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# LIMITATIONS ON AND RESTRICTIONS TO THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY IN THE DIGITAL AGE

LEGISLATIVE NORMS AND ENFORCEMENT PRACTICES IN RUSSIA

## Information about organizations submitting the present memorandum

**OVD-Info**, [www.ovdinfo.org](http://www.ovdinfo.org), is an independent human rights media project aimed at monitoring cases of political persecution in Russia and providing legal assistance to victims of such persecution. OVD-Info was founded during mass protests of December 2011 as a volunteer project with the purpose of giving publicity to information on arrests of protests' participants. Today OVD-Info operates a 24-hour federal hotline to collect information on all types of political persecution and coordinate legal assistance to its victims, provides legal education to activists and researches different types of political persecution in Russia.

E-mail: [info@ovdinfo.org](mailto:info@ovdinfo.org)

**Human Rights Centre "Memorial" (HRC "Memorial")**, <https://memohrc.org>, is a Moscow-based NGO, founded in 1992. Human Rights Centre "Memorial" works, among others, in partnership with the London-based European Human Rights Advocacy Centre (EHRAC) in a project aimed at taking cases to the European Court of Human Rights. More than 250 applications concerning human rights violations in the Russian Federation have been lodged with the Court within the framework of this joint project. A number of these cases concern an interference with the right to freedom of assembly, including *Frumkin v. Russia* (application no. 74568/12), *Sozayev and Others v. Russia* (application no. 67685/14), *Ilupin v. Russia* (application no. 57141/12), *Ilupin and Others v. Russia* (application no. 76797/13), *Aleksandrov v. Russia* (application no. 45733/13) and others.

E-mail: [coordinator@memohrc.org](mailto:coordinator@memohrc.org)

# Limitations on and restrictions to the right to the freedom of peaceful assembly in the digital age

The present submission is based on information documented by the human rights project *OVD-Info* as well as other human rights and analytical organizations and media. It contains information on practices used by the Russian authorities for restricting freedom of assembly in the digital space, as well as the legislative basis of such restrictions and the development of the legislation in this area in 2012-2018.

## Prosecution for disseminating information about peaceful assemblies

Russian legislation stipulates both administrative and criminal prosecution for dissemination of information about street actions.

Criminal liability exists<sup>1</sup> for “calls” for mass riots. At the same time, the very concept of “**mass riots**” is interpreted widely by law enforcers, and can include peaceful events.

For example, in the summer of 2018, criminal proceedings were initiated<sup>2</sup> against two residents of Chelyabinsk and several unidentified persons on charges of calling for riots on the basis of their comments in the group “Chelyabinsk against raising the retirement age”. One of the defendants argued that his comments pointed out the need to “resist the illegal actions of riot policemen, not allowing them to beat and detain protesters”.

Moreover, the law does not explain what should be classified as “**calls**” for riots. Despite such uncertainty, prosecution under this article can result in up to two years of real imprisonment. Although charges of calling for mass riots are not a mass phenomenon, it cannot be said that this article is never applied: according to the Judicial Department of the Supreme Court of the Russian Federation, since 2012, six people have been convicted.

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<sup>1</sup> Article 212 (3) of the Criminal Code of the Russian Federation.

<sup>2</sup> For more information, see: <https://www.novayagazeta.ru/news/2018/09/06/144803-v-chelyabinske-vozbudili-delo-o-prizyvah-k-besporyadkam-za-kommentarii-o-mitinge-navalnogo-vo-vkontakte> (accessed on 14 January 2019, in Rus).

In 2012, administrative liability was introduced<sup>3</sup> for “**public calls for massive simultaneous presence**” or “**movement**” of citizens in public places, if this has led to a disturbance of the public order, harmed the greenery or interfered with traffic or pedestrians. As in the case of the criminal article, the notion of “**calls**” was not defined, which gave greater freedom to law enforcers.

Since 2014, for such calls, citizens risk a penalty<sup>4</sup> of 10 to 20 thousand rubles (approx. EUR 130 to 260<sup>5</sup>), up to 100 hours of compulsory work or arrest for up to 15 days. An even greater punishment (a fine of 150 to 300 thousand rubles (approx. EUR 1950 to 3900), compulsory work for up to 200 hours or up to 20 days of arrest) was introduced in 2014<sup>6</sup> for such calls, if the “simultaneous presence” occurred near court buildings, the residence of the President of the Russian Federation, and some other areas. An even more severe punishment, up to 30 days of arrest, is envisaged<sup>7</sup> for a “**repeated**” violation of the article.

In addition, since 2012, the law has prohibited<sup>8</sup> campaigning before a public event, if it was not authorised by the authorities. Previously, campaigning was allowed immediately after the notification had been submitted to the authorities. In the realities of Russia<sup>9</sup>, when the notification can be filed no earlier than 15 days before the event, and approval may be delayed for a long time without any guarantee of a successful confirmation, this change turns into a serious limitation.

The law classifies as agitation not only actual calls for participation, but in general, **dissemination of information** about the upcoming event: its place, time, goals, and “other information related to the preparation”.

In the Russian legislation, there is no separate norm that governs punishment for illegal “agitation”. In practice, dissemination of information about a forthcoming

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<sup>3</sup> Article 20.2.2 of the Code of Administrative Offenses of the Russian Federation.

<sup>4</sup> Article 20.2.2 (1) of the Code of Administrative Offenses of the Russian Federation.

