowingly" and "consciously knowing," without any factual evidence.

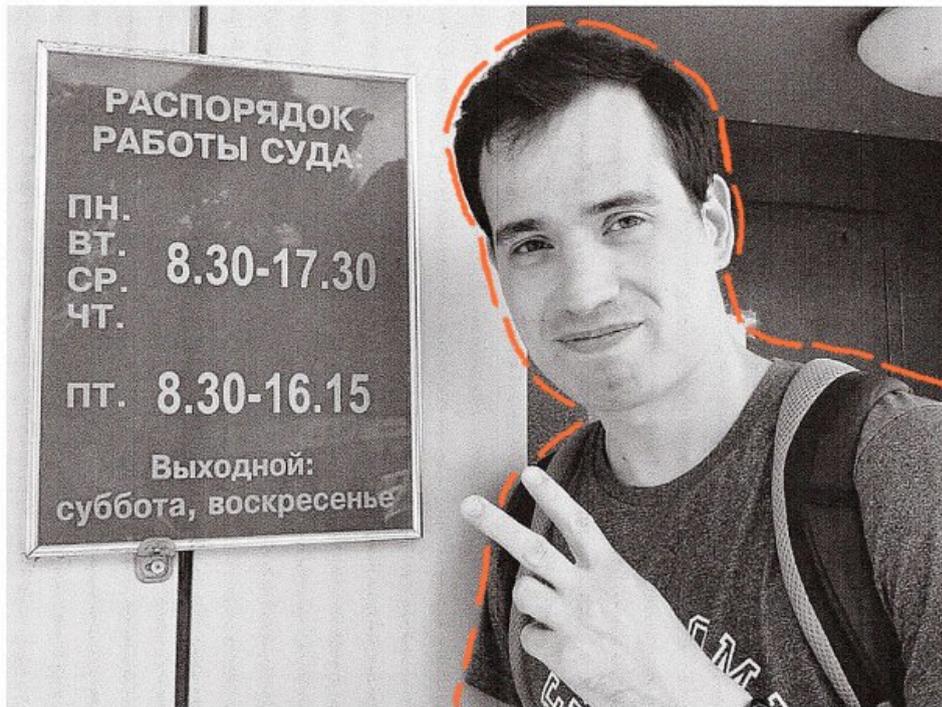
Moreover, the case documents include transcriptions of Drobnokhod’s telephone communications which suggest that the activist was discussing the possibility of obtaining weapons to facilitate a violent overturn of the “constitutional order,” a term Russian authorities use to refer to the current political regime. The prosecution cited these communications in trying to prove that Drobnokhod’s actions threatened public order.

On 15 February, after a solitary picket in support of the political prisoners, Drobnokhod was detained, and on 16 February, she was placed in a pre-trial detention centre, making the measure of restriction more severe. The causes for that were both the solitary picket on 15 February and the flashlight protest action on 14 February organized by Alexei

Navalny's supporters. On 26 February, it became known that the activist's husband and son **were not allowed access** to the detention centre to visit Drobnokhod. Attorney Dmitry Shitov informed OVD-Info that after a month of detention, being "exhausted in isolation," the activist pleaded guilty.

On 18 March, the court **closed** Drobnokhod's case, ordering her to pay a court fine of 40,000 rubles (~US\$550 at the time, ~US\$500 as of April 2023); the activist was released from the pre-trial centre. One of the formal reasons for closing the case was that Drobnokhod "compensated the damage inflicted by her crime by the way of providing charitable assistance" to a social rehabilitation centre for minors "Victoria." The prosecutor's office contested the court's sentence: its motion stated that the help given to the centre could not be considered compensation for the actions since Drobnokhod's criminal intentions targeted the interests of the public and the state. In May, the appellate court **found the earlier sentence lawful**, but as early as September, the court of cassation **ruled** for a retrial of the case.

## **The case against Alexey Vorsin**



Alexey Vorsin / Photo from Vorsin's page on VKontakte

Alexey Vorsin is a coordinator of Alexei Navalny's headquarters in Khabarovsk. A preliminary investigation into him was triggered by a report of a senior inquiry officer of the local police department, which had noted that the activist "on multiple occasions participated in unauthorized rallies," and also had published a social media post calling for others to join the protest action on 23 January 2021 in support of Alexei Navalny.

