

**Charles University**

Faculty of Social Sciences

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MASTER'S THESIS

**Evolution of the protection of the freedom of assembly and association  
under the ECHR and the ICCPR in the Russian Federation.**



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## **Abstract**

The rights of assembly and association are vital elements of the international system of human rights. The democratic society needs to protect those freedoms to let the population a chance to express important ideas, concerns, raise political and social issues and make sure the government knows what is important to pay attention to.

The international legal system (in particular created by the ECHR and the ICCPR), has come up with fundamental basis for the realization of the rights of assembly and association. However, the main responsibility of the implementation of those rules and norms lays on the states and their domestic legal systems.

This thesis researches the structure of the legal protection of the freedoms of assembly and association in the Russian Federation, discovers the significant discordances between it and the provisions of the ECHR and the ICCPR, and attempts to give the political reasoning that is behind those differences. Analyzing the case-law, historical developments of the political life of the Russian Federation and the domestic legislative base of the state in question, the author comes to conclusion that the politics and the contra-measures inside the country might be the primary reasons for the certain violations of the international law and the variance with the norms of the ECHR and ICCPR. The international relations aspect is also analyzed in the context of the violation of human rights (in particular, the freedom of assembly and association).

**Key words**

Freedom of assembly – Freedom of association – Human rights – International law – Domestic legislation – ECHR – ICCPR – Russian Federation – politics

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## **Declaration of Authorship**

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## **Master's Thesis Project**

### *Introduction to the topic*

This study will focus on the issues connected with the protection of freedom of assembly and association under the ECHR and ICCPR in Russian Federation. The rights of expressing opinion and public disagreement with the authorities is one of the unalienable rights, which people all over the world should possess. Democratic states particularly underline, that the power is in the hands of the society, which gives that civil society a strong political voice. Moreover, states take upon themselves obligations of implementing the international conventions (in this particular thesis the focus of attention is on the Convention for the Protection of Human Rights and Fundamental Freedoms and International Covenant on Civil and Political Rights, which ensure the freedom of assembly and association and create legal basis for the states to follow) and adduce in their domestic legal systems. Although, Russian Federation, according to its Constitution, is a democratic state and has ratified ECHR and ICCPR, it has been on multiple occasions accused of violating the freedom of association of its citizens. Russian domestic legislation, however in compliance with Article 11 of ECHR (Freedom of assembly and association) and Articles 21 and 22 of ICCPR it might seem, presents a number of ways how the ultimate right of assembly and association can be limited or abused all together. The main source of law is presented by the Constitution of the Russian Federation, in particular Article 31, which guarantees the freedom of peaceful association and assembly of the citizens. However, there is a variety of federal laws, which significantly limit the freedoms granted by the Constitution (for example, Federal Law "On Amendments to the Code of the Russian Federation on Administrative Offenses and the Federal Law" On Assemblies, Rallies, Demonstrations,

Processions and Picketing " of June 8, 2012 No.65-FZ). Another way how the freedom of assembly and association is being taken under control by the state's authorities, is through President's Decrees (for example, Decree of the President of the Russian Federation № 202 "on Special Aspects of Taking Enhanced Security Measures during the 2018 FIFA World Cup and the 2017 FIFA Confederations Cup in the Russian Federation" of May 9, 2017). Diversity in regional legislative base on the question of assembly and association also complicates the situation significantly and makes it harder for citizens to exercise their rights.

The choice of the country of interest can be explained by multiple factors, such as: importance of Russian Federation as an actor on the world arena (giving certain examples to other countries), big number of violations of the international conventions on the issue in recent years and current situation in Belorussia, which might have an effect on the evolution of the freedom of assembly and associations in the Russian Federation.

The topic presents particular political, judicial and social relevance taking into account the significance of the Russian Federation as an actor of international relation, its influence on the system generally and neighboring countries (such as Belorussia and Ukraine, for example) in particular. Violations of international standards of the protection of human rights by such influential player might cause negative consequences not only for the citizens of the given country, but also for the whole international community fighting to provide democratic rights and freedoms. It is vital to pay attention to implementation and possible violations of ECHR and ICCPR regulation and determine the extent and reasoning behind them.

### *Research target, research question*

Research target of this thesis is to determine whether the legislation of the Russian Federation aimed at regulation of the freedom of association and assembly is answering the standards presented in ECHR and ICCPR, discover possible discordances and explain the reasoning behind them. **The research question** therefore might be formulated as follows: What is the regulation of freedom of assembly and association in the Russian Federation and is it in accordance with ECHR and ICCPR? If not, then how and why.

The target of the thesis is therefore explanatory in nature and will be reached through the determination of the causal relations between dependent and independent variables.

### *Literature review*

The topic of violation of the freedom of assembly and association in the Russian Federation and of legalization of the ways of limiting those freedoms becomes more and more popular in academic society. Mostly it is presented by Russian researchers and there is a noticeable lack of foreign works on the topic.

“Freedom of Assembly in Practice of the Constitutional Court of the Russian Federation” - the research of Stanislav Kolmakov - shows the wide range of gaps in Russian domestic legislation on the issue of freedoms of association and assembly. He underlines the dualistic nature of the freedom of association and insists that current way of regulating the freedoms on legislative level needs significant modifications. S. Kolmakov pays particular attention to the problems connected with inequalities caused by different legislation in the regions and absence of the legally stated mechanisms of the

procedures of approval of the meetings and mass associations. A large number of restrictions and conditions, which are in many cases irrelevant prevent citizens from exercising their right for assembly and association.

David Gagloev in his publication “Constitutional and Legal Regulation of the Institute of Public Events in the Russian Federation and European Countries at the Present Stage: Comparative Legal Research” pays attention to theoretical basics of constitutional law and presents the comparative analysis of the Russian legal system and legal systems of European countries on the matter of the protection of the freedom of association. He gives his recommendations on the advancing of the legislative base in Russian legal system. The importance of the exercising of the freedoms of assembly as a vital democratic tool is emphasized by L. Antropova and Y. Kashirina in their article “The Right of Citizens to Conduct Public Events: The Concept, Content and Prospects of Legal Regulation”. They notice that Russian domestic legal system lacks clear definitions of many notions, such as “spontaneous demonstration/meeting”, which opens up possibilities for various violations of the freedoms of association and assembly.

L. Nudenko in the article “Problems of the Right Regulation of the Constitutional Right of a Russian Citizen to Public Events” draws an important line, connecting the freedoms of association and assembly with the freedoms of speech and thought, underlying their natural and unalienable character. She states that freedom of association is one of the most important instruments of grass-roots democracy. The researcher notices a discrepancy between the domestic legislation and the ECHR in the fact that Russian law specifies that freedom of assembly can be realized only by citizens, which significantly limits the rights of the people generally. Limitations which concern L. Nudenko also include unreasonably specified timing for the approval of the mass meeting or demonstration. She sees political reasons behind regulations, which do not make any other sense rather than a chance to

limit the exercising of this right.

Vitali Vyshkvartsev in his research “Realization of Freedom of Assembly: Theoretical and Practical Advice” gives legal evaluation to the amendments to the administrative legislation and federal law on the matter of freedom of association, judging from the perspective of the international legal regulation.

Ksenia Vdovichenko writes about criminal liability for multiple violations of the regulations on organization of public assemblies, meetings, demonstrations and picketing (Criminal Responsibility for the Repeated Violation of the Established Order of Organizing or Holding a Meeting, Rally, Demonstration, Procession or Picketing) and contributes to the discussion about hindrance to public actions and associations (Obstruction of Holding a Public Mass Event and Coercion to Participate in It (Article 149 of the Criminal Code of the Russian Federation)).

More conservative theoretical perspective is presented by Alexandr Bachurin (The Age of the Organizer of a Mass Public Event; Police in the Administrative and Legal Mechanism of Ensuring the Legal Order during the Period of Preparation and Conduct of Mass and Public Events). He insists that the legal borders of the age of people organizing mass actions/associations/demonstrations should be brought up to 18 years old, in order to insure possible administrative or criminal liability in case of disobedience to the law. He also is mentioning the need for a change in legislation to provide wider range of police authority. Those ideas are facing criticism in the academic society, creating debates and discussions.

Important source used in this thesis work is Opinion on Federal Law №65-FZ of 8 June 2012 of the Russian Federation Amending Federal Law №54-FZ of June 19, 2004 on Assemblies, Meetings, Demonstrations, Matches and Picketing and the Code of Administrative Offences by European Commission for Democracy through Law (Venice Commission).

Guide on Article 11 of the European Convention on Human Rights (Freedom of assembly and association) is a vital source of case law.

Examples: Case of Navalny and Yashin v. Russia (*Application no. No. 76204/11*).

Case of Berladir and others v. Russia (*Application no. 34202/06*)

Case of Primov and others v. Russia (*Application no. 17391/06*) and so on.

### *Conceptual and theoretical framework, research hypotheses*

Coming from exploratory and explanatory position, seeking to determine whether the domestic legislation of the Russian Federation is in compliance with international norms set up by ECHR and ICCPR, this research will take on a case study methodology, which will allow to systematically analyze the differences in the legislation, the reactions of the European Court of Human Rights and the Russian legislative system on specific cases. The case study methodology will provide an opportunity to analyze the complex legislative phenomenon in question in the context of international relations and politics. The case study will be applied both as a method of the current research and methodology it is based on. Therefore, dependent variable for the research is the legislative system of the Russian Federation on the question of the protection of freedom of association and assembly. Independent variables are the influence of the international community (in the face of the ECHR and ICCPR) on one side, and political reasoning of the Russian authorities on the other side.

**The research hypothesis** therefore might be formulated as follows: The regulation of the freedom of

assembly and association in the Russian Federation is not in compliance with the ECHR and ICCPR, which is caused primarily by political reasons.

*Empirical data and analytical technique*

Building on the case study research, there will be a selection of cases, which reflect the most problematic gaps and discrepancies between international regulations of the freedom of association and assembly and the Russian domestic regulations, cases which have provided the sources of the case law. Comparative analysis of those cases will allow to understand how the Russian system operates and will provide the researcher with case study basis for the explanatory part of the research.

The main sources for the cases used in the thesis is the website of the European Court of Human Rights (HUDOC), Russian legislative online resources and court documents on the specific cases.

*Planned thesis outline*

- Introduction
- Legislative framework of the protection of freedom of assembly and association by ECHR and ICCPR
- Legislative framework of the protection of freedom of assembly and association in the Russian domestic legislation
- Case Analysis
- Analysis of the reasoning behind the discordances in the legislative approaches
- Conclusion

## Introduction

Freedom of peaceful assembly and association are in the line with a number of other basic human rights that are proclaimed vital for the healthy functioning of the society. These rights are giving people an opportunity to publicly express their ideas and identity in civil society, integrate and pursue common goals and facilitate the democratic mechanisms of public participation. Public assemblies and demonstrations throughout the history have been an important way of bringing changes – political, economic, social and moral. The diverse variety of internal resistance movement in South Africa, including mass demonstrations, associations and protests led to the end of the regime of Apartheid<sup>1</sup>. The women's suffrage marchings in the United Kingdom became a national movement and managed to win the right for women to vote, that was a massive political and social change of the time. The formation of the associations and active participation in the mass peaceful assemblies made it possible for women to change the voting structure and to actively declare their intention to fight for their rights<sup>2</sup>. The Civil rights movement in the United States of America has started a long campaign fighting against institutionalized racial discrimination, in which a wide variety of types of mass assembly were used, including peaceful demonstrations, sit-ins, boycotts and other ways of non-violent resistance<sup>3</sup>. Another vivid example is the Velvet Revolution in former Czechoslovakia and the

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1 Lorge T. Action against Apartheid in South Africa, 1983-94. *Civil Resistance and Power Politics: The Experience of Non-violent Action from Gandhi to the President*. Oxford & New York: Oxford University Press, 2009. P. 213-230

2 Roberts M. *Britain, 1846-1964: The Challenge of Change*. Oxford University Press, 2001. P.8

3 McAdam D. *The US Civil Rights Movement: Power from Below and Above, 1945-70*. *Civil Resistance and Power Politics: The Experience of Non-violent Action from Gandhi to the President*. Oxford & New York: Oxford University Press, 2009. P.60

change of the political regime through non-violent transition by the will of the population. The vital role of the assemblies can be demonstrated on the example of the activity of the Solidarnosc in Poland which made the transition to the democratic rule possible<sup>4</sup>. Currently the right of peaceful association and assembly is often used by the members of civil society to show their opinion about the actions of the authorities, social changes and certain events.