<sup>5</sup> All figures in euros are provided according to the Central Bank of the Russian Federation exchange rate as of January 14, 2019.

<sup>6</sup> Article 20.2.2 (2) of the Code of Administrative Offenses of the Russian Federation.

<sup>7</sup> Article 20.2.2 (4) of the Code of Administrative Offenses of the Russian Federation.

<sup>8</sup> Article 10 (1) of the Federal Law No. 54-FZ of 19 June, 2004 “On Gatherings, Meetings, Demonstrations, Processions and Pickets”.

<sup>9</sup> For more information, see “The Art of Restricting”, a report by OVD-Info concerning the mechanisms authorities use to restrict protests in Russia: <https://ovdinfo.org/reports/iskusstvo-zapreta> (accessed on 14 January 2019, in Rus).

unauthorized rally is usually interpreted as a violation of the established procedure for holding a public event<sup>10</sup>. At the same time, the authorities classify dissemination of information as organization of a public event, contrary to the recommendations of the Special Rapporteur.<sup>11</sup>

As a result, punishment for dissemination of information about unauthorized actions is increasing with tougher penalties for organizers of public events in general. Since June 2012, the punishment for violation of the established procedure by the organizer is punishable by a fine of 10 to 20 thousand rubles (approx. EUR 130 to 260) or by compulsory work for up to 40 hours<sup>12</sup>. In 2014, an extremely severe punishment (a fine of 150 to 300 thousand rubles (approx. EUR 1950 to 3900), up to 200 hours of compulsory work, or up to 30 days of arrest) was introduced for a **“repeated”** violation of this article<sup>13</sup>. Since 2014, a **“multiple”** violation (more than twice within 180 days) is punishable under criminal law<sup>14</sup> - that is, with up to 5 years in prison.

Since dissemination of information about an unauthorized event, and actions during the event itself are mentioned in the same article of the Code of Administrative Offenses (hereinafter referred to as the CAO), entirely different activities can be classified as “repeated” and “multiple” violations.

This fact makes the situation difficult to analyze: it is impossible to find out from official statistics how many cases related to dissemination of information about public events are taken to court. Nevertheless, it is obvious that while in the past these were isolated instances, in 2017-2018, this kind of pressure was used more and more often.

In 2013 there was, perhaps, a lonely case, that is, the detention<sup>15</sup> in December of the editor-in-chief of the BlogSochi website. He was accused of trying to organize an unauthorized rally for the resignation of Sochi’s mayor. Information about such a rally

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<sup>10</sup> Article 20.2 (5) of the Code of Administrative Offenses of the Russian Federation.

<sup>11</sup> A/HRC/23/39, p. 72.

<sup>12</sup> Article 20.2 (1) of the Code of Administrative Offenses of the Russian Federation.

<sup>13</sup> Article 20.2 (8) of the Code of Administrative Offenses of the Russian Federation.

<sup>14</sup> Article 212.1 of the Criminal Code of the Russian Federation.

<sup>15</sup> For more information, see: <https://www.svoboda.org/a/25200658.html> (accessed on 14 January 2019, in Rus).

was indeed published<sup>16</sup> on the website, but it was posted by a user, and the rally itself did not take place<sup>17</sup>.

In 2018, liability for dissemination of information ceased being uncommon. Here are just a few examples.

In November, a Moscow court fined<sup>18</sup> an activist 20 thousand rubles for publishing a message on the Vkontakte social network about a rally against the pension reform scheduled for September 9. The court found him guilty of organizing a public event without notifying the authorities.

In Chita, an administrative case was opened<sup>19</sup> against the organizer of a protest rally because of a web publication of information about the action before the authorities had responded to the notification.

In July, the organizer of a protest rally in Stavropol was fined<sup>20</sup> 150,000 rubles (approx. EUR 1950) for publishing a video invitation to the rally on the Internet, despite the fact that the rally did not take place eventually. According to the activist, he had filed a notification and did not receive any proposals to change its place or time from the authorities within the prescribed period. Therefore he considered the meeting approved.

In February 2018, a Moscow court arrested<sup>21</sup> Leonid Volkov, the head of the opposition politician Alexei Navalny's campaign headquarters, for 30 days, convicting him of a "repeated" violation of the article on violations at rallies. The court deemed Volkov to be the organizer of the rally because of his retweet of Navalny's January detention video and a reference to Navalny's post which contained a phrase about the

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<sup>16</sup> For more information, see: <https://web.archive.org/web/20180125153401/http://www.blogsochi.ru/content/pakhomov-chemodan-vokzal-anapa> (accessed on 14 January 2019, in Rus).

<sup>17</sup> For more information, see: <https://www.kavkaz-uzel.eu/articles/235167/> (accessed on 14 January 2019, in Rus).

<sup>18</sup> For more information, see: <https://ovdinfo.org/express-news/2018/11/30/byvshego-glavu-pastafarianskoy-cerkvi-oshtrafovali-iz-za-mitinga-9> (accessed on 14 January 2019, in Rus).

<sup>19</sup> For more information, see: <https://ovdinfo.org/express-news/2018/11/19/v-chite-na-organizatora-mitinga-protiv-mera-goroda-zaveli-srazu-tri> (accessed on 14 January 2019, in Rus).

