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A RIGHT, NOT A CRIME

VIOLATIONS OF THE RIGHT TO FREEDOM
OF ASSEMBLY IN RUSSIA

AMNESTY
INTERNATIONAL



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Cover photo: Police detain a protester in Tverskaya Street, Moscow, on 24 February 2014. He was one of hundreds of people who took part in a spontaneous protest against the prison sentences passed that day on several peaceful protesters in the Bolotnaya trial. © Alexander Baroshin

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CONTENTS

Introduction	4
Obstacles to the enjoyment of the right to freedom of assembly	6
The requirement of prior approval	6
The denial of the right to spontaneous public assembly	9
The obstruction of single-person pickets.....	11
The discriminatory application of restrictions on the freedom of assembly.....	13
Restrictions on assemblies organized by LGBTI activists	14
Arrests and ill-treatment of peaceful protesters	15
The failure to protect peaceful protesters	18
The failure of courts to uphold the right to freedom of peaceful assembly	21
Judicial rulings on the legality of public assemblies.....	21
Administrative cases against participants in public assemblies	22
The criminal prosecution of protesters: the Bolotnaya show trial	23
The increased penalties imposed on protesters.....	25
Administrative detention.....	26
New changes to legislation on public assemblies.....	29
Conclusion	31
Recommendations	32

INTRODUCTION

The respect for the rights to freedom of expression, peaceful assembly and association has long been tenuous in Russia. In the two years since President Putin's inauguration for a third term in May 2012, however, these have come under a sustained assault. Legislative changes have tightened the screws on already restrictive regulations. New and old laws are being more restrictively applied, while the penalties for their transgression and the range of those falling within their scope have increased significantly.¹

This report focuses specifically on the freedom of peaceful assembly, in respect of which the anti-Putin protest on Bolotnaya Square 6 May 2012 marked a significant turning point. The arrests in the wake of the protest were a pre-cursor to new restrictions on the right to freedom of peaceful assembly, while the prosecutions and convictions of peaceful protesters that followed have signalled the Russian authorities' determination to discourage and stamp out protest.

Since mid-2012, protest activity appears to have been gradually subsiding across Russia. In Moscow alone (which has historically seen a considerably higher level of protest activity than anywhere else in Russia), over 200 public protest events took place in 2012 and only half that number during 2013; the number of such events was visibly declining towards the end of the year, and only around a dozen were reported during the last three months of 2013.² However, in the aftermath of EuroMaydan events in Kyiv there appears to have been a small surge in protest activity throughout Russia, with at least 14 events taking place during a period of one month starting at the end of February 2014 in Moscow; of these, at least 7 were dispersed by police and over a thousand of peaceful protesters detained, hundreds heavily fined and over a dozen sentenced to several days of detention.

Over the last two years most protest actions in Russia have been either severely restricted or barred and dispersed. While pro-Kremlin rallies (often organised by the authorities) are allowed to take place in prominent locations in big cities, opposition protests have been pushed out of busy streets and central squares. Pro-government groups have been given free rein to organise counter-protests, and in some instances even intimidate and physically attack the protesters.

Those who continue to seek to organise public protests have faced increasingly onerous approval procedures and heavy penalties ranging from extortionate fines to lengthy detention. Spontaneous protest has been virtually outlawed. New restrictions criminalising the repeated breach of regulations relating to public assemblies were put before the Duma and approved in the first reading on 20 May 2014.

Over the course of the last few months, independent media outlets have been muzzled, while state propaganda depicting opposition figures and human rights defenders as a fifth column intent on destabilising Russia from within has soared. The desired effect is to discourage further support for opposition and rights-demanding movements, while simultaneously giving a veneer of legitimacy to repressive moves that are steadily stripping all Russians of their fundamental rights.

It is increasingly clear that the Russian authorities are bent on achieving complete control of the use of public space and the views that can be communicated and expressed in it. This control is manifest as much in the occasional allowance of short bursts of protest, such as the Moscow March of Peace in opposition to Russia's intervention in the Crimea on 15 March this year, as it is in the routine repression of smaller protest actions.

OBSTACLES TO THE ENJOYMENT OF THE RIGHT TO FREEDOM OF ASSEMBLY

THE REQUIREMENT OF PRIOR APPROVAL

Russia's main legislation on public assemblies is found in Federal Law no. 54-FZ "On assemblies, meetings, demonstrations, rallies and pickets" (hereafter, Law on Assemblies), which came into force on 19 June 2004. It was significantly amended in 2012, since when it has been applied even more restrictively.³

Article 7 of Law on Assemblies requires the organizers of public assemblies to notify (*uvedomit'*) local authorities of their plans in advance, so that their safety and public order can be ensured. The local authorities are obliged, in cooperation with police, to ensure public safety in connection with the event, and may request a change of place or timing of the action (Art. 12.1(4) and 12.1(2)). The law clarifies that any such request by the authorities should be a "substantiated proposal" (*obosnovannoe predlozhenie*). However, it does not limit or specify the circumstances under which the request may be issued, and the authorities routinely use this clause to prevent protests from taking place in prominent central locations often on vague and unsubstantiated grounds. In 2012, the law was amended to state that after specially designated areas for public assemblies are introduced (which they now have been in all major cities), assemblies in any other areas can only be held with the agreement (*dopuskaetsia tolko posle soglasovaniya*) of the local authorities (Art. 8.2.1). These specially designated areas (commonly known as "Hyde Parks", in reference to the Speakers' Corner in London's Hyde Park) are typically remote parks with limited, if any, footfall in the vicinity. Unfrequented and far from the public eye – as is the case in many cities – these designated areas are often unsuitable for events whose very purpose is to attract attention, as are the alternative locations ordinarily offered by the authorities to protesters, as Amnesty International's own experience in Moscow demonstrates.

The consequence of this change in the law has been to transform a notification requirement into an approval process. The locations chosen by organizers of critical protests are often arbitrarily denied to them, usually on the pretext of the hypothetical obstruction of "essential infrastructure", access to residential buildings or the requirements of public safety. The failure to solicit the express permission of the authorities (in the form of an "agreement" – *soglasovanie*) to assemble in the chosen place renders it "unlawful" in the eyes of the police whose standard response is to terminate the assembly irrespective of whether or not it creates any genuine safety concerns or represents a genuine disruption to the daily business or rights of others.

AMNESTY INTERNATIONAL ACTIVISTS ROUTINELY DENIED RIGHT TO PROTEST

All but one of the pickets planned by Amnesty International activists in recent months were disallowed by the authorities. The alternative locations proposed were desolate and tens and even hundreds of times less busy.

During 2013 and early 2014, all except one of the public actions planned by Amnesty International activists in Moscow were denied authorization to take place in the notified location (the one which was allowed, was focused on human rights violations in a Western country). A planned street action against the death penalty in front of the Belarussian Embassy on 15 March 2013 was denied authorization purportedly due to security concerns and because the proposed location was not a specially designated area for public assemblies. A picket planned for 7 October 2013 to raise awareness of violation of freedom of expression in Russia was also denied, because the proposed location – Pushkinskaya Square – was deemed unsuitable for public assemblies by the municipal authorities. A picket planned on 30 January 2014 in the park in front of the Presidential Administration (a quiet place squashed between several busy roads, hardly ever used by pedestrians) prior to delivering Amnesty International's global petition with 336,412 signatures to the building had to be held elsewhere, ostensibly because the park might draw some tourist groups. Moscow authorities also refused an Amnesty International picket planned for 28 February 2014 to protest at Nikitskiye Vorota Square against the prosecution of environmental activists in Krasnodar Region – the activists were told that an earlier-approved public event was going to take place there (but without any explanation as to why two events could not take place either simultaneously or at a different time on the same day). A picket involving just three persons, against violations of the right to freedom of assembly, planned on Triumfalnaya Square on 5 May 2014, was also disallowed.

On each occasion, the authorities suggested alternative locations, all of them in parks rarely frequented by visitors – like a desolate park at Taganskaya Square, on the last occasion, which is a patch of greenery completely surrounded by busy runways. An independent group conducted a survey of the footfall in the different locations – those requested by Amnesty International and others, including opposition groups and LGBT activists, and those proposed by the authorities instead – during the hours for which the respective assemblies had been requested. The survey revealed that the average number of passers-by in the requested locations ranged between 788 and 5374 per hour, compared to no more than 34 in any one of the locations proposed by the authorities.⁴

International standards on the freedom of peaceful assembly are quite clear that the exercise of the right to freedom of peaceful assembly should not be subject to the permission of government authorities. States may require notice – but not authorization – of assemblies in order to facilitate the right of peaceful assembly and in order to take measures to protect public safety or the rights of others. As, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association has stated the “exercise of the right to freedom of peaceful assembly should not be subject to prior authorization by the authorities, but at the most to a prior notification procedure, which should not be burdensome.”⁵

The European Court for Human Rights (ECtHR) in its case-law has repeatedly noted that the purpose of notification requirements must be to allow the authorities to take reasonable and appropriate measures to guarantee the smooth conduct of any assembly, meeting or other gathering.⁶ The Court considers that while the authorities may use notification requirements

to prevent disorder or crime, these should not “represent a hidden obstacle to the freedom of peaceful assembly protected by the Convention”.⁷ According to the ECtHR, “any demonstration in a public place may cause a certain level of disruption to ordinary life”, including disruption of traffic. However, “where demonstrators do not engage in acts of violence, it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the ECHR is not to be deprived of all substance”.⁸ The withholding of approval solely on the basis of the possibility of disruption of traffic, for example, would not be permissible under the Convention. Authorities must ensure that responses to this disruption are necessary and proportionate and do not lead to restrictions that render the freedom to peaceful assembly meaningless.

Similar guidance with regard to the notification requirement is provided by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE ODIHR) and the Council of Europe’s Commission for Democracy, in the OSCE Guidelines on Freedom of Peaceful Assembly.⁹ The Guidelines note that where notification of assembly is required, this must constitute “a notice of intent rather than a request for permission”.¹⁰

However, in Russian practice any public gathering, whether a big demonstration or a small picket (except for a one-person picket), which is not expressly allowed by the authorities is in fact prohibited: even if the use of the term “notification” (*uvedomlenie*) in the law implies otherwise, the police stringently enforce this interpretation, with rare exceptions.

Organizers can challenge the authorities’ refusal to allow them to hold events at the place of their choosing in court. However, the very short time-frame during which the notification can be submitted – no sooner than 15 days in advance of the planned event – and the lack of a fast-track judicial procedure for hearing challenges to such decisions effectively render this remedy toothless.

The OSCE Guidelines on Freedom of Peaceful Assembly state that a notification process should allow adequate time for the completion of an expeditious appeal to (and ruling by) a court should any restrictions be challenged.¹¹

This point has also been made by the ECtHR decisions, including in cases concerning the freedom of assembly in Russia. Thus, in *Alekseyev v Russia*, the Court found a violation of the right to an effective remedy, stating that “bearing in mind that the timing of public events is crucial for the organisers and participants, and provided that the organisers have given timely notice to the competent authorities, the notion of an effective remedy implies the possibility of obtaining a ruling concerning the authorisation of the event before the time at which it is intended to take place”.¹²

However promptly the authorities respond (by law, within three days, Art. 12.1(2)), it invariably takes the court longer to hear the case than the time left. The continuation of legal proceedings serves at best to secure a moral victory. Favourable rulings are no guarantee that authorities will authorise similar events in the future.

