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Freedom of assembly in Russia during COVID-19

Доклад на русском языке: [Свобода собраний в России на фоне пандемии](#)

In March 2020, Russia began to impose restrictive measures concerning the spread of COVID-19 infection. In this report, we document the influence of these measures on the freedom of assembly in the period from March 10 to April 22, 2020. We assess the legality and proportionality of the implemented measures, disregarding the question of their suitability and effectiveness.

REGULATORY RESTRICTIONS

Starting on March 10, the regional authorities gradually began to ban public events. First, bans applied only to protest actions with a large number of participants, but eventually, single-person pickets were banned as well.

First restrictions were **introduced** on March 10 by the mayor of Moscow: it was prohibited to hold public events with more than 5 000 participants. In the next few days, the governors of **Saint-Petersburg**, **Leningrad Oblast**, and **Moscow Oblast** signed the decrees introducing similar restrictions. On March 16, the maximum number of participants in «leisure events» in **Moscow** and **Moscow Oblast** was limited to 50 people. At the same time, all public events, including, apparently, the single-person pickets were banned. On March 17, the **Decision** of the Chief State Sanitary Doctor of the Russian Federation was issued. According to it, heads of the federal subjects were required to «restrict mass gatherings, » and they actively began to **impose** the restrictions. Although a «public event» cannot be formally classified as a «mass gathering, » in many regions, the restrictions extended to them as well, and even to the single-person pickets.

Restriction tightened up quickly; by the end of March, all public events, including the single-person pickets, were banned in 45 regions. Gradually restrictions were extended into the future.

COVID-19: Prohibition of publ

Bans imposed on the territory of subjects of the Peninsula in March 2020.

limited to 50 people
limited to 100 people
limited to 300 people
limited to 500 people
limited to 1000 people

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At the end of March, the authorities gradually began imposing lockdown, restricting people from leaving their homes and moving about the city.

Starting on March 26, Muscovites, who are older than 65 or have certain diseases, were **obliged** to stay at home. On March 29 in **Moscow** and **Moscow Oblast** the mandatory

self-isolation was imposed on the whole regions' population. From March 28 until April 5, a week-long holiday for all Russians was **declared**, during which citizens were urged to stay at home. On April 2, the holiday and self-isolation regime was prolonged until the end of April.

On April 1, the federal legislator introduced **amendments** to the federal law «On Protection of the Population and Territories in Case of Natural or Man-Made Disasters, » authorizing the heads of the federal subjects to impose mandatory restrictions and requirements in emergencies or during the «high alert regime».

Violation of the restrictions, connected with the pandemic, and spreading misleading information about it, are subject to punishment, starting from April 1. New administrative and criminal law articles are not directly related to the freedom of assembly. However, some of them are used for restricting public meetings and persecuting activists, and others might be used in that way.

Article 6.3 of the Code Of Administrative offenses Of The Russian Federation (violating the laws in the area of securing the medical and epidemiological well-being of the population) was complemented by new norms. It implies that if such a violation poses a threat of spreading the disease, it results in a fine between 15 and 40 thousand rubles and up to 300 thousand rubles in case of aggravating consequences.

The new article 20.6.1 of the Code Of Administrative offenses punishes breaking the rules, which include self-isolation rules during the emergency or the high-alert regime. The fines would be from 1 to 30 thousand rubles, and up to 50 thousand if the violation led to any harm for other

people's health. New articles on the regional level provide similar punishments. For instance, a related article was added to Moscow's Administrative offenses Code (art. 3.18.1); in this case the fine is from 4 to 5 thousand rubles.

On April 1, two new articles were added to the Criminal code of Russia. They punish spreading «information about the circumstances posing a threat to one's' life and safety known to be false» (art. 207.1 CC) and spreading «information of high social importance known to be false, which led to serious consequences» (art. 207.2 CC), the punishment is up to a 3-years sentence and up to 5 years if the act caused serious consequences. On April 21, the Supreme Court issued a statement, according to which these articles can also be implied for statements made at public assemblies.

