

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

23 April 2021 EUR 46/4027/2021

# RUSSIA: ACTIVISTS DETAINED UNDER ABSURD “SANITARY” CHARGES FOR SOCIAL MEDIA POSTS IN SUPPORT OF PUBLIC PROTEST

On Saturday, 23 January 2021, protest rallies against the arbitrary arrest and unfounded, politically motivated prosecution of Aleksei Navalny, a prominent anti-corruption activist and Vladimir Putin’s critic, erupted across Russia and continued for 10 days. Authorities described the protests as “illegal”, citing the country’s unduly restrictive legislation on assemblies,<sup>1</sup> and responded by prosecuting individuals they perceived responsible for encouraging the protests. The Investigative Committee arrested 12 prominent activists in Moscow and Nizhny Novgorod. The Committee claimed the activists had violated COVID-19 related sanitary rules simply for calling for the protests, which in their view amounted to a crime. Russian authorities must stop denying and violating the rights to freedom of peaceful assembly and expression, and must not use COVID-19 related restrictions to jail and silence their critics. All those detained solely for calling for, organizing, or participating in peaceful protests must be immediately released.

## 23 JANUARY RALLIES

The biggest protest took place in Moscow, starting at around 14:00 local time in the city’s central Pushkinskaya Square. Authorities, who often downplay the numbers and significance of protests, estimated a turnout of 4,000 participants while Reuters gave a figure of approximately 40,000.

Thousands of law enforcement officers policed the rally. The assembly started peacefully and remained overwhelmingly peaceful, except when riot police moved in to stop it and used unnecessary and excessive force to arrest and disperse protesters. Amnesty International representatives on the ground witnessed law enforcement personnel beat peaceful, non-resisting protesters with fists and batons, including deliberately hitting vital organs such as kidneys. Some protesters, a clear minority, engaged in clashes with the police. There have been no reports of serious injuries among law enforcement officers.

According to police watchdog OVD-info, more than 1,500 people were arrested in Moscow in connection with the 23 January protest, the highest single-day toll in decades.<sup>2</sup> The protesters were initially loaded into police buses, usually 10 to 20 per vehicle without allowing people to keep physical distance to prevent COVID-19 transmission, and then transferred to police stations where they were held in overcrowded small, cold cells. The police failed to provide drinking water or food, and in at least some stations police confiscated detainees’ coats (alleging that these could be used to commit suicide). Detainees were kept in these conditions for up to 48 hours and sometimes even longer. These conditions of detention violate Russian and international norms, threaten the health and safety of detainees and may amount to cruel, inhuman or degrading treatment.

Similar, albeit smaller, protests occurred in Moscow in subsequent days, and on 23 January also a protest took place in Nizhny Novgorod (a major city 400 km east of Moscow). Media reported that several thousand participants peacefully marched through the city center despite police attempts to stop the demonstration. Police arrested at least 91 protesters, including human rights defenders who were monitoring the protest. Another protest took place in Nizhny Novgorod on 31 January, when more than 200 peaceful protesters were arrested.<sup>3</sup>

---

<sup>1</sup> Russian law requires that authorities be formally notified of any marches and demonstrations at least 10 days in advance and gives them multiple pretexts for banning the gatherings. As Aleksei Navalny had only been arrested on 17 January, the protesters did not have time to submit such a notification.

<sup>2</sup> <https://ovdinfo.org/news/2021/01/23/spisok-zaderzhannyh-na-akciyah-v-podderzhku-alekseya-navalnogo-23-yanvarya-2021-goda>

<sup>3</sup> <https://ovdinfo.org/news/2021/01/31/spisok-zaderzhannyh-na-akcii-v-podderzhku-alekseya-navalnogo-31-yanvarya-2021-goda>

## “SANITARY CASE”

Within hours after the end of the 23 January protest, Moscow police opened criminal proceedings in connection with an alleged crime under Article 236(1) of the Criminal Code of “violation of sanitary and epidemiological rules, which inadvertently entailed a mass illness or poisoning of people or created a threat of such consequences,” which carries a penalty of up to two years’ imprisonment. A week later, this criminal case popularly known as the “Sanitary Case”, was handed over by the police to the Investigative Committee, a stand-alone government agency that investigates serious crimes.

Amnesty International has seen relevant documents issued by senior officials of the Moscow police, the Investigative Committee and the Office of the Prosecutor General. According to one of them, part of which was published by lawyer Sergei Badamshin,<sup>4</sup> certain “unknown” individuals posted information on their social media which called on “an unlimited circle of people to take part in an unauthorised action on 23 January 2021 ... in full understanding of the social danger, and in violation of sanitary rules ... which could entail mass spread of disease”. The document states that “no fewer than 500 individuals”, including at least seven of those who should have been self-isolating due to COVID-19 restrictions, gathered in central Moscow in violation of local sanitary regulations.