Amnesty International’s own limited experience of trying to challenge the authorities’

decision in court has been a protracted process. The authorities in Moscow refused its activists permission to hold a picket on 7 October 2013 at Pushkinskaya Square, on spurious grounds, and failed to consider any of the three suggested alternative venues suggested by Amnesty International (see “Amnesty International’s small picket not allowed in central Moscow, appeal taking months”, below).¹³ The organizer of the event challenged the authorities in court. It took him a month to get the necessary legal advice, and put together and submit an appeal. For two months following this, there was no progress. The case was not even registered at the court, as required for a hearing to be scheduled, until the appellant went to court in person and insisted on a meeting with the judge. Since then, there have been constant delays, and after a preliminary hearing, the court had still not considered the case as of mid May. The hearing has been repeatedly delayed. Not once was it attended by a representative of the authorities, the Prefektura of Central Moscow District. Although the case could be heard in their absence, the judge repeatedly refused to do so.

THE DENIAL OF THE RIGHT TO SPONTANEOUS PUBLIC ASSEMBLY

International standards on the right to freedom of assembly require that where notice requirements exist they should include exceptions for spontaneous assemblies. Thus, the ECtHR has clarified that there is a right to spontaneous protest “in special circumstances when an immediate response might be justified, for example in relation to a political event in the form of a spontaneous demonstration...”¹⁴, and, furthermore, “to disperse the ensuing demonstration solely because of the absence of the requisite prior notice, without any illegal conduct by the participants, may amount to a disproportionate restriction on freedom of peaceful assembly.”¹⁵ The UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association too, has pointed out that “spontaneous assemblies should be recognized in law, and exempted from prior notification.”¹⁶ He has also stressed that failure to comply with notice requirements should not automatically lead to it being dissolved, nor should administrative or criminal sanctions resulting in fines or imprisonment result.¹⁷

In Russian law, however, there are no provisions making exceptions to the notification requirement for the purpose of spontaneous assemblies. The absence of such an express exception is typically interpreted so as to render unlawful any spontaneous protest in response to unfolding events.

HUNDREDS DETAINED AT SPONTANEOUS GATHERINGS OUTSIDE COURT

At the end of February 2014, eight of those standing trial in connection with the Bolotnaya Square protest were found guilty.¹⁸ This deeply flawed, politically-motivated trial attracted significant public attention. The judgment was delivered in a small courtroom, denying the public and even relatives of the defendants a chance to attend it. Those who wanted to hear the verdict had no choice but to wait outside the court building. Several hundred people came each time, for the two consecutive hearings, and stood there peacefully. The police responded by arresting hundreds of them.

On 21 February 2014, as the verdict was being announced in the Bolotnaya trial at Zamoskvoretsky district court in Moscow, hundreds of people stood outside the building. This gathering was not an organized street protest – no-one had planned it as such. Instead, a call had been made by some trial monitors via the social media for members of public to come and attend the trial, which was not possible on account of the size of the

court room.

The authorities had recently moved the hearing from a bigger to a smaller facility, despite the considerable interest among the media and members of the public in attending the trial. As a result, the courtroom could only accommodate a very limited number of people, and was primarily reserved for the defence teams and the defendants' relatives. A few dozen other visitors were able to watch a video broadcast of the trial from the lobby. Most of those who came to hear the verdict – several hundred people on this occasion – had to stand outside.

Some of those who stood outside brought placards to express their solidarity with the defendants. The pronouncement of the guilty verdict on the day provoked indignation amongst those outside the court, but the assembly remained entirely peaceful, and largely silent. Apart from the placards, the most that some individuals did was occasional shout "Freedom".

The neighbouring streets had been closed off by police in advance of the trial. Nearly a dozen police detention vehicles were parked in anticipation in the immediate vicinity of the court, and numerous police officers were present at the scene.

Even before the court session began, and in spite of the entirely peaceful nature of the gathering, the police started detaining those unable to enter the courtroom. Two of Amnesty International's representatives who were observing the assembly from two different locations did not see any incidents of violence. Extensive video and photo coverage of the event, and specifically of the arrests, and eyewitness accounts confirm that those detained were not engaging in any disorderly conduct or any activities that were not peaceful. Police officers randomly grabbed individuals peacefully standing on the pavement and took them to detention vehicles. Contrary to the clear provisions in Russian law, they refused to identify themselves and explain the grounds for their detention. In many instances, the police used unnecessary or excessive force. Around 200 persons were detained; most of them were subsequently charged with participation in an unauthorized gathering (Article 20.2 of the Russian Code of Administrative Offences).

On this day, Friday 21 February, the judge only read out part of the verdict, pronouncing the defendants guilty but not disclosing their sentences. The court session was unexpectedly cut short and adjourned until the following Monday, 24 February.

On this day, several hundred people came to the court again, and once again very few people were admitted to the the court building. Police again arbitrarily detained scores of people, over 230 according to reliable estimates.¹⁹ An Amnesty International observer was present at the scene and confirmed that this spontaneous assembly was entirely peaceful. Some were charged with failure to abide by police orders (Article 19.3 of the Russian Code of Administrative Offences), and some with participation in an unauthorized gathering. Several individuals were accused of jay-walking and charged with violation of traffic rules (Article 12.29), even though there was no traffic because the police had blocked neighbouring streets. Several protesters complained of excessive or unnecessary use of force by police.

Later the same day, people attempted to gather on Manezhnaya Square near the Kremlin in Moscow city centre, where regular single-person pickets had been held in support of Bolotnaya prisoners. However, on that day police were heavily present in the square itself, which had been cordoned off, and in the surrounding area. Unable to access the square, the protesters assembled on Tverskaya Street nearby, keeping on the pavement. According to the Ministry of Internal Affairs statement on the date of the event, there were around

500 protesters, whereas in reports (*protokols*) of detention police indicated 1,000. Opposition activists claimed there were several thousand protesters. This assembly too, had not been an organized gathering. People came out in response to the events in court, and the unexpected delay in the announcement of the sentences (which many hoped would be more lenient) contributed to the public anger. There was further anger about the authorities' decision to deny the regular single-picket protesters against the Bolotnaya trial access to their usual spot on Manezhnaya Square (see "Regular single-person protest ends in detention for the first time", below).

Police demanded that the crowd in Tverskaya Street disperse, in spite of the entirely peaceful nature of this gathering, and proceeded to detain those who remained. Nearly 430 peaceful demonstrators were detained on Tverskaya that evening, the majority of whom were charged with participation in an unauthorized gathering (Article 20.2) and some with failure to abide by police orders (Article 19.3).

Following these mass detentions on 21 and 24 February, some 640 persons were charged under Article 20.2 (participation in an unauthorized gathering) and majority of them were later sentenced to administrative fines of RUB 10,000 (USD 270). Around 80 other persons were charged with "failure to abide by police's legitimate orders" (Article 19.3) and at least 6 of them were sentenced to administrative detention ranging from 5 to 13 days, while others received fines, most of them of RUB 500.

THE OBSTRUCTION OF SINGLE-PERSON PICKETS

There is just one provision in the current Russian law which allows a street action without prior notification, which is for a picket held by a single person (henceforth, single-person picket). The rules relating to single-person protests are quite strict however. If two or more protesters want to hold such single-person pickets simultaneously, they must be at least 50 metres apart.

Whereas this form of public action does provide an opportunity to protest much more freely, this is, by definition, not a vehicle for realising one's right to freedom of assembly. For this reason, it is not a popular choice, although single-person pickets are regularly held – and for most part allowed to proceed unimpeded – across Russia.

However, even this minimal loophole that allows for spontaneous protest has been narrowed by the authorities in recent months, both through homophobic legislation (the law which prohibits "propaganda on non-traditional sexual relations among minors"), which denies even single-person pickets on a discriminatory basis, and through arbitrary dispersals and sanctions against single-person pickets without a legal basis. There has been a number of cases recently when single-person protests have been interrupted by the authorities and in some cases the participants have been severely penalised.

LGBTI ACTIVIST DETAINED UNDER "PROPAGANDA LAW", TOGETHER WITH SUPPORTERS

On 24 July 2013, 36 year-old LGBTI activist Alexey Davydov attempted to hold a single-person picket in Moscow in protest at the newly introduced federal law prohibiting "propaganda of non-traditional sexual relations among minors". He stood in front of the Russian State Children's Library on Kaluzhskaya Street with a placard "Being gay is normal". A group of five supporters stood a short distance away without engaging in the protest but instead taking photos and a video recording of the protest. Both Alexey Davydov and his five supporters

were promptly detained by police and taken to a police station where they were held for several hours. Alexey Davydov was charged with the administrative offence of violating the “propaganda law”.²⁰ In September, the case against him was still pending consideration by a court. However, on 27 September 2013, before his case was heard, the activist passed away.²¹

Following the recent surge of street protest in Moscow and other cities in Russia that started in late February 2014 in connection with the EuroMaydan events in Ukraine, there has been notable clampdown on single-person picketing. Even regular actions of this kind that had previously been allowed to proceed for months, were disrupted by police in the weeks that followed. Amnesty International has documented numerous cases of single-person protests being interrupted by the authorities on grounds that have no basis in law.

THREE SINGLE PICKETERS DETAINED BECAUSE OF AN “UNSTABLE SITUATION IN THE COUNTRY”

On 30 March 2014, three activists, Sergei Yakovlev, Dmitry Zvorykin and Mark Galperin, came to Tverskaya Street in central Moscow with portraits of Ukrainian protesters killed in Kyiv 40 days earlier, and positioned themselves 50 metres apart in order to comply with the regulation on single-person picketing. All three were detained by police and taken to a police station, and later released without charge. According to the activists, the police could see no violation in their action, but nonetheless stopped it on account of the allegedly “unstable situation in the country”.²²

A news report from the scene cited a police official saying that the protesters had been “detained for a prophylactic conversation and to check if they had taken part in earlier actions. They will be taken to the police station, and if nothing is registered against them they will be released after three hours”.²³

There are further recent examples of street protest organised as a single-person picket being disrupted without any explanation, and the protesters who were taking their turns to hold the placard individually to ensure this action complied with the single-person picket regulations, as they had previously been doing without disruption, being arrested arbitrarily and later accused of violating public assembly regulations.

REGULAR SINGLE-PERSON PROTEST ENDS IN DETENTIONS FOR THE FIRST TIME

On 6 April 2014, five supporters of the Bolotnaya prisoners were detained on Manezhnaya Square in central Moscow during a single-person picket. This group had been organizing such single-person protests on the 6th day of each month (to commemorate the Bolotnaya events of 6 May 2012). As on previous occasions, the protesters were taking turns to holding a placard, with the others standing some distance away and not engaging in the protest directly until their individual turns. It is not clear what prompted the detention. Police initially detained a man who was sitting next to the person with the placard and talking to journalists and onlookers. A few minutes later the woman standing with the placard was detained, and later a man who stepped into her spot and picked up the discarded placard. After this, six other protesters stood together on the same spot, empty-handed. They explained to the media that they were holding “invisible placards” in support of Bolotnaya prisoners. All six were taken to the police station. The police refused to explain the reason for these detentions at the time of the arrests. All the protesters were released late at night, and charged with violation of the law on single person picketing for holding the invisible placards, and later fined.