ASSEMBLIES' APPROVAL

Due to the ongoing changes in the laws and increasingly stringent restrictions, the government's attitude towards the attempts to organize a public assembly varies drastically from one region to another.

In March, some governments forbid the assemblies, citing the pandemic, while others approved them.

Non-approving assemblies

- On March 10, Vladimir Putin approved the idea of changing the Constitution so that his presidential terms may be reset, and he may participate in the presidential elections again. Right after that, a few notifications about organizing assemblies on Academician Sakharov Avenue on March 21 and 22, planning 25 and 50 thousand participants respectively, **were received** by the Moscow government. On that same evening, Moscow Mayor Sergey Sobyenin forbid public assemblies with more than 5000 participants. On March 11, the organizers filed new **notifications**, cutting the number of participants down to **4500** and **4900**, respectively. However, on March 12 and 13, the Moscow city hall **denied** them without providing alternative time or place for the assemblies as required by law. Even though the considered number of participants was less than 5000, the city hall denied them due to the mayor's order, due to which «the restrictions for **mass gatherings** have been implied, so the public event **can't be approved**» (here and then the bold is done by OVD-info).

Cancellation of the approved assemblies

- On March, 11 a notification for the assembly against the changing of the Constitution with 150 participants planned on March 22 **was filed** in Voronezh. After the negotiations with the city hall, the place of the assembly was changed, and it was approved. On March, 17 I. C. mayor **«recommended»** that the administrations **«cancel any planned mass gatherings (including business, sports, cultural, educational and entertainment)»**, and the citizens **«refrain from participating and organizing any mass events or foreign citizens»**. Even though the document was about mass gatherings, not the public events, on March, 19 the city hall **informed** the organizer that the approval is **«canceled»** and offered to hold the assembly after the end of the high-alert regime. The Court agreed with the city hall.
- The Glazov's (Udmurtia) town administration forbid the picket against the reduction of ambulances, which was planned and already approved to take place on March 29. As one of the organizers **told** the «7×7» online newspaper, the first notice of a picket with 100 participants was filed on March 23. On March 25, the requirements changed, so the organizers cut the participants' number down to 49 people to meet them. On March 27, the administration approved the assembly. However, that same evening the administration forbid it due to the fact that the head of the region **demande**d to **«suspend holding all the entertainment, cultural, sports, PR, educational and any other similar events with the citizens' presence.»**

Unhindered protest action (protest actions not obstructed by the authorities)

Meanwhile, in some other cities, organizers are able to hold authorized assemblies, even at the end of March

- On 22 March, protest actions against the reset of Putin's presidential terms took place in Perm (according to the organizer, 150 people attended), in Krasnoyarsk (by various estimates, 250–300 people participated), in Chita (around 100 participants), in Novosibirsk (approximately 30 people).
- On 29 March, 14 participants participated in a picket against constitutional changes.
- On 30 March, a small picket against the construction of a railway square took place in Ivanovo.

In some cases, the government doesn't forbid the holding of public events. Still, during the approval process, they ask the organizer to reduce the number of participants due to announced pandemic restrictions.

- On 24 of March, there was a rally against constitutional changes in Kostroma. According to «7×7» media, the local government authorized the event but obligated the organizer to limit the number of participants to 50 people. The organizer offered medical masks to each participant at the entrance.

APPEAL OF RESTRICTIONS

On 10 April, the coordinator of the movement «Spring, » Bogdan Litvin, won an appeal hearing of Saint Petersburg city court for a legal case regarding the ban of public events established by the regional government on 31 March 2020.

The government's ban of a two-people picket, planned to be held on 1 April, became the reason for the lawsuit. As per Zaks.ru, «The statement of claim states that Litvin was planning to have a first aid kit, sanitizers, and medical mask while warning the public to keep 3-meter away.