Another official document seen by Amnesty International claims that protesters “did not keep social distance or wear masks” and explains that an outbreak of disease was averted due to “coordinated actions of law enforcement personnel that prevented close contact between present citizens”. These assertions contradict facts observed by Amnesty International on the ground. The criminal investigation concludes that, by publishing social media posts calling for public protests, the individual in question “committed incitement” to crime under Article 236(1).

Within days, ten individuals were arrested in connection with this investigation: Aleksei Navalny’s brother Oleg, Anti-Corruption Foundation employees Nikolay Lyaskin, Lyubov Sobol, and Kira Yarmysh, the head of Navalny’s field office in Moscow Oleg Stepanov, Pussy Riot band member Maria Alyokhina, the leader of Doctors’ Alliance trade union Anastasia Vasilyeva, and municipal deputies Dmitry Baranovsky, Lyudmila Shtein and Konstantin Yankauskas. Four of these individuals have been placed under house arrest, and six others under a strict curfew. They are all accused of posting calls on their social media encouraging people to participate in the 23 January protest, which, according to the investigating authorities, “incited” people to violate COVID-19 regulations.

On 22 April, Lyubov Sobol’s lawyer Vladimir Voronin reported that one individual targeted in the case had been charged with violating self-isolation requirements. According to the lawyer, the man, whose name was not disclosed at the time of writing, plead guilty and said that he had been influenced by the calls of Lyubov Sobol and other activists.<sup>5</sup> Amnesty International is concerned that this person may have been pressured by the authorities into making this “confession” in order to incriminate the ten main defendants.

On 28 January, the police opened a similar criminal case in Nizhny Novgorod. At the time of writing, local activist Natalya Rezontova had been charged, while the coordinator of the regional field office of Aleksei Navalny, Roman Tregubov, was named a suspect. Both are accused of violating sanitary regulations by calling for protest rallies on 23 and 31 January.

## RUSSIA’S OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

Russia is a party to several key international and regional human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), and the European Convention of Human Rights (ECHR). As a member of the Organisation for Security and Cooperation in Europe (OSCE), Russia should also act in accordance with the standards set by its bodies.

Article 21 of the ICCPR and Article 11 of the ECHR guarantee the right to freedom of peaceful assembly to everyone, without discrimination. Similarly, Articles 19 and 10, respectively, guarantee the right to freedom of expression. While these rights are not absolute, any restriction to these rights must be clearly provided by law, and be strictly necessary and proportional to one of the limited legitimate aims permitted under international law.

---

<sup>4</sup> <https://t.me/vlagr/6521>.

<sup>5</sup> [https://twitter.com/vb\\_voronin/status/1385244339505405964](https://twitter.com/vb_voronin/status/1385244339505405964)

Public health may be invoked as a ground for limiting the right to freedom of peaceful assembly in order to allow a state to take measures dealing with a serious threat to the health of the population, but such measures must be specifically aimed at a relevant legitimate purpose, such as preventing the spread of COVID-19.

However, each assembly should be assessed on a case-by-case basis and restrictions must be imposed only to the extent necessary and proportionate to achieve the legitimate end being pursued. As a general rule, there should be no blanket bans on assemblies. In this sense, the OSCE's Guidelines on Freedom of Peaceful Assembly stipulate that a blanket application of legal restrictions tends to be over-inclusive and, thus, will fail the proportionality test.<sup>6</sup> Furthermore, the Guidelines state that organizers should not be held liable for the actions of individual participants or for the actions of non-participants or agents provocateurs.<sup>7</sup> General Comment 37 on the right of peaceful assembly, adopted by the UN Human Rights Committee in 2020, contains similar provisions.<sup>8</sup>

It follows that each individual is responsible for their own compliance with relevant sanitary regulations, such as self-isolation, keeping physical distance or wearing face masks. Organizers of a peaceful assembly cannot be held accountable for the actions of others beyond their control.