THE DISCRIMINATORY APPLICATION OF RESTRICTIONS ON THE FREEDOM OF ASSEMBLY

The practice of prohibiting assemblies in preferred central locations is consistently applied in relation to events organised by protesters and dissenting voices, particularly in Moscow, where organisers typically have to accept alternative venues or abandon their plans – or face arrest and penalties if they choose to go ahead with them anyway. The authorities typically cite reasons of public safety or public convenience (obstruction of pedestrians or public transport) when denying preferred locations. In contrast, assemblies organized by pro-government activists receive a markedly different treatment; they are allowed to take centre stage in the capital and across the country, and the same restrictions very rarely apply. There are even examples of pro-government rallies taking place in venues where public assemblies are specifically prohibited by law. Thus, demonstrations in support of Russia's intervention in Crimea and of Vladimir Putin's policy on Ukraine took place first at Vasilyevskiy Spusk on 7 March 2014, which is one such location in the immediate vicinity of the Red Square in Moscow, and then on 18 March 2014 on Red Square itself. Similar events took place on 18 March in central locations in towns and cities across Russia. The events were reported in the media as organized by "the general public, patriotic, veteran and youth organizations".²⁴

During the same period of time, rallies organized by the authorities' critics met the same response from the authorities as usual. Thus, the Moscow authorities banned a political rally focusing on the social and political rights of Muscovites, planned for 28 March 2014, citing the shortage of space for the proposed rally and a limited number of police's metal detectors which the protesters would have to go through to access it; at the same time the authorities warned that should the rally take place, the organizers would be held accountable.²⁵ On 31 March 2014, a group of civil society activists notified the authorities of their intention to hold a march involving a potential 50,000 protesters in Moscow city centre on 13 April 2014 in protest at a campaign of harassment of independent media. They were refused by the Moscow authorities under the pretext that this would obstruct people's access to public infrastructure, and offered a much shorter route.²⁶

Amnesty International has its own experience of the discriminatory application of restrictions on the right to freedom of assembly, as the case below demonstrates.

AMNESTY INTERNATIONAL'S SMALL PICKET NOT ALLOWED IN CENTRAL MOSCOW, APPEAL TAKING MONTHS

None of the four locations chosen by Amnesty International activists for a 15-strong picket on 7 October 2013 was approved, including their first choice, Pushkinskaya Square. By contrast, a picket by a pro-government group was permitted on virtually the same spot on 10 March 2014.

Amnesty International's activist notified the authorities of a planned small picket (up to 15 people) picket on Moscow's Pushkinskaya Square on 7 October 2013, to mark the beginning of a worldwide campaign intended to highlight concerns over Russia's worsening human rights record, in the run-up to the Winter Olympic Games in Sochi. The notification gave three alternative venues in case the preferred location was unavailable for some reason. The authorities' reply stated that the picket could not be held at the preferred location because it was "unsuitable for a public event" as "it would be impossible ... to provide safety" for it. However, the location could easily accommodate several hundred people. It is near a busy road used throughout the day by

traffic and pedestrians, but a small gathering there would not obstruct human or vehicular traffic or access to any of the buildings and streets around it. The reply said nothing about any of the alternative locations suggested by Amnesty International's activist. Instead, the authorities suggested that the action be held in a remote and quiet park in Khamovniki district.²⁷

By contrast, a public meeting organised by a group called "Partiya Dela" (Party of Action) in support of Russia's actions in Crimea, was approved by the authorities and took place in Novopushkinsky Square on 10 March 2014. The organizers erected a big stage, and were using public announcement system. There are no reports on the numbers of those attending, but there were 26 speakers, and at least several dozen listeners, forming a sizeable crowd waving flags and banners, can be seen in photos of the event.²⁸

The spot where this rally was allowed to take place is exactly across the road from Pushkinskaya Square – where a handful of Amnesty International activists were prohibited from holding theirs only six months earlier. It is virtually identical in all respects, except that Novopushkinsky Square is probably a busier location in terms of numbers of pedestrians using it.

Public space is routinely denied by the authorities not only to political assemblies, but even to apolitical, humorous gatherings: a gathering by a group which is seen as a challenge to social and political orthodoxies stands little chance of not being dispersed. Those who attend them are regarded as participants in an "unauthorized" public event by police; those who get together to oppose them often are not, and may even get away with violence.

PEACEFUL GATHERING OF "PASTAFARIANS" BANNED AND DISPERSED

On 7 August 2013, a group calling themselves the Russian Pastafarian Church of the Flying Spaghetti Monster notified the local authorities of their plans to hold a "Pasta Procession" on Arbat, a popular pedestrian street in central Moscow. The authorities responded with a refusal stating there were no provisions in the law for any such public rally as a "Pasta Procession" and claiming that the event would obstruct pedestrians and local residents. No alternative location was offered. On 17 August, several dozen "Pastafarians" met in a different central location, wearing pirate costumes, tricorns and colanders as hats, and carrying pasta. They carried no placards, made no public announcements, and did not violate traffic rules or cause any other disruption. They were confronted by a group of aggressive Orthodox activists who summoned the police, but also began throwing ketchup, punching and otherwise assaulting the "Pastafarians". The latter asked for protection from the police. Instead of interfering with the assailants, police officers dispersed the gathering and arrested eight "Pastafarians" without explanation, but released them later the same day.²⁹

RESTRICTIONS ON ASSEMBLIES ORGANIZED BY LGBTI ACTIVISTS

The discriminatory approach to the authorisation of public assemblies has been particularly evident in relation to LGBTI activists, dating back to even before the law banning "propaganda of non-traditional sexual relations" was enacted. Before this law, events organised by LGBTI activists were typically banned out of purported concern for their own safety (with the authorities claiming they could not ensure it in the face of counter-protesters), or for reasons of "public morale", or on pretexts such as construction works. Since the "propaganda law" came into force on 30 June 2013, the authorities have a simple legal reference point for banning any LGBTI event. LGBTI activists are regularly prevented arbitrarily from carrying out single person pickets or group events, even in the specially

designated “Hyde Park” areas. Thus, over the last six months in Moscow alone, events in support of the rights of LGBTI people were prohibited on 23 October, 9 November, 5 December and 13 December 2013. Several of these prohibitions were appealed by activists in court, always unsuccessfully. Similar practices are observed in other cities in Russia.³⁰

EVENT BANNED TO PREVENT MINORS FROM “UNINTENTIONALLY ABSORBING” LGBTI INFLUENCE

LGBTI activist Nikolai Alekseev notified the authorities of his plans to organise a small demonstration, involving up to 20 people, in Novopushkinskiy Square in Moscow on 26 November 2013. The declared intention was to publicly disseminate the opinion expressed by President Putin on 20 November 2013 that “we must not create the atmosphere of xenophobia ... including in relation to people of non-traditional sexual orientation”.

The event was banned, without any alternative location being offered, in violation of the law on public assemblies. The official response, a copy of which the organizers published online,³¹ referred to two child protection laws, the law prohibiting propaganda of non-traditional sexual relations among minors, and the Convention on the Rights of the Child. It stated that “[t]he intentions of the organizer to hold mass events in public locations indicates their desire to disseminate gay culture for the purpose of informational and psychological influence on an unlimited circle of individuals, including minors, who are [thereby] forced, without wanting it, to see and hear these actions, [and] unintentionally perceive, [and] absorb their influence”. The reply warned the organizer against proceeding with the event and cited the law on public assemblies under which he would be held accountable should he chose to ignore the warning.

The activists challenged the ban in court, but their application was dismissed on 14 April 2014.

ARRESTS AND ILL-TREATMENT OF PEACEFUL PROTESTERS

Amnesty International has documented numerous cases of peaceful protesters being detained, and on occasion ill-treated, in recent years and months.³² The police regard any assembly which is not expressly authorized as unlawful and act on the understanding that they are entitled to disperse it, however peaceful and undistruptive it may be. If a peaceful protester fails to leave immediately and unquestioningly, upon instruction to disperse, the police regard this as “resistance to a legitimate order” and therefore a grounds for arrest. Individual involvement in an identifiable act of violence is certainly not a prerequisite for arrest. Indeed, in Amnesty International’s experience of protest observation, where police move to disperse demonstrations, they typically detain, at random, those they are closest to.

Between 21 February and 4 March 2014, over 1,000 peaceful protesters and onlookers were arrested in Moscow alone; at least 500 people were charged with participation in an unauthorized gathering and/or failure to comply with police orders.³³ At the time of writing at least 16 individuals had been sentenced to administrative detention for “failing to abide by police’s legitimate orders”, for nothing more than an attempt to exercise peacefully their rights to freedom of expression and assembly. Accounts from those detained by police tell a story of random arrests and the excessive use of force. These are entirely consistent with the observations by Amnesty International’s members of staff at these events who did not witness any incidents of violence or disorderly behaviour by demonstrators, as well as consistent with the extensive video footage publicly available of the moments of arrest during these events. On 25 February the Council for Civil Society Development and Human Rights under the

President of the Russian Federation sent a letter to the Minister of Interior stating its opinion that the mass detentions on 21 and 24 February were arbitrary and illegal and calling on the Minister to investigate the documented violations of the rights of protesters by police.³⁴

INDIVIDUALS DETAINED OUTSIDE COURT IN MOSCOW COMPLAIN OF ARBITRARY CHARGES AND ILL-TREATMENT BY POLICE

Aleksei Rassolov came to Zamoskvoretsky Court in Moscow on 21 February 2014, on the day the judge began reading out the judgment in the Bolotnaya case. “I hadn’t come to a meeting, I had come in front of a court building. I didn’t chant slogans, I didn’t raise placards, I didn’t try to prevent arrests... When I came up to the chain of OMON [riot police], we were pushed back. I asked why we were not allowed to stand here. I was told it was a carriageway. [However] the carriageway was sealed off with metal frames, and I asked the police officers to remove them because they were preventing vehicles from passing... Then some brute in uniform began roughly pushing a woman. I felt indignant and asked him to stop doing this. Then he pointed at me and told [other police officers] “We are detaining him”. My question “what for?” was left unanswered, and the next minute this bull pushed me on the ground and fell on top of me. ... [S]ix men grabbed me and dragged me to the vehicle. As you will understand, it was no longer possible to ask the reason for my “detention” in these circumstances, to say nothing of resisting. I was thrown inside an *avtozak* [police vehicle for detainees]. [One of the police officers entered the vehicle] He delivered a well-trained punch on me in the chest area. I had been standing somewhere in the middle of the *avtozak* but I found myself right at the back, sliding down the wall. [He] ran up to me and punched me in the face.” Aleksei Rassolov felt chest pain and called an ambulance. When the ambulance team arrived the police initially refused to let him out of the *avtozak* and only after he had shown his journalist’s badge he was allowed to go to an ambulance. He had to be hospitalised. He believed that as a result, he wasn’t charged with any violation.³⁵

Grigory Tuboltsev was detained at the same event on the same day. He claims he was just standing in front of the court and talking to his friend, and that he was neither holding any placards, nor shouting any slogans. He believes he was arrested at random, along with several others, who came to the court in support of the Bolotnaya prisoners, in his case most probably because he looked a riot police officer in the eye. Grigory saw no point resisting his arrest. He was taken to a police bus, and later driven to a police station but was kept waiting in the bus upon arrival for another hour and a half, together with other people. The riot police officer issued a template report (*pod kopirku*) according to which, to Grigory’s surprise, he had purportedly been shouting out slogans and actively resisted arrest.³⁶

Kirill Pashkov came to the same court building on 24 February, the day when the judge finished reading the verdict. “I was just standing [outside], looking at all this, and I was simply dragged out of there. I did not resist, I just felt limp [resting] on their [arresting police officers’] shoulders, and they comfortably carried me. The bus was already full, [but] after me they squeezed in probably another five people”. Kirill spent three hours inside police bus and then another six at the police station. “There were 28 of us, and I was the last one. They recorded my time of arrest as 14:36, which was not true, as I had been arrested and put inside the bus at 12:40. I was charged under two articles [of the Code of Administrative Violations] – 20.2.5 and 19.3 [violation of rules of public assembly by a participant; failure to abide by the lawful orders of a police officer]. In their [the police officers’] view I had been doing exactly the same as the other 27 people, which was blocking the street preventing traffic movement, chanting slogans and resisting police’s repeated requests to stop and leave. To this I responded that there had been none of these requests, that no-one had warned me about anything, [and] those who arrested me did not introduce themselves, did not show any papers or personal identification numbers.” Kirill Pashkov did not get a copy of the official report (*protokol*) of his arrest because the printer at the police station was broken.³⁷ He was subsequently released and on 5 March was sentenced to an administrative fine.