Court didn't consider the application due to the formal misstatements. According to «Rosbalt» media, **citing** the statement of the press office of Saint Petersburg city court, «the statement was not signed or was filed by a person without proper authority to file such a statement. That is if he filed the claim through a representative, so, most probably, the power of attorney is missing».

There were some attempts to appeal against the legitimacy of restrictions during the high-alert mode. On 16 April, a court in Astrakhan **declared** that requirements don't contradict with Federal legislation. On 17 April, **Briansk regional court** reached the same decision. Also, the restriction on movement was **challenged** in Tatarstan.

DETENTIONS DURING PUBLIC EVENTS

Legal restrictions resulted in detentions and subsequent administrative prosecution of participants. The first to be detained were participants of single-person pickets (according to Russian legislation, single-person picket is the only type of public assembly which does not require prior authorization) in **Moscow** and **Saint Petersburg**.

- On 17 March, a participant of a **single picket** against the referendum on constitutional amendments was detained in Ryazan; he was wearing a protective suit and a respirator. The person was detained and taken to the police station. According to his response, he was detained because he was hiding his face during a public assembly. Police seized the poster and the face mask.

On 26 March, «Commerzant» media **announced**, citing anonymous sources, that officers of Ministry of Internal Affairs were recommended not to detain citizens «in case of **minor offenses**» and if «they do not represent the serious threat to public safety». In such cases, officers should hold on only preventive discussions.

Nevertheless, police still pursued detaining participant in **Moscow** and other regions:

- On 2 April, police **detained** a few participants of the «Open microphone» event, where anyone willing to share their opinion about the situation in Buryatia could express themselves. Police also detained a person who later came to the police station to support detainees.
- On 8 April, three people held a picket against the quarantine regime, staying with a poster one at a time. Police **detained** a participant, who was holding the sign at that moment and accused him of violating the self-isolation regulations.
- On 20 April, according to official sources, 69 people **were detained** in Vladikavkaz during a mass action against the self-isolation regime.

During the March actions, police **drew up** protocols for the **violation of the established procedure** for holding public events (Article 20.2 of the Code of **Administrative offenses**) or for **non-compliance** with the lawful demands of police officers (Article 19.3 of the Code of **Administrative offenses**).

Starting on 1 April, police **began to draw up reports**, based on the new articles on administrative offenses regarding the violation of the self-isolation regime, as well as new articles of Moscow Code of **Administrative offenses**. On 20 April, in Vladikavkaz police officers drew up reports on the grounds of «simultaneous mass staying in one place» (article 20.2.2 of the Code of **Administrative offenses**).

On 22 April, Investigative Committee **opened** a criminal investigation about **hooliganism**. In Vladikavkaz, citizens were resisting the police officers dispersing the protesters (part 2 article 213 of the Criminal Code). Some participants are also charged with turning to the use of violence that does not

endanger human life or health against a police officer (part 1 article 318 of the Criminal Code).

THE FREEDOM OF ASSEMBLY RELATED TRIALS

Following the Supreme court **ruling**, courts have been operating in a restricted mode since March 19. Some hearings are delayed, some are held online, if possible; access for visitors and spectators is restricted. This new mode of operation affects trials concerning the freedom of assemblies as well.

Criminal trials are being postponed

- The retrial of Konstantin Kotov, who has been convicted and is serving his prison term for peaceful actions, was **postponed** from March 26 for an unspecified period of time. It **took place** on April 14, all this time, Kotov was imprisoned. «The hearing was scheduled for March 26, and then... You guessed it: the quarantine comes in. Due to the coronavirus threat, Moscow courts switch to the new operation mode. The Supreme court decrees that up to April 10, only urgent cases are to be examined. Among these are hearings on applying, extending, changing, or vacating a measure of restraint. Still, Kostya's case is treated as a regular one in Moscow City Court since this is an appeal against sentence, « — **says** Kotov's attorney Maria Eismont on her Facebook page.
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Administrative cases are left without consideration