## **PUBLIC HEALTH-RELATED RESTRICTIONS IN RUSSIA**

The first COVID-19 related restrictions in Moscow were introduced on 5 March 2020, when City Mayor Sergei Sobyenin signed decree #12-UM. The decree has been amended several times since but remains in force at the time of writing. Among other restrictions, the decree introduced a blanket prohibition of all "public and other mass events", which was then cited to justify the banning of street protests.<sup>9</sup> On 8 June 2020, the prohibition was extended indefinitely.<sup>10</sup>

Notably, measures to contain the spread of COVID-19 in Moscow have not been systematic or based on clearly articulated criteria, leaving them open to arbitrary application, including for political purposes. The application and enforcement of these restrictions, and similar restrictions elsewhere, has been selective and discriminatory. Thus, according to an independent survey conducted by Moscow sociologists and anthropologists on 23 January, 53% of the protesters on that day wore face masks. For comparison, 71% of Moscow metro passengers wore face masks in December 2020 and 51% in March 2021.<sup>11</sup>

While the prohibition of mass gatherings remained in place in Moscow and elsewhere and were strictly enforced against protest gatherings, many other restrictions on social gatherings were being lifted around the time of the demonstrations in support of Aleksei Navalny. Thus, on 21 January, Sergei Sobyenin stated that the pandemic situation had "improved" and allowed for a "significant easing of existing restrictions", including the reopening of educational and children's recreational facilities, museums, libraries, doubling the capacity of theatres, cinemas and concert halls, and other measures allowing for different type of gatherings.<sup>12</sup> On 27 January, he reported "further improvements", cancelled the mandatory requirement that 30% of the workforce was to work remotely, and allowed for a round-the-clock operation of restaurants, bars, and night clubs.<sup>13</sup> On 5 February, he signed a decree to reopen universities.<sup>14</sup>

Similar restrictions were initially introduced in Nizhny Novgorod on 13 March 2020, with decree #27 signed by Regional Governor Gleb Nikitin.<sup>15</sup> Unlike Moscow, the decree allows for exceptions to be made for certain cultural and sport events, art exhibitions, commemorations, and marriage ceremonies. However, protests are not included on the list of exceptions and remain prohibited.

On 11 February 2021, just weeks after the protest rallies in Nizhny Novgorod, the Governor announced that some of the COVID-related restrictions would be relaxed including those related to exhibitions, amusement parks, indoor playgrounds

---

<sup>6</sup> Guidelines on Freedom of Peaceful Assembly, 2<sup>nd</sup> edition, OSCE ODIHR, 2010, §2.4

<sup>7</sup> Ibid, §5.7

<sup>8</sup> General Comment No. 37, §38, §17

<sup>9</sup> <http://docs.cntd.ru/document/564377628>

<sup>10</sup> <http://docs.cntd.ru/document/565046122>

<sup>11</sup> <https://www.facebook.com/alexandra.arkhipova.50/posts/4532470916780496>

<https://www.facebook.com/alexei.zakharov.1/posts/364788655268645>

<https://www.facebook.com/alexei.zakharov.1/posts/3893948577329107>, also interview with Aleksandra Arkhipova, 27 February 2021

<sup>12</sup> <https://www.sobyenin.ru/vozvrashchenie-k-normalnoi-zhizni-resheniya-21-01-21>

<sup>13</sup> <https://www.sobyenin.ru/snova-v-ofis-i-drugie-resheniya-27-01-2021>

<sup>14</sup> <https://www.rbc.ru/society/05/02/2021/601d273d9a79477b07dafa01>

<sup>15</sup> <https://www.government-nnov.ru/?id=274234>

and food courts, and the capacity of theatres, cinemas and stadiums was increased.<sup>16</sup> Again, this list conspicuously lacks reference to protests.

Notably, other mass events took place in Russia both before and after 23 January and faced little or no restrictions. On 18 March, despite the ban on political assemblies still being in effect, up to 81,000 people packed Moscow's Luzhniki stadium for a concert and rally dedicated to an anniversary of the annexation of Crimea. Sergei Sobyenin and President Vladimir Putin took part in the event.<sup>17</sup>

In early February, just days after the January protest in Moscow, hundreds of university students, medics, factory workers and other groups in Volgograd, a city 800 kilometres south-east of Moscow, were brought together for a mass assembly which was filmed to signal mass support for Vladimir Putin.<sup>18</sup> Some participants told the media they had been asked to join the event by the authorities.<sup>19</sup> A similar event took place on 5 February in Ulyanovsk, a city halfway between Nizhny Novgorod and Volgograd, when students stood in a line holding placards "We support Putin".<sup>20</sup> In Yekaterinburg, in the Urals, in late January and early February, a local businessman had his company's employees take part in several mass rallies and marches in support of Vladimir Putin, both indoors and outdoors.<sup>21</sup> Although many people were not wearing face-masks at these events or keeping physical distance, law enforcement authorities did not intervene and there have been no negative consequences for either organizers or participants.