It is important to pay attention to the negative aspects which can be associated with the freedom of association, and especially, of assembly. The peaceful assembly can drastically turn into violent one due to the miscommunication between authorities, organizers and participants, lack of information and organization or due to the repressive actions of the authoritarian regimes strongly opposing such kind of public participation. That is why sufficient legal framework, protecting the right of peaceful assembly and association, as well as setting clear scope and standards of that protection, assisting the authorities of the state in the provision of the freedoms, is vital for democratic society.

The accordance between the international and domestic legal systems in the matter is important for the regulation of these basic human rights the best way possible. This work will focus on analyzing the protection of freedom of assembly and association under the ECHR and ICCPR in Russian Federation, paying **particular attention to the freedom of assembly** and the political reasoning that might be behind the discordances between the international legislation and the Russian domestic one. The choice of the country of interest is based on multiple factors, including the political weigh the Russian Federation has on the world arena, the frequency of violations of the stated freedoms noted by the international community and the current situation the Russian Federation, with further restrictions and politically based regulations. **The research hypothesis** is therefore formulated as follows: The

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4 Zielinski J. Polish Transition to democracy: a game-theoretic approach. *European Journal of Sociology*, Vol. 36, No. 1, 1995. P. 157

legislative regulation of the freedom of association and assembly, especially freedom of assembly, in the Russian Federation is not in compliance with the ECHR and ICCPR, which is caused primarily by political reasons.

This research is taking on a case study methodology, which allows to systematically analyze the differences and discordances in the legislation and the reactions both from the side of the European Court of Human Rights and the Human Rights Committee and the Russian Federation on specific cases. The case study is applied both as a method of the research and as a methodology it is based on. The methods used to conduct this research also include description, analysis and comparison in order to find the problematic issues of the Russian legislation and to propose the reasoning for it.

Although, the USSR has ratified the ICCPR back in 1973<sup>5</sup>, the timeframe of this research is focused on the Russian Federation (hence, since the ratification of the ECHR in 1998<sup>6</sup> till present time).

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5 International Covenant on Civil and Political Rights, 1966. United Nations Treaty Collection. Depository. Status of Treaties, Participants.

6 Convention for the Protection of Human Rights and Fundamental Freedoms. Chart of signatures and ratifications of Treaty 005. Council of Europe.

## **Chapter I. Legislative framework of the protection of freedom of assembly and association by ECHR and ICCPR.**

As the freedom of assembly and association are being a vital part of the democratic society, international community has come up with a number of legal ways how to protect these freedoms and ensure that the violations would be handled respectively. The main international documents, which are applicable on the European continent and in the Russian Federation, creating the legal basis for the protection of the freedom of assembly and freedom of association are the European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms)<sup>7</sup> and the International Covenant on Civil and Political Rights<sup>8</sup>.

### **1.1 European Convention on Human Rights (1950)**

The ECHR is an international convention which is aimed at the protection of the human and political rights and freedoms. Member States of the Council of Europe, taking into consideration the norms set up by the Universal Declaration of Human Rights (proclaimed by General Assembly of the United Nations on 10<sup>th</sup> of December 1948 (A/RES/217(III))) and realizing the importance of the protection of

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<sup>7</sup> Convention for the Protection of Human Rights and Fundamental Freedoms. ETS No.005. 04.11.1950. 03.09.1953. (hereinafter referred to as “ECHR”).

<sup>8</sup> International Covenant on Civil and Political Rights. UNTS No. 14668. 19.12.1966. 23.03.1976. (hereinafter referred to as “ICCPR”).

fundamental freedoms, came together adopting the European Convention on Human Rights. The convention was drafted by the Council of Europe in 1950 and then entered into force in 1953 with all of the members of the Council of Europe being part of the Convention<sup>9</sup>. The document protects the freedom of assembly and associations in its Article 11:

*“1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.*

*2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State”.*

## **1.2. International Covenant on Civil and Political Rights (1966)**

Another significant document containing the norms protecting the human rights and liberties is the International Covenant on Civil and Political Rights. The document adopted by the United Nations’ General Assembly on 19<sup>th</sup> of December 1966<sup>10</sup>, is aimed at ensuring protection of the civil and

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9 A Convention to protect your rights and liberties. Council of Europe. URL: <https://www.coe.int/en/web/human-rights-convention>;

10 Summary: International Covenant on Civil and Political Rights (ICCPR). Canadian Civil Liberties Association. URL: <https://ccla.org/summary-international-covenant-on-civil-and-political-rights-iccpr/>;

political rights. The Covenant entered into force on 23<sup>rd</sup> of March 1976 and now counts 113 parties and 114 signatories. The list of rights and freedoms in the Covenant is wide and includes Right of peaceful assembly (Article 21) and Right to freedom of association with others (Article 22)<sup>11</sup>. Article 21 states that

*“the right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others”.*

According to the Article 22,

*“ Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.*

### **1.3 Meaning of ‘freedom of assembly’ and ‘freedom of association’**

In order to assess the level of the protection of the freedom of assembly and association in the European Convention on Human Rights and in the International Covenant on Civil and Political Rights, it is important to state the meanings of the terms ‘assembly’ and ‘association’. Both of the sources mention the terms ‘association’ and ‘assembly’, but do not give a definition or any criteria of the gathering that can enjoy the protection under ECHR and ICCPR. The regional bodies, for example the European Court of Human Rights (ECtHR) , are working on interpreting the meanings of the terms

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<sup>11</sup> Ibid.

and determining the scope of cases under the right<sup>12</sup>. European Court of Human Rights states the undoubtable importance of the protection of the freedom of assembly and association as constitutes the base of the democratic society<sup>13</sup>. With this being said, it also mentions that the freedoms of such an extreme importance should not be “interpreted restrictively”, that is why there is no precise definition in the document that could possibly limit the scope of the right<sup>14</sup>. The right to assembly and association protected in the Article 11 of the European Convention on Human rights is indissolubly tied to the freedom of expression protected under the Article 10 of the Convention. That is why ensuring the protection of the right of assembly is particularly important in cases, where authorities of the state have a tendency of interfering with the protection of the right for the reasons of disagreeing with the statements, which are expressed by the public on the gatherings and meetings<sup>15</sup>. Such interference might undermine the democratic regime and the freedom of political and social participation of the people. The important characteristics of the assembly is that the expression of the opinion is done collectively, allowing people with the same ideas show that the issue is problematic or important for a wider range of people, rather than just an individual, whose freedom of expression is protected by the Article 10 of the ECHR<sup>16</sup>.

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12 Hamilton M. The Meaning and Scope of ‘Assembly’ in International Human Rights Law. *International & Comparative Law Quarterly*, vol. 69, issue, p.522

13 Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020. P. 22.

14 ECtHR. Case of Djavit An. v. Turkey (app. No. 20652/92). Ch judgement, 20.02.2003, §56.  
ECtHR. Case of Kudrevičius and others v. Lithuania (app. No. 37553/05). GC judgement, 15.10.2015, §91.

15 ECtHR. Case of Primov and others v. Russia (app. No. 17391/06). Ch judgement, 13.10.2014, §92.

16 Ibid, §91.

## 1.4 Freedom of assembly

It is stated that the concept of “assembly” is considered an autonomous one, meaning that it refers to gatherings which are “*not subject to domestic legal regulation, irrespective of whether they require notification or authorization or whether they are exempt from such procedures*”<sup>17</sup>. Another significant characteristic of the assembly is the common expressive purpose of the participants, which distinguishes it from the “*random agglomeration of people*” (for example in a queue or in a public building)<sup>18</sup>. The length of the gathering, as well as the occupation of the public premises does not define whether the assembly is considered peaceful or not.<sup>19</sup> The ideas expressed by means of peaceful gatherings should not be a factor determining whether the assembly is lawful or not. Although the main purpose of the Article 11 of the European Convention on Human Rights is the protection of political peaceful assemblies, European Court of Human Rights in its Guide to Article 11 emphasizes that such interpretation would be “*unacceptably narrow*”<sup>20</sup> and specifies that the Article should be applied to all sorts of gatherings “*of an essential social character*”, cultural gatherings, religious and spiritual assemblies<sup>21</sup>. Meetings on the official level, including parliamentary session,

<sup>17</sup> Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020. P. 8

<sup>18</sup> Hamilton M. The Meaning and Scope of ‘Assembly’ in International Human Rights Law. *International & Comparative Law Quarterly*, vol. 69, issue, p. 545;

<sup>19</sup> ECtHR. Case of Cisse v. France (app. No. 51346/99). Ch judgement, 09.07.2002. §39-40.  
ECtHR. Case of Tuskia and others v. Georgia (app. No. 14237/07). Ch judgement 11.01.2019, §73.

ECtHR. Case of Annenkov and others v. Russia (app. No. 31475/10). Judgement, 25.10.2017, §123

<sup>20</sup> Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020

<sup>21</sup> ECtHR. Case of Emin Huseynov v. Azerbaijan (app. No. 59135/09). Ch judgement, 07.08. 2015, §91.  
ECtHR. Case of Djavit An. v. Turkey (app. No. 20652/92). Ch judgement, 20.02.2003. §60.  
ECtHR. Case of the Gypsy Council and others v. the United Kingdom (app. No. 66336/01). Decision, 14.05.2002

also enjoy the protection under the Article 11<sup>22</sup>.

Analyzing and interpreting the International Covenant on Civil and Political Rights, Manfred Nowak is defining assemblies as “*intentional temporary gatherings of several persons for a specific purpose*”<sup>23</sup>. A number of authors tend to see the right of assembly in a narrower way, underlining the importance of the freedom for the politics. Tabatha Abu El-Haj, for example, in her work ‘All Asseble: Order and Disorder in Law, Politics, and Culture’ argues that assemblies “... *are, by definition, political experiences...*” and that “*assembling is critically important form of politics because it provides opportunities to strengthen, even create personal relationships that are likely to encourage additional civic and political participation*”<sup>24</sup>. Judith Butler, though, argues that assembly is a “*precondition of politics itself*”<sup>25</sup>.

The particular importance of the right to assembly peacefully is closely connected to the policy of non-discrimination, therefore “*The freedom to organize and participate in public assemblies must be guaranteed to individuals, groups, unregistered associations, legal entities and corporate bodies; to members of minority ethnic, national, sexual and religious groups; to nationals and non- nationals (including stateless persons, refugees, foreign nationals, asylum seekers, migrants and tourists); to children, to women and men; to law enforcement personnel, and to persons without full legal capacity,*

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ECtHR. Case of Barankevich v. Russia (app. No. 10519/03). Ch judgement, 26.10.2007, §15.

22 ECtHR. Case of Forcadell I Lluís v. Spain (app. No. 75147/17). Decision, 07.05. 2019, §24.

23 Nowak M. UN Covenant on Civil and Political Rights: CCPR Commentary (2nd ed., N. P. Engel 2005) 484, para 5.

24 El-Haj Abu T. All Asseble: Order and Disorder in Law, Politics, and Culture. Journal of Constitutional Law. Vol. 16:4. P. 1032.

25 Butler J. Notes Toward a Performative Theory of Assembly. Harvard University Press. P. 156.

*including persons with a mental illness*”<sup>26</sup>. In addition to that, the provisions of the international law do not link the guarantees of enjoying the protection of the right of assembly with citizenship<sup>27</sup>.

### ***The notion of ‘peacefulness’ of assembly***

Another important aspect to pay attention to is the notion of “peacefulness” of the assembly. According to the Guide on Article 11 of the European Convention on Human Rights presented by European Court of Human Rights<sup>28</sup>, the term ‘peaceful’ covers the assembly where neither organizers nor participants have violent intentions and are not acting in a way that rejects “*the foundations of a democratic society*”<sup>29</sup>. The burden of proving that the organizers or the participants of the assembly have any violent intentions lies on the authorities of the state and not on the people<sup>30</sup>. Another vital aspect of the peaceful assembly is the fact that the possibility or the risk that the assembly might turn into non-peaceful one as a result of the factors that cannot be controlled by the organizers, does not make the assembly violent. Such assembly does not lose the privilege of being protected by the Article 11 of the ECHR and cannot be restricted by the authorities without significant and lawful reasoning.<sup>31</sup>

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26 OSCE/ODIHR – Venice Commission Guidelines on Freedom of Peaceful Assembly (2<sup>nd</sup> edition). Study no. 581/2010, P. 8

27 OSCE/ODIHR – Venice Commission Guidelines on Freedom of Peaceful Assembly (3<sup>rd</sup> edition), 08.07.2019. Study n° 581/2010, P.40

28 Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020.

