

IN THE HUMAN RIGHTS COMMITTEE
SUBMISSIONS OF NET FREEDOMS PROJECT
FOR THE CONSIDERATION OF THE 8th PERIODIC
REPORT OF THE RUSSIAN FEDERATION
UNDER THE INTERNATIONAL COVENANT OF
CIVIL AND POLITICAL RIGHTS



t.me/NetFreedomsProject

Introduction

1. These submissions are made by Net Freedoms Project, a human rights group dedicated to protecting freedom of expression online and focusing on issues related to the use of new technologies aiming to restrict human rights. It is a part of *Agora International Human Rights Group*.
2. Previous submissions of Net Freedoms Project of 27 May 2022 covered the “military censorship” introduced after the beginning of the full-scale military invasion of Ukraine by the Russian Federation on 24 February 2022. They were focused on the administrative offence of “discrediting the Armed Forces” (article 20.3.3 of the Code of Administrative Offences) and the criminal offence of “spreading deliberately false information on the actions of the Armed Forces” (article 207.3 of the Criminal Code).
3. In the months that followed the 27 May submissions the trends indicated therein intensified. There are over 3,000 administrative offence cases under article 20.3.3 and sentences under article 207.3 are now being handed down. A prominent opposition figure, former mayor and local councilor at the Krasnoselskiy District of Moscow Mr Ilya Yashin is now in pre-trial detention for having denounced what he saw as war crimes committed by the Russian military in Bucha, Kyiv region, Ukraine.
4. Yet since early summer 2022 Russian authorities have developed a totally new method of exercise “military censorship”: the use of prosecution for display of “extremist symbols” to bar independent candidates from running for elections. Regional and local elections were scheduled for 11 September 2022 in multiple constituent entities of the Russian Federation. Importantly, local elections were held in Moscow, with all of over 100 of the capital’s local councils being reelected. During the previous local elections of 2017 opposition candidates won over 100 seats and the absolute majority in three districts, including Krasnoselskiy where Mr Yashin became the mayor. In 2022 opposition candidates were arbitrarily prevented from running.
5. *Net Freedoms Project* submits that this practice of the combined application of anti-extremist legislation and electoral legislation constitutes a manifest breach of Articles 19 and 25 of the International Covenant for Civil and Political Rights. These submissions will first deal with the legislative and factual background for the practice, then with the recorded instances of prosecutions leading to prohibitions to

stand for elections and will conclude with the analysis of Russian Federation's compliance with the Covenant.

Legislative provisions: anti-extremism and electoral legislation

6. The 2002 Counteracting Extremists Activities Act allows the prosecutors to seek judicial declaration of organisations as extremist if their activities fall under the definition of extremism. Thus, article 9(3) of the said Act provides that an organisation may be dissolved if it poses a threat to the interests of the State.
7. Article 20.3 of the Code of Administrative Offences punishes, *inter alia*, the display of symbols of organisations declared extremist with a fine of up to 2,000 Russian rubles (approx. 40 euros) or with administrative detention of up to 15 days.
8. Article 4(3.2)(B) of the 2002 Basic Electoral Guarantees Act, as amended in 2007, prohibits those convicted of an offence under article 20.3 of the Code of Administrative Offences to stand for election for one year after they have served the detention or paid the fine.
9. Articles 4(3.2)(r) and 76(7)(ж) of the 2002 Basic Electoral Guarantees Act also exclude from standing for elections those candidates that are not convicted criminally or administratively, but in respect of whom the fact of participation in extremist activities was established.

Background: prohibition of Anti-Corruption Foundation led by Alexey Navalny

10. Prior to 2021 Mr Alexey Navalny was the chairperson of the Anti-Corruption Foundation, a major watchdog in the field. Mr Navalny was also active in politics, having participated or attempted to participate in regional and federal elections. He advocated for transparent governance and democratic accountability of the elected officials.
11. By a judgment of 9 June 2021 and after a trial behind closed doors the Moscow City Court declared Anti-Corruption Foundation, as well as the network of Mr Navalny's electoral headquarters extremist. The Prosecutor's Office of Moscow, the applicant party in those proceedings, publicly declared that "under the guise of liberal slogans [the Navalny-led organisations]... destabilised social and political situation. Their real aim was to create conditions for... a 'coloured revolution'".¹
12. The reasons of the Moscow City Court judgment are not public. The judgment was upheld on appeal. Two further appeals on points of law against it were equally dismissed, the ruling of a single judge of the Russian Supreme Court of 17 August 2022 being final.

¹ See <https://www.rbc.ru/politics/09/06/2021/608670e09a7947709c4de06c>. 'Coloured revolution' refers to civic movements in Ukraine, Georgia, Kyrgyzstan, Moldova, Armenia where peaceful protesters challenged vote-rigging in general elections.