During the investigation, the police found that Vorsin had three active court rulings under Article 20.2 of the Code of Administrative Offences that had come into effect within six months. The investigation also established that the protest actions in question had caused a disruption to the traffic ("public transportation and city routes did not perform 164.1 trips" – later, when the Investigative Committee joined the investigation, the number of unperformed trips would grow to 472) and created a risk of coronavirus infection. The investigation findings were submitted to the Investigative Committee but the latter sent the files back to the MVD,

arguing that cases under Article 212.1 of the Criminal Code can be investigated by the MVD (that is, the police) as well.

The MVD chose to continue the preliminary investigation. The investigator charged the staff of the Criminal Investigation Department with finding out who had seen Vorsin's Instagram post, which of them had participated in the 23 January protest rally and whether as a result of the protest action any serious harm had come to anyone or anything. Criminal investigation officers conducted door-to-door visits (in most cases, they were not let in) and questioned people, some saying that they had not gone to the rally, some saying that they had passed by during the event, and some saying that they had taken part in it.

The preliminary investigation took a month, upon which the MVD decided against initiating a criminal case against Alexey Vorsin. The investigator pointed out that, in addition to the Instagram video published on 21 January, there was another one published using Vorsin's Twitter account 28 minutes before the 23 January protest rally began. The preliminary investigation showed that it was not possible to find the people who had attended the protest action specifically on Vorsin's instigation and that his actions had not posed a threat to public order. The prosecutor overturned this decision, finding that the MVD failed to establish the causality between Vorsin's call to participate in the protest action and the "violations of public order" that followed, as well as to interview the participants of the protest rally. The prosecutor ordered the MVD to submit the preliminary investigation findings to the Investigative Committee.

To establish the persons who had attended the 23 January protest rally due to Vorsin's call, the Investigative Committee appealed to the local directorate of the Federal Security Service (FSB), which named three persons, who, according to their information, watched Vorsin's video on Twitter and travelled to the rally venue. Two of them were later

interviewed as witnesses: one said that he had not participated in the protest and had not watched the video, the other – that he had participated and watched, but using VKontakte, not Twitter, and from his words it was not clear whether he had watched the video before or after the rally. The authorities were unable to find the third person.

In addition, FSB officers have somehow identified seven other people who “are supporters of conducting unauthorized public gatherings in the form of rallies” and “possess information about Vorsin’s illicit activities.” The FSB concluded that they may have in their homes “technical devices,” “which could contain information indicative of Vorsin committing a crime” and “which were used to record the video message calling for the unauthorized gathering.” It is not clear on what principle the FSB selected these people. It is known that among them were activists of Navalny's headquarters.

On 19 March 2021, it became known that the Investigative Committee had initiated a criminal case against Vorsin. A search of the activist’s house was conducted, and the activist himself was detained and placed in a temporary detention centre. The day before that, searches were conducted at the homes of six out of seven of the aforementioned persons, which the FSB had identified as “possessing information,” all of them were interrogated. All of them had participated in protest activities in Khabarovsk earlier but did not disclose any new information about Vorsin’s video. The court placed Vorsin under house arrest. OVD-Info attorney Vitaly Tykhata had to sign a non-disclosure agreement regarding the details of the preliminary investigation. Later, it became known that those who attended the court hearings on the extension of Vorsin’s house arrest, including journalists, were also required to sign non-disclosure agreements.

The “preliminary episodes” in Vorsin’s case:

