COMMENTS

Russian Public Assembly Law: Constitutional Evolution 1993–2023

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Abstract. The current Public Assembly Law in the Russian Federation, which regulates the implementation of the constitutional right to freedom of peaceful assembly in Russia, has been developed and formed over the course of the past three decades, following the ratification of the Russian Constitution in 1993. The Public Assembly Law can be described as an important institute of public law as well as a sub-branch of the constitutional law of Russia, which combines constitutional provisions, relevant norms of the federal and regional laws and case law of the Russian Constitutional Court regarding the implementation of the Freedom of Peaceful Assembly. The modern Public Assembly Law has high importance for the development of a democratic society and for the rule of law. The author investigates the constitutional adjudication of the Russian Constitutional Court from 1993–2023, focusing in particular on its eleven judgments concerning the implementation of Article 31 of the Russian Constitution, which defines the constitutional standards of the Freedom of Peaceful Assembly. The author also examines several prominent cases of the Russian Constitutional Court, referred to as decisions with positive content, which are crucial for obtaining a systemic overview of the current problems of the Public Assembly Law in the Russian Federation.

Keywords: freedom of peaceful assembly; public assembly law; demonstrations; rallies; picketing; meetings; case law; restrictions; Russian Constitution; Constitutional Court of Russia (CCR).

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Introduction

The Russian Constitution (Art. 31) guarantees to all citizens of the Russian Federation the right to freedom of peaceful assembly and the right to hold assemblies, meetings, demonstrations, marches and pickets. This is a short and laconical article of the Russian Constitution, which does not consist of any concrete provisions regarding the order of the conduct of public events in the Russian Federation. According to Article 55 (pt. 3) of the Constitution of the Russian Federation, the right to freedom of peaceful assembly may be subject to restrictions imposed by federal law. However, any restrictions based on federal legislation must pursue one or several of the following aims: protection of fundamental principles of the constitutional system, morality, health, rights and lawful interests of other people, ensuring the defense of the country and upholding the security of the state. Incidentally, the very first restriction on freedom of peaceful assembly is set forth in Article 31 of the Basic Law of the Russian Federation, which states that this right is reserved for the citizens of the Russian Federation.

1. The Russian Public Assembly Law – General Legal Framework

Any issues related to the implementation of the constitutional right to the freedom of peaceful assembly are regulated by the following federal legislative acts: (a) the Federal Law on Assemblies, Meetings, Demonstrations, Processions and Pickets,

No. FZ-54 of 19 June 2004 (hereinafter the Public Assembly Law or PAL), (b) the Code of Administrative Offences of the Russian Federation (Arts. 20.2, 20.2.2 and 20.2.3) and (c) the Criminal Code of the Russian Federation (Art. 212.1). The Public Assembly Law is of key importance in the Russian legal system because this federal act establishes procedures for the conduct of public events on the territory of the Russian Federation. The term "public event" could be regarded as synonymous with the notion of "peaceful assembly," which is a commonly used term in the general human rights doctrine. According to part 1, Article 2 (cl. 1) of the Public Assembly Law, a "public event" is an open, peaceful action that is accessible to all people and can take the form of an assembly, meeting, demonstration, march or picket or a combination of one or more of those forms, including those forms of public events that are organized using means of transportation. These events may be undertaken at the initiative of citizens of the Russian Federation, political parties or other public or religious associations. According to the provisions of the PAL, the objective of a public event shall be the free expression and shaping of public opinion; additionally, organizers and participants may use these public events to express demands or opinions concerning issues of political, economic, social and cultural affairs of the country as well as issues of foreign policy. Furthermore, according to the provisions of federal law, meetings held between voters and members of regional and local parliamentary bodies with the aim of informing voters of their activities can be regarded as public events.

The federal legislation distinguishes between the following types of public events:

1. Assembly – implies the coming together of citizens at a place that has been specifically allocated or adapted for the purpose of collectively discussing issues of social importance.

2. Meeting – implies the mass assembly of citizens at a certain place for publicly expressing the public opinion regarding currently important problems of a social and political character.

3. Demonstration – implies an organized public manifestation of public opinion by a group of citizens through activities such as walking or standing, including the use of loudspeakers, vehicles, posters, banners and other means of visual campaigning.

4. March – refers to a procession of citizens along a predetermined route with the aim of attracting attention to specific issues or causes.

5. Picket – refers to a form of public expression of opinions as well, but is carried out without marching or using loudspeaker equipment; instead, one or several citizens are stationed outside the area being picketed with placards, banners and other means of visual campaigning, as well as so-called "prefabricated demountable constructions."

Thus, following this classification of public events, we have to state that the Russian legislator has used a very broad legal definition of the term "public event,"

which covers almost every possible form of peaceful assembly, including even informational meetings between ordinary citizens and members of federal, regional and municipal legislative (representative) bodies. However, since one form of a public event can flow into another form, or an event can take place in various combinations of these forms, we believe that this classification is not very effective. This legal norm provides law enforcement authorities with a wide margin of discretion and thereby creates the risk of abuse when qualifying the type of public event.

When analyzing the procedure for the conduct of public events in Russia, it should be noted that the Russian Public Assembly Law has established *de facto* an obligatory notification mechanism. On the one hand, from a formal point of view, a written notification of a public event serves as a document by which the competent public authority shall be informed that a public event will take place, allowing the competent authority to be able to take necessary measures to ensure safety and public order during the public event. As a general rule, the organizer of a public event in Russia shall provide written notification to the executive authority of the constituent entities (also known as subjects or regions) of the Russian Federation or the body of local self-government. In addition, this notification should be submitted within the specified time-period, which is stated as no earlier than fifteen days and no later than ten days prior to the holding of the public event (Art. 7(1) of the Public Assembly Law). The federal legislation also provides shorter deadlines for the submission of certain other written notifications. Firstly, a notice regarding a public event held by a deputy of a legislative (representative) body of state or municipal power with the aim of informing voters about his or her activities has to be submitted by the corresponding deputy no earlier than ten days and no later than five days before the date of the planned public event. Secondly, a written notice for picketing planned by a group of persons or picketing carried out by a single participant, using so-called "prefabricated demountable constructions," which can create obstacles to the movement of pedestrians and vehicles, shall be submitted by the organizer of the public event no later than three days before the day of its holding. It should be noted that if the indicated days coincide with a Sunday or any non-working holiday(s), then the notification must be submitted no later than four days before the day of the event. As a matter of fact, these time limits can be increased by an additional two days due to a rather unique method of calculating the notification timeframes. Thus, in accordance with the amendments made to the Public Assembly Law on 30 December 2020, the day of receipt of the written notification by the public authority and the day of the public event are not included in the calculation.[1]

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[1] According to Article 7(3) of the Russian Public Assembly Law, the notification of the public event shall comprise the following information: purpose and form of the public event; place (places) or routes of the public event, and if organizers of a public event are planning to use means of transportation, information about the use of such means of transportation. In addition, the written notification may require information about the date, start and end times of the public event, the expected number