<sup>20</sup> For more information, see: <https://newstracker.ru/news/politics/05-07-2018/shtraf-v-150-tys-poluchil-stavropolets-za-organizatsiyu-nesostoyavshegosya-mitinga> (accessed on 14 January 2019, in Rus).

<sup>21</sup> For more information, see: <https://ovdinfo.org/express-news/2018/02/23/glavu-federalnogo-shtaba-navalnogo-leonida-volkova-arestovali-na-30-sutok-za> (accessed on 14 January 2019, in Rus).

January rally. “If I indeed gave a link to the video of Navalny’s detention, I probably did it after it took place”, Volkov said in court. Volkov also stressed that the second link was not a call to come to the rally.

In 2018, instances of similar persecutions were recorded in Moscow<sup>22</sup>, St. Petersburg<sup>23</sup>, Cheboksary<sup>24</sup>, Tyumen<sup>25</sup>, Khabarovsk<sup>26</sup>, Kazan<sup>27</sup>, and other cities.

Accusations under the CAO article on violation of the procedure for holding public events could potentially become grounds for opening a criminal case on “multiple violation of the procedure for holding a public event,” although in practice this has not yet happened in connection to dissemination of information about actions.

In addition, the existing prohibitions in this area are being updated with new ones. In the second half of 2018 alone, the CAO was augmented with two new articles directly related to dissemination of information about actions.

Since the end of October 2018, a fine of up to 20 thousand rubles (approx. eur 260) can hit<sup>28</sup> organizers for “failure to fulfill the obligation to inform citizens about the refusal to hold a public event”. According to the amendments<sup>29</sup> to the law on rallies, in case of a refusal to hold a rally, the organizer must “take measures to inform citizens” no later than one day before the rally.

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<sup>22</sup> For more information, see: <https://ovdinfo.org/express-news/2018/12/05/sud-v-moskve-arestoval-na-25-sutok-rukovoditelya-dvizheniya-za-prava> (accessed on 14 January 2019, in Rus).

<sup>23</sup> For more information, see: <https://ovdinfo.org/express-news/2018/11/13/sud-v-peterburge-otmenil-shtraf-koordinatoru-dvizheniya-vesna-iz-za-akcii-5> (accessed on 14 January 2019, in Rus).

<sup>24</sup> For more information, see: <https://ovdinfo.org/express-news/2018/05/04/arestovali-eshche-troih-storonnikov-navalnogo-iz-tambova-cheboksar-i> (accessed on 14 January 2019, in Rus).

<sup>25</sup> For more information, see: <https://ovdinfo.org/express-news/2018/09/20/v-tyumeni-sotrudnika-shtaba-navalnogo-oshtrafovali-na-280-tysyach-rublej> (accessed on 14 January 2019, in Rus).

<sup>26</sup> For more information, see: <https://ovdinfo.org/express-news/2018/09/24/v-habarovske-posle-15-sutok-aresta-zaderzhali-koordinatora-shtaba-navalnogo> (accessed on 14 January 2019, in Rus).

<sup>27</sup> For more information, see: <https://ovdinfo.org/express-news/2018/11/28/v-tatarstane-priznali-zakonnym-shtraf-v-75-tysyach-rublej-za-organizaciyu> (accessed on 14 January 2019, in Rus).

<sup>28</sup> Article 20.2.3 of the Code of Administrative Offenses of the Russian Federation.

<sup>29</sup> Article 5(4)12 of the Federal Law No. 54-FZ of 19 June, 2004 “On Gatherings, Meetings, Demonstrations, Processions and Pickets”.

In December 2018, the State Duma adopted<sup>30</sup> a law supplementing the CAO article on violations at rallies with a new clause on “involving a minor in participating in an unauthorized meeting, rally, demonstration, march or picket, if this action does not constitute a criminal offense”. Organizers can now be punished with a 30 to 50 thousand (approx. EUR 390 to 650) fine, compulsory work for up to 100 hours and an arrest for up to 15 days. Like other actions covered by this article, “involvement” can become a “repeated” violation, and in the case of “multiple” violation, criminal prosecution is possible. At the same time, the law does not clarify what exactly should be classified as “involvement of minors”, which threatens all people publishing any information about unauthorized rallies.

## Use of digital technology by the authorities to collect information related to public events

### Spying on organizers and participants of protest actions

In July 2016, the Central District Court of Sochi allowed<sup>31</sup> the FSB management in Krasnodar Krai to read e-mails, listen to the phone and spy on the editor of the *BlogSochi* Internet resource. The reason for this was his “involvement with a group of oppositional citizens, whose activities are aimed at organizing acts of civil disobedience using extremist methods”. Moreover, according to the court, the editor posted information on his website “aimed at a negative public perception of the political situation in the country”. The court documents also indicate that the editor “has repeatedly participated, and also has himself organized a series of protest actions on the territory of the city of Sochi. Being the editor-in-chief of the *blogsochi.ru* website, on the eve of large-scale national and international events, he regularly posts biased information on his opposition Internet resource, including that aimed at a negative public perception of the political situation in the state, provoking actions of an extremist nature”.<sup>32</sup>

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<sup>30</sup> For more information, see: <https://ovdinfo.org/articles/2018/12/18/gosduma-prinyala-zakon-o-vovlechenii-detey-v-akcii-no-ne-obyasnila-kak-budet> (accessed on 14 January 2019, in Rus).