- The 25 July 2020 march in support of the former governor of Khabarovsk Krai, Sergei Furgal, who had a criminal investigation initiated against him. For his participation in the march, Vorsin was **arrested** for 10 days on 16 September on charges of participating in an “unauthorized” event that had caused obstructions to the flow of traffic and the functioning of the infrastructure. The court ruling **came into force** on 27 October.
- The 15 August 2020 protest rally in support of Furgal. For participating in this protest action, Vorsin was **fined** 12,000 rubles (~US\$164 at the time, ~US\$150 as of April 2023) under part 5 of Article 20.2 of the Code of Administrative Offences. The court ruling **came into force** on 3 December.
- The 10 October 2020 protest rally in support of Furgal – the first mass rally of this public campaign to be dispersed violently. The case materials claim that Vorsin participated in the rally “in disdain of the constitutionally protected values,” – the investigation used the same wording that was also used in the cases against Konstantin Kotov and Yulia Galyamina. For participating in this rally, on 16 October Vorsin was **fined** 10,000 rubles (~US\$130 at the time, ~US\$125 as of April 2023) under the same article of the Code of Administrative Offences. The court ruling **came into force** on 5 November.
- A 21 January 2021 Instagram video announcing the 23 January protest rally in support of Alexei Navalny. For this video, on 25 January, Vorsin was **fined** 150,000 rubles (~US\$2,015 at the time, ~US\$1,875 as of April 2023) under part 8 of Article 20.2 of the Code of Administrative Offences. The court ruling **came into force** on 24 February.

The “final episodes”

- A Twitter video, also announcing the 23 January protest action in support of Alexei Navalny, published on 23 January.

Judging by the case materials, the investigation attempted to establish causality between Vorsin's calls for participation in the protest on Instagram and Twitter and the events of 23 January. That being said, the Instagram post was formally qualified as a "preliminary episode," even though the court ruling on it was issued and came into force already after the "final episode" had taken place.

The Prosecutor of Khabarovsk Krai contested the punitive measures ruled for the 21 January Instagram publication, claiming that a criminal case had been initiated against Vorsin and that a ruling on the administrative case that would come into force "can later become an obstruction for the court issuing the sentence" on the criminal case. However, the cassation court **rejected** the prosecutor's appeal, establishing that the administrative case was only concerned with the 21 January publication, while the formal reason for the initiation of the criminal case (i.e., the "final episode" itself) was the video published on Twitter on 23 January, the day of the protest action.

The investigation established another "final episode" – Vorsin's Instagram live stream on 21 January 2021, in which he had also announced the 23 January protest rally.

At his trial, Vorsin **recounted** that during the search on 19 March he had been handcuffed for four hours, forbidden to sit down or even lean against a wall and beaten on the legs. Moreover, he had been punched six times, bleeding his face and demanding to see his phone's PIN code.

At the hearings, in addition to the contracted attorney, a state-appointed lawyer was also present. The latter would ask the witnesses questions which, in Vorsin's view, were at odds with the defence's position. Vorsin repeatedly asked the

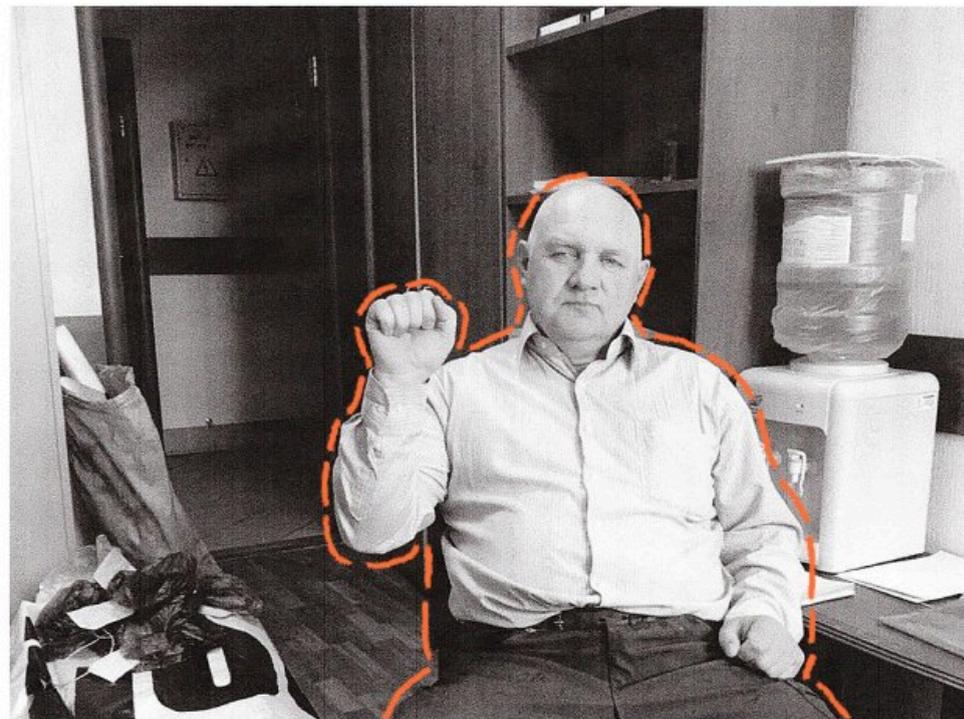
judge to withdraw the state-appointed lawyer's questions, but the judge refused.