Despite the ready availability of video evidence documenting the abuses in the policing of demonstrations, and, indeed, medical reports, testifying to serious injuries, complainants face significant obstacles to securing justice, and knowing this, most do not even bother to pursue it. Complaints and allegations are rarely investigated properly, let alone make it to the courts. One of the most widely-covered events to have generated complaints of abuses by police officers is the Bolotnaya Square protest in Moscow on 6 May 2012, which is reviewed later in this document in some detail, and in much greater detail in Amnesty International's earlier public documents,³⁸ as well as detailed independent investigations by others.³⁹ Not a single police officer has been prosecuted for the manifestly excessive use of force employed by police officers, despite the wealth of video evidence documenting abuses.

IMPUNITY FOR POLICE ABUSES IN BOLOTNAYA SQUARE

There are scores of cases of participants in Bolotnaya events of 6 May 2012 complaining of excessive force, beatings and other ill-treatment by police during the violent break-up of the demonstration in Bolotnaya. Not one allegation against the police has been effectively investigated.

Denis Lutskevich was arrested on 9 June 2012 in connection with Bolotnaya events and, months later, put on trial and sentenced to three and a half year imprisonment for participation in mass riots and violence against a public official.⁴⁰ The prosecution entirely failed to prove the personal involvement of Denis Lutskevich in a violent or otherwise criminal act. The case against him rested on inconclusive video footage and mutually inconsistent testimonies by a single police officer. Denis Lutskevich is one of the most recognised “prisoners of Bolotnaya” after the photos of him taken during and after his arrest have been widely published on the internet. They feature a young man with naked torso covered in numerous hematomas and other injuries to his back resulting from repeated blows by police batons.⁴¹ He has officially complained of beatings and ill-treatment, but the authorities have formally refused to investigate his allegations after superficial “preliminary checks” (*predvaritel'naya proverka* – a preliminary investigation which precedes the formal opening of a criminal case) arguing that there were no elements of crime. Denis Lutskevich unsuccessfully challenged the closing of his complaint in court.

Aleksei Gaskarov, another of “Bolotnaya prisoners”, currently standing trial in court accused of exactly the same charges as Lutskevich, also complained of beatings by police. According to him, when he saw innocent people being beaten and arrested by police in Bolotnaya, without any explanation, he shouted “What are you doing?” Following this, he was hit by a police baton in the face and thrown on the ground, and several police officers proceeded to kick him with their feet. One kick was in his head, just above the eyes, which resulted in strong bleeding. He was taken to hospital after the demonstration was over, and had to have three stitches to stop the bleeding. He complained to the authorities, but received a reply, on the basis of similar preliminary checks as above, that there was not sufficient evidence to suspect police officials of any wrongdoing.⁴² Photos of Aleksei Gaskarov from Bolotnaya are also available on the internet.⁴³ He was arrested on 28 April 2013, and has been in detention since.

Turana Varjabetiyan, a retired elderly woman, was hit on the head with a baton by a police officer on Bolotnaya on 6 May 2012. She passed out and was carried to an ambulance by other protesters. Her injuries were documented, but the Investigative Committee repeatedly refused to investigate her complaints against police actions. When she challenged the refusal in court, the Prosecutor's Office pre-empted the court hearing by ordering that the Investigative Committee reopen the investigation the day before the scheduled court hearing. As a result, the court held a quick hearing on 25 October 2013 at which it ruled that there were no longer grounds for a judicial review. However, no further progress has been reported in respect of this investigation.

It was not until 26 May 2014 that the Investigative Committee reviewed and overturned its earlier decision not to conduct a preliminary investigation into Turana Varjabetiyana's allegations against police officers.

Unusually, a participant in the Bolotnaya events from Saratov, Oleg Gariga, has been able to challenge successfully his arrest and charges of resisting police's legitimate orders.⁴⁴ In January 2013 a district court in Saratov ruled that his arrest in Bolotnaya on 6 May 2012 had been unlawful and that he should receive compensation from the state for his ill-treatment: the protester had been strangled and his arm twisted; he had been denied food in detention and a chance to use the toilet, while police also refused to call an ambulance, which he required. The ruling was upheld by second instance court in June 2013. Nonetheless, even in this case there has been no investigation into police conduct and the perpetrators have enjoyed impunity for Oleg Gariga's ill-treatment and degrading treatment.

THE FAILURE TO PROTECT PEACEFUL PROTESTERS

Police frequently decline to protect peaceful demonstrators from counter-protesters when their gathering has not been previously authorised. As in the case of the peaceful gathering of "Pastafarians" banned and dispersed, above, and in numerous others, the police's principal intention during such events is to terminate them as soon as possible rather than respond to the violent behaviour of counter-protesters. Often in such cases the counter-protest is not treated by police as an equally unauthorised assembly, while those who commit violent acts escape prosecution.

PEACEFUL LGBTI PROTESTERS ATTACKED BY AGGRESSIVE MOB IN FRONT OF POLICE

LGBTI protesters were left unprotected and prevented from holding their event by counter-protesters and by police in St Petersburg, in spite of duly notifying the authorities and holding it in the specially designated area.

On 29 June 2013, LGBTI activists and their supporters in Saint Petersburg attempted to hold a small peaceful rally aimed at raising awareness of rising homophobia, discrimination and violent attacks against LGBTI people in Russia. The event was organised at the Marsovo Pole in the city centre, the specially designated area ("Hyde Park") in which public events do not require the prior authorisation of the authorities. The organizers had duly informed the city authorities of their planned action.

On the day, a handful of protesters was confronted by a much bigger crowd, consisting mostly of aggressive young men but also some older men and women. Police and some representatives of local authorities were also present at the site. The opposing crowd sang religious hymns, chanted anti-LGBTI slogans, and pushed the protesters out of the space designated for protesters, in front of police officers.

Extensive video footage of the event is publicly available, including on YouTube. Amongst other things, it captures the moment when pro-LGBTI protesters were mobbed by the aggressive crowd and some forced to seek safety behind some shrubs. Video footage shows a number of police officers approaching them and firmly instructing them not to step on the grass – effectively forcing them onto the pathways where they were immediately physically assaulted by the counter-protesters.⁴⁵

When riot police arrived at the scene they began arresting the protesters and some counter-protesters. The reasons for terminating the event cited by police were complaints from local residents as well as regional

legislation prohibiting "propaganda of homosexuality" among minors (the equivalent federal law was being introduced at that time, hence the protest). The police formed a line and kettled the protesters towards the police vehicle used for transporting detainees that was parked nearby, arresting 55 pro-LGBTI activists in total. They were all released without charges later the same day, having spent several hours in custody, except for one of the leaders who was released the following day only. At least one of the pro-LGBTI activists sustained serious injuries as a result of an assault by the counter-protesters when his jaw and nose were broken. Reportedly, between eight and ten assailants were detained on the day. None of them has been charged in connection with the use of violence.

In only one of all the cases of attacks against LGBTI activists cited in this report, has a perpetrator of the violence has been identified, though the individual ultimately received no penalty; in no other of the cases cited in this report has any perpetrator of the violence been prosecuted.

ACTIVISTS RECEIVE DEATH THREATS AFTER STREET PROTEST

Peace activists in Samara received death threats after staging a protest against Russia's military intervention in Crimea.

Following Russia's military intervention in Crimea in Ukraine in February 2014, small protest actions have been organised by peace activists across Russia. In many cases these took the form of single-person pickets – the only format of spontaneous street protest allowed under Russian law. The intervention and the subsequent annexation of Crimea by Russia has been hugely popular in Russia and in several instances those protesting against the acts have encountered aggressive reactions from angry groups in the streets, or faced threats subsequently.

Svetlana Chernova, Alexander Lashmankin, Igor Titarenko and several other peace activists organised a series of single-person pickets in the city of Samara on 2 March. Following this, they started receiving death threats from anonymous individuals. Initially, this campaign of intimidation was coordinated via an online group which calls itself "Anti-Maydan" (in reference to the EuroMaydan protest in Kyiv, Ukraine). The group used VKontakte, a Russian equivalent of Facebook, to post photographs of the protesters and asked online users to help identify their names and contact details, and issued calls to exert "physical and mental" pressure on them. Subsequently, personal details of Svetlana Chernova, Alexander Lashmankin, Igor Titarenko and at least two other peace protesters from Samara were posted online, together with threatening remarks. "Girls tear her bones out" said one such post which appeared online on 4 March. It was accompanied by a picture showing Svetlana Chernova's apartment and stating her address.

The "Anti-Maydan" group on VKontakte was soon closed and the posts removed, but threats against the peace activists have continued to emerge on other social networks. For instance, a new group called "Anti-Maydan 63" was created on the popular LiveJournal blogging website.

On 12 March, several aggressive men were waiting in front of the block of flats where Alexander Lashmankin lives. The activist rushed past them and managed to reach his home safely. After this incident, graffiti saying "US-spy" appeared on his door. A post subsequently appeared on LiveJournal, apparently written by one of these men, explaining that they had wanted to have a "conversation to clarify his [Alexander Lashmankin's] world-views."

On 15 March a group of aggressive men attacked protesters at another anti-war protest in Samara, shouting

“Fascists” and other abuse at the peace activists. One of the men violently pulled a banner out of the hands of Igor Titarenko, tearing it to pieces. A police officer who was present at the scene intervened several minutes later and prevented further escalation. However, the protest action had to be ended promptly.

The activists have officially complained to the authorities about the threats they have received. They received replies that their complaints have been referred to the police for investigation. At the time of writing there has been no further progress in this case.

THE FAILURE OF COURTS TO UPHOLD THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

Judicial practice relating to the demonstrations rarely upholds the right to freedom of peaceful assembly or challenges state interests in the outcome of criminal or administrative cases.

There is a number of kinds of court case relating to the exercise of the right to freedom of peaceful assembly. There are those dealing with the legality of public assemblies and demonstrations, or the denial of approval. These are brought by protest organizers. There are also those brought against protest organizers and participants: these can be on administrative charges relating to violations of the Law on Assemblies or other administrative public order offences, or on, sometimes serious, criminal charges.

JUDICIAL RULINGS ON THE LEGALITY OF PUBLIC ASSEMBLIES

Cases concerning the legality of demonstrations arise in connection with events that have been banned or dispersed. They typically consider applications after the fact. Amnesty International is not aware of a single case in which event organizers succeeded in having courts examine their cases in time to overrule executive decisions affecting planned events.⁴⁶ In some such cases, such as the one below, courts have demonstrated a willingness to uphold the right to freedom of assembly, but only after their decisions have been stripped of consequence. Evidently, decisions that local authorities have unlawfully banned a demonstration constitute a moral victory of sorts, but they have no impact in practice and limited dissuasive effect in respect of future executive decisions. No monetary or other material compensation costs arise for the authorities out of such decisions. Even in such cases, litigation takes months, success often requires appeals – and the whole process takes time, money and effort.