The only exception to this rigid, obligatory notification procedure is a picket held by a single participant (hereinafter single picketing). However, as practice shows, this very special type of public event, which *de jure* may be held without any advance notification, might still be subject to stringent restrictions. Most notably, the single picketing must truly represent a "one-man-demonstration," i.e. it is very important that there are no other participant(s) with placards in close proximity to the single demonstrator. The Public Assembly Law prescribes that the "minimum permissible distance" that must be maintained between persons carrying out single picketing shall be determined by the respective laws of the constituent entities (subjects) of the Russian Federation. Typically, this minimum distance may not be more than 50 meters. However, these provisions create a legal risk for the organizer of the single picketing in the sense that the law enforcement authorities may perceive this type of public event as being held without proper notification. To begin with, there is a risk of provocation, which means that all it would take is for some other participant(s) (*de facto provocateur*) with placards (or even without) to come up next to the single demonstrator, and as a result, this action could be regarded as a violation of the legal order to conduct the public event by default. According to the provisions outlined in the Code of Administrative Offences of the Russian Federation (pt. 2, Art. 20.2), the holding of a public event without a notification is punishable by an administrative fine on citizens ranging from 20,000 to 30,000 rubles, by mandatory work for a period of up to fifty hours or by an administrative arrest for a period of up to ten days. Additionally, for officials, this fine can range from 20,000 to 40,000 rubles and for legal entities, from 70,000 to 200,000 rubles. Thus, on the one hand, there is a serious risk that the organizer of a single picket could become a victim of the above-mentioned primitive form of provocation. Furthermore, there exists another risk wherein a group of "single picketing" participants, even if organized in line with the legal provisions regarding the minimum permissible distance between participants of a single picket could *a posteriori* be regarded by courts in civil, administrative or criminal proceedings as 'one collective public event' (or a disguised form of public event) that is united by a single idea and a common organization (pts. 1.1 and 1.2 of Art. 7 of the Public Assembly Law). This legal requisite could cause some

of participants in the public event; information about the organizer of the public event (such as first and last name, address, telephone number and other contact information), as well as personal information about persons who are authorized by the organizer of the public event to perform managerial functions at the public event. The most controversial provision is the legal requirement to inform public authorities about the forms and methods to be used by the organizer of the public event in order to ensure public order, the organization of medical aid and the intention to use sound-amplifying technical devices when holding the public event. Moreover, in December 2020, the Public Assembly Law was amended, and now the notification for a public event must also include information about the bank account that the organizer of the public event used to collect funds for the organization and holding of the public event if the estimated number of participants of the public event exceeds 500 people (cl. 8.1, pt. 3, Art. 7 of the PAL introduced by Federal Law No. 541-FZ of 30 December 2020).

serious negative consequences for organizers and participants of the series (group) of single picketing events under the above-mentioned provisions of the Code of Administrative Offences of the Russian Federation (pt. 2, Art. 20.2). Therefore, in our opinion, the relevant norms of the Public Assembly Law are meaningless in regard to the possibility of conducting single picketing in compliance with the provisions concerning the minimum permissible distance (50 m) between persons carrying out single picketing. Moreover, there is an obvious contradiction. On the one hand, single picketing represents the safest form of a public event because it can be carried out solely without any movement or the use of sound-amplifying technical means, and thus, it is permitted to be held without any prior notification. Single picketing as a form of public event does not pose any real threat to either public order or the security of the state; additionally, it does not pose a serious danger to health, property, or morality nor does it interfere with the freedom of movement of third parties; and therefore, once again, due to these reasons, it is exempt from notification. Finally, the most important consideration is that single picketing as a "one-man demonstration" is, first and foremost, the manifestation of one's freedom of expression and opinion, and only secondarily represents a form of freedom of assembly by a demonstrator. Nonetheless, the history of law enforcement practice shows that organizers and participants of single pickets in Russia face significant risks of incurring severe fines and penalties, which make this form of public event extremely risky to use.

According to the Public Assembly Law (pt. 1, Art. 8), a public event may be held in any convenient location that does not present a risk of building collapse or any other risks to the safety of participants. On the one hand, this provision can be seen as the practical implementation of a presumption in favor of (peaceful) assemblies. However, on the other hand, this liberal regulation was complemented in 2012 by a provision relating to so-called common spaces. This provision applies to spaces that are specially designated or adapted (hereinafter specially designated spaces) for the collective discussion of issues of public significance and the expression of public opinions, as well as for organizing mass assemblies of citizens for the expression of public opinion on issues of a socio-political nature. The list of these specially designated spaces should be determined by the executive authorities of the respective constituent entities (subjects) of the Russian Federation. It should be noted that one rather controversial issue in this context is the provision that states that after the regional executive authorities have determined the list of specially designated spaces, public events shall be held, as a rule, only in these designated places (part 1.2, Art. 8 of the PAL). Additionally, these specially designated spaces cannot be considered, for instance, as a full-fledged equivalent of "Hyde Park" for the realization of the freedom of peaceful assembly because the use of specially designated spaces for public events is possible only after going through the process of submitting prior written notification to the relevant public authorities. In this

regard, we thus observe that the Russian domestic regulation of the right to choose the location or method of organizing a public assembly is highly restrictive and overregulated. According to established international human rights standards, people have the right, in principle, to choose the location or method of holding an assembly in publicly accessible places.[2] Consequently, the public authorities have positive obligations to remove unnecessary legal and practical obstacles for the implementation of the right to freedom of assembly (for instance, to eliminate excessive bureaucratic requirements).[3]

Moreover, the federal legislator has also stipulated a list of locations where public events are either directly banned or could be restricted (part 2, Art. 8 of the PAL). For instance, it is strictly prohibited to hold all public events in any of the following areas: (a) in the immediate vicinity of hazardous production facilities or other facilities subject to special technical safety regulations; (b) on viaducts (highway-over crossings) and in the immediate proximity of railway lines (including railway stations), oil, gas or petroleum pipelines, or high-voltage electricity lines; (c) in the immediate vicinity of the residences of the President of the Russian Federation, court buildings, buildings of emergency services, locations and buildings of institutions executing punishment in the form of imprisonment (detention facilities) and (d) in the border zone, unless under permission of competent border authorities. Furthermore, there is also a special procedure regarding the realization of freedom of assembly in the city of Moscow, in particular, in the Kremlin, on Red Square and the Alexandrovsky Gardens, where any public event requires authorization by the Russian President (pt. 4, Art. 8 of the PAL). In addition, at the regional level, there is another special procedure that regulates the organization of public events in the proximity of historic or cultural monuments, which shall be determined by the regional executive authorities (part 3, Art. 8 of the PAL). Thus, the procedure for holding public events in Russia is regulated by both federal and regional laws: at the federal level, there is a *lex specialis*, namely the Public Assembly Law, which provides comprehensive legal regulation in this field. Furthermore, the constituent entities of the Russian Federation have the authority to adopt their own regional regulations, which could impose additional limitations on the freedom of assembly at the regional level.

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[2] *Szel v. Hungary*, Application No. 44357/13, 16 September 2014; *Sergey Kuznetsov v. Russia*, Application No. 10877/04, 23 October 2008; *Acik v. Turkey*, Application No. 31451/03, 13 January 2009; *Barankevich v. Russia*, Application No. 10519/03, 26 July 2007, para. 25.

[3] Guidelines on Freedom of Peaceful Assembly (3rd ed.), CDL-AD(2019)017, prepared by the European Commission for Democracy through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights, Strasbourg, Warsaw, 2019, paras. 76 & 112.