29 ECtHR. Case of Kurdevičius and others v. Lithuania (app. No. 37553/05). GC judgement, 15.10.2015, §92.

30 ECtHR. Case of Christian Democratic People’s Party v. Moldova (No. 2) (app. No. 25196/04). Ch judgement, 02.05.2010, §23.

31 ECtHR. Case of Schwabe and M.G. v. Germany (app. No. 8080/08 and 8577/08). Ch judgement, 01.03.2012, §103.

Changing “the ordinary course of life”<sup>32</sup> by blocking the traffic or streets does not make the assembly non-peaceful, the same as the disruption that might be caused by the occupation of public buildings and other common areas for the expressive purposes.<sup>33</sup> Isolated acts of violence committed by the individual participants or violent intensions of those individual participants also do not make the whole assembly non-peaceful.<sup>34</sup> While establishing if the particular assembly falls under the scope of the protection under Article 11, the court pays attention to “(i) whether the assembly intended to be peaceful and whether the organizers had violent intensions; (ii) whether the applicant (participant) had demonstrated violent intensions when joining the assembly; (iii) whether the applicant had inflicted bodily harm on anyone”.<sup>35</sup>

General comment No. 37 (2020) on the right of peaceful assembly states that ‘violence’ in the context of the Article 21 of the International Covenant on Civil and Political Rights is characterized by the “use by participants of physical force against others that is likely to result in injury or death, or serious damage to property”<sup>36</sup>. Mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities do not amount to “violence”. It also pays attention to the fact that the peacefulness of the assembly should be judged by the acts of violence from the participants or

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32 Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020.

33 ECtHR. Case of Annenkov and others v. Russia (app. No. 31475/10). Judgement, 25.10.2017, §126.  
ECtHR. Case of Cisse v. France (app. No. 51346/99). Ch judgement, 09.07.2002. §39-40.  
ECtHR. Case of Tuskia and others v. Georgia (app. No. 14237/07). Ch judgement 11.01.2019, §73

34 ECtHR. Case of Primov and others v. Russia (app. No. 17391/06). Ch judgement, 13.10.2014, §155.

35 Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020

36 General Comment No. 37 (2020) on the right of peaceful assembly (article 21). International Covenant on Civil and Political Rights. United Nations.

organizers of the event. In cases, when the violence happens against the participants of the peaceful assembly by the authorities, or by agents provocateurs, who are acting on behalf of the state, the assembly should not get the status of non-peaceful. The authorities need to present credible evidence of violence from the side of the participants of the assembly to have a right to take any measures towards them personally or the assembly as a whole.<sup>37</sup>

Recognizing the particular importance of the freedom of assembly and association both the European Convention on Human Rights and the International Covenant on Civil and Political Rights (together with a number of supplementing and interpreting documents, such as The General Comment 37 on the right of peaceful assembly, and the Guideline on Article 11 of the European Convention on Human Rights for example, as well as the case-law) came up with a number of protective measures to make sure that the society can enjoy these rights freely. The documents cover the positive and negative obligations of the states, legal basis for possible restrictions of the freedoms of assembly and association, the specifics of the notification process and the powers and duties of the law enforcement agencies and authorities.

### ***Notification process***

Notification process and authorization is another important topic covered by the documents creating the legal basis for the freedoms of assembly and association. According to the Guide on Article 11 of the European Convention on Human the notification procedure that might be required by the domestic law of the particular state does not go against the Article 11, but the main aim of the process of notification is the opportunity for the state authorities to prepare to facilitate the smooth conduct of the

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<sup>37</sup> Guidelines on Freedom of Peaceful Assembly, §51. OSCE and Venice Commission

assembly.<sup>38</sup> It is stated that the process of the notification should not present ‘*hidden obstacle to freedom of peaceful assembly as protected by the Convention*’.<sup>39</sup> When it comes to assemblies that have not notified the authorities under the regulations of the domestic law, but do not engage in violence, the Court has required domestic authorities to be tolerant and not to violate the right of assembly of the individuals.<sup>40</sup> The notion of tolerance is also implemented in the case of spontaneous assembly, provoked by a certain important event, for instance. The General Comment on Article 21 of International Covenant on Civil and Political Rights states that “*having to apply for permission from the authorities undercuts the idea that peaceful assembly is a basic right*”.<sup>41</sup>

It is important to mention is that a failure to notify the authorities prior to the conduct of the assembly does not render the participation in it unlawful, nor does it justify penalties from the state.<sup>42</sup> The process of notification should be transparent and clear and must not be required for spontaneous assemblies.<sup>43</sup>

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38 ECtHR. Case of Sergey Kuznetsov v. Russia (app. No. 10877/04). Ch judgement, 23.01.2009, §42.

39 ECtHR. Case of Oya Ataman v. Turkey (app. No. 74552/01). Ch judgement, 05.03.2007, §38.  
ECtHR. Case of Berladir and others v. Russia (app. No. 34202/06). Ch judgement, 19.11.2012, §39.

40 ECtHR. Case of Navalny and Yashin v. Russia (app. No. 76204/11). Ch judgement, 20.04.2015, §63.

41 Concluding observations on the sixth periodic report of Morocco, §45. International Covenant on Civil and Political Rights. URL: <https://undocs.org/CCPR/C/MAR/CO/6>;

Concluding observations on the Gambia in the absence of its second periodic report, §41. International Covenant on Civil and Political Rights. URL: <https://undocs.org/CCPR/C/GMB/CO/2>;

42 General Comment No. 37 (2020) on the right of peaceful assembly (article 21). International Covenant on Civil and Political Rights. United Nations.

43 Popova v. Russian Federation. Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2217/2012. §7.5

## 1.5 Freedom of association

It is also important to draw the line between the terms ‘assembly’ and ‘association’. There is an interconnection between the freedom of assembly and associations, but they are particularly different in their forms and structure. While associations can have an expressive nature, their essential characteristics, as noted by Tabatha Abu El-Hai, “*is less in its message than in the nature of the relationships within it and the ways in which they are organized*”.<sup>44</sup> Association “*presupposes a voluntary grouping for a common goal*”<sup>45</sup>. Associations are valuable tools that make the political participation possible and accessible. The importance of the freedom of association also comes from the understanding that they are not only “*incubators of ideas*”, but what’s more – “*incubators of relationships*”.<sup>46</sup> The main scope that the right of association covers is the freedom to form voluntary associations.<sup>47</sup> Therefore, “*establishing a legal entity in order to act collectively in a field of mutual interest*”<sup>48</sup>, which might mean the organization of the Trade Union, political party or any other association for other purpose on the voluntary basis is protected under the Article 11 of the ECHR and Article 22 of the ICCPR. There is a view of the association, which is supported by C. Edwin Baker, that notes that “*in essence, an association is merely an assembly dispersed over time and space*’, and that “*the key aspect of both is that they are combinations, not mere aggregations, of people; and as*

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44 El-Haj Abu T. Friends, Associates, and Associations: Theoretically and Empirically Grounding the Freedom of Association. Arizona Law Review. P.99

45 ECtHR. Case of Young, James and Webster v. the United Kingdom (app. No. 7601/76 and 7806/77). Report of the Commission, 14.12.1979, §167.

46 Hamilton M. The Meaning and Scope of ‘Assembly’ in International Human Rights Law. Cambridge University Press for the British Institute of International and Comparative Law. P.531

47 Shea M. C. The Case of Young, James, and Webster: British Labor Law and the European Convention on Human Rights. Cornell International Law Journal. P. 489.

48 ECtHR. Case of Gorzelik and others v. Poland (app. No. 44158/98). GC judgement, 20.12.2001, §88.

*combinations, they are a source of power. Both form relations between people that enable the group to do things – often to do things beyond merely reasoning together. People come together in assemblies or associations in order to pursue or fulfil their goal.”*<sup>49</sup>

## **1.6 Positive and negative obligations**

The right to freedom of assembly and association imposes positive as well as negative obligations on the Contracting States. For example, negative obligations imply not applying “*unreasonable restrictions on the right to assemble peacefully*”.<sup>50</sup> Positive obligations in turn focus on safeguard of the freedom.<sup>51</sup> The freedom of association of people representing minorities of controversial views should enjoy particular protection under the Article 11.<sup>52</sup> The authorities of the state are obligated to ensure conditions for the conduct of peaceful demonstration and the safety of the participants of that assembly. It is stated that as long as the mass assembly can be an unpredictable event, the Convention focuses on the obligation of the authorities to take necessary measures and not on the results achieved.<sup>53</sup> Having the aim of the facilitation of the conduct of the peaceful assembly, the authorities must ensure the preventive security measures, such as the provision of first-aid services to the

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49 Baker C. E. Scope of the First Amendment Freedom of Speech. Campbell T. & Alexander L. Freedom of Speech. U R L : <https://www.taylorfrancis.com/books/freedom-speech-tom-campbell-larry-alexander/e/10.4324/9781315181981?refId=65d1b65d-2c13-4459-a383-2b82d45cc9a7>

50 ECtHR. Case of Öllinger v. Austria (app. No. 76900/01). Ch judgement, 29.09.2006, §35.

51 ECtHR. Case of Kudrevičius and others v. Lithuania (app. No. 37553/05). GC judgement, 15.10.2015, §158.

52 ECtHR. Case of Baczkowski and others v. Poland (app. No. 1543/06). Ch judgement, 24.09.2007, §64.

53 ECtHR. Case of Giuliani and Gaggio v. Italy (app. No. 23458/02). GC judgement, 24.03.2011, §251.

participants in case there's a need for it during the assembly.<sup>54</sup> For the smooth conduct of the assembly, it is important to create and encourage working communication channels between the authorities and the organizers of the mass event for the negotiations and mediation.<sup>55</sup> It is important to pay attention to the possibility of the counter-demonstrations, that can happen as a result of the expression of the ideas that do not have consensus in the society. However, “*in a democracy the right to counter-demonstrate cannot extend to inhibiting the exercise of the right to demonstrate*”<sup>56</sup>, therefore, the authorities should adequately evaluate possible risks, danger and equally matched measures, that must be legally supported.<sup>57</sup> The particular justification of any preventive measures from the side of the authorities must be presented, especially in the cases, when the issues, that the assembly relates to, are issues of public interest.<sup>58</sup>

The General Comment 37 on the right of peaceful assembly particularly states the importance for the authorities to “*pursue accountability and provide effective remedies for violations of Covenant rights*”<sup>59</sup>. The document emphasizes that the content of the assembly, the main ideas that are expressed publicly during such events should be left to the participants to determine freely, without interference or censorship from the side of the authorities. The state must exercise “*content neutral principle*”.<sup>60</sup>

54 ECtHR. Case of Oya Ataman v. Turkey (app. No. 74552/01). Ch judgement, 05.03.2007, §39.

55 ECtHR. Case of Frumkin v. Russia (app. No. 74568/12). Ch judgement, 06.06.2016, §128-129.

56 ECtHR. Case of Platform “Ärzte für das Leben” v. Austria (app. No. 10126/82). Ch judgement, 21. 06. 1988, §32.

57 ECtHR. Case of Fáber v. Hungary (app, No. 40721/08). Ch judgement, 24.10.2012, §42.

58 ECtHR. Case of Öllinger v. Austria (app. No. 76900/01). Ch judgement, 29.09.2006, §44.

59 General Comment No. 37 (2020) on the right of peaceful assembly (article 21). International Covenant on Civil and Political Rights. United Nations

60 HRC. Alekseev v. Russian Federation (CCPR/C/109/D/1873/2009), Communication No. 1873/2009, §9.6.  
HRC. Amelkovich v. Belarus (CCPR/C/125/D/2720/2016). Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2720/2016 § 54-55.

The obligations to facilitate peaceful assemblies lie on the authorities not only during the event, but also before and after its conduct. They include the facilitation or not interference into the process of organization of the event, distribution of the information about it and planning. <sup>61</sup>Communication between the participants and organizers before, during and after the assembly should also be free and not restricted. No one should be harassed or face any penalties for the participation in the peaceful assembly. The role of journalists, human rights defenders and other personnel involved in monitoring process is enjoying special protection under the Article 21 of the ICCPR. <sup>62</sup> Taking into account the expressiveness of the assemblies and their frequent use for the expression of the political opinions of the population, the General comment No.37 particularly specifies that “*assemblies with a political message should enjoy a heightened level of accommodation and protection*”.<sup>63</sup>

## 1.7 Limitations

The ECHR states that “*no restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others*” <sup>64</sup>. There is a wide range of measures that can be

<sup>61</sup> HRC. *Tulzhenkova v. Belarus* (CCPR/C/103/D/1838/2008) Communication No. 1838/2008, §9.3.