COURT IN KOSTROMA DECLARES BANNING OF LGBTI EVENTS UNLAWFUL

LGBTI activists in Kostroma notified the authorities of their plans to hold a pride event and two public meetings in June 2013. The authorities banned all three on the grounds that some local residents objected to these, and that the police would not be able to ensure safety of participants in the proposed events. The LGBTI activists' appeal against the ban was unsuccessful both at the local district court and on appeal at Kostroma Region Court. On 4 April 2014, a cassation appeal against these two earlier court decisions was considered by the Presidium of Kostroma Region Court. A member of the city administration argued that the ban had been lawful because public LGBTI events contravene the law which prohibits "propaganda of non traditional sexual relations among minors" (the relevant law came into force already after the planned events). Nonetheless, the panel of six judges ruled that the ban had been unlawful. The LGBTI activists welcomed the decision and indicated that they would plan similar events in future.⁴⁷

ADMINISTRATIVE CASES AGAINST PARTICIPANTS IN PUBLIC ASSEMBLIES

The second broad category of cases relating to the exercise of the right to freedom of assembly concerns those charged with administrative offences arising either from alleged violations of the Law on Assemblies, most frequently for their participation in public events deemed unlawful, or from alleged “resistance to police’s legitimate orders”. Such cases are brought both somewhat at random against those who have the misfortune to have been detained as the police dispersed the protest – and, in a more targeted manner, against known protest organizers and opposition figureheads. They result in a range of penalties, from fines to relatively short periods of administrative detention. Such cases very rarely result in acquittals: the only variable tending to be the severity of the penalty imposed.

Administrative court proceedings differ considerably from criminal proceedings, with the defendant’s procedural rights being significantly less well protected in the former. There is no automatic right to free legal representation in administrative proceedings. Defendants are often not informed about dates and times of trial, while the courts are entitled and in practice often do hold trials in absentia. The police officers who initiated proceedings are not obliged to be present and often aren’t, except when called in as witnesses. When they do, their role is often limited to the presentation of evidence that defendants are denied the genuine opportunity to challenge effectively. Courts routinely deny motions by the defence to call witnesses and present evidence on such material issues as whether the accused was detained in a given location, at a given time and in given circumstances, and whether the absence or denial of prior approval should have rendered the gathering in question unlawful. The result is that judges already inclined to take the police evidence at face value often find people guilty solely on the basis of police reports – even when this is contradicted by strong video evidence or other witnesses.

CONVICTION ON THE BASIS OF A DETENTION REPORT DRAWN UP BY A THIRD PERSON

On 27 March 2014, Oleg Filatchev was found guilty of violating the “established procedures relating to public assembly” (Article 20.2 of the Code of Administrative Offences) by the Tverskoy district court in Moscow and fined RUB 10,000. In its ruling, the court cited the police report on arrest (*raport o zaderzhanii*) as the main evidence against the defendant in the case but refused to examine its accuracy or establish the identity of the police officer who had supposedly written it.

Oleg Filatchev was detained during the spontaneous protest on Tverskaya Street in Moscow on 24 February 2014 against the verdict in the Bolotnaya trial issued that day. According to Oleg Filatchev, he had not committed any violation on Tverskaya but had been arrested, together with two companions, near a metro station where they had met to have coffee together.

The judge chose to accept the report on arrest (*raport o zaderzhanii*), supposedly drawn by a police officer who, jointly with two other officers, had arrested Oleg Filatchev on that day. The defence questioned whether the police officer in question actually existed and alleged that the report was a fabrication, and insisted that the other two named police officers were called in as witnesses. The court declined the defence’s motion to call them in for cross-examination, and ignored the defence’s insistence that the report misrepresented the circumstances of the detention which could be corroborated by other independent sources. For instance, the police report stated that Oleg Filatchev had been shouting slogans, which he denied. However, a monitoring

report on the event by the Russian Ombudsman's Office unequivocally indicated that no-one had been shouting any slogans during the event. The court declined to consider this evidence. It also failed to come to any conclusion as to the legality of the assembly itself, on which the defence was insisting, though this was quite clearly material to the charges of which Oleg Filatchev was ultimately convicted.⁴⁸

According to lawyers interviewed by Amnesty International, many of the administrative trials of those detained across Moscow on 21 and 24 February and 1, 2 and 4 March 2014 violated international fair trial standards, and included the widespread use of false testimonies by law enforcement officials and the willful disregard for exculpatory evidence on the part of judges.⁴⁹ In particular, police reports and statements were cited in decisions as incriminating evidence even when these were signed, or made orally (on the rare occasions when police officers were called to court to give testimony in person), by officers who had not themselves arrested the person in question or even been present at the scene. There were many cases in which police reports were identical, except for the name of the defendant, and contained demonstrably false allegations. Such "evidence" was routinely relied on by judges, even when the defence was able to present evidence directly contradicting police statements, including extensive video and photo footage and eye-witness accounts exculpating the defendants.

There is nothing particularly new about this judicial practice. In October 2013, the ECtHR found, in respect of administrative proceedings regarding alleged protest-related violations back in 2007 that "... the domestic courts' unreserved endorsement of the police report and their refusal to examine the defence witnesses without any regard to the relevance of their statements led to a limitation of the defence rights incompatible with the guarantees of a fair hearing ..."⁵⁰

THE CRIMINAL PROSECUTION OF PROTESTERS: THE BOLOTNAYA SHOW TRIAL

The events on 6 May 2012 in Bolotnaya Square in Moscow and the subsequent trial of several participants sent a powerful and deliberate message to civil society activists in Russia. While prior to these events, the typical penalty imposed on protesters ranged from a small fine to an administrative detention of maximum 15 days, Bolotnaya trial set a new and very visible precedent of the criminal prosecution of peaceful protesters. Indeed, the politically motivated show-trial appears principally to have served the propaganda purposes of depicting anti-government protesters as a fifth column bent on violence and regime change at the bidding of foreign powers. It has served as a warning to other potential protesters that the exercise of the right to freedom of assembly may result in their criminal prosecution, even when one's intentions and actual behaviour are entirely peaceful.

On 6 May 2012, the day before Vladimir Putin's inauguration as President, tens of thousands of protesters took to the streets of Moscow in protest against elections results during which numerous violations were reported by independent election monitors.⁵¹ The protest was authorized by Moscow authorities and plans for the event were agreed by the protest organizers, authorities and police. However, a last moment change of plan that was not communicated to the organizers or the public led to a considerable reduction in the available space at the designated protest venue – Bolotnaya Square in central Moscow. Owing to the reduction in the number of entrances to the square, pressure built up on police lines that resulted in their being breached, whereupon the police decided to disperse the crowd, even though the assembly was still largely peaceful, and despite the fact that most of the crowd

had no exit routes other than the clogged up entrances behind them. The police action that ensued was marred by the use of arbitrary, unnecessary and disproportionate force against the protesters that resulted in numerous serious reported injuries to ordinary protesters, while a small number of protesters retaliated with violence themselves.

A number of national and international groups have analyzed the events of the day and concluded that the violence was sparked by poor policing and the failure by authorities or the police to communicate with the organizers and protesters prior to and during the process.⁵² The use of force by police is also widely recognized to have been disproportionate to the circumstances and to have resulted in violent clashes with protesters, many of whom appear to have been acting in self-defense or seeking to protect fellow protesters from police violence. There was, certainly, a small number of aggressive protesters in the crowd, but they constituted a very small minority when set against the far larger body of peaceful protesters. Instead of targeting these individuals, police for the most part opted to push back, arrest and beat the nearest peaceful protesters, most of whom had no escape route on account of the build-up of protesters behind them. Hundreds of protesters, most of them peaceful, were arrested on Bolotnaya Square itself, but also in other parts of central Moscow. The detentions appear to have been arbitrary and led in most instances to relatively small administrative fines.

However, a few weeks after the events, the police announced that it had initiated a criminal case into what they considered to be "mass riots" and "violence against police officers". According to the official narrative, the events had been premeditated, planned and sponsored from abroad to destabilize the situation in the country. As a result, 28 individuals were either detained or placed under house arrest or travel restrictions; two of them were put on the wanted list as they were already outside the country. Before the court hearings even began in 2013, most of those detained had already had spent between half a year to a year in detention. The trial was marred by irregularities that are incompatible with due process standards and led to prison sentences for nine of the accused, while one was ordered a mandatory psychiatric treatment based on conclusions of the highly questionable psychiatric examination, and one more accused received suspended sentence and four other were released in the court room following the amnesty law of December 2013. At the time of writing a second trial had begun against another four accused, while several others continue to be remanded in custody awaiting their trial.

Amnesty International has analyzed the first Bolotnaya trial in detail elsewhere.⁵³ Amnesty International considers the prosecutions to be politically motivated and the overwhelming majority of those convicted and currently detained to be prisoners of conscience.

THE INCREASED PENALTIES IMPOSED ON PROTESTERS

With the notable exception of the Bolotnaya prosecutions, the Code of Administrative Offences is the principal legal framework under which most protesters are penalized in connection with public assemblies.

Most protesters arrested during public street actions are charged under Article 20.2 of the Code of Administrative Offences (“Violation of the established rules for organizing or carrying out an assembly, rally, demonstration, procession or picketing”), and it is under this article that most fines are imposed. The 2012 amendments to the law increased the financial penalties up to 150 times.

The Article is divided into several parts which specify the public assembly-related penalties for:

- (1) violation of the general rules by the organizer (RUB 10,000 – 20,000 [USD 280-560], or compulsory labor of up to 40 hours),
- (2) the organization of an assembly without prior notification (RUB 30,000 – 50,000 [USD 840 – 1,400]; up to 50 hours),
- (3) the aforementioned violations which additionally cause obstruction to pedestrians and traffic or exceed the capacity of the agreed location (RUB 30,000 – 50,000; up to 100 hours),
- (4) the same as above but leading to non-criminal damage to health or property (RUB 100,000 – 300,000 [USD 2,800 – 8,400]; up to 200 hours),
- (5) violation of the general rules by a participant (RUB 10,000 – 20,000, or compulsory labor of up to 40 hours), and
- (6) violation of the rules by a participant leading to non-criminal damage to health or property (RUB 50,000 – 300,000; up to 200 hours).

More severe penalties are imposable for organizing a public assembly near nuclear and other dangerous objects. The punishments are also harsher for public officials and legal persons (organizations). The minimum, most frequently imposed fine of RUB 10,000 still amounts to one third of the average monthly salary in Russia⁵⁴, and one fifth of the average monthly salary in Moscow.⁵⁵

Even before the changes to the legislation concerning public assemblies were introduced in 2012 (which substantively increased the relevant penalties), the definition of relevant offences and the attendant penalties met the threshold of being criminal nature within the meaning of the European Convention of Human Rights. In *Kasparov and others v. Russia* the ECtHR listed a number of considerations and ruled that the offence of which several applicants had been convicted, under Article 20.2 of the Russian Code of Administrative Offences, and fined the equivalent of EUR 25, “can be classified as ‘criminal’ for the purposes of the Convention. It follows that Article 6 applies”.⁵⁶

The European Court of Human Rights has consistently reiterated in its case law, including in cases concerning Russia,⁵⁷ that the obligations under Article 6 of the European Convention on Human Rights (the right to a fair trial) should extend to administrative offences when the “very nature of the offense” or the severity of the penalty indicate that the offenses are criminal. However, as noted above (see section “Administrative cases against participants in public assemblies”), in Russian law the procedural safeguards available to defendants in administrative cases are far lower than in criminal cases. The upshot of this is that those accused of administrative offences relating to public assemblies risk higher penalties, in proceedings offering less procedural guarantees and safeguards, than if they were accused of certain criminal offences.

HUGE FINE IMPOSED ON AN ELDERLY PEACE ACTIVIST

One of the peaceful anti-war protesters arrested and fined recently in St. Petersburg was a pensioner and survivor of the WW2 siege of Leningrad. His monthly pension is barely higher than the fine.