- On March 27, a woman was **detained** in the capital of the Republic of Ingushetia, Magas, for a single-person picket in support of political prisoners. Her attorney, Magomed Bekov, reported that she was kept in the police department for several hours, then delivered to the court that didn't examine her case due to the quarantine.
- On March 15, Yulia Tregubova, an attorney, **was kept out** of the Tverskoy district court of Moscow, where the trial of her defendant took place. The defendant, arrested for taking part in a public action in February, couldn't attend the session because of the self-isolation regime. According to the attorney, the judge assistant, upon learning this, said, «The court won't proceed then. Or it will, but without her [the defendant]. Anyway, you won't get inside the court today». Tregubova was not informed whether the trial took place or not. As of April 21, the case information on the Moscow City Court website **has not been updated**.

In the meantime, courts continue trials concerning public events. Let us provide a few examples.

Administrative cases:

- On April 21 and 22, courts in Vladikavkaz **examined** dozens of administrative cases in relation to the unauthorized public event that took place on April 20. As a result, people were placed under administrative arrest for 2 to 15 days.
- On April 10, a court in Ulyanovsk **dismissed** a case involving minors into taking part in an unauthorized public event (Administrative offenses Code of the Russian Federation, article 20.2, part 1.1). The protocol was drawn up against Larisa Tomul, a defrauded shareholder. She took a photo with her son, holding banners near the unfinished house on April 7.
- In Sverdlovsk oblast, the court **dismissed** the case of a repeated violation of an established procedure for holding a public event. The administrative offense report was **issued** a day before against Yury Kuzminykh, who used to be a coordinator in Alexey Navalny headquarters. He was accused of a public call for participation in an unauthorized public event in the summer of 2019, although the assembly didn't take place eventually.

Criminal cases:

- On April 13, the Moscow City Court **reduced** the sentence of the defendant in the «Moscow Case» Nikita Chirtsov from 12 to 11 months. The very same court on April 20 **upheld** the verdict of another «Moscow Case» defendant, Sergey Surovtsev. In January, he was sentenced to 2,5 years in a penal colony.
- On **April 22**, courts of appeal started to hold hearings on the prosecution's appeals against the judgment in the «Ingush Case» and to increase the sentences for participants of protests in Magas.

Measures of restraint:

- On April 3, the Stavropol Region Court **prolonged** the arrest of five people criminally accused in the «Ingush Case».
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Online Court Hearings

- On March 26, Kazan's Vakhitovo district court **conducted** a hearing via Skype. The court examined the case of a public event participant's liability under part 1, article 20.2 of the Russian Code on Administrative Offenses (violation of the procedure of organization of a public event). The lawyer who participated in the hearing described the process as follows: «We come to the inner room. There are police officers there. A laptop's standing on the windowsill. There's someone there over Skype, presumably a judge. We come as close as possible to the laptop and speak. Meanwhile, everyone keeps sitting there, staring at us.» Familiarization with the case file was realized by delivering the file from the judge to the police department and then back to court together with the original request of familiarization with the case file.
- Konstantin Kotov participated in his own **retrial** from the detention center via a video conference on April 20. Kotov's defense asked to release him from custody and postpone the hearing until the audience was admitted to courts again to ensure the principles of openness and publicity. The court rejected the request and referred to the video broadcast by the court's press service. The court also rejected the online examination of the witness for the defense, who was unable to arrive at court due to the pandemic. As a result of the retrial, Kotov's sentence was reduced from four to one and a half years of imprisonment.

On April 21, the Supreme Court **clarified** the operation of courts and procedural time limits during the total isolation.

In particular, the court mentioned that time limits to file complaints and appeals were not paused. Still, in each individual case, courts may review the possibility of resetting the expired time limit. The Supreme Court also said that with the exception of pressing matters (on determining a measure of restraint, medical intervention in the interests of the under-age and legally incapable persons etc.), ordinary courts may independently determine the categories of cases to be tried or postponed.