<sup>31</sup> For more information, see: <https://ovdinfo.org/express-news/2018/08/08/fsb-proslushivala-telefon-i-chitala-perepisku-arestovannogo-redaktora> (accessed on 14 January 2019, in Rus).

<sup>32</sup> For more information, see: <https://agora.legal/news/2018.12.26/Glavnogo-redaktora-%C2%ABBlogSochi%C2%BB-Aleksandra-Valova-prigovorili-k-6-godam/861> (accessed on 14 January 2019, in Rus).



## Hacking activists' and journalists' accounts

In April 2016, the director of the NGO *Obraz Buduschego* Oleg Kozlovsky reported<sup>33</sup> on social networks that his *Telegram* account had been hacked. Subsequently, Kozlovsky claimed<sup>34</sup> that several dozen journalists', human rights advocates' and activists' accounts in social networks and e-mails had been hacked, or an attempt to hack them had been uncovered. The *PEN Center's* report<sup>35</sup> for 2012–2018 tells about attempts to “intercept text messages containing authorization codes for *Telegram* accounts of several activists” in February and April 2016. The report also assumes the involvement of the Russian special services in hacking. In addition, in October 2016, *Google* warned<sup>36</sup> activists and journalists about attempts of gaining unauthorized access to their accounts. A year later, by the spring of 2017, the Russian law enforcement agencies had not been able<sup>37</sup> to find those responsible for the unauthorized access to personal and professional correspondence of the activists.

In the fall of 2018, an unknown person phoned<sup>38</sup> a friend of one of St. Petersburg activists, posing as an employee of the center for combating extremism, and offered to testify against the activist. After some time, a message came from the same number; it contained the activist's contact list. According to the man, he communicates with many people from the list exclusively in *Telegram*.

## Infiltration of agents into activist chats

In addition to hacking accounts, infiltration into activists' chats and correspondence can be used to obtain information about organization of public actions. An activist from Sochi who was fined for organizing an anti-corruption rally in the city on June

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<sup>33</sup> For more information, see: <https://roskomsvoboda.org/16572/> (accessed on 14 January 2019, in Rus).

<sup>34</sup> For more information, see: <https://www.facebook.com/kozlovsky/posts/10210285403641770> (accessed on 14 January 2019, in Rus).

<sup>35</sup> For more information, see: <https://pen-international.org/app/uploads/PEN-Russia-1-RUS-FullLayout-3-compressed.pdf> (accessed on 14 January 2019, in Rus).

<sup>36</sup> For more information, see: <https://www.ibtimes.co.uk/russian-activists-journalists-receive-google-warnings-over-nation-state-hacking-attempts-1586036> (accessed on 14 January 2019, in Eng).

<sup>37</sup> For more information, see: <https://themoscowtimes.com/news/russian-investigators-ordered-to-find-out-how-hackers-cracked-an-activists-telegram-account-57954> (accessed on 14 January 2019, in Eng).

<sup>38</sup> For more information, see: <https://ovdinfo.org/express-news/2018/10/13/devushku-aktivista-otkrytoy-rossii-v-peterburge-vyzyvali-na-razgovor-v-centr> (accessed on 14 January 2019, in Rus).

12, 2017, stated<sup>39</sup> that she “knew that there was a “spy” in the chat and specifically emphasized that on June 12, instead of the rally, there would be an ordinary walk without symbols and slogans”.

At the end of October 2018, one of the participants of the “Vanishing Constitution” action in St. Petersburg, which had taken place a couple of weeks earlier, was detained<sup>40</sup> and brought to the police station. According to the activist, one of the policemen showed him “a certain chat in *Viber* asking about activists whose photos the employee had on the phone”. After that, the activist was released without any protocols.

In December 2018, in Tolyatti, at a “support meeting” near a shopping center, two activists of *Indefinite protest* were detained. They claim<sup>41</sup> that they had discussed this meeting the day before in an open *Telegram* chat.

In December 2018, the opposition politician and leader of the *Partiya Peremen* party Dmitry Gudkov and his father the ex-member of the State Duma Gennady Gudkov were fined.<sup>42</sup> The politicians were accused of organizing and participating in an unauthorized action against the landfill in Kolomna. As evidence, a *Telegram* chat screenshot was presented, in which Dmitry Gudkov wrote that on November 25 he and his father were “planning to videotape residents who oppose the construction of a waste sorting complex and a landfill for municipal solid waste in Myachkovo”.

## Detecting participants of protest actions based on Internet posts

Employees of the Nizhny Novgorod headquarters of opposition politician Alexei Navalny claimed<sup>43</sup> that after the anti-corruption rally on March 26, 2017, teachers of the city schools studied photos from the rally posted on social networks and held “educational conversations” with students who were seen in the pictures. Also, five minors were detained by the police after the rally was over. Subsequently, the police

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<sup>39</sup> For more information, see: <https://ovdinfo.org/express-news/2017/06/20/v-sochi-organizatora-progulki-12-iyunya-snachala-arestovali-no-potom> (accessed on 14 January 2019, in Rus).

<sup>40</sup> For more information, see: <https://ovdinfo.org/express-news/2018/10/26/v-peterburge-zaderzhivali-avtora-akcii-ischezayushchaya-konstituciya> (accessed on 14 January 2019, in Rus).

<sup>41</sup> For more information, see: <https://ovdinfo.org/express-news/2018/12/15/v-tolyatti-zaderzhali-troih-uchastnikov-bessrochnogo-protesta-i-dvuh> (accessed on 14 January 2019, in Rus).