<sup>62</sup> General Comment No. 37 (2020) on the right of peaceful assembly (article 21). International Covenant on Civil and Political Rights. United Nations.

<sup>63</sup> General comment No. 34 (2011) on the freedoms of opinion and expression, §. 34, 37–38 and 42–43. International Covenant on Civil and Political Rights.

Concluding observations on the initial report of the Lao People’s Democratic Republic (CCPR/C/LAO/CO/1), §33. International Covenant on Civil and Political Rights.

<sup>64</sup> Convention for the Protection of Human Rights and Fundamental Freedoms. ETS No.005. 04.11.1950. 03.09.1953. Article 11.2

taken by the authorities and law enforcement agencies.<sup>65</sup> The term 'restrictions' in the Article 11 of the European Convention on Human Rights “*must be interpreted as including both measures taken before or during the gathering and those, such as punitive measures, taken afterwards*”.<sup>66</sup> There is a strong difference between the necessary and adequate measures and the interference with the freedom of assembly or the freedom of association.<sup>67</sup> A number of actions can be considered interferences, such as preventing people from attending the meeting,<sup>68</sup> dispersal of the peaceful assembly, arrests of the peaceful participants and imposing penalties on them for taking part in the assembly<sup>69</sup>. Violent actions of the police during the conduct of peaceful assembly also constitutes as an interference with the freedom of assembly.<sup>70</sup> There are 2 types of restrictions that the authorities can resort to in the case of the freedom of assembly. First type comprises the organizations issues of conducting the assembly and is usually addressed to the organizers of the event, whereas the second type is aimed at crowd-control, dispersal of an assembly, penalties against individual participants and so on. Both can be connected with the same event.<sup>71</sup> There is a number of requirements for the restrictions to be fulfilled, that can be placed into several categories: restrictions prescribed by law, covered by the legitimate aim and those necessary in a democratic society. The expression 'prescribed by law' implies that the measures are

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65 ECtHR. Case of Kudrevičius and others v. Lithuania (app. No. 37553/05). GC judgement, 15.10.2015, §100.

66 Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020

67 Vdovichenko K. The international legal framework for freedom of meetings of citizens: criminal-legal meaning. Journal of the Krasnodar University of the Ministry of Interior of the Russian Federation, No. 4, P. 50.

68 ECtHR. Case of Djavit An. v. Turkey (app. No. 20652/92). Ch judgement, 20.02.2003, §61-62.

69 ECtHR. Case of Kasparov and others v. Russia (app. No. 21613/07). Ch judgement, 17.02.2014, §84

70 ECtHR. Case of Laguna Guzman v. Spain (app. No. 41462/17). Ch judgement, 06.01.2021, §42.

71 ECtHR. Case of Lashmankin and others v. Russia (app. No. 57818/09). Ch judgement, 29.05.2017, §407

justified by the domestic law, which answers the quality requirements and is accessible and understandable for the citizens.<sup>72</sup> Legitimate aim, usually stated as 'the prevention of disorder' should have a narrow interpretation and be proportional with the possible risks.<sup>73</sup> The important emphasis is put on the question of the restrictions based on the content of some particular assembly. It is stated that there must be a clear distinction between the content-based and technical restrictions<sup>74</sup> and that the content-based restrictions “*should be subjected to the most serious scrutiny by the Court*”<sup>75</sup>. The General comment No.37 specified legitimate grounds on which the freedom of assembly can be legally restricted, particularly those which are necessary in a democratic society.<sup>76</sup> Therefore, the interpretations of the ICCPR, as well as ECHR, underline the particular importance of the fact, that “*the prohibition of a specific assembly can be considered only as a measure of last resort. Where the imposition of restrictions on an assembly is deemed necessary, the authorities should first seek to apply the least intrusive measures*”.<sup>77</sup>

However, there are situation in which the restrictions from the state can be considered lawful. The list includes reasoning like ‘interests of national security’, ‘public safety’, ‘public order’, ‘protection of public health or morals’, ‘protection of the rights and freedoms of others’. As neither the freedom of

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72 ECtHR. Case of Kudrevičius and others v. Lithuania (app. No. 37553/05). GC judgement, 15.10.2015, §108-110.

73 ECtHR. Case of Navalny v. Russia (app. No. 29580/12). Ch judgement, 15.11.2018, §120.

74 Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020

75 ECtHR. Case of Navalny v. Russia (app. No. 29580/12). Ch judgement, 15.11.2018, §134.  
ECtHR. Case of Primov and others v. Russia (app. No. 17391/06). Ch judgement, 13.10.2014, §134-135.

76 General Comment No. 37 (2020) on the right of peaceful assembly (article 21). International Covenant on Civil and Political Rights. United Nations. P. 7

77 Ibid

assembly nor association are absolute, there is a number of restrictions possible from the side of the authorities of the state where the assembly or association take place. Although these reasons may serve as grounds for restrictions, the comment pays particular attention to the fact that they cannot be used to justify violations of human rights and must be proportionate and necessary in every taken situation.

When comes to the freedom of association, which also enjoys protection under the international law, the interference of the state and some restrictions can also take place. Unjustified state interference, that the Article 11 of the Convention on Human Rights safeguards against, can be a “*refusal or dissolution of an association, but may also take other forms hampering an association from carrying out its activities (e.g. through inspections or restrictions on financing)*”.<sup>78</sup> The justified restrictions might be based though on several reasons and be prescribed by law, follow a legitimate aim or be necessary in a democratic society.<sup>79</sup> The category ‘legitimate aim’ might comprise of “*national security or public safety, the prevention of disorder or crime, the protection of health or morals, and the protection of the rights and freedoms of others.*”<sup>80</sup> The restrictions, however, must be justified, proportionate to the level of possible risk and correspond with the 'pressing social need'. The degree of interference or restrictions should be assessed based on particular contexts of the cases.<sup>81</sup> There are several types of associations that enjoy protection under Article 11. Political parties being essential for

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78 ECtHR. Case of Yorfanovi v. Bulgaria (app. No. 11157/11). Ch judgement, 03.12.2020, §61-62.

79 Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020.

80 ECtHR. Case of Sidiropoulos and others v. Greece (app. No. 57/1997/841/1047). Ch judgement, 10.07.1998, § 38.

81 Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020.

the development of pluralism and functioning of democracy are safeguarded by European Convention on Human Rights.<sup>82</sup> Minority associations are of particular importance for citizens who wish to express their identity and preserve their rights.<sup>83</sup> Religious associations also belong to the associations protected by the Convention, giving people right to “*manifest one’s religion in community with others, ..., without State intervention*”.<sup>84</sup> The authorities obligation to secure and protect the effective functioning of the right to freedom of association especially when it comes to groups of people sharing unpopular views or belonging to majorities, “*because they are vulnerable to victimization*”.<sup>85</sup>

There is therefore an organized legal framework in the context of the international law, that ensures protection and effective execution of the right of assembly and association in the countries that have ratified the documents. European Convention on Human Rights and International Covenant on Civil and Political Rights (including all the supporting and interpreting documents) create the base and guideline for the domestic legislations of the countries that strive for democracy and pluralistic society, where the voice of every citizen can be heard.

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82 ECtHR. Case of Republican Party of Russia v. Russia (app. No. 12976/07). Ch judgement, 15.09.2011, §78.

83 ECtHR. Case of Gorzelik and others v. Poland (app. No. 44158/98). GC judgement, 20.12.2001, §93.

84 ECtHR. Case of the Moscow branch of the Salvations Army v. Russia (app. No. 72881/01) Ch judgement, 05.01.2007, §58 and 92.

85 ECtHR. Case of Baczkowski and others v. Poland (app. No. 1543/06). Ch judgement, 24.09.2007, §64.

## **Chapter II. Legislative framework of the protection of freedom of assembly and association in the domestic legislation of the Russian Federation.**

Although according to the Federal law N 101-FZ international treaties that the Russian Federation has ratified are an integral part of its domestic legal system (the provisions of the officially published treaties of the Russian Federation, which do not require the issuance of domestic acts, are applied directly in Russia)<sup>86</sup>, the great role in the process of ensuring the protection of the freedom of assembly and association is played by the domestic legal system. In the legal system of the Russian Federation, these rights are guaranteed by the Constitution of the Russian Federation, Federal laws, legislative acts of the Federation subjects and Decrees of the President of the Russian Federation. According to the Article 31 of the Constitution, “*citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, meetings and demonstrations, marches and pickets.*”<sup>87</sup>The detailed interpretation of the freedom of assembly and all the measures of its ensuring and restricting is contained in the Federal law on assemblies, meetings, demonstrations, marches and picketing, which was amended several times from its adoption in 2004.<sup>88</sup>In order to be able to assess the provisions of the legal documents, it is important to be clear about the terminology used in the Russian legislative

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86 No. 101-FZ. Federal Law on International agreements of the Russian Federation, 15.07.1995. Art. 5

87 The Constitution of the Russian Federation. Chapter 2. Rights and Freedoms of Man and Citizen. Article 31. URL: <http://www.constitution.ru/en/10003000-03.html>;

88 No. 54-FZ. Federal law on assemblies, meetings, demonstrations, marches and picketing, 19.06.2004. Федеральный закон "О собраниях, митингах, демонстрациях, шествиях и пикетированиях" от 19.06.2004 N 54-ФЗ.

system. The federal law states that ‘public event’ is an open, peaceful, accessible to everyone and held in a form of assembly, meeting, demonstration, march or picketing action, that is associated by the initiative of the citizens of the Russian Federation, political parties, other public and religious unions<sup>89</sup>. There are given interpretations of other terms in the document as well. Thus the ‘assembly’ is characterized as a meeting of citizens in a specified or designed for it place for the collective discussion of the issues significant for the society. ‘Meeting’ is a mass gathering of people aimed at expressing common opinion on the current events or challenging situations, mainly of a socio-political character. ‘Demonstration’ is an organized public event to express public attitudes of the mind which is in motion and is using the means of visual campaigning. ‘March’ is seen as a mass movement of the citizens on the route planned in advance in order to draw attention to the certain problems. ‘Picketing’ is a form of the expression of the public opinion, which is static and does not involve the movement of the citizens.<sup>90</sup> The distinguishing between the types of the assemblies of people is important within the Russian domestic legal system, as it must be determined both before and during the conduct of the public event and the procedure must be followed (as agreed with the authorities beforehand).

## **2.1 Protection of the freedom of assembly in the Russian domestic legislation**

The basis of the legal system regulating the conduct of the mass assemblies laid by the Decree of the Presidium of the Supreme Soviet of the Soviet Union of 28 July 1988 No. 9306-XI ‘on the Procedure

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89 No. 54-FZ. Federal law on assemblies, meetings, demonstrations, marches and picketing, 19.06.2004. Федеральный закон "О собраниях, митингах, демонстрациях, шествиях и пикетированиях" от 19.06.2004 N 54-ФЗ.

90 Ibid, Article 2

for organizing and holding meetings, rallies, street marches and demonstrations in the USSR'.<sup>91</sup> It was later on prolonged with some changes in 1992 by the Presidential Decree no. 524 of 25 May 1992 on the Procedure of organizing and holding meetings, street marches, demonstrations and picketing'.<sup>92</sup> The provisions of the Decree of the Presidium of the Supreme Soviet of the USSR were rather general, noting that it is aimed at ensuring the right of freedom of assembly. The requirements for the notification process are stated in the document, but there are no strict criteria for the organization of the notification as well as there are no restrictions on who is able to be an organizer of the public event. It is stated in the Decree that associations of people whose ideas are contrary to the Constitution can be stopped and restricted by the authorities of the country. Another important aspect is that the Decree gave authorities of the subjects of the Soviet Union a chance to come up with additional regulatory activity when comes to right of assembly within their jurisdiction.<sup>93</sup> Despite its general form and lack of in-depth regulation of the freedom of assembly, the Decree of the Presidium of the Supreme Soviet was addressed to for more than 15 years (before the new regulation came) and managed to create a functioning system of control over the realization of the right to assembly.

#### ***Federal law on assemblies, meetings, demonstrations, marches and picketing of 2004***

Another step in the creation of the domestic legal system on the protection of the right of assembly

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91 No. 9306-XI, The Decree of the Presidium of the Supreme Soviet of the Soviet Union of 28<sup>th</sup> July 1988 'on the Procedure for organizing and holding meetings, rallies, street marches and demonstrations in the USSR'

92 Presidential Decree no. 524 of 25 May 1992 on the Procedure of organizing and holding meetings, street marches, demonstrations and picketing'. Указ Президента РФ от 25 мая 1992 года № 524 "О порядке организации и проведения митингов, уличных шествий, демонстраций и пикетирования".