2. Freedom of Assembly in Russian Constitutional Adjudication

The content of the constitutional freedom of peaceful assembly is revealed in detail in the case law of the Constitutional Court of Russia (hereinafter the Court or CCR). The legal positions of the Constitutional Court of Russia reflect both the possibilities of exercising freedom of peaceful assembly and the current problems associated with its implementation.

Between 1993 and 2023, the Constitutional Court of Russia adopted 11 judgments (*postanovleniya*) on the implementation of the constitutional right to freedom of peaceful assembly as well as issued 52 decisions (*opredeleniya*), the majority of which were refusals to satisfy the constitutional complaints submitted by applicants to the CCR. At the same time, a number of decisions rendered by the Constitutional Court of Russia contained a conclusion about a violation of the freedom of peaceful assembly by law enforcement authorities. In this regard, we are referring to the Court's "decisions with positive content" (*opredeleniya s pozitivnym soderzhaniyem*). In total, the Constitutional Court of Russia issued four such decisions on the freedom of peaceful assembly. However, in this article, we will focus our attention mainly on examining the content of the judgments rendered by the Constitutional Court of Russia on the implementation of freedom of peaceful assembly in the Russian Federation.

2.1. The CCR and a Series of Single Pickets

On 17 May 2021, the Constitutional Court of Russia adopted a judgment[4] that was *de facto* devoted to the examination of the unconstitutionality of the legal practice of picketing. According to this ruling, a series of single pickets organized over multiple days was equated to a hidden form of one collective public event, which requires prior notification and approval from the authorized public authorities. The applicant to the CCR was environmental activist, Irina Nikiforova, who in the winter of 2020 organized a public protest against the construction of a waste burning plant in Kazan. The complainant disseminated a call to action through social media platforms, inviting people to join the public protest, which was organized in the form of a series of single daily pickets in Kazan city from 3 February to 26 February 2020. Thus, based on the initiative of Mrs. Nikiforova, a single picket was held in Kazan each

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[4] Постановление Конституционного Суда Российской Федерации от 17 мая 2021 г. № 19-П по делу о проверке конституционности части 1.1. статьи 7 Федерального закона «О собраниях, митингах, демонстрациях, шествиях и пикетированиях» и части 2 статьи 20.2 КоАП в связи с жалобой гражданки И.А. Никифоровой // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 19-P of 17 May 2021 in the case of examining the constitutionality of part 1.1, Art. 7 of the Federal Law "On Meetings, Rallies, Demonstrations, Processions and Pickets" and part 2, Article 20.2 of the Code of Administrative Offenses of the Russian Federation in connection with the complaint of citizen I.A. Nikiforova, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision534114.pdf.

day, which, according to the Federal Law on Public Events, does not require prior notification. However, despite being in compliance with the legal requirement, the applicant was prosecuted for organizing an unapproved public event under part 2, Article 20.2 of the Code of Administrative Offenses of the Russian Federation (CAO RF). This was because public authorities qualified the applicant's multi-day series of single pickets as a 'hidden form of a collective public event' that had common goals and objectives as well as the same organizer, and therefore this public event required prior notification and authorization from the relevant public authorities. As a result, the social activist, Mrs. Nikiforova, was sentenced to 30 hours of compulsory labor as an administrative punishment for organizing an unauthorized public event.

The Constitutional Court of Russia, upon examining the constitutional complaint of Mrs. Nikiforova, concluded that in order to resolve her case, the existence of key factors such as a single design and organization, a common goal, simultaneous conduct and their territorial proximity to each other were important. The Constitutional Court of Russia drew attention to the fact that in this case there was no single picketing that was done simultaneously; in fact, each picket was held on a separate day. Furthermore, the Constitutional Court of Russia declared a number of interrelated norms as unconstitutional, one of which lost its legal force by the end of December 2020 (pt. 1.1, Art. 7 of the PAL). The Constitutional Court of Russia further indicated that the Court had declined to examine the constitutionality of the new edition of part 1.1, Art. 7 of the PAL, according to which

> the totality of acts of picketing carried out by one participant, united by a single plan and common organization, including the participation of several persons in such acts of picketing in turn, can be recognized by a court decision in a concrete civil, administrative or criminal case as one public event.

Thus, the Constitutional Court of Russia arrived at a general conclusion about the unconstitutionality of the challenged provisions and the actions of law enforcement based on them. In other words, when the organizer of a series of single pickets (with no more than one single person picket held per day), was charged with the obligation to submit a prior notification of the public event, and failure to fulfill this obligation entailed bringing administrative liability against the organizer under Article 20.2 of the Code of Administrative Offenses of the Russian Federation, the Constitutional Court of the Russian Federation ruled in favor of the organizer and deemed this to be unconstitutional.[5]

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[5] *Грищенко Т.А., Ляшенко Т.Т.* Реализация права на одиночный пикет в условиях ужесточения законодательства (проблемы практики) // Современное общество и право. 2022. № 4(59). С. 41–48 [Taras A. Grishchenko & Taras T. Lyashenko, *Realization of the Right to a Single Picket in the Term of Stricter Legislation (Problems of Practice)*, 4(59) Modern Soc'y & L. (2022)]; *Саленко А.В.* Одиночный пикет в России и Германии: конституционно-правовое измерение // Вестник Тюменского государствен-

2.2. The CCR and Regional Bans of Peaceful Assemblies (Samara Case)

In another instance, the Constitutional Court of Russia, in Judgment No. 27 of 4 June 2020, analyzed several regional territorial restrictions on the freedom of assembly in various constituent entities of the Russian Federation.[6] The applicants of the complaint to the CCR were residents of the Samara region, namely Natalya Baranova, Alexander Kruglov and Damir Stalin, who were denied permission to hold a rally on 1 December 2019 on the square named after Kuibyshev in Samara. The city authorities of Samara argued their refusal by citing the fact that a school, a temple and a hospital were located in close proximity to the square (at a distance of less than 150 m). However, mass gatherings were regularly held on the same square, organized with the support of the Samara city administration and the regional government. An important aspect in this case was the fact that the Samara mayor's office simply did not approve protest actions in the city center because participants in the public event would often create obstacles to transport and other citizens who were not participating in the public event.

In the "Samara case," the Russian Constitutional Court drew attention to the inadmissibility of establishing abstract restrictions on freedom of assembly in the constituent entities of the Russian Federation without a proper analysis of valid reasons and significant circumstances. To be precise, the court emphasized that it is crucial that certain specific characteristics of a location be taken into account, which could be used as justification for establishing a regional ban on the concrete concept of public assembly. The CCR indicated that the responsibility of establishing regional bans on holding public events in a particular location lies with the legislative bodies of the constituent entities of the Russian Federation, and not the executive authorities who merely accept prior notifications of such events. Therefore, the Constitutional Court of Russia once again reached a general conclusion about the unconstitutionality of the establishment of a regional general ban on all public events (peaceful assemblies) held near military objects, educational and medical

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ного университета. Социально-экономические и правовые исследования. 2022. Т. 8. № 4(32). С. 131–144 [Alexander V. Salenko, *Single Picket in Russia and Germany: Constitutional and Legal Dimension*, 8, 4(32) Bulletin of Tyumen State University, Socio-Economic and Legal Research 131 (2022)].