<sup>42</sup> For more information, see: <https://ovdinfo.org/express-news/2018/12/13/gudkovyh-oshtrafovali-zachto-oni-pozvali-protestuyushchih-protiv-svalki-v> (accessed on 14 January 2019, in Rus).

<sup>43</sup> For more information, see: <https://ovdinfo.org/express-news/2017/03/29/v-nizhnem-novgorode-uchitelya-ishchut-shkolnikov-po-fotografiyam-s-mitinga> (accessed on 14 January 2019, in Rus).

drew up protocols against the parents of these minors for their failure to fulfill the responsibilities of raising children.<sup>44</sup>

Similar events happened<sup>45</sup> in Volgograd after the anti-corruption rally on March 26, 2017. There, out of all the participants of the public event, university students were singled out, and that was done not by teachers, but by police officers. At least three students are known to have been detained, brought to police stations directly from their classes and accused of violating the procedure for participation in a public event.

### Increased attention to the social media pages of people detained at rallies

There are reasons to believe that law enforcement officers are studying social media pages belonging to detainees at public events, as well as other websites to which they are related, in order to use that information to put pressure on these individuals.

For example, the flat of an activist who had been detained during an anti-corruption rally on March 26, 2017 in Cheboksary, was searched<sup>46</sup> in connection to the fact that his page on a social network allegedly contained information that violates the clause on prohibition of the rehabilitation of Nazism.

In early 2018, the head of the Chelyabinsk headquarters of opposition politician Alexei Navalny was fined.<sup>47</sup> He had been previously brought to administrative liability for informing about a public event. The reason for the second punishment was the fact that the document regulating the processing of personal data of users had not been posted on the website of another public organization, which he also heads.

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<sup>44</sup> Article 5.35 of the Code of Administrative Offenses of the Russian Federation.

<sup>45</sup> For more information, see: <https://ovdinfo.org/express-news/2017/03/30/v-volgograde-policiya-hodit-po-universitetam-i-ishchet-uchastnikov> (accessed on 14 January 2019, in Rus).

<sup>46</sup> For more information, see: <https://ovdinfo.org/express-news/2018/10/05/v-chuvashii-zaderzhali-blogera-konstantina-ishutova> (accessed on 14 January 2019, in Rus).

<sup>47</sup> For more information, see: <https://ovdinfo.org/express-news/2018/03/24/na-koordinatora-shtabana-navalnogo-v-chelyabinske-sostavili-protokol-za> (accessed on 14 January 2019, in Rus).

# Obstruction of journalists covering street protests

## Detentions and attacks on journalists

Detentions of web media journalists and bloggers covering public events are frequent,<sup>48</sup> and these detainees are prosecuted similarly to other participants. Here are just some of the examples.

During rallies against the pension reform on September 9, 2018, the Trade Union of Journalists and Media Workers recorded<sup>49</sup> violations against at least 18 journalists in different Russian cities. Not just detentions; there were numerous cases<sup>50</sup> of beatings of journalists by police officers. In Omsk, a police officer tore apart a correspondent's identity card.<sup>51</sup> In Yekaterinburg, an official representative of the regional department of the Ministry of the Interior Affairs told<sup>52</sup> EAN information agency, "We do not differentiate between rally participants and journalists". The journalists detained in Yekaterinburg were processed as participants violating the procedure for holding public events, despite the fact that during the detention they showed their press cards and editorial tasks. Three journalists were detained<sup>53</sup> in Lipetsk, and one of them was fined 150,000 rubles (approx. eur 1950) for an alleged "repeated" violation of the procedure for holding a public event.

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<sup>48</sup> For more information, see: <https://ovdinfo.org/tags/zaderzhanie-zhurnalista> (accessed on 14 January 2019, in Rus).

<sup>49</sup> For more information, see: <https://www.facebook.com/profsoyuz.zhurnalistov/posts/1830322833712489> (accessed on 14 January 2019, in Rus).

<sup>50</sup> For more information, see: <https://ovdinfo.org/express-news/2018/09/10/na-protestnyh-akciyah-v-peterburge-i-moskve-policeyskie-izbili-zhurnalistov> (accessed on 14 January 2019, in Rus).

<sup>51</sup> For more information, see: <https://ovdinfo.org/stories/2018/09/14/borba-za-porvannoe-udostoverenie-omskiy-zhurnalist-o-zaderzhanii-9-sentyabrya> (accessed on 14 January 2019, in Rus).

<sup>52</sup> For more information, see: [https://eanews.ru/news/policy/Zaderzhannyh\\_v\\_Ekaterinburge\\_zhurnalistov\\_vypustili\\_iz\\_policii\\_no\\_budut\\_sudit\\_09\\_09\\_2018](https://eanews.ru/news/policy/Zaderzhannyh_v_Ekaterinburge_zhurnalistov_vypustili_iz_policii_no_budut_sudit_09_09_2018) (accessed on 14 January 2019, in Rus).

<sup>53</sup> For more information, see: <https://ovdinfo.org/express-news/2018/09/13/zaderzhannogo-na-akcii-909-zhurnalista-v-lipecke-oshtrafovali-na-150-tysyach> (accessed on 14 January 2019, in Rus).