93 The Decree of the Presidium of the Supreme Soviet of the Soviet Union of 28<sup>th</sup> July 1988 No. 9306-XI 'on the Procedure for organizing and holding meetings, rallies, street marches and demonstrations in the USSR'. Указ Президиума Верховного Совета СССР от 28 июля 1988 года N. 9306-XI 'О порядке организации и проведения собраний, митингов, уличных шествий и демонстраций в СССР'

was made by the Federal law No. 54-FZ on assemblies, meetings, demonstrations, marches and picketing, which entered into force in 2004.<sup>94</sup>The law contained more detailed regulations of the organization of public events and the obligations and rights of organizers, participants and authorities. It is stated in the first Article that the freedom of assembly in the Russian Federation was granted by the Constitution, Federal laws and Presidential decrees, that were based on the generally recognized rules and norms of the international law, as well as international conventions and agreements that Russian Federation has taken upon itself. It was also stated therein that the executive organs of the subjects of the Federation could place additional regulations on the procedures of the conduct of the public assemblies. The law of 2004 has brought the restrictions on those who can or cannot be organizers of the public events. Consequently, it is stated that the organizer should be a citizen of the Russian Federation, or it can be a political party or other public or religious organizations, the work of which is not prohibited or cancelled.<sup>95</sup> There appear the age restrictions in this version of the legislation, permitting only citizens over 18 years old to be organizers of demonstrations, rallies and picketing, and people over 16 years old to be organizers of meetings and assemblies. Another restriction addressed to the organizers is that there are categories of people, who are not allowed to take this position: legally incapable or partly incapable people (by the decision of the court); imprisoned citizens; and political parties or other organizations and groups, the activity of which is terminated or prohibited by the law of the Russian Federation. Building the basis for the regulation of the freedom of assembly in Russian legal system, the law states that assemblies and gatherings of

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94 No. 54-FZ. Federal law on assemblies, meetings, demonstrations, marches and picketing, 19.06.2004. Федеральный закон "О собраниях, митингах, демонстрациях, шествиях и пикетированиях" от 19.06.2004 N 54-ФЗ.

95 Nudenko L. Problems of the Right Regulation of the Constitutional Right of a Russian Citizen to Public Events. Constitutional and municipal right, No. 6, 2006. P. 1

people can happen only after the approval from the side of the authorities (local organs of the executive power are responsible for organizing the process of notification) and in those places that have been stated as 'suitable' by the state. The notification process is not needed only in case of the picketing performed by a single individual, in all other cases, consequently, the absence of notification makes the assembly illegal. The list of places which are prohibited for the mass assemblies, demonstrations and meetings includes the territories in a close proximity to the dangerous industrial enterprises, main railway lines. But what is more important to pay attention to, the assemblies are prohibited in the close proximity to the residence of the president of the Russian Federation, to the buildings occupied by courts and prisons. Such important for expression of the opinion places as Moscow's Kremlin, Red Square and Alexandrovsky garden are regulated in private capacity by the Presidential Decrees (usually used for meetings and events initiated by the authorities and prohibited for private organizers).<sup>96</sup> The most important notion about the new regulation of 2004 may be made concerning the inference of the state's authorities with the goals and purposes of the assembly. During the process of notification, the authorities can not only offer organizers a different place for the assembly, but also comment on the goals and purposes of the event, considering it appropriate or not. A wide range of obligations is placed on the organizers. The new legislative basis that was created by the Federal law of the 2004, provoked arguments between lawyers, mainly on the issue of the character of the notification process. Although officially the system is stated to be 'notifying', the regulation has left a lot of options for discretionary decisions from the side of the authorities, that in fact characterizes the system as 'permissive'.<sup>97</sup>

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96 No. 54-FZ. Federal law on assemblies, meetings, demonstrations, marches and picketing, 19.06.2004. Федеральный закон "О собраниях, митингах, демонстрациях, шествиях и пикетированиях" от 19.06.2004 N 54-ФЗ.

97 Kondrashev A. Freedom of assembly in Russia: system defects of law and political and legal practices. Law Institute of Siberian Federal University, Krasnoyarsk. URL: <https://academia.ilpp.ru/product/svoboda-sobraniy-v-rossii-sistemne-defekt-zakonodatelystva-i-politiko-pravovaya-praktika/>;

### *Amendments to the Federal law of 2012*

2012 brought restrictions not only to the area of notification process, but also significantly interfered with the obligations and rights of organizers and participants of the assembly. The Constitutional Court of the Russian Federation has declared the Federal law with the amendments of 2012 in line with the Constitution, which, in the opinion of some judges, “*created the conditions in which executive power is using misleading notions in their favor and against the main pillars of the Constitution*”.<sup>98</sup> Tightening of the regulations happened not only through the amendments of the Federal law itself, but also through pressing stricter notions in the Code of Administrative Offenses.<sup>99</sup> The new important regulation was the restrictions of people who can be organizing assemblies and public meetings. So, “*a person with an unquashed or outstanding conviction for the committing of a premeditated crime against the fundamentals of the constitutional order and security of the State or a crime against public safety and public order or having been prosecuted under administrative law twice or more for administrative offences*” does not have a right to organize assemblies.<sup>100</sup> Enlarged

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98 Court Ruling of the Constitutional Court of the Russian Federation of April 2, 2009 N 484-O-P ‘On the complaint of citizens Lashmakin A.V., Shadrin D.P. and Shimovolos S.M. on violation of their constitutional rights by the provision of part 5 of Article 5 of the Federal law on assemblies, meetings, demonstrations, marches and picketing. Определение Конституционного Суда РФ от 02.04.2009 N 484-О-П "По жалобе граждан Лашманкина Александра Владимировича, Шадрин Дениса Петровича и Шимоволоса Сергея Михайловича на нарушение их конституционных прав положением части 5 статьи 5 Федерального закона "О собраниях, митингах, демонстрациях, шествиях и пикетированиях"’.

99 Blankenagel A., Levin I. The Freedom of assemblies and meetings in the Russian Federation – made in USSR? : “We can’t do better” or “We don’t want in any other way”? Comparative Constitutional Observer, №2, 2013. P. 56. Бланкенагель А., Левин И. Свобода собраний и митингов в Российской Федерации – сделано в СССР? : «Лучше мы не можем» или «По-другому не хотим»? Сравнительное Конституционное Обозрение, № 2, 2013.

100 Federal law on assemblies, meetings, demonstrations, marches and picketing No. 54-FZ of 19 June 2004 of the Russian Federation. As amended by Federal law No. 65-FZ of 8 June 2012, article 5. Opinion no. 659/2011, European Commission for Democracy through law (Venice Commission).

list of obligations was imposed on those who managed to become organizers of the assembly, for example, the organizer is obliged to control that the number of participants is not exceeding the numbers that have been presented in the notification to the authorities beforehand. This requirement is explained from the position of public safety but is hardly possible from the practical point of view.<sup>101</sup> Restrictions were also placed on the participants and the ways of their expressions. For instance, participants are prohibited to cover their faces with face masks or in other ways if that prevents from distinguishing their identities<sup>102</sup> (COVID-19 has brought a new dimension in this regard with the obligation for people gathering outside or inside to wear protecting masks. However, the regulation has not been added to the Federal law itself, but only stayed on the level of local regulations of the cities and regions of the state, which, in a number of cases, prohibited political gatherings all together, allowing, though, other types of assemblies<sup>103</sup>).

The biggest changes brought by the amendment of 2012 was connected with the places where the assemblies of people are possible. The authorities of the Russian Federation are entitled to determine the list of places suitable for the assemblies and public gatherings.<sup>104</sup> Although it is stated that locations picked by the state representatives should allow the accomplishment of the goal of the assembly, be accessible for public transport and citizens, the regulation significantly restricts the freedom of assembly. What is more, the assemblies in places that are not stated in the list by the authorities and

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101 No. 54-FZ. Federal law on assemblies, meetings, demonstrations, marches and picketing, 19.06.2004. Article 5.4. Федеральный закон "О собраниях, митингах, демонстрациях, шествиях и пикетированиях" от 19.06.2004 N 54-ФЗ.

102 Ibid, Article 6.4

103 Conferences are allowed, meetings and picketings – are not. Fontanka.ru, 23.09.2020. URL: <https://www.fontanka.ru/2020/09/23/69478531/>;

104 Ibid, Article 8.1

are not approved during the notification process, are considered against the current law.<sup>105</sup> Another change had an effect on the procedure of prior campaigning, it can be done not from the time of notifying the authorities, but from the official approval of the conduct of the event.<sup>106</sup>

### *Amendments to the Federal Law of 2020*

After the amendments of 2012 there were a series of other smaller amendments in 2014, 2015, 2016, 2017 and 2018. But the most significant changes to the Federal Law No. 54-FZ were brought by the amendments of 2020. The ‘chilling effect’ aiming at making the organization of assemblies less accessible, was mainly fulfilled through the additional regulations for the organizers. In that way, in case there are any changes in the form, place, number of participants or goals of the assembly after it has been approved by the authorities, the approval is automatically considered invalid and the gathering cannot be held. The process of notification itself has become stricter towards the organizers. From 30<sup>th</sup> of December 2020, organizers must inform the authorities of the means and methods that will be used to ensure public order, organizations of medical help and control over the number of participants.<sup>107</sup> Greater portion of restrictions in this amendment was aimed at financial part of the organization process. There is a prohibition of the financial support from: foreign states and foreign organizations; international organizations and international civil movements; foreign individuals or stateless persons (with exception of those who permanently live on the territory of the Russian

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105 Ibid, Article 8.2

106 Ibid, Article 10

107 No. 54-FZ. Federal law on assemblies, meetings, demonstrations, marches and picketing, 19.06.2004. Article 7.2 Федеральный закон "О собраниях, митингах, демонстрациях, шествиях и пикетированиях" от 19.06.2004 N 54-ФЗ

Federation); non-governmental non-commercial organizations, non-registered unions or private entities fulfilling the function of foreign agents; citizens of the Russian Federation younger than 16 years of age; anonymous sponsors; and legal entities, registered less than for a year before the transaction of the finances.<sup>108</sup> The following restrictions also present a form of ‘blanket restrictions’. In case of receiving supporting funds from anonymous sponsors, the money must be sent to the Federal Treasury and not be used for the organization of the assembly.<sup>109</sup> Moreover, the organizer must submit the information about his/her bank accounts during the process of notification and after the assembly present the report on the financial spending to the authorities who allowed the assembly to take place.

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Judicial reviews of the amendments of 2020 repeatedly state that the Federal law, which was already far behind the standards of international law, principles of the ECHR and ICCPR, has become even more anti-constitutional and authoritarian.<sup>111</sup>

## **2.2 Protection of the right of association in the Russian domestic legislation**

The right to association is closely connected to the right of assembly and to main freedoms under the

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108 Ibid, Article 11.3

109 Ibid, Article 11.9

110 Ibid, Article 11.11

111 Judicial analysis of the proposed law № 1057213-7, № 1057230-7, № 1060657-7 и № 1060689-7, presented in November 2020 to the State Duma of the Russian Federation by the Deputy Viatkin D.F. Юридический анализ законопроектов № 1057213-7, № 1057230-7, № 1060657-7 и № 1060689-7, внесенных в ноябре 2020 года в Государственную Думу Российской Федерации депутатом Вяткиным Д. Ф. URL: <https://ovdinfo.org/reports/zakonodatelnye-ogranicheniya-svobody-sobraniy-pod-konec-2020-goda#2-4>;

European Convention on Human Rights. In the Russian legislative system, the term ‘association’ implies one of the forms of non-commercial organizations.<sup>112</sup> Although there’s no clear classification of the forms of associations in the legislations, the common interpretation sees ‘association’<sup>113</sup> as an agglomeration of people connected by one sort of profession and ‘union’ – people getting together to pursue common goals.<sup>114</sup> According to the Civil Code of the Russian Federation, ‘association’ is an alliance of legal entities or citizens, which is based on associateship, for representation and protection of professional interests or achievements of socially valuable non-commercial goals.<sup>115</sup>

The purposes for the creation of the associations can be diverse, for example: achieving social, charitable, cultural, educational, scientific and other goals; protection of rights and freedoms, fulfilling the needs of citizens (both material and moral) and so on.<sup>116</sup>

The protection of the right of association in the Russian Federation is regulated by several legal documents. First one is the Civil Code, that determines the limits of the civil legal capacity of the associations and unions as non-commercial organizations and states the rights and obligations, which should be in accordance with the goals and purposes of the association.<sup>117</sup> The basis of the legislation

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112 N7-FZ . Federal law ‘On Non-profit Organizations’, (ed. 30.12.2020). Article 2. Федеральный закон «О некоммерческих организациях! N7-ФЗ, Статья 2.