Such leeway granted to courts causes uncertainty. This leaves open the question of whether parties' representatives or defenders for administrative violations that do not hold the status of advocates will be able to participate in court hearings. In view of mandatory self-isolation and restrictions on admitting audiences to courts, the risk that defenders without the status of advocates will not always be able to get to trials is very high. Again, holding court hearings without the audience present undermine the guarantees that the judicial processes will be open and public.

PERSONS INVOLVED IN CASES RELATED TO RESTRAINT OF FREEDOM OF ASSEMBLY, IN PLACES OF IMPRISONMENT

Another problem that the persons involved in cases related to public events face together with other inmates is the risk of getting infected in places of imprisonment. As of April 21, the Russian Federal Penitentiary Service did not officially report any cases of COVID-19 among prisoners. However, on March 20, the Official portal of the Jewish Autonomous Oblast's governmental bodies **reported** the increase in the coronavirus cases in the region: «Today, as of 9 am Moscow time (UTC 3), 43 COVID-19 cases have been detected in the region, including the primary positive samples. This

significant increase is due to the outbreak of the disease in the penitentiary facility of the Federal Penitentiary Service Department.» Earlier, on April 13, Interfax **reported** that, according to Elena Kuzmina, the Head of the Rospotrebnadzor department, five employees of the republic's Federal Penitentiary Service Department had been diagnosed with COVID-19.

Due to the pandemic, a special regime **has been introduced** in the Federal Penitentiary Service Department's facilities that prohibits prison visits by relatives; lawyers now see prisoners in meeting rooms, separated by glass and with the use of special phones. In some colonies and detention centres, parcels are also not allowed. The full list of restrictions has not yet been published.

- In early March, **it became known** that Egor Lesnykh, who is involved in the «Moscow case» and sentenced to three-year imprisonment on charges of causing harm to a police officer's health during 2019 summer protests in Moscow, caught an «unknown strain of flu» while being held in the detention centre. This information came from Lesnykh's fiancée Daria Blinova. His requests to test him for COVID-19 were initially rejected, but on March 18, the «Public Verdict» foundation reported he was ultimately tested.
- On March 26, at the appeal hearing against extending the arrest of a person involved in organization of applying violence to authorities in Ingushetia, Zarifa Sautieva **told the court** about her concerns regarding her being held in the detention centre during the pandemic. The court ruled to keep Sautieva under arrest until June 11.

LEGALITY AND PROPORTIONALITY OF MEASURES INTRODUCED

- Whether regional authorities could legitimately prohibit public events and restrict the movement of citizens seems doubtful. Even in times of epidemic, restricting constitutional human rights (which include the right to freedom of assembly) is permitted only by federal law. Federal lawmakers gave heads of constituent entities few authority in this area only from April 1: they were allowed to establish «rules of conduct binding upon citizens and organizations when introducing a high alert or emergency». However, many restrictions and prohibitions at the regional level were introduced before that, in March.
- The Moscow authorities imposed the first restrictions on the number of participants in public events with a clear violation of the procedure. Firstly, the draft decree should have been published in advance for an independent anti-corruption examination. Secondly, the mayor's proclamations on the protection of human rights and freedoms, including the right to protection of health, should enter into force 10 days after publication, and not immediately, as it happened in practice.
- The restrictions imposed in the regions after the requirement of the chief state sanitary inspector (began to operate on March 17, does not apply to Moscow), in many entities extended not only to mass assemblies but also to such public events as single pickets.