Prosecution of potential candidates for elections

13. 11 September 2022 was the year's elections day in Russia. 12 governors were elected, as were six regional parliaments. Local elections were held in dozens of regions, the most contested having been local elections in Moscow.
14. As of 10 September 2022 no less than 131 candidates or potential candidates for the September elections were prosecuted for administrative or criminal offences barring them from standing for elections. Of those cases, 67 were in Moscow. Across the country 40 prosecutions were brought against incumbent opposition regional legislators or local councilors. The most common cause for prosecution is the incumbent's or the candidate's prior affiliation with Alexey Navalny and the organisations and campaigns led by him (54 in total).
15. Thus, in July 2022 the police drew an administrative offence record accusing Mr Andrey Morev, the incumbent mayor of the Yakimanka District in central Moscow, of the display of a sticker of "Smart vote", a 2021 Alexey Navalny campaign, on his car. Even though Mr Morev denied having put the sticker and produced CCTV recordings to support his case, on 19 July 2022 the Zamoskvoretskiy District Court of Moscow sentenced him to 15 days of detention. On 2 August 2022 the Moscow City Court upheld the conviction and the sentence on appeal.
16. On 15 August 2022 Ms Olga Prudlik, incumbent local councilor in the Konkovo District in southern Moscow, was convicted under article 20.3(1) of the Code of Administrative Offences. The judgment is not public and is not final. Yet, on 22 August 2022 the Zamoskvoretskiy District Court barred Ms Prudlik from standing for reelection with reference to her participation in the demonstration of 23 January 2021 against the arrest of Mr Navalny upon his return to Moscow from Germany and to her social media postings calling for further demonstration of support for Mr Navalny. The district court treated those postings as the "facts of participation in extremist activities" under article 76(7)(ж) of the 2002 Basic Electoral Guarantees Act. On 30 August 2022 the Moscow City Court upheld the district court judgment on appeal.
17. Ms Yelena Slavinskaya is a local councilor in the district of Perovo in eastern Moscow. On 22 August 2022 the Kuzminskiy District Court of Moscow convicted her of display of extremist symbols for a social media posting of 25 January 2018 featuring a logo of the Alexey Navalny's Anti-Corruption Foundation. Even though the prosecution for administrative offences is time-barred one year after the facts, the Russian courts treat social media publications as "continuing offences" if the posts are still visible to the police, however old they are.
18. Similar cases count in dozens. Besides social media posts, oral statements at meetings with voters mentioning Alexey Navalny's and "Smart Vote" campaign (case of Ms Marina Litvinovich) and images with Easter eggs decorated with Cyrillic "H", logo of one of Navalny's campaigns (case of Mr Nodari Khananashvili) also count as display of extremist symbols and result in candidates' being withdrawn from ballot.

Analysis

19. Article 25 of the Covenant applies to local elections. The Committee's constant jurisprudence has been that any interference with that right should be based on reasonable and objective criteria (*Sudalenko v. Belarus*, comm. no. 1354/2005, 19 October 2010, para. 6.4) and that blanket restrictions on the rights guaranteed by Article 25 ICCPR are impermissible (*Yevdokimov and Rezanov v. Russian Federation*, comm. no. 1410/2005, 21 March 2011).
20. Furthermore, the Committee found violations of Article 25 in the cases where the authors were automatically prohibited from standing for elections after convictions for contempt of court (*Dissanayake v. Sri Lanka*, comm. no. 1373/2005, 22 July 2008, paras. 2.3 and 8.5) or membership in a subversive organization (*Massera and others v. Uruguay*, comm. no. R.1/5, 15 August 1979).
21. The Committee has on numerous occasions criticized the Russian anti-extremism legislation as vague and extending well beyond hate speech and calls for violence into political speech and muzzling political opposition (concluding observations on 5th to 7th periodic reports of the Russian Federation under the ICCPR: CCPR/C/RUS/CO/7, 27 April 2015, para. 20; CCPR/C/RUS/CO/6, 18 December 2009, para. 25; CCPR/CO/79/RUS, 6 November 2003, para. 20).
22. All these factors are present in the cases described above and many other similar cases that were decided by the Russian courts in summer 2022. In the present case the vague legislation resulted in a number of organisations being declared extremist not because of hate speech or calls for violence, but because of political opposition to the government. Then that finding was used to prosecute anyone who posted about Alexey Navalny, promptly entered convictions resulting in automatic bar from standing for elections. This government-designed perfect storm is clearly incompatible with Articles 19 and 25 of the Covenant.

Conclusion

23. For the above reasons, *Net Freedoms Project* invites the Committee to explicitly and unequivocally indicate that the practice set out in the present submissions is a manifest violation of Articles 19 and 25 of the Covenant.

Respectfully submitted,

This twelfth of September

Two thousand and twenty-two