113 Ozhegov S. Explanatory dictionary of the Russian language. P.45. URL: <http://cyberlan.com.ua/wp-content/uploads/2015/07/Tolkovij-slovarj-russkogo-yazika.pdf>;

114 Ibid, P. 1889

115 No. 51-FZ. Civil Code of the Russian Federation, 30.11.1994. Article 123.8. Гражданский кодекс Российской Федерации, статья 123.8

116 N7-FZ, Federal law ‘On Non-profit Organizations’ (ed. 30.12.2020). Article 2. Федеральный закон «О некоммерческих организациях! N7-ФЗ, Статья 2.

117 No. 51-FZ Civil Code of the Russian Federation, Article 123.8. Гражданский кодекс Российской Федерации, статья 123.8.

on associations is presented by the Federal law ‘On Non-profit Organizations’ N7-FZ and the Federal law ‘On Self-Regulating Organizations’ N315 – FZ. These laws are implemented towards all non-commercial organizations that are being created in the Russian Federation.<sup>118</sup> The legislation of the Russian Federation regulates to the freedom of association be restricting some types of non-commercial activity and implementing the system of licensing under the Article 1 of the Federal law N7-FZ. The list of types of activities submitted to the licensing is presented by the Federal Law ‘On licensing of certain types of activities’.<sup>119</sup>

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118 Brodskaya V. Legal regulation of associations and unions. Young Scientist №31, 2019. P.85

119 N99-FZ. Federal law ‘On licensing of certain types of activities’. Федеральный закон ‘О лицензировании отдельных видов деятельности’, №99-ФЗ от 04.05.2011.

## **Chapter III. Legal protection of the right of assembly and association in the Russian Federation: main problems and case-law.**

Having analyzed the legislation that regulates the protection of the right to freedom of assembly and association in Russia, it is clear that there are parts that are not in compliance with international law. There are several main issues that are causing discordances. The cases that are chosen for this chapter illustrate the main problems that are discussed and show the general legal opinion on the similar situations.

### **3.1 Freedom of assembly**

#### ***Legality of the regulation of the assembly and the notification process, spontaneous assemblies***

The Federal law 54-FZ with all its amendments gives a large space for the violations through the unlimited latitude of the local government bodies in the process of notification and agreeing on the place and time of the public assembly. Vague positions of the regulations allow for unjust actions that cannot be controlled or eliminated, because the interpretation of the law is suitable for the authorities in every given situation. There is no precise protocol that determines the process of decision-making on whether the assembly is lawful or not, as well as there's no mechanism of control in this regard. 'Blanket prohibitions' regarding the time, place, identity of the organizer and in some cases even purposes of the assembly, significantly undermine the freedom of peaceful assembly and the democracy that lays in the basis of this right. Lack of particular regulations gives local authorities all

the power to prohibit the undesirable assembly, call one illegal and make sure it is stopped by means of force. The reasoning behind cancelling the assemblies (such as, for example, the “*violation of transport and social infrastructure*” (in one particular case the wording was used to prevent the anti-corruption meeting from happening)<sup>120</sup>, is violating the provisions of the ECHR (as it is particularly stated in the case-law that the disruptions of infrastructure and the movement of the vehicles and pedestrians is an expected and tolerable consequence of the assembly and the prohibition based on that reasoning is neither proportionate, nor legal)<sup>121</sup>. In fact, the process of notification in the Russian legal system became a process of receiving (or not receiving) permission from the authorities<sup>122</sup>.

“Freedom of Assembly in Practice of the Constitutional Court of the Russian Federation” - the research of Stanislav Kolmakov - shows the wide range of gaps in Russian domestic legislation on the issue of freedoms of association and assembly, particularly with the notification problematics. He underlines the dualistic nature of the freedom of association and insists that current way of regulating the freedoms on legislative level needs significant modifications. The particular attention is paid to problems connected with inequalities caused by different legislation in the regions and absence of the legally stated mechanisms of the procedures of approval of the mass meetings and associations. A large number of restrictions and conditions, which are in many cases irrelevant prevent citizens from exercising their right for assembly and association.

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120 Kondrashev A. Freedom of assembly in Russia: system defects of law and political and legal practices. Law Institute of Siberian Federal University. P. 27

121 ECtHR. Case of Annenkov and others v. Russia (app. No. 31475/10). Judgement, 25.10.2017, §126.  
ECtHR. Case of Cisse v. France (app. No. 51346/99). Ch judgement, 09.07.2002. §39-40.

ECtHR. Case of Tuskia and others v. Georgia (app. No. 14237/07). Ch judgement 11.01.2019, §73.

122 Antropova L. and Kashirina Y. The Right of Citizens to Conduct Public Events: The Concept, Content and Prospects of Legal Regulation. Theory of Science, No. 5, 2013. P. 71

*Case of Popova v. Russian Federation (HRC)*<sup>123</sup>

The vague notification process criteria create a problem when dealing with spontaneous assemblies. It is clearly expressed in the case of Elena Popova v. Russia, that was heard by the Human Rights Committee (CCPR). The applicant was arrested and held in detention for the alleged organization of the non-authorized meeting and chanting antiauthority slogans. The Committee has taken into consideration the fact that the applicant was not admitting her role as an organizer, as well as the nature of the protests, that was a spontaneous reaction of the concerned population on the preliminary results of the parliamentary elections, considered falsified. It was stated that the local judicial system was not able to give considerable arguments proving that actions of the applicant had violated the public order or were not peaceful in their essence. The Committee has again emphasized the importance of the right to assemble peacefully as a guaranty of the democratic order, especially as a way of peaceful participation of the population in the political life of the country. There has been a violation of the Article 21 of the ICCPR and measures taken against the applicant were considered unlawful.

A number of provisions in the Federal law No. 54-FZ is announced unconstitutional under the Constitution of the Russian Federation <sup>124</sup>( for example, part 1 of the Article 7 (the regulation of the notification process in case all of the days (not sooner than 15 and not later than 10 before the assembly) are holidays, which makes the notification practically impossible)<sup>125</sup>. Having the regulation

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123 No. 2217/2012

124 Resolution of the Constitutional Court of the Russian Federation dated 14<sup>th</sup> February 2013, N. 4-P. In the case of checking the constitutionality of the Federal Law "On Amendments to the Code of Administrative Offenses of the Russian Federation and the Federal Law" On Assemblies, Rallies, Demonstrations, Marches and Picketing "in connection with a request from a group of State Duma deputies and a complaint from citizen E.V. Savenko. 1.1

125 Ibid, 2.2

without the attention towards the possible holidays, during which the authorities do not function and, consequently, do not register or consider applications, sets significant restrictions for the organizers. This goes against the case-law of the ECtHR and HRC, which states that the notification process is made to facilitate the conduct of the assembly, not create obstacles and make it impossible<sup>126</sup>. This problem is of the systemic character and lies in the legislation of the Russian Federation.

The problem, that was once more pointed out, is the perception of notification process as a requirement, and getting allowance from the authorities is a vital criterion for the conduct of the assembly. However, the Human Rights Committee has again payed attention to the fact that the notification's main purpose is to make the conduct of the public event smooth and possible, not to give the authorities a right to decide on whether the meeting can or cannot take place at all.<sup>127</sup>

### ***Subject - and location - based states interference with the right of assembly***

The power to proclaim any assembly illegal becomes a very used political tool to stop the civil activity<sup>128</sup>, protest movements and undesirable views (such as sexual minorities, for example). Strict administrative sanctions, including high financial fines and community service are called for any agglomeration of people for political or social expressive purposes held without the notification

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126 ECtHR. Case of Oya Ataman v. Turkey (app. No. 74552/01). Ch judgement, 05.03.2007, §38.  
ECtHR. Case of Berladir and others v. Russia (app. No. 34202/06). Ch judgement, 19.11.2012, §39.

127 Popova v. Russian Federation. Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2217/2012.

128 Antropova L. and Kashirina Y. The Right of Citizens to Conduct Public Events: The Concept, Content and Prospects of Legal Regulation. Theory of Science, No. 5, 2013. P. 69

prescribed by the law.<sup>129</sup>

Another thing is a prohibition of the conduct of the assembly in places, stated by the authorities. The range of places include such important locations as the territory in a close proximity to the residence of the President of the Russian Federation and to the courts and offices of the executive organs of the state. These restrictions prevent people from expressing their views and opinions through the choice of location, which can be strategically important for them. Having an organized assembly in front of the office/residence of the authorities that have not fulfilled their obligations, for example, or raised negative reaction of the people is an important tool of political participation of people. And although the state has a right to prohibit the organization of the assemblies in particular places<sup>130</sup>, the reasons must be justified.

*Case of Primov and Others v. Russia (ECtHR)*<sup>131</sup>

The case of Primov and others v. Russia among other structural problems shows that the authorities tried to interfere with the right to assemble because of the political purpose of the meeting.<sup>132</sup> The local representatives of the executive power refused to authorize the peaceful meeting on the citizens (the aim of which was to protest against the corruption of the local authorities) for a number of reasons,

129 Code Of Administrative Offences Of The Russian Federation No. 195-Fz Of December 30, 2001 (edited 09.03.2021). Article 20.2.2 Violating the Established Procedure for Arranging or Conducting a Meeting, Rally, Demonstration, Procession or Picket. КоАП РФ Статья 20.2.2. Организация массового одновременного пребывания и (или) передвижения граждан в общественных местах, повлекших нарушение общественного порядка.

130 Guide on Article 11 of the European Convention on Human Rights. Freedom of assembly and association. European Court of Human Rights. Updated on 31 December 2020. P. 15.

131 No. 17391/06

132 ECtHR. Case of Primov and others v. Russia (app. No. 17391/06). Ch judgement, 13.10.2014

one of which was that the allegations of the organizers and demonstrators were proclaimed false (with the reference to the investigation conducted by the state authorities on the matter).<sup>133</sup>The arrest of the applicants followed the dispersal of the meeting. Having examined the reasons for the prohibition of the demonstration, the ECtHR rejected its validity and stated that the conduct of the public events for the political purposes should enjoy special strong protection under the Article 11, therefore the unwillingness to accept the position of the protesters cannot be a sufficient reason for the ban. The decision to prohibit the assembly in that particular case was unlawful. The Court states that although the blockade by the authorities and police was lawful with regard to prevention of the disorder and crime, the measures actually taken were disproportionate, consequently, there was a violation of the Article 11. The details of the case caused disagreements between the judges on the important question of the proportionality and lawfulness of the use of force from the police during clashes with participants of the assembly. Although the majority of judges on this case (5 out of 7) concluded that there was no violation of the Article 11, there were debates (with judges Pinto De Albuquerque, Turković and Dedov stating the unlawful acts of the police, especially throwing gas grenades in the crowds of people). All in all, the case has shown the existing problems with the clarity of the Russian legislation on the right of assembly and has emphasized that the state is obligated to exhibit sufficient reasonings for the limiting or the prohibition of the mass assembly, especially if it is of political character.<sup>134</sup>

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133 Primov and Others v. Russia – 17391/06. Information Note on the Court’s case-law No. 175.

134 ECtHR. Case of Primov and others v. Russia (app. No. 17391/06). Ch judgement, 13.10.2014

This case shows an example of the restricting the freedom of assembly because of the purpose of the meeting. The applicant, human rights activists, was denied in authorization of the mass assembly with the aim of “*expressing concern over the execution of homosexuals and minors in the Islamic Republic of Iran and to call for a ban on such executions*”.<sup>136</sup> The assembly, however, was banned by the authorities with the reasoning of protection of public security (as the main purpose of the meeting, particularly the sexual-minority character of it, as stated by the state, might have caused contra-protests and violence). The HRC though has stated the violation of the right of assembly of the applicant, stating that “*a rejection of the author’s right to organize a public assembly addressing the chosen subject, is one of the most serious interferences with the freedom of peaceful assembly.*”<sup>137</sup> Therefore, in the situation where the expression of the opinion of one group of population can provoke the dissatisfaction and even aggression from another group, the state must use all possible measures to make the conduct of such assembly safe and possible for everyone, but not use the possibility of the public disorder as an excuse to prevent the assembly from happening. In this case the interpretation and the application of the legal provisions was not correct.