The trade union of journalists recorded<sup>54</sup> 29 violations against media representatives who were covering the “He is not our tsar” protests in seven cities on May 5, 2018 against Vladimir Putin’s election as president. “At the unauthorized “He is not our tsar” rallies journalists were detained, despite press cards and editorial assignments”, the Union claimed in a statement. “They were beaten with batons and hit face-first against prison-trucks. Photographers and video operators had their expensive equipment kicked out of their hands. After that, our colleagues, who were, in fact, victims of police brutality, were punished with fines and administrative arrests for allegedly participating in an unauthorized rally, although they were performing their professional duty.”

During the mass detentions of the anti-corruption rallies participants on March 26, 2017, according to *Reporters Without Borders*, at least 14 journalists were detained.<sup>55</sup>

### Interruptions of webcasts of public events

In the digital age, public events take people not only to the streets, but also to the screens of their phones and computers. Thus, during public rallies held in many Russian cities on January 28, 2018 against the refusal to register opposition politician Alexei Navalny as a presidential candidate, the protest actions were being broadcast on the *Navalny LIVE* Youtube channel. Citing a bomb report, the police broke<sup>56</sup> the office door of the Anti-Corruption Fund headed by Navalny, but this did not stop the broadcast, as it was being carried out from an office outside Russia. A few days after returning to Russia, the broadcasters were detained<sup>57</sup> at the airport, found administratively liable and punished with several days of arrest as organizers of an unauthorized public event.

Frequently, during peaceful actions, bloggers and journalists broadcasting live on their social network pages are detained. For example, in Krasnoyarsk, on May 5, 2018, a blogger broadcasting the unauthorized “He is not our tsar” rally against the Vladimir

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<sup>54</sup> For more information, see: [https://www.facebook.com/profsoyuz.zhurnalistov/posts/1688392561238851?\\_\\_tn\\_\\_=-R](https://www.facebook.com/profsoyuz.zhurnalistov/posts/1688392561238851?__tn__=-R) (accessed on 14 January 2019, in Rus).

<sup>55</sup> For more information, see: [https://rsf.org/sites/default/files/cp\\_26-03-17\\_rus.pdf](https://rsf.org/sites/default/files/cp_26-03-17_rus.pdf) (accessed on 14 January 2019, in Rus).

<sup>56</sup> For more information, see: <https://ovdinfo.org/express-news/2018/01/28/v-ofis-fbk-prishla-policiya> (accessed on 14 January 2019, in Rus).

<sup>57</sup> For more information, see: <https://ovdinfo.org/express-news/2018/01/31/sud-arestoval-na-pyat-i-vosem-sutok-vedushchih-translyacii-mitingov-na> (accessed on 14 January 2019, in Rus).

Putin's election as president was detained.<sup>58</sup> As punishment, the court chose 30 hours of correctional labor.

The student who owns the *Telegram* channel *Protest MGU* photographed an officer of the FSB center for combating extremism while arrests of protesters were taking place. He was detained,<sup>59</sup> subjected to physical and psychological violence on the way to the police station, after which he was found guilty of violating the procedure for holding public events.

Sometimes people broadcasting<sup>60</sup> live in social networks are detained by the police, taken to the station, and then released without charges. This is done to stop the dissemination of information about the public event.

### **Restricting journalists' access to court hearings against activists**

Frequently,<sup>61</sup> criminal proceedings are initiated against participants in Russian public events on charges of causing physical harm to the police (Article 318 of the Criminal Code). As a rule, such hearings are open to public. However, sometimes judges find reasons to limit the presence of journalists at the hearings. Thus, in May 2018, at the request<sup>62</sup> of a judge at a St. Petersburg court, the bailiffs removed two journalists from the courtroom. The reason for the removal was the judge's order not to allow more than 10 people into the courtroom, since otherwise it would "become stuffy".

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<sup>58</sup> For more information, see: <https://tvk6.ru/publications/news/37331/> (accessed on 14 January 2019, in Rus).

<sup>59</sup> For more information, see: <https://ovdinfo.org/stories/2018/12/17/prisazhivaysya-dorogoy-aktivist-o-tom-kak-eshniki-ego-izbili-i-ugrozhali> (accessed on 14 January 2019, in Rus).

<sup>60</sup> For more information, see: <https://zona.media/news/2017/10/08/peter> (accessed on 14 January 2019, in Rus).

<sup>61</sup> For more information, see: <https://ovdinfo.org/archive?keys=318> (accessed on 14 January 2019, in Rus).

<sup>62</sup> For more information, see: <https://zona.media/news/2018/05/07/poka> (accessed on 14 January 2019, in Rus).

## Restricting Internet usage for coordinating public events

### Blocking online resources for dissemination of information about unauthorized rallies

Since the beginning of 2014, the so-called “Lugovoy’s Law”<sup>63</sup> has allowed extrajudicial blocking of websites with extremist information, which includes, inter alia, “calls for riots” and calls for participation in “any events held in violation of the established procedure”.

The extrajudicial restriction of access happens as follows. The Prosecutor General or his deputies find the prohibited information (by themselves or through vigilant citizens, organizations or authorities) and send a blocking request to *Roskomnadzor*. The latter, in turn, “immediately” sends Internet providers a request to restrict access to the page with the prohibited information or to the entire website - this request must also be fulfilled “immediately.” Access is restored only after the owner of the resource deletes the prohibited information.