Igor Andreev, a 75 year-old peace activist from St. Petersburg, on 2 March 2014 attended a protest against Russia’s military intervention in Crimea. As he was standing with his placard “Miru – mir!” (“Peace – to the world!”) he was verbally assaulted by Vitalii Milonov, a member of the St. Petersburg legislature, who reportedly called him a Fascist and snatched and tore his placard to pieces. Igor Andreev was then arrested by police and kept at the police station overnight while a report on his and other protesters’ arrests were drawn up. The police accused him of violating the rules of public assembly, and the judge at the subsequent trial issued him with a fine of RUB 10,000 (USD 280). Igor Andreev’s monthly income as a pensioner is barely higher than this (and his basic state pension is even lower, RUB 6,500).⁵⁸

ADMINISTRATIVE DETENTION

While violations of the rules of public assemblies are not directly punishable by administrative detention, many of those arrested during street protest are routinely accused of violating police’s legitimate orders (Article 19.3 of the Code of Administrative Offences) – often unjustly, on the sole basis of police’s reports which misrepresent the facts (as explained above, see section “Administrative cases against participants in public assemblies”) – and sentenced to up to 15 days of detention (the current maximum under this Article). Considering that the right to freedom of peaceful assembly is routinely violated, with peaceful assemblies dispersed by police, protesters arrested and administrative charges dished out, often entirely arbitrarily, it is in practice very much at the discretion of arresting police officers whether to press charges under this article (and seek the protesters’ detention for several days) or under Article 20.2 (violation of the rules of public assemblies) and limit the penalty to a fine. As already noted earlier, the standard of proof in administrative cases is

lower than in criminal proceedings and, in many – if not most – cases dealing with “resistance to police’s legitimate orders” courts accept police testimony without question and without giving equal consideration to contrary evidence presented by the defence.

PEACEFUL PROTESTER LOCKED UP FOLLOWING UNFAIR TRIAL

On 24 February 2014, the day when verdicts in Bolotnaya case were being announced, hundreds took to the streets to join like-minded people, in Moscow. Scores of peaceful protesters and onlookers were detained (see case “Hundreds detained at spontaneous gatherings outside court” and “Individuals detained outside court in Moscow complain of arbitrary charges and ill-treatment by police”), and many sentenced to fines. Several individuals, including Aleksei Navalny, were sentenced to administrative detention on charges of failure to abide by “police’s legitimate orders”. The judgment reveals a wilful disregard for the evidence presented by the defence.

Among those sentenced to detention in connection with the peaceful spontaneous assembly in Tverskaya Street on 24 February was political activist and anti-graft campaigner Aleksei Navalny. A well-known and widely recognized figure, he is often surrounded by journalists and others when he goes out in public. On that day, he came to Tverskaya Street where hundreds of others gathered in response to the pronouncement of criminal verdicts against peaceful demonstrators in the “Bolotnaya trial”. He was immediately surrounded by a group of protesters and journalists, some of whom started talking to him, while others stood nearby, apparently listening. Some journalists and onlookers started filming him on their cameras and mobile phones, which has been quite common of Navalny’s supporters during his public appearances, not least because these have often resulted in his arrest. As a result, there is video footage of the episode taken by several people from different angles.⁵⁹

It is clear from the footage of the event that Aleksei Navalny arrived at the scene on his own, and was merely present there, peacefully, like hundreds of other people, answering questions from journalists and greeting people he knew. He was spotted by police officers who demanded that those present disperse, addressing them collectively and insisting that they were preventing the free movement of pedestrians. One police officer is seen trying to approach Aleksei Navalny and making a point that he is not able to move freely due to the crowd of people in the midst of which Navalny is standing. The latter responds that he personally is not preventing anyone from moving and shows that anyone can go easily past him (there is some room immediately around Navalny). Then a group of police officers push their way through the crowd and proceed immediately to arrest the activist without making any demands. He clearly anticipated their intention and as they approached he repeatedly stressed to the arresting police officers, in calm voice, that he was “not shouting” (“*Nie vykrikivayu*”) any slogans, and held his hands up in front of him to show that he was not resisting them either but is willing to cooperate and proceed with them. Nonetheless he was surrounded and grabbed by at least four police officers and taken, without any physical or verbal resistance on his part, into a police bus for detainees. The crowd in front of Aleksei Navalny made a corridor to enable him to proceed towards the police vehicle without obstruction. Some protesters peacefully followed the police who were taking Aleksei Navalny away demanding to know why they were arresting him and shaming them for it.

Aleksei Navalny appeared in court on the following day, 25 February 2014, at which he was found guilty of “committing resistance to legitimate orders by a police officer in connection with his performance of his duties concerning protection of public order and provision of public safety”, and sentenced to seven days of detention. The court decision on his case is available on the Tverskoy District Court’s official website, and gives details of his trial.⁶⁰ It states:

"[Aleksei Navalny] refused the repeated lawful demands by police officers to stop these activities [obstructing movement of pedestrians] and vacate the pedestrian pavement for movement of citizens. While being taken to police vehicle [Navalny] began waving his hands, attracting attention of the citizens around him who were chanting thematic slogans, as well as of mass media, seeking to sow disorder among citizens passing-by, thereby demonstrating his refusal to abide by legitimate orders of police officers and preventing them from performing their duties. Navalny had the possibility to vacate the pedestrian pavement, after being presented with lawful demands by police officers, and thereby he violated the requirements of Part 1 of Article 19.3 of the Code of Criminal Offences". (Translation by Amnesty International).

Much of this statement is directly contradicted by available video footage. Thus, police did not repeatedly address Navalny with a request to leave – not him personally at any rate, although they made it clear to the crowd that they wanted it to disperse. When they approached him directly they immediately proceeded to arrest him without making any requests to him personally. He fully cooperated with them from that moment. He did not wave his hands at any point (not that this would constitute a violation of any regulations). Nor did he try to create havoc – if anything, he clearly tried not to. In another passage the document claims that Aleksei Navalny had "put up active resistance to police officers' demands". This is also plainly untrue.

The judgement states that Aleksei Navalny was lawfully arrested due to the "exceptional case, the need to terminate violation of the law, the need to draw up a *protokol* of detention" which "was not possible to draw up at the scene".

The court heard two eyewitnesses invited by the defence, watched some video footage taken at the scene, and examined copies of the *protokols* presented by the defence. Aleksei Navalny's defence alleged that the *protokols* were altered by adding some text after they had been drawn up, and after he was issued with his copies of these documents at the police station. The defence presented copies of the original *protokol* as proof, but the judge dismissed this claim by stating that there was no "objective information" to support it and because the copies presented by the defence were "not certified" (presumably meaning that it was not signed after a photocopy of the original would have been made at the police station; the original – kept at the police station – contains much handwritten text, and comparing the copy with the original to assert their likeness would have been quite straightforward).

The court ruled that it "cannot recognize as reliable" Aleksei Navalny's own claims and his witnesses' statements in court "because they are, in their entirety, disproved by the summation of the evidence examined in the case, [and] in particular by the testimonies recognized reliable by court as made by police officers Klyuev A.G., Polkanov M.I., which are in their turn objectively confirmed by the materials of the case".

In essence, the judge concludes that Aleksei Navalny is guilty because the two police officers say so; the judge concludes that their testimonies are accurate and true because they are "objectively confirmed" by the materials of the case.

The materials of the case consist of evidence both for and against Aleksei Navalny, and the claims made by police and by the defence are mutually inconsistent (whether he was "actively resisting" police, "waving hands", etc.). The only evidence supporting the police officers' statements are other claims made by police. The judge decided that the reports and statement by police were "reliable because they are logical and consistent, and consistent with each other", and chose to dismiss the evidence which is not consistent with them.

Thus, regarding the video footage presented in court, the court decision notes that in it, one can see Aleksei Navalny in the street surrounded by journalists and people, including at the moment when police officers arrive and take him away, through a gathering of people. The court decision also states however that “in spite of the arguments by Navalny and his defence, this video footage does not contradict the content of the reports drawn by police officers regarding Navalny’s detention and the testimonies they presented in court”. The testimonies of the witnesses invited by the Aleksei Navalny’s defence are similarly dismissed by the judge without further explanations.

After his conviction in this administrative case, Aleksei Navalny served his detention and was then placed under house arrest because the authorities claimed he had thereby violated the conditions of his bail (there is a criminal case opened against Aleksei Navalny on unrelated charges which he denies). His house arrest sparked further spontaneous peaceful protest in Moscow on 1 March 2014, which also resulted in mass arrests and administrative charges against the participants.

During protests on 21 and 24 February, 1, 2 and 4 March, while most protesters were detained under very similar circumstances, they were charged differently, the majority were charged and later fined under Article 20.2, in most cases RUB 10,000. Around a quarter of those arrested were charged under Article 19.3. Of these, at least 16 served between five and 13 days of detention, while others tried on the same grounds received fines of RUB 500 (with the exception of at least one case, where the judge ordered a fine of RUB 10,000 under Art. 19.3, even though the maximum fine provided by law under this Article – as opposed to Article 20.2 – is RUB 1,000). A small number were charged and tried under both Articles – combined – albeit for the same act.⁶¹

Given the similar circumstances of the detention of peaceful protesters in all these incidents, including those observed by Amnesty International, it is unclear what determines the choice between prosecution under Article 20.2 and Article 19.3 of the Code of Administrative Offences. Various observers and some of the lawyers who acted as defence in a number of cases have suggested, in conversations with Amnesty International that the choice is somewhat arbitrary, in particular when it comes to mass detentions during large-scale protests. The cases documented in preparation for this report suggest that administrative detention of up to 15 days under Article 19.3, as the more severe penalty, is applied more often when it comes to prosecuting “known offenders” such as Aleksei Navalny, as in the case above.

NEW CHANGES TO LEGISLATION ON PUBLIC ASSEMBLIES

The new wave of protest activities in late winter – early spring of 2014 prompted by the EuroMaydan events in Ukraine has prompted new legislative initiatives to restrict even further the right to freedom of peaceful assembly in Russia. On 31 March, three members of the State Duma (the lower chamber of the Russian Parliament) tabled a draft law № 485729-6 “On Amending Certain Legislative Acts of the Russian Federation (in relation to improving the legislation on public gatherings)” which proposed further amendments to the Law on Public Assemblies, the Code of Administrative Offences and the Criminal Code. These were approved by the State Duma in the first reading on 20 May 2014, with full parliamentary approval expected soon thereafter, before it can go to the president to be signed into law.

This legislation significantly increases penalties across all the respective violations currently foreseen for, or in connection with, public assemblies. It also expands the scope of

application of the respective repressive legislation and expands the room for its arbitrary interpretation. It expands the Article in the Code of Administrative Violations which previously envisaged heavier fines in connection with assemblies that cause obstruction to pedestrians and traffic, to also include “obstruction to the functioning of life-supporting objects, transport and social infrastructure, communications, movement of pedestrians and (or) vehicles or access of citizens to residential premises or objects, of transport of social infrastructure”. Several of these terms (“social infrastructure” for instance) have no legal definition, nor a commonly accepted and shared general meaning and, hence, can be interpreted to mean virtually anything in the vicinity of any public space within a city.

As to the penalties, the new legislative initiative increases the imposable penalties even further and introduces administrative detention of up to 10 days for the failure to submit a notification for a public gathering (that could be extended to up to 20 days when non-criminal damage to health or property is involved) for the organizer, and up to 15 days of detention for ordinary participants. Most significantly, it envisages that a repeated violation within 180 days is punishable by a fine of up to RUB 300,000 or up to 30 days of detention. A third repeated violation within the same period entails criminal responsibility and up to five years of imprisonment. Similarly, penalties for officials and juridical persons are also considerably increased. Once these amendments become law, police will also have the power to detain protesters without charge for up to 48 hours, whereas previously they could only do so on charges of failure to abide by police orders, but not for alleged violations of rules related to organization or participation in public assemblies.

CONCLUSION

Russia's human right record has worsened significantly in the two years since Vladimir Putin's return to the presidency in May 2012, with the right to freedom of assembly amongst those to have taken the biggest hit.