### ***Proportionality of measures used against organizers and participants***

Disproportional sanctions that are imposed both on the organizers (including the discrimination in the

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135 No. 1873/2009

136 HRC. Alekseev v. Russian Federation (CCPR/C/109/D/1873/2009), Communication No. 1873/2009, §2.2.

137 HRC. Alekseev v. Russian Federation (CCPR/C/109/D/1873/2009), Communication No. 1873/2009, §9.6

conditions of who can and cannot be one) and participants in the Russian legislation go way beyond the measures that are accepted by the ECHR and the ICCPR<sup>138</sup>. Nonetheless, there have not been made any attempt of following the recommendations of the Constitutional Court of Russia to bring the Federal law in line with the Constitution. This shows another very significant problem – lack of authority of the judicial system over legislative one and complete disregard of its provisions and resolutions.

*Case of Navalnyy and Yashin v. Russia (ECtHR)*<sup>139</sup>

This particular case shows that the lack of proportionality of state’s measures includes also chilling effect, detention of the opposition figures and other forms of interference not necessary in a democratic society. Two Russian political activists and opposition leaders Alexei Navalnyy and Ilya Yashin were arrested after “*failing to obey a police order to stop a spontaneous march they were alleged to have held after participating in an authorized demonstration*”.<sup>140</sup>The Court came to the conclusion that the march (which the applicants explained as simple exiting the venue of the authorized demonstration that happened earlier) was peaceful, lasted for only 15 minutes and was not causing any damage or danger to others. Therefore, the ECtHR has stated that the measures taken by

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138 Kolmakov S. Freedom of assembly in practice of the Constitutional Court of the Russian Federation. *RUDN Journal of Law*. Свобода собраний в практике конституционного суда Российской Федерации. Вестник РУДН: Юридические науки. 2018. 22(2), P. 243

139 No. 29580/12

140 Case of Navalnyy and Yashin v. Russia - 76204/11. Information Note on the Court’s case-law No. 180. December 2014

the authorities and the police were not proportionate in the situation<sup>141</sup>. However, the most important thing in this regard is the chilling effect that was the purpose of the detention of the politicians. Arresting the opposition leaders is supposed to influence the protesters, scare them and discourage from the participation in the assemblies, whether authorized or not. The Court paid particular attention to the chilling effect in this judgement, found a violation of the Article 11 and that interference “*was not justified by a pressing social need and therefore not necessary in a democratic society*”.<sup>142</sup> Another important thing noted by the Court is the reluctance of the domestic court to properly examine the situation and to assess the real possible risks caused by the movement of people.<sup>143</sup> The interpretation of the legal provisions by Russian authorities was once again against the essence of those provisions. The Court therefore found that the measures applied by the state were violating the rights of applicants according to the Article 11 and specified the chilling effect and the purposeful deprivation of the opposition of the chance to participate in an open political debate contradicts the basic principles of the international law and the protection of human rights under the ECHR.

### **3.2 Freedom of associations**

The main issue regarding the protection of the association in the current legal system in Russia is the status of ‘foreign agent’. The Federal law ‘On Non-profit Organizations’ was amended in 2012 and, as a result, the status of foreign agent was given to the non-governmental organizations that are occupied with political activity on the territory of the Russian Federation, participate in the organization of the

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141 ECtHR. Case of Navalny and Yashin v. Russia (app. No. 76204/11). Ch judgement, 20.04.2015. §73.

142 Ibid, §75.

143 ECtHR. Case of Navalny and Yashin v. Russia (app. No. 76204/11). Ch judgement, 20.04.2015, §65

political assemblies and events in order to influence the decisions of the authorities of the state and actively form public opinion on important issues; and at the same time get funding and other material goods from foreign states, international or foreign organizations, foreign or stateless individuals.<sup>144</sup> 2017 brought a new form of foreign agent – Media-foreign agent (Federal law №327-FZ)<sup>145</sup>, which allowed significant restrictions of the freedom of speech through mass media. Another portion of regulations followed in 2018, when the State Duma adopted the legislation enabling giving the status of foreign agent to a private entity.<sup>146</sup>

All these new pieces of legislation have significantly complicated the protection of the right of association in Russia. The changes have been negatively accepted by the representatives of Russian NGOs, civil activists and members of international community. And again, rather vague and unclear wording of the law (especially in case of ‘political activity’) allows the authority to name almost any activity ‘political’<sup>147</sup>, that can now significantly limit the activity of any organization or person who might threaten the current policy makers. The law has been under severe critics of the representatives of the United Nations<sup>148</sup> and Council of Europe. Venice Commission was strongly opposing the new 144 N7-FZ. Federal law ‘On Non-profit Organizations’, (ed. 30.12.2020). Article 2,6. Федеральный закон «О некоммерческих организациях! N7-ФЗ, Статья 2,6.

145 N327-FZ Federal law of November 25, 2017 ‘On Amendments to Articles 10.4 and 15.3 of the Federal law ‘On information, Information Technologies and Information Protection’ and Article 6 of the Law of the Russian Federation ‘on Mass Media’. URL: <https://rg.ru/2017/11/25/fz327-site-dok.html>;

146 N345523-7. Legislation draft ‘On Amendments to the Law of the Russian Federation ‘on Mass Media’ and the Federal law ‘on Information, Information Technologies, and Protection of Information’

147 CommDH(2017)22. Third party intervention by the Council of Europe Commissioner for Human Rights (Application No. 9988/13 ECODEFENCE and others v. Russia and 48 other applications), 05.07. 2017. §21

148 Ivanushkin G. Russia was severely criticized by the UN for the law ‘on foreign agents’. Agency of Social Information. URL: <https://www.asi.org.ru/news/2013/04/30/rossiya-podverglas-zhestkoj-kritike-oon-za-zakon-ob-inostrannyh-agentah/>;

legislation and called the Russian Federation to change it and not let it undermine the important values and freedoms of the civil society.<sup>149</sup> Nonetheless, the appeals of international community have not been heard.

*Ecodefence and others v. Russia (ECtHR)*

The problem of the violation of the freedom of association has become more prominent in the Russian Federation since the adoption of the amendments on the “foreign agent” status back in 2012. Since then, a large number of the Russian non-governmental organizations (currently more than 60) are trying to find justice in the ECtHR filing collective applications. The application no. 9988/13 Ecodefence and others against Russia is just one of the examples that illustrate the common issue. The amendments to the existing legislation have significantly limited the scope of allowed activities for the NGOs that were falling under the vaguely stated conditions of the foreign agent. The application of the NGOs is still being reviewed by the Court; however, the opinions of some important expert bodies are already available.<sup>150</sup> The European Commission for Democracy through Law has issued an Opinion in which the term “foreign agent”, as well as the whole new system was criticized<sup>151</sup>. The wording of the new regulation was called “*controversial*”. It was stated, that by “*bringing back the rhetoric used*

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149 European Commission for Democracy through Law (Venice Commission). Opinion on the Federal Law No. 7-FZ OF JANUARY 12, 1996 ON NON-PROFIT ORGANISATIONS OF THE RUSSIAN FEDERATION. Opinion no. 716 / 2013. 14.08.2013

150 Ecodefence and others against Russia and 48 other applications (app. No. 9988/13). Communicated on 22.03.2017

151 European Commission for Democracy through Law. Opinions no. 716-717/2013 on Federal Law N. 121-FZ on Non-Commercial Organizations (“Law on Foreign Agents”), on Federal laws N. 18-FZ and N. 147-FZ and on Federal law N. 190-FZ on Making amendments to the criminal code (“Law of Treason”) of the Russian Federation. (13-14 June 2014)

*during the communist period, this term stigmatizes the NCOs to which it is applied, tarnishing their reputation and seriously hampering their activities”.*<sup>152</sup> The Commission therefore calls for abandoning of the term, as well as the practice that is brought with it. Great concerns are connected also with the rising numbers of extraordinary inspections towards the organizations, which severely damages their activity.<sup>153</sup>

### **3.3 The influence of the international legal system and case-law on the changes in the Russian legislation**

The European Commission for Democracy through Law (Venice Commission) expressed its high concern with the amendments of 2012 and the provisions of the Federal law generally. The main problem is that lack of particularly stated regulations and reasoning, as well as step-by-step protocol of actions by the authorities, when comes to notification process and conduct of the assembly, creates opportunities for the violations of the right to freedom of assembly in various ways. The variety of the interpretations of the legislation goes beyond the regulation approved by the European Convention on Human Rights. The Commission states that blanket prohibitions used in the Federal law No. FZ-54 (for example, the prohibition for the certain groups of people to be organizers) are unacceptable as all the restrictions of the sort must be considered individually. Another important problem, which raised concerns of international community, was that spontaneous meetings and assemblies are not protected in the Russian legal system. The Venice Commission did not have access to the documents of the court decisions and other important sources, which made the enquiry more challenging. The Commission

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152 Ibid, §132

153 Ibid, §136

pushed for the necessary and reasonable changes in the legislation for protection of the right to freedom of assembly in the Russian Federation to bring it in compliance with the provisions of the international law.<sup>154</sup> The Russian researchers, lawyers and politicians have also expressed their concern with the state of affairs after the changes in 2012. The experts were expressing their disappointment with the new regulations, which opened a door for the mass violations on the regional and domestic levels and put the Russian legal system out of the scope of the provisions of the international agreements and conventions.<sup>155</sup> The big question of the application of the right of assembly and association only to citizens of the Russian Federation (which is regulated by the Constitution and the Federal law) was again left without attention and the legal approach in this controversial matter has not been changed. The debate was open also about the responsibilities of the police forces and their violations of the freedom of assembly<sup>156</sup>.

Although the international community, including ECtHR and HRC, is highly concerned with the legal basis, regulating the right of assembly and association in the Russian Federation, the scope of their influence on the Russian legislative system remains very limited. The main problem is that back in 2015 Russia came up with a new law, which enabled the Constitutional Court of the Russian Federation to decide on possibility or impossibility of implementation of the judgements from the ECtHR.<sup>157</sup> This change was taken by the representatives of the international community as a “*decisive*

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154 European Commission for Democracy through Law (Venice Commission). Opinion on the Federal Law No. 54-FZ of 19 June 2004 on Assemblies, Meetings, Demonstrations, Marches and Picketing of the Russian Federation. Opinion no. 659/2011. 20.03.201

155 Vyshkvartsev V. Realization of Freedom of Assembly: Theoretical and Practical Advice. Tax and Legal Regulation in Russia, 2012. P. 86

156 Bachurin A. Police in the Administrative and Legal Mechanism of Ensuring the Legal Order during the Period of Preparation and Conduct of Mass and Public Events. Synopsis of thesis, 2019.

157 N7 – FKZ. Federal law “On Amendments to the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”. 14.12.2015

*break from international law and European human rights*".<sup>158</sup>2016 continued the trend with the resolution of the Russian Constitutional Court on the refusal of the implementation of the ECtHR judgements, that contradict the Russian Constitution.<sup>159</sup>Therefore, the influence of the ECtHR was severely limited, because the implementation or refusal to implement one judgement or another lies within the scope of authority of the Russian courts and government. The damage that this decision has done to the democratic principles that should be in the base of the society is difficult to overlook. The financial compensations to the applicants might be or not be satisfied.<sup>160</sup>The terms and deadlines of those compensations are also not specified.

The biggest concern in this situation rises from the fact that case-law and efforts of the ECtHR and HRC to affect the Russian system and suggest remedies from systemic problems in the legislation are left unheard. The cases continue to appear because the legislation of the Russian Federation on the ensuring right of assembly and association creates fruitful conditions for multiple violations of those freedoms. The changes in the legal system are taking political character more and more. The next chapter will cover the important connection between the deepening discordances between the ECHR and ICCPR and Russian legal system and the political changes in the state in question.

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158 Bowring B. Russia cases in the ECtHR and the question of implementation. University of London, 2018. P.

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159 Resolution of the Constitutional Court of the Russian Federation of April 19, 2016 No. 12-p "On the case of resolving the issue of the possibility of execution in accordance with the Constitution of the Russian Federation of the judgement of the European Court of Human Rights of July 4, 2013 in the case "Anchugov and Gladkov v. Russia" in connection with the request of the Ministry of Justice of the Russian Federation"

160 Ministry of Finances: Russia has paid the financial compensations to Navalnyy and Yashin according to the judgement of the ECtHR. RIA News. URL: <https://ria.ru/20150626/1091356371.html>

## **Chapter IV. Analysis of the reasoning behind the discordances in the legislative approaches of the Russian Federation and ECHR/ICCPR and the effect on the international relations.**

The previous chapters have shown that the system regulating the freedom of assembly and association in the Russian Federation is on numerous occasions not in compliance with the provisions of the ECHR and ICCPR. The new restrictions implemented in 2012 and 2020 are unfolding the pattern of the government's strategy and the correlation between the desire of authority groups to keep power and the unreasonable restrictions of the right of assembly and association. This chapter is aimed at demonstrating this trend and analyze the effect those violations had on the international relations of the Russian Federation.