6 Постановление Конституционного Суда Российской Федерации от 4 июня 2020 г. № 27-П по делу о проверке конституционности статьи 3.4.Закона Самарской области «О порядке подачи уведомления о проведении публичного мероприятия и обеспечении отдельных условий реализации прав граждан на проведение публичных мероприятий в Самарской области» в связи с жалобой граждан Н.П. Барановой, А.Г. Круглова и Д.И.Сталина // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 27-P of 4 June 2020 in the case regarding the examination of the constitutionality of Article 3.4 of the Law of the Samara Region, "On the Procedure for Filing a Notification about Holding a Public Event and Ensuring Certain Conditions for the Implementation of the Rights of Citizens to Hold Public Events in the Samara Region" in connection with a complaint from citizens N.P. Baranova, A.G. Kruglova and D.I. Stalin, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision473126.pdf.

institutions, and religious buildings in the Samara region. The main conclusion of the CCR was that such restrictions (bans) are of a general (abstract) nature because they prohibit all public events in these places without any exceptions.[7] The Constitutional Court of Russia also noted that the regional legislators went beyond the authority granted to them by the Russian Constitution and invaded the authority of the federal legislator, who is the only person authorized to establish general prohibitions regarding the implementation of the freedom of peaceful assembly in the Russian Federation. As a result of the Constitutional Court of Russia drawing attention to the need to refine the list of "federal prohibitions," regions were recommended to make proposals to the federal legislator on expanding the territorial bans in accordance with the federal law on the constitutional freedom of assembly. The CCR pointed out the significance of the use of specially designated meeting places as priority locations for public events. This last conclusion of the Constitutional Court of Russia has drawn criticism because this approach gives rise to concerns about the extent to which organizers of public events will retain the freedom and opportunity to choose the venue (location), since the law grants wide margins of discretion to the public authorities in charge of approving prior notifications and endorsing a public event. Thus, criticism was expressed in the dissenting opinion of CCR Judge Sergey Mikhailovich Kazantsev, who drew attention to the fact that the priority right to choose the location of a public event is given by the Russian Constitution, *de facto*, to its organizers. According to the opinion of Judge Kazantsev, the presence of a list of specially designated (adapted) places in the constituent entities (regions) of the Russian Federation does not mean that

> holding meetings, rallies, processions, demonstrations and pickets in other places should be conditioned by the impossibility to organize a concrete public event in specially designated (adapted) places (for example, due to occupancy of these places, or insufficiency of their capacity for the declared number of participants of the public event, or due to the lack of verifiable connection of the planned public assembly with a specific place (location), etc.).

2.3. The CCR and Regional Bans (Case of the Komi Republic)

On 1 November 2019, the Constitutional Court of Russia examined the constitutionality of regional restrictions established by the laws of the Komi Republic (a region in north-west Russia) regarding the holding of public events on "forbidden

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[7] In December 2022, the federal law on public assemblies was supplemented with additional bans; it was thus prohibited to hold public events near educational and medical institutions, religious objects, public authorities, transport and infrastructure facilities. *See* Путин подписал закон о запрете митингов у школ, больниц и вокзалов // Ведомости. 5 декабря 2022 г. [Putin signed a law banning rallies near schools, hospitals and stations, Vedomosti, 5 December 2022] (Dec. 5, 2023), available at https://www.vedomosti.ru/politics/news/2022/12/05/953821-putin-podpisal-zakon-zaprete-mitingov-shkol.

territories."[8] In particular, the judges of the Russian Constitutional Court declared unconstitutional the contested provisions of the law of the Komi Republic, which prohibited the holding of public events on the territory within a radius of 50 meters from the buildings of republican and municipal authorities and on the main square of the city of Syktyvkar (Stefanovskaya Square). Furthermore, the CCR, citing the legal positions of the European Court of Human Rights (Case of *Kablis v. Russia* (Complaints No. 48310/16 and 59663/17) of 30 April 2019), pointed out that abstract prohibitions do not meet the criteria of proportionality and the necessity of imposing restrictions on human rights and freedoms..

Among other things, the Constitutional Court of Russia indicated that regional legislators, by introducing additional restrictions on freedom of assembly, had gone beyond their authority. In the words of the Court:

> subjects (regions) of the Russian Federation must avoid intrusion into the sector of federal jurisdiction and are not authorized to implement into legislation procedures and conditions that distort the very essence of certain constitutional rights, reduce the level of their basic guarantees enshrined in the Constitution of the Russian Federation and federal laws, as well as independently, outside the framework established by federal laws, introduce any restrictions on constitutional rights and freedoms, since such – within the purposes and limits determined by the Constitution of the Russian Federation – may be established only by the federal legislator.[9]

The Constitutional Court of Russia obliged other subjects of the federation, which continue to incorporate abstract prohibitions of a general nature in their legislation, to make changes that would allow them to take into account during the approval process the specific characteristics of any public event. These characteristics would include the goals; type and nature of the event; the number of participants; the date and time of the public event; an assessment of the degree of potential threats to rights and human freedoms, legality, law and order and overall public safety; the provision of emergency medical services, transportation, social infrastructure and communications; the ease of access for pedestrians and vehicles; and the access of citizens to residential premises, transport or social infrastructure.

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[8] Постановление Конституционного Суда Российской Федерации от 1 ноября 2019 г. № 33-П по делу о проверке конституционности пунктов 1 и 6 статьи 5 Закона Республики Коми «О некоторых вопросах проведения публичных мероприятий в Республике Коми» в связи с жалобами граждан М.С.Седовой и В.П.Терешонковой // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 33-P of 1 November 2019 in the case of verifying the constitutionality of paragraphs 1 and 6 of Article 5 of the Law of the Komi Republic, "On Some Issues of Holding Public Events in the Komi Republic" in connection with complaints from citizens, M.S. Sedova and V.P. Tereshonkova, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision435741.pdf.

[9] *See* para. 3, pp. 17–18 of the Judgment of the CCR No. 33-P of 1 November 2019.

2.4. The CCR – Freedom of Assembly – Positive Obligations (Teterin Case)

In 2019, the Constitutional Court of Russia interpreted the rules stipulating that "the organizer of a public event has the obligation to ensure, within its competence, public order and the safety of citizens during a public event." Additionally, the legislation now obliges the organizer to indicate in the prior notification regarding a planned public event the forms and methods of ensuring public order and providing medical care during the public event (public assembly).[10] It is frequently observed in widespread practice that these norms provide law enforcement officers with wide margins of discretion when approving public events and, *de facto*, allow them to refuse approval under the pretext of insufficient measures to ensure public order or medical care. This was exactly the case that occurred in Irkutsk, where the city administration refused to grant approval to citizen V.A. Teterin, the applicant to the CCR, for a meeting planned for 9 September 2018 with an expected number of participants of 350 people. The refusal of the local authorities to approve the meeting was based on the fact that the organizer of the rally, in his notification, had indicated only the telephone numbers of the police and ambulance as the forms and methods of ensuring public order and organizing medical care. This, in the opinion of representatives of the Irkutsk city administration, did not meet the requirements for maintaining security and law and order at a planned public event. As a result, the city's administrative authorities concluded that the notification did not comply with the requirements of the Federal Law, and therefore approval of the public event was impossible.