A civil suit was **filed** against Vorsin: MUP "GET," a Khabarovsk municipal transport company, demanded 32,000 rubles (~US\$440 at the time, ~US\$400 as of April 2023) as compensation for trolleybus downtime during the 23 January protest rally. The court integrated the civil suit materials into the criminal case.

On 28 September, Vorsin **received** a suspended sentence of three years. On 23 December, the appellate court **upheld** the sentence. The **same ruling** was made by the cassation court on 18 August 2022.

In September 2022, **it became known** that Vorsin had left the country and was now wanted by the police in relation to the criminal case against Alexei Navalny and his supporters for creating an extremist group.

## **The case against Viktor Rau**



Victor Rau / Photo from Rau's social networks

Viktor Rau is a constant participant in protest rallies in Barnaul. He was first **informed** that a criminal case against him was initiated under Article 212.1 of the Criminal Code Article on 17 April 2021. On that day, the activist was taking a stroll at Sovetov Square wearing a medical mask with the inscription "Make Putin resign." There was another activist on the same square standing in a solitary picket for Putin's resignation and in support of political prisoners. Rau took a picture of the picketer. After this, he was detained: the police officers decided that Rau together with the solitary picketer was participating in a public event, while the medical mask performed the functions of a banner. Later, the activist was released without showing him any documents.

On 28 April, Rau's **house was searched**. Later it became known that a criminal investigation had actually been initiated against him, and the cause for that were the events of 17 April. Rau was interrogated, though no measures of restriction were imposed.

The "preliminary episodes" in Rau's case:

- The 5 December 2020 flash mob in support of Khabarovsk. It was supposedly this protest action for which Rau was **fined** 20,000 rubles (~US\$280 at the time, ~US\$250 as of April 2023) on 6 February 2021 as an “organizer of an unauthorized event” (part 2 of Article 20.2 of the Code of Administrative Offences). The court ruling **came into force** on 22 April.
- The 23 January 2021 rally in support of Alexei Navalny. On 27 January, Rau was accused of participating in a rally which had caused obstruction of the city’s infrastructure (part 6.1 of Article 20.2 of the Code of Administrative Offences) and **fined** 10,000 rubles (~US\$130 at the time, ~US\$125 as of April 2023). The ruling **came into force** on 18 March.
- A social media post calling people to join the next protest rally in support of Navalny on 31 January 2021. On that same day, court **arrested** Rau for six days as an “organizer of an unauthorized event” (part 2 of Article 20.2 of the Code of Administrative Offences). The appellate court **confirmed** the ruling on 2 February.
- A solitary picket on 2 March, when Russian Prime Minister Mikhail Mishustin was visiting Barnaul. On 10 March, Rau was **arrested** for 13 days under part 8 of Article 20.2 of the Code of Administrative Offences. The appellate court **confirmed** the ruling on 18 March.

In October, it **became known** that Rau had left Russia. In his Facebook post, he **revealed** that the police had opened a file on his grandson because of his political activities.

In January 2022, it was reported that the investigator **dropped the case**, finding that the rallies in which Rau had participated "did not contain a real threat of harm to constitutionally protected values," and that the posts on social media did not contain appeals.

## The case against Alexander Kashevarov



Alexander Kashevarov / Photo from Kashevarov's social networks

Aleksandr Kashevarov is the coordinator of the youth movement Vesna in Chelyabinsk. He was only 18 at the time the prosecution began.

It was first **reported** on 30 April 2021 that a case under Article 212.1 of the Criminal Code had been opened in Chelyabinsk Oblast. The message from the Directorate of the Ministry of Internal Affairs for Chelyabinsk did not specify against whom the case was initiated, but did specify the age of the suspect.