- At the end of March, at least 58 regions introduced restrictions on public or mass events, but a specific expiration date was not indicated. The documents consist of such wordings as «until further notice, » «until further notice, » «depending on the development of the situation, » «for the period until the threat of the spread of coronavirus infection is eliminated». This formulation complicates control over the extension of restrictions and poses a potential risk that they will not be lifted in the future.
- Due to the fact that the regulatory framework governing public events is continuously being amended in the second half of March, there are problems with holding meetings that have been already authorized as well as events, notifications of which have been submitted for consideration. The organizers have to adjust the number of participants over and over again. Yet often negotiations end with a ban on the action. In fact, the retroactive effect of the law is observed: restrictions apply to events, notifications of which were filed before the next legislative change. The problem arises due to the bureaucratic approval process with **very tight deadlines** for prior notification. While rules have been rapidly changing, the notification procedure and time limits remained the same.
- The severity of the regulatory restrictions on public assemblies and the rapidity of their introduction surpass all constraints on other mass events. For instance, when Moscow and its region imposed a ban on all public meetings (including one-person pickets), gatherings for recreational activities with fewer than 50 people were still allowed. At the same time, public transport continued to function despite possible crowding.

- In general, during March, we observe different approaches of local administrations to the coordination of public events. In some cities, authorities prohibit political actions, including those that have already been approved earlier or not falling within the regulatory prohibition introduced in the region. At the same time, in other cities, even at the end of March, it was possible to hold pickets — at worst, the authorities suggest reducing the number of participants. As a result, unpredictability increases, and different conditions are being created for residents of different cities.
- The opportunity to ensure the safety of participants of such actions without a complete ban on holding events is not always used: recommendations to maintain distance between demonstrators, use of medical masks, and antiseptics. Moreover, the authorities did not make additional clarifications about the possibility of wearing masks on actions in a pandemic. The law on rallies prohibits participants from hiding their faces in public events. (People are prohibited from hiding their faces on political actions by law on political rallies) The Constitutional and Supreme Courts noted that the wearing of medical masks should not always be considered an offense; in each case, circumstances should be taken into account. However, during the epidemic, in at least one case, this led to detention.
- It seems that detention at public events, especially at single-person pickets, in an epidemic, carries more of a threat of infection than the fact of such actions. Arrest involves close contact with police officers and other detainees brought to the same department, whereas street protests can be carried out, maintaining social distance.

- Restrictions on public events in March 2020 are introduced at a time when the ruble is falling **sharply**, and significant amendments are being **made** to the Constitution. Consequently, there is a need for **public discussion** and an immediate reaction. The debate was also caused by those restrictions which were introduced to prevent the spread of coronavirus. In April, they became the reason for a number of protests, for example in **Vladikavkaz** and **Krasnoyarsk**. People expressed their concerns about the possible negative economic consequences of quarantine measures. In such circumstances, the state not only did not try to ensure the right to freedom of assembly but also did not offer an alternative on holding real actions. The fact that there is such an opportunity, we see on the example of topics that are not of a protest nature. So, after the cancellation of the procession «Immortal Regiment, » dedicated to Victory Day, the Kirov administration **proposed** to hold action on the Internet and provided a platform on its official website for publishing photographs of veterans. On the contrary, in the case of changes to the Constitution, public discussion was tightly limited on the Internet: the site against amendments was **blocked**.

INTERNATIONAL CONTEXT

March 20. OVD-Info and The Human Rights Center «Memorial» **ask** the UN to recommend Russia postpone the vote on April 22 because of the coronavirus.

April 1. **Review** Human Rights Watch «COVID-19 and human rights».

April 1. Amnesty International **Statement** «Europe: Amnesty International highlights human rights priorities for state responses to COVID-19».

April 6. OVD-Info **Overview** «Quarantine and freedom of assembly in the post-Soviet space».

April 7. **Press Release** on Attempting to Appeal Coronavirus Restrictions in German Federal Constitutional Court «Unsuccessful applications for preliminary injunctions in relation to the COVID-19 pandemic».

April 10. **Speech** by the Chairman of the European Court of Human Rights Linos-Alexandre Sicilianos before the participants of St. Petersburg International Legal Forum 2020.

April 14. **Statement** UN Special Rapporteur on freedom of peaceful assembly and association: pandemic restrictions should not impede freedom of assembly.