In its judgment in the Teterin case, the CCR noted that the provisions of the Federal Law on Public Events (PAL), which obligate the organizer of a public event to submit a prior notification, have repeatedly been the object of constitutional control. The Constitutional Court of Russia has repeatedly stated in its decisions that the notification procedure for the holding of a public event (peaceful assemblies) is primarily aimed at informing public authorities in advance about the form, location (route), the start and end time of the public event, the expected number of participants, the methods of ensuring public order and organization medical care, as well as relevant information about the organizers and persons authorized to perform administrative functions in the organizing and holding of the public event. By using the notification procedure, public authorities can obtain reliable information with regard to the planned public event, namely its nature and size. This in turn provides authorities with the opportunity

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[10] Постановление Конституционного Суда Российской Федерации от 18 июня 2019 г. № 24-П по делу о проверке конституционности положений пункта 5 части 4 статьи 5 и пункта 6 части 3 статьи 7 Федерального закона «О собраниях, митингах, демонстрациях, шествиях и пикетированиях» в связи с жалобой гражданина В.А.Тетерина // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 24-P of 18 June 2019 in the case on the examination of the constitutionality of the provisions of paragraph 5 of part 4, Article 5 and paragraph 6 of part 3, Article 7 of the Federal Law, "On Meetings, Rallies, Demonstrations, Processions and Pickets" in connection with the complaint of citizen V.A. Teterin, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision408656.pdf.

to fulfill the obligation assigned to them by Article 2 of the Constitution of the Russian Federation, which is to uphold and protect the rights and freedoms of individuals and citizens and ensure the safety of both the participants of the public event and other persons during the public event. Thus, the Russian Constitutional Court concluded that in a democratic state governed by the rule of law, the public authorities must bear the primary burden of the responsibility of assisting citizens in the lawful implementation of the constitutionally guaranteed freedom of peaceful assembly, including the obligation to ensure public order and medical care. This conclusion follows from Article 18 of the Constitution of the Russian Federation, according to which the meaning, content and application of the laws and the activities of legislative and executive power, local self-government and justice are determined primarily by the constitutional rights and freedoms of individuals and citizens. Thus, in 2019, the Constitutional Court of Russia, on the one hand, based on its repeatedly expressed legal positions, and, on the other hand, based on international standards of the right to freedom of peaceful assembly, concluded that in the Russian Federation, it is the public authorities who are obliged to bear the main burden of responsibility for assisting citizens in the lawful implementation of the constitutionally guaranteed right to freedom of assembly, including in relation to ensuring public order and organizing medical care.

2.5. The CCR – Freedom of Assembly – Members of Parliament – Voters

In its judgment dated 10 November 2017, the Constitutional Court of Russia *de facto* equated the meetings held between members of parliament (deputies) and voters with public events.[11] The applicants to the CCR in this case were a group of State Duma deputies (members of parliament, referred to as MPs), or more precisely, 104 MPs from three political parties – the Communist Party of the Russian Federation, the Liberal Democratic Party of Russia and Fair Russia. In their complaint, the deputies asked the Constitutional Court of Russia to examine the constitutionality of the amendments to the Federal Law on Peaceful Assemblies (PAL) that came into force, according to which restrictions on meetings of deputies (members of parliament) with voters came into force in June 2017. According to these amendments, meetings with deputies (MPs) of all levels are permitted to be held without prior notification only in indoor premises and specially designated courtyard areas, under the precondition

[11] Постановление Конституционного Суда Российской Федерации от 10 ноября 2017 г. № 27-П по делу о проверке конституционности положений ФЗ «О внесении изменений в отдельные законодательные акты РФ в части совершенствования законодательства о публичных мероприятиях» в связи с запросом группы депутатов Государственной Думы // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 27-P of 10 November 2017 in the case on the examination of the constitutionality of the provisions of the Federal Law "On Amendments to Certain Legislative Acts of the Russian Federation in Terms of Improving the Legislation on Public Events" in connection with a request from a group of MPs (deputies) of the State Duma, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision299441.pdf.

that the holding of the meeting does not entail disruption of the functioning of life support facilities, transportation or social infrastructure and communications. Under all other circumstances, a deputy (MP) of the elected public authority (parliament or representative body), when organizing meetings with voters, is obliged to submit a prior notification of a public event no earlier than ten days and no later than five days before the day of the public event.

The judgment of the Constitutional Court of Russia in the above case of meetings of deputies (MPs) is essentially a commentary on the norms of Federal Law No. 107-FZ of 7 June 2017, "On Amendments to Certain Legislative Acts of the Russian Federation in Terms of Improving the Legislation on Public Events." This amendment has only complicated the procedure of holding meetings between deputies and voters. The CCR concluded that the above-mentioned law is constitutional; however, the Court gave several clarifications. Firstly, the CCR recognized as constitutional the duty of deputies (MPs) of all levels to either coordinate or terminate their meetings with voters if they turn into a public event. Secondly, coordination of meetings of deputies with voters is not required if such a meeting is held in a specially designated place or indoors. Thirdly, the CCR noted that the executive authorities of the constituent entities (subjects) of the Russian Federation as well as local governments are responsible for determining specially designated places for the holding of meetings of deputies (MPs) with voters as well as for providing a list of such premises in each settlement. The Constitutional Court of Russia also pointed out that the provision and use of these specially designated places (premises) should be made "without charging fees on a first-come basis by applying for it but taking into account the possibility of establishing a priority-based principle on the deputy's (MP's) level to a higher level of public authority, however not determined by the MP's belonging to a political party or his or her political views".

2.6. The CCR – Freedom of Assembly – Single Picket (Belgorod Case)

In its judgment dated 17 March 2017, the Constitutional Court of Russia considered the issue of the constitutionality and proportionality of the forced termination of a public event, which in this case was a single picket.[12] The applicant was a Russian citizen, Mr. Sergienko, who on 1 May 2015 held a single picket in Belgorod. Half an hour after the start of the single picket, the applicant was detained and taken to the police department, where a report on his actions was drawn up. Subsequently, around an hour later, Mr. Sergienko was released, reportedly without a report having been filed on the administrative offense. The police officers cited paragraph 13 of part 1, Article 13

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[12] Постановление Конституционного Суда Российской Федерации от 17 марта 2017 г. № 8-П по делу о проверке конституционности положения п. 13 ч. 1 ст. 13 ФЗ «О полиции» в связи с жалобой гражданина В.И. Сергиенко // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 8-P of 17 March 2017 in the case on the examination the constitutionality of provisions of clause 13, part 1, Article 13 of the Federal Law "On Police" in connection with the complaint of citizen V.I. Sergienko, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision265321.pdf.

of the Federal Law "On Police," as the basis for the detention of Mr. Sergienko. This law allows the police to forcibly take citizens into custody and bring them to a police station if they believe there is an urgent threat to their life or health or if citizens are incapable of caring for themselves and no other solution is possible.[13] Thus, in this particular case, the Constitutional Court of Russia carefully assessed the constitutionality of the forced termination of the single picket given the fact that the (single) picketing person could potentially provoke illegal actions against him or her by other persons who do not share his or her views, thereby creating a security threat.