On 1 May, Kashevarov **was detained** in the airport of Yekaterinburg – he was going on a vacation to Armenia. Later that day, he was charged under Article 212.1 of the Criminal Code released under recognizance not to leave. On 3 May, a search was conducted at Kashevarov's home.

The “preliminary episodes” in Kashevarov's case:

- A solitary picket on 3 October 2020, with an attempt to self-arson in memory of journalist Irina Slavina from Nizhny Novgorod, who had set herself on fire the day before. In November, the Commission on Juvenile Affairs **sentenced** Kashevarov to 20 hours of community service under the article on participation in an unauthorized rally (part 5 of Article 20.2 of the Code of Administrative Offences).
- A publication about the protest rally in support of Navalny on 31 January. In March, the Commission on Juvenile Affairs **fined** him 20,000 rubles (~US\$275 at the time, ~US\$250 as of April 2023) under the article on the organization of an unauthorized rally (part 2 of Article 20.2 of the Code of Administrative Offences).
- Announcing the rally in memory of Boris Nemtsov in February 2021. On 27 February, the court **arrested** Kashevarov for five days under the article on the organization of an unauthorized rally (part 2 of Article 20.2 of the Code of Administrative Offences). On 3 March, an appellate court **upheld** the decision.

The “final episode”:

- The 21 April **protest rally** in support of Alexei Navalny.

On 17 May, his recognizance not to leave was **cancelled**: it was discovered that Kashevarov was still considered a suspect, whereas it had been previously reported that he had been charged.

On 13 August, it became known that the activist had left Russia.

On 9 November, the case was **dismissed**: it became known that out of the three court decisions on administrative cases that were included in the criminal case, only one had come into effect by the time of its initiation.

## The cases of Evgenia Fedulova and Vadim Khairullin



Evgenia Fedulova and Vadim Khairullin / Photo: Radio Liberty and social networks

In June 2021, it became known that in Kaliningrad, a preliminary investigation under Article 212.1 of the Criminal Code **was being conducted** against two local activists, Evgenia Fedulova and Vadim Khairullin. On 19 August, Fedulova **was detained**, and on 20 August, Khairullin signed a note of personal recognizance not to leave **issued** by the investigator. On 30 August, the measure of restriction was cancelled for him, since Khairullin had not been charged within the ten-day period required by law, and on 24 January 2022, it was imposed again. Fedulova was kept in a temporary detention centre until 23 August, and the court **refused** to take her into custody. Fedulova was **released** under recognizance not to leave. According to Maria Bonzler, an attorney cooperating with OVD-Info and representing the activists' interests, the cases against both were opened on 18 July.

The “final episode” in both cases was the participation in the protest rally in support of Alexei Navalny on 21 April. Later, Khairullin **claimed** that he had attended the protest rally as an observer. At that time, both already had three legally required court rulings under Article 20.2 of the Code of Administrative Offences that had come into force within six months.

The “preliminary episodes” in Fedulova’s case:

- A solitary picket on 15 August 2020 in support of the defendants in the BARS case (“Baltic Vanguard of Russian Resistance,” a group of Russian monarchists who were accused of intending to annex Kaliningrad Oblast to the European Union by force). On 1 October, the court **sentenced** her to 20 hours of community service, considering her a participant in an unauthorized protest rally (part 5 of Article 20.2 of the Code of Administrative Offences). The court ruling **came into force** on 26 November 2020.
- A solitary picket on 22 August 2020 dedicated to Alexei Navalny’s poisoning. On 19 November, the court **imposed** the same punishment under the same article. The court ruling **came into force** on 14 January 2021.
- Participating in a protest rally in support of Navalny on 23 January 2021. The court considered it a repeated offence (part 5 of Article 20.2 of the Code of Administrative Offences), and on 27 February, **arrested** Fedulova for six days. The court ruling **came into force** on 4 February.

Both solitary pickets held by Fedulova were considered participation in collective protest rallies.