The law equals calls for participation in public events held in violation of the established procedure to calls for mass riots and extremist activities. Since the Russian legislation does not explain what exactly should be classified as such “calls”, in practice, any information about any peaceful actions not coordinated with the authorities can be classified as prohibited information subject to immediate extrajudicial blocking.

The threat of extrajudicial blocking of resources disseminating any information about planned actions and even about the course of negotiations with the authorities on their coordination prevents not only informing potential participants, but also drawing attention to the topic of the event – and this, in fact, is one of the key goals. Moreover, the very possibility of blocking with no clearly defined criteria is in itself a powerful tool of pressure on online media that contributes to the spread of self-censorship.

As early as March 2014, during mass protests against the interference in Ukraine and the verdict on the Bolotnaya Case, such oppositional media as *Grani.ru*, *Kasparov.ru*,

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<sup>63</sup> Article 15.3 (1) of the Federal Law No. 149-FZ of 27 July, 2006 “On information, information technologies and information protection”.

and *Ezhednevnyj Zhurnal* came<sup>64</sup> under the restrictions, as did the LiveJournal blog of Alexei Navalny, the founder of the Anti-Corruption Fund – at that time, one of the most popular blogs on LiveJournal. The website of the *Ekho Moskvy* radio station which shared posts from Navalny's blog, was also blocked.

The Prosecutor General's Office explained the blocking of Alexei Navalny's blog as follows: "A significant part of the posted materials contains calls for participation of citizens in mass events that are not coordinated in the prescribed manner with the executive authorities and local governments".<sup>65</sup> Blocking requests were made not against individual posts, but against the entire blog. To restore access to the resource, Navalny was forced to delete all records. Access was restored in November 2015, a year and a half after the blocking.

Similarly, the blocking request of the Prosecutor General's Office did not specify<sup>66</sup> the addresses of the specific pages with illegal materials in the case of *Grani.ru*, - as a result, the medium could not remove the unwanted information to restore access to the website. At the trial on the blocking of the *Ezhednevnyj Zhurnal*, a representative of the Prosecutor General's Office reported that illegal information, including calls for unauthorized mass actions, was found in a number of materials related to the Bolotnaya Case. In addition, the representative of the department said that the Prosecutor General's Office considered many articles "biased". As an example of illegal information, he quoted from an article of June 5, 2012, that is, published long before the appearance of the "Lugovoy's Law". Russian courts recognized the blockings as legitimate, the sites remain blocked until now.

In the summer of 2014, *Roskomnadzor*, threatening with a complete blocking, secured the removal<sup>67</sup> of an interview with the Novosibirsk artist Artyom Loskutov from the website of the internet medium *Slon.ru*. In the interview, the upcoming action "March for the federalization of Siberia" was mentioned. The interview had been published long before the organizer could legally submit a notification to the authorities about it. The march-related group on the social network *Vkontakte* was blocked, and over ten

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<sup>64</sup> For more information, see: <https://www.rbc.ru/politics/13/03/2014/570419499a794761c0ce7d15> (accessed on 14 January 2019, in Rus).

<sup>65</sup> For more information, see: <https://navalny.com/p/4541/> (accessed on 14 January 2019, in Rus).

<sup>66</sup> For more information, see: <https://www.interfax.ru/russia/375105> (accessed on 14 January 2019, in Rus).

<sup>67</sup> For more information, see: <https://republic.ru/posts/l/1137502> (accessed on 14 January 2019, in Rus).



media outlets received warnings from *Roskomnadzor* for publishing news about the upcoming march and about blocking the group on the social network.

In December of the same year, social networks pages devoted to the rallies of January 15, 2015 were blocked - on that day, Alexey and Oleg Navalny were being sentenced. At the time of the blocking, the organizers did not have a legal opportunity to proceed with the coordination of the action. Later, a post on Alexey Navalny's blog about the rescheduling of the sentencing from January 15, 2015 to December 30, 2014 was also blocked.

The use of extrajudicial blockings continues to the present. We will give just a few examples.

In April 2017, at the request of the Prosecutor General's Office, the *Vkontakte* social network blocked<sup>68</sup> several *Open Russia* communities dedicated to actions against Vladimir Putin's nomination for the fourth presidential term. Moreover, a group dedicated to an action in Kirov was blocked despite the fact that the event was coordinated with the authorities.

In some cases, not only publications with information about upcoming actions are blocked, but also messages about past events. For example, in 2015, along with some other videos on *Youtube*, a video of the crackdown on an unauthorized action in Nizhny Novgorod in 2012 was blocked.<sup>69</sup>

Apart from "Lugovoy's Law", the Russian authorities have resorted to other methods of prohibiting information on protest actions. In September 2018, on the eve of the All-Russian rally against the pension reform scheduled for the voting day, *Google* removed<sup>70</sup> paid rally adverts from *Youtube*. This was done at the request of the Central Election Commission, *Roskomnadzor* and the Prosecutor General's Office, who accused *Google* of interfering with the elections; the agencies decided that the adverts violated "the day of silence"

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<sup>68</sup> For more information, see: <https://7x7-journal.ru/anewsitem/94492> (accessed on 14 January 2019, in Rus).

<sup>69</sup> For more information, see: [https://www.nn.ru/news/more/roskomnadzor\\_poprosil\\_zablokirovat\\_video\\_mitinga\\_v\\_nizhnem\\_novgorode/26214023/](https://www.nn.ru/news/more/roskomnadzor_poprosil_zablokirovat_video_mitinga_v_nizhnem_novgorode/26214023/) (accessed on 14 January 2019, in Rus).