The Constitutional Court of Russia deemed the provisions of paragraph 13 of part 1, Article 13 of the Federal Law "On Police" as constitutional, but emphasized the mandatory conditions under which the forced termination of a public event in the form of a single picket should be allowed. Firstly, the threat to the life and health of a citizen forcibly delivered to the police station must be real and not hypothetical. In other words, the threat must be expressed as a high risk of harm to life and health, either as a direct result of the picketing person's own actions or the actions of other persons at the event or as the result of natural, technological or other factors. Secondly, there must be no objectively possible way to prevent the threat or react to it by any other actions other than ending the single picketing. Thus, this judgment of the CCR concerns the use of increased security measures, in situations where the forced delivery of a citizen to the police is the only way to avoid harm to the life and health of the person engaged in single picketing. The CCR also indicated that in the event that a single picket is terminated, the forced delivery should be carried out in the quickest possible way, and if, after drawing up a protocol on the forced delivery, the grounds for this measure no longer exist, the citizen must be immediately released.

Thus, the main conclusion of the CCR in this case was that the forced termination of public events and the forced delivery of citizens conducting a single picket should be permissible only in exceptional cases. Otherwise, such police actions, carried out in the obvious absence of the above-mentioned mandatory grounds, should always be regarded as unlawful restrictions on the constitutional right to freedom and personal integrity as well as the right to freedom of peaceful assembly. Moreover, such illegal actions should entail criminal liability for exceeding the official powers (as per Art. 286 of the Criminal Code of the Russian Federation). In essence, the Constitutional Court of Russia drew attention to the persistent practice of law enforcement agencies failing to fulfill their positive obligations of protecting peaceful assemblies from the aggressive actions of third parties and instead subjecting innocent citizens to forced delivery and detention by the police in order to draw up a protocol for an administrative offense or even a crime.

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[13] Федеральный закон от 7 февраля 2011 г. № 3-ФЗ «О полиции» // СПС «КонсультантПлюс» [Federal Law No. 3-FZ of 7 February 2011. On Police, SPS "ConsultantPlus"] (Dec. 5, 2023), available at https://www.consultant.ru/document/cons_doc_LAW_110165/.

2.7. The CCR – Freedom of Peaceful Assembly and Criminal Liability

In a judgment dated 10 February 2017, the CCR assessed the constitutionality of Article 212.1 of the Criminal Code of the Russian Federation, which provides grounds for criminal liability for repeated violations of the procedure for organizing or holding public events.[14] This criminal offense is punishable by any one or more of the following punishments: a fine in an amount ranging from 600,000 to 1,000,000 rubles or an amount equivalent to two to three of the convicted person's wages or any other income, by doing compulsory labor for a period of up to four hundred eighty hours, by corrective labor for a period of one to two years, forced labor for up to five years, or by imprisonment for the same period. The above judgment of the CCR has been unofficially referred to as the Dadin case after the activist I.I. Dadin, against whom the legal action was filed, and concerned the assessment of the constitutionality of a criminal offense involving administrative prejudice. One of the peculiarities of the legal norm of Article 212.1 of the Russian Criminal Code is that this norm assumes the admissibility of converting three similar administrative offenses into a criminal offense. Legislators at the federal level have created a "formula of criminal liability" for violations of the protocol governing the organization and holding of public events. According to this formula, a person is subject to criminal liability for repeated violations of the legal procedure for organizing or holding public events if the person has previously been brought to administrative responsibility for more than twice within the last 180 days for committing offenses outlined under Article 20.2 of the Code of Administrative Offenses of the Russian Federation. Thus, the Russian legislator has defined a single criterion as the basis of criminal liability under Article 212.1 of the Criminal Code of the Russian Federation: duplicity, i.e. repetition of an act (more than three times) that constitutes an administrative offense under Article 20.2 of the Code of Administrative Offences.

Article 212.1 of the Criminal Code of the Russian Federation, which was adopted in July 2014, has established the conditions for bringing citizens to criminal liability for formal violations of the procedure of organizing or holding public events of a peaceful nature. However, such liability is contingent only upon the repetition of these administrative violations. The provisions of Article 212.1 of the Criminal Code of the Russian Federation made it possible to impose criminal punishment on a person in the form of imprisonment for actions that did not cause any harm to human health or property and did not create any threat to public security. Furthermore, this norm failed to suggest a differentiated approach to the assignment of criminal punishment in accordance with the degree of social danger of the committed act and its negative consequences.

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[14] Постановление Конституционного Суда Российской Федерации от 10 февраля 2017 г. № 2-П по делу о проверке конституционности положений статьи 212.1 УК РФ в связи с жалобой гражданина И.И. Дадина // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 2-P of 10 February 2017 in the case on the examination of the constitutionality of provisions of Article 212.1 of the Criminal Code of the Russian Federation in connection with the complaint of citizen Dadin, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision261462.pdf.

Thus, the final determination in the judgment of the CCR on the Dadin case was that Article 212.1 of the Criminal Code of the Russian Federation is constitutional, and in exceptional cases, crimes with administrative prejudice are permissible. Specifically, in the presence of a constitutionally significant reason, the criminalization of individual "actions (inactions) may be allowed, which, while remaining in the normative basis of administrative offenses, in the nature and degree of public danger approach to criminal offenses and, under certain conditions, are capable of causing serious harm to social relations placed under the protection of criminal law." At the same time, the Constitutional Court of Russia drew attention to the shortcomings of the current criminal law regulation, which is indiscriminate in nature, since there are no clear criteria for criminal prosecution that are based on the severity of administrative offenses and their consequences. Thus, according to the final ruling of the CCR, criminal prosecution under Article 212.1 of the Russian Federation's Criminal Code is only permissible in cases where a violation of the protocol for the organizing or holding of a public event has caused or constitutes a real risk of harm to the environment, public order and security, the health and property of individuals or legal entities, or other protected values. Thus, this judgment of the CCR in the Dadin case represents *de facto* a detailed legal interpretation of Article 212.1 of the Criminal Code of the Russian Federation (the court's decision comprised a total volume of 43 pages).

2.8. The CCR – Freedom of Assembly and Public Holidays

In May 2014, the CCR rendered a judgment related to issues concerning the procedure for submitting a prior notification about a public event. The Constitutional Court of Russia examined the problem of the impossibility of submitting a notification within the prescribed period, when this period fell entirely on non-working days.[15] The applicant of the constitutional complaint in this case was A.N. Yakimov, who wanted to organize a procession in St. Petersburg on 19 January 2012. However, the Committee on Legality, Public Order and Security of the Government of St. Petersburg refused to approve the public event, citing the fact that the notification for the event, submitted on 10 January 2012, was clearly in violation of the established deadline (of no earlier than fifteen days and no later than ten days before the day of the planned public event). The applicant indicated in his complaint to the CCR that he was not able to submit a prior notification within the period established by law because the dates fell on public holidays (31 December 2011 to 9 January 2012).

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[15] Постановление Конституционного Суда Российской Федерации от 13 мая 2014 г. № 14-П по делу о проверке конституционности части 1 статьи 7 Федерального закона «О собраниях, митингах, демонстрациях, шествиях и пикетированиях» в связи с жалобой гражданина А.Н.Якимова // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 14-P of 13 May 2014 in the case on examination of the constitutionality of provisions in part 1, Article 7 of the Federal Law "On Meetings, Rallies, Demonstrations, Processions and Picketing" in connection with the complaint of citizen A.N. Yakimov, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision160846.pdf.