### ***4.1 Political reasoning behind the new restrictions of 2012 and 2020***

The years 2011-2012 and 2020-2021 are vital for the Russian protest movement, that is aimed at changing the political regime and making the system accountable to the standards of the democratic society. Back in 2011-2012 the first significant wave of restrictions added to the Federal law on assemblies, meetings, demonstrations, marches and picketing No. 54-FZ followed a series of meetings and demonstrations. The starting point for the growth of the protest movement were the elections to the State Duma, which were considered falsified by the opposition and large number of political

activists.<sup>161</sup> However, that was just a trigger for the eruption of public dissatisfaction, that has been accumulating for previous years.<sup>162</sup> The biggest demonstrations took place straight after the announcement of the results of the elections on the 5<sup>th</sup> of December 2011 (on Clean Ponds, Chistye Prudy) and on the 10<sup>th</sup> of December (on Bolotnaya Square) in Moscow. The main demand of the participants and the organizers of the events was the conduction of the fair elections, with the motto “For fair elections”.<sup>163</sup> Following the wave of protests, an even bigger assembly took place on the 24<sup>th</sup> of December on Academician Sakharov Avenue. The mass assemblies continued and in 2012, with the most remarkable on the 5<sup>th</sup> of March 2012 and 6<sup>th</sup> of May (protesting already against the presidential elections and inauguration of Vladimir Putin).<sup>164</sup>

However, the effect of the protest was quite opposite than the one people were expecting. Instead of new elections and satisfying public demands, the authorities used legal measures to prevent following protests from happening. The restrictions considered in depth in the Chapter 2 of this research were aimed at making it impossible for the political activists and opposition leaders to be the official organizers of the assemblies. The new rules were applied to the NGOs (the question on ‘foreign agent’ also discussed above). All of those new regulations were a direct response of the scared political elite to the active expression of the public dissatisfaction in the Russian society.

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161 Shilkin S. Statistical analysis of the Duma elections. Gazeta.ru, 2011. URL: [https://www.gazeta.ru/science/2011/12/10\\_a\\_3922390.shtml](https://www.gazeta.ru/science/2011/12/10_a_3922390.shtml);

162 Yanickyi O. Protest movement 2011-2012: some conclusions. Power No. 2, 2013. P.15

163 They exist. The mass rally of thousands against the falsification of the elections was held in Moscow. Lenta.ru, 2011. URL: <https://lenta.ru/articles/2011/12/06/protest/>;

164 Zaitchev D., Karastelev V. Protest movement in Russia 2011-2012: the problem of subjectivity. Political Science, 2013. P. 231-266

A significant feature of the new regime was the appearance of prisoners of State and the mass chilling effect.<sup>165</sup>

The beginning of the next decade was again marked with the rise of the protest movement in the Russian Federation. However, the structure of the protest has changed with the wide access to the information available online and the growing dissatisfaction of the new parts of the population – those who were among the supporters of the regime 10 years ago.<sup>166</sup> This time the trigger events were multiple, including the regional dissatisfaction with the arrest of the governor Sergei Furgal in Khabarovsk<sup>167</sup> and the poisoning and following detention of the opposition leader Alexei Navalnyy.<sup>168</sup> This time the assemblies were better organized, followed the criteria of peacefulness and were more consistent than 10 years ago.<sup>169</sup> According to the sociological research conducted by the independent research group “Group of Belanovsky”, the current political authority has lost its supporters in recent years (even those who were holding on to imperial dreams are now disappointed with the government and especially the president). President Putin is now, unlike 5 years ago, for instance, being accused of the undermining the trust of the population. The rise of the public awareness is visible more and more and even restrictions on the legal level or the physical violence against the protesters will not bury the

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165 Yanickyi O. Protest movement 2011-2012: some conclusions. Power No. 2, 2013. P.17

166 The New Spectrum of the Political Attitudes in the Russian Society in 2020. The Group of Belanovsky. P.20.

167 Blyacher L., Kovalevsky A. What was that? Preliminary reflections on the meetings in Khabarovsk. Politia, No. 4 (99), 2020. P. 111

168 Poisoning of Navalnyy. Important to know. RBC News, 14.10.2020. URL: <https://www.rbc.ru/politics/14/10/2020/5f3e1dd29a79473eeffa06f5>;

169 Khabarovsk continues to “feed the pigeons”. MKRU Khabarovsk, 19.09.2020. URL: <https://hab.mk.ru/politics/2020/09/19/khabarovsk-prodolzhaet-kormit-golubey.html>

public dissatisfaction.<sup>170</sup> The meetings gave the start to the amendments of the Federal law on assemblies once more, introducing new blanket restrictions and place for iniquity of the authorities (as specified in the Chapter 2 of this research).

The trend shows that the reasoning behind the new regulations of the freedom of assembly and association in the Russian Federation are not provoked neither by the desire to make the legal system more in compliance with the norm of international law and human rights, nor with the encouragement from the international community. The measures are likely being taken as a reaction to the protest movements that can threaten the authority of the current government, not a well-organized plan of improvement of the legislation. This politics is affecting not only the freedom of the population of the country, but also the Russian stands on the world arena.

#### **4.2 The effect of the violations of the freedom of assembly and association on the international relations of Russia**

The Russian Federation has been a controversial player on the world stage, especially in recent years.

<sup>171</sup> The debates on whether it should be considered a rising or a great power are continuing in the community and the clear answer is rather controversial, because the state tends to show different tendencies depending on the area and the particular question. However, there are some features that are present in the Russian politics of the last 20 years and are affecting the changes in the position of Russia in the eyes of the world. One of those features is the normative dimension of the understanding

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<sup>170</sup> The New Spectrum of the Political Attitudes in the Russian Society in 2020. The Group of Belanovsky. P.21-22

<sup>171</sup> Parlar Dal E., Ersen E. Russia and the Changing International System: An Introduction. Palgrave Macmillan, 2020. P. 4

of the international order that Russia holds. Although, there is no clear alternative to the international law and order that the Russian Federation comes up with, it challenges the Western model of democracy by non-compliance and interprets the norms in the suitable way.<sup>172</sup> The attitude towards international norms of the protection of the freedom of assembly and association are the clear example of such a tactic. *“It does not view the norms that are related with human rights and liberal democracy as supreme. Russia’s normativeness is quite thin, communitarian and limited”*.<sup>173</sup> Another feature is the emphasis on the concept of sovereignty as the core principle of foreign policy. Therefore, norms and rules, even those which Russia has ratified, can be considered violating the sovereignty and integrity of the Russian legal system and be ignored. The revisionism can also be stated as a prominent feature of the Russian political image, although the revisionism of those parts of the international order that prevent from achieving goals of the Russian government.<sup>174</sup> Populist government challenges the democratic order both on the international and domestic scene.

The restrictions against non-governmental organization also affect the international relations of the Russian Federation and the foreign states. Non-governmental organizations, especially international and right-protecting ones are creating necessary conditions for the functioning of both civil society and the legal system in general. The work of non-commercial organizations relies on all possible and available resources, *“it is well-established that NCOs should be free to solicit and receive funding not only from public bodies in their own state but also from institutional or individual donors, another state or multilateral agencies, subject only to the laws on customs, foreign exchange and money-*

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172 Romanova T. Russia’s Neorevisionist Challenge to the Liberal International Order. *The International Spectator* 53, 2018. P. 78

173 Parlar Dal E., Ersen E. *Russia and the Changing International System: An Introduction*. Palgrave Macmillan, 2020. P. 6

174 Clunan A. Russia and the Liberal World Order. *Ethics & International Affairs* 32, 2018. P.45-59

*laundrying, as well as those on elections and funding of political parties”*.<sup>175</sup> However, with the strict regulation policy and the additional checks for the NGOs which got the status of ‘foreign agent’, it is hardly possible to fulfill the main ideas of those organization and provide adequate assistance to the people in the Russian Federation. It has both domestic and international consequences, as the country becomes an outsider regarding a large number of projects that the organizations are working on.

The main problem, however, is that despite all those ideas and intensions, the Russian Federation is highly interested in international cooperation and does not want to become an outsider, as it will greatly affect the economics and political status of the country. Russia is trying to justify its stands internationally by means of multilateral organizations, but the whole political environment that is being created is “*conflict-ridden*”.<sup>176</sup>The lack of trust is a vital problem, because it deprives parties of the cooperation based on agreement and international law.

#### *Human rights in the system of international relations.*

The place of human rights in the system of international relations is an interesting question in itself. Following the notion of the state sovereignty, the members of the international community are entitled to decide whether to implement the common norms or to disregard them when necessary. Therefore, “*while international standards and mechanisms have been created as a legal venture, implementation has always been dominated by international relations*”<sup>177</sup>. So, there are significant restrictions for the

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175 CommDH(2017)22. Third party intervention by the Council of Europe Commissioner for Human Rights (Application No. 9988/13 ECODEFENCE and others v. Russia and 48 other applications), 05.07. 2017. §5

176 Simons G. Russian Foreign Policy and Public Diplomacy Meeting 21<sup>st</sup> Century Challenges. Vestnik RUDN, International Relations, Vol. 20, No. 3, 2020. P. 501

177 Fortman. B. D. G. Human Rights in the Context of International Relations. E-International Relations, 2011. P. 1

control over not only implementation of the norms in the domestic legal system but also for the regulation of the follow-up cases and repeated violations. Moreover, the judicial nature of the international human rights lacks the political action, that is needed to induce changes in case of violations. This rather limited system therefore requires the full commitment of the actors to the ideas of the protection of the human rights set up by the ECHR and the ICCPR. As the international human rights, including the freedom of assembly and association, are creating a legal framework and “*the notion of global legitimacy, based on common standards of justice and injustice*”<sup>178</sup>, the states should ensure the implementation of those norms and the support of the standards they agreed with by ratifying such documents as the ECHR and the ICCPR, for instance. This support is a vital component for the efficient work of the international community.

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178 Ibid, 4

## **Conclusion**

The freedoms of assembly and association are essential part of the healthy democracy and fair political process in the country. The state is responsible to guarantee the population these rights and make sure that they are being protected without the violations (especially, if that state has taken the responsibility under the international law and has committed to the international conventions and agreements, such as ECHR and ICCPR). Both ECHR and ICCPR, including the interpretational materials and case law, create the base for the harmonious realization of the freedoms and protection of the core state's interests. However, the implementation of the provisions of the international law, as well as occasionally even domestic law, is not always present in the reality of the Russian Federation, which was under observation in this research.

The analysis of the Russian legislation on the protection of the freedom of assembly and association shows that it is not always in compliance with the standards set by the ECHR and ICCPR. Although, the situation has repeatedly been pointed out, the criticized legislation is not undergoing any changes towards the norms of international law and human rights protection.

The research has shown that the most restrictive measures in the Russian legislation on the freedom of assembly and association in question were induced after the protest of the population against the iniquity of the authorities. Peaceful meetings expressing people's demand for fair trials and respect of law in the country resulted worsened conditions and repressions.

The case-law analysis has shown that although the applicants won their cases in the ECtHR and the significant violations of the norms under ECHR and ICCPR have been repeatedly found in the actions

of the Russian Federation, the situation has not changed for the better. The Russian Federation (for political reasons) keeps ignoring the rulings of the ECtHR and the provisions of the ICCPR, making its domestic legislation in the area more and more authoritarian.

Therefore, the hypothesis that the legislative regulation of the freedom of association and especially freedom of assembly in the Russian Federation is not in compliance with the ECHR and ICCPR, which is caused primarily by political reasons, appears to be correct, which is proven in this research.

The violations of the rights of assembly and association show the neglect of the Russian Federation towards the obligations that it has agreed to fulfill under the international agreements and conventions. Such behavior shows the attitude of the current Russian authority towards international law in general, that cannot stay without attention. The international relations of the Russian Federation with the European Union are repeatedly escalating as there are new violations of the human rights and international law in the Russian Federation, the state does not want to admit.<sup>179</sup> Continuous violations together with uncompromising political strategy in other issues gives a fruitful soil for the disputes and Russia gaining an outsider position in the international community.

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