In 2012, the authorities legislated to introduce significantly more restrictive regulations for public assemblies, in contravention of Russia's international human rights obligations, and sharply increased the penalties for violations. Authorities and police have applied these regulations in an increasingly restrictive manner. Planned protests, however small, are almost always denied by authorities or authorised in unwanted remote locations. Unauthorised assemblies are routinely dispersed, however small and peaceful, resulting in arbitrary detentions and the prosecution of participants. In the first few months of 2014 several hundred people were arrested, and most have subsequently been fined or punished with administrative detention for offences purportedly committed in the course of demonstrations in Moscow alone.

Pro-government or government-sponsored public assemblies have been allowed to proceed without hinderance in locations that are routinely denied to critical demonstrations. On several occasions, counter-demonstrators have been allowed to intimidate and even physically attack protesters, while law enforcement officials have enjoyed near-total impunity for the abusive use of force.

Russian courts have repeatedly failed to protect the right to freedom of assembly. They have failed to consistently uphold legal challenges against arbitrary decisions to restrict assemblies, and to do so in a timely manner. Reduced procedural guarantees in administrative cases and the reluctance of many judges hearing them to scrutinise police claims closely has resulted in hundreds being fined and several detained in unfair trials.

The Russian authorities' uncompromising reaction to the spate of demonstrations in Moscow in February and March 2014 has exposed just how difficult and dangerous it has become to organise and participate in protests. In a further sign of the direction of travel, new legislative changes have been passed in the parliament, ushering in further restrictions on public assemblies and new criminal penalties for violations of Law on Assemblies. The right to freedom of assembly has long been limited in Russia, but it is now in danger of being lost altogether.

RECOMMENDATIONS

Amnesty International urges the Russian authorities to

- Ensure the right to freedom of peaceful assembly to all persons within its jurisdiction without discrimination, in accordance with international human rights law and standards, and the Russian Constitution;
- Refrain from adopting any further legislation that can hamper the right to freedom of peaceful assembly, as well as freedom of expression and association;
- Bring national legislation governing public assemblies in compliance with international standards, in particular by introducing the amendments to the law to ensure that:
 - Public assemblies do not require the permission of authorities, neither in the letter of the law nor *de facto*, and that there is clear scope for spontaneous peaceful assembly in response to a current event and where a delay would render a later assembly obsolete;
 - The requirement of prior notification is not applied in practice as an authorization procedure;
 - There are no overly restrictive duties and responsibilities imposed on assembly organizers, that organizers' do not bear direct personal liability for actions of participants, in line with the February 2014 Constitutional Court ruling;
 - The penalties envisaged in the law for violating the rules of public assembly are brought in line with Russia's human rights obligations (see below);
 - The regulations prohibiting the organization of public events in proximity to particular locations, or limiting their authorization to specific areas, do not serve to unlawfully deprive assembly participants of the chance to convey their message to their intended audience;
- Make the necessary legislative and administrative changes to ensure that protesters have both sufficient time to notify the authorities of their plans to hold an assembly, and to challenge the authorities' response in court, prior to the date of the planned event;
- Repeal the prohibition of "propaganda of non-traditional sexual relations among minors", and fully respect, protect and fulfil the principle of non-discrimination in relation to, amongst others, the LGBTI community, including with regards to its members' ability to exercise their right to freedom of peaceful assembly and expression;
- Ensure that public assemblies are policed in accordance with Russia's international human rights obligations and its Constitution, and in particular:
 - Issue the police with clear, comprehensive and binding instructions on policing public assemblies, to bring these in line with with international standards on the right to freedom of peaceful assembly and the use of force, and ensure full enforcement of these instructions in practice;

- Ensure that law enforcement officials receive adequate training to this effect;
- Ensure that law enforcement officials provide adequate protection to participants in public assemblies who are subjected to threats and violence by counter-demonstrators;
- Investigate, effectively, impartially and promptly, all allegations of human rights violations by police officials during public assemblies, including unlawful use of force, arbitrary arrest and detention, the fabrication of false charges, as well as the failure to protect peaceful protesters from counter-protesters, and bring all those found responsible, including commanding officers, to account through criminal or disciplinary proceedings as appropriate, and provide full redress to victims;
- Bring judicial practice into line with Russia's international human rights obligations, and in particular:
 - Ensure the strict observance of procedural requirements and safeguards in criminal and administrative proceedings;
 - Ensure that essential fair trial guarantees, including the equality of arms are respected in administrative proceedings relating to violations of the Law on assemblies;
 - Create a fast-track procedure for the judicial review of appeals against decisions to ban public assemblies or impose restrictions and/or conditions that are inconsistent with the right to freedom of peaceful assembly;
- While reviewing legislation relating to public assemblies, review all the relevant penalties and ensure that these do not, due to their severity, serve as a deterrent to public protest;
- Ensure that the participation in spontaneous assemblies and failure to comply with the requirement of prior notification do not automatically lead to dispersal of peaceful assemblies, or to administrative sanctions resulting in fines or imprisonment;
- In all cases relating to Bolotnaya events, drop any charges/overturn any convictions relating to "mass riots", release immediately and unconditionally all those who have been prosecuted only in connection with their peaceful exercise of the right to freedom of expression, and ensure fair trial for all defendants and suspects in this case;
- Implement the recommendations made by the Venice Commission in its opinions on the Federal Law On Assemblies, Meetings, Demonstrations, Marches and Picketing and amendments to it, and on the Code of Administrative Offences of the Russian Federation;
- Facilitate, at the earliest available opportunity, a visit to the Russian Federation by the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

Amnesty International urges the international community to

- Ensure regular and close monitoring of, and reporting on, the situation with regards to respect of the right to freedom of peaceful assembly and other human rights in Russia, including through regular and open monitoring of public assemblies, and the respective

administrative and criminal proceedings against protesters and the subsequent court trials, across Russia; make the resulting observations and recommendations public.

¹ For a review of developments in the first year following Vladimir Putin's return to the Presidency, see Amnesty International, *Freedom under threat: Clampdown on freedoms of expression, assembly and association in Russia*, report, April 2013, available at <http://www.amnesty.org/en/library/info/EUR46/04/2013/en>.

² Based on information of the *OVD-Info* project, available at <http://reports.ovdinfo.org/2012/data/> and <http://reports.ovdinfo.org/2013/data/>, and regular media monitoring.

³ For full details of these changes, see Amnesty International's report *Freedom under threat: The clampdown on freedom of expression, assembly and association in Russia* (AI Index: EUR 46/011/2013), available at <http://www.amnesty.org/en/library/asset/EUR46/011/2013/en/d9fb0335-c588-4ff9-b719-5ee1e75e8ff5/eur460112013en.pdf>.

⁴ The research was conducted during March 2014, the results finalized in analytical report dated 7 April 2014 jointly by the Fund "City projects of Ilya Varlamov and Maxim Katz" and Petr Ivanov, MA in Sociology, Graduate School of Urban Studies and Planning.

⁵ See the statement by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, at the 20th session of the Human Rights Council, Agenda item 3, 20 June 2012, p.4, para.1, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12349&LangID=E>. The Special Rapporteur further suggests that "in case an assembly is not allowed or restricted, a detailed and timely written explanation should be provided, which can be appealed before an impartial and independent court."

⁶ See *Sergey Kuznetsov v. Russia*, no. 10877/04, § 42, 23 October 2008, and *Rai and Evans v. the United Kingdom* (dec.), nos. 26258/07 and 26255/07, 17 November 2009, *Bukta and Others v. Hungary*, no. 25691/04, § 35, ECHR 2007; *Oya Ataman v. Turkey*, no. 74552/01, 5 December 2006, § 39; *Rassemblement Jurassien Unité v. Switzerland*, no. 8191/78, Commission decision of 10 October 1979, DR 17, p. 119; and also *Plattform "Ärzte für das Leben" v. Austria*, judgment of 21 June 1988, Series A no. 139, p. 12, §§ 32 and 34.

⁷ *Ibid*, § 37.

⁸ *Balcik v. Turkey* (2007), paragraphs 49, 52. See also *Ashughyan v. Armenia* (2008), paragraph 90.

⁹ The Guidelines state that prior notification of assemblies is not generally necessary, and should "only be required where [the] purpose [of the notification] is to enable the state to put in place necessary arrangements to facilitate freedom of assembly and to protect public order, public safety and the rights and freedoms of others." See OSCE Office for Democratic Institutions and Human Rights, *OSCE Guidelines on Freedom of Peaceful Assembly*, 2010, available at <http://www.osce.org/odihr/73405?download=true>.

¹⁰ *Ibid*, Principle 4.1 Notification.

¹¹ OSCE Guidelines on Freedom of Peaceful Assembly, OSCE Office for Democratic Institutions and Human Rights, 2007, Principle Advance notice, para.1, p.15, available at <http://www.osce.org/odihr/24523>.

¹² *Alexeyev v. Russia* (Applications nos. 4916/07, 25924/08 and 14599/09) §§ 98-100, with reference to *Baczowski and Others v. Poland*, no. 1543/06, ECHR 2007-VI, § 81.

¹³ See details Amnesty International, "Moscow authorities refuse to allow an Amnesty International event", press release, 4 October 2014, <http://www.amnesty.org/en/for-media/press-releases/moscow-authorities-refuse-allow-amnesty-international-event-2013-10-04>.

¹⁴ See cases of *Berladir and Others v. Russia* - 34202/06 [2012] ECHR 1558 (10 July 2012), § 43 and *Bukta v. Hungary*, 25691/04, ECHR 2007-III §36.

¹⁵ Ibid.

¹⁶ See the statement by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, at the 20th session of the Human Rights Council, Agenda item 3, 20 June 2012, p.4, para.1, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12349&LangID=E>. The Special Rapporteur further suggests that "in case an assembly is not allowed or restricted, a detailed and timely written explanation should be provided, which can be appealed before an impartial and independent court."

¹⁷ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, at the 20th session of the Human Rights Council, Twentieth session, Agenda item 3, distributed on 21 May 2012, paragraph 29, page 9, A/HRC/20/27, available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf.

¹⁸ For further details on the verdict see Amnesty International, "Russia: Guilty verdict in Bolotnaya case - injustice at its most obvious", news, 21 February 2014, <http://www.amnesty.org/en/news/russia-guilty-verdict-bolotnaya-case-injustice-its-most-obvious-2014-02-21>.

¹⁹ The estimated number of 230 is based on OVD-Info report "Zaderzhniya u Zamoskvoretskogo suda", 24 February 2014, available at <http://ovdinfo.org/news/2014/02/24/zaderzhaniya-u-zamoskvoreckogo-suda-2>.

²⁰ Yulia Bashinova, "Propaganda neterpimosti", *Grani.ru*, 3 September 2013, available at <http://grani.ru/Society/Neuro/m.218466.html>.

²¹ *Grani.ru*, "Umer activist 'Solidarnosti' Aleksei Davydov", 27 September 2013, available at <http://grani.ru/Politics/Russia/Parties/m.219432.html>.

²² *OVD-Info*, "V Moskve zaderzhany aktivisty, provodivshie odinochnye pikety v pamiat o pogibshih v Kieve", 30 March 2014, <http://ovdinfo.org/express-news/2014/03/30/v-moskve-zaderzhany-aktivisty-provodivshie-odinochnye-pikety-v-pamyat-o>.

²³ *TV Rain* news, "Na Tverskoi razognali aktsiju v pamiat o pogibshih na Maidane", 30 March 2014, available at http://tvrain.ru/articles/na_tverskoj_razognali_aktsiju_v_pamjat_o_pogibshih_na_maidane-366053/.

²⁴ *Moscow News*, "Mitingi v podderzhku vybora Kryma proidut v Rossii", 18 March 2014, available at <http://www.mn.ru/politics/20140318/372163516.html>.