The CCR concluded that part 1, Article 7 of the Federal Law on Assemblies, which regulates the timing for the prior notification, does not comply with the Constitution of the Russian Federation, to the extent that the provisions contained therein – in the meaning given to them by law enforcement practice – do not provide the possibility to submit a notice of a public event when the deadline for submitting a prior notice, as determined by the general rule, coincides with non-working public holidays. As a result, this legal norm has been amended to clarify that if the deadline for submitting a prior notification of a public event completely coincides with non-working public holidays, the notification can be submitted on the last working day preceding the non-working public holidays.

2.9. The CCR and the Reform of the Public Assembly Law

The judgment of the Constitutional Court of Russia dated 14 February 2013 is recognized as the one of the most significant rulings on issues regarding the freedom of peaceful assembly; specifically, this judgment concerned issues related to the reform of the public assembly law in Russia, which took place in June 2012.[16] The applicants, in essence, challenged the constitutionality of the reform of the Public Assembly Law in Russia and questioned the constitutionality of the procedure in adopting this Federal Law. The applicants claimed that the legal procedure was violated by failing to submit the draft of the said Federal Law to the legislative and highest executive bodies of the constituent entities of the Russian Federation, as well as by going against the procedure for enacting laws in the State Duma of Russia. Thus, the primary issue revolved around the question of the procedural constitutionality of the contested provisions: if the Constitutional Court of Russia concluded that the contested Federal Law was adopted in violation of legislative procedures, then there would be no need to verify the constitutionality of the content of the contested legal provisions.

However, the Constitutional Court of Russia *de facto* refused to examine the constitutionality of the procedure involved in adopting a set of legal norms reforming the Public Assembly Law and instead initiated an examination of the constitutionality of the contested norms based on their merits. The CCR concluded that the procedure for applying civil liability in which the organizer of a public event could be held liable for harm caused by participants in the public event, regardless of whether

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16 Постановление Конституционного Суда Российской Федерации от 14 февраля 2013 г. № 4-П по делу о проверке конституционности ФЗ от 08.06.2012 г. № 65-ФЗ «О внесении изменений в Кодекс РФ об административных правонарушениях и Федерального закона «О собраниях, митингах, демонстрациях, шествиях и пикетированиях» в связи с запросом группы депутатов Государственной Думы и жалобой гражданина Э.В. Савенко // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 4-P of 14 February 2013 in the case on the examination of the constitutionality of provisions of the Federal Law No. 65-FZ of 8 June 2012 "On Amendments to the Code of the Russian Federation on Administrative Offenses and the Federal Law on Meetings, Rallies, Demonstrations, Processions and Picketing" in connection with a request from a group of State Duma deputies and a complaint from citizen E.V. Savenko, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision131666.pdf.

the organizer exercised due care for maintaining the public order or was at fault for causing such harm, was not in compliance with the Constitution of the Russian Federation. In addition, the CCR recognized the procedure as inconsistent with the constitutional requirements for certainty, clarity and unambiguity of the legal regulation on the issue of the right of public authorities in the subjects of the Russian Federation to determine specially designated or adapted places for holding public events. The Constitutional Court of Russia also declared unconstitutional the legal provisions regarding the minimum level of fines. These provisions did not allow for the imposition of an administrative penalty below the lowest limit for an administrative sanction, nor did they allow taking into account the nature of the offense committed, the property status of the offender, or any other relevant circumstances of the case that were significant for the individualization of administrative responsibility, and thereby ensure the imposition of a fair and proportionate punishment (proportionality principle). Lastly, the provisions pertaining to the imposition of compulsory labor for violating the procedure for organizing and holding public events were also declared unconstitutional. The CCR clarified that this type of punishment can be applied only when administrative offenses entailed harm to the health of citizens or the property of individuals or legal entities or resulted in the occurrence of other similar consequences. The remaining claims of the applicants were rejected.

2.10. The CCR – Freedom of Peaceful Assembly and Religion

In its judgment No. 30-P of 5 December 2013, the Constitutional Court of Russi considered issues related to the relationship between the freedom of assembly and the freedom of religion. The case was brought to consideration as a result of a complaint from the Ombudsman for Human Rights of the Russian Federation, who challenged the constitutionality of the procedure established by law for holding public religious services and other religious ceremonies, according to which a prior notification is required when holding such types of public religious events.[17] The subject of the dispute was whether it was necessary to submit a prior notification for a religious event (worship) held on indoor premises. Organizers of religious services were frequently held liable for failure to provide prior notification of public events, namely religious services organized on indoor premises. The importance of this judgment of the CCR stems from the fact that

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[17] Постановление Конституционного Суда Российской Федерации от 5 декабря 2012 г. № 30-П по делу о проверке конституционности положений пункта 5 статьи 16 ФЗ «О свободе совести и о религиозных объединениях» и пункта 5 статьи 19 Закона Республики Татарстан «О свободе совести и о религиозных объединениях» в связи с жалобой Уполномоченного по правам человека в РФ // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 30-P of 5 December 2012 in the case on the examination of the constitutionality of provisions, paragraph 5 of Article 16 of the Federal Law, "On Freedom of Conscience and on Religious Associations" and paragraph 5 of Article 19 of the Law of the Republic of Tatarstan, "On Freedom of Conscience and on Religious Associations" in connection with the complaint of the Ombudsman (Commissioner) for Human Rights in the Russian Federation, the official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision117951.pdf.

the Court assessed the features of the implementation of the freedom of peaceful assembly in conjunction with freedom of religion (freedom of conscience), as well as the features of holding public events in the open air and indoors. There were two main points in the case. Firstly, the issue pertained to the constitutionality of a broad interpretation of the Federal Law on Public Assemblies, namely extending it to include indoor public events in addition to open-air meetings. Secondly, a notable aspect in this case was that the CCR verified the constitutionality of the rules according to which, when organizing public worship services outside religious buildings, the organizer is obliged to submit a prior notification about the holding of a public event. The Constitutional Court of Russia recognized the contested legal provisions as constitutional to the extent that they provide, as a general rule, a notification procedure for the holding of public religious events outside religious buildings. On the other hand, the Constitutional Court of Russia recognized the same provisions as unconstitutional to the extent that the contested legal provisions do not take into account the differences between those of prayer and those of religious meetings. The former may require public authorities to take measures aimed at ensuring public order and the safety of the participants themselves at the religious event, as well as other citizens, but the latter is not associated with such a need. The Constitutional Court of Russia thus concluded that the contested legal norm may be flawed, but it is still constitutional. Furthermore, the CCR suggested that the legislators establish legal regulations governing the notification procedure for the holding of public services in places outside of specifically designated religious buildings. This case actually pointed out a gap in the law concerning the legal regulation of meetings in closed spaces (indoor public events), as well as brought attention to determining the need or degree of government intervention (prior notification) when organizing public events of a religious nature in closed spaces (i.e. indoor religious events) other than traditional religious buildings.