<sup>70</sup> For more information, see: <https://tjournal.ru/politics/76216-google-udalila-iz-youtube-reklamu-mitingov-navalnogo-posle-preduprezhdeniy-cik-roskomnadzora-i-genprokuratury> (accessed on 14 January 2019, in Rus).

## Blocking apps used to coordinate protest actions

In the summer of 2016, two federal laws were adopted in Russia. The media nicknamed them the “Yarovaya Package”.<sup>71</sup> Among other things, the “Yarovaya Package” obliged social networks and messengers to store information on each data transfer and their users for a year, as well as to ensure that authorized state agencies can access users’ correspondence. In addition, since October 1, 2018, telecom operators were obliged to keep records of telephone conversations and text messages for 30 days with a subsequent increase in storage volumes. For non-compliance, administrative responsibility was envisaged – up to blocking the resource.

In 2017, *Roskomnadzor* began to block<sup>72</sup> the *Zello* application, which was actively used by protesters<sup>73</sup> against additional transport tax to coordinate their actions. And in April 2018, after a court decision, the refusal to provide the FSB with keys to encrypted user correspondence led to attempts to block the popular *Telegram* messenger where chat rooms are often used to coordinate protest actions.

At the end of 2018, the media reported<sup>74</sup> that in 2019 *Roskomnadzor* was planning to spend up to 20 billion rubles (approx. eur 260 million) to improve the technology of blocking messengers such as *Telegram* which continues to work in Russia.

The *International PEN Center*, in its statement, notes that *Telegram* blockings lead to a widespread violation of freedom of speech on the Internet.<sup>75</sup>

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<sup>71</sup> See Federal Law No. 374-FZ of 6 July, 2016 “On Amendments to the Federal Law “On Combating Terrorism” and Certain Legislative Acts of the Russian Federation to establish additional measures to counter terrorism and ensure public safety”; and Federal Law No. 375-FZ of 6 July, 2016 “On Amendments to the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation to establish additional measures to counter terrorism and ensure public safety”.

<sup>72</sup> For more information, see: <https://meduza.io/feature/2018/04/12/roskomnadzor-uzhe-god-pytaetsya-zablokirovat-rabotu-prilozheniya-ratsii-zello-delo-doshlo-do-blokirovki-serverov-amazon-i-google> (accessed on 14 January 2019, in Rus).

<sup>73</sup> For more information, see: <https://opr.com.ru/info/articles/dalnoboyschiki-protiv-platona-god-protestov-dokumentalnyy-film/> (accessed on 14 January 2019, in Rus).

<sup>74</sup> For more information, see: <https://www.bbc.com/russian/features-46596673> (accessed on 14 January 2019, in Rus).

<sup>75</sup> For more information, see: <https://pen-international.org/news/russia-telegram-block-leads-to-widespread-assault-on-freedom-of-expression-online> (accessed on 14 January 2019, in Eng).

## Disabling mobile Internet in areas of mass protests

From 4 to 16 October 2018, in Ingushetia, a rally was being held against the signing of a border agreement between Chechnya and Ingushetia. From 10:30 pm on October 3 until the morning of October 17, all three major mobile operators (*Beeline, Megafon, MTS*) were unable to provide functioning 3G and 4G technologies in the republic. In response to the numerous complaints filed by citizens after the end of the rally, *Roskomnadzor* reported<sup>76</sup> that mobile Internet in Ingushetia was turned off on the basis of a “reasoned decision” made by “law enforcement agencies”. What kind of law enforcement structure sent the request to the operators and what motivated their demand is unknown.

## Conclusion

At the moment, the Internet in Russia is one of the most important spaces for exercising the right to freedom of peaceful assembly. The authorities, in turn, are making a lot of effort to limit this right in the digital space.

Activists use the Internet to prepare public events and spread information about them; journalists use it to provide their audience with information about what happens during street rallies and trials of detained activists. The authorities, in turn, are taking measures, both at the legislative and at the law enforcement level, to restrict the dissemination of such information. In addition, law enforcement agencies use the digital space to gather information about upcoming actions as well as to form an evidence base for charges in cases involving organization or participation in public events.

The law enforcement practice is such that any person who posted information on the upcoming action on the Internet can be persecuted as the organizer of that action. Activists who came to the attention of the authorities sometimes find their social networks or other websites subsequently scrutinized.

Restricting freedom of peaceful assembly in the digital space during a rally is mainly expressed in limiting the activities of journalists, bloggers and photographers who post information about how the rally is unfolding in real time on the Internet. A person with a photo or video camera, or anyone simply taking pictures of what is happening on their phone is often one of the first people detained.

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<sup>76</sup> For more information, see: <https://roskomsvoboda.org/43042/> (accessed on 14 January 2019, in Rus).

Restricting freedom of peaceful assembly in the digital space entails restricting a number of other human rights and freedoms. First of all, we are talking about freedom of expression, since the exercise of freedom of assembly on the Internet is done through expression. In addition, freedom of association is limited to the extent that the ability to create communities in the form of groups or chats is limited. In cases where state agents unreasonably or illegally gain access to the personal correspondence of activists and journalists, the right to respect for private and family life is also restricted along with freedom of assembly. The result of the restriction of freedom of peaceful assembly can also be a violation of the right to a fair trial in terms of ensuring the publicity of the trial.