²⁵ *NewsRu.com*, "Meriya Moskvy ne razreshila oppozitsioneram provesti shestvie 30 marta", 28 March 2014, available at <http://www.newsru.com/russia/28mar2014/marsh.html>.

²⁶ *Grani.ru*, "Moskovskaya meriya otkazalas soglasovat Marsh pravdy", 3 April 2014, available at <http://grani.ru/Politics/Russia/Regions/m.227342.html>, and *TV Rain* news, "Esli nikomu ne nuzhny marshi, zachem togda s nimi tak borotsia?" Vlasti Moskvy ne soglasovali aktsiyu oppozitsii 13 aprelia", 3 April 2014, available at http://tvrain.ru/articles/esli_nikomu_ne_nujny_marshi_zachem_togda_s_nimi_tak_borotsja_vlasti_moskvy_ne_soglasovali_aktsiju_oppozitsii_13_aprelja-366297/?autoplay=false.

²⁷ As a result, while there were street assemblies organized by Amnesty International activists on 7 October to mark the beginning of the campaign on Russia in many capitals across Europe and elsewhere, in Moscow the activists had to change plans and hold a single-person picket (which does not require the authorities' approval) instead. See details Amnesty International, "Moscow authorities refuse to allow an Amnesty International event", press release, 4 October 2014, <http://www.amnesty.org/en/for-media/press-releases/moscow-authorities-refuse-allow-amnesty-international-event-2013-10-04>.

²⁸ *Regiony Rossii*, "Partiya Dela provela miting v podderzhku russkikh na Ukraine", 11 March 2014, <http://www.gosrf.ru/news/13747/>; Trade Union of Law Enforcement and Security Agencies, "V Moskve v Novopushkinskom skvere sostoyalsia miting", undated, <http://www.prav-prof.com/news/v-moskve-v-novopushkinskom-skvere-sostoyalsya-miting>.

²⁹ For more details, see Amnesty International, "Authorities in Moscow disperse peaceful assembly and fail to protect participants from violence by counter-demonstrators", public statement, 21 August 2013 (AI Index: EUR 46/036/2013), available at <http://www.amnesty.org/en/library/info/EUR46/036/2013/en>.

³⁰ E.g., see Yulia Bashinova, "Gospropaganda neterpimosti", *Grani.ru*, 3 September 2013, available at <http://grani.ru/Society/Neuro/m.218466.html>.

³¹ See *Obozrevatel*, "Gey-aktivistam zapretili rasprostranat' tsitatu Putina o ksenofobii", 26 November 2013, available at <http://obozrevatel.com/abroad/62794-gej-aktivistam-zapretili-rasprostranyat-tsitatu-putina-o-ksenofobii.htm>.

³² See Amnesty International, "Russia: Hundreds more protesters arbitrarily arrested outside Bolotnaya trial sentencing", 24 February 2014, available at <http://www.amnesty.org/en/news/russia-hundreds-more-protesters-arbitrarily-arrested-outside-bolotnaya-trial-sentencing-2014-02>.

³³ This a conservative estimate based on compiling media reports of specific protest actions, analysis provided to Amnesty International by NGOs representing those detained, and Amnesty International's own observation at demonstrations in Moscow over this period.

³⁴ See letter by the Council for Civil Society Development and Human Rights under the President of the Russian Federation addressed to Vladimir Kolokoltsev, Minister of the Interior, 25 February 2014, available at <http://www.president-sovet.ru/news/5595/>.

³⁵ Amnesty International's interview with Aleksei Rassolov, 23 April 2014; and as reported by OVD-Info in "Da ty na tabletkah!" Testimonies by detainees, 25 February 2014, available at <http://ovdinfo.org/stories/2014/02/25/da-ty-na-tabletkah>.

³⁶ As reported by OVD-Info in "Da ty na tabletkah!" Testimonies by detainees, 25 February 2014, available at <http://ovdinfo.org/stories/2014/02/25/da-ty-na-tabletkah>.

³⁷ Ibid.

³⁸ Amnesty International, "Russia: Anatomy of injustice: The Bolotnaya Square trial", public statement,

10 December 2013 (AI Index: EUR 46/055/2013), available at <http://www.amnesty.org/en/library/info/EUR46/055/2013/en>.

³⁹ International Expert Commission for Evaluation of Events on Bolotnaya Square, *May 6 2012 Events on Bolotnaya Square in Moscow. Expert evaluation*, Moscow 2013. Available at http://6maycommission.org/sites/default/files/iec_report_eng.pdf.

⁴⁰ Amnesty International, "Russia: Guilty verdict in Bolotnaya case -- injustice at its most obvious", press release, 21 February 2014, available at <http://www.amnesty.org/en/for-media/press-releases/russia-guilty-verdict-bolotnaya-case-injustice-its-most-obvious-2014-02-21>.

⁴¹ E.g., see *Komitet 6 Maya*, "Lutskevich Denis", <http://6may.org/underarrest/pod-arestom-v-sizo/luckevich-denis/>.

⁴² See information provided in the submission by the NGO Agora to the Prosecutor of Moscow, July 2013, available at http://openinform.ru/fs/j_photos/openinform_416.pdf.

⁴³ *Komitet 6 Maya*, "Gaskarov Aleksei", available at <http://6may.org/underarrest/pod-arestom-v-sizo/gaskarov-aleksei/>.

⁴⁴ See *Grani.ru*, "Saratovskiy aktivist otsudil kompensatsiyu za zaderzhanie na Bolotnoy", 5 June 2013, available at <http://grani.ru/Society/Law/m.215329.html>. The new story is accompanied by a scanned copy of the court decision on Oleg Gariga's case.

⁴⁵ Eg, see the clip available at <https://www.youtube.com/watch?v=r7f2xY9W3tk>, particularly starting from minute 05:00 (last accessed on 9 April 2014).

⁴⁶ The ECtHR specified that the right to an effective remedy (under Article 13 ECHR) implies the possibility of obtaining a ruling concerning the authorisation of the event before the time at which it is intended to take place - see e.g. *Alekseyev v. Russia* (application nos 4916/07, 25924/08 and 14599/09), § 98-100, and *Bączkowski and Others v. Poland*, no. 1543/06, § 64, 81, 83 ECHR 2007-V).

⁴⁷ As reported by *Gay Russia* at www.gayrussia.eu/russia/9127/.

⁴⁸ As reported by the NGO Public Verdict (Obschestvenniy Verdict), "Tverskoi sud Moskvy: protokol zaderzhaniya dokazyvaet vinu zaderzhannogo", 27 March 2014, available at <http://publicverdict.ru/topics/news/11783.html>.

⁴⁹ Some of the lawyers who regularly provide legal assistance to protesters detained during public assemblies in Moscow have noted that contrary to earlier practice, in the wake of the protests on 21 and 24 February 2014 and the anti-war protests on 2 and 4 March, judges became increasingly tolerant of procedural blunders made by the police when handling arrested protesters. Such blunders included the use of incorrect or non-existent addresses to indicate the location of the purported violation, or the absence of signatures by police officials, in the relevant police reports. (Tatyana Glushkova, Yuriks, and Kirill Koroteev, Human Rights Centre Memorial, in interviews with Amnesty International, 15 April 2014).

In one particularly remarkable case, on 25 February 2014, a man was found guilty of participation in an unauthorized assembly in front of the Zamoskvoretskiy court on 21 February 2014 in Moscow on the basis of a *protokol* of detention which did not indicate who had drawn it up and when, nor give the name of the detained person. Nonetheless the man was found guilty and fined RUB 10,000, and his verdict

was upheld on appeal at a higher court on 2 April 2014 (the case of Dmitry Frumin; details from lawyer Kirill Koroteev, in interview with Amnesty International, April 2014).

⁵⁰ *Kasparov v. Russia*, para. 66.

⁵¹ For instance, see reports of violations documented by the election watchdog Golos through its project Map of Violations, "Elections of 4 March 2012", available at <http://www.kartanarusheniy.org/2012-03-04/stat>. The NGO Golos has since been forced to close down by the Russian authorities.

⁵² Eg, see International Expert Commission for Evaluation of Events on Bolotnaya Square, *May 6 2012 Events on Bolotnaya Square in Moscow. Expert evaluation*, Moscow 2013. Available at http://6maycommission.org/sites/default/files/iec_report_eng.pdf.

⁵³ See Amnesty International, "Russia: Anatomy of injustice: The Bolotnaya Square trial", public statement, 10 December 2013 (AI Index: EUR 46/055/2013), available at <http://www.amnesty.org/en/library/info/EUR46/055/2013/en>.

⁵⁴ Based on the report of the official date of the Russian Federal Service of State Statistics, by the Russian Ministry of Labour and Social Protection, published at the Ministry's website at <http://www.rosmintrud.ru/labour/21/3/> [accessed on 23 April 2014]

⁵⁵ According to Moscow Deputy Mayor on social development, as quoted by *M24.ru*, "Srednyaya zarplata v Moskve v 2013 godu sostavila bolee 54 tysyach rubley", 20 February 2014, available at <http://www.m24.ru/articles/38086>.

⁵⁶ See for example Case of Kasparov and others vs. Russia, ECtHR no.21613/07, § 37-46, 3 October 2013.

⁵⁷ Ibid.

⁵⁸ Olga Gnezdilova, "Blokadnika zaderzhali za plakat 'Miru mir' i sutki proderzhali v politzii", *Novaya Gazeta*, 5 March 2014, available at <http://novayagazeta.spb.ru/articles/8490/>.

⁵⁹ E.g., see video clip available on YouTube at <https://www.youtube.com/watch?v=qKxOyJaJ33w>; see the moment of detention in close-up at <http://grani.ru/tags/may6/m.225493.html> (both last accessed on 13 May 2014). Please note, due to the arbitrary blocking of the website Grani.ru by the Russian authorities for the coverage of, amongst other things, the protest events in Moscow on that day, this website is no longer accessible from within Russia (for details, see Amnesty International, "Further information: Russian Federation: Court rules website should remain blocked" (AI Index: EUR 46/035/2014), Urgent Action, 7 May 2014, available at <http://www.amnesty.org/en/library/info/EUR46/035/2014/en>).

⁶⁰ Tverskoy District Court's decision on Aleksei Navalny's case is available on its official website at http://tverskoy.msk.sudrf.ru/modules.php?name=sud_delo&srv_num=1&name_op=doc&number=152520727&delo_id=1500001&text_number=1 (last accessed on 15 May 2014).

⁶¹ Based on the information provided by the online project OVD-Info.



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A RIGHT, NOT A CRIME

VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSEMBLY IN RUSSIA

In the two years since Vladimir Putin's return to the presidency in May 2012, the Russian authorities have waged a sustained attack on rights and freedoms in an apparent attempt to achieve complete control of the use of public space and the views that can be communicated and expressed in it. This report documents the impact of this assault on freedom of peaceful assembly.

The authorities routinely deny permission for planned protests or else allow them to take place only in unwanted locations. Meanwhile, pro-government activists are allowed to take centre stage in the capital and across the country. Spontaneous protests by more than one person are effectively outlawed in Russia. Protesters frequently face violence from counter-demonstrators and enjoy little protection from police.

Peaceful protesters who fail to respect the highly restrictive regulations on public assemblies can risk violent dispersal, arrest, hefty fines and short periods of detention. Legislative changes are going through parliament that will make repeated violation of these rules a criminal offence punishable with up to five years' imprisonment. Courts in Russia rarely uphold the right to freedom of peaceful assembly or challenge state interests in the outcome of criminal or administrative cases; many trials resulting in severe penalties violate fair trial principles.

The right to freedom of assembly has long been limited in Russia, but it is now in danger of being lost altogether.

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