The “preliminary episodes” in Khairullin’s case:

- Participating in the 29 August 2020 protest rally in support of the protest in Belarus. On 9 February 2021, the court **finned** him 20,000 rubles (~US\$270 at the time, ~US\$250 as of April 2023), considering him a participant in an unauthorized protest rally (part 5 of Article 20.2 of the Code of Administrative Offences). The court ruling **came into force** on 23 March 2021.
- Participating in the 23 January 2021 protest rally in support of Navalny. The court **finned** him 20,000 rubles (~US\$270 at the time, ~US\$250 as of April 2023), considering him a participant in an unauthorized protest rally (part 5 of Article 20.2 of the Code of Administrative Offences). The court ruling **came into force** on 16 March.
- Participating in the 31 January 2021 protest rally in support of Navalny. The court **arrested** him for five days, charging him with organizing an unauthorized protest rally (part 2 of Article 20.2 of the Code of Administrative Offences). The court ruling **came into force** on 11 February.

Fedulova appealed the court decisions on two protest rallies – the ones that took place on 15 and 20 August 2020 – in the Third Court of Cassation of General Jurisdiction. She hoped to have the rulings overturned on the grounds that the pickets were solitary, even though the materials stated that the picketing took place "together with other citizens."

On 8 December 2021, the complaint regarding the 15 August picket case **was denied** by court. On 25 February 2022, the complaint regarding the 22 August picket dedicated to Navalny's poisoning **was upheld**, and the case sent for a retrial to an appellate court. There, on 5 September, the case was eventually **dismissed** – which meant that there were grounds to terminate the criminal proceedings, which **happened** on 19 September.

On 8 August 2022, Khairullin **was sentenced** to one year in a general regime penal colony, even though the prosecution

had requested a suspended sentence of two years. On 7 November, the appellate court upheld the decision. On 20 February 2023, Khairullin was denied parole. In March, it became known that he had been transferred to a cell-type room.

## The case against Kirill Ukraintsev



Kirill Ukraintsev / Photo from social networks Ukraintsev

On 25 April 2022, the chairman of the “Courier” trade had his home searched by law enforcers. Earlier that day, around thirty protesters came out to the office of the Delivery Club delivery service, protesting against the wage cuts. More than ten people were detained. On 27 April, Ukraintsev was taken into custody following a court decision. As a result, Ukraintsev became the third person prosecuted under Article 212.1 of the Criminal Code to be put in a pre-trial detention centre at the investigation stage.

However, the April courier protests were not included in the criminal case.

The “preliminary episodes” are:

- A video posted on Youtube on 8 July 2020, calling for participation in the **courier strike** the following day. On 27 May 2021, the Savelovsky District Court of Moscow **fined** Ukraintsev 30,000 rubles (~US\$410 at the time, ~US\$375 as of April 2023), considering him an organizer of an unauthorized protest rally (part 2 of Article 20.2 of the Code of Administrative Offences). The Moscow City Court **approved** this decision on 11 October.
- An Instagram post made on 12 October 2020, containing a call to come the following day to the Golovinsky District Court of Moscow, where a hearing on the case on the broken window in a United Russia office was conducted (one of the defendants was the anarchist and mathematician Azat Miftakhov, the protest rally in his support became part of the case against Konstantin Kotov, see above). On 14 September 2021, eleven months later, the Koptevsky District Court of Moscow **arrested** Ukraintsev for 10 days under the same part of the same article. The Moscow City Court **approved** this decision on 22 September.
- A VKontakte post made on 30 October 2020, containing a call to participate in the **courier strike**. On 2 March 2021 the Savelovsky District Court of Moscow **fined** Ukraintsev 20,000 rubles (~US\$270 at the time, ~US\$125 as of April 2023) under the same part of the article. The Moscow City Court **approved** this decision on 21 July.

The “final episode”:

- Ukraintsev’s post on Telegram dated 12 October 2021, calling to participate in the protest rally of Yandex.Taxi service taxi drivers in the town of Sergiyev Posad (Moscow Oblast), which took place on 15 October.

Thus, the case against Ukraintsev became the first and, so far, the only one to be initiated under Article 212.1 of the Criminal Code based solely on public statements on the Internet.