A total ban on all forms of protest is a disproportionate interference with the right to freedom of peaceful assembly. Its selective enforcement against assemblies that bring together opponents of the government, is a clear form of discrimination on the basis of political opinion. This violation is even more blatant considering the lenient or no restrictions on other gatherings, which pose a similar or greater health risk.

Local and federal authorities should lift the blanket ban on peaceful assemblies and ensure that impediments for people to protest collectively in public as a result of COVID-19 restrictions are a last resort based on a compelling need. COVID-19 measures affecting public protests must be applied consistently in comparison to other movements and activities which people are allowed to carry on with, giving due weight to the importance of the right to freedom of peaceful assembly and the increased need of people to jointly raise their voices in particularly difficult times. Everyone must be able to effectively exercise their rights to freedom of expression and peaceful assembly without discrimination or fear of prosecution, even in the time of the pandemic.

## **ACCUSATIONS OF "INCITEMENT"**

The criminal case against organizers and supporters of the protests is absurdly built around the notion of calls to take part in an "unauthorised" public protest. Russian authorities conflate such calls with "incitement to violate sanitary regulations", which, in turn, they have applied and enforced selectively to target people with dissenting opinions.

All the accusations in the "Sanitary Case" are related to tweets and blog posts allegedly published or reposted by the concerned individuals. Amnesty International has examined the publications cited by the police and Investigative Committee as well as other content shared by the defendants prior to the 23 January (and, where relevant, 31 January) protests.<sup>22</sup>

None of the reviewed material contains any calls that seek to undermine sanitary regulations as such, or amount to calls to challenge COVID-19 restrictions. Most of the "evidence" that authorities cite in the case are merely general appeals to the public and/or Aleksei Navalny's supporters to take part in a rally.

Some of the purportedly "incriminating" publications do not contain even these calls. For example, the prosecution of Konstantin Yankauskas is based on a tweet which contains only one phrase: "One for all and all for one", and a video of Aleksei Navalny asking his supporters to protest against his unjust prosecution. The publication mentions neither date, time, nor venue of the protest.

---

<sup>16</sup> <https://www.instagram.com/p/CLKh8rKhlfN/>

<sup>17</sup> <https://echo.msk.ru/news/2807326-echo.html>

<sup>18</sup> <https://www.instagram.com/tv/CK9F64ADzTP/>

<sup>19</sup> <https://www.svoboda.org/a/31093479.html>

<sup>20</sup> [https://www.znak.com/2021-02-05/v\\_ulyanovske\\_studenty\\_kolledzha\\_vyshli\\_na\\_akciyu\\_v\\_podderzhku\\_putina](https://www.znak.com/2021-02-05/v_ulyanovske_studenty_kolledzha_vyshli_na_akciyu_v_podderzhku_putina)

<sup>21</sup> <https://www.rbc.ru/rbcfreenews/601da0ad9a79472c2cc7af2e> <https://www.kommersant.ru/doc/4674332>

<sup>22</sup> We have not been able to obtain documents related to prosecution of Natalya Rezontova in Nizhny Novgorod, because the authorities had prohibited her and her lawyer from discussing her case publicly. However, we have reviewed her available publications.

Interpreting calls to the general public to attend a public event as “incitement” to violate quarantine or other COVID-19 restrictions is absurd. Such an approach would make any political or social activity potentially illegal and would be a grossly disproportionate interference with the rights to freedom of expression and peaceful assembly. Moreover, it is being used selectively, in a discriminatory manner against those who hold critical views of the authorities.

## **RECOMMENDATIONS**

Amnesty International urges Russian authorities to:

1. Immediately release everyone detained solely for organizing, supporting or participating in peaceful protests as part of the “Sanitary Cases” in Moscow and Nizhny Novgorod; end their unfounded prosecution; and provide them with adequate reparations for the human rights violations they have suffered, including compensation.
2. Lift blanket bans on public assemblies in Moscow, Nizhny Novgorod and other parts of the Russian Federation enacted in response to the COVID-19 pandemic; and ensure that each assembly is assessed on a case-by-case basis, after considering if less restrictive means can achieve the same end and without discrimination.
3. Amend the law “On Assemblies, Meetings, Demonstrations, Marches, and Picketing” to guarantee the right to hold spontaneous peaceful assemblies, when an immediate response to a political event might be justified.
4. Review laws and regulations related to the COVID-19 pandemic to ensure that they are not abused to silence criticism and violate the rights to freedom of expression and peaceful assembly, and end the practice of arbitrary and selective application and enforcement of restrictive rules towards people with dissenting political opinions, and end all forms of discrimination on the basis of political opinion.