2.11. The CCR – Freedom of Assembly and Number of Demonstrators

The first judgment based on Article 31 of the Constitution of the Russian Federation was rendered by the Constitutional Court of Russia on 18 May 2012, when it considered the issue of liability imposed on the organizer of an event for the discrepancy between the actual and expected number of participants at a public event.[18] The reason for

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[18] Постановление Конституционного Суда Российской Федерации от 18 мая 2012 г. № 12-П по делу о проверке конституционности положений части 2 статьи 20.2 КоАП РФ, пункта 3 части 4 статьи 5 и пункта 5 части 3 статьи 7 ФЗ «О собраниях, митингах, демонстрациях, шествиях и пикетированиях» в связи с жалобой гражданина С.А. Каткова // Официальный сайт КС России [Judgment of the Constitutional Court of Russia No. 12-P of 18 May 2012 in the case on the examination of the constitutionality of the provisions in part 2, Article 20.2 of the Code of Administrative Offenses of the Russian Federation, clause 3, part 4 of Article 5 and clause 5, part 3 of Article 7 of the Federal Law, "On Meetings, Rallies, Demonstrations, Processions and Picketing" in connection with the complaint of citizen S.A. Katkov, The official website of the Constitutional Court of Russia] (Dec. 5, 2023), available at http://doc.ksrf.ru/decision/KSRFDecision99303.pdf.

considering the case was a complaint from citizen S.A. Katkov, who was issued an administrative penalty in the form of a fine of 1,000 rubles for committing an offense under part 2, Article 20.2 of the Code of Administrative Offences. The applicant had been fined for allowing 300 people to take part in a procession in Tula on 4 November 2010; however, the notification for the public event indicated a number of 150 people. In this case, the Constitutional Court of Russia *de facto* considered the issue of the constitutionality of law enforcement practice since the contested legal provisions did not oblige organizers to be fined for formally exceeding the declared number of participants in the public event. The CCR concluded that the contested norms in this case, in general, complied with the Constitution of the Russian Federation. However, the Court limited the discretion of public authorities and indicated that the only circumstances in which the organizer of an event can be held legally responsible for a discrepancy between the declared and actual number of participants in an event are those in which the organizer's actions created a genuine threat to public order and safety, the safety of attendees, as well as the safety of those who did not participate and additionally caused property damage. Thus, according to the Court's position, it is unacceptable to impose a fine simply for exceeding the officially permitted number of participants in an event.

Conclusion

The constitutional jurisprudence on issues of the freedom of peaceful assembly includes 11 judgments (*postanovleniya*) and 52 decisions (*opredeleniya*) of the Constitutional Court of Russia.[19] Moreover, there are a significant number of decisions rendered on this issue by the Russian courts with broad jurisdiction over administrative cases. It would be justified to draw the general conclusion that in the modern Russian Federation, the Public Assembly Law is in the stage of active formation and development. The constitutional right to the freedom of peaceful assembly is the basis of the Public Assembly Law, a unique constitutional legal institution that unites normative legal acts regulating the implementation of the constitutional right to the freedom of peaceful assembly. In Russia, the freedom of peaceful assembly is regulated, on the one hand, by the norms of federal law and, on the other hand, by the norms of regional laws on freedom of peaceful assembly in each subject of the Russian Federation. The legal regulation of the freedom of peaceful assembly is based on Article 31 of the Constitution of the Russian Federation. The implementation of this constitutional norm is specified in Federal Law No. 54-FZ of 19 June 2004, "On Meetings, Rallies, Demonstrations, Processions and Picketing." Furthermore, in each of the 85 federal subjects of the Russian Federation, the regional legislator adopts its

[19] Конституционный Суд России: осмысление опыта / Медушевский А.Н., Гриценко Е.В., Кененова И.П. [и др.] [Andrei N. Medushevskii et al., *Constitutional Court of Russia: Understanding the Experience*] 645 (2022).

own regional laws on the procedure for holding peaceful assemblies on the territory of that subject of the federation. At the level of federal legislation, the provisions of the Criminal Code of the Russian Federation and the Code of Administrative Offenses of the Russian Federation regulate liability for offenses committed during the planning and conduct of peaceful assemblies.

At the same time, an important foundation for the constitutional freedom of peaceful assembly is international law, which provides the standards to be incorporated within the domestic legal system. The standards necessary for the freedom of peaceful assembly are enshrined in the Universal Declaration of Human Rights (Art. 20), according to which every person has the right to the freedom of peaceful assembly. The right to freedom of peaceful assembly is also enshrined in the International Covenant on Civil and Political Rights (Art. 21) and in the U.N. Convention on the Rights of the Child (Art. 15), which establishes that states have to recognize the rights of the child to freedom of peaceful assembly. In addition, the International Convention on the Elimination of All Forms of Racial Discrimination (Art. 5) requires member states to prohibit and eliminate racial discrimination in all its forms, including when exercising the right to freedom of peaceful assembly and association. It should also be noted that the Convention on the Elimination of All Forms of Discrimination against Women, in several of its provisions (Preamble and Arts. 1, 2 and 3) indicates the obligation of states parties to pursue policies to eliminate discrimination against women, including ensuring their equality in political activity. These international standards for the freedom of peaceful assembly complement the regional treaties on the protection of human rights and freedoms. Prominent among these are the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Art. 11), which had legally binding force for the Russian Federation in the period from 5 May 1998 until 16 March 2022 (due to the position of the ECtHR – until 16 September 2022) and the jurisprudence (case law) of the ECtHR.[20] The European Court of Human Rights has adopted several hundred judgments and decisions with regard to the Russian Federation that relate to the implementation of the freedom of peaceful assembly in the Russian domestic legal system. The end of Russia's membership in the Council of Europe and its withdrawal from the jurisdiction of the European Court of Human Rights does not mean that Russia has renounced the generally accepted principles and norms of international law. The international standards of freedom of peaceful assembly, formed within the framework of the United Nations, as well as the Strasbourg principles of International Human Rights, formulated between 1996 and 2022, have retained and will continue to retain their importance for the legal system of the Russian Federation. It is also important to note that the law of the Council of Europe in relation to the Russian Federation is undergoing a transformation process as a result of current events. In particular, the Strasbourg case

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[20] *Нуссбергер А.* Европа, твои права человека // Международное правосудие. 2020. № 3(35). С. 3–19 [Angelika Nußberger, *Europe, Your Human Rights*, 3(35) Int'l Just. 3 (2020)].

law, as a source of law in the form of international treaties concluded within the Council of Europe, as well as judicial law in the form of decisions of the European Court of Human Rights, is being transformed into a scientific resource, which, without a doubt, will be studied by international and public law (primarily constitutional law) sciences. In our opinion, the Strasbourg case law as it relates to the Russian Federation during the period of its membership in the Council of Europe will continue to remain the focus of systematization and scientific legal analysis.

Thus, in the Russian Federation, the Public Assembly Law has been formed as a legal complex that can be conditionally qualified as a subsystem of public law. The Public Assembly Law, which has developed on the basis of international and constitutional standards, is an important element in the structure of Russian constitutional law and influences other branches of domestic law: administrative, criminal, electoral, municipal and police law. Russia is taking steps towards the ascent to law, having reached the stage of the development of positive law, in which there is a transformation from the law of the state to "the law of civil society, which most fully embodies humanitarian values and ideals."[21]

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