Noticeably, the search order, which mentions all episodes of the case, lists the first three in reverse chronological order: it looked like that Ukraintsev would first publish a post on 30 October 2020, then “continuing his illicit actions,” published a post on 12 October 2020, and finally, “despite repeated administrative prosecution <...> without drawing proper conclusions,” published a post on 8 July 2020. Apparently, it was done this way since the officer who was preparing the report was guided by the dates when the respective court rulings came into force: indeed, first, the court ruling on the post dated 30 October 2020 came into force on 21 July 2021, then the court ruling on the post dated 12 October 2020 came into force on 22 September 2021, and, finally, the ruling on the post dated 8 July 2020 came into force on 11 October 2021.

Another interesting detail is that the “final episode” in the case happened literally the next day after the court ruling on the penultimate one came into force. In addition, the protest rally in Sergiyev Posad that Ukraintsev, according to the investigation, had organized with a Telegram post, posed “a real danger of harm to public health, property of individuals and legal entities, and public safety.” There were no less than 30 people who exposed “themselves and other citizens to the risk of infection and the spread of the new coronavirus infection (COVID-19),” as well as restricting access to the parking lot of the “Carousel” shopping centre.”

It is also interesting that the case against Ukraintsev was initiated more than six months later after the last “preliminary episode.” It cannot be ruled out that the attention on Ukraintsev in 2022 was drawn not only by the April courier

strike, but also by his post on social media that courier tariffs had fallen because of the "special operation."

MediaZona and Novaya Vkladka **report** that, while being in jail, the activist was denied a marriage, although the wedding date had already been set.

On 9 February 2023, a court in Sergiev Posad **sentenced** Ukraintsev to one year and four months in a colony-settlement and ruled to release him in the courtroom since he had already served this term in custody. This is the first known case when a person sentenced to deprivation of liberty under Article 212.1 of the Criminal Code is released in the courtroom.

## **The case against Olga Nazarenko**



Olga Nazarenko / Photo: lawyer Oscar Cherdzhiev

The information on the initiation of a criminal case against the activist from Ivanovo who regularly participated in anti-war rallies **appeared** on 18 October 2022. The cause for it was a solitary demonstration held by Nazarenko on 10 September

in support of those prosecuted for their anti-war position. By that time, she already had three judicial decisions under Article 20.2 of the Code of Administrative Offences that had entered into force within the previous six months.

The “preliminary episodes” in Nazarenko’s case:

- A solitary picket on 13 February in support of Nikita Uvarov, who had been sentenced in the case against “Kansk teenagers” to five years under the articles on training in terrorism, illegal manufacture of explosives and their storage. On 20 May, the Leninsky District Court of Ivanovo **sentenced** her to 180 hours of community service under the article on repeated violation of the established procedure of holding public events (part 8 of Article 20.2 of the Code on Administrative Offences) and declined to consider the protest as a solitary picket due to the fact Nazarenko had passed her banner to an acquaintance who had used it for her own solitary picket. The Ivanovo Regional Court **approved** the ruling.
- A solitary picket on 23 February with a banner “No to war!” On 28 March, the same district court **fined** Nazarenko 75,000 rubles (~US\$785 at the time, ~US\$940 as of April 2023) under the same article. On 17 May, the regional court **upheld** the court ruling.
- A solitary picket on 27 February with a banner “I am a Russian who is against the war, send Putin to the Hague!” On 14 July, the same district court **fined** Nazarenko 150,000 rubles (~US\$2,560 at the time, ~US\$1,875 as of April 2023) under the same article. On 25 August, the court ruling **came into force**.

Nazarenko was released under recognizance not to leave

At the time of the initiation of the case, Nazarenko was already being prosecuted in another case – on the repeated discrediting of the Armed Forces of the Russian Federation

(part 1 of Article 280.3 of the Criminal Code) for putting up leaflets. Later, these cases were merged. This is the first time the case under Article 212.1 was merged with any other case.

Nazarenko **was suspended** from teaching at the Ivanovo State Medical Academy.

At the time of publication of this Report, Nazarenko's case is at the investigation stage. She has signed a non-disclosure agreement regarding the details of the investigation.

## More to read



### **The Micropolitics of Resistance**

Jeremy Morris draws on the lessons from his upcoming book to explain how small civic acts in Russia can work